

Lecture-19

"Registration of charges"

(4-6 marks)

77.

78.

Explain charge and types of charges?

79.

80.

81.

82.

83.

84.

85.

86.

87.

Charge means an interest or lien created on the property or assets or undertakings on both as a security and includes a mortgage

Types of charge

Fixed -

- 1) It is a charge on specific assets of borrowing Co.
Eg- land and building, machinery
- 2) Co. cannot sell such assets during the period of charge though it may use them.
- 3) Assets can be sold only with the permission of charge holder
- 4) It is vacated when entire loan is repaid.

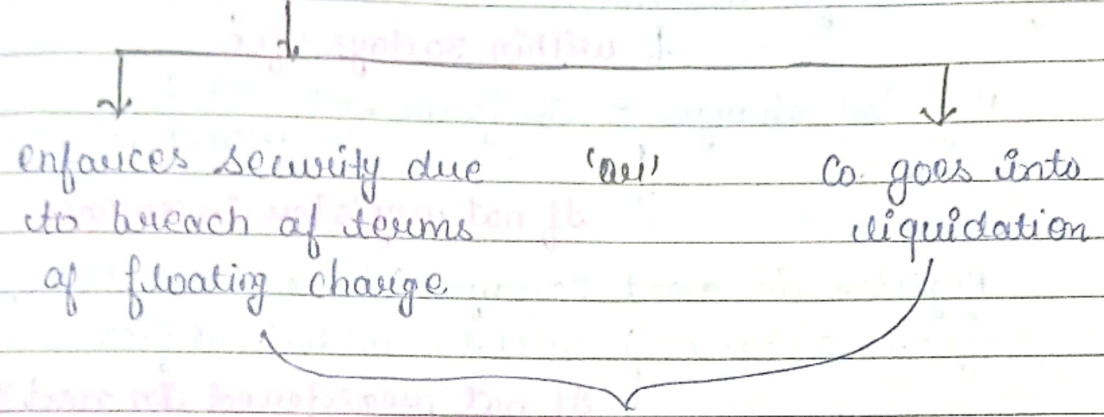
Floating

- 1) It is a charge on fluctuation assets
Eg- Raw material, stock, debtors etc.
- 2) Co. can sell the asset & buyer will get good title.
- 3) Company can sell the asset and no permission is required.
- 4) It is on both present & future assets.

Ques
Ans

Crystallization of charge, Explain?

1) When credit is



then, floating charge becomes fixed charges on all assets available on that date.

This is called Crystallization of charge.

2) On crystallization the security becomes fixed and is available for ~~use~~ realization by the lender so that borrowed money is repayed.

that is stock (assets) can neither be sold nor used by the company in its business operations.

Que-3

Explain the procedure of registration of charge

- Section 77

Ans

If a charge is created on or after 01-11-2018
 ↓ within 30 days + fee.

Register charge - in form → CHG-1 all assets
 ↓ CHG-9 debentures

↓ If not registered in 30 days

Register in next 30 days i.e. within 60 days
 from creation) within additional fees.

↓ If not registered in next 30 days

Register within a further period of
 sixty days with advalorem fees

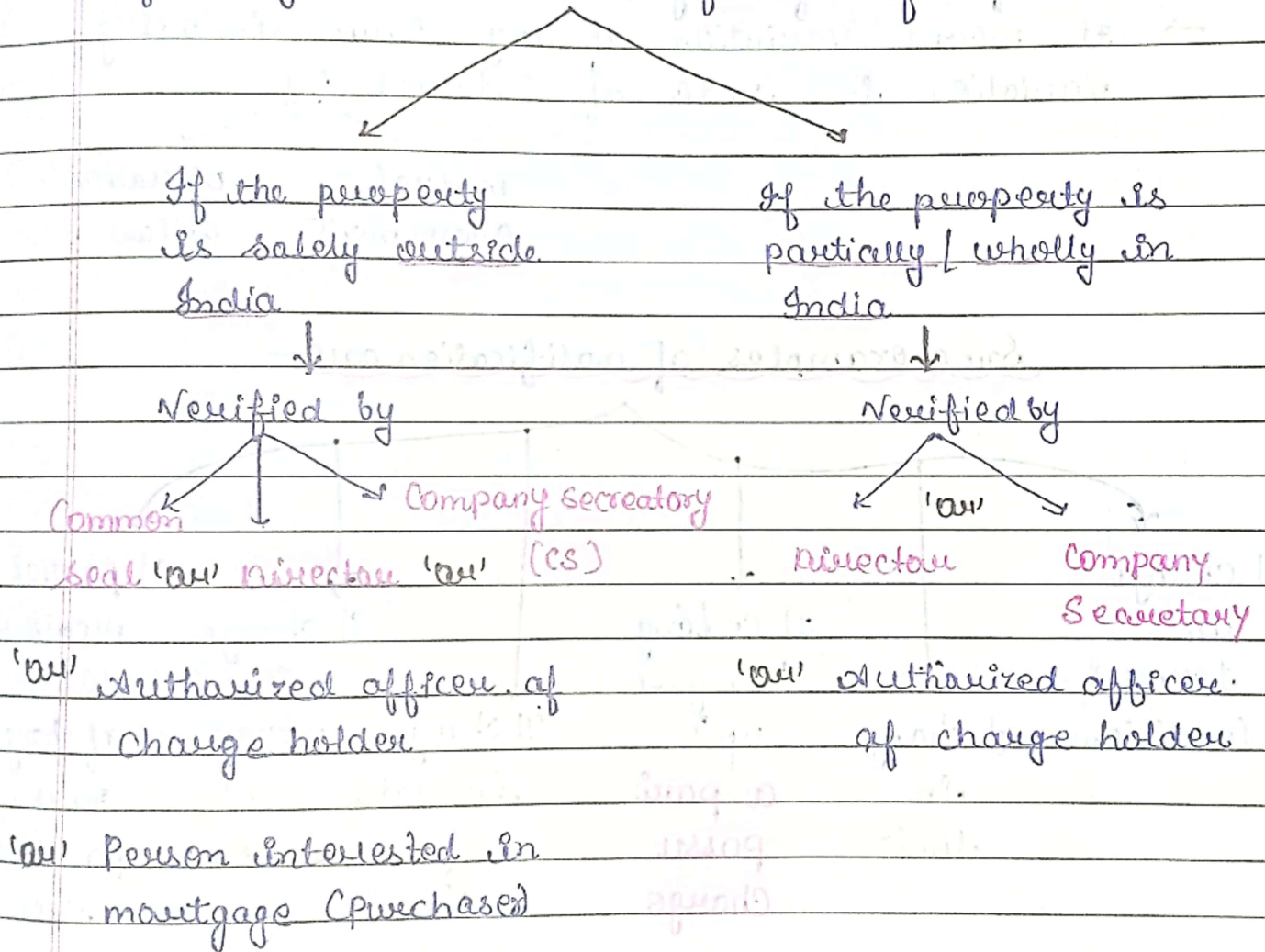
ROC will issued certificate of charge in form
 CHG-2 which shall be a conclusive evidence
 that all requirement of charges have been
 complied with. If the charge is not
 registered within the actual 30 days &
 registered in the extended period, the
 rights of lenders (as charge holder) shall
 not get affected.

If a charge was not registered, it shall
 not be taken into accounts by the liquidator
 appointed under Companies Act, 2013

Non-registration of charge will not impact
 the obligation for repayment of money

Ques 4 Explain verification of ^{Instrument} ~~instalment~~ evidencing creation or modification of charge.

Every instrument evidencing creation or modification of charge shall be verified as follows:



Ques 5 Procedure for registration by charge holder

- Section 79

If a company fails to register the charge then charge holder (Bank) → ROC for registration

- ROC → ≤ 14 days of such application → notice
→ Co. explaining why charge should not be registered.

If chargeholder → has registered the charge, all expenses → can be recovered from the company i.e. fee/ additional fees.

Ques-6

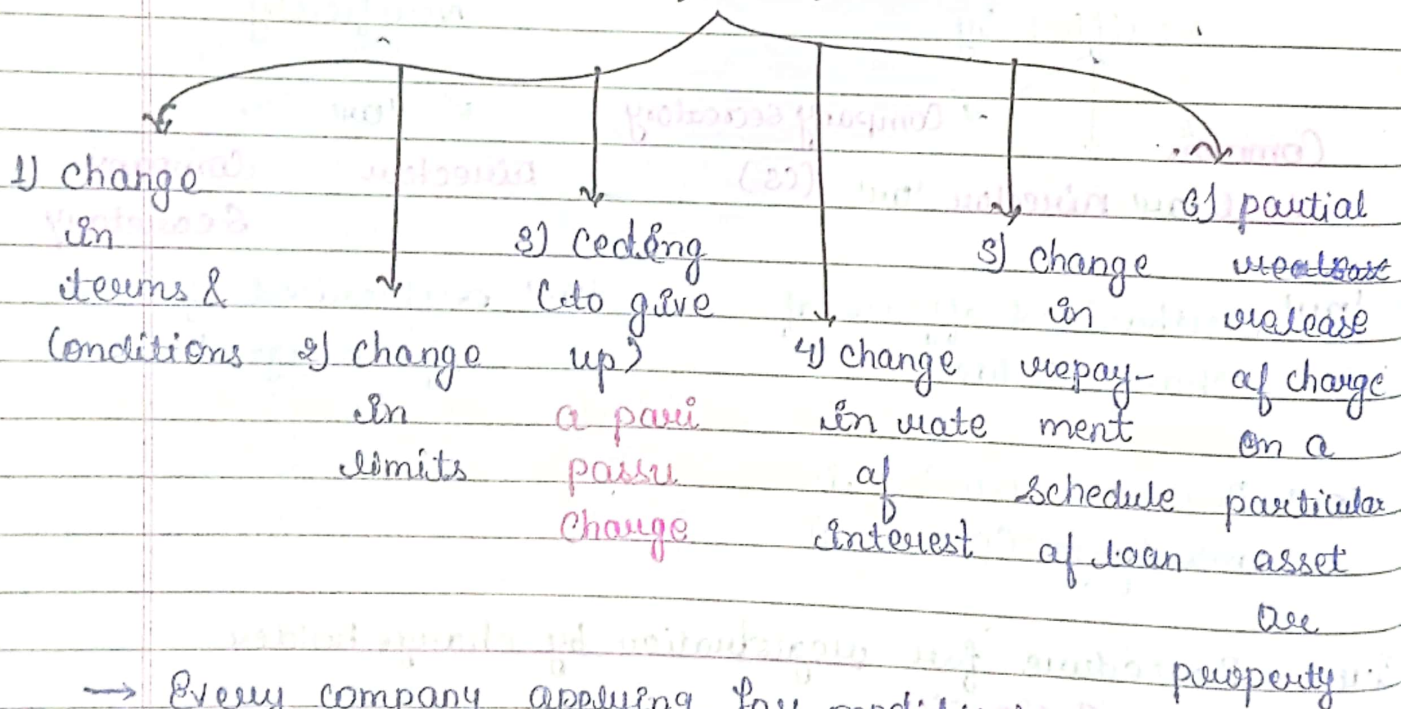
Modification of charge - Section 19

→ It means variation of any terms including variation in rate of interest by

mutual agreement

operation of law

Some examples of modification are -



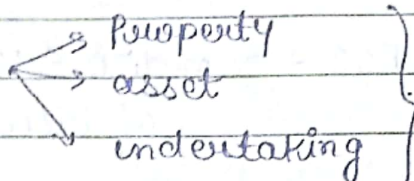
→ Every company applying for modification shall make an application in CHA-1 to ROC

→ ROC will issue a certificate of modification on of charge in form no. CHA-3

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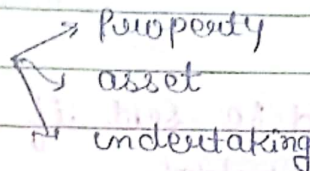
saathi

Ques 7 Date of notice of charge Section 80

where any charge on any 

then any person

Acquiring such



is required u/s 77

shall be deemed to have notice of the

charge from the date of such registration MCQ

Ques 8 Register of charge by ROC Section 91

(i) The ROC shall keep a register containing details of charges for every company in such form and in such manner as may be prescribed

(ii) This register shall be open for inspection by any person on payment of such fees as may be prescribed.

Ques 9 Procedure for satisfaction of charges Section 92

Ans (i) Co. → Intimate → ROC → On payment or satisfaction in full within 30 days of such payment or satisfaction.

(ii) Period of 30 days can be extended to 300 days from date of such payment.

Date _____

Lecture-9

(iii) On receipt of information

ROC $\rightarrow$ notice ≤ 14 days $\rightarrow$ chargeholder as to why payment or satisfaction in full should not be recorded

No notice should be sent if intimation is given by chargeholder.

(iv) If chargeholder

↓
does not show cause
ROC $\rightarrow$ issue Certificate of registration of satisfaction of charge
CHG-5

↓
show cause
ROC $\rightarrow$ inform the Co. about the same.

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Que-10 Power of ROC to make entries of satisfaction in absence of intimation from the company.
Section 83

Ans

(i) If an evidence is shown to the ROC that the debt secured by charge has been paid or satisfied in full or in part or the property or undertaking has been released or ceased to form part of the companies properties then, ROC may enter in the register of charges a memorandum of satisfaction that

↓
Debts has been paid
in whole or ⁱⁿ part

'OR'

↓
part of the property,
is released or
ceased to form part
of co's property are
undertaking

(i) This power can be exercised by ROC even if no intimation is received by him from the company.

(iii) The ROC will inform the affected parties within 30 days of making entry in the register of change.

(iv) ROC will issue certificate of registration of satisfaction of change in form CHG-5

Ques-II Intimation of appointment [of receiver/ of manager] Section 84

(i) If a person obtains the order to appoint receiver / manager of property.

'OR'

If any person appoints such receiver or manager of the property.

then,
he/she shall inform
{

 Company
ROC

 about such appointment

within 30 days of passing of order or making of the appointment

Date / /

(ii) Any person appointed above on ceasing to hold such appointment shall give notice

- ROC
- Company

(iii) The notice for appointment or cessation shall be given to ROC in form **CHOL-6**

Que-13 Company's register of charges **Section 85**

(i) Every company shall keep at its register office a register of charges in form **CHOL-7** which shall include such particulars as may be prescribed.

(ii) A copy of the instrument creating the charge shall also be kept at register office along with register of charges.

(iii) The register of charges and instrument of charges shall be open for inspection during business hours

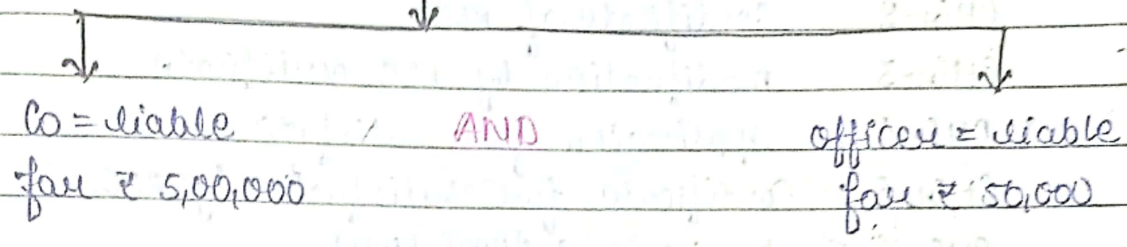
↓
members, Creditors
without any fees

↓
by any other person
on payment of
such fees as may
be prescribed.

Date ___/___/___

Que-14 Penalty for contravention - Section 96

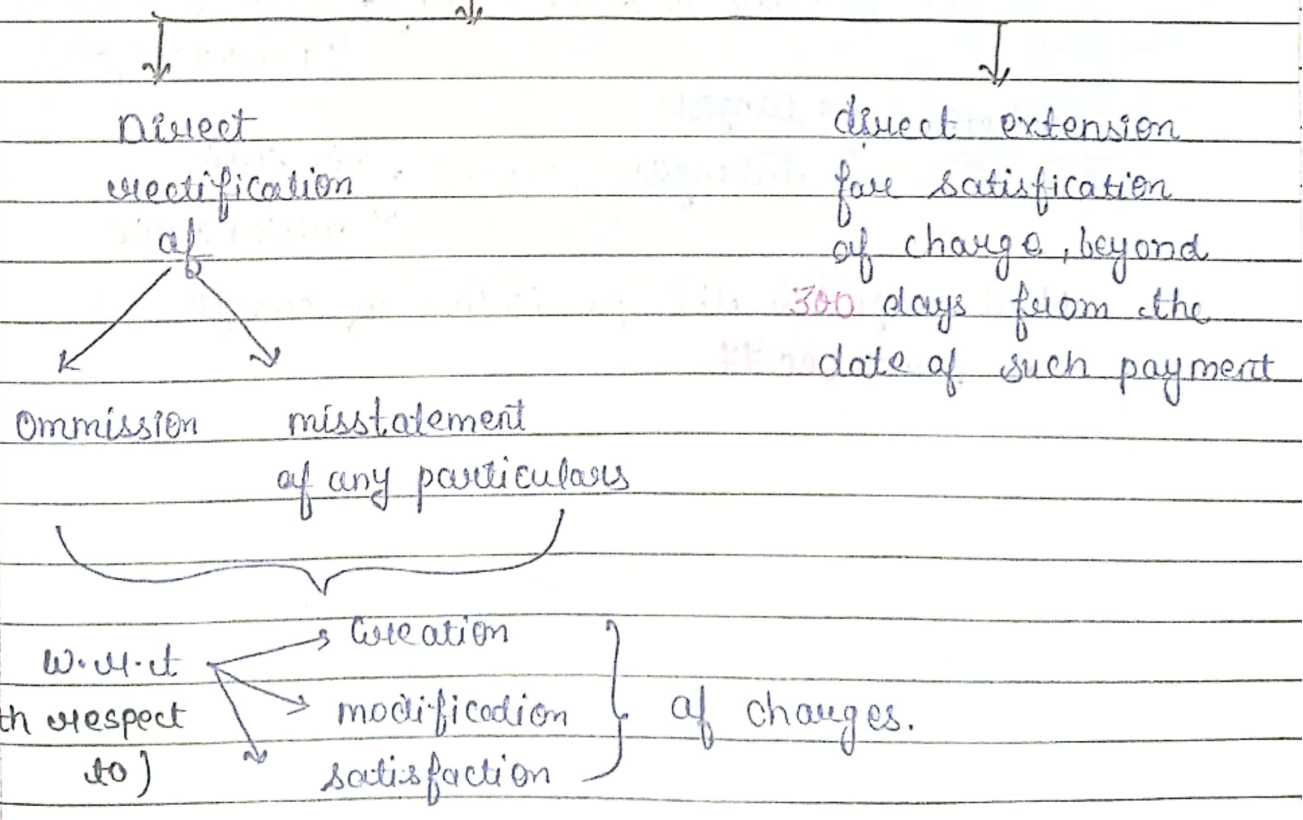
Ans (i) If any provision of this chapter is contravened then,



(ii) If any person furnishes false
Incorrect w.r.t.
Info. with respect to
registration of charges.
shall be liable v/s 947

Que-15 Rectification of charges Section 97

Ans The CB on application filed in form CHG-9



Date _____

Form No.

- CHG-1 registration of charge
- CHG-2 Certificate of ROC
- CHG-3 modification by ROC certificate
- CHG-4 application for satisfaction
- CHG-5 Certificate for satisfaction by ROC
- CHG-6 Notice
 - Appointment
 - Cessation of appt. of receiver
- CHG-7 Register of charge of Co.
- CHG-8 Rectification application to Co.
- CHG-9 Registration for debentures of charges.

IT

It shall be the duty of every company creating charge

- within
- outside India on any
 - Property
 - assets
 - undertaking
- whether
 - tangible
 - intangible situated
 - In India
 - outside India

shall register the particulars of charge as per sec 77