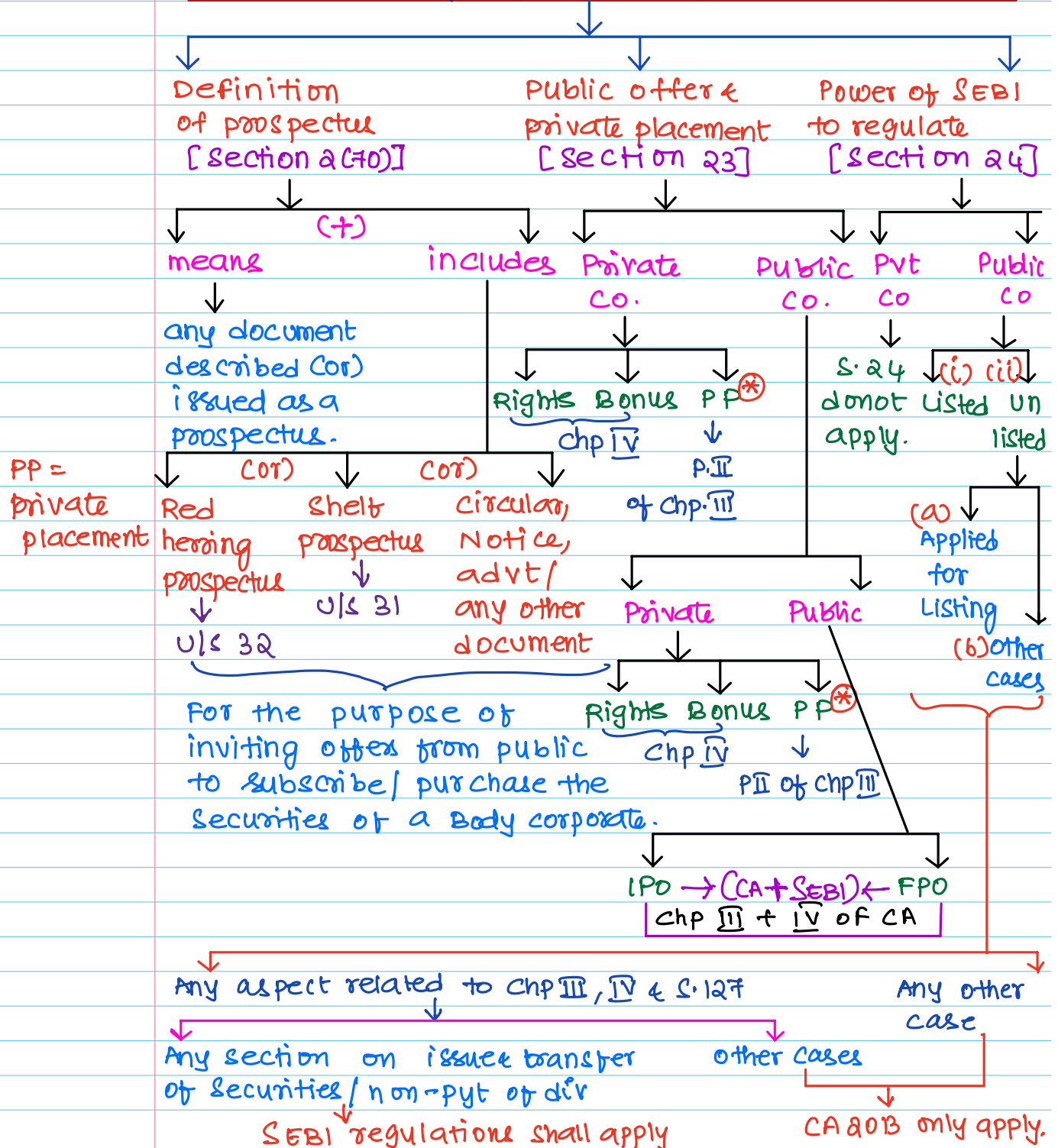
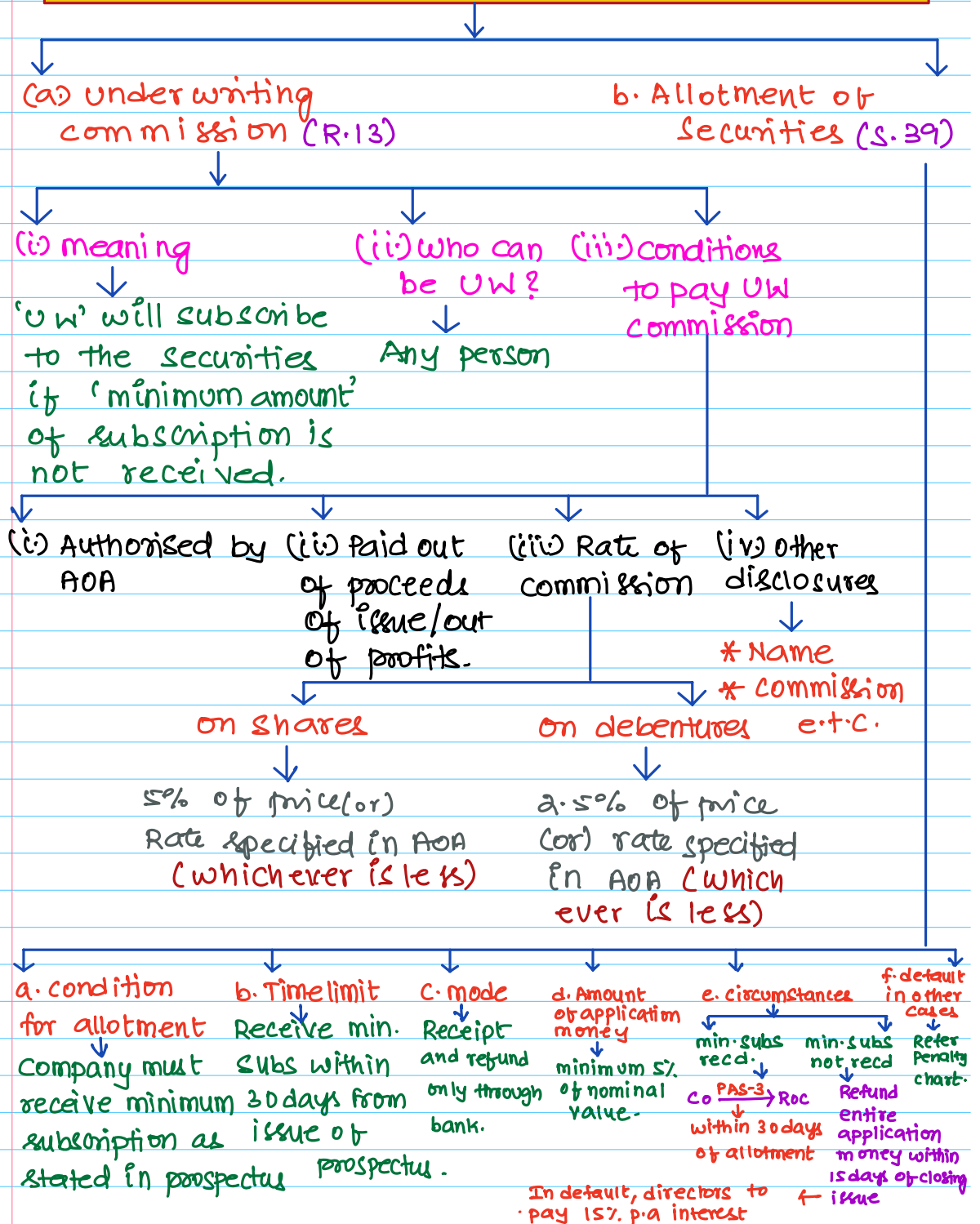


PROSPECTUS AND SHARE CAPITAL (Section 23 - Section 72)

1. Basics of prospectus chapter (S.2(70), S.234(24))



a. Allotment of securities and underwriting commission [section 39 & rule 13]



3. KINDS OF PROSPECTUS

various kinds

- * Red herring prospectus (S.32)
- * OFS U/S 28
- * OFS U/S 25 } **Deemed prospectus**
- * Abridged prospectus (S.33)
- * Shelf prospectus & Information memorandum U/S 31.

Part I

RHP U/S 32

Offer for sale by members U/S 28

meaning of RHP

RHP means a prospectus which does not contain complete particulars of quantum & price in prospectus of securities.

contents of RHP

It shall contain all contents as are required to be included in prospectus.

when sec gets applied?

When certain members of company propose in consultation with BOB, to offer to public, either whole/part of their share holding.

Deemed prospectus

Any doc issued to the public to offer the sale of the shares shall be

Notice of changes

Final prosp. shall contain

- closing price
- total capital raised

filing

File RHP with ROC min. 3 days prior to opg of offer.

Event of issue

company may issue RHP prior to issue of main prospectus.

deemed as prospectus and all laws & regns as applicable to prospectus & all liabilities for misstatements & omissions shall apply to that doc.

and any variations b/w RHP & Final prospectus shall be highlighted as "variations".

Re-imbursement →

The issue and transfer of shares is carried out by the company on behalf of members and they shall reimburse the costs incurred by the company.

Part II

OFS U/s 25

Abridged prospectus U/s 33

When section gets applied?

where a company allot shares to issue house, with a view to offer those shares for sale to public.

Any doc. issued by issue house to offer for sale the shares of the company shall be deemed as prospectus.

Legal validity

All laws & regns & all liabilities for misstatements or omissions as are made applicable for prospectus shall be applied also for OFS document.

Deeming provisions

OFS shall be deemed as it is subscription offer.

Public buying the shares shall be deemed as subscribers.

conditions to prove validity of OFS

OFS shall be completed within 6ms after allotment

Authorisation of OFS?

Person making offer

Company

& 2 dir.

Firm

& 50% of partners.

whole consideration is not received by company.

General rule

Any application form for subscription of securities shall not be made unless it is being accompanied with Abridged prospectus.

Exceptions

- Bonafide invitation to 'UW' to subscribe the shares
- Offer not to public.

Right of a person for copy

Any person may request the company for a copy of prospectus before closing of subscription list.

Note:

- As per Sec. 2(1), Abridged prospectus is a memorandum containing salient features of prospectus
- For penalty for default refer penalty chart.

Part III

Shelf prospectus

→ S.31

← Info. memorandum

meaning

'SP' means a prospectus in which the securities offered shall be issued over a period of time without issue of any further prospectus.

Im shall be filed between 1st / previous offer & subsequent offer if there are any material changes like ———

- New charges created
- changes in financial position etc.

Validity period

'SP' shall be valid for a period of 1 year from the date of opg. of first offer.

Filing

File with Roc at the time of 1st offer and for second / subsequent offer, no further prospectus is required

withdrawal of advance paid on application

If any applicant desires to withdraw the application money paid as an advance before any change is made in company, in between 1st / previous offer & subsequent offer, shall intimate the co, and company shall refund within 15 days.

4. LIABILITY FOR MIS-STATEMENTS

Part I

criminal liability (s.34)

Civil Liability (s.35)

General case

Exception case

when sec attracts?

When sec attract?

consequence

where any person can prove that inclusion/omission is immaterial/has a reasonable ground to believe that inclusion/the omission is necessary.

Cond-1

prospectus contains/includes any mis-statement and has any material securities facts.

Cond-2

Any person has acted on such prospectus subscribed

Cond-3
He sustained loss/damage.

where a prospectus issued, circulated/distributed includes a statement which is untrue/mis-leading in form/context.

Any person who has authorised issue of prospectus is liable u/s 447.

(or)
Inclusion/omission may likely to mislead.

(Believe till issue of prospectus)

who is liable?

Nature of liability

liability for fraud

Exception

* Director at the time of issue.

Jointly & severally Liable to pay compensation.

Person who has intent to defraud will be personally liable with unlimited liability.

Exception-1: If he can prove that his consent to act as a director is wdn before its issue

* Any person who authorised himself to be a director.

(company + persons mentioned)

Exception-2: Prospectus is issued without his knowledge (or) consent and becoming aware of it, he has immediately given public notice.

* Director immediately before (or) after issue.

(not withstanding aforesaid liability)

* Promoter

Exception-3: If he prove that, prospectus contains

* Every person who authorised issue.

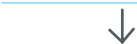
a misleading statement made by expert (or) any copy (or) extract and he has reasonable ground to believe that person is competent to make it and given his consent and has not wdn the consent.

* Expert u/s 26(s).

Part II

Punishment for fraudulently inducing a person to invest money

(Sec. 36)



when sec attracts?



where any person has knowingly/recklessly makes any statement/promise/forecast which is false/deceptive etc and inducing a person to enter into certain agreements.

Agreements covered.



1. to acquire/dispose/subscribe/underwrite.
2. to obtain profit to any one of the parties from yield/fluctuation in value of the securities.
3. to obtain the credit facilities from bank/F.I.

Action by affected persons (Sec. 37)



Any suit may be filed/action may be taken

by any person/

group/association of persons who

are affected by mis leading prospectus.

Punishment for personation

(Sec. 38)



who is liable



Any person who does an act of personation.

Liability?



liable U/s 447

Application/ subscription made in a fictitious name.

Types of personation



Applying/ subscribing with multiple applications with different names (or) combination of name (or) surname.

Inducing the company to allot/ transfer securities in fictitious name

Miscellaneous

Every prospectus shall prominently contain the contents of Sec. 38(1) in the application form.

Person convicted under this section shall be liable for disgorgement and securities may be seized.

Amount realised on disgorgement/ disposal shall be transferred to IEPF a/c.

