403R - BUSINESS LAWS

Model Paper

1. What is contract? Explain contract of Indemnity & Bailment.

CONTRACT - Definition

Generally contract may be defined as an agreement which creates rights and obligations between the parties. These obligations and right s must be of such a nature that these can be claimed in the court of law.

According to Salmond, "A contract is an agreement creating and defining obligation between the parties." Section 8(h) of the Indian Contract Act defines contract as an agreement which is enforceable by law.

CONTRACT OF INDEMNITY

A contract of indemnity is a contract in which one party promises to compensate or protect the other party from the losses arising in future. According to section 124 of Indian Contract Act," a contract of indemnity is a, contract by which one party promises to save the other from loss caused to him either by the conduct of the promisor himself or buy the conduct of any third party."

The object of a Contract of Indemnity is essentially to protect the promise against anticipated loss. A contract of fire insurance and marine insurance is a contract of indemnity.

The person who promises to save the other from the loss is called indemnifier. The person to whom the promise is made, is called indemnified or indemnity holder. A valid contract of indemnity must have the following ingredients:

- One party promises to save the other from loss caused to the latter
- The loss is caused to him by the conduct of the promisor, and
- The loss is caused by the conduct of any other third person.

Object of contract of indemnity:-The object of indemnity is essentially to protect the indemnified from the anticipated loss.

Features of Indemnity contract:

A. Express contract of indemnity: - Where the terms of the contract of indemnity are either in oral or in written, it is called an express contract of indemnity.

B. Implied contract of indemnity: -Where the contract of indemnity inferred from the circumstances of the case, or from the relationship of parties, is called an implied contract of indemnity.

C. Compensation of loss: - In the case of contract of indemnity, there is a compensation for the loss suffered by the indemnified.

D. Essentials of a valid contract: A contract of indemnity is also required to possess all the essentials of a valid contract.

Rights of an indemnity holder:-According to sec.125, the following are the rights of an indemnity holder:

1 . Right to recover damages: - All damages which he may be compelled to pay in any suit of any matter to which he promise to indemnify applies.

2. Right to recover cost: - All costs he may be compelled to ay in any such suit. But the indemnity holder can recover such cost only if he had acted prudently and did not contravene the orders of the indemnifier or only if the indemnifier authorized him to bring or defend the suit.
3. Right to recover all sum paid: - He is entitled to recover all the sums which he may have paid under the terms of any compromise of any such suit, provided such compromise is not contrary to the orders of the promisor and was one which it would have been prudent for the indemnity holder to make.
4. Suit for specific performance: - An indemnity holder is entitled to sue the indemnifier even before he has suffered any damage, provided an absolute liability has been incurred by him.

Rights of an Indemnifier:

1. Right to subrogation: - On payment of the amount of loss or liability to the indemnified the indemnifier is subrogated to all the rights of indemnified.
2. Right to equities: - After making payment to the indemnified for the loss, indemnifier is entitled for all equities which indemnified could have enforced against the third party liable for loss.
3. Right to refuse indemnity: The indemnifier has the right to refuse indemnity provided the loss caused to the indemnity holder is beyond the scope of the contract.

CONTRACT OF BAILMENT

The word 'bailment' is derived from a French word 'Bailer' which means 'to deliver'. In legal sense, it has been defined as voluntary change of possession of goods from one person to another for some purpose.

According to sec. 148 of Contract Act defines a bailment," A bailment is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the person delivering them." The person who delivered the good is called bailer and the person to whom they are delivered is called the bailee. The transaction is called bailment.

Essentials of Bailment:

1. There must be a delivery of goods: Delivery of goods from one person to another for some specific purpose is very essential for bailment. Mere custody without possession does not create bailment. Possession should be distinguished from mere custody. A person under whose custody the goods are without its possession is not a bailee.
2. Delivery may be actual or constructive: In actual delivery, the delivery may be made by physical handing over the goods to the bailee. In some cases it may not always be possible to give physical possession due to difficulty or inconvenience. In such cases delivery may be constructive or symbolic.

3. Specific purpose: Delivery of goods should be made for some specific purpose. If the goods are delivered to a particular person by mistake, there is no bailment at all.
4. Return of goods: When the purpose is accomplished the same goods are to be returned. But the condition is that the specific goods should be returned either in their original form or in altered form.
5. Ownership: In the bailment, ownership is not transferred from the bailer to the bailee. Possession alone is transferred.
6. Movable goods: Bailment is concerned with only movable goods. It is important to note that money is not included in the category of movable goods.

Duties of a Bailer:

1. Duty to disclose known defects:-lt is the duty of the bailor to disclose all the known defects in the goods bailed to the bailee. If he fails to do so, he is responsible for any damage caused to the bailee directly from such defects.
2. Duty to bear extraordinary expenses: - Where the bailment is gratuitous and the bailee is to receive no remuneration the bailor shall pay the bailee all the necessary expenses incurred for the purpose of bailment.
3. Duty to indemnify bailee: - Sec. 164 of the act says that the bailor should indemnify the bailee for any cost or costs incurred because of the defective title of the bailor to the goods bailed.
4. Duty to receive back the goods bailed: When the bailee returns the goods after the purpose is fulfilled or the time is expired, it is the duty of the bailor to receive back the goods.

Rights of Bailor:

1. Entitled to get back the goods:-He is entitled to get back the goods bailed as soon as the time for which they were bailed has expired or the purpose for which they were bailed has been accomplished.
2. Right to terminate the contract: The bailor can terminate the contract if the bailee does, with regard to the goods bailed, any act which is inconsistent with the terms of the bailment.
3. Right to claim damages: The bailor has an inherent right to claim for damages for any loss that might have been caused to the goods bailed, due to the negligence of the bailee.
4. Right to recall goods at any time in a gratuitous bailment: When goods are lent gratuitously, the bailor can demand the return whenever he pleases, even though he had lent them for a specified period.
5. Right to file a suit against third person: If a third party does some wrongful act and deprives the bailee from the use of goods bailed or does some injury to the goods bailed, the bailor has a right to file a suit against that third party.
6. Enforcement of right: - The bailor has a right to enforce by suit all the liabilities or duties of the bailee.

Duties of a Bailee:

1 . To take reasonable care of the goods bailed: - The most important duty of the bailee is to take care of the goods entrusted to him. The degree of care required from the bailee is the same whether the bailment is for reward or is gratuitous.
2. Not to mix the goods bailed and his own goods: - The bailee must keep his own goodsseparately from the goods of bailor.
3. Not make an unauthorized use of goods: - He is under a duty not to use the goods in anyunauthorized way. If the bailee makes unauthorized use of goods, he is responsible for alldamages to the goods and must pay compensation to the bailor. This liability arises even if the bailee is not guilty of any negligence, and even if the damage is the result of accident.
4. Not to set up an adverse title: - It is the duty of the bailee to return the goods only to the bailoreven though any third person is claiming the title over them.
5. Return the goods: - According to sec. 160, it is the duty of the bailee to return or deliver according to bailer's directions, the goods bailed, without demand, as soon as the time for which they were bailed has expired, or the purpose for which they were bailed has been accomplished.
6. Return the additions or profit: - According to sec 163, in the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, or according to his directions, any increase ofprofit which may have acquired from the goods bailed.

Rights of a bailee:-

1. Right to enforce the duties of the bailor: The bailee, by suit enforce the duties of thebailor.
2. Right to deliver goods to one of the joint owners: In the absence of an agreement tocontrary, when several joint owners of goods bail them to a bailee, the bailee has a right todeliver back the goods to anyone of the joint bailers without the consent of all.
3. Right to claim damages: - According to sec 150, if the bailee has suffered any loss due to the non- disclosing of facts by the bailor, he has a right to claim damages to that.
4. Right to indemnify: - If any loss is caused to the bailee due to the demand made by thebailor for return of goods before the specified time, the bailee has a right to be indemnifiedby the bailor.
5. Right to sue: - Bailee can file a suit against a person who has wrongfully deprived him ofthe use or possession of the goods bailed or has done them an injury.
6. Right of lien: - Where the bailee has rendered any service in accordance with the purposeof the bailment involving the exercise of labour or skill, he has a right to retain

2. Explain negotiable instruments act, 1881

THE NEGOTIABLE INSTRUMENTS ACT 1881

The law relating to negotiable instruments is primarily contained in the Negotiable Instruments Act, 1881. The word 'negotiable' means transferable from one person to another and the term 'instrument' means 'any written document by which a right is created in favor of some person.' Thus, the negotiable instrument is a document by which rights vested in person can be transferred to another person in accordance with the provisions of the Negotiable Instruments Act, 1881. The Negotiable Instruments Act does not affect the provisions of Sections 31 and 32 of the Reserve Bank of India Act, 1934. But, the following are Not Promissory Notes.
Ex. "I promise to pay B Rs.500 and all other sums which shall be due to him."

Essentials or Characteristics of a Promissory Note:

1. In writing.
2. Promise to pay.
3. Unconditional.
4. Signed by the Maker.
5. Certain Parties.
6. Certain sum of money.
7. Promise to pay money only.
8. Number, place, date etc.
9. It may be payable in installments
10. It may be payable on demand or after a definite period
11. It cannot be made payable to bearer on demand or even payable to bearer after a certain period (Sec. 31 of RBI Act).
12. It must be duly stamped under the Indian Stamp Act

BILL OF EXCHANGE

A 'bill of exchange' is defined by Section 5 as "an instrument' in writing, containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to or the order of, a certain person, or to the bearer of the instrument." Characteristic features of a Bill of Exchange:

1. It must be in writing.
2. It must contain an order to pay and not a promise or request. Words, like 'Please pay Rs. 10,000 to A on demand and oblige, do not constitute the instrument a bill of exchange.
3. The order must be unconditional.
4. There must be three parties, viz., drawer, drawee and payee.
5. The parties must be certain.

6. It must be signed by the drawer.

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7. The sum payable must be certain or capable of being made certain.
8. The order must be to pay money and money alone.
9. It must be duly stamped as per the Indian Stamp Act.
10. Number, date and place are not essential. Oral evidence may be obtained as to date and place of execution.

CHEQUE

A cheque is defined as 'a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand' (Section 6). Thus, a cheque is a bill of exchange with two added features, viz..

1. It is always drawn on a specified banker;

11. It is always payable on demand and not otherwise.

DIFFERENCE BETWEEN BILL OF EXCHANGE AND CHEQUE:

	Cheque		Bill of Exchange
1.	Must be drawn only on a banker.	1.	Can be drawn on any person including a banker.
2.	The amount is always payable on demand.	2.	The amount may be payable on demand or after a specified time.
3.	The cheque is not entitled to days of grace.	3.	A usance (time) bill is entitled to three days of grace.
4.	Acceptance is not needed.	4.	A bill payable after sight must be accepted.
5.	A cheque can be crossed	5.	Crossing of a bill of exchange is not possible.
6.	Notice of dishonour is not necessary. (The parties thereon remain liable, even if no notice of dishonour is given.)	6.	Notice of dishonour is necessary to hold the parties liable thereon. (A party who does not receive a notice of dishonour can generally escape its liability thereon.)
	Not to be noted or protested in case of dishonour.		Noted or protested to establish dishonour.

3. Explain Sale of Goods Act 1930.

The Sale of goods Act contains certain law relating to sale of movable properties. The Act covers topics such as the concept of sale of goods, warranties and conditions arising out of sale, delivery of goods and passing of property and other obligations of the buyer and the seller, the documents to title to goods and the transfer of ownership on the basis of such documents. This act came into force on 1st July 1930, and it extends to the whole of India, except the state of Jammu and Kashmir. A contract of sale has some special features which are not common to all contracts.

Goods:

The goods include every kind of movable property other than actionable claim or money. Actionable claims are claims which can be enforced only by taking action m a court of law. Goods also include stocks, shares, growing crops etc.

Contract of Sale:

According to section 4 of the sale of Goods Act, "A contract of sale of goods is a contract where by the seller's transfer or agrees to transfer the property in goods to the buyer for a price."A Contract of sale may be absolute of conditional. In absolute sale the property in the goods passes from the seller to the buyer immediately and nothing remains to be done by the seller. In conditional contract of sale, the property in the goods does not pass to the buyer absolutely until certain conditions fulfilled.

Essential features of a contract of sale:

1. Contract: - A contract of sale is a contract and must fulfill all the requirements of a valid contract.
2. Two parties: - The sale requires existence of two parties, the seller and the buyer. The seller is a person who sells or agrees to sell goods. The buyer is a person who buys agrees to buy goods. It is necessary that the same person cannot be both a seller and a purchaser.
3. Movable goods: - The subject matter of the contract of sale must be in the form of movable goods. Sale and purchase of immovable property are covered under the Transfer of Property Act 1882.
4. Transfer of ownership: It is the element which distinguishes a sale from several other classes of contract like bailment, lease etc. Hence, in a sale, ownership must be transferred from the seller to the buyer.
5. Price: - Price means money consideration for sale of goods. In a contract of sale money must be paid or promised. If there is no money consideration, the transaction is not a contract of sale.

Sale and Agreement to Sale: - Where the ownership of goods is transferred just at the time of making a contract it is known as 'sale'. If the seller promises to transfer it at some future date, it is known as 'agreement to sell ' .

Distinction between sale and agreement to sell:

1. Nature of contract: - Sale is an executed contract, while an agreement to sell is an executor contract, because it is yet to be performed.
2. Transfer of property: - In sale, the property in goods passes to the buyer immediately at the time of making the contract, but in an agreement to sale, transfer of property in goods takes place at some future date.

3. Nature of right: - A sale creates 'jus in rem' gives right to the buyer to enjoy the goods as against the world at large. An agreement to sell creates 'Jus in personam', i.e.; gives a right to the buyer against the seller to sue for damage.
4. Risk of loss: - In sale, when the goods are destroyed even in the possession of seller without his fault, the buyer of those goods will bear the loss. On the other hand, in an agreement to sell, in case the goods are destroyed, in transit, or in the possession of buyer without his fault. The loss of goods falls on the seller.

5. Breach of contract by buyer: - In a sale, in case of breach by the buyer, the seller can sue for price of the goods. But in an agreement to sell, if the buyer fails to accept the goods, the seller may sue for damages only and not for the price.
6. Breach of contract by the buyer: - In sale, if the seller makes breach of contract, the buyer gets two rights. The buyer can file suit against seller for damages and can also use the rights to follow property in the hands of subsequent buyer. But in an agreement to sell, the buyer can only claim for damages.
7. Insolvency of the seller: - In a sale, if the seller become insolvent, the buyer is entitles to recover the goods form the assignee or official receiver. In an agreement to sell, if the buyer has already paid the price and seller becomes insolvent, the buyer can claim only a ratable dividend and not the goods.
8. Insolvency of the buyer: - In a sale, if the buyer become insolvent the seller is entitled to a ratable dividend for the price of the goods. But in an agreement to sell. If the buyer becomes insolvent before he pays for the goods, the seller may refuses to sell the goods.

SALE AND BAILMENT

Bailment is a contract to deliver the goods by one person to another for some purpose on the conditions that when the purpose is over, the goods will be returned to the person delivering them. The bailment contract differs with 'sale' on the following grounds.

1. Transfer of property: - In a sale, the general property in goods is transferred to buyer at the time of making a contract. But in bailment specific property in goods passes to bailee for a temporary period.
2. Transfer of possession: - In a sale, possession of goods may or may not be transferred immediately at the time of making a contract. While in bailment goods are immediately handed over to the bailee.
3. Return of goods: - In a sale goods are not returned to the seller. But in bailment, when the purpose is over the goods are returned to the bailor according to his instruction.
4. Consideration: - In a sale, consideration given to the seller in the form of money. But in bailment, consideration may or may not be present in the form of money.
5. Use of goods: - In a sale, the buyer is entitled to possess and use the goods at his own. But in bailment goods will be used according to instructions and terms and conditions of bailment.

Formation of a contract of sale

Sec. 4 of the Act defines a contract of sale and sec. 5 deals with the formalities required form a king a contract of sale. It provides that a contract of sale is made by a buyer offering to buy or seller offering to sell goods for a price and the other party accepting such offer. Every contract thus involves two parties one of whom must offer and the other must accept to buy or sell goods and the consideration should be the price.

A contract of sale may be in writing or by word of mouth. It may be made partly in writing and partly by word of mouth. It may also be implied from the conduct of the parties. The conduct of the parties may give rise to an inference of fact that the patties intend to sell and purchase. Persons enter restaurants, order dinner and eat them, but obviously there is a sale. A written offer to sell goods may be orally accepted or vice versa.

Subject matter of contract of sale:

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According to Sec. 6 'Goods' form the subject matter of a contract of sale. Goods may be divided into three types,

l. Existing goods: - Goods owned and possessed by the seller at the time of making of the contract of sale are called existing goods. Where the existing goods are the subject matter of a contract, they must be in actual existence since a sale can be made only of a subject matter having actual or possible existence. Existing goods may be specific, ascertained or unascertained:

A. Specific goods: Specific goods' means goods identified and agreed upon at the time a contract of sale is made. It means goods identified and agreed at the time when a contract of sale is made. To be specific, the goods must be actually identified.
B. Ascertained goods: - It means goods identified in accordance with the agreement after the contract of sale is made. Ascertained goods are sometimes used as specific goods, but ascertained goods are not always the same as specific goods. For example, If A had50 chairs of the same kind and offers to sell 40, the goods are ascertained only when 40particular chairs be appropriated towards the contract. On appropriation the goods become ascertained.
C. Unascertained goods: - It means 'generic goods' i.e., goods defined by description or even by samples. Unascertained goods are not definite and specific. The seller in the case of a contract for the sale of a unascertained goods has the option, rather the right to supply goods of the kind or the quality contracted for. He is not bound to deliver any particular goods.

2. Future goods: - Sec. 2(6) of sale of goods act defines future goods as, "Future goods means goods to be manufactured or produced or acquired by the seller after making of the contract of sale." Future goods are not in existence at the time of contract of sale.

3. Contingent goods: - It is a type of future goods, the acquisition of which by the seller depends upon a contingency which may or may not happen. A seller may contract to sell goods conditionally on their acquisition, goods which might be expected to come into existence such as goods to arrive, future crops and eggs. Such contracts are completed when goods arrive or crops mature or the eggs grow.

4. Define Conditions and Warranties

Condition:

A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated. If a condition is broken, the buyer has the right to terminate the contract to refuse the goods, and if he has already paid for them, then to recover the goods. Essential features

1. It is essential to the main purpose of the contract
2. The non —fulfillment of condition causes irreparable damage to the aggrieved party
3. The breach of condition gives a right to terminate the contract to the aggrieved party.

Warranty:

A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract repudiated.

In short, breach of warranty will only give rights to claim for damages, while a breach of condition would entitle the other party to avoid the contract altogether.

Distinction between condition and warranty:

No	Base	Condition	Warranty
1.	Nature	It is fundamental in nature and essential for main pulpose of contract.	It is supportive and collateral to the contract.
2.	Breach	Due to breach of condition, the contract may be avoided.	Breach of warranty may give a rise to a right to claim for compensation.
3.	Treatment	Breach of condition can be treated as breach of warranty	Breach of warranty cannot be treated as breach of condition
4.	Fulfilling purpose	The main pulpose of contract cannot be fulfilled unless the condition is fulfilled.	Fulfillment of a contract does not depend on the fulfillment of a warranty

Express and Implied Conditions and Warranty:

When the conditions and warranties are not written in the contract, but applied to the contract either by operation of law or by trade or custom, they are called implied conditions and warranties. Important implied conditions:-

l. Conditions as to title of goods sold: - The first implied condition in the part of the seller is that, in the case of a sale, he has a right to sell the goods and that in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass. If the title of the seller turns out to be defective, the buyer is entitled to reject the goods and can recover the whole amount.

2. Goods sold should correspond to description: - Where there is a contract of sale of goods by description, there is an implied condition that the goods shall correspond with the description. The expression sale by description includes the following things:

A. Buyer has not seen the goods but buys them on the basis of description given by the seller
B. Buyer has seen the goods, but he relies not on what he has seen but what was stated to him by the seller.
C. Packing of goods may sometimes be a part of the description
D. The arrival of goods at a particular time and place may form part of the description.

3. Sale by sample:-lf the goods are supplied in a contract of sale, according to sample agreed up on, the implied conditions are:

A. The bulk shall correspond with the sample
B. The buyer shall have a reasonable opportunity of comparing the bulk with the sample, and
C. The goods supplied shall be free from any defect.

4. Conditions as to quality or fitness: - Normally in a contract of sale there is no implied condition as to quality or fitness of the gods for a particular purpose. But there is an implied condition that the goods sold are reasonably fit for the purpose for which they are purchased for.

In a contract of sale of goods, conditions and warranties may be express or implied. Express conditions and warranties are those which have been expressly agreed upon by the parties at the time of contract of sale. They are stated in definite words as the basis of the contract.

a. The goods are needed for a particular purpose which the buyer brings to the knowledge of the seller, either expressly or impliedly.
b. The buyer relies on seller's skill and judgment and
c. It is seller's duty to supply by description, then there is an implied condition that the goods should be reasonably fit for that purposes.

5. Condition as to merchantability: Where goods are bought by description from a seller who deals in goods of that description, there is an implied condition that the goods shall be mercantile quality.

6. Conditions as to wholesomeness: In a contract of sale of eatables and provisions, there is an implied condition on the part of the seller that the goods shall be wholesome. It means, the goods supplied by the seller must not be dangerously adulterer and must be fit for human consumption.

Important Implied Warranties:

1. Warranty for quiet possession: - Where the buyer has obtained possession of the goods and if the buyer is in any way disturbed in the enjoyment of goods, the buyer has a right to sue the seller for damages caused.
2. Implied warranty against encumbrance: - There is also an implied warranty in all cases of sale that the goods are not subject to any charge in favour of third parties which is not disclosed or known to the buyer before or at any time when the contract is made.
3. Implied warranty as to usage of trade: - An implied warranty as to quality or fitness for a particular purpose may be fixed by the usage of trade.

Doctrine of Caveat emptor:

It is an important doctrine in connection with sale of goods. The term 'Caveat emptor' means 'let the buyer beware'. This principle states that, at the time of buying goods, the buyer must make reasonable examination of the goods as to satisfy himself regarding suitability of goods for the purpose, he buys for and as to discover the defects. If the goods turn out to be defective or do not suit his purpose, the buyer cannot hold the seller liable for the same. It is the duty of the buyer to ensure that the goods are in good condition and suitable for his purposes. Exceptions:

The following are the exceptions to the rule of caveat emptor:

1 . Fitness for buyers purpose:- When the buyer, expressly or impliedly, make known to the seller the particular purpose for which he requires the goods and relies on the sellers skill or judgment the goods must be suitable for buyers purpose. In such cases the doctrine of caveat emptor does not apply.

2. Sale under a patent or trade name:- In the case of a contract for the sale by a specified article under its patent or other trade name, there is an implied condition that the goods shall be reasonably fit for any particular purpose.

3. Merchantable quality: Where the goods are purchased by description from a seller who deals in gods of such description there is an implied consideration is that the goods shall be of merchantable quality. But if the buyer has examined the goods, there is no implied condition as regards defects which such examination ought to have revealed.

4. Usage of trade: An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.(Sec 16(3)).
5. Consent by fraud: Where the consent of the buyer is obtained by the seller or where the seller conceals a defect, the doctrine of caveat emptor does not apply.
6. Sale by Sample: Where the goods are bought by sample the doctrine does not apply, if the bulk does not correspond with the sample.

5. Define Memorandum of Association

The memorandum of association acts as the foundation of every company. It explains all the rules and bubbles powers of the owner in your systematic formal representation. It has a broad scope. As it is very important for every organisation, we will try to understand more about moa. Let us discuss the meaning of the memorandum of association and its aims, features, and many more.

Memorandum of Association of a Company

Memorandum of association of the company deals with all aspects of that particular organisation such as the operations delegation of duties and policies, principles, etc. The memorandum of association of any company is formed or designed by considering the objective of a particular firm. In the year 2013, section 399 of the companies act, designed to form an MOA, which is the public document and needs to get aware of this moa to all employees of an organisation.

Meaning of MOA

The memorandum of association definition explains that all the powers and the rights should be mentioned in this public document and no one should depart from the contract as well as not to Violet the rules and regulations specified in the moa. If anyone violates, they can be termed as ultra vires of the company and immediately can void them. This is the simple and straight away definition of the memorandum of association of any company. It is completely under legal survival. All the papers are strictly verified and are tested by the moa in company law.

Types of MOA

Based on their form, there are five main types of memorandum of association and they are as follows:

1. Table A - if shares end up limiting a company.
2. Table B - if a guarantee limits a company.
3. Table C - if a guarantee along with share capital limits a company.
4. Table D - if it is an unlimited company.

5. Table E - if it is an unlimited company and has a share capital.

Contents of MOA

Associate Professor, Wings Business School, Tirupatl, • A . P. -517561: Ph. No.: 9642212727

The contents of the memorandum of the association consist of different clauses. Each clause plays a vital role in the organisation. Let's see all the classes in a detailed manner as given below,

1. Name Clause: the name clause of moa specifies that the titles of all the private limited companies should end with 'private limited'. On the other hand, the titles of all the government companies should end with 'limited'.
   The companies under section 8 of the act, may need not to follow these rules. These companies can be identified by certain words like-
   a. Association
   b. Federation
   c. Foundation
   d. Confederation
   e. Forum
   f. Chamber
   g. Council
   h. Electoral trust.
2. Registered Office Clause: indicates the state of the registered office where the organisation is located exactly. It is very important to specify the branch of the registered office where the organisation got registered.
3. Object Clause: this segment of the memorandum of association explains the motto of the organisation and its activities. After a few months if there is a change in activities and operations, then the head of the institution needs to change the name of that organisation within 6 months. Otherwise, it will become an offence.
4. Capital Clause: it concentrates on the capital invested by two or more shareholders of one company. We need to furnish the information regarding the amounts of share between the shareholders and how they formulated their rules etc. in the memorandum of association.

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5. Liability Clause: it is another important class of memorandum of association. Here we need to explain the liability of the members either limited or unlimited in the firm.

   If the company is limited by shares, it needs to specify the amounts held by the shareholders and whether they are paid or unpaid. All these aspects need to be mentioned clearly in the MOA.

   If the company is restricted by guarantees, the Moa specifies that all contributors with a bonus have equal rights. Even during the winding up of a company, both assets and liabilities which include all the expenses while demolishing the firm need to be distributed equally.

6. Association Clause: It is the last but not least, class of the memorandum of association. Here one should mention the exact idea and goal of the owner of the company.

Amendment of MOA

If any of the following changes take place, then it means that the memorandum of association needs to be amended:

- If an alteration takes place in the name of business.
- If any changes happen in the office of registration.
- If an alteration takes place in the object clause of the business.
- If an alteration takes place in the authorised capital of the business.
- If any kind of adjustments are made in the legal liabilities of the business members.

The procedures to be followed for making any types of amendments in the memorandum of association have been mentioned in the 13th clause of The Companies Act, 2013.

Conclusion

Hence it is clear that the memorandum of association is the fundamental public agreement of all kinds of organisations that involves the operational activities, rights, powers, etc. From the definition of a memorandum of association, we can understand that it is important to check the format and all clauses without any fail. And the memorandum of association of your company should be verified and attested by the moa of company law.

6. Explain Role and Responsibilities of Board of Directors

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A board of directors is essentially a panel of people who are elected to represent shareholders. Every public company is legally required to install a board of directors; non-profit organizations and many private companies — while not required to — also name a board of directors.

The board is responsible for protecting shareholders' interests, establishing policies for management, oversight of the corporation or organization, and making decisions about important issues a company or organization faces.

Functions of a Board of Directors

In a broad sense, a corporate board of directors acts as a fiduciary for shareholders. The board is also tasked with a number of other responsibilities, including the following:

- Creating dividend policies
- Creating options policies
- Hiring and firing of senior executives (especially the CEO)
- Establishing compensation for executives
- Supporting executives and their teams
- Maintaining company resources
- Setting general company goals
- Making sure that the company is equipped with the tools it needs to be managed well

Duties & Responsibilities of Board of Directors

The duties and responsibilities of the board of directors are as follows

1. Trusteeship: The board of directors act as trustees to the property and welfare of the company. Hence, the board must use the company's property for the long-run gain of the company, but not for their personal use.
2. Formulation of Mission, Objection and Policies: Board of directors must see the long run view and have long run perspective of the company. The board formulates reviews and reformulates the company's mission, objectives and policies which form the basis for strategy formulation and implementation.
3. Designing Organizational Structure: The board designs the structure of the organization based on the objectives, policies, environmental factors, degree of competition, role of quality, expectations of employees etc.
4. Selection of Top Executives: The board should assume the responsibility of screening and selecting the top executives who can formulate and implement the strategies. Chief executives are key personnel in the process of strategy implementation.
5. Financial Sanctions: The important financial decisions like sanctioning of finances to various projects, reserves, distribution of profit to shareholders and repayment of loans and advances

etc., are taken by the board. Further, the board reviews the financial performance of the company from time to time and reformulates the financial policies.

6. Feed forward and Feedback: The board has to obtain information from the external environmental factors and feed that information forward to various key points in the company in order to prevent possible hurdles and mistakes in the process of achieving organizational goals. Further, the board also obtains the information from internal sources of the organization, and feeds it forward to prevent possible failures in decision-making by the top level executives.

   The board also feeds the information back to the executives regarding their failures in decision-making with a view to avoid the recurrence of such mistakes. Thus, feedback of information helps the board to check and control the activities as board has the ultimate responsibility for the success of the company.

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7. Link between the Company and External Environment: The board acts a vital and continuous link between the company and external environment like government, other companies, social and economic institutions etc.

7. Explain Consumer Protection Act.

The consumer protection act is a milestone in the history of socio-economic legislation of the country. It is one of the most progressive and comprehensive piece of legislations enacted for the protection of consumer. The consumer protection act was passed on 5th December 1986. This Act was amended in the year 1991, 1993 and 2002.

This Act tries to help a consumer when the goods purchased are defective or the services rendered to him are unsatisfactory. Prior to enactment of this Act, consumer disputes had to be settled only through civil courts which are very expensive.

Definitions of Important terms:

1. Complainant:-According to Section 2(1) (b) "Complainant" means (i) a consumer or (ii) any voluntary consumer association registered under the Companies Act, 1956 or under any other law for the time being in force or (iii) the central govt. or any state government, which makes a complaint (iv) one or more consumers, if there are a number of consumers and have the same interest.
2. Complaint:- A complaint means any allegation in writing made by a complainant that
   a. An unfair trade practice or a restrictive trade practice has been adopted by any trader or service provider.
   b. The goods bought by him or agreed to be bought by him suffer from one or more defects.

c. The services hired or availed or agreed to be hired or availed of by him suffer from deficiency in any respect;

d. A trader or the service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods.

e. Goods which will be hazardous to life and safety when used are being offered for sale to the public in contravention of the provisions of any law, requiring traders to display information in regard to the contents, manner and effect of use of such goods with a view to obtaining any relief provided by or under this act.

3 Consumer: - According to this Act, "Consumer means any person who

a. Buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment. The term includes any user of such goods other than the person who buys such good for consideration paid or promised or partly paid and partly promised or under any system of deferred payment when such use is made with the approval of such person. But the term does not include a person who obtains such goods for resale or for any commercial purpose; or

b. Hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment.

4. Consumer disputes: - Consumer disputes means a disputes where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint.

5. Defect:- Defect means any fault, imperfection or short coming in the quality, quantity, potency or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods.

6. Deficiency:- It means any fault , imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

7. Goods: - According to the sale of goods act, goods means every kind of movable property other than actionable claims and money ie, legal tender. It includes shares, patent rights, copy rights trademarks, fruits, minerals, water, electricity etc.

8. Manufacturer:-A manufacturer as per sec2 ((l)(j) is a person who

a. Makes or manufacture any goods or part thereof or

b. Does not make or manufacture any good but assembles part thereof made or manufacture by others and claim the end product to be goods manufactured by himself, or

c. Puts or causes to be put his own mark on any goods made or manufactured by any other manufacturer and claims such goods to be goods made or manufactured by himself.

9. Restrictive Trade Practices:- As per sec.2(l)(n) 'Restrictive trade practices' means any trade practice which requires a consumer to buy, hire or avail of any goods or as the case may be, services, as a condition precedent for buying, hiring or availing of other goods or services.

10. Service:- According to section 2(1) (o)' service' means service of any description which is made available to potential users and includes the provisions of facilities in connection with banking, financing,

insurance, transport, supply electrical or other agency, boarding and lodging or both, housing construction entertainment, amusement etc. The term does not include the rendering of any service free of charge or under a contract of personal service.

I I. Persons:-Person includes

a. A firm whether registered or not
b. A Hindu undivided family
c. A co-operative society
d. Every other association of person whether registered under the societies Registration Act 1860 or not.

12. Trader:-Trader in relation to any goods means a person who sells or distributes any goods for sale and includes the manufacture thereof, and where such goods are sold or distributed in package form, includes the packer thereof.

13. Unfair trade practices:- Unfair trade practice means a trade practice which for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practices including any of the following practices namely

I. The practice of making any statement, whether orally or in writing or by visible representation which

a. Falsely represent that the goods are of a particular standard, quality grade, composition, style or model.
b. Falsely represent that the services are of a particular standard, quality or grade
c. Falsely represents any rebuilt, second hand renovated, reconditioned or old goods as new goods.
d. Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have
e. Makes a false or misleading representation concerning the need for , or the usefulness of,
f. any goods or services;
g. Gives to the public any warranty or guarantee of the performance, efficacy or length of the life of a product or of any goods that is not based on an adequate or proper test thereof.
h. Which makes to the public a representation in a form that purports to be(a) a warranty or guarantee of a product or of any goods or services; or(b) a promise to replace, maintain or repair an article or any part thereof or to repeat or continues a service until it has achieved a specific result

1. Which materially misleads the public concerning the price at which a product or like product or goods or services, have been or are, ordinarily sold or provided, and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;

j. Which gives false or misleading facts disparaging the good, services or trade or another person?

2. Permits the publication of any advertisement whether in any newspaper or otherwise, for the sale or supply at the bargain price, of goods or services that are not indented to be offered for sale for supply at the bargain price, or for a period that it, and in quantities that are, reasonable, having regard to the nature of the market in which the business is carried on, the nature and size of business, and the nature of the advertisement.
3. Permits (a) the offerings of gifts, prizes or other items with the intention of not providing them as offered or creating impression that something is being given or offered free of charge when it is fully or partly covered by the amount charged in the transaction as a whole; (b) the conduct of any contest, lottery, game of chance or skill, for the purpose of promoting, directly or indirectly, the sale, use or supply of any product or any business interest.
4. Permits the sale or supply of goods intended to be used, or are of a kind likely to be used, by consumers, knowing or having reason to believe that the goods do not comply with the standards prescribed by competent authority relating to performance, composition, contents, design, construction, finishing or packaging as are necessary to prevent or reduce the risk of injury to the person using the goods.
5. Permits the hoarding or destruction of goods, or refuses to sell the goods or to make them available for sale or to provide any serve, if such hoarding or destruction or refusal raises, tends to raise or is intended to raise, the cost of those or other similar goods or services.

14. Bargaining Prices: - 'Bargaining Price' means

(a.) a price that is stated in any advertisement to be a bargain price, by reference to an ordinary price or otherwise or;

(b.) a price that person who reads, hears or sees the advertisement, would reasonably understand to be a bargain price having regard to the prices at which the product advertised or like products are ordinarily sold.

8. Explain Consumer Protection Councils

The Act provides the establishment of a Central Consumer Protection Council by the Central Government and the state consumer protection council in each state by the respective state government.

Central Consumer Protection Council: - The central government shall, by notification, establish with effect from such date as it may specify in such notification, a council to be known as the Central Consumer Protection Council.

Composition of Central Consumer Protection Council: The Central consumer protection council shall consist of the following members:-

a. The minister in charge of the consumer affairs in the central government who shall be the chairman of the Central Council.

b. Such members of other official or non-official members representing such interest as may be prescribed.

Terms and conditions of members of the Central Council:

The term of the council shall be three years. Any member may, by writing under his hand to the chairman of the central council, resign from the council.

Objectives of the Central Council:-The main objectives of Central consumer protection council are as follows:-

1. The right to be protected against the making of goods and services which are hazardous to life and property.
2. The right to be informed about the quality, quantity, potency, purity standard and price of goods or services as the case may be so as to protect against unfair trade practices.
3. The right to be assured, wherever possible, access to a variety of goods and services at competitive prices.
4. The right to be heard, and to be assured that consumers' interest will receive due consideration at appropriate forums.
5. The right to seek redressel against unfair trade practices or restrictive trade practices
6. The right to consumer education.

Meetings

The meetings of the central council shall be presided over by the Chairman. In the absence of the chairman, the vice chairman shall preside over the function. The central council shall meet as and when necessary, but at least one meeting of the council shall be held every year.

The central council shall meet at such time and place as the Chairman may think fit and shall observe such procedures in regard to the transaction of the business as may be prescribed.

The state Consumer Protection Council: - The state government shall by notification establish with effect from such date as it may specify in such notification, a council to be known as the State Consumer Protection Council.

Members of the Council:-

The State consumer Protection Council shall consist of the following members:

1. The minister in charge of consumer affairs in the state government, who shall be its Chairman.
2. Such member of other officials or non-official members representing such interest as may be prescribed by the State Government.
3. Such member of other official or non-official members, not exceeding ten, as may be nominated by the Central Government.

Meeting of the Council: - The State Council shall meet as and when necessary, but not less than two meeting shall be held every year. The state council shall meet at such time and place as the Chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government Objects:

The objects of State Consumer Protection Council shall be to promote and protect within the state the rights of the consumers as laid down in sec.6. Which are same as those of the central council.

The District Consumer Protection Council: - The District Consumer Protection Council shall consist of the following members.

1 . The District Collector, who shall be its chairman.

2. Such member of other official and non-official members representing such interest as may be prescribed by the state Government.

Meetings: The District Council shall meet as and when necessary but not less than two meetings shall be held every year.

Time and Place of meeting: - The District Council shall meet as such time and place within the district as the chairman may think fit and shall observe such procedure in regard to the transaction of its business as may be prescribed by the State Government.

Objects: - The objects of every District Council shall be to promote and protect within the district the rights of the consumers.

Rights and Remedies of Consumers:

According to section 6 of the Consumer Protection Act, the following rights are available to consumers

1. Rights to be protected or right to safety: - Every consumer has the right to be protected against the marketing of goods and services which are hazardous to life and property.
2. Right to be informed: - Every consumer has the right to be informed about the quality, quantity, potency, purity standard and price of the goods or services as the case may be, so as to protect the consumer against the unfair trade practices.
3. Right to be assured: - Every consumer has a right to be assured, wherever possible, access to a variety of goods and services at competitive prices.
4. Right to be heard: - Every consumer has a right to be heard and to be assured that consumers interest will receive due consideration at appropriate forums.
5. Right to seek redressal: - Every consumer has a right to seek redressal against unfair trade practices or restrictive trade practices or exploitation of consumers.
6. Right to consumer education: - Every consumer has a right to consumer education, which will help the consumer to know his rights and duties.

Remedies to Consumers: - The consumer protection act provides the following remedies to consumers:

a) Removal of defects from goods.
b) Replacement of defective goods
c) Refund against defective goods or deficient services.
d) Award of compensation for the loss or injury suffered
e) Removal of defects or deficiencies m the services
f) Discontinuance of unfair trade practices or restrictive trade practices
g) Prohibition on sale of hazardous goods.

Redressal Agencies for Consumer Disputes:

The consumer protection act provides for three tier quasi judicial redressal machinery at the District, State and National levels for redressal of consumer disputes and grievances. Accordingly sec. 9 provides for the establishment of the following agencies.

a. A consumer Dispute Redressal Forum to be known as the "District Forum" established in each district of the State by notification. The State Government is empowered to establish more than one District Forum in a district.
b. A consumer Disputes Redressal Commission to be known as the "State Commission" established by the state Government.
c. A national Consumer Disputes Redressal Commission established by the Central Government.

District Forum:

Composition: - Each district forum shall consist of

a. A person who is, or has been or is qualified to be a District Judge, who shall be its president

b. Two other members, who shall be person of ability, integrity and standing and have adequate knowledge or experience, and one of whom shall be a woman.

Tenure of office: Every member of the District Forum shall hold office for a term of five years or up to the age of sixty five years, whichever is less and shall not be eligible for reappointment.

Office and Place of sitting of the District Forum: - The office of the District Forum shall be located at the headquarters of the District. Sitting of the District Forum, as and when necessary, shall be convened by the President.

Jurisdiction of the District Forum: - The District Forum shall have a jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed does not exceed rupees five lakhs.

Powers of the District Forum:

The District Forum shall have the same powers as are vested in a civil court under the code of civil procedure. , and includes the power to

I. Discover and produce any document or other material object producible as evidence.
2. Reception of evidence on affidavits
3. Requisition of report of the concerned analysis from the appropriate laboratory or from any other relevant source.
4. Any other matter which may be prescribed State Commission: - Each state commission consist of

1 . A person who is or has been a judge of a High Court, appointed by the State Government, The person so appointed shall be its president

2. Not less than two and not more than such number of members as may be prescribed, and one of whom shall be a woman, and who Shall have the following qualification:

a. Not less than 35 years of age
b. Possess a bachelor degree from a recognized university
c. To be persons of ability, integrity and standing and have adequate knowledge and experience of at least ten years I dealing with problems relating to economics, law, commerce, accountancy etc.

Office and Place of sitting of State Commission: - Office of the state Commission shall be located at the capital of the State. Sitting of the State Commission, as and when necessary, shall be convened by the president.

Monetary limit: - The state commission shall have jurisdiction to entertain complaints where the value of goods or services and compensation, if any, claimed exceeds Rs. Twenty lakhs but does not exceeds Rs. One crore.

National Commission: The National Commission shall consist of

l. A person who is or has been a judge of the Supreme Court, to be appointed by the Central Government, who shall be its President.

2. Not less than four, ad not more than such number of members, as may be prescribed, and one of whom shall be a woman, who shall have the following qualifications, namely

a. To be persons of ability, integrity and standing and have adequate knowledge and experience of at least ten years I dealing with problems relating to economics, law, commerce, accountancy etc
b. Be not less than thirty five years of age, and
c. Possess a bachelor's degree from a recognized university

Monetary limit:-The National commission shall have jurisdiction entertain complaints where the value of the goods or services and compensation, if any claimed exceeds Rs. One crore.

9. What is Meeting? Explain Directors and Shareholders Meeting.

Meaning and Definition of Company Meeting:

The word meeting is not defined anywhere in the Companies Act. Ordinarily, a company may be defined as gathering, assembling or coming together of two or more persons (by previous notice or by mutual arrangement) for discussion and transaction of some lawful business.

A company meeting may be defined as a concurrence or coming together of at least a quorum of members in order to transact either ordinary or special business of the company.

Some important definitions of meeting are given below:

- In the case of Sharp vs. Dawes (1971), the meeting is defined as An assembly of people for a lawful purpose or the coming together of at least two persons for any lawful purpose. According to P.K. Ghosh Any gathering, assembly or coming together of two or more persons for the transaction of some lawful business of common concern is called meeting.
- According to K. Kishore, A concurrence or coming together of at least a quorum of members by previous notice or mutual agreement for transaction business for a common interest is meeting.
- From the above definitions of meeting, it can be concluded that meeting is the congregation of several persons in a particular place for the purpose of discussing some important matters and expressing their opinion on the questions raised.

Characteristics of a Company Meeting:

The characteristics of a company meeting are as follows:

- Two or more persons (who are the members of the Company) must be present at the meeting.
- The assembly of persons must be for discussion and transaction of some lawful business.
- A previous notice would be given for convening a meeting.
- The meeting must be held at a particular place, date and time.
- The meeting must be held as per provisions/rules of Companies Act.

One-Man Meeting:

To Convene a meeting, two or more persons must be present. A meeting cannot be constituted by one person. However, there are certain circumstances where one person can constitute a valid meeting. They are as follows:

1. Meeting Convened by Central Government:

Where the Central Government calls an annual general meeting under Sec. 167 of the Act, it may direct that one member of the company present in person or by proxy shall constitute the meeting.

2. Absence of Quorum in an Adjourned Meeting:

By quorum we mean the minimum number of the members who must be present at a meeting as required by the rules. In the absence of quorum the proceedings of the company cannot be started.

If the quorum does not complete within half an hour of the prescribed time, meeting will be adjourned to the same time, place and date in the next week. If at the adjourned meeting also the quorum does not complete, the members present shall be quorum and attending members (even if one member is present) may be allowed to come to a decision and pass resolutions. It means one member present in person shall constitute a valid meeting.

3. Meeting Convened by Company Law Board:

Where the Company Law Board calls a meeting under Sec. 186 of the Act (other than an annual general meeting), it may direct that one member present in person or proxy shall be deemed to constitute a valid meeting.

4. Class Meeting of Shareholders:

Where one person held all the shares of a particular class, that member alone was held to constitute a valid meeting of that class of shareholders,

5. Meeting of One-Man Committee of Board of Directors:

As per Rule 77 of 'Table A', the board of directors may delegate their works to a Committee which may have only one member. When the meeting of such Committee will be held, only one member will be present and he alone will constitute a valid meeting.

Kinds of Company Meetings:

The meetings of a company may be classified into the following categories:

1. Meetings of shareholders:

I. Statutory meeting;
Il. Annual general meeting (AGM)
Ill. Extra ordinary general meeting;
IV. Class meetings.

2. Meetings of directors:

I. Meetings of board of directors; Il. Meetings of directors;
111. Meetings of creditors.
IV. Meetin s of debenture-holders.

10. Explain Winding up and Dissolution of Company

Winding up and Dissolution of a Company are two separate steps in the process of closing a company. Winding Up is a process led by a liquidator under the Tribunal of laws where he settles and distributes the assets of the company amongst its creditors and shareholders' before the company is dissolved.

After the winding-up process is complete the National Company Law Tribunal may pass the order of dissolution of the company that is the company seizes to be in the state of existence and its name shall be struck off from the register of Companies and shall be published in the Official Gazette.

Wind Up of Company

Winding Up is defined as the liquidation of the company in the Insolvency and Bankruptcy Code, 2016, and the type of Wind up of the company is as follows:

- Compulsory winding up of Company
  - Compulsory winding up of a Company could be a compulsory winding up as enforced by the creditors of the company
- Voluntary winding up of Company
  - Voluntary winding up of Company of private limited company procedure as brought in by the corporate person.

Wind up of a Company is a two-step process, first Insolvency Resolution Process takes place and then liquidation of the company occurs. While the winding of the company is taking place the corporate entity still exists however after dissolution, the existence of the corporate entity is put to an end.

A Winding Up petition can be submitted by the company itself, by its contributors, by a Registrar, or by the Central or State Government.

A company may still be running its business during the procedure for winding up of a company in India if it instils that it will be beneficial for the winding-up process however after dissolution the company seizes to exist anymore to run its business.

Dissolution of Company

The Dissolution of a company may take place in two ways.

First in which the company is transferred to another company under the scheme of reconstruction or amalgamation. In such a case, the transfer of the company will be dissolved by an order of the Tribunal without it being wound up.

In the second scenario, the company shall undergo a winding-up process where the assets of the company shall be realized and proceeds shall be used to pay its liabilities. Once the debts have been settled, the remaining amount, if any, shall be distributed amongst the stakeholders, and Tribunal shall pass the order of dissolution of the company and strike its name off the register of the Registrar of the Companies.

Process of Winding up and Dissolution of Company

The winding-up of a company is judged by the Tribunal and the procedure for winding up of a company in India is purely a judicial function. There is a liquidator who carries off and administers the winding-up process. After winding up, the dissolution process takes place.

The dissolution of a company is recorded by the registrar of companies. This is a purely administrative function and does not involve any role for the liquidator. Dissolution is a necessary step following the winding up of a company.

For a better understanding of the difference, refer to the following table:

Particulars	Winding-up	Dissolution
Meaning	Winding up means appointing a liquidator to sell off the assets of the company, divide the proceeds among creditors, and file to the NCLT for dissolution.	Dissolution means to dissolve the company completely. Any further operations cannot be done in the company name.
Process	Winding up one of the methods through which the dissolution of a company is carried on.	Dissolution the end process/result of winding up and getting the name stuck off from the Register of Companies.
Existence of Company	The legal entity of the company continues and exists at the commencement and during the winding-up process.	The dissolution of the company brings an end to its legal entity status.
Continuation of Business	be company can allowed to its if it continue business during the is the winding-up process required for of beneficial winding up the company.	The company ceases to exist upon its dissolution.
Moderator	The liquidator carries out the process of winding up.	The NCLT passes the order of dissolution.
Activities Included	Filling of winding up resolution or petition, the appointment of the liquidator, recelvlng declarations, preparation of reports, disclosures to ROC, and filing for dissolution to the NCLT.	Filing of resolutions, declarations, and other required documents to the NCLT to pass dissolution order.