

The Companies Act, 2013

What is meant by a Guarantee Company? State the similarities and dissimilarities between a Guarantee Company and a Company having Share Capital.

Provision:

1. Company limited by guarantee: Section 2(21) of the Companies Act, 2013 defines it as the company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake by the memorandum to contribute to the assets of the company in the event of its being wound up.
2. Thus, the liability of the member of a guarantee company is limited up to a stipulated sum mentioned in the memorandum. Members cannot be called upon to contribute beyond that stipulated sum.
3. **Similarities and dis-similarities between the Guarantee Company and the Company having share capital:**
 - a) The common features between a 'guarantee company' and 'share company' are legal personality and limited liability. In the latter case, the member's liability is limited by the amount remaining unpaid on the share, which each member holds. Both of them have to state in their memorandum that the members' liability is limited.
 - b) However, the point of distinction between these two types of companies is that in the former case the members may be called upon to discharge their liability only after commencement of the winding up and only subject to certain conditions; but in the latter case, they may be called upon to do so at any time, either during the company's life-time or during its winding up.

Answer:

Above are given some similarities between a Guarantee company and Company having share capital.

Can a non-profit organization be registered as a company under the Companies Act, 2013? If so, what procedure does it have to adopt?

Answer:

1. Yes, a non-profit organization can be registered as a company under the Companies Act, 2013 by following the provisions of section 8 of the Companies Act, 2013.
2. Section 8 of the Companies Act, 2013 deals with the formation of companies which are formed to promote the charitable objects of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment etc.
3. Such company intends to apply its profit in
 - a) promoting its objects and
 - b) prohibiting the payment of any dividend to its members.
4. The Central Government has the power to issue license for registering a section 8 company.
 - a) Section 8 allows the Central Government to register such person or association of persons as a company with limited liability without the addition of words 'Limited' or 'Private limited' to its name, by issuing licence on such conditions as it deems fit.

- b) The registrar shall on application register such person or association of persons as a company under this section.
- c) On registration the company shall enjoy same privileges and obligations as of a limited company.

Briefly explain the doctrine of “ultravires” under the Companies Act, 2013. What are the consequences of ultravires acts of the company?

Provision:

1. The meaning of the term ultra vires is simply “beyond (their) powers”. The legal phrase “ultra vires” is applicable only to acts done in excess of the legal powers of the doers. This presupposes that the powers are in their nature limited. To an ordinary citizen, the law permits whatever does the law not expressly forbid.
2. It is a fundamental rule of Company Law that the objects of a company as stated in its memorandum can be departed from only to the extent permitted by the Act - thus far and no further [Ashbury Railway Company Ltd. vs. Riche].
3. In consequence, any act done or a contract made by the company which travels beyond the powers not only of the directors but also of the company is wholly void and inoperative in law and is therefore not binding on the company.
4. On this account, a company can be restrained from employing its fund for purposes other than those sanctioned by the memorandum. Likewise, it can be restrained from carrying on a trade different from the one it is authorised to carry on.
5. The impact of the doctrine of ultra vires is that a company can neither be sued on an ultra vires transaction, nor can it sue on it. Since the memorandum is a “public document”, it is open to public inspection.
6. Therefore, when one deals with a company one is deemed to know about the powers of the company. If in spite of this you enter into a transaction which is ultra vires the company, you cannot enforce it against the company.
For example, if you have supplied goods or performed service on such a contract or lent money, you cannot obtain payment or recover the money lent. But if the money advanced to the company has not been expended, the lender may stop the company from parting with it by means of an injunction; this is because the company does not become the owner of the money, which is ultra vires the company. As the lender remains the owner, he can take back the property in specie.
7. If the ultra vires loan has been utilised in meeting lawful debt of the company then the lender steps into the shoes of the debtor paid off and consequently he would be entitled to recover his loan to that extent from the company.
8. An act, which is ultra vires the company being void, cannot be ratified by the shareholders of the company. Sometimes, act which is ultra vires can be regularized by ratifying it subsequently. For instance, if the act is ultra vires the power of the directors, the shareholders can ratify it; if it is ultra vires the articles of the company, the company can alter the articles; if the act is within the power of the company but is done irregularly, shareholder can validate it.

Explain clearly the doctrine of 'Indoor Management' as applicable in cases of companies registered under the Companies Act, 2013. Explain the circumstances in which an outsider dealing with the company cannot claim any relief on the ground of 'Indoor Management'.

Or

Explain clearly the doctrine of 'Indoor Management' as applicable in cases of companies registered under the Companies Act, 1956. Explain the circumstances in which an outsider dealing with the company cannot claim any relief on the ground of 'Indoor Management'.

Provision:

1. According to the "doctrine of indoor management" the outsiders, dealing with the company though are supposed to have satisfied themselves regarding the competence of the company to enter into the proposed contracts are also entitled to assume that as far as the internal compliance to procedures and regulations by the company is concerned, everything has been done properly.
2. They are bound to examine the registered documents of the company and ensure that the proposed dealing is not inconsistent therewith, but they are not bound to do more.
3. They are fully entitled to presume regularity and compliance by the company with the internal procedures as required by the Memorandum and the Articles. This doctrine is a limitation of the doctrine of "constructive notice" and popularly known as the rule laid down in the celebrated case of Royal British Bank v. Turquand. Thus, the doctrine of indoor management aims to protect outsiders against the company.
4. The above mentioned doctrine of Indoor Management or Turquand Rule has limitations of its own. That is to say, it is inapplicable to the following cases, namely:

a) Actual or constructive knowledge of irregularity: The rule does not protect any person when the person dealing with the company has notice, whether actual or constructive, of the irregularity. In *Howard vs. Patent Ivory Manufacturing Co.* where the directors could not defend the issue of debentures to themselves because they should have known that the extent to which they were lending money to the company required the assent of the general meeting which they had not obtained.

Likewise, in *Morris v Kanssen*, a director could not defend an allotment of shares to him as he participated in the meeting, which made the allotment. His appointment as a director also fell through because none of the directors appointed him was validly in office.

b) Suspicion of Irregularity: The doctrine in no way, rewards those who behave negligently. Where the person dealing with the company is put upon an inquiry, for example, where the transaction is unusual or not in the ordinary course of business, it is the duty of the outsider to make the necessary enquiry.

The protection of the "Turquand Rule" is also not available where the circumstances surrounding the contract are suspicious and therefore invite inquiry. Suspicion should arise, for example, from the fact that an officer is purporting to act in the manner, which is apparently outside the scope of his authority. Where, for example, as in the case of *Anand Bihari Lal vs Dinshaw & Co.* the plaintiff accepted a transfer of a company's property from its accountant, the transfer was held void. The plaintiff could not have supposed, in absence of a power of attorney that the accountant had authority to effect transfer of the company's property.

Similarly, in the case of *Haughton & Co. v. Nothard, Lowe & Wills Ltd.* where a person holding directorship in two companies agreed to apply the money of one company in payment of the debt to other, the court said that it was something so unusual "that the plaintiff were put upon

inquiry to ascertain whether the persons making the contract had any authority in fact to make it." Any other rule would "place limited companies without any sufficient reasons for so doing, at the mercy of any servant or agent who should purport to contract on their behalf."

- c) **Forgery:** The doctrine of indoor management applies only to irregularities which might otherwise affect a transaction but it cannot apply to forgery which must be regarded as nullity. Forgery may in circumstances exclude the 'Turquand Rule'. The only clear illustration is found in the *Ruben v Great Fingall Consolidated*. In this case the plaintiff was the transferee of a share certificate issued under the seal of the defendant's company. The company's secretary, who had affixed the seal of the company and forged the signature of the two directors, issued the certificate. The plaintiff contended that whether the signature were genuine or forged was apart of the internal management, and therefore, the company should be estopped from denying genuineness of the document. However, it was held, that the rule has never been extended to cover such a complete forgery.

ABC Pvt. Ltd., is a Private Company having five members only. All the members of the company were going by car to Mumbai in relation to some business. An accident took place and all of them died. Answer with reasons, under the Companies Act, 2013 whether existence of the company has also come to the end?

Provision:

1. The most distinguishing feature of a company is its being a separate entity from the shareholders and promoters who form it. This lends stability and perpetuity to the company form of business organization.
2. In short, a company is brought into existence by a process of law and can be terminated or wound up or brought to an end only by a process of law. Its life is not impacted by the death, insolvency or retirement of any or all shareholder(s) or director(s).
3. The provision for transferability or transmission of the shares helps to preserve the perpetual existence of a company by allowing the constitution and identity of shareholders to change.

Facts of case:

In the present case, ABC Pvt. Ltd. does not cease to exist even by the death of all its shareholders. The legal process will be for the successors of the deceased shareholders to get the shares registered in their names by way of the process which is called "transmission of shares". The company will cease to exist only when it is wound up by a due process of law.

Answer:

Therefore, even with the death of all members (i.e. 5), ABC (Pvt.) Ltd. does not cease to exist.

Define OPC (One Person Company) and state the rules regarding its membership. Can it be converted into a non-profit company under Section 8 or a private company?

Provision: [Section 2(62) of Companies Act, 2013]

1. One Person Company (OPC) [Section 2(62) of the Companies Act, 2013]: The Act defines one person company (OPC) as a company which has only one person as a member.
2. Rules regarding its membership:
 - a) Only one person as member.
 - b) The memorandum of OPC shall indicate the name of the other person, who shall, in the event of the subscriber's death or his incapacity to contract, become the member of the company.

- c) The other person whose name is given in the memorandum shall give his prior written consent in prescribed form and the same shall be filed with Registrar of companies at the time of incorporation.
 - d) Such other person may be given the right to withdraw his consent.
 - e) The member of OPC may at any time change the name of such other person by giving notice to the company and the company shall intimate the same to the Registrar.
 - f) Any such change in the name of the person shall not be deemed to be an alteration of the memorandum.
 - g) Only a natural person who is an Indian citizen and resident in India (person who has stayed in India for a period of not less than 182 days during the immediately preceding one calendar year)-
 - i. shall be eligible to incorporate a OPC
 - ii. shall be a nominee for the sole member of a OPC.
 - h) No person shall be eligible to incorporate more than one OPC or become nominee in more than one such company.
 - i) No minor shall become member or nominee of the OPC or can hold share with beneficial interest.
3. OPC cannot be incorporated or converted into a company under section 8 of the Act. Though it may be converted to private or public companies in certain cases.
4. OPC cannot convert voluntarily into any kind of company unless two years have expired from the date of incorporation, except where the paid up share capital is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees

Answer:

Above are rules regarding one person company. As per provisions given it is one of the main condition for OPC that it cannot be get converted into a Section 8 i.e. non-profit organization.

Examine the following whether they are correct or incorrect along with reasons:

- a. A company being an artificial person cannot own property and cannot sue or be sued.
- b. A private limited company must have a minimum of two members, while a public limited company must have at least seven members.

Answer:**a. Incorrect:**

A company is an artificial person as it is created by a process other than natural birth. It is legal or judicial as it is created by law. It is a person since it is clothed with all the rights of an individual. Further, the company being a separate legal entity can own property, have banking account, raise loans, incur liabilities and enter into contracts. Even members can contract with company, acquire right against it or incur liability to it. It can sue and be sued in its own name. It can do everything which any natural person can do except be sent to jail, take an oath, marry or practice a learned profession. Hence, it is a legal person in its own sense.

b. Correct:

Section 3 of the Companies Act, 2013 deals with the basic requirement with respect to the constitution of the company. In the case of a public company, any 7 or more persons can form a company for any lawful purpose by subscribing their names to memorandum and complying with the requirements of this Act in respect of registration. In exactly the same way, 2 or more persons can form a private company.

Explain the concept of "Dormant Company" as envisaged in the Companies Act, 2013.

Provision: [Section 455 of Companies Act, 2013]

1. Where a company is formed and registered under this Act for a future project or to hold an asset or intellectual property and has no significant accounting transaction, such a company or an inactive company may make an application to the Registrar in such manner as may be prescribed for obtaining the status of dormant company.
2. "Inactive company" means a company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years.
3. "Significant accounting transaction" means any transaction other than
 - a) payment of fees by a company to the Registrar
 - b) payments made by it to fulfil the requirements of this Act or any other law
 - c) allotment of shares to fulfil the requirements of this Act and
 - d) payments for maintenance of its office and records.

When a company is registered, it is clothed with a legal personality. Explain.

Provision: [The Companies Act, 2013]

1. When a company is registered, it is clothed with a legal personality. It comes to have almost the same rights and powers as a human being. Its existence is distinct and separate from that of its members.
2. A company can own property, have bank account, raise loans, incur liabilities and enter into contracts.
 - a) It is at law, a person different altogether from the subscribers to the memorandum of association. Its personality is distinct and separate from the personality of those who compose it.
 - b) Even members can contract with company, acquire right against it or incur liability to it. For the debts of the company, only its creditors can sue it and not its members.
3. A company is capable of owning, enjoying and disposing of property in its own name. Although the shareholders contribute the capital and assets, the company becomes the owner of its capital and assets.
4. The shareholders are not the private or joint owners of the company's property.

The Articles of Association of XYZ Ltd. provides that Board of Directors have authority to issue bonds provided the shareholders authorize such issue by a necessary resolution in the general meeting of the company. The company was in dire need of funds and therefore, it issued the bonds to Mr. X without passing any such resolution in general meeting. Can Mr. X recover the money from the company. Decide referring the relevant provisions of the Companies Act, 2013.

Provision: [Companies Act, 2013]

1. According to the "doctrine of indoor management" the outsiders, dealing with the company though are supposed to have satisfied themselves regarding the competence of the company to enter into the proposed contracts are also entitled to assume that as far as the internal compliance to procedures and regulations by the company is concerned, everything has been done properly.

2. They are bound to examine the registered documents of the company and ensure that the proposed dealing is not inconsistent therewith, but they are not bound to do more.
3. They are fully entitled to presume regularity and compliance by the company with the internal procedures as required by the Memorandum and the Articles. This doctrine is a limitation of the doctrine of “constructive notice” and popularly known as the rule laid down in the celebrated case of Royal British Bank v. Turquand. Thus, the doctrine of indoor management aims to protect outsiders against the company.
4. As per the case of the Royal British Bank vs. Turquand [1856] 6E & B 327, the directors of R.B.B. Ltd. gave a bond to T. The articles empowered the directors to issue such bonds under the authority of a proper resolution. In fact, no such resolution was passed. Notwithstanding that, it was held that T could sue on the bonds on the ground that he was entitled to assume that the resolution had been duly passed. This is the doctrine of indoor management, popularly known as Turquand Rule.

Facts of case:

In given case articles of association of XYZ Ltd. Provides that BOD have authority to issue bonds provided it need to be authorised by resolution passed in general meeting by shareholders of company.

Company issued bonds to Mr. X without passing any resolution in general meeting of shareholders.

Answer:

Since, the given question is based on the above facts, accordingly here in this case Mr. X can recover the money from the company considering that all required formalities for the passing of the resolution have been duly complied.

Krishna, an assessee, was a wealthy man earning huge income by way of dividend and interest. He formed three Private Companies and agreed with each to hold a bloc of investment as an agent for them. The dividend and interest income received by the companies was handed back to Krishna as a pretended loan. This way, Krishna divided his income into three parts in a bid to reduce his tax liability. Decide, for what purpose the three companies were established? Whether the legal personality of all the three companies may be disregarded.

Provision: [Companies Act, 2013]

1. The House of Lords in Salomon Vs. Salomon & Co. Ltd. laid down that a company is a person distinct and separate from its members, and therefore, has an independent separate legal existence from its members who have constituted the company. But under certain circumstances the separate entity of the company may be ignored by the courts.
2. When that happens, the courts ignore the corporate entity of the company and look behind the corporate façade and hold the persons in control of the management of its affairs liable for the acts of the company.
3. Where a company is incorporated and formed by certain persons only for the purpose of evading taxes, the courts have discretion to disregard the corporate entity and tax the income in the hands of the appropriate assessee.
4. This is based on the concept called Lifting of Corporate Veil in which by lifting the veil court sees the persons who are actually liable for the misconduct done by such persons who acts behinds the veil of company.

Facts of case:

The problem asked in the question is based upon the aforesaid facts. The three companies were formed by the assessee purely and simply as a means of avoiding tax and the companies were nothing more than the façade of the assessee himself. Therefore, the whole idea of Mr. Krishna was simply to split his income into three parts with a view to evade tax. No other business was done by the company.

Answer:

The legal personality of the three private companies may be disregarded because the companies were formed only to avoid tax liability. It carried no other business, but was created simply as a legal entity to ostensibly receive the dividend and interest and to hand them over to the assessee as pretended loans.

Krishna, Examine with reasons whether the following statement is correct or incorrect:

- a. A private limited company must have a minimum of two members, while a public limited company must have at least seven members.
- b. Affixing of Common seal on company's documents is compulsory.

Provision: [Companies Act, 2013]

a. Correct:

Section 3 of the Companies Act, 2013 deals with the basic requirement with respect to the constitution of the company. In the case of a public company, any 7 or more persons can form a company for any lawful purpose by subscribing their names to memorandum and complying with the requirements of this Act in respect of registration. In exactly the same way, 2 or more persons can form a private company.

b. Incorrect:

The common seal is a seal used by a corporation as the symbol of its incorporation. The Companies (Amendment) Act, 2015 has made the common seal optional by omitting the words "and a common seal" from Section 9 so as to provide an alternative mode of authorization for companies who opt not to have a common seal. This amendment provides that the documents which need to be authenticated by a common seal will be required to be so done, only if the company opts to have a common seal. In case a company does not have a common seal, the authorization shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.

The paid-up share capital of SAB Pvt. Ltd. is Rs. 1 crore, consisting of 8 lacs Equity Shares of Rs. 10 each, fully paid-up and 2 lacs Cumulative Preference Shares of Rs. 10 each, fully paid-up. JVN Pvt. Ltd. and SARA Pvt. Ltd. are holding 3 lacs Equity Shares and 50,000 Equity Shares respectively in SAB Pvt. Ltd. JVN Pvt. Ltd. and SARA Pvt. Ltd. are the subsidiaries of PQR Pvt. Ltd. With reference to the provisions of the Companies Act, 2013, examine whether SAB Pvt. Ltd. is a subsidiary of PQR Pvt. Ltd.? Would your answer be different if PQR Pvt. Ltd. has 8 out of 9 Directors on the Board of SAB Pvt. Ltd.?

Provision: [Section 2(87) of Companies Act, 2013]

1. Holding and Subsidiary Companies are relative terms. A company is a holding company of another only if the other is its subsidiary.
2. Section 2 (87) of the Companies Act 2013 lays down the circumstances under which a company becomes a subsidiary company of another company which becomes its holding company. These circumstances are as under:

- a) When the holding company controls the composition of Board of Directors of the subsidiary company or companies, or
 - b) When the holding company exercises or controls more than one half of the total voting power either on its own or together with one or more of its subsidiary companies, or
3. Where a company is the holding company of the company which fulfils any of the above conditions, e.g., if A Ltd. is the holding company of B Ltd., but C Ltd. is the holding company of A Ltd., then B Ltd. will automatically become a subsidiary of C Ltd.

Facts of case:

The paid-up share capital of SAB Private Limited is Rs. 1 crore, consisting of 8 lacs Equity Shares of Rs. 10 each, fully paid-up and 2 lacs Cumulative Preference Shares of Rs. 10 each, fully paid-up. JVN Private Limited and SARA Private Limited are holding 3 lacs Equity Shares and 50,000 Equity Shares respectively in SAB Private Limited. JVN Private Limited and SARA Private Limited are the subsidiaries of PQR Private Limited

Answer:

In the first case, the SAB Pvt. Ltd. will not be the subsidiary of the PQR Pvt. Ltd. as JVN Pvt. Ltd. and SARA Pvt. Ltd. are the subsidiaries of PQR Pvt. Ltd. but they do not hold more than one-half of the share capital of SAB Pvt. Ltd. Hence, SAB Pvt. Ltd. is the holding company of JVN Pvt. Ltd. and SARA Pvt. Ltd. but not a subsidiary of PQR Pvt. Ltd.

If, PQR Pvt. Ltd. has 8 out of 9 Directors on the Board of SAB Pvt. Ltd., so, it implies that the PQR Pvt. Ltd. controls the composition of the Board of Directors of SAB Pvt. Ltd. and hence be the holding company of the SAB Pvt. Ltd.

The K Ltd. was in the process of incorporation. The Promoters of the company signed an agreement for the purchase of certain furniture for the company and payment was to be made to the suppliers of furniture by the company after incorporation. The company was incorporated and the furniture was received and used by it. Shortly after incorporation, the company went into liquidation and the debt could not be paid by the company for the purchase of above furniture. As a result, supplier sued the promoters of the company for the recovery of money. Examine whether promoters can be held liable for the payment under the following situations:

- a) When the company has already adopted the contract after incorporation?
- b) When the company makes a fresh contract with the suppliers in substitution of pre incorporation contract

Provision: [Companies Act, 2013]

1. Pre-incorporation contracts are those contracts which are entered into, by the promoters on behalf of a prospective company, before it has come into existence e.g. with the proprietor of business to sell it to the prospective company.
2. Under section 9 of the Companies Act, 2013 a company comes into existence from the date of its incorporation, it follows that any act purporting to be performed by it prior to that date is of no effect so far as the company is concerned.
3. The right to enter into contracts, sue or get sued arises only on the incorporation of the company as stated in section 9. Before its incorporation a company does not exist.
4. Being nonexistent, it can neither act in its own behalf nor expressly or implicitly appoint agents to act on its behalf.
5. Further, under the principle of constructive notice, every person entering into a contract with a company is presumed to have knowledge of its documents such as the Memorandum, Articles and

resolutions passed by members as these are public documents available for scrutiny at the registered office of a company.

6. Hence, a person who enters into a pre incorporation contract with the promoters does so at his own peril.

Fact of case:

K Ltd. was in the process of incorporation. The Promoters of the company signed an agreement for the purchase of certain furniture for the company and payment was to be made to the suppliers of furniture by the company after incorporation. The company was incorporated and the furniture was received and used by it. Shortly after incorporation, the company went into liquidation and the debt could not be paid by the company for the purchase of above furniture. As a result, supplier sued the promoters of the company for the recovery of money.

Answer:

- a) If there was already a contract between the suppliers and promoters even after incorporation, the promoters shall be personally liable for the failure of payment to the suppliers. Company will not be held liable.
- b) If the company makes a fresh contract with the suppliers in substitution of pre- incorporation contract, the liability of the promoters will come to an end and the company shall be liable to pay to the suppliers.

The X Limited was registered as a public company. There are 215 members in the company as noted below:

- a) Directors and their relatives – 190
- b) Employees – 10
- c) Ex-employees (shares were allotted when they were employees) – 5
- d) 5 couples holding shares jointly in the name of husband and wife (5×1) – 5
- e) Others – 5

The Board of Directors of the company propose to convert it into a private company. Also advise whether reduction in the number of members is necessary.

Provision: [Companies Act, 2013]

private company” means company having a minimum paid-up share capital, which by its articles—

1. restricts the right to transfer its shares;
2. except in case of One Person Company, limits the number of its members to two hundred.
3. Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:
4. Provided further that—
 - a. persons who are in the employment of the company; and
 - b. persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and
5. prohibits any invitation to the public to subscribe for any securities of the company.

Fact of case:

1. X Limited was registered as a public company. There are 215 members in the company as noted below:
 - a) Directors and their relatives – 190
 - b) Employees – 10
 - c) Ex-employees (shares were allotted when they were employees) – 5

- d) 5 couples holding shares jointly in the name of husband and wife (5×1) – 5
- e) Others – 5

2. The Board of Directors of the company propose to convert it into a private company.

Answer:

Here, the Board of Directors of the company can convert it into a private company because there are maximum 200 members in the firm.

- a) Directors and their relatives – 190
- b) 5 couples holding shares jointly in the name of husband and wife (5×1) – 5
- c) Others – 5

Total Members = 190 + 5 + 5 = 200 members

So, company do not need any reduction of members as the maximum limit of 200 is not breached by the company as the employees and ex-employees are excluded from the counting of 200 members.

A company was incorporated on 6th October. The certificate of incorporation of the company was issued by the Registrar on 15th October. The company on 10th October entered into a contract which created its contractual liability. The company entered into prior to issuing of certificate of incorporation. Decide, under the provisions of The Companies Act, 2013, whether the companies can be exempted from the said contractual liability.

Provision: [Companies Act, 2013]

1. Right from the date of Incorporation as mentioned in the certificate of incorporation the company will have the status of body corporate and that:
 - a) All the subscribers and other persons whose names are mentioned in memorandum will become members and directors as the case may be,
 - b) Also, company will have following:
 - i. Common Seal,
 - ii. Perpetual Succession,
 - iii. Sale or purchase of movable or immovable property or Tangible and intangible Assets in the name of the company,
 - iv. Also will have right to sue and be sued as company.

Fact of case:

A company was incorporated on 6th October. The certificate of incorporation of the company was issued by the Registrar on 15th October. The company on 10th October entered into a contract which created its contractual liability. The company entered into prior to issuing of certificate of incorporation

Answer:

Here, the date of incorporation of the company is 6th October since the date specified in the certificate of incorporation shall be taken as the date of incorporation of the company even though the certificate of incorporation was issued at a later date. Hence, the company is bound by the contracts entered into after date of incorporation.

A, on the instruction of promoters of a company, prepared Memorandum of Association and Articles of Association, paid the registration fees and got the company incorporated. A claim his costs and charges from the company. The company refuses to pay. Will A succeed?

Provision: [Companies Act, 2013]

1. Pre-incorporation contracts are those contracts which are entered into, by the promoters on behalf of a prospective company, before it has come into existence e.g. with the proprietor of business to sell it to the prospective company.

2. As per the provisions of the Companies Act, 2013, all the expenses incurred while incorporating a company, after incorporation, the company shall not be liable for those expenses. Promoters are held personally liable for such expenses.

Fact of case:

A, on the instruction of promoters of a company, prepared Memorandum of Association and Articles of Association, paid the registration fees and got the company incorporated. A claims his costs and charges from the company. The company refuses to pay.

Answer:

Here, A cannot recover the amount from the company as at the time of incorporation, the company was not in existence. Company will be liable for the expenses incurred after its incorporation. The expenses incurred before the incorporation are all borne by the promoters. So, A cannot claim his costs from the company but can claim from the promoters.

The Memorandum and Articles of Association of a company were delivered to the Registrar of Companies for registration on January 6. On 8th January, the Registrar issued the certificate of incorporation but dates it January 6th. On that very day (January 6th) the company made allotment of its shares. The allotment was challenged that it was made before the actual issue of the certificate of incorporation. How would you decide and why?

Provision: [Companies Act, 2013]

As per the provisions of the Companies Act, 2013, from the date of incorporation (mentioned in the certificate of incorporation), such a registered company shall be capable of exercising all the functions of an incorporated company under this Act and having power to enter into contracts related to property or other matters.

Fact of case:

The Memorandum and Articles of Association of a company were delivered to the Registrar of Companies for registration on January 6. On 8th January, the Registrar issued the certificate of incorporation but dates it January 6th. On that very day (January 6th) the company made allotment of its shares. The allotment was challenged that it was made before the actual issue of the certificate of incorporation.

Answer:

Here, the date of incorporation of the company is 6th October since the date specified in the certificate of incorporation shall be taken as the date of incorporation of the company even though the certificate of incorporation was issued at a later date. So, the allotment of shares made by the company is valid.

A company was formed on the basis of a certificate of incorporation obtained by threatening the Registrar of Companies. Is the company legally formed?

Provision: [Companies Act, 2013]

Certificate of Incorporation is a Conclusive evidence nothing can invalidate the Certificate of Incorporation. Even illegal object or Forged Subscribers will only invalidate the object & memorandum but that will not affect the valid incorporation of company.

Answer:

Here, the certificate of incorporation was obtained by threatening the Registrar of Companies. Since, no one can challenge the certificate of incorporation because it is a conclusive evidence, one cannot say that the company is illegally formed. The certificate of incorporation means that all the legal formalities while incorporating the company are duly complied.

Four of the seven signatures to the Memorandum of Association of a company are forged. The memorandum is duly presented, registered and a certificate of incorporation is issued. Can the existence of the company be subsequently questioned on the ground that registration is void. Decide

Provision: [Companies Act, 2013]

1. Certificate of Incorporation is a Conclusive evidence nothing can invalidate the Certificate of Incorporation. Even illegal object or Forged Subscribers will only invalidate the object & memorandum but that will not affect the valid incorporation of company.
2. The Companies Act, 2013 states that subject to the provisions of the Act, the Memorandum and Articles shall, when registered, bind the company and the members thereof, to the same extent as if they respectively had been signed by the company and by each member, and contained covenants on its and his part to observe all the provisions of the Memorandum and of the Articles.

Fact of case:

Four of the seven signatures to the Memorandum of Association of a company are forged. The memorandum is duly presented, registered and a certificate of incorporation is issued

Answer:

The company's existence cannot be challenged now on the ground that registration was void since, the certificate of incorporation, once issued, is the conclusive evidence of the fact that the company has been duly registered. Once the certificate is issued, no one can question the validity of that certificate.

The principal business of XYZ Company Ltd. was the acquisition of vacant plots of land and to erect the houses. In the course of transacting the business, the chairman of the Company acquired the knowledge of arranging finance for the development land. The XYZ Company introduced a financier to another company ABC Ltd. and received an agreed fee of Rs. 2 lakhs for arranging the finance. The Memorandum of Association of the company authorises the company to carry on any other trade or business which can, in the opinion of the board of directors, be advantageously carried on by the company in connection with the company's general business. Referring to the provisions of the Companies Act, 1956 examine the validity of the contract carried out by XYZ Company Ltd. with ABC Ltd.

Provision: [Companies Act, 2013]

1. As per the provisions of the Companies Act, 2013, the meaning of the term 'ultra vires' is simply "beyond powers". The acts done by the company beyond its object clause of the Memorandum of Association are void.
2. The impact of the doctrine of ultra vires is that a company can neither be sued on an ultra vires transaction, nor can it sue on it.
3. In the leading case law of Ashbury Railway Carriage and Iron Company Limited V. Riche, the main business of the company was to make, sell or lend on hire, railway carriages or wagon and to carry on the business of mechanical engineers and general contractors.
4. The directors of the company entered into a contract with Riche for financing the construction of a railway line in Belgium and the company further ratified this act of the directors by passing a special resolution.
5. Riche, however, repudiated the contract as being ultra vires and the company brought an action for damages for breach of contract. Its contention was that the contract was well within the meaning of the word 'general contractors' and hence within its powers.

6. The court decided that the term 'general contractors' was associated with mechanical engineers, i.e. it had to be read in connection with the company's main business. If the term 'general contractors' was not so interpreted, it would authorize the making of contracts of any kind and every description

Fact of case:

The principal business of XYZ Company Ltd. was the acquisition of vacant plots of land and to erect the houses. In the course of transacting the business, the chairman of the Company acquired the knowledge of arranging finance for the development land. The XYZ Company introduced a financier to another company ABC Ltd. and received an agreed fee of Rs. 2 lakhs for arranging the finance. The Memorandum of Association of the company authorizes the company to carry on any other trade or business, which can, in the opinion of the board of directors, be advantageously carried on, by the company in connection with the company's general business.

Answer:

Here, arranging finance or financier is an ultra vires act since, it falls outside the object clause of memorandum. An object contained in the object clause is not valid if it authorises the company to carry on any other trade or business which can be advantageously carried on by the company.

- a) The company has no power to arrange finance or financier.
- b) The Board cannot take the defence that the memorandum authorises the company to carry on any business which can be advantageously carried on in connection with company's present business because it is a specified purpose for alternation of object clause.

A company registered under section 8 of the Companies Act, 2013, earned huge profit during the financial year ended on 31st March, 2018 due to some favorable policies declared by the Government of India and implemented by the company. Considering the development, some members of the company wanted the company to distribute dividends to the members of the company. They approached you to advise them about the maximum amount of dividend that can be declared by the company as per the provisions of the Companies Act, 2013. Examine the relevant provisions of the Companies Act, 2013 and advise the members accordingly.

Provision: [Companies Act, 2013]

- 1. Under the Companies Act, 2013 Section 8 companies are prohibited to distribute dividends to its shareholders. It can pay interest but cannot pay dividend.
- 2. A company is registered with the object of promotion of commerce, science, art, sports, education, research, social welfare, or any other related object. They can use their profit for this given purposes.

Fact of case:

In given case company was registered under section 8 company, it earned huge profit during this financial year. Considering the development some of the members of company demanded dividend from company.

Answer:

The company in question is a section 8 company and hence it cannot declare dividend. Thus, the contention of members is incorrect.

There are cases where company law disregards the principle of corporate personality or the principle that the company is a legal entity distinct from its shareholders or members. Elucidate.

Or

Some of the creditors of Pharmaceutical Appliances Ltd. have complained that the company was formed by the promoters only to defraud the creditors and circumvent the compliance of legal provisions of the Companies Act, 2013. In this context, they seek your advice as to the meaning of corporate veil and when the promoters can be made personally liable for the debts of the company.

Provision: [Companies Act, 2013]

Meaning of Lifting the Corporate Veil:

1. The company has a separate legal entity from its members. This principle is called the 'Veil of Incorporation'.
2. All the directors and the members take the decision behind the veil. And it is considered as decision of the company.
3. This advantage of acting behind the veil is available to the members and directors or any other person belonging from the inner management of the company, only if he is acting for the benefit of the company & its members in legitimate manner.
4. Therefore, where there is fraudulent intention to misuse the veil for benefits of their own or conducting illegal act, such person will not get benefit of acting behind veil. In such case the veil will be removed and person responsible for the fraud shall be penalized and will be held personally liable.
5. **The circumstances or the cases in which the Courts have disregarded the corporate personality of the company are:**
 - a) **Protection of revenue:** (To prevent evasion of taxation) The Courts may ignore the corporate entity of a company where it is used for tax evasion. (**Juggilal v. Commissioner of Income Tax, B.F. Guzdar v. Commissioner of Income Tax Bombay**).
 - b) **Prevention of fraud or improper conduct:** The legal personality of a company may also be disregarded in the interest of justice where the machinery of incorporation has been used for some fraudulent purpose like defrauding creditors or defeating or circumventing law. Professor Gower has rightly observed in this regard that the veil of a corporate body will be lifted where the 'corporate personality is being blatantly used as a cloak for fraud or improper conduct'. Thus where a company was incorporated as a device to conceal the identity of the perpetrator of the fraud, the Court disregarded the corporate personality (**Jones v. Lipman**) (**Gilford Motor Co. v. Home**).
 - c) **Determination of character of a company whether it is enemy:** A company may assume an enemy character when persons in de facto control of its affairs are residents in an enemy country. In such a case, the Court may examine the character of persons in real control of the company and declare the company to be an enemy company. (**Daimler Co. Ltd. v. Continental Tyre & Rubber Co. Ltd.**).
 - d) **Where the company is a sham:** The Courts also lift the veil or disregard the corporate personality of a company where a company is a mere cloak or sham (hoax). (**Gilford Motor Co. Ltd. v. Home**).
 - e) **Company avoiding legal obligation:** Where the use of an incorporated company is being made to avoid legal obligations, the Court may disregard the legal personality of the company and proceed on the assumption as if no company existed.

- f) **Company acting as agent or trustee of the shareholders:** Where a company is acting as agent for its shareholders, the shareholders will be liable for the acts of the company (**F.G. Films Ltd., In re.**)
- g) **Avoidance of welfare legislation:** Where the courts find that there is avoidance of welfare legislation, it will be free to lift the corporate veil. (**Workmen of Associated Rubber Industry Ltd. v. Associated Rubber Industry Ltd.**)
- h) **Protecting public policy:** The Courts invariably lift the corporate veil or disregard the corporate personality of a company to protect the public policy and prevent transactions contrary to public policy. (**Connors v. Connors Ltd.**)
- i) **In quasi-criminal cases:** The courts pierce the corporate veil in quasi-criminal cases in order to look behind the legal person and punish the real persons who have violated the law.

Answer:

Therefore, Promotor can be made liable when they do any misconduct behind the veil of company.

Examine the following whether they are correct or incorrect along with reasons:

- a) A company being an artificial person cannot own property and cannot sue or be sued.
- b) A private limited company must have a minimum of two members, while a public limited company must have at least seven members.

Answer: [Companies Act, 2013]

a) Incorrect:

A company is an artificial person as it is created by a process other than natural birth. It is legal or judicial as it is created by law. It is a person since it is clothed with all the rights of an individual. Further, the company being a separate legal entity can own property, have banking account, raise loans, incur liabilities and enter into contracts. Even members can contract with company, acquire right against it or incur liability to it. It can sue and be sued in its own name. It can do everything which any natural person can do except be sent to jail, take an oath, marry or practice a learned profession. Hence, it is a legal person in its own sense.

b) Correct:

Section 3 of the Companies Act, 2013 deals with the basic requirement with respect to the constitution of the company. In the case of a public company, any 7 or more persons can form a company for any lawful purpose by subscribing their names to memorandum and complying with the requirements of this Act in respect of registration. In exactly the same way, 2 or more persons can form a private company.

Mr. Anil formed a One Person Company (OPC) on 16th April, 2018 for manufacturing electric cars. The turnover of the OPC for the financial year ended 31st March, 2019 was about ` 2.25 Crores. His friend Sunil wanted to invest in his OPC, so they decided to convert it voluntarily into a private limited company. Can Anil do so?

Provision: [Companies Act, 2013]

1. As per Rule 3 of the Companies (Incorporation) Rules, 2014, no One Person Company (OPC) can convert voluntarily into any kind of company unless two years have expired from the date of its incorporation, except where the paid up share capital is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees.

2. Besides, Section 18 of the Companies Act, 2013 provides that a company of any class registered under this Act may convert itself as a company of other class under this Act by alteration of memorandum and articles of the company in accordance with the provisions of Chapter II of the Act.

Answer:

In the instant case, Mr. Anil formed an OPC on 16th April, 2018 and its turnover for the financial year ended 31st March, 2019 was Rs. 2.25 Crores. Even though two years have not expired from the date of its incorporation, since its average annual turnover during the period starting from 16th April, 2018 to 31st March, 2019 has exceeded Rs. 2 Crores, Mr. Anil can convert the OPC into a private limited company along with Sunil.

A, an assessee, had large income in the form of dividend and interest. In order to reduce his tax liability, he formed four private limited company and transferred his investments to them in exchange of their shares. The income earned by the companies was taken back by him as pretended loan. Can A be regarded as separate from the private limited company he formed?

Provision: [Companies Act, 2013]

1. The House of Lords in *Salomon Vs Salomon & Co. Ltd.* laid down that a company is a person distinct and separate from its members, and therefore, has an independent separate legal existence from its members who have constituted the company.
2. But under certain circumstances the separate entity of the company may be ignored by the courts. When that happens, the courts ignore the corporate entity of the company and look behind the corporate façade and hold the persons in control of the management of its affairs liable for the acts of the company.
3. Where a company is incorporated and formed by certain persons only for the purpose of evading taxes, the courts have discretion to disregard the corporate entity and tax the income in the hands of the appropriate assessee.
4. In *Dinshaw Maneckjee Petit* case it was held that the company was not a genuine company at all but merely the assessee himself disguised that the legal entity of a limited company. The assessee earned huge income by way of dividends and interest. So, he opened some companies and purchased their shares in exchange of his income by way of dividend and interest. This income was transferred back to assessee by way of loan. The court decided that the private companies were a sham and the corporate veil was lifted to decide the real owner of the income.

Fact of case:

In the instant case, the four private limited companies were formed by A, the assessee, purely and simply as a means of avoiding tax and the companies were nothing more than the façade of the assessee himself. Therefore, the whole idea of Mr. A was simply to split his income into four parts with a view to evade tax. No other business was done by the company.

Answer:

Hence, A cannot be regarded as separate from the private limited companies he formed.

The Memorandum of Association is a charter of a company". Discuss. Also explain in brief the contents of Memorandum of Association.

Provision: [Companies Act, 2013]

1. The Memorandum of Association of company is in fact its charter; it defines its constitution and the scope of the powers of the company with which it has been established under the Act. It is the very foundation on which the whole edifice of the company is built.
2. **Object of registering a memorandum of association:**
 - a) It contains the object for which the company is formed and therefore identifies the possible scope of its operations beyond which its actions cannot go.
 - b) It enables shareholders, creditors and all those who deal with company to know what its powers are and what activities it can engage in.
 - c) A memorandum is a public document under Section 399 of the Companies Act, 2013. Consequently, every person entering into a contract with the company is presumed to have the knowledge of the conditions contained therein.
 - d) The shareholders must know the purposes for which his money can be used by the company and what risks he is taking in making the investment.
3. A company cannot depart from the provisions contained in the memorandum however imperative may be the necessity for the departure. It cannot enter into a contract or engage in any trade or business, which is beyond the power conferred on it by the memorandum. If it does so, it would be *ultra vires* the company and void.
4. **Contents of the memorandum:** The memorandum of a company shall state—
 - a) the name of the company (Name Clause) with the last word “Limited” in the case of a public limited company, or the last words “Private Limited” in the case of a private limited company. This clause is not applicable on the companies formed under section 8 of the Act.
 - b) the State in which the registered office of the company (Registered Office clause) is to be situated;
 - c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof (Object clause);
 - d) the liability of members of the company (Liability clause), whether limited or unlimited
 - e) The amount of authorized capital (Capital Clause) divided into share of fixed amounts and the number of shares with the subscribers to the memorandum have agreed to take, indicated opposite their names, which shall not be less than one share. A company not having share capital need not have this clause.
 - f) The desire of the subscribers to be formed into a company. The Memorandum shall conclude with the association clause. Every subscriber to the Memorandum shall take at least one share, *and shall write against his name, the number of shares taken by him.*

Mr. X had purchased some goods from M/s ABC Limited on credit. A credit period of one month was allowed to Mr. X. Before the due date Mr. X went to the company and wanted to repay the amount due from him. He found only Mr. Z there, who was the factory supervisor of the company. Mr. Z told Mr. X that the accountant and the cashier were on leave, he is in-charge of receiving money and he may pay the amount to him. Mr. Z issued a money receipt under his signature. After two months M/s ABC Limited issued a notice to Mr. X for non-payment of the dues within the stipulated period. Mr. X informed the company that he had already cleared the dues and he is no more responsible for the same. He also contended that Mr. Z is an employee of the company to whom he had made the payment and being an outsider, he trusted the words of Mr. Z as duty distribution is a job of the internal management of the company. Analyse the situation and decide whether Mr. X is free from his liability.

Provision: [Companies Act, 2013]

1. According to the “doctrine of indoor management” the outsiders, dealing with the company though are supposed to have satisfied themselves regarding the competence of the company to enter into the proposed contracts are also entitled to assume that as far as the internal compliance to procedures and regulations by the company is concerned, everything has been done properly.
2. They are bound to examine the registered documents of the company and ensure that the proposed dealing is not inconsistent therewith, but they are not bound to do more.
3. They are fully entitled to presume regularity and compliance by the company with the internal procedures as required by the Memorandum and the Articles. This doctrine is a limitation of the doctrine of “constructive notice” and popularly known as the rule laid down in the celebrated case of Royal British Bank v. Turquand. Thus, the doctrine of indoor management aims to protect outsiders against the company.

Fact of case:

In the given question, Mr. X has made payment to Mr. Z and he (Mr. Z) gave to receipt of the same to Mr. X. Thus, it will be rightful on part of Mr. X to assume that Mr. Z was also authorised to receive money on behalf of the company.

Answer:

Hence, Mr. X will be free from liability for payment of goods purchased from M/s ABC Limited, as he has paid amount due to an employee of the company.

State the limitations of the doctrine of indoor management under the Companies Act, 2013.**Provision:** [Companies Act, 2013]

The doctrine of Indoor Management has limitations of its own. That is to say, it is inapplicable to the following cases, namely:

a) Actual or constructive knowledge of irregularity: The rule does not protect any person when the person dealing with the company has notice, whether actual or constructive, of the irregularity. In Howard vs. Patent Ivory Manufacturing Co. where the directors could not defend the issue of debentures to themselves because they should have known that the extent to which they were lending money to the company required the assent of the general meeting which they had not obtained.

Likewise, in Morris v Kanssen, a director could not defend an allotment of shares to him as he participated in the meeting, which made the allotment. His appointment as a director also fell through because none of the directors appointed him was validly in office.

b) Suspicion of Irregularity: The doctrine in no way, rewards those who behave negligently. Where the person dealing with the company is put upon an inquiry, for example, where the transaction is unusual or not in the ordinary course of business, it is the duty of the outsider to make the necessary enquiry.

The protection of the “Turquand Rule” is also not available where the circumstances surrounding the contract are suspicious and therefore invite inquiry. Suspicion should arise, for example, from the fact that an officer is purporting to act in the manner, which is apparently outside the scope of his authority. Where, for example, as in the case of Anand Bihari Lal vs Dinshaw & Co. the plaintiff accepted a transfer of a company’s property from its accountant, the transfer was held void. The plaintiff could not have supposed, in absence of a power of attorney that the accountant had authority to effect transfer of the company’s property.

c) **Forgery:** The doctrine of indoor management applies only to irregularities which might otherwise affect a transaction but it cannot apply to forgery which must be regarded as nullity. Forgery may in circumstances exclude the 'Turquand Rule'. The only clear illustration is found in the *Ruben v Great Fingall Consolidated*. In this case the plaintiff was the transferee of a share certificate issued under the seal of the defendant's company. The company's secretary, who had affixed the seal of the company and forged the signature of the two directors, issued the certificate. The plaintiff contended that whether the signature were genuine or forged was apart of the internal management, and therefore, the company should be estopped from denying genuineness of the document. However, it was held, that the rule has never been extended to cover such a complete forgery.

Sound Syndicate Ltd., a public company, its articles of association empowers the managing agents to borrow both short and long term loans on behalf of the company, Mr. Liddle, the director of the company, approached Easy Finance Ltd., a non-banking finance company for a loan of ₹ 25,00,000 in name of the company.

The Lender agreed and provided the above said loan. Later on, Sound Syndicate Ltd. refused to repay the money borrowed on the pretext that no resolution authorizing such loan have been actually passed by the company and the lender should have enquired about the same prior providing such loan hence company not liable to pay such loan.

Analyse the above situation in terms of the provisions of Doctrine of Indoor Management under the Companies Act, 2013 and examine whether the contention of Sound Syndicate Ltd. is correct or not?

Provision: [Companies Act, 2013]

1. According to the "doctrine of indoor management" the outsiders, dealing with the company though are supposed to have satisfied themselves regarding the competence of the company to enter into the proposed contracts are also entitled to assume that as far as the internal compliance to procedures and regulations by the company is concerned, everything has been done properly.
2. They are bound to examine the registered documents of the company and ensure that the proposed dealing is not inconsistent therewith, but they are not bound to do more.
3. They are fully entitled to presume regularity and compliance by the company with the internal procedures as required by the Memorandum and the Articles. This doctrine is a limitation of the doctrine of "constructive notice" and popularly known as the rule laid down in the celebrated case of *Royal British Bank v. Turquand*. Thus, the doctrine of indoor management aims to protect outsiders against the company.
4. What happens internal to a company is not a matter of public knowledge. An outsider can only presume the intentions of a company, but do not know the information he/she is not privy to.
5. If not for the doctrine, the company could escape creditors by denying the authority of officials to act on its behalf.

Facts of case:

In given question, Sound Syndicate Ltd., a public company borrows ₹ 25,00,000 from Easy Finance Ltd., a non-banking finance company. Later on they refused to pay back the loan amount by giving reason that no such resolution has been passed for such borrowing and Easy Finance Ltd. Should have enquired about the same before providing such loan.

Answer:

In the given question, Easy Finance Ltd. being external to the company, need not enquire whether the necessary resolution was passed properly. Even if the company claim that no resolution authorizing the loan was passed, the company is bound to pay the loan to Easy Finance Ltd.

What do you mean by "Companies with charitable purpose" (section 8) under the Companies Act, 2013? Mention the conditions of the issue and revocation of the licence of such company by the government.

Provision: [Companies Act, 2013]

1. Section 8 of the Companies Act, 2013 deals with the formation of companies which are formed to
 - a) promote the charitable objects of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment etc.
 - b) Such company intends to apply its profit in promoting its objects and
 - c) prohibiting the payment of any dividend to its members.
2. Power of Central government to issue the license—
 - a) Section 8 allows the Central Government to register such person or association of persons as a company with limited liability without the addition of words 'Limited' or 'Private limited' to its name, by issuing licence on such conditions as it deems fit.
 - b) The registrar shall on application register such person or association of persons as a company under this section.
 - c) On registration the company shall enjoy same privileges and obligations as of a limited company.
3. The Central Government may by order revoke the licence of the company where the company contravenes any of the requirements or the conditions of this sections subject to which a licence is issued or where the affairs of the company are conducted fraudulently, or violative of the objects of the company or prejudicial to public interest, and on revocation the Registrar shall put 'Limited' or 'Private Limited' against the company's name in the register. But before such revocation, the Central Government must give it a written notice of its intention to revoke the licence and opportunity to be heard in the matter.
4. Examples of section 8 companies are FICCI, ASSOCHAM, National Sports Club of India, CII etc.