



## **PAPER – 2: CORPORATE AND OTHER LAWS**

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### **PART – I: AMENDMENTS FOR SEPTEMBER 2025 EXAMINATIONS**

The Study Material (July 2024 edition) is applicable for September 2025 examinations. This study material is updated for all amendments till 30<sup>th</sup> June, 2024.

All relevant amendments/ circulars/ notifications etc. in the Company law part for the period 1<sup>st</sup> July, 2024 to 28<sup>th</sup> February, 2025 are mentioned below:

#### **THE COMPANIES ACT, 2013**

##### **Chapter 11: Companies Incorporated Outside India**

Notification G.S.R 491(E) dated 12<sup>th</sup> August, 2024

The Central Government has amended the Companies (Registration of Foreign Companies) Rules, 2014, through the Companies (Registration of Foreign Companies) Amendment Rules, 2024.

#### **Amendment:**

In the Companies (Registration of Foreign Companies) Rules, 2014,-

- (i) in rule 3, in sub-rule (3), for the word, "registrar", the words, "Registrar, Central Registration Centre" shall be substituted.
- (ii) in rule 8, in sub-rule (1), the following proviso shall be inserted, namely:-  
"Provided that the documents for registration by a foreign company referred to in sub-rule (3) of rule (3) shall be delivered in Form FC-1 to the Registrar, Central Registration Centre."

[Enforcement Date: 9<sup>th</sup> September, 2024]

For (i) Pg 11.6

**Form, procedure and time for making application and submission of prescribed documents:** According to the Companies (Registration of Foreign Companies) Rules, 2014, the above information shall be filed with the **Registrar** within 30 days of the establishment of its place of business in India, in Form *FC-1* along with prescribed fees and documents required to be furnished as provided in section 380(1). The application shall also be supported with an attested copy of approval from the Reserve Bank of India under the Foreign Exchange Management Act or Regulations, and also from other regulators, if any, approval is required by such foreign company to establish a place of business in India or a declaration from the authorised representative of such foreign company that no such approval is required.

For (ii) Pg 11.7

Proviso to rule 8(1) is newly inserted.

## PART – II: QUESTION AND ANSWERS



## QUESTIONS

## DIVISION A: MULTIPLE CHOICE QUESTIONS

## Case Scenario 1

Kapoor Limited is a mid-sized listed manufacturing company incorporated in the year 2010 by R.D. Kapoor. Mr. Kapoor has two son, Mr. Vineet and Mr. Aditya. Both Mr. Aditya and Mr. Vineet are working as directors in Kapoor Limited.

Kapoor Limited had some compliance issues in the past. In 2016–17, the company issued redeemable preference shares but later failed to pay dividends on them for some time. In September 2018, the company fixed this by clearing all its loans and paying the pending dividends to the preference shareholders. After resolving these issues, the company proposed to issue new equity shares with differential rights for the financial year 2019–20.

As part of its broader capital raising strategy, the board of directors decided to issue three different securities:

- a rights issue of equity shares to existing shareholders,
- a new class of preference shares offered exclusively to current equity shareholders, and
- a public issue of convertible debentures.

So, for the rights issue, it prepares a simplified document omitting several disclosures required under section 26(1) and for the new preference shares, they created a detailed prospectus but excluded certain financial reporting. But for the convertible debentures, they prepare a complete prospectus with all section 26(1) requirements.

Further, Ms. Roshni, a shareholder, owned 1,500 partly paid equity shares in the company (₹ 8 paid out of ₹ 10). On 5th July 2024, she applied to transfer 500 of these shares to Mr. Bakshi, who didn't know about it. The company sent him a notice on 10<sup>th</sup> July, 2024, which he received on 12<sup>th</sup> July, 2024. Since Mr. Bakshi was abroad, he saw the notice only on 20<sup>th</sup> July, 2024. After

realizing the shares had unpaid amounts, he sent an objection email on 24<sup>th</sup> July, 2024. However, the company went ahead with the transfer on 27<sup>th</sup> July, 2024, saying his objection came too late. According to the company's rules, the Board can approve the transfer of partly paid shares if they believe the buyer can pay the remaining amount in the future.

In another case, Mr. Varun, one of the shareholders of Kapoor Limited, is the legal representative of a deceased shareholder, Mr. Kartik. He had written an application to the company, to transfer the shares (of Mr. Kartik) in his name. But Mr. Varun did not receive any reply from the company. Mr. Varun went to the company office to inquire about the same. The company refused to transfer the shares in his name, as he is not the registered member of the company.

For your information, the company's financial position as of 31<sup>st</sup> March, 2024 is as follows:

- Paid-up equity share capital: ₹ 200 crore (20 crore shares of ₹ 10 each)
- Free reserves: ₹ 600 crore
- Securities premium: ₹150 crore
- Secured loans: ₹ 400 crore
- Unsecured loans: ₹300 crore

The Board of Directors approved a buy-back proposal on 15<sup>th</sup> September, 2024, to purchase 3 crore equity shares at ₹ 60 per share. The company had previously conducted a buy-back of 1 crore shares (₹ 10 crore) in August 2023 during the financial year 2023-24. The new buy-back is planned for October 2024, which falls in financial year 2024-25. The Chief Financial Officer has confirmed that post-buy-back, the debt-to-capital ratio would remain within prescribed limits, and the shares are fully paid-up.

In the light of the stated facts and figures, answer the following Multiple Choice Questions, as per the provisions of the Companies Act, 2013:

1. Since the default was made good in FY 2018-2019, the company considered to issue new equity share with differential rights. According to the provisions of the Companies Act, do you think the company is eligible to issue the shares for the financial year 2019-2020?

- (a) Yes, the company is immediately eligible to issue new shares as it has cleared all the dues and loan by September 2018.
  - (b) No, the company is ineligible to issue the shares as the company needs to wait three years till March 31, 2022.
  - (c) Yes, the company is eligible to issue new shares in the next financial year, as the default was made good in the previous FY year 2018-2019.
  - (d) No, the company is ineligible to issue the new shares as the company needs to wait for five years till March 31, 2024.
2. According to the provision of the Companies Act, do you consider the company's action of affecting the transfer of partly paid shares to Mr. Bakshi is valid?
- (a) Yes, because the company waited for more than 7 days from the date of dispatch of notice before registering the transfer.
  - (b) No, because the transferee did not give his explicit consent before the transfer of partly paid shares.
  - (c) No, because Mr. Bakshi made objection within 2 weeks from the date of receipt of notice.
  - (d) Yes, because the Board has assessed Mr. Bakshi's financial capability before approving the transfer.
3. According to the provision of the Companies Act, can the company deny transferring shares in Mr. Varun's name and what is the company's obligation?
- (a) Yes, the company can refuse the transfer if he is not a registered shareholder.
  - (b) No, the legal representative has the right to transfer even if they are not registered shareholder.
  - (c) No, the company can deny if the legal representative's name is not registered with the company.
  - (d) Yes, the company needs the approval from the Tribunal before transferring the shares.

4. Based on the buy-back limitations under the provision of the Companies Act, do you think the proposed buy-back is valid?
- (a) Yes, the buy-back is valid as the total amount (₹ 180 crore) is within 25% of the aggregate paid-up capital and free reserves (₹ 800 crore), and the buy-back in the new financial year is not affected by the previous year's buy-back.
  - (b) Yes, the buy-back is valid as the number of shares (3 crore) is within the 25% of the total paid-up equity capital (5 crore shares).
  - (c) Yes, the buy-back is valid as the value of shares being bought back (₹ 180 crore) represents only 22.5% of the aggregate paid-up capital and free reserves (₹ 800 crore).
  - (d) No, the buy-back is invalid as the total amount (₹ 180 crore) combined with the premium being paid (₹ 150 crore above face value) exceeds 25% of the aggregate paid-up capital and free reserves.
5. The company had earlier made buy-back of 1 crore shares in August 2023. Can it legally conduct another buy-back in October 2024?
- (a) Yes, as both of the gap between the buy backs is more than 1 year
  - (b) No, as only one buy-back is allowed in the company's lifetime
  - (c) No, only listed companies can do multiple buy-backs
  - (d) Yes, but only if Tribunal gives specific permission
6. Suppose, if Kapoor Limited's post-buy-back debt-to-equity ratio would have exceeded 2:1, which of the following is correct?
- (a) Buy-back is still valid if Board approves
  - (b) Buy-back will be invalid unless a higher ratio is prescribed by the Central Government (through Notification) for the company
  - (c) The ratio rule applies only to private companies
  - (d) Buy-back is still valid as the Companies Act, 2013, does not prescribe any limit on debt-to-equity ratio.

**Independent MCQs**

7. Samyak Solutions Limited held its Annual General Meeting (AGM) on 20<sup>th</sup> September, 2024 to adopt the financial statements for the financial year ending 31<sup>st</sup> March, 2024. However, due to lack of quorum, the meeting was adjourned and was finally held on 27<sup>th</sup> September, 2024.

What is the last date for filing the Annual Return with the Registrar of Companies under the Companies Act, 2013.

- (a) 60 days from 31<sup>st</sup> March, 2024
  - (b) 60 days from 20<sup>th</sup> September, 2024
  - (c) 60 days from 27<sup>th</sup> September, 2024
  - (d) 60 days from 30<sup>th</sup> September, 2024
8. Blue Leaf Limited, an Indian company with a total paid-up share capital of ₹ 50 crore, has a wide base of shareholders, including a large number residing in the Middle East. Out of its total capital, ₹ 15 crore worth of shares are held by members residing in Kuwait.

To facilitate better maintenance of records and communication with its overseas shareholders, the company decides to open a foreign register in Kuwait containing the names and particulars of those members and other security holders residing there. The foreign register is formally opened on November 1, 2024.

Which of the following actions is Blue Leaf Limited required to take in this context?

- (a) File a resolution passed by the Board approving the foreign register with the Registrar of Companies within 60 days from November 1, 2024.
- (b) Send an intimation to the Ministry of External Affairs within 15 days of opening the foreign register.
- (c) File with the Registrar of Companies a notice of the situation of the Kuwait office within 30 days from November 1, 2024, along with the prescribed fee.
- (d) Apply to the Reserve Bank of India for approval to maintain a foreign register outside India.

9. Ms. Smriti, an Indian national, recently won ₹ 41 lakh in an international online lottery. She now wishes to remit an equivalent of US \$50,000 abroad to a foreign account using her lottery winnings. She approached her authorized dealer bank to request foreign exchange for this purpose. As per the provisions of the Foreign Exchange Management Act, 1999 and the relevant Rules, what is the correct position regarding Ms. Smriti's request to remit foreign exchange out of her lottery winnings?
- (a) The remittance is allowed under the Liberalised Remittance Scheme (LRS) without any approval.
  - (b) The remittance is allowed only with prior approval of the Reserve Bank of India.
  - (c) The remittance is allowed only with prior approval of the Central Government.
  - (d) The remittance is prohibited, as it falls under the First Schedule to the FEM (Current Account Transactions) Rules, 2000.
10. What among the following could be considered in the term 'Immovable Property' as per the General Clauses Act, 1897?
- (i) The soil for making bricks
  - (ii) Right to catch fish
  - (iii) Right to drain water
  - (iv) Doors and Windows of the house
- (a) Only (i) and (iv)
  - (b) Only (i), (ii) and (iv)
  - (c) Only (i) and (ii)
  - (d) Only (ii), (iii) and (iv).

**Descriptive Questions**

11. On 30th June 2023, Sunrise Infratech Limited, raised secured deposits amounting to ₹ 160 crore from the public at an interest rate of 12% per annum, repayable after a period of 30 months. The company created



charges within the prescribed time in favour of the trustees for depositors, securing the deposits by creating charges over the following assets:

- Land and Building – ₹ 110 crore
- Plant and Machinery – ₹ 30 crore
- Factory Shed – ₹ 20 crore
- Trademark – ₹ 20 crore
- Goodwill – ₹ 30 crore

You are required to examine the validity of the charges created, particularly considering the nature of the assets offered as security, with reference to the applicable provisions of the Companies Act, 2013.

12. The company, Fateh Limited, engaged in the business of electronics manufacturing, has a paid-up share capital of ₹ 12.50 crore and a shareholder base comprising 3,500 members. The company's equity shares are listed on a recognized stock exchange, and it has a history of strong shareholder participation in general meetings.

On 10<sup>th</sup> May, 2025, the Board of Directors issued a notice convening the Annual General Meeting (AGM) to be held on Saturday, 13<sup>th</sup> June, 2025 at 11:00 AM at the company's registered office in Mangalore, for considering ordinary and special business items, including approval of the financial statements and appointment of a new independent director.

On the scheduled date, however, the required quorum, was not present. Consequently, the meeting was adjourned to the same time and place on the next Saturday, i.e., 20<sup>th</sup> June, 2025.

In connection with the meeting and its adjournment, the company's compliance officer has raised the following queries for legal clarification:

- (i) If only two members (in person) are present at the adjourned meeting on 20<sup>th</sup> June, 2025, will the meeting be validly held and its business transacted?
- (ii) Assume that on 13<sup>th</sup> June, 2025, 16 members (in person) were present, but due to disorderly conduct by a few shareholders

during the proceedings, the Chairman exercised his discretion and adjourned the meeting to 20<sup>th</sup> June, 2025. On that date, only three members (in person) attended the adjourned meeting. Would such a meeting be valid in terms of quorum requirements?

The company has approached you to analyse both scenarios with reference to the provisions of the Companies Act, 2013.

13. Stridewalk Limited, a listed company engaged in the manufacturing and export of premium shoes and accessories, has been undergoing financial restructuring over the past few years. After several years of operational losses and sluggish growth, the Board recently appointed a new Production Manager, Mr. Arjun Mehra, whose strategic improvements have helped to revive the company's margins and production efficiency.

In light of the improved performance and renewed investors' confidence, the Board of Directors, at its meeting held on 20<sup>th</sup> April, 2025, resolved to recommend a final dividend of ₹50 lakh to its equity shareholders — a notable development as this would be the first dividend declaration in eight years.

The financial data available is as follows:

- Current year profit (after providing for depreciation and necessary reserves): ₹ 16 lakh
- Accumulated profits /free reserves over the past eight years: ₹ 170 lakh
- Paid-up share capital of the company: ₹ 680 lakh
- The proposed dividend of ₹ 50 lakh is intended to be funded partly from the current year's profit and partly from the accumulated profits of previous years.

As the current year's profits alone are not sufficient to meet the proposed dividend payout, the company plans to draw from free reserves as permitted under the Companies Act, 2013.

With reference to the provisions of the Companies Act, 2013 and the Companies (Declaration and Payment of Dividend) Rules, 2014, examine whether the proposed dividend declaration by Stridewalk Limited

complies with the legal conditions applicable in the case of inadequate profits.

14. New Sales Pvt. Limited, a company engaged in the business of trading heavy-duty paper tapes used in industrial packaging, has seen consistent growth over the past five years. The company's turnover for the financial year 2024–25 crossed ₹ 130 crore, with a net profit of ₹ 9.2 crore.

During the same financial year, the company's long-serving Chief Financial Officer (CFO), Mr. Ram, retired in December 2024 due to prolonged health issues. Following his retirement, Mr. Shyam, a qualified Chartered Accountant with two decades of experience in financial reporting, was appointed as the new CFO in March 2025.

Upon assuming his duties and reviewing the company's past financial records and statutory filings, Mr. Shyam noted certain material classification errors and omissions in the audited financial statements for the year 2021–22.

Concerned about the potential implications of these discrepancies, Mr. Shyam advised the Board of Directors of New Sales Pvt. Limited to revise the financial statements for FY 2021–22, even though the financial statements had already been adopted by the shareholders and filed with the Registrar of Companies (RoC).

With reference to the relevant provisions of the Companies Act, 2013, examine and advise whether New Sales Pvt. Limited is permitted to revise its financial statements for the financial year 2021–22.

15. Pride Pvt. Limited, a start-up by a few qualified professionals, was incorporated in 2018. The company is booming and favouring the younger generation to work. The Capital Structure of the company is as follows:

Particulars	INR (Crore)
Authorised Share Capital	
1,00,00,000 Equity Shares of ₹ 10 each	10
Issued, Subscribed and Paid-up Share Capital	
50,00,000 Equity Shares of ₹ 10 each	5

Share Premium	1
General Reserve	3.52
Profit & Loss Account	1.58

The company decided to issue 30% of its equity share capital as sweat equity shares to a class of directors and permanent employees with the objective of motivating them and making them partners in the company's growth. The proposed sweat equity shares will be subject to a lock-in period of five years.

Accordingly, the company passed a resolution in its general meeting authorizing the issuance of 15 lakh sweat equity shares at a current market price of ₹ 25 per share, to be issued for a consideration of ₹ 5 per share to the identified class of directors and employees.

In light of the above facts and in accordance with the provisions of the Companies Act, 2013, examine the following:

- (i) Whether size of issue of sweat equity shares was appropriate?
  - (ii) Whether lock-in period was justifiable?
16. Shubham Limited is the holding company of Vaibhav Pvt. Limited. As per the financial statements of Vaibhav Pvt. Limited for the financial year ending 31st March 2025, its turnover was ₹1.80 crore and its paid-up share capital was ₹ 80 lakh. The Board of Directors of Vaibhav Pvt. Limited intends to avail the status of a small company under the Companies Act, 2013.

However, the Company Secretary advised the Board that Vaibhav Pvt. Limited cannot be classified as a small company.

In light of the above facts, examine the correctness of the advice given by the Company Secretary with reference to the relevant provisions of the Companies Act, 2013.

**The Limited Liability Partnership Act, 2008**

17. Ravi and Neha, two entrepreneurs, plan to start a new Limited Liability Partnership (LLP) focused on AI-based software development. They decide to name their LLP as "NextGen AI Innovations LLP." Before proceeding with the incorporation, they want to ensure that their chosen name is available and reserved. They apply to the Registrar through the prescribed web-based platform and pay the required fee for name reservation.

Describe the legal requirements as to the reservation of a name as per relevant provisions under the Limited Liability Partnership Act, 2008.

**The General Clauses Act, 1897**

18. "No person shall be prosecuted and punished for the same offence more than once." Explain in the light of provisions of the General Clauses Act, 1897.

**Interpretation of Statutes**

19. What is meant by beneficial construction in statutory interpretation? Under what circumstances the rule of beneficial construction is generally applied?

**The Foreign Exchange Management Act, 1999**

20. Ms. Pearl was an Indian citizen who got a job in a software company in USA. She went to USA and stayed there for 15 years. During her stay, she purchased a house in USA for her residence. Then due to some personal issues she moved back to India and joined a software company in India. As she had moved back to India, she let out her house in USA and deposited the obtained rent in her account in USA.

Advise whether Ms. Pearl can purchase another house in USA from her account in USA? Give your answer referring to the provisions of the Foreign Exchange Management Act, 1999.



## SUGGESTED ANSWERS

### Multiple Choice Questions

MCQ No.	Most Appropriate Answer
1.	(d)
2.	(c)
3.	(b)
4.	(b)
5.	(a)
6.	(b)
7.	(c)
8.	(c)
9.	(d)
10.	(b)

### Descriptive Questions

11. As per second proviso to section 76(1) of the Companies Act, 2013, every company which accepts secured deposits from the public shall within 30 days of such acceptance, create a charge on its assets. The amount of charge shall not be less than the amount of deposits accepted. The charge shall be created in favour of the deposit holders in accordance with the prescribed rules.

In respect of creation of security, Rule 6 of the Companies (Acceptance of Deposit) Rule, 2014, states that the company accepting secured deposits shall create security by way of charge on its tangible assets only.

The other notable points are:

- The company cannot create charge on intangible assets (i.e. goodwill, trade-marks, etc.).

- Total value of security should not be less than the amount of deposits accepted and interest payable thereon.

In the given question,

Particulars	Amount (in ₹)
Total value of security (value of assets on which charge can be created)	110+30+20 [Land and Building, Plant & machinery and Factory Shed] = 160 crore
Total deposits accepted and interest payable thereon	160+ [(160*12%)*3 years] = 217.6 crore

Since, the total value of security is less than the amount of deposits accepted and interest payable thereon, hence the charge is not validly created.

12. According to section 103 of the Companies Act, 2013, in case of a public company, unless the articles of the company provide for a larger number, if the number of members is more than 1000 but upto 5000, then the quorum shall be 15 members personally present.

If the quorum is not present within half-an-hour from the time appointed for holding a meeting of the company:

- the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine; or
- the meeting, if called by requisitionists under section 100, shall stand cancelled:

Provided that in case of an adjourned meeting or of a change of day, time or place of meeting under clause (a), the company shall give not less than three days' notice to the members either individually or by publishing an advertisement in the newspapers (one in English and one in vernacular language) which is in circulation at the place where the registered office of the company is situated.

**Quorum not present at the adjourned meeting also:** Where quorum is not present in the adjourned meeting also within half an hour, then the members present shall form the quorum.

In the given question, the quorum for the given company having 3500 members shall be 15 members personally present.

- (i) Where quorum is not present in the adjourned meeting (i.e. 20<sup>th</sup> June, 2025) also within half an hour, then the two members present shall form the quorum. In this case, the meeting held with 2 members shall be deemed to be validly held and the business transacted thereat shall also be deemed to be validly done.
- (ii) The meeting held on 13<sup>th</sup> June, 2025 had 16 members present. Hence, the quorum was present. However, the meeting was adjourned due to unruly behaviour of some members and not for want of quorum. In the meeting held on 20<sup>th</sup> June, 2025, only 3 members in person were present. In such a case, these 3 members shall not constitute the quorum and hence, shall stand further adjourned.

13. According to second proviso to section 123, where in any year there are no adequate profits for declaring dividend, the company may declare dividend out of the accumulated profits earned by it in previous years and transferred by it to the free reserves only in accordance with the procedure laid down in Rule 3 of *the Companies (Declaration and Payment of Dividend) Rules, 2014*.

Free Reserves means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as dividend.

Under Rule 3 such declaration shall be subject to the following conditions:

#### **CONDITION I**

The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by the company in the immediately preceding three years.

However, this condition shall not apply if the company has not declared any dividend in each of the three preceding financial year.



**CONDITION II**

The total amount to be drawn from such accumulated profits shall not exceed 10% of its paid-up share capital and free reserves as appearing in the latest audited financial statement.

**CONDITION III**

The amount so drawn shall first be utilised to set off the losses incurred in the financial year in which dividend is declared and only thereafter, any dividend in respect of equity shares shall be declared.

**CONDITION IV**

The balance of reserves after such withdrawal shall not fall below 15% of its paid-up share capital as appearing in the latest audited financial statement.

In the given question, since Stridewalk Limited current year profits of ₹ 16 lakh are insufficient to meet the dividend requirement of ₹ 50 lakh, hence the company has to fulfil the conditions as prescribed under Rule 3 (mentioned above).

Particulars	Amount (in ₹)
Amount of dividend declared (A)	50 lakh
Current year profits (B)	16 lakh
Amount to be withdrawn accumulated profits [(A)- (B)]	34 lakh
Accumulated profits during the past 8 years	170 lakh
paid up share capital of the company	680 lakh

Fulfilment of Conditions mentioned in Rule 3

Conditions	Calculation		Met/ Not Met
I	This condition is not applicable the company has not declared any dividend in each of the three preceding financial year.		-
II	Paid-up share capital and free reserves	680+ 170	Met
		= 850 lakh (C)	

	10% of (C)	85 lakh	
	Amount to be withdrawn accumulated profits i.e. 34 lakhs is less than (C)		
III	The company has since made profit in the financial year in which dividend is declared.		Met
IV	Free Reserves (D)	170 lakh	Met
	Amount drawn for payment of dividend (E)	34 lakh	
	Balance of reserves after such withdrawal (F) =(D)- (E)	136 lakh	
	15% of its paid up share capital (G)	102 lakh	
	(F) more than (G)		

In the given question, since all the conditions are met, hence Stridewalk Limited has validly declared dividend.

#### 14. Voluntary Revision of Financial Statements or Board's Report on the Approval of the Tribunal

As per section 131 of the Companies Act, 2013, if it appears to the directors of a company that:

- the financial statement of the company does not comply with the provisions of section 129; or
- the report of the Board does not comply with the provisions of section 134

they may prepare revised financial statement or board's report in respect of any of the 3 preceding financial years after obtaining the approval of the Tribunal on an application made by the company within fourteen days of the decision taken by the Board.

A certified copy of the order of the Tribunal shall be filed with the Registrar of Companies within 30 days of the date of receipt of the certified copy.

In the given question, Mr. Shyam has advised the Board of New Sales Pvt. Limited to revise the financial statements for the year 2021-22. The Board of Directors can do so as the said financial statements are pertaining to not later than three preceding financial years (from 2024-2025) and by obtaining the approval of the Tribunal within fourteen days of the decision taken by the Board.

- 15. Issue of Sweat Equity Shares:** As per section 53, a company shall not issue shares at a discount, except as provided in section 54.

Section 54 of the Companies Act, 2013 states that sweat equity shares are issued to keep the employees of a company motivated by making them partner in the growth of the company.

Section 54 mentions the provisions which need to be adhered to by a company if it desires to issue sweat equity shares.

**Conditions:** According to section 54(1), a company may issue sweat equity shares of a class of shares already issued, if the following conditions are fulfilled, namely—

- (a) the issue is authorised by a special resolution passed by the company;
- (b) the resolution specifies the number of shares, the current market price, consideration, if any, and the class or classes of directors or employees to whom such equity shares are to be issued.

**Limit on issue of Sweat Equity Shares:** According to proviso to Rule 8 (4) of the Companies (Share Capital & Debentures) Rules 2014, w.r.t a start-up company, it may issue sweat equity shares not exceeding fifty percent of its paid-up capital up to ten years from the date of its incorporation or registration.

**Lock-in Period:** Rule 8(5) of the Companies (Share Capital & Debentures) Rules 2014, states that the sweat equity shares issued to directors or employees shall be locked in/non-transferable for a period of three years from the date of allotment.

Accordingly, in the given instance,

- (i) Size of issue of sweat equity shares was appropriate, as the decision of the company to issue 30% sweat equity shares to a

class of directors and employees was within the prescribed limit of 50% (in case of startup company). Resolution containing 15 lakh sweat equity shares was also within the limit of 25 lakh sweat equity shares (i.e., 50% of paid-up capital) with the details as to the current market price and with the consideration to be issued.

- (ii) No, as per law, lock-in period will be of three years from the date of allotment. Here, it states five years which is against the law.

**16.** As per section 2(85) of the Companies Act, 2013, Small company means a company, other than a public company, —

- (i) paid-up share capital of which does not exceed four crore rupees, and
- (ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed forty crore rupees:

Provided that nothing in this clause shall apply to—

- (A) a holding company or a subsidiary company;
- (B) a company registered under section 8; or
- (C) a company or body corporate governed by any special Act.

In the instant case, as per the last profit and loss account for the year ending 31<sup>st</sup> March, 2025 of Vaibhav Pvt. Limited, its turnover was to the extent of ₹ 1.80 crore, and paid-up share capital was ₹ 80 lakh. Though Vaibhav Pvt. Limited, as per the turnover and paid-up share capital norms, qualifies for the status of a 'small company' but it cannot be categorized as a 'small company' because it is the subsidiary of another company (Shubham Limited).

Hence, the advice of the Company Secretary is correct.

**17.** Under section 16 of the Limited Liability Partnership (LLP) Act, 2008, a person may apply to the Registrar for the reservation of a name in either of the following circumstances:

- (a) As the name of a proposed LLP, or
- (b) As the name to which an existing LLP proposes to change its name.

The application must be made in the prescribed form and manner along with the prescribed fee.

Upon receiving such an application, the Registrar may, if satisfied that the name is not one liable to be rejected under section 15(2) of the LLP Act, reserve the name for a period of three months from the date of intimation by the Registrar.

As per section 15(2), no LLP shall be registered by a name which, in the opinion of the Central Government is—

- (a) undesirable; or
- (b) identical or too nearly resembles to that of any other LLP or a company or a registered trademark of any other person under the Trade Marks Act, 1999.

**18. Provision as to offence punishable under two or more enactments**

As per section 26 of the General Clauses Act, 1897, where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be punished twice for the same offence.

Article 20(2) of the Constitution of India states that no person shall be prosecuted and punished for the same offence more than once.

Provisions of section 26 of the General Clauses Act, 1897 read with Article 20(2) of the Constitution of India apply only when the two offences which form the subject of prosecution is the same, i.e., the ingredients which constitute the two offences are the same. If the offences under the two enactments are distinct and not identical, none of these provisions will apply.

**19. Beneficial construction is not a strict rule of interpretation but rather a method used to interpret a statute liberally in order to give effect to the declared intention of the legislature, particularly when the statute is enacted to benefit a specific class of people.**

Beneficial construction will be applied to a statute, which brings into effect provisions for improving the conditions of certain classes of people who are under privileged or who have not been treated fairly in

the past. In such cases it is permissible to give an extended meaning to words or clauses in enactments. But this can only be done when two constructions are reasonably possible and not when the words in a statute are quite unequivocal or clear. Thus, if the language of the statute is clear and unambiguous, the courts must follow the plain meaning and cannot stretch the language beyond its natural meaning.

- 20.** According to section 6(4) of the Foreign Exchange Management Act, 1999, (the Act) a person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

As per the fact, Ms. Pearl during her stayed in USA purchased a house in USA.

As per the above provision and facts of the case, Ms. Pearl can purchase the new house in USA from her USA account.