

1. INTRODUCTION TO COMPANY

Q.1. DEFINE COMPANY AND ITS FEATURES.

Ans: The word company means a group of persons associated for any common object/purpose such as business, sports, research, and charity and so on. In a legal sense, a company is incorporated/ registered under the Companies Act. Usually having the word "limited" as a part of its name (e.g. Ashok Leyland Limited). Large majority of companies are formed for the purpose of trade or commerce.

Joint Stock Company is one popular and extensively used form of business organisation. In this organisation. Large number of people (investors) come together, contribute capital and manage the business through their representative called directors. The business through their representatives called directors. The business is run for earning profit and the profit earned is shared by all members/shareholders in the form of dividend.

DEFINITION OF A COMPANY:

- 1) According to **Prof. H.L. Haney:** Joint stock company is. "A voluntary association of individuals for Profit. Having a capital divided into transferable shares, the ownership of which is the condition of membership."
- 2) According to Sec. 2(20) of the Companies Act, 2013. "A company is a company formed under the Companies Act, 2013 or under any of the previous acts relating to Companies."

FEATURES OF A COMPANY:

- 1) **An Incorporated Association:** Joint Stock Company is a registered body of individuals. A company must be duly incorporated/ registered under the prevalent Companies Act. The registration is compulsory in India for every company, irrespective of its nature, size, and ownership and so on.
- 2) **Artificial (Legal) Person:** A company is purely a **creation of law**. It has neither a body nor a soul. However, it is recognised as an artificial person in law. A company does not exist physically but it does exist legally. It is treated as single person in law as distinct from the members of the company. **it has a separate life which is quite distinct from that of shareholder forming the company** and quite distinct from the directors who manage its affairs.
- 3) **Perpetual Succession and Independent Existence:** A company has perpetual succession. It comes into existence after incorporation and continues to exist till it is liquidated. The death, insolvency or insanity of shareholders/dealers/directors does not affect it. Shareholder of a company may die yet the company will operate as usual.
- 4) **Common Seal:** A company cannot sign documents directly. Hence, to remove this difficulty, company's seal is affixed on the documents which is its conclusive evidence. **This common seal is treated like company's signature and regarded in law as the symbol of its corporate existence.**

- 5) **Limited Liability:** The liability of members of a joint stock company is limited. It is limited to the face value of shares held by a shareholder. A shareholder having fully paid-up shares cannot be called upon to meet the debts of the company out of his personal property.
- 6) **Separation of Ownership from Management:** Separation of ownership from management is one more distinct feature of a joint stock company. **The owner of a company are the investors.** Who jointly provide the capital to the company?
- 7) **Transferability of Shares:** One more distinctive feature of a joint stock company is that its shares are freely transferable. A member can sell his shares at any time as per his desire.
- 8) **Diffusion of Ownership:** The membership of a company is quite large. There is no limit to maximum membership of a public company. due to large membership, risk to loss is spread over a large number of persons
- 9) **Government Regulation and Control:** **Government keeps effective control on the functioning of joint stock companies.** The purpose is to protect the small investors who invest their saving in the corporate sector.
- 10) **Huge Membership and Mobilisation of Resources:** The membership of companies includes investors from rich. Lower and middle income groups. **The companies mobilise the saving of small investors for profitable investment in the industrial and service sectors.**

Q.2. Explain briefly the types of of companies

Ans: Under Companies act, 1956 only 10 types of companies can be formed however, there are 15 types of companies that can be formed under Companies Act, 2013. They differ from each other as regards membership, liability, transfer of shares, company meeting ownership and so on. Various types of companies that can be formed, under the Companies Act, 2013 are as noted below;

BRIEF DETAILS OF TYPES OF COMPANIES:

1) **Royal Chartered Company:** Royal chartered company is a company which is established under a Special charter (Royal Charter) issued by the King or Emperor, i.e. Head of the state The nature, activities and powers of such companies are stated in the Royal Charter issued for this purpose.

The East India Company and the Bank of England are the examples of chartered companies. In India. Such companies are absent.

2) **Statutory Company:** A statutory company is a company which is incorporated on the basis of a **special law or statute passed by the Parliament or State Legislature.** Such companies are generally formed to carry out some special public undertakings. All the details (objects, powers, function. Etc) of Statutory companies are given in the statute itself. Statutory companies are popular in many democratic countries. In India. The reserve Bank of India. LIC, State Bank of India, Indian Airlines. Etc. are the examples of statutory companies.

- 3) **Registered Company:** An incorporated or registered company is a company which is duly registered under the provisions of the relevant Companies Act. In India. A registered company is one which is duly registered under the Companies Act, 2013
- 4) **Company Limited by Shares:** A company limited by shares is a company in which the liability of its members (i.e., shareholders) is restricted to the value of the shares purchased by them. This is as per the provision made in the memorandum of the company.
- 5) **Company Limited by Guarantee:** A company limited by guarantee is a company in which the liability of a members is fixed to a certain amount and he is liable to pay that much amount In the event of winding up of the company. The additional amount payable by members is laid down in the Memorandum or Articles of Association of the Company. The guarantee amount from members is called “**reserve capital**”
- 6) **Unlimited Company:** An unlimited company is one in which the liability of member is unlimited. Every member of such a company is liable for the debts of the company. it is like a partnership firm in which the liability of partners is unlimited. Here, the liability of members may extend to their personal property.
- 7) **Holding Company:** Holding company is normally a huge company with financial position and it controls the management of another company. Such company which controls other companies is called holding company. L&T or Tata Sons is one example of a holding company with few subsidiaries. In India. Large companies have some subsidiaries under their control.
- 8) **Subsidiary Company:** A subsidiary company is just opposite to a holding company. It is a company which is controlled by the holding company. a company shall be deemed to be a subsidiary of another if that other company controls the majority composition of its Board of Directors with the sole object of controlling its management or if the other company holds more than half in the nominal value of its equity shares capital.
- 9) **Private Company:** According to Section 2(68) Of Companies Act. 2013 “private company” means a company having a minimum paid up capital of Rs. One lakh or such higher paid up capital as may be prescribed, and by its articles of association. This provision of Rs 1 lakh capital was amended by the Companies (Amendment) Act, 2015 and is now provided that such companies must have a minimum paid up capital of such amount as may be prescribed. In other words, the monetary limit imposed earlier in the Act has been deleted.
- Restricts the rights of the members to transfer shares, if any:
 - Limits the number of its members to fifty, excluding members who are or were in the employment of the company
 - Prohibits any invitation to the public to subscribe for any shares in, or debentures of, the company : and
 - Prohibits any invitation or acceptance of deposits from persons other than its members, directors or their relatives

10) Public Company: A public company is defined by Section 2(17) of the Companies Act, 2013 as a company which is not a private company. This means. Restriction imposed on a private company or the privileges and concessions given to a private company are not applicable to a public company. It needs minimum seven persons and at least three directors, Lengthy procedure needs to be followed for the promotion of a public company. Finally, there are restriction on public companies and they have to function under strict supervision and control of the government.

When enacted in 2013, the Act has provided that a public company must have a minimum paid up capital of Rs. 5lakshs or such higher amount as may be prescribed; However, this provision was amended by the Companies (Amendment) Act, 2015 and it is now provided that such companies must have a minimum paid up capital of such amount as may be prescribed. In other words, the monetary limit imposed earlier in the Act has been deleted.

11) Domestic Company: A company which is based in India and registered under the companies Act, 2013 is regarded as domestic company. The head office and its business operation are conducted within the country. It can either be private or public.

12) Foreign Company: A foreign company is a company **incorporated outside India** which established its business operations within India under the Companies Act, 2013 Within 30 days of its establishment, it has to furnish important documents to the Registrar as per Sec. 380 of the Companies Act, 2013. The documents are:

- a) A certified copy of the charter of the company.
- b) Memorandum and Articles of Association of the Company.
- c) Address of the registered office
- d) List of directors and secretary
- e) Full address of the principal place of business in India.
- f) Name and address of the authorised person to do business on behalf of the company in India

13) One man Company: The companies Act, 2013 has introduced a novel concept, namely that of a company consisting of only one person. Such a company is called a "One person Company" (OPC). Where one man holds practically the whole of the share capital of a company and takes a few more dummy members simply to meet the statutory requirement of the minimum number of person, such a company is one man company. A one man company can be incorporated under Sec. 2(62) of the Companies Act, 2013 In such a company the principal shareholder is the virtual owner running the business with limited liability and other members may have even one share.

14) Companies not for Profit: These companies must obtain a license from the central Government before they are registered. They are limited liability but are not required to use the word limited or private with their names. Such companies are formed for promoting art, science commerce sports, etc. Profit are applied towards its objective and cannot be distributed among its members.

Features of companies not for Profit:

- a) **It enjoys various exemption on registration**
- b) **It does not pay stamp duty for registration of Memorandum and Articles of Association.**

- c) It can be formed **without share capital**
- d) Government **can revoke license** any time by giving a notice.

Q.3. DEFINE COMPANY SECRETARY AND EXPLAIN ITS FEATURE

Ans: MEANING: Company secretary is one important officer of company and is closely connected with the administrative set of a company. His appointment is compulsory in the case of large companies with huge capital. And multiple business activities. He is appointed on full time basis. A company secretary performs various duties in relation to shareholders, directors and others connected with the company, **He enjoy higher status and is paid a handsome salary for his services.** Only an individual can act as a company secretary acts as an institutional secretary and not as a personal secretary. Institutional secretary is appointed by an institution like a company or co-operative society and not by any individual like advocate/doctor/businessman. In addition, company secretary must possess qualification as prescribed in the Indian Companies Act. He also requires different qualities of head and heart. This makes him successful in his career and makes him a valuable asset of his organisation.

DEFINITION:

According to Section 2(24) of the companies Act,2013 “ Company Secretary” or “Secretary’ means a company secretary as defined in clause (c) of sub-section (1) of Section 2 of the Company Secretaries Act, 1980 and who is appointed by a company to perform the function of a company secretary under this Act.

According to clause (c) of sub-section (1) of Section 2 of the Company Secretary means. A person who is a member of the Institute of Company Secretaries of India.

FETURES OF COMPANY SECRETARY

- 1) **Only an Individual:** A company secretary must be only an individual. No firm or body corporate can act as company secretary. His appointment on whole time basis is now made compulsory in the case of companies, with paid up capital of Rs 5 crore or more.
- 2) **Prescribed/Requisite qualification:** A company secretary needs to possess prescribed (statutory) qualification or requisite qualification to be prescribed by the Central Government. This qualification is the Membership of the Institute of Company Secretaries of India
- 3) **Perform ministerial and administrative duties:** A company secretary has to perform certain ministerial or administrative duties. His duties are not managerial ones. He is not entrusted with the direction, control or management of the affairs of the company.
- 4) **Multiple secretary ship not permitted:** **Multiple secretary ship is prohibited in India_** This means a secretary cannot act as a secretary of more than one company having a paid-up capital of Rs. two crore or more
- 5) **Legal recognition and statutory status:** A company secretary is now given legal recognition and statutory status and duties. He also acts as the custodian of secret information of his organisation.

- 6) **Executes plans and policies :** Company secretary, being a chief executive officer of the company, **to execute the plans and policies of the management honestly and effectively.**
- 7) **Normally appointed by promoters:** Company secretary is normally appointed by company promoters before the incorporation of a company. Such **Pro-secretary** is given regular appointment by the Board after incorporation/ registration i.e., when company gets legal status as Joint Stock Company. Thereafter, company secretary is appointed by the Board of Directors of a company as per the vacancy available.

Q.4. EXPLAIN THE QUALIFICATIONS AND QUALITIES OF COMPANY SECRETARY

Ans:

- a) **Basic Qualification:** A company secretary **must be the member of the Institute of Company Secretaries of India** such membership is the **essential basic qualification of a Company Secretary**. In addition, he may have membership of the Institute of Chartered Accounts of India (C.A) or membership of the Institute of Cost and Works Accounts of India (ICWA). In addition, he may have law degree or MBA or any other qualification useful in his career.
- b) **Other Educational Qualification of Company Secretary Such qualification include the following :**
- 1) **Sound General Education:** Sound general education is essential for a company secretary as he has to shoulder onerous responsibilities. In addition to professional qualification, a company secretary should have a high academic qualification. He should preferably have a master's degree in economics, commerce or law. He also needs to have a basic knowledge about office procedures, correspondence and accounts.
 - 2) **Knowledge and Command over Languages:** A company secretary should know a number of languages for effective and pleasing communication both oral and written with other including members, government officers, visitors, press reporters and so on. He must have an admirable command over English language and his mother tongue.
 - 3) **Knowledge of Office Organisation and Management:** A company secretary has to work as a CEO of company. For this, he needs knowledge of office organisation, i.e. drafting, filing, records-keeping, preparing summaries of correspondence.
 - 4) **Knowledge of Accounting and Finance and technology application:** A company secretary may be required to supervise over the accounting and financial matter of his organisation. Similarly, he may be required to give attentions to the preparation of annual accounts, budget estimates, etc. of his organisation.

Information technology techniques are, now, used extensively in the accounting work, decision making and other aspects of company management. It technology bring accuracy, speed and decency in the office work.

- 5) **Legal Knowledge and Knowledge of Procedures of Meeting:** A company secretary must be well-versed in general mercantile or business laws (Contract Act, sale of Good Act, Negotiable Instrument Act, Tax laws, etc.) Similarly, he needs adequate knowledge of Income –tax Act, His knowledge of India Companies Act must be up-to-date and complete in all respects.
- 6) **Knowledge of Commercial Correspondence:** A company secretary has to carry on correspondence of varied nature naturally, he must have the skill and capacity to draft letter notices, reports, circulars, etc., precisely, clearly and correctly thus, perfect knowledge of commercial correspondence is essential in the case of company secretary.
- 7) **Knowledge of Human Relations:** A secretary has to deal with the directors, shareholders and the outsiders. He has to create a good image of his organisation and has to secure-operation from other. He must, therefore, know, how to get along with others. He has to adopt human approach while dealing with outsiders. Knowledge of human psychology is useful for this purpose. In brief, an efficient company secretary needs knowledge of human psychology.

Training Qualification of Company Secretary: Educational and professional qualifications are necessary but are not enough to make a secretary competent with capacity to face all types of situation. **For this, a company secretary need good training background.** A company secretary need training qualification. Training is useful for raising the standard of efficiency. Training develop certain skills and abilities. It develops practical approach and also a sense of self-confidences. A company secretary may take training by different ways, **Firstly**, by joining a small company. As a "**Trainee Secretary**" and learn all procedures by actual doing the work possible under the guidance of superiors. **Secondly**, training is possible by joining a firm of "Chartered Accountants" or "Solicitors" or "practicing company secretaries **thirdly**, job training is possible in the case of a company secretary. Finally, training is possible by consulting other secretaries with long experience and also **by attending conferences, seminars and discussions** arranged for company secretaries. Even the **Institute of company Secretaries of India** deputed qualified candidate as trainees for short period to companies followed by short stint at office of the Registrar of Companies.

QUALITIES OF COMPANY SECRETARY

a Company secretary needs to develop certain qualities through hard work and sustained efforts. **Academic /educational qualification need to be supplement by useful qualities like accuracy, promptness, tact, courtesy and so.** A promising secretary needs a **fair combination of essential qualification and qualities.**

Qualities required by a company secretary can be conveniently classified into the following two categories:

a) Qualities of Head:

(i) Accuracy (ii) Tact (iii) Adaptability (iv) sharp memory (v) Punctually (vi) Concentration.

b) Qualities of Heart: (i) Pleasing personality (ii) Leadership and initiative (iii) Courtesy and co-operative (iv) Loyalty (v) Willingness

The basic personal qualities (of head and heart and heart) required by a company secretary are as explained below:

- 1) **Loyalty:** Loyalty to the institution is one of the top qualities of a company secretary. Loyalty is necessary as company secretary is entrusted with secret and confidential information. He must not leak out even accidentally or inadvertently secret matter to outsiders or shareholders and bring his organisation in difficulties. **A sense of loyalty is a must in the case of a company secretary.**
- 2) **Accuracy:** A company secretary must be accuracy must be accurate as regards his duties and functions. Accuracy is essential in filling document with government departments, writing and drafting of reports, letters and minutes. Accuracy in the office work avoids possible problems in future. Accuracy is possible when a secretary takes keen interest in his work when a secretary takes keen interest in his work **Concentration of mind is also necessary for accuracy.**
- 3) **Adaptability:** A company secretary needs the quality of adaptability. He must adapt himself to changing situations. The situations may change due to policy decisions of the management, changes in the government policies and other reasons. A company secretary needs to have the ability to get along with all such situations. He must be able to face any type of situation boldly. This makes successful even under adverse situations.
- 4) **Tact:** **Tact is the fine art of avoiding offense.** A company secretary must be tactful as he has to get the things done as per his desire and that too without creating ill-feeling among others including members and outsiders. Tact is a personal skill for doing exactly what one wants to do without creating any ill-feeling in others.
- 5) **Courtesy:** A company secretary should be courteous to his colleagues, shareholders, directors and outsiders. Courtesy means polished manners combined with kindness. In fact, polite or courteous attitude is an asset of a company secretary, He can maintain cordial relation with others. because of courteous attitude and behaviours towards them.
Decent and courteous behaviours costs nothing, but earns good reward to the secretary as well as to his organisation.
- 6) **Discipline and Punctuality:** A company secretary should be discipline in his work and behaviour. In addition. Punctuality is an essential quality which a company secretary must possess. It is not possible to create an orderly atmosphere in an office unless the secretary himself is punctual.
- 7) **Spirit of Co-operation:** A company secretary who is co-operative by nature is always successful in creating a spirit of understanding and team-work among his colleagues. A company secretary needs co-operative outlook. He should be willing to guide his subordinates.

- 8) **Interest:** A company secretary should develop interest in his work so that he can give his heart and soul to the work. He must be willing to work hard and new responsibilities and challenges in his secretarial work. This is possible only when he is genuinely interested in the work assigned to the post of company secretary.
- 9) **Orderliness:** Orderliness means managing the work neatly and systematically. It is the orderliness which keeps the table of a company secretary clean. It is also a sign of quick and efficient disposal of work. A company secretary can bring orderliness in the office work of his company only when he himself is disciplined.
- 10) **Pleasing, impressive and winning personality:** A company secretary should be a person with pleasing personality. It is his personal asset. A secretary, with pleasing personality, can easily create a sense of respect among others. He can create cordial and friendly atmosphere in the office due to his pleasing personality. A secretary with an impressive personality can command respect from his superiors and subordinates.
- 11) **Miscellaneous Qualities:** Leadership qualities, organising ability, high moral character, physical fitness, honesty, promptness in the work assigned, positive attitude, sharp memory and concentration.

Q.5.EXPLAIN APPOINTMENT PROCEDURE OF COMPANY SECRETARY

Ans: Under Section 2(51) of the Companies Act, 2013, company secretary has been recognized as " **key managerial person,**" (key managerial persons include managing Director or Chief Executive Officer or manager, company Secretary and chief Financial officer). Under Section 203 of the Companies Act, 2013, being a key managerial person, company secretary is required to be mandatorily appointed in every company belonging to such class or classes of companies as may be prescribed.

PROCEDURE FOR APPOINTMENT OF A COMPANY SECRETARY

Since company secretary is one among the key managerial person, the procedure of appointment of company secretary would be similar to appointment of all other key managerial person. It is already noted that every company having a paid up share capital of Rs. Five crore or more is required to have a whole time company secretary.

The following procedural steps need to be taken for appointing a whole-time company secretary.

- 1) Advertise the post, collect application, hold interviews, short list the individuals for the position, and finalise the terms and conditions of appointment.
- 2) Convene a Board meeting after giving notice to all the directors of all the company as per Section 173 of the Act. At the Board meeting, place the proposal of appointing Company Secretary with the details of the persons short listed and pass a resolution appointing the company secretary and approving the terms and conditions of his appointment. This completes the selection procedure and formal appointment letter will be issued to a person finally selected.

- 3) File return of appointment of company secretary with the Register of Companies (ROC) in **Form DIR 12** within thirty days from the date of appointment (date of joining office) and **Form MGT.14** is also required to be filed along with such fee as specified in Companies (Registration of offices and Fees) Rules, 2014.
- 4) A company Secretary shall not hold office in more than one company except in its subsidiary company at same time.
- 5) Make entries in the Register of directors and key managerial personnel under Section 170 of the Act.
- 6) Inform the Stock Exchange(s) about the appointment of company secretary where the company is listed.
- 7) Since key managerial personnel are included in 'related party' as defined in Section 2(76) of the Act, it is necessary to verify whether the company secretary so appointed involved in any related party transactions within the provisions of Section 188 of the Act. If the answer is yes, then, comply with the necessary requirements in this regard.

Q.6. EXPLAIN THE PROCEDURE FOR RESIGNATION & REMOVAL OF COMPANY SECRETARY

Ans:

RESIGNATION OF A COMPANY SECRETARY: A company secretary can be removed or dismissed by the Board of directors. Similarly, a company secretary can submit his resignation to the Board. This is similar to resignation by any officer or employee of a company. Such resignation of a secretary may be due to personal reasons or due to unfavourable surrounding environment in which the secretary may not like to work anymore. Resignation is also given due to some serious problem or difficulty faced by company secretary. Along with resignation letter

REMOVAL OF A COMPANY SECRETARY: A company secretary can be removed or dismissed like any other employees of the organization. Since he is appointed by board, the directors of a company has absolute discretion to remove a company secretary or to terminate his service at any time for any reasons or without any reason. However, principles of natural justice like show cause notice, hearing, reasoned order etc.

PROCEDURE FOR RESIGNATION/REMOVAL OF A COMPANY SECRETARY

- 1) A company secretary can be removed in accordance with the terms of appointment and the Board can record the same. He i.e. secretary can also submit his resignation as per terms of appointment (service agreement)
- 2) Convene a Board meeting after giving notice to all the directors of the company as per Section 173, place the matter of removal/resignation of the company secretary before the Board of directors for consideration thereafter, suitable resolution will be approved by the Board. This completes the procedure of removal/resignation of company secretary.

- 3) File Form DIR-12 in electronic mode within thirty days with the Registrar of Companies together with requisite filing fees. Evidence of Cessation (for example Resignation Letter) is an optional attachment.
- 4) Inform the stock exchange about removal/resignation of company secretary where the company is listed.
- 5) Make entries in the Register maintained for recording the particulars of Company Secretaries under Section 170 of Companies Act.
- 6) Issue a general public notice, if it is so warranted, according to size and nature of the company.
- 7) The resulting vacancy shall be filled up by the Board at a meeting of the Board within a period of six months from the date of such vacancy. For this regular appointment procedure needs to be followed.

Q.7. DISCUSS THE ROLE OF COMPANY SECRETARY IN COMPANY MANAGEMENT

Ans: Company Secretary is one key managerial person in company management and his position and status is on par with company's managing Directors or Chief Executive Officer and Chief Financial Officer. The companies Act, 2013 has given him a special position and status as whole time key managerial person. This suggests the key role which he is expected to play in the management and administration of his company. He acts as a responsible and influential person in the policy framing and overall management of his company.

Generally speaking, the company secretary plays a three-fold role as explained below:

- a) **As a Statutory Officer**
- b) **As a Co-ordinator, and**
- c) **As an Administrative Officer**

- a) **Secretary as a Statutory Officer:** As one of the principal officer of the company, the company secretary is responsible **for strict compliance** with the various provisions of the Companies Act, 2013. The companies Act is very strict as regards various provisions and the time schedule fixed for them. A company secretary has to see that all provisions of the Act are followed exactly as per the schedule fixed. Moreover, strict penalty (including huge amount of fine) is provided in the case of delay in compliance or non-compliance. A company secretary has to keep strict watch on such compliance. His subordinates give co-operation in this regard. However, at the highest level he is hold responsible for lack of strict compliance and possible consequences. Company secretary may even bring his company in trouble (along with him) for this negligence. In short, he should be careful while discharging his duties and responsibilities as a statutory officer.

Examples

- 1) Company secretary is authorised to sign documents for delivery to the Registrar (Annual return others)
- 2) Filling various returns under Companies act, 2013 with the ROC
- 3) Maintaining various statutory registers such as minutes of general and Board meeting, register of members and debenture holders, etc.
- 4) To issue share certificates and debentures under Section 5(b)

- 5) To send notice for convening meeting of shareholders and debenture holders. As statutory officer, company secretary has to comply with the provisions of other Acts such as Income Tax Act, FEMA, Indian stamp Act, labour laws and so on.
- b) **Secretary as a Coordinator:** Company secretary holds a high administrative position in the company. The board of directors is responsible for policy making and managing the affairs of the company. Here, secretary has to see that the policies of the board are effectively implement for favourable results. The secretary's position is above the company executives at different levels. He has to function as a **connecting link** between the Board and executives. He has to coordinate the work of executive at different levels. He is not the mouthpiece of the Board. He provides whatever assistance required by the Board for policy framing and decision –making. Thereafter. His role as coordinator starts. He acts as coordinator within the company organisation and also with outsiders such as shareholders, different government departments and the society at large. His role as coordinator has two aspects, namely coordinator at the internal level and **secondly at the external level**. As internal coordinator, he keeps close contacts and cordial relations with Board managing directors and the chairman and office executives and company auditors. As external coordinator. He keeps contacts and cordial relations with shareholders, ROC, government departments, and other organisations including educational. Academic and charitable.
- c) **Secretary As an Administrative Officer:** As general administrative officer, a company secretary is responsible for overall efficient administration of the company as a whole. He has to see that policies of the company are duly carried out. He has to supervise, guide, control and co-ordinate the functioning of different departments like finance, personnel and marketing. He has to create sound organisational structure for the company as best result can be achieved only through sound organisational structure.
- A company secretary has to play a positive role in financial administration. He has to study company's financial administration. He has to study company's financial statement and suggest ways and means to improve company's performance. He has to assist the Board in framing financial policies. He is also expected to assist the board while dealing with the government and financial institution including banks.
- Company secretary also plays an important role in the personnel administration of the company. He can provide valuable advice to the Board regarding recruitment, training employee remuneration, promotions, transfers, discipline, and employee grievance and so on. He has to see that cordial industrial relations are maintained on long term basis and that employee are motivated properly and their morel is high

Q.8. EXPLAIN RIGHTS OF COMPANY SECRETARY AND ITS RESPONSIBILITIES

Ans: RIGHT OF COMPANY SECRETARY: Like other employees of a company, a company secretary has certain rights which he can use for his protection and safety Rights are given to company secretary by the Companies Act, 2013, Board of Directors and the general body of shareholders. In addition, he also derive some rights out of his service agreement with the company. A company secretary has the following rights:

- a) A company secretary has the right to control and supervise the working of his department.
- b) As a principal officer of the company, he has the right to sign a document or proceeding requiring authentication by the company.
- c) He has a right to be indemnified by the company for any loss suffered by him while discharging his duties/responsibilities.
- d) As an employee of the company, he has a right to receive remuneration, In the event of winding up of the company, he has a right to be treated as a preferential creditor for his salary subject to a maximum amount that may be notified.

RESPONSIBILITIES OF COMPANY SECRETARY:

A company secretary is an officer of the company responsible for compliance by the company with the provisions of the Companies Act, 2013 and various other corporate, taxation, industrial and economic laws applicable to companies in general. This statement indicates overall legal responsibilities of a company secretary.

The various provision and rules framed under the Companies Act, 2013 make it obligatory for the company secretary to sign the annual return to be filed with the registrar [section 92], duty to report fraud [section 143(12)] and to make declaration under section 7(1) of the Act before incorporation of a company confirming that all the requirements of Act and Rules there under have been complied with in respect of registration of a company and the Registrar may accept such a declaration as sufficient evidence of such compliance.

Under Regulation 18(1) (e) of SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015 the company secretary shall act as the secretary to the Audit Committee in case of a listed company.

Under the Indian Stamp Act, it is the duty of a company secretary to see that the document such as letter of allotment, share certificate, debentures, and mortgages are issued duly stamped. He is the principle officer under Section 2(35) of the income Tax Act, 1961.

It may be noted that company secretary is responsible for managing the affairs of his company as per the provisions of companies Act, 2013. He also responsible to comply with the requirement of other laws such as Income Tax Act, Indian stamp Act, etc. In case of his failure to discharge his responsibilities strictly as per legal provisions, he will be held liable for his acts of omission or commission in regard to management of his company. Responsibilities are closely related to liabilities, failing to honour responsibility leads to liability.

Q.9. EXPLAIN THE LIABILITIES OF A COMPANY SECRETAR

Ans: The liabilities of company secretary can be conveniently classified into the following **two categories:**

- a) **Statutory Liabilities and**
- b) **Contractual Liabilities**

Statutory Liabilities:

The Companies Act has recognized the secretary as a **key managerial personnel** and various liabilities have been imposed upon him. As per Section 2(60) of the Act, a secretary has been included in the list of "officers in default" and is made

liable to heavy penalties for any default of the provisions of the Companies Act. The company secretary is solely responsible for conducting the affairs of the company in accordance with the provisions of the Companies Act. He is also responsible to comply company secretary may be held liable for various acts of omission or commission on his part in the management of the company.

The company secretary **may be held liable** for the following matters under Companies Act, 2013

- 1) **Default in filing returns as to allotment:** if a default is made, the secretary shall be punishable with fine which may extend to one thousand rupees for every day during which the default continues or one lakh rupees, whichever is less [Section 39(5)]
- 2) **Default in the preparation of share/debenture certificates:** As per Section 56(4), the company shall deliver the certificates of all securities allotted, transferred or transmitted:
 - a) Within a period of two months from the date of incorporation in the case of subscribers to the memorandum
 - b) Within a period of two months from the date of allotment, in the case of any allotment of any of its shares;
 - c) In case of defaults of types noted above, the company secretary as an officer in default, shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees [Section 56(b)]
- 3) **Default regarding Register of members/debenture holders etc.:** Failure will make company secretary punishable with a fine which shall not be less than fifty thousand rupees but which may extend to three lakh rupees and where the failure is a continuing one, with a further fine which may extend to one thousand rupees for every day. After the first during which the failure continues [Section 88]
- 4) **Default in the filing of particulars regarding charges:** If a default is made in filing with the Register the particulars of any charge created by the company, every officer of the company who is in default (which includes a company secretary) shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than twenty five thousand rupees but which may extend to one lakh rupees, or with both [Section 86].
- 5) **Default regarding the publication of name of the company:** If a default is made in getting the name and address of the registered office of the company painted or affixed or printed outside every office or place of business or printed on all its business letters, bill heads. Etc., company secretary, if he is in default, shall be liable to a penalty of one thousand rupees for every day during which the default continues but not exceeding one lakh rupees [section 12]
- 6) **Default in filing of annual returns:** If a company secretary fails to file the annual return in or a company secretary in practice certifies the annual return otherwise than in conformity with the requirement of those section or the rules made thereunder, he shall be punished with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees. [Section 92]

- 7) **Default in holding annual general meeting:** Default in holding the AGM in accordance with the provisions of Section 96 to 98, shall make him liable to a fine which may extend to one lakh rupees and in the case of continuing default, with a further fine which may extend to five thousand rupees for every day during which such default continues [Section 99]
- 8) **Default in circulation of members' resolution:** If a default is made in circulating members' resolution of which they have given notice to the company. The secretary punishable with fine which may extend to Rs 25,000 [section 111]
- 9) **Default in registering certain resolutions and agreements:** This default shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees. [section 117]
- 10) **Default in recording the minutes of the meetings:** If a default is made in, recording the minutes of all proceedings of every general meeting and meetings of the Board, a fine of Rs 5000 may be levied upon an officer in default which includes company secretary. [Section 118]
- 11) **Default in maintaining minute book or allowing inspection or furnishing copies of minutes to members:** If a default is made in furnishing a copy of the minutes within seven working days after the date of request by any member or if inspection is not allowed, he shall be liable for a fine of Rs.5,000 for each such refusal or default, as the case may be [Section 119]
- 12) **Failure to give notice of Board's meeting :** Failure to give such notice will make every officer of the company whose duty is to give notice under this section (company secretary is such an officer) and who fails to do so shall be liable to a penalty of twenty-five thousand rupees. [section 173]
- 13) **Failure to maintain the register of the directors and key managerial personnel and their shareholding:** Company secretary in default shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees [section 172]
- 14) **Failure to maintain register of inter-corporate loans and investment:** For this default, company secretary, shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to one lakh rupees. [section 186]

Contractual liabilities:

A company secretary enters into a service contract with the company and accordingly he has several **contractual liabilities which arise out of his service agreement.**

These may be as follows:

- 1) The secretary derive his powers from the Board therefore, he should carry out the orders given to him. This responsibility develops out of his service agreement.

- 2) He should work for the company and should never allow his personal interest to clash with the interest of the company.
- 3) The secretary shall be liable to account for the secret profit made by him by virtue of his position as a company secretary.
- 4) He shall be personally liable if he acts beyond his authority i.e crosses his limits of authority.
- 5) He shall be liable for any loss or damage caused to the company by wilful misconduct or negligence in the discharge of his duties.
- 6) The company secretary shall be liable for any fraud or wrong committed by him in the course of his employment.

OBJECTIVE

Q.1. Select the most appropriate answer from the option given below

- A) Secretary acts as _____ of the Board of Direction
(I- Assistant and advisor) (II- competitor) (III- an outside) (IV- boss)
- B) Qualified company secretary has _____ option for career development
(No) (Single option) (Ample) (Limited)
- C) A company secretary is given rights by _____ of the company
(The prospectus) (The memorandum) (The service agreement with) (Contract with)
- D) A secretary may be removed by a resolution of the _____
(Board of direction) (General meeting) (Statutory meeting) (Committee of direction)
- E) A company secretary can be removed without notice in case of _____
(Temporary appointment) (Misconduct) (Anger) (Absence)
- F) A company secretary shall not hold office in more than _____ company/companies
(One) (Two) (Three) (Four)
- G) Along with company secretary _____ is one more key managerial person in a company
(Chief financial officer) (Purchase manager) (Chief accountant of a company) (Company auditor)
- H) The procedural steps for appointment of full time of secretary starts with _____
(Section interview) (Advertising the post) (Board meeting) (Scrutiny of applications)
- I) A company secretary can be removed like _____ of the company
(An officer) (An influential person) (Any other employees) (Top manager)
- J) signing annual return along with company director is a _____ of a company secretary
(Moral duty) (Administrative duty) (Statutory duty) (Simple duty)

Ans: A-1 B-3 C-3 D-1 E-2 F-1 G-1 H-2 I-3 J-3

Q.2. State whether the following statement are true or false

- A) Company secretary acts as the mouthpiece of Board of direction
- b) Career options to qualified company secretary are limited
- C) Company secretary is not concerned with company employees
- d) For company secretary educational qualifications must but professional optional
- e) Company means a group person associated for common objectives
- f) A company must be duly incorporated under Companies Act
- g) A novel concept of one Man Company is introduced by companies Act

- h) Company secretary and company secretary in practice are the same
- i) A company secretary has right to receive remuneration
- j) Rights are given to the secretary by the Companies Act and not by the service agreement with the company
- k) Only Board of Directors has an absolute discretion to appoint and remove company secretary
- l) Company secretary is recognised as key managerial personnel by Companies Act
- m) Default in filing returns as to allotment is a statutory liability of company secretary
- n) Default in filing of annual return is not a statutory liability of company secretary
- o) It is not necessary to inform about the removal of secretary the stock exchange where the company is listed

**Ans : (a True) (b False) (c False) (d False) (e True) (f True) (g True) (h False)
(i True) (j False) (k True) (l True) (m True) (n False) (o False)**

HERAMB

2. Company Secretary Services

Q.1. EXPLAIN THE ROLE OF COMPANY SECRETARY AS AN ADVISOR TO CHAIRMAN

Ans: Company secretary provides advisory services to company directors and other functionaries. He has full knowledge of Companies Act and other laws. In addition, he has updated information about all aspects of working of a company. He gives the benefit of his knowledge, experience and maturity to directors and others. Normally, he offers advisory services **when requested**. Secondly, his advice, guidance, opinions are not **binding on directors**. They have to take final decision after giving due attention to the advice given. Company secretary should also be cautious while offering advisory services. He has to provide them honestly and impartially and should not put pressure on others for accepting his guideline. He should be always within his limits while offering advisory services.

ROLE OF COMPANY SECRETARY AS AN ADVISOR TO CHAIRMAN:

The Directors decide collectively the policy matters of the company. They decide long term and long term policies of the company. The secretary is responsible for transmitting the policies and decisions of the Board to all levels of the company. His duties in relation to chairman and directors include:

- a) Arranging meetings of Board and general meetings. In addition drafting notices, agenda, minutes and reports.
- b) Keeping the Board informed (as advisor) on matters regarding legal, financial and other laws
- c) To ensure that all decisions taken by the Board are in consonance with legal requirements, and
- d) To ensure that matters discussed in the meeting remain confidential since Board meeting are confidential in character

The secretary has to ensure that the company complies with the applicable secretarial standards. This raises the level of corporate governance.

In many companies CEOs and Managing Directors are appointed. However, chairman function for board meeting and general meeting. He may be elected by the directors present in the meeting. Such chairman may be executive or non-executive director of a company. Company secretary keeps close contact with such chairman.

Company chairman and company secretary are closely connected even when their status is not identical. The chairman consults secretary as regards company meeting, policy decisions and other important matters. This is necessary as company secretary is a professional with detailed information about all aspects of company administration and management. He acts, as a **connecting link between** chairman and company directors.

Company secretary offers advice and guidance to company chairman. However, he has to accept his subordinate position. He should not offer advice unless he is specially asked to do so. He should honour the provisions of Companies Act and also the superior position of company chairman.

Q.2. COMPANY SECRETARY AS A LIAISON OFFICER BETWEEN COMPANY AND STOCK EXCHANGE & DEPOSITORY PARTICIPANTS**Ans: STOCK EXCHANGE:**

Company secretary acts as a liaison officer (connecting link) between the company and stock exchanges where the shares of the company are listed/traded. Secretary has to look after the correspondence with the stock exchanges and see that it be conducted promptly and courteously. Company secretary also conducts correspondence with the stock exchange authorities from time-to-time. He has to give attention to statutory provision while corresponding with stock exchange. He is held responsible if certain documents, information, etc. are not supplied on due date to the exchange. In brief, **company secretary is closely connected with the stock exchanges as his company's securities are traded on the stock exchanges.**

Company secretary has to supply required information to the stock exchanges promptly. Here, Chief Financial Officer or the Finance Directors or Company's Accountant and other executives provide necessary assistance and co-operation to secretary. However, he is personally responsible for the information supplied. Sometimes stock exchange authorities take action against the company for supplying false information or delay in the supply of information or for not following statutory provisions properly. Here, the secretary has to face difficult situation. As a liaison officer between company and stock exchanges, he should see that relation with the stock exchanges are cordial.

The company secretary has to play an important role in getting the shares of the company listed on the stock exchange. He has to supply information and complete the listing procedure in an orderly manner. After listing shares, he has to supply information and document as per the listing agreement made with the stock exchange.

DEPOSITORY PARTICIPANTS:

In India, depository system was introduced when the Depositories act, 1996 was approved. The act provides legal framework for setting up of depositories to record the ownership details of securities and effecting transfer of securities through book entry only. The old system of physical transfer of share certificate is now replaced by "Scripless Trading System". This new system is safe, secured and quick. It is beneficial to companies, bank and transferor and transferee of shares.

In India, **National Securities Depository Limited (NSDL) and Central Depository Service (India) Limited (CDSL)** are operating as depositories Each depository must be formed and registered as a company under the Company's Act, 1956 and seek registered with SECI. The depository system has assumed greater significance consequent to SEBI Guideline making trading of shares of listed companies compulsory in demat form, As a result, most of the listed companies have enlisted their shares with NSDL and CDSL.

Under Depository Act, each depository will have its agents known as "Depository Participants" who shall act as a crucial link between the investors and the depository. Banks, stock brokers and financial institutions can become Dps after following normal procedure prescribed by SEBI. An investor who wants to avail himself of the services of a depository has to open a demat account with a DP of any Depository. He can hold the dematerialised shares of companies in his demat account.

Depository participant is the representative of the depository. Dp's acts as intermediaries between investors and depositories. This is necessary as an investor has no direct access to the depositories. An investors ha to trade his shares/securities

through the depository participant. He is given an identity. He keeps account of securities of etc. Such investor. Depository participant gives information about holding from time to time by sending statement of holding or giving pass book to an investor.

For demat purposes, depository participant has to keep contact with depository and concerned company. He keeps contact with the secretary of concerned company for information, confirmation, etc.

Q.3. EXPLAIN COMPANY AND REGISTRAR OF COMPANIES ROC:

Ans: Register of Companies (ROC) is an important officer of the government under Company Law Department. He maintain supervision and control on the company's operating under his jurisdiction. In view of this, company secretary should maintain close and cordial relations with Registrar. Correspondence and dealings with the Registrar should be prompt and decent. The required information, report, document, etc. should be submitted to ROC within the time limit set. A company secretary may meet the registrar for some urgent and important work. He should honour the superior position of Registrar in the machinery for monitoring joint stock companies. Registrar is a **recognized statutory authority with wide powers**. He keep continuous control on takes suitable action in regard to concerned company. He is wide powers for legal actions.

Company secretary is closely connected with the Registrar of Companies who acts as the representative of the company law board at the grass route level. Registrar acts as a connecting link between the company and the government. He sends letters, circulars, reports etc. to companies on behalf of the government. Similarly, companies communicate decisions or file statements, Registrar. The office of the Registrar is basically a **Registry** and an **office of Record**.

The Registrar can inspect the book of account and other statutory books of company at any time without giving previous notice. He can also apply to the Central Government (through Company Law Board) for investigation of the affairs of any company or for taking any other action as he thinks necessary. The companies have to deal with the Registrar very often as he is concerned with the administration of Indian Companies. For example, permission of ROC is necessary for extending the date of AGM of the company or alternations in the M/A or A/A are filed with the Registrar. A company secretary performs various statutory duties through the Registrar of Companies.

In brief, companies and Registrar are closely related. Company secretary makes representations before the ROC as and when necessary. Company secretary submits various documents, reports and returns, etc. on behalf of the company. He also sends replies to letters received from the Registrar promptly. The Registrar issues **Certificate of incorporation and trading certificate** to companies. **He makes scraping of the documents submitted by the company**. He can even impose fines and penalties on companies for not submitting certain returns and documents, etc. in time. He also gives extension of time to a company for arranging AGM. (Section 206 of the Act)

ROC is the prime regulatory authority of companies registered under the Companies act, 2013. There is one ROC in each state and he is assisted by subordinates like Joint Registrar, Deputy Registrar and so on. The ROC maintains a **Register of Companies** in his office in the prescribed form. **Power of search and seizure are also conferred on the ROC under Section 209 of the Act. (For more details, refer chapter 4 of this book)**

Q.4. WHAT ARE REPRESENTATION BEFORE COMPANY LAW BOARD?**Ans: REPRESENTATION BEFORE COMPANY LAW BOARD:**

In February 1964, the Central Government set up an administrative authority, namely, The Board of Company Law Administration (popularly known as Company Law Board) is to exercise and discharge such power and function as may be conferred on it, by or under the Companies Act or any other law.

The power and functions of company Law Board have been enlarged under the provisions of the Companies (Amendment) Act, 1988. The Government has constituted an independent Company Law Board with effect from 31st May 1991. The new Board is a quasi-judicial body with powers and functions which include judicial and administrative in nature.

The Company Law Board is to consist of such number of members not exceeding nine, as the Central Government may appoint by notification. The members of the Board shall possess such qualifications and experience as may be prescribed. One of the member of the Company Law Board is to be appointed as Chairman of the Company Law Board. The Board will function subject to the control of Central Government in all matter.

Important function of company law board include:

- 1) To provide confirmation at alteration of memorandum.
- 2) To consider failure to register.
- 3) To sanction issue of share at discount
- 4) Registration of alteration and redemption of irredeemable debentures.
- 5) Appeal against refusal to register transfer.

Powers of Company Law Board:

- 1) Inspection of documents to be used as evidence.
- 2) Examining witness on oath.
- 3) Granting adjournment.
- 4) Receiving evidence in form of affidavits.
- 5) Impounding material or documents collected as evidence.

In short, the Company Law Board was an independent quasi-judicial body in India which had wide powers to overlook the behaviour of companies within the Company Law. The Company Law Board is succeeded over by the National Company Law Tribunal (NCLT) which governs all companies under the Companies Act, 2013,

The President of the tribunal is to be appointed after consultation with the Chief Justice of India and the other members are to be appointed on the recommendation of a Selection Committee headed by the chief Justice of India or his nominee.

Sections 408 and 410 of Companies Act, 2013 deal with the functioning of NCLT.

The central Government constituted the National Company Law Tribunal (NCLT) with effect from **1 June, 2016. This effectively dissolves the Company Law Board (CLB) as constituted under the Companies Act, 1956 from the same day.** The NCLT will start functioning with eleven Branches- Two at New Delhi, one at Mumbai and others in cities like Ahmedabad, Bengaluru, Hyderabad, and Kolkata and so on. The principle Bench of the NCLT will be at New Delhi.

The functions of Company Law Board and the pending matters with Company Law Board are being transferred to NCLT. Each application or petition before NCLT shall be **disposed-off expeditiously normally within three months.** If not, reasons for the same shall be recorded by the tribunal. The president of the Tribunal may extend the time for a period not exceeding ninety days.

It may be noted that routine matters of Company Law Board are Now, transferred to Roc. As a result, company secretary is not required to approach NCLT. The matters will be dealt with at the level of Register of Companies. However, a company Law Tribunal (NCLT) on behalf of the company. [Section 432 of Companies Act, 2013]

Q.5. WHAT ARE REPRESENTATION BEFORE SEBI

Ans: REPRESENTATION BEFORE SEBI

The Government of India set up the securities and Exchange Board of India (SEBI) in April, 1988 to counter the shortcomings and weaknesses of stock exchanges and to regulate the capital market. SEBI is a powerful body with wide powers. It is given regulatory and development function. It has introduced measures to regulate stock exchange, stock brokers, and insider trading and so on. The function and activities of SEBI are responsible for the health growth of India capital market. SEBI receives thousands of complaints and grievances from small investors. SEBI solves large majority of investor grievances with the cooperation of concerned companies.

The government supports SEBI and offer additional powers to make it a strong organisation for the regulation of stock exchange and protection of investor particularly small investors.

SEBI is mainly concerned with stock exchange and the intermediaries. It takes step for the regulation and control of unhealthy practise on the stock exchange. It issues guidelines and regulation which are binding are binding on intermediaries. Here, the basic purpose is to regulate unhealthy practices in the case of stock exchanges and to give protection to small investors.

SEBI Guidelines to Companies:

a) SEBI had issued detailed guidelines relating to issues of shares by companies-old as well as new. The guideline relate to disclosure of information and protection of the interests of investors. These guideline are in addition to other legal provisions in existence. The company secretary has to give attention to the guidelines while introducing new issue.

b) SEBI has introduced a **Code of Advertisement for public** issue for ensuring fair and truthful disclosures. SEBI takes action against companies. If these guidelines are not followed in the spirit. The SEBI may issue such guideline from time to time as per need.

c) **SEBI is against delays in transfers and funds.** It has prosecuted many companies for delaying share transfers. Action is also taken in the case of delay in refund of public issue money. This step gives protection to investors and avoids their cheating through delayed payment.

d) SEBI takes complaints of investors to companies and see that all complaints and grievance of investors are addressed promptly by concerned companies. Here, company secretary is expected to offer full cooperation and promptly action by the company.

e) SEBI issue new guidelines from time to time for the protection of investors. They may be against stock exchange intermediaries or against the companies or their directors. Here, company secretary is expected yo give cooperation to SEBI.

Q.6. WHAT ARE REPRESENTATION BEFORE ARBITRATION AND CONCILIATION SERVICES

Ans: Company secretary in practice is a new category of secretary introduced under Companies Act, 2013. He is fully qualified company secretary i.e. he is a member of the institute of Company Secretaries of India (ICSI) but is not in full time employment in a specific company. he acts as **practicing company secretary** and provides different services to his clients which include project planning, financial services companies, export import and forex dealers. He acts as professional and offers his knowledge, experience and maturity for the benefit of his clients. He charges fees for his services.

The functions of company secretary in practice are varied in character he can provide services in area in which he has specialised knowledge, experience and interest.

The function/services offered by company secretary in practice are:

- a) Project planning and corporate restructuring.
- b) Raising of resources and corporate law advisory services.
- c) Foreign collaboration, joint ventures and appearing before regulatory authorities.
- d) Tax planning and management, personnel matter and issue of certificates required by Companies.
- e) Export-Import and Forex dealing, arbitration and conciliation and intellectual property rights and WTO.

From the functions/services noted above, it is clear that the company secretary in practice provides services in the field of arbitration and conciliation. Arbitration means to act as arbitrator and settle the dispute between two parties in a peaceful manner. Arbitrator uses his skills, makes negotiations with parties to dispute and settles the dispute amicably with justice to both parties. In conciliation, efforts are made to bring two parties closer. To create confidence among them and settle the dispute peacefully provides conciliation and arbitration services to organisations interested in such services. Here, the actual services offered are:

a) Advising on arbitration negotiations and conciliation: Under these services, company secretary in practice offers his services to clients (company, organisations in business, etc.) in the form of advice on arbitration. He suggests new techniques for making arbitration procedure quick and result oriented. Voluntary arbitration is also possible if both parties to dispute agree to refer the dispute for arbitration to a person who is acceptable to both the parties. Company secretary in practice acts as voluntary arbitrator and settles the disputes between two parties on fair terms acceptable to both the parties.

A company secretary in practice **acts as a conciliator in regard to dispute between his client and other party.** He settles the dispute on fair term. He bring success to conciliation process. He suggests new proposals for the settlement of dispute and solve the problem within a short period. As a conciliation officer, he negotiates between the parties and helps them solving the dispute on terms acceptable to both parties. He guides and encourages both the parties for fair and amicable settlement of the issue. The role of company secretary in practice as conciliator in settlement of dispute is active and useful to both the parties. It is one useful service provided by company secretary in practice.

b) Drafting arbitration/conciliation agreement: Company secretary in practice provides this useful service to his client after the settlement of disputes through arbitration or conciliation A suitable agreement for the settlement of disputes is required to be drafted so that the matter will be solved on long term basis and one

dispute will not lead to another dispute. Drafting of such agreement needs legal knowledge, experience and maturity. Company secretary in practice provides this useful service.

c) Acting as arbitrator/conciliator in domestic and international commercial disputes: This is one more useful service provided by company secretary in practice. He acts as conciliator for the settlement of dispute will be referred to company secretary in practice and suggest new schemes or methods for the settlement of dispute on terms acceptable to both the parties.

International commercial dispute are possible in the case of export-import transactions. They may be related to quality, weight, packaging, terms of delivery or payment. Such dispute are rather difficult to solve as parties to dispute are in two different countries. A company secretary in practice (with capacity to deal with such matter) can act as conciliator or arbitrator to settle the dispute by using his knowledge, maturity and negotiating capacity. **In short, Arbitration and Conciliation are two useful service provided by practicing company secretaries to interested clients.**

Q.7. WHAT ARE THE REPRESENTATION BEFORE CYBER LAW COMPLIANCE

Ans: The company secretary is a vital link between the company and its board of directors, shareholders, government and regulatory authorities. He ensure that procedures are both followed and regularly necessary reviewed. He provides guidance to the chairman and the directors on their responsibilities under various laws. He commands high position in the value chain and acts as conscience seeker of the company. He also advises on good governance practices and compliance of corporate governance norms as prescribed under various Corporate, Securities and Cyber Laws. The company secretary is required to comply with cyber laws under Indian Information Technology Act, 2000 in the following respects:

- 1) To conduct board meeting through video conferencing and teleconferencing.
- 2) To advise on software copyright by electronic modes.
- 3) To send on notices to shareholders by electronic modes.
- 4) To maintain statutory records in electronic form
- 5) To develop management reports and controls.
- 6) To file forms/ document in electronic form with Registrar of Companies and other statutory authorities.
- 7) To protect documents in electronic form from pilferage and other cybercrimes.

Companies related to cyber business are required to comply with requirements of the law. It is mandatory to set up corporate compliance programmes including cyber law compliance performance. Even multinational companies doing business in India and having cyber involvement are required to comply with the corporate and other laws of India including cyber law compliance India Information Technology Act, 2000 has mentioned "key managerial personnel" in relation to a company which means:

- 1) The chief executive Officer or the managing director or the manager.
- 2) The company secretary.
- 3) The whole-time directors
- 4) The Chief Financial Officer.
- 5) Such other officer as may be prescribed

The company secretary along with other “key managerial personnel” is responsible for safe custody of forms and documents maintained in electronic form that do not require signature. “Key managerial personnel” have to certify that they have devised proper system to ensure compliance with the provisions of all applicable laws and that such system are adequate and operating effectively.

Q.8. WHAT ARE SECRETARIAL REPRESENTATION BEFORE CONSUMER FORUM.

Ans: In India, **Consumer Protection Act, 1986**, was passed for providing legal machinery for consumer protection. Consumer courts are started at district level, state level and also at the national level. These courts are for solving the disputes, grievances and complaints of consumers. **Consumer court is a special court in India that deals with cases regarding consumer disputes and grievances. Such courts are judiciary set-ups by the government to protect consumer rights.** Its main function is to maintain fair practices by the sellers towards purchasers i.e. consumers.

Consumer forum creates awareness about consumer rights among people and helps individual consumer to represent before consumer courts.

FUNCTION OF CONSUMER FORUM ARE:

- 1) Creating awareness about consumer rights among people.
- 2) Help individual consumer to represent before consumer courts.
- 3) Guidance to consumer to file cases in consumer courts.
- 4) To provide education and guidance to consumers for their self – protection and avoiding their cheating in shopping activities.
- 5) To create unity among consumers and to fight collectively for their rights and protection.

In India, thousands of consumer forums / consumer associations are functioning at local level. Consumer Guidance Society of India (CGSI) is operating as **consumer forum at the national level.**

In such consumer courts, consumer needs the services of **legal experts** for advocating their cases. Here, consumer forums help their members by providing legal services needed. In fact, one important function of consumer forum is to help individual consumer to represent before consumer court.

For, this the services of company secretary in practice are useful. Consumer forum can appoint a company secretary in practice to represent the case of a consumer. This is how company secretary in practice provides services in the consumer court which one regularity authority functioning in India.

It may be noted that like consumers and consumer forums, even the companies facing disputes in consumer courts need the services of capable advocates to pace their views effectively. Here, company secretary in practice is useful to companies. He has adequate knowledge of business practices, laws relating to business, procedures of regulatory authorities and legal background. Naturally, many companies prefer to appoint a company secretary in practice to represent them in the consumer courts at district level and also at the higher levels.

Q.9. WHAT ARE SECRETARIAL STANDARDS? EXPLAIN THEIR ADVANTAGES.

Ans: Secretarial Standards are the policy document relating to various aspects of secretarial practices in the corporate sector. These standards lay down a set of principle which companies are expected to adopt and adhere to, in discharging their

responsibilities. In short, secretarial standards” means, the standards issued by the Institute of Company Secretaries of India and approved by the Central Government. The institute has framed and issued secretarial standards to streamline and standardise the diverse secretarial standards in vogue.

OBJECTIVE OF SECRETARIAL STANDARDS:

- 1) To integrate, harmonise and standardise diverse secretarial practise.
- 2) To improve the compliance of corporate governance norms by Indian Inc.
- 3) To sustain growth and enhanced visibility of the profession and members.
- 4) Setting international benchmarks in secretarial practices.
- 5) To bring clarity in legal provisions-where law is ambiguous and silent.

ADVANTAGES OF SECRETARIAL STANDARDS:

The following benefits/advantages suggest positive impact of secretarial standards introduced.

- 1) Introduction of Standard Secretarial Practices in Corporate India.
- 2) Better implementation of existing laws and better corporate
- 3) More transparency and more compliance or less non-compliances.
- 4) Rise in investors faith
- 5) Increasing professionalism in corporates and their management.
- 6) Less Frauds.
- 7) Easy location of non-compliance.
- 8) Better corporate governance and enhance corporate culture.
- 9) Prevents oppression and mismanagement.
- 10) The corporate governance practise will also improve because of wide publicity to new secretarial standards and guidance notes introduced. There is positive impact of those standards on the companies and the practices followed in different companies.

Q.10. EXPLAIN IS SECRETARIAL STANDARDS BY ICSI & STANDARDS 1-10

Ans: The Institute of Company Secretaries of India (ICSI) noted this need for integration, harmonisation and standardisation of diverse secretarial practices in India. The Institute took initiative and constituted the Secretarial Standards Board (SSB) with the objective of formulating secretarial standards. The SSB has done a lot of constructive work and finalise secretarial standards for different aspects such as secretarial standards on meetings of Board of Directors, such as secretarial standards on general meetings, secretarial standards on minutes and so on. The secretarial standards board (SSB) formed with eminent members. It has consulted professional bodies, chamber of commerce, DCA, DEA, SEBI, and RBI while finalising the secretarial standards. The standards suggested are in conformity with existing laws and they supplement the law, rules and regulation relation to secretarial practise.

In the initial years, the secretarial standards (noted earlier) were recommendatory. However, they are made mandatory as per the Companies Act, 2013. As per Section 118[10] of the Companies Act, 2013. “Every company has to observe secretarial a standards with respect to general and board meeting specified by the Institute of Company Secretaries of India and approved as such by the Central Government.” At present secretarial standards have been given statutory status and non-compliance with standards can attract penalty and prosecution from the ROC.

The Institute of Company Secretaries of India (ICSI) has taken a right initiative for the introduction new standards in India. It is a well-planned move by ICSI for

improving secretarial practise and also for promoting uniformity and consistency in such practices. Company secretary is an important professional aiding the efficient management of the corporate sector. His contribution will increase and improve along with the growing popularity of Secretarial Standards initiated by ICSI. The adoption of secretarial standards by Indian Corporate Sectors will have a substantial impact on the quality of secretarial practice being followed by Indian companies, making them comparable with the best practise in the world.

SECRETARIAL STANDARDS 1-10:

ICSI has so far published Secretarial Standards on the following topics/ aspects of company management.

- 1) SS-1 Secretarial Standard on Meeting of the board of Directors.
- 2) SS-1 Limited Revision of Secretarial Standard on Meeting of the Board of Directors.
- 3) SS-2 Secretarial Standard on General Meetings.
- 4) SS- 3 Secretarial Standard on Dividend.
- 5) SS-4 Secretarial Standard on Registers and Records.
- 6) SS-5 Secretarial Standard on Minutes.
- 7) SS-6 Secretarial Standard on Transmission of Share and Debentures.
- 8) SS-7 Secretarial Standards on Passing Resolutions by Circulation.
- 9) SS-8 Secretarial Standards on Affixing of Common Seal.
- 10) SS-9 Secretarial Standards on Forfeiture of shares.
- 11) SS- 10 Secretarial Standards on Board's Report.

Q.11. WHAT IS SECRETARIAL AUDIT & ITS NEEDS & IMPORTANCE

Ans: INTRODUCTION: The companies Act, 2013 has introduced the Secretarial Audit as a new class of audit in addition to Statutory Audit, internal Audit and Cost Audit prescribed in the Act. Section 204 of the Companies Act read with rule 9 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 deals with provision relating to Secretarial Audit.

MEANING AND FEATURES OF SECRETARIAL AUDIT:

Secretarial audit is a comprehensive audit to check whether the concerned company is complying with the provisions of rules, regulation and procedures mentioned in various laws. It is carried out by an independent professional to ensure that the company has complied with the legal and procedural requirements and keeps proper books, records, etc. It is essentially a mechanism to monitor compliance with the requirements of stated laws and processes.

Timely examination of compliance reduces risk as well as potential cost of non-compliance and builds high corporate images. Secretarial audit established better compliance platform by checking the compliance with the provisions of different statutes, laws, rules and regulations by an independent professional to make necessary recommendations/remedies. **The primary objective of compliance management backed secretarial audit is to safeguard the interest of the Directors and officers, shareholders, creditors, employees, customers, and so on.**

NEED FOR SECRETARIAL AUDIT:

The following points justify the need for Secretarial Audit:

- 1) Secretarial audit is needed in order to ensure that companies function strictly as per the all laws applicable to companies in India. It is observed that many

companies in India are not complying with the provisions of rules, regulations and procedures mentioned in various laws. Such irregularities lead to mismanagement and misuse of resources. This affects stakeholders. Secretarial audit is needed to set right the situation.

- 2) Secretarial audit is needed in order to safeguard the interest of the directors and officers, stakeholders, creditors, employees and customers. They get safely and protection due to secretarial audit.
- 3) Secretarial audit is needed as it provides a powerful mechanism to monitor compliance with the requirements of different laws and processes.
- 4) Secretarial audit is needed in order to introduce better corporate governance in companies by controlling unfair or illegal activities undertaken by them.
- 5) Secretarial audit is needed in order to ensure that company has complied with the legal and procedural requirements and keeps proper books, records, etc. in a fair and systematic manner,
- 6) Secretarial audit in order to check irregularities, frauds, etc. and possible loss due to non-compliance of laws and build better corporate image.

IMPORTANCE OF SECRETARIAL AUDIT:

Secretarial audit offer benefit (as noted above) to companies, corporate sector and stakeholders of companies. It is conducted by an independent professional and ensures compliance of companies to the requirements of different laws applicable to companies. Secretarial audit **has capacity to improve the functioning of companies and their contribution to economic development the country** of. There will be better implementation of existing laws relating to corporate sector. The benefits of secretarial audit suggest its importance.

Secretarial audit improve the overall functioning of the corporate sector. It will remove **the concept of non-compliance to business laws from Indian corporate sector**. Large sized companies have to conduct such audit regularly. As a result, their performance will improve and the-benefits will be available to shareholder, creditors and the society at large. In the long run. The corporate sector will have good corporate large. In the long run, the corporate sector will have good corporate governance due to secretarial audit along with statutory and other types of audit. The companies Act, 2013 has introduced secretarial audit as a **new class of audit**. Which will have positive impact on the functioning of large companies. There will be effective control on mismanagement and misuse of financial and other resources. Secretarial audit will create an environment under which large majority of Indian companies will function strictly as per the laws applicable to them.

Q.12. WHAT IS SECRETARIAL AUDIT? EXPLAIN ITS APPLICABILITY & ITS SCOPE & BENEFITS

Ans: According to Section 204 of the Act, every listed company and a company belonging to other class of companies as may be prescribed shall annex with its report a secretarial audit report, given by a company secretary in practice, in such form as may be prescribed.

Rule 9 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014 prescribes the other class of companies as under:

- a) Every public company having a paid-up share capital of rupees fifty crore or more; or
- b) Every public company having a turnover of rupees two hundred fifty crore or more.

According to section 204(2) of the Act, it shall be duty of the company procedure to give all assistance and facilities to the company secretary in practice, for auditing the secretarial and related records of the company. Further. A company secretary in practice conducting secretarial audit has been auditor. (Section 143 (14) of the Act).

The report of Board of Directors prepared under Section 134(3) of the Act shall include explanations or comments by the Board on every qualification, reservation or adverse remark or disclaimer made by the company secretary in practice in his secretarial audit report. (Section 204 (3) of the Act).

SCOPE OF SECRETARIAL AUDIT:

The scope of secretarial audit is quite comprehensive. It covers Companies Act as well as other acts such as SEBI, the Securities Contracts (regulation) Act, the Depositories Act and Foreign Exchange Management Act. Any other law applicable to company comes within the scope of secretarial audit. In short, the scope of secretarial audit is not restricted to corporate laws applicable to companies but extent to all other laws applicable to companies.

BENEFITS OF SECRETARIAL AUDIT

Secretarial audit is an effective tool for faultless corporate law. Compliance management. The benefits of secretarial audit are manifold and its beneficiaries are many. They includes the promoters, non-executive/independent directors, investor's lenders government agencies and public or society at large.

The concept of secretarial audit is not to burden the corporate sectors with another audit but to provide the following benefits:

- 1) Ensure due compliance of legislations other than financial or costing aspect.
- 2) An assurance to the Board of Directors that the company is compliant with various laws.
- 3) Enable the company to have eminent personalities on the Board as non-executive directors thereby enhancing their brand value.
- 4) A strong internal control mechanism and compliance management system.
- 5) Relive the company and their directors from consequences of unintended non-compliance of law.
- 6) Independent Directors and Nominee Directors can be assured that the affairs of the Company are being conducted as per law.
- 7) Ensure timely correction and rectification of any lapses in the compliance of the provisions of various statutes.
- 8) Giving necessary confidence to the investors in respect of proper disclosures in regard to the business and conduct of the affairs of the company.
- 9) Introduction self-regulation and professional discipline in companies.
- 10) Enabling companies to develop their corporate image.

Q.13. PROCEDURE FOR APPOINTMENT OF COMPANY SECRETARY IN PRACTICE FOR SECRETARIAL AUDIT & AUDIT REPORT

Ans: Company secretarial in practice can be appointed for the conduct of secretarial audit. According to section 2(25) of the Companies Act, 2013. "Company secretary in practice" means a company secretary who is deemed to be in practice under sub-section (2) of section 2 of the Company Secretaries Act, 1980.

Details of Procedure:

- 1) Before appointed of company Secretary in practice ensure that individual to be appointed, satisfies the definition of company secretary in practice under Section 2(25) of Companies Act, 2013. Such person should not be in full-time employment anywhere.
- 2) It is necessary to see that the person holds a certificate of practice from the institute of Company Secretaries of India and that certificate is valid.
- 3) Convene a Board meeting for discussion and decisions on " Secretarial Audit"
- 4) Consider the proposal to appoint company secretary in practice for secretarial audit pass Board resolution in the meeting, appointing company secretary in practice for secretarial audit.
- 5) The resolution should mention the remuneration to be paid to such individual as company secretary in practice.
- 6) The appointment shall be made up to the conclusion of the annual general meeting held after such appointment.

SECRETARIAL AUDIT REPORT:

Rule 9 of the companies (appointment and Remuneration of Managerial Personnel) Rules, 2014 provides that the format of the Secretarial Audit Report shall be in form no MR.3 the scope of reporting is very broad and the company secretary in practice has to ensure compliances of following statutory provisions in addition to Secretarial standards issued by the Institute of Company secretaries of india.

- 1) The Listing Regulations/SEBI (Listing Obligations and Disclosure Requirements) regulation, 2015,
- 2) The Companies Act, 2013
- 3) The Securities Contracts (regulation) Act,1956
- 4) The Depositories Act, 1996,

OBJECTIVES

Q.1. Select the most appropriate answer from the option given below:

- a) Company secretary acts as _____ of the board of directors.
1) Friend and Guide 2) Silent listener 3) Servant 4) Helper
- b) Stock exchange are _____ corporates.
1) Useful 2) Harmful 3) Troublesome 4) Dangerous
- c) Secretarial audit is conducted by _____.
1) Company Secretary 2) Company secretary in Practice
3) Government Auditor 4) Company's Auditor
- d) Secretarial audit is useful to promoters and _____.
1) Government regulators 2) Sales Manger
3) Company Secretary 4) Accountant
- e) Company Secretary in practice provides services in _____.

- 1) Conciliation and arbitration 2) Writing Accounts
3) Correspondence with ROC 4) Audit of Company's accounts
- f) Secretarial advice and guidance is _____ on directors.
1) Binding 2) Not Binding 3) Forced
- g) ROC is recognised _____ with wide powers.
1) Statutory authority 2) Non-statutory Authority
3) Nominal Authority 4) Illegal authority
- h) Certificate of Incorporation is issued by the registrar and trading certificate is issued by _____.
1) Government 2) Registrar of companies 3) Stock exchange 4) SEBI
- i) One benefit of secretarial standard is _____.
1) Rise in investor faith 2) Neatness in work
3) Quickness in work 4) No duplication of work
- j) Secretarial Standards relates to _____ in the corporate sector.
1) Audit work 2) Correspondence work
3) Secretarial practices 4) Trade Practices
- Ans:** a-1, b-1, c-2, d-1, e-1, f-2, g-1, h-2, i-1, j-3

Q.2. State Whether the following statements are True or False

- a) ROC is one officer who is subordinate to company secretary.
b) Company Secretary Act as an advisor to directors and chairman.
c) Listing of securities is done at SEBI.
d) Listing agreement is between company and stock exchange.
e) Company secretary in practice provides arbitration and conciliation services.
f) There is no prescribed for secretarial audit.
g) Secretarial standards of ICSI are useful to companies for improving corporate governance.
h) Secretarial suggestions are binding on Chairman.
i) ICSI has issued secretarial standards on minutes.
j) Securities Contract (Regulation) Act, 1956 is outside the scope of Secretarial audit
k) Secretarial audit relates to compliance of various legislations.
l) Secretarial audit promotes corporate image.
m) The companies Act, 2013 has introduced secretarial audit as a new class of audit.

Ans: True: b, d, e, g, i, k, l False: a, c, f, h, j,

3. Company Documentation and Formation

Q.1.EXPLAIN THE MEANING AND CLAUSES OF MEMORANDUM OF ASSOCIATION

Ans: Memorandum of Association (M/A) is one basic/primary document of a joint stock company. **It speaks about the aims and objects of the company.** It fixes the permitted range of activities of the proposed company. The memorandum is useful to the members, creditors and all others directly or indirectly connected with the company. **The relationship of the company with the outsiders is decided as per the provisions made in the memorandum.** Every person who deals with the company is supposed to have sufficient knowledge of its contents. He is bound by the provisions made in the M/A of the company.

M/A is an essential document of every company as no company can be registered without submitting its memorandum. In this sense, it is rightly treated as a **life giving document** of a company. it acts as foundation on which the whole structure of the company is built up. Memorandum acts as a **Constitution of a company**. It is a **public document** as it is available to members and non-members for inspection/reference at the head office of the company.

DEFINITION OF MOA:

As per Section 2(56) of the companies Act, 2013 “Memorandum” means the memorandum of association of a company as originally framed or as altered from time to time in pursuance of any previous company law or of this Act.

CONTENTS/CLAUSES OF MOA:

Memorandum contains six important clauses that govern the company throughout its existence.

These clauses are:

- 1) Name Clause
- 2) Registered Office Clause
- 3) Objective Clause.
- 4) Liability Clause.
- 5) Capital Clause.
- 6) Subscription.

It may be noted that the provisions of the Act have an overriding effect over the memorandum and articles of a company. if there is any provision in the memorandum or articles of a company which is repugnant to anything contained in the Act, such provision, would to that extent be void. The procedure prescribe by law for the alteration of each clause is different and must be followed strictly.

Details of Clauses Memorandum:

- 1) The Name Clause:** The name clause is the first clause in the memorandum of a company. it runs as under. “ The name of the company shall be xyz limited” Under name clause, the name of corporate body is stated Any name can be selected by company, subject to the following restriction
- 2) The Registered Office Clause:** The second clause of a memorandum states the state (and not the city) in which the registered office of the company is located/situated. This clause runs as follows”. Registered office clause mentions the name of the state in which the head office/registered office of the company is situated The company

comes under the jurisdiction of the state in which the registered office of the company is situated. Various registers of the company (e.g. register of members, register of debenture holders, etc.) are kept at the registered office of the company. In brief, registered office is important to the company, ROC and outsiders for Correspondence work

- 3) **The Objects Clause:** The objects clause of the memorandum is the **most significant and lengthiest. It enumerates the business activities which can be undertaken.** By the company. The objects clause sets the objects of the company and the area of its operation. A company is not legally entitled to do any business other than that specified in its objects clause. From this clause. The members know the purpose for which their money is to be used by the company. Even the outsiders, who deal with the help the company. Can know the extent of company's powers with the help of the objects clause.
- 4) **The Liability Clause:** The fourth clause of the memorandum states the nature of liabilities of its members. In the case of company with limited liability, this clause runs as follows:
"The liability of a member of the company shall be limited to the amount unpaid, if any. On the shares held by him"
The liabilities clause of the M/A speaks about the liability of members of a company. It states that the liability of members is limited to the amount. If any, unpaid on their shares. This clause of the memorandum may provide unlimited liability for the directors in the case companies by guarantee, the clause will state the guarantee amount which every member undertakes to contribute to the assets of the company in the event of winding up of the company. **This clause is not necessary in the case of unlimited liability companies.**
- 5) **The Capital Clause:** The capital clause of the memorandum states the total shares capital with which the company is registered and the details of capital structure of the company. This means the number of shares and the amount of each share. It is usually expressed in the following form. "The authorised capital of the company is Rs.50,00,000 divided into 5,00,000 shares of Rs 10 each and 20,000 preference share of rs.10each" The authorised capital should be decided properly after due consideration to the long-term financial needs of the company. There is no legal limit to the amount of share capital. However share capital should be adequate to meet the financial need of the company. A company can issue different types of shares as per the convenience of investors and the situation in the capital market.
- 6) **Subscription Clause:** The subscription clause is the last clause in the memorandum of company. This clause that they are desirous of forming themselves into a company and agree to take certain number of share (qualification shares) in the capital of the company written against their names. The subscribers sign the memorandum in the presence of a witness. There must be at least seven subscribers in the case of public company and each of them will have to purchase at least one share. In the case of private company, there must be at least two subscribers and they must sign the memorandum. Each subscriber must put his signature, along with his name, address, description and occupation, if any, Each subscriber must also write opposite to his name, the number of shares taken by him, which cannot be less

than one. The legal provision relating to purchase of at least one share by each subscriber is not applicable to companies limited by guarantee and unlimited liability companies.

Q.2.WHAT IS ARTICLES OF ASSOCIATION? EXPLAIN ITS CONTENTS.

Ans: MEANING: Articles of Association (A/A) is another important promotional document of a company only next to M/A. It is subordinate to the memorandum as it is controlled by the provision made in the memorandum. **Articles means a set of rules or bye-laws relating to the internal working of a company.** In this sense, articles means rules and regulations relating to internal management and administration of a company. The relationship between company and its members and the relationship between one members and the other is based on the provisions made in the company and its members. **The outsiders are not concerned/connected with the Articles of the company.** A/A is similar to 'Deed of Partnership' a **partnership firm.**

DEFINITION OF AOA:

As per Section 2(5) of the Companies Act, 2013 "articles means the articles of association of a company as originally framed or as altered from time to time or applied in pursuance of any previous company law of this Act"

CONTENTS OF AOA:

Articles usually contain rules and bye-laws on the following matters:

- 1) Share capital, its division into different classes of shares and variation of rights of shareholders.
- 2) Lien on shares, call on shares, Forfeiture of shares and the procedure of their re-issue, company's lien on shares.
- 3) Procedure of marking an issue of share capital allotment of shares, transfer of shares and transmission of shares
- 4) Alterations and reduction in shares capital.
- 5) Procedure of convening, holding and conducting different kind of general meetings. AGM and provisions relating to notice, quorum, voting by show of hand, voting by poll, etc.
- 6) Voting rights of members, proxies and polls.
- 7) Appointment, powers, duties, qualifications. Remuneration. Etc. of directors and proceedings at Board meetings.
- 8) Borrowing powers of Directors.
- 9) Appointments, powers, duties, qualification, remuneration. Etc. of managing director's manager and secretary. If any
- 10) Declaration and Payment of dividends, creation of reserves and account of the company,
- 11) Audit of company's accounts, appointment and remuneration, etc., of auditors, annual account of the company, etc.
- 12) Capitalisation of profit
- 13) Use of company's seal
- 14) Conversion of shares into stock and reorganisation and consolidation of shares capital.
- 15) Procedure of issuing of share certificates and share warrants.
- 16) Division of shares into different classes.
- 17) Company's lies on shares.

- 18) Alteration in the Articles of Association.
- 19) The extent to which Table A is applicable.
- 20) The time lag in between calls on shares.
- 21) Payment of commission on shares and debentures to underwriters.
- 22) Rules for adoption of preliminary contracts, if any.
- 23) Rules as to resolutions.
- 24) Arbitration provision if any.
- 25) Provision of such powers which cannot be exercised without the authority of articles.
- 26) Provision relating to winding up of the company.
- 27) Appointment of liquidator, etc.
- 28) Variation in shareholders right.

Q.3. IMPORTANCE OF ARTICLES OF ASSOCIATION (AOA)

Ans: A/A is one basic document of a company. It fixes the relationship between company and its members. Similarly, rights, duties and power of directors and shareholder are listed in the articles, they also suggest the manner in which the company will function and the company meeting will be conducted. This is because the rules and regulations regarding the administration of a company are given in the articles. They suggest the manner in which the objects of the company are to be achieved by the company. This suggests that articles are subordinate to the memorandum but are equally important. They act as good supplement to the memorandum of the company. The company secretary, directors and others connected with the administration secretary, directors and other connected with the administration of the company must know all the details of the articles and conduct activities of the company according. This avoids ultra vires actions on their part

It may be pointed out. Here, that Articles of a company should not contain anything which is contrary. To the law of the land the companies Act. The public policy and is ultra vires the memorandum. Any such clause of Articles shall be treated as void and inoperative.

Q.4. DISTINGUISH BETWEEN MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY

Memorandum of Association (M/A)	Article of Association (A/A)
<p>1) Meaning: Memorandum of Association is a fundamental document which gives information about the aims and objects of the company.</p>	<p>A/A is a subordinate document which contains rules and bye-laws regarding the internal management of the company.</p>
<p>2) Status: It is the Primary basic and principal document of a company. It is subordinate to the Act only.</p>	<p>It is secondary/ subsidiary/ subordinate document. It is subordinate to the Act well as the memorandum.</p>
<p>3) Relationship The memorandum defines the relations between the company and the outsiders e.g. creditors, buyers, sellers and debtors etc.</p>	<p>Article govern internal relationship between the company and its members. Only and have nothing to do with the outsiders.</p>

<p>4) Preparation and Filing: It is compulsory for every company and must be filed compulsorily with Registrar by every company at the time of incorporation.</p>	<p>The preparation of Articles is optional. A company limited by shares may adopt Table F. It need not file a separate set of articles. If Table F is adopted.</p>
<p>5) Alteration: It is practically an unalterable charter of the company except to the extent Act provides. Such alterations need the sanction of the Court or Central Government as the case may be. Approval of statutory necessary</p>	<p>Changes in the Articles can be made through simple procedure as it is connected with internal working of the company. Articles can be altered simply by making special resolution in general meeting.</p>
<p>6) Ultra Vires Acts: Any act which is outside the limits of memorandum (ultra vires memorandum) illegal and cannot be rectified even by the shareholder.</p>	<p>Any act which is outside the limits of the articles but within the limits (intra-vires) of the memorandum is legal and can be ratified.</p>

Q.5. WHAT IS PROSPECTUS? WHAT ARE ITS CONTENTS

Ans: Prospectus is another important document of a company. It can be issued only by the public companies having share capital and not by the private limited companies. In Fact, a private company cannot issue prospectus. It is issued after the incorporation (i.e. after obtaining the certificate of incorporation from Registrar) of a company in order to collect the share capital through the issue of share or debenture. **It must be issued within 90days from the date on which the copy is delivered for registration.**

DEFINITION OF PROSPECTUS:

“ Prospectus” as per Section 2(70) of Companies Act, 2013, means any document described or issued as a prospectus and includes a red herring prospectus or a shelf prospectus or any notice, circular, advertisement or other document inviting offers from the public for subscription or purchase of any securities of a body corporate.

A prospectus is not merely advertisement; it may be a circular or even a notice. A document shall be called a prospectus if it satisfies two condition:

1. It invites subscription to, or purchase of, shares or debentures or any other security of a body corporate;
2. The aforesaid invitation is made to the public.

CONTENTS OF PROSPECTUS:

Prospectus contains information on various aspects of the proposed company and its future prospects. Prospectus has legal significance as wrong statements in the prospectus may bring the company and its directors similarly, prospectus is very useful to the investing class. **It is the only window through which the potential investors can look and study the company in which they desire to invest their money.** All material and essential particulars must be included in the prospectus. The Indian Companies Act is very particular about the contents of the prospectus as it must communication full, fair and true information on the matters mentioned in the Act. Deterrent punishment is provided if such matter are not disclosed in the prospectus.

Section 26 of the Act lays down that the following matters are required to be stated in prospectus:

- 1) It must be dated and signed.
- 2) It must give the information listed in section 26(1) (a) of the Act. For example, address of the registered office, date of opening and closing of issue bank account, details of underwriting of issue, allotment of securities, consent of directors, auditors, bankers to the issue, capital structure of the company, etc.
- 3) It must set out the following reports such as reports relating to profits or losses for preceding five years, report of auditors on profits, losses and assets of the company, reports regarding business, etc.
- 4) It must contain a declaration that the provisions of the Act have been complied with.
- 5) It must contain such other matter and set out such other reports as may be prescribed.

Q.6..WHAT IS STATEMENT IN LIEU OF PROSPECTUS

Ans: A public company having a share capital usually issues prospectus in order to collect share capital from a large number of investors. Prospectus is an open appeal and an invitation to public. A company may decide to collect the required share capital through private arrangement and not by approaching the public for securing the necessary capital because the company may be confident of obtaining the required capital privately. In that case, the company will not issue prospectus. Here, the company will have to file a "statement in lieu of prospectus" with the Registrar. In place of regular prospectus. The statement in lieu of prospectus is similar to regular prospectus but is prepared and used only for filing with the ROC. It is only for filing purpose and not for publicity.

The statement in lieu of prospectus must be duly signed by all the directors and a copy of the same must be filed with the Registrar at least three days before actual allotment of shares. The company and its directors will be held responsible if these provisions are not complied with. They are punished with fine which may extend to Rupees one thousand. Liability for misrepresentation in the statement in lieu of Prospectus is the same as that in the case of normal prospectus. Private company is not concerned with prospectus as well as statement in lieu of prospectus as it is not allowed to make invitation to the public to purchase shares.

Q.7. DISTINGUISH BETWEEN PROSPECTUS AND STATEMENT IN LIEU OF PROSPECTUS

Ans:

Prospectus	Statement in Lieu of Prospectus
<p>1) <u>Meaning:</u> Prospectus is a document inviting the public to subscribe to the share capital of a company</p>	Statement in Lieu of Prospectus is a document prepared only for filing with the Registrar. It is not issued to the public.
<p>2) <u>Purpose:</u> It gives wide publicity to the company and also provides share capital to the company.</p>	It is for completing the legal formality. It is not for publicity but for capital collection.

3) Filing: It is for filing with the Registrar and for capital collection.	It is meant only for filing with the Registrar.
4) Who prepares? It is prepared by big companies for fulfilling legal obligations and for mobilising finance.	It is normally prepared by small companies just for fulfilling legal obligation.
5) Period of Issue: A prospectus must be issued within 90days of its registration.	It must be filed with the Registrar at least three days prior to the allotment of shares.

Q.8. EXPLAIN COMPANY FORMATION AND SECRETARIAL DUTIES

Ans: MEANING OF COMPANY FORMATION: Formation of a public company means to bring into existence a new company for the conduct of specific business activity legally permitted. Formation of a joint stock company (Private or public) is a lengthy and time-consuming activity. It also involves various formalities and procedures which must be completed as per the provisions in the Indian Companies Act, 2013. In addition, various documents are required to be prepared and filed with the appropriate authorities for company formation. The formation procedure in the case of a private company is relatively short as only two stages i.e. promotion and incorporation are involved. However, a public limited company has to go through a lengthy and elaborate procedure for the company formation.

STEPS IN COMPANY FORMATION: Stages in the formation of a public company are as noted below:

- 1) Promotion Stage,
- 2) Incorporation/Registration Stage,
- 3) Capital Subscription/collection stage, and
- 4) Commencement of Business/trading Certificate Stage.

Details of Stages and Secretarial Duties:

- 1) **Promotion Stage:** The "promotion" is the first and foremost stage in the formation of a company. According to Gerstenberg. "Promotion is the discovery of business opportunities and subsequent organisation of funds. Property and managerial ability into a business concern for the purpose of making profit therefrom" According to Prof. H.L. Haney, "promotion may be defined as the process of organising and planning the finance of a business enterprise under the corporate form" Simply stated promotion means conceiving promising business opportunity and its conversion into reality through ceaseless efforts, Promotion is the starting point of company formation. The idea of forming a company is firmly decided during the promotion stage. A company is formed in order to achieve specific objective decided during the promotion stage.

DUTIES OF COMPANY SECRETARY (SECRETARIAL WORK/ DUTIES) AT THE PROMOTION STAGE:

Company secretary plays an active role in the promotion of a company even when his official appointment is possible only after the incorporation of the company. During the promotion stages, he acts as an assistant to the promoters and provides

secretarial assistance required by them in the preparatory work to be performed. The duties/function of company secretary during the promotion stage are as noted below:

- 1) To attend meeting of the promoters, supply information, record the proceeding and maintain the minutes of meetings.
- 2) **To assist the promoter in making detailed investigation** of the available business opportunities so as to select the most promising and most suitable business opportunity for the most promising and most suitable business opportunity for the proposed company.
- 3) **To ascertain from the Registrar of Companies if the proposed name of the company is available for registration.** While deciding the name, the secretary should keep in mind the guideline and instruction issued by the Department of Company Affairs. After the name is decided, the secretary has to submit an application in the prescribed form (Section 4(4) Form No. INC 1) to the concerned Registrar for the name. It should be accompanied by prescribed fee. Section 4(5)(i) lays down that upon receipt of an application by the Registrar, he may, on the basis of information and documents furnished along with the application, reserve the name for a period of 60 days from the date of the application. The secretary should arrange for the registration of the proposed company within two months period from the date of issue of letter of no objection, by the ROC.
- 4) **To assist promoters in the finalisation of various preliminary contract** with vendors, bankers, underwriters, brokers, solicitors, auditor and managerial personnel, etc.
- 5) **To get the Memorandum of Association and Articles of Association prepared and printed.** Here, the secretary has to prepare the draft of the Memorandum and Articles and get the draft approved by the solicitor of the company. Thereafter, a meeting of the promoters is to be called for approval to the draft. The printing is done after such approval. Finally, the secretary has to submit the printed draft of the Memorandum and Articles to the Registrar of Companies for his informal prior clearance. He should also get these documents properly stamped as per the Stamp Act and signed by the required number of subscribers (seven for public company). The signatures should be made in the presence of at least one witness who shall attest the same. These formalities need to be observed by the secretary as these are the fundamental documents of the company.
- 6) **To see that all other prescribed documents necessary for the registration of the company are kept ready for delivery to the Registrar of Companies.** Such documents include: (1) consent of Directors to act in that capacity and to purchase qualification shares, (2) notice of address of the registered office of the company, and (3) statutory declaration stating that all the legal requirements of the Act prior to incorporation have been complied with and are ready for delivery to the Registrar of Companies.

- 2) **INCORPORATION/REGISTRATION STAGE:** Incorporation i.e. registration is the second stage in the formation of a joint-stock company. Such registration is compulsory in the case of all companies (public or private limited). In fact, a company does not

come into existence unless it is incorporated/duly registered. This stage comes when the entire promotional activities are completed and the promoters are in a position to get their company duly registered. In brief, after completing all preliminaries including the preparation of various documents required for the registered, the promoters will get the company incorporated/registered under the Indian Companies Act. Incorporation means getting the company registered with Registrar of Companies. For incorporation, promoters are required to file certain document and pay the requisite registration fees. The application for registration is to be submitted to the Registrar of Companies of the State in which the registered office of the company is to be situated. Along with these documents, necessary stamp duty, registration fees. Filing fees, etc. are required to be paid (as per the provisions in the Act). The registrar will examine all document and if satisfied, the-Certificate of Incorporation will be issued under his seal and signature, this certificate indicates that the company is duly registered on a particular day, this certificate, once issued, is conclusive evidence of the fact that the company has been duly registered, the company becomes a legal entity or corporate body from the date of incorporation.

DUTIES/FUNCTION OF COMPANY SECRETARY AT THE INCORPORATION STAGE:

- 1) **To file an application for the availability of Name of the Company (section 4(4)).**
- 2) **To file an application for the registration with the Registrar of Companies** along with the prescribed document and also to pay the necessary stamp duty. Filing fees and the registration charges. The document to be submitted includes M/A, A/A and other affidavit, declaration. Etc.
- 3) **To see that all legal provisions of Indian Companies Act relating to incorporation are strictly complied with.**
- 4) **To collect the Certificate of Incorporation** from the office of the Registrar of Companies in due course. The secretary has to obtain a letter of authority from the subscribers to the Memorandum to collect this Certificate of Incorporation. The secretary has to see that this certificate is available as quickly as possible as further steps in the company formation are possible only after securing this certificate.

3) CAPITAL SUBSCRIPTION/COLLECTION STAGE.

Capital subscription stage is the third and also the most important stage in the formation of a public limited company. this is because nothing can be done in relation to company formation unless required financial resources are collected from the investing class. The formation of the company, therefore, depends upon the response from the investors. **If the minimum subscription amount** is not collected the company will not get certificate to commence business and all effort will go. In vain. The company must collect the minimum subscription amount. **Within 120days from the date of issue of the prospectus.** In order to collect the necessary capital, certain step are required to order to collect the necessary capital, certain step are required to be taken. Soon after the incorporation of the company. The first official meeting of the Board of Directors in convened to deal with the following business:

- 1) **Appointment of the secretary,** In most of the cases, the appointment of pro-term secretary is confirmed by making suitable resolution and service agreement with concerned person.
- 2) **Appointment of Chairman, Bankers, Auditors, Solicitors and Brokers.**

- 3) Adoption of draft “prospectus” or “statement in lieu of prospectus” as the case may be .
- 4) Adoption of underwriting contracts, if any

OBJECTIVES

Q.1). Select the most appropriate answer from the option given below.

- A) The relationship company with others is decided by the _____ of a company.
I) Memorandum II) Prospectus III) Articles of Association IV) Statement in lieu prospectus.
- B) Articles of Association is _____ Memorandum of Association.
I) subordinate to II) Superior to III) on par with IV) a substitute to.
- C) Memorandum of Association has _____ clauses.
I) two II) four III) six IV) seven.
- D) Prospectus is issued by A _____ Company.
I) Private II) Public III) Government IV) One man
- E) Statement in lieu of Prospectus is for _____.
I) Publicity II) Filing with ROC III) Inviting investors IV) company formation.
- F) Company documents are for _____.
I) Reference II) filing only III) the benefit of directors IV) creating confusion.
- G) Prospectus containing false information is called _____.
I) Prospector Proper II) Misleading prospectus III) Statement in lieu of prospectus.
- H) Conversion of private company into public company is _____ prospectus.
I) not possible II) possible III) not allowed IV) impossible.
- I) Article of Association are _____.
I) freely alterable II) alterable through lengthy procedure III) not alterable.

Ans: A-III, B-I, C-III, D-II, E-II, F-I, G-II, H-II, I-I

Q.2. State whether the following statements are true or false:

- a) Memorandum acts as a constitution of a company.
- b) Article are superior to memorandum
- c) Conversion of companies means changing the legal status of a company by completing certain formalities.
- d) Conversion of a company for the second time is called reconversion.
- e) There are restrictions in law as regards reconversion of companies.
- f) Company formation procedure is lengthy and time consuming in the case of private company.
- g) Ultra virus means within the power of MOA.
- h) Statement in lieu of prospectus is for collecting capital through prospectus.
- i) Application to ROC for availability of proposed name is the final stage in the incorporation of company.
- j) Trading certificate is the final certificate for starting business by a public company.

Ans: True: a, c, d, j false: b, e, f, g, h, i

4. Secretarial Correspondence

Q.1. WRITE AN EXPLANATORY NOTE ON SECRETARIAL CORRESPONDENCE.

Ans:

1) CORRESPONDENCE WITH SHAREHOLDERS/MEMBERS:

Shareholders are the owners of the company as they contribute capital and participate in the management through general meetings. Company secretary has to maintain cordial relations with shareholders through prompt and decent correspondence. The relationship with the shareholders in an important sphere of his coordinating role. Shareholders are paid regular dividend out of yearly profits of the company. In addition. They are given bonus Shares as free gift by highly profitable companies. The Rights Shares are also allotted to the existing equity shareholders of the company. The benefit of "Bonus" and "Rights Shares" is given to existing shareholders only. Such benefit is available from long term investment in the company.

Shareholder write letter to company secretary in relation to allotment of shares, transfer of shares, rate of dividend, demat of shares, bonus shares, general meetings and so on. Correspondence with shareholders revolves around matter of immediate interest to them. This includes allotment, transfer, dividend payment, share certificate and company meetings. Information about bonus shares and rights issue is given to shareholders through circular letters. Emails and on Company's websites.

Shareholder is "acting human agency" in the company. The members are numerous. Scattered and changing in nature. They are given power to elect directors, decide the rate of dividend and appoint company auditors. They are entitled to all statutory and proprietary rights.

Circumstance requiring Secretarial Correspondence with Members:

- 1) Issue of shares: Allotment letter. Share certificate, rights or bonus share.
- 2) Calls on shares: Call letter, call reminder, notice of forfeiture. etc
- 3) Dividend payment: Notice of dividend warrant, dividend mandate.
- 4) Transfer and transmission of shares.
- 5) Company meeting: Notice and agenda of meeting, annual report, audit report, etc. complaints. Enquiries.
- 6) Complaints and enquiries by shareholders.

2) CORRESPONDENCE WITH DEBENTUREHOLDERS:

Debentureholders are different from shareholders. They are the creditors of the company and are interested only in interest payment and repayment of debenture amount given. They are not allowed to participate in company management and are not given voting rights. Correspondence with Debentureholders in limited. It is restricted to allotment of debentures. Payment of interest and repayment of debenture amount. However. Such correspondence should not be delayed or neglected. Moreover, Debentureholders are important as they provide financial support to the company.

Debentureholders provide financial support to the company and are happy with regular interest payment. The debentures are secured under fixed or floating charge against assets of the company. Debentureholders have priority claim for the repayment of capital over shareholders at the time of winding up of the company.

Circumstance leading to Correspondence with Debentureholders:

- a) Allotment of debentures.
- b) Redemption of debentures.

- c) Payment of interest on debentures.
- d) Conversion of debentures.

Correspondence with Debentureholders should be precise. Polite and prompt with due attention to SEBI guideline and legal aspects involved.

5) CORRESPONDENCE WITH REGISTRAR OF COMPANIES (ROC):

ROC is the representative of Company Law Board at the grass route level. He is appointed by the Central Government for statutory control over companies. Every company has to approach the Registrar for the incorporation of the company. a company submits certain documents like MOA and AOA in order to obtain incorporation certificate and business commencement certificate. Registrar performs various function such as:

- 1) Incorporation of companies.
- 2) Inspection and registration of company documents.
- 3) Custodian of data and information relating to companies.
- 4) To take legal action against companies in the case of default in following the provisions of Companies Act.
- 5) Inspection of books of accounts and other company registers.
- 6) To keep vigilance and supervise legal matters involved in the administration of companies.

Circumstances leading to Secretarial Correspondence with ROC:

- a) Filing document for incorporation.
- b) Filing statutory report
- c) Submitting the return of Allotment
- d) Filing Annual Report.
- e) Extension of time for holding AGM.
- f) Filing Special Resolution.
- g) Alterations in the clauses of MOA and AOA.
- h) Conversions or reconversion of company.

Large majority of companies approach to ROC for filing their document and return. Even application for different purposes are submitted to ROC, As a result, secretarial correspondence with the company Law Board is limited. Company secretary approaches Company Law Board on limited occasions.

6) CORRESPONDENCE WITH THE STOCK EXCHANGE:

Stock exchange is a market for buying and selling securities already issued by companies. Shares of companies are listed on one or more stock exchanges. Such listing gives advantages to companies and investors. Company secretary is connected with the stock exchange where the securities of company are listed. a secretary has to supply certain information immediately after the annual general meeting and other meeting. Correspondence is also necessary for listing the securities of the company. There are certain restrictions imposed by a stock exchange on the listed companies. Such restrictions need to be followed honestly by the company. Correspondence with the stock exchange authorities. The purpose of such correspondence is to keep the stock exchange well informed about the current developments in the company. Listed companies are under obligation to supply such information regularly.

Company secretary acts as a connecting link between company and stock exchange where company's securities are traded and also listed. As per clause (1) of Regulation 6 of SEBI (Listing Obligations), a listed company is required to appoint the company

secretary to act as “Compliance Officer” who will be responsible for ensuring conformity with regulatory provisions applicable to the listed entity in letter and spirit.

Circumstance leading to Secretary’s Correspondence with Stock Exchange:

- a) Listing of securities with the stock exchange.
 - b) Supply of information to stock exchange regarding Board and general meetings, rate of dividend, changes in the Board of directors and other key managerial personnel.
 - c) Providing information to exchange on rights issue and bonus shares.
 - d) Providing any other information required by the exchange from time-to-time
- Correspondences with the stock exchange should be attended on priority basis and prompt replies should be given. The information supplied to an exchange should be true and factual. If necessary, the secretary should contact exchange authorities on mobile and other quick communication channels.

7) CORRESPONDENCE WITH SEBI:

The Securities and Exchange Board of India (SEBI) was set up in terms of Securities and Exchanges Board of India Act, 1992. SEBI is entrusted with the task of protecting the interests of investors in securities and promoting healthy development of and regulating the securities market by such measures as it thinks fit. For this, SEBI has issued “Guidelines for Disclosure and Investor Protection” on 11th June 1992. It also issue “Investors community. SEBI has made various rules and regulation for market intermediaries like stock brokers, registrars to an issue. Underwriters and merchant bankers.

With a view to enable SEBI to discharge its duties and function more effectively, the Government has conferred more and more and more powers to SEBI. At present it operates as a most powerful agency for investor protection and regulation of securities market. SEBI has made strict rule for listed companies and those companies which intend to get their securities listed. SEBI has made strict rules on issue and transfer of securities and non-payment of dividend.

Correspondences with SEBI is important part of total correspondence work of company secretary. SEBI is powerful authority with wide power. Correspondence with SEBI needs to be prompt and responsible. SEBI has power to impose fine/penalties on companies for their unfair action and practices.

8) CORRESPONDENCE WITH COMPANY LAW BOARD:

Company Law Board is an administrative authority created in feb. 1964 for ensuring greater efficiency. Cohesion and despatch in the routine administration of the Companies Act. It is to exercise and discharge such power and functions as may be conferred on it by or under the Companies Act. The powers and function of the Company Law Board have been enlarged under Companies (Amendment) Act 1988. From May, 1991, **an independent Company Law Board was constituted as a quasi-judicial body.**

Most of the routine function of the “Board” are performed by the “Registrar of Companies” who is appointed by the Central Government in each State. It is public office where companies are required to file document and returns, and the public is authorised to inspect the same according to the provisions of law. **The office of ROC is basically a Registry and an office of Records.**

Q. 2. DISCUSS THE ROLE TECHNOLOGY IN SECRETARIAL CORRESPONDENCE.

Ans: The volume of secretarial correspondence is increasing along with the expansion of companies, increase in the number of shareholders, increase in number of regulatory authorities and so on. Secretarial correspondence need to be prompt and decent. It is not possible to manage huge correspondence work through manual labour and old methods. The use of Information and telecommunication technology is a must in secretarial correspondence. This is essential for handing huge volume of correspondence work of companies. Even an efficient and hardworking secretary will not be able to manage expanding secretarial correspondence work of companies. Even an efficient and hardworking secretary will not be support of modern technology is very common in all aspects of life and secretarial correspondence is not an exception to this rule.

Use of technology in office work, accounts and correspondence is rapidly increasing since 1990s. Young generation of office staff, executives and company secretaries are well trained in the use of information technology in their work. They handle such new devices with confidence. This leads to fast communication through technology.

Technology in correspondence includes the use of personal computer. TV monitors. Internet, word processors, punch cards machines, accounting machines and web mail. New various of technology devices are continuously entering in the market. As a result, sky is the limit for the use of technology in correspondence work Advance in technology have transformed the world of work.

Webmail is a popular internet service that allows one to send messages and files to anyone around the world from one computer that is connected to the internet. With an account, the user can send and receive messages, images and any other type of information. Users can access e-mail even if they do not have a computer simply by using small, inexpensive device indicates how technology speed up correspondence work and rises overall efficiency of company secretary.

Benefit of Using Technology in Secretarial Correspondence:

- a) Technology speeds up the office correspondence work.
- b) Technology reduced the cost.
- c) Raises the efficiency of company secretary.
- d) Provides job satisfaction to company secretary.
- e) Makes the correspondence work neat, clean, decent and quick.

It is true that modern offices machines are costly. However, in the long run the use of technology is economical and work fast.

There should be no objection or opposition to large scale use of technology in correspondence work. Company secretary should support the use of technology in correspondences work. Finally. It may be noted that modern technology has come to stay, its popularity is increasing as it plays a significant role in improving the quality of secretarial correspondence.

SPECIMENS: LETTERS TO SHAREHOLDERS: BONUS ISSUE:

INFOSYS LIMITED
CIN: L85110KA1981PLC013115
Electronics City, Hosur Road, Bengaluru-560 100. T91 80 2852 0261, F 90 80 28522
investors@infosys.com / www.infosys.com
ELECTRONIC CREDIT ADVICE December 8, 2014

Dear sir/ Madam,

Sub: Bonus Issue 2014

We happy to inform you that Board of Directors have on December 4, 2014, allotted bonus shares in the ratio of 1:1 – one additional equity shares for every one equity shares held as on the record date (December 3, 2014, The allotment is made pursuant to the approval by the members by way of Postal Ballot Dated November 21, 2014 and in accordance with the provisions of Memorandum and Articles of Association of the Company.

Date of Credit: December 5, 2014

D.P. ID number	Client ID number
IN302164	10420252
Shares held as on records date	Bonus shares allotted
100	100

Any clarification on correspondence in connection with the above should be addressed to the Registrar and shares Transfer Agent at the address given below:

Karvy Computershare Private Limited

Plot No.17-24, Vittalrao Nagar, Madhapur, Hyderabad- 500 081, Tel: 91 40 4465 5000. Fax: 91 40 23 43 1551,

Email: shobha.anand@karvy.com

Your faithfully

For Infosys Limited

\sd\

Parvatheesam k.

Chief Risk & Compliance Officer
and Company Secretary

And company Secretary

This is a computer-generated document and does not require a signature.

2) Bonus issue of Shares:

BHARATI ELECTRONICS LIMITED (A Government of India Enterprise) CIN NO : L32309KA1954GO10000787 Regd. & Corp office: Outer Ring Road. Nagavara, Bangalore-560045 - India Phone No.(80D) 25039300/670097009300, Fax No. (080) 25039233 Email: secretary@bel.co.in Website: www.bel-india.com Dated: 23/09/2013		
Dear shareholder(s)		
Sub: issue of Bonus shares		
The allotment Committee of the board of Directors in their meeting held on September 16.2015 has allotted the Bonus shares in the shares in the ration of 2 (Two) equity shares of face value of Rs. 10/- for every 1(one) equity shares of face value of Rs 10/- held on 15-09-2015(record date) Shares Credit details are given below: Name of the shareholder (s) : RAMESH M SHAH		
Dp id Client id	Equity Shares of Rs. 10/- each held as on 15-09-2015	Bonus shares of Rs. 10/- each entitled to as on 16-09-2015
IN30185410000829	300	600
Date of credit: *NSDL TEMPORARY ISIN ON 17/09/2015 AND PERMANET ISIN ON 21/09/2015 * CDSL TEMPORARY ISIN ON 16/09/2015 AND PERMANET ISIN ON 21/09/2015 FOR further queries. If any in respect of the above, please do write to our Registrars and shares Transfer Agents at their below address; M/S INTEGRATED ENTERPRISES (INDIA) LIMITED Unit: BHARAT ELECTROVNICS LIMITED NO. 30, ramana Residency, 4rth cross, Sampige Road Malleswaram. BANGALORE-560 003 Phone: 080-2346 0815-818, fax: 080-2346 0819 E-mail id: irg@integratedindia.in Thanking you Yours' truly For bharat Electronics Limited s Sreenivas Company Secretary		

3) Circular Letter on Right Issue:**TATA MOTORS LIMITED**

Registered Office: Bombay House. 24, Homi Mody Street . Mumbai 400 001

Contact person: H K Sethna , Company Secretary and Compliance Officer

Tel: (91 22) 6665 8282: Fax: (91 22) 666 5 7799

Email: Inv rel@tatamotors.com : Website: www.tatamotors.com

Corporate Identity Number: L28920Mh1945PLC004520

INTIMATION FOR DISPATCH OF CAF AND ABRIDGED LETTER OF OFFERFOR PRIVATE CIRCULATION TO THE ELIGIBLE SHAREHOLDERS OF
TATA MOTORS LIMITED (OUR " COMPANY" OR THE "ISSUER") ONLY

SIMULTANEOUS BUT UNLINKED ISSUE OF UP TO 15,06,44,759, ORDINARY SHARES OF FACE VALUE RS.2 EACH (THE *ORDINARY SHARES*) OF OUR COMPANY FOR CASH AT A PRICE OF RS, 450 (INCLUDING A PREMIUM OF RS 448 PER ORDINARY SHARES) ON A RIGHT BASIS TO THE ELIGIBLE ORDINARY SHAREHOLDERS OF OUR COMPANY IN THE RATIO SIX ORDINARY SHARES FOR 109 FULLY PAID -UP ORDINARY SHARES HELD ON THE BOOK CLOSURE DATE, THAT IS ON APRIL 8, 2015 AND UP TO 2.65.30.290 'A' ORDINARY SHARES FACE VALUE RS 2 EACH (THE "A' ORDINARY SHARES") OF OUR COMPANY FOR CASH AT A PRICE OF RS. 271 (INCLUDING A PREMIUM OF RS. 269 PER "A" ORDINARY SHARE) ON A RIGHTS BASIS TO THE ELIGIBLE 'A' ORDINARY SHAREHOLDERS OF OUR COMPANY IN THE RATIO OF SIX 'A' ORDINARY SHARES IS 135.3 TIMES THE FACE VALUE OF THE 'a' ORDINARY SHARES. TOTAL PROCEEDS FROM THE ISSUE OF ORDINARY SHARES AND 'A' ORDINARY SHARES WOULD AGGREGATE UP TO RS. 7,498 CRORE. FOR FURTHER DETAILS, SEE "TERMS OF THE ISSUE" BEGINNING ON PAGE 157 OF THE LETTER OF OFFER.

ISSUE OPENS ON	LAST DATE FOR REQUEST FOR SPLIT	ISSUE CLOSES ON	
April 17, 2015	April 24, 2015	MAY 2, 2015	
Dear shareholder, Details of CAF Dispatched on or before April 13 th 2015 to you are as under:			
1 CRF No.	2. FOLIO/DPID CLIENT	3, NAME/S OF SHAREHOLDERS	4. DISPATCH ADDRESSES
1295495	INR30185410004111	Hema N Maroo	VIPUL PRAKASHAN, NARYAN NIWAS 161 J.S ROAD GIRGAUM MUMBAI 400004
5. NUMBERS OF ORDINARY SHARES HELD ON BOOK CLOSURE DATE, APRIL 8, 2015	6. NUMBER OR ORDINARY SHARES OFFERED	7. SPEED POST NO	

200	11	EA0172477541N	
<p style="text-align: center;">TATA MOTERS LIMITED Registered office: Bombay House. 24 Homi Mody street,Mumbai400 001 Contact person: H.K sethna . Company secretary and Compliance officer Tel: (91 22) 6665 82 82: Fax : (91 22) 6665 7799: Email: Inv rel@tatamotores. Com : website; www.tatamotoers. Com Croporate identity Number: L2892mh1945plcoo4520</p>			
<p>For any clarificatails below:tation can write or contact to the Register to the issue as per de Link Intime India Private Limited (Unit: Tata Motors Limited) Tel: + 91 22 61 71 5400/9167779196/97/98/99 Fax: (91 22) 6665 77 99: E-mail : tatamoters . Right@linktime.co.in websiteb. www.Linkintime.co.in SEBI Regn. No: INR000004058 Contact Person” Mr Sachine achar Yours Sincerely, For tata Motors Limited H.K. Sethna. Company Secretary and Compliance officer</p>			

2) LETTERS TO REGISTRAR OF COMPANIES:**1) Letter to Registrar for filing Alteration in Memorandum Association of the company.**

RELIABLE MACHINERY LIMITE Ballard Estate,		No.23435365
Tel		
Email:relimach@gmail.com		
Fax No: REL/P/03/2011		
		Date: 5 th june, 2017
The Registrar of Companies (ROC), Maharashtra State, Everest House, Marine Lines, Mumbai- 400 020		
Sub: Alteration in Memorandum of Association		
Sir, This is to inform you that the company has taken a decision to shift to shift its registered office from the present address in Ballard Estate, Mumbai-400 038 to Radha Sadan, Charni Road, Mumbai-400 004. Both places are within the local limits of Mumbai City,		
In the Board of Directors meeting held on 1 st june, 22017, the directors unanimously adopted a resolution (Resolution No. 5) for shifting the registered office of the company from Ballard Estate. Mumbai- 400 038 to Radha sadan, Charni Road, Mumbai-400 004, within the local limits Of Mumbai City.		
We enclose, herewith the following documents for your reference and registration:		
1) Form INC-22 along with a copy of the Board Resolution No. 5 dated 1 st June 2017.		
2) Certificates to be sent along with Form INC-22		
Thanking you, Kindly acknowledge the receipt of documents.		
		Your faithfully Sd/- (Mr. M.M Bhgat)
Encl: As above Secretary		

2) Letter to Registrar for filing alteration in the Articles of Association of the company:**NARENDRA PETROCHEMICALS LIMITED**

"Petro House" 27, Shree Niwas, D. N Road Mumbai-400 004

Tel No. 23879395

Email: narpetrochem@gmail.com

Ref No. AOA/2017-18/729

Date: 7th june, 2017

The Registrar of Companies,
Maharashtra State,
Everest House, Marine Lines,
Mumbai-400 020.

Sub: Filing of Altered Articles of Association

Dear Sir,

This is to inform you that the Extra-Ordinary General Meeting of company. Was held on 5th June, 2017 at Registered Office of the Company. The members of the company passed a Special Resolution altering Articles relating to the qualification shares of directors by inserting the following at the end of article No.79

"Notwithstanding anything contained in these articles, the managing directors and whole time directors of the company shall not be required to hold any such qualification shares"

We enclose, here with, the following documents for your reference and registration:

- 1) Competed Form No. MGT-14
- 2) Certified copy of the Special Resolution No 13 approved. in the Extra Ordinary General Meeting held on 5th june, 2017
- 3) Explanatory statement annexed to the notice of the general meeting at which the special resolution was passed.
- 4) A copy of new set of Articles of Association along with the prescribed filing fee of Rs.500.

Thanking you, Kindly acknowledge the receipt of document.

Your faithfully
Sd/-
(Mr, M.M.Bhagwat)
Secretary

3) LETTER TO STOCK EXCHANGE

1) Letter to stock Exchange for Listing of Shares:

SWRAJ COMPANY LIMITED
Ganesh Street, Mumbai- 400 028

The Secretary,
The Bombay Stock Exchange Ltd.
Mumbai- 400 020
Date; 9th june, 2017

Dear sir,

Sub : Initial Listing Application

We wish to submit that " Swraj Company Limited" was incorporated n 6th Augudt 2016 for the production and distribution of packaged drinking water. The company is planning to enter the Capita Market in the month of August, 2017 with an issue size of Rs. 100crore.

The Board of directors has passed a resolution on june 5, 2017 for making initai application with your stock exchange in respect of the said issue. Application with your stock exchange in respect of the said issue.

The initial listing application is hereby enclosed.

We are also enclosing the following document;

- 1) One copy of the Memorandum and Articles of Association.
- 2) A certified copy of the Certificate of Incorporation.

We'll shall do the needful promptly as per your instruction.

Thanking you.

Your faithfully
Sd/-
(S.V. Iyengar)
Secretary

Encl: As above

4)Letter to Bank:

1) Letter to Bank requesting for an Overdraft/overdraft Facility:

NATIONAL BOOK COMPANY LIMITED
2, Bazar Road, Bandra (West).
Mumbai- 400 053

Ref, No NBCL/1/ 789

Phone : 2640 60 61
Date: 1st June. 2017

The Manager,
Central Bank of India, 30, S, V Road,
Bandra , Mumbai- 400 050

Dear sir,

Re: Grant of Overdraft Facility, Our Current A/c No. 2164.

This is to request you to please consider granting us an overdraft facility of Rs. 90.000 for a period of three months from 1st July. 2017 to 30th September, 2017 in order to meet our financial obligations to our book-seller. In case we fall short of funds.

By way of security. We would like to deposit with you government securities worth rs. 1.10, 000/- we trust that you will find the above noted security adequate

and agree to our request for the proposed overdraft facility. We shall complete other formalities after hearing from you.

An early favourable Reply will be very much appreciated.

Thanking you,

Your faithfully
Sd/-

(S.V. Rao)
Secretary

2) Letter to Bank for Medium Term Loan:

BELGAUM INDUSTRIAL MANUFACTURING CO. LTD

Reg . Office. 3/28. Khada Bazar.

Belgaum- 5590 002

Phone: 25 18 27 19

Dated: 26th April ,2017

Ref, No. BIMC/ Loan/ 296
The Manager,
State Bank of India,
Belgaum Branch, Station Road.
Belgaum- 590 002
Dear sir,

Sub: Request for sanction of a Term Loan of Rs. Sixty Lakhs

We have a current account in your bank (Account no . 4273) since Aug. 1995 and we are operating to your full satisfaction.

At present we have two manufacturing unit in Belgaum industrial Estate, Belgaum. We have a plan to open our third manufacturing unit at Khanapur. We are naturally in need of more capital for this expansion programme and hence this request for a loan of **Rupees sixty lakhs** for a period of five years on normal terms. It is possible to repay the entire loan after five year. Moreover. We are prepared to offer the following securities for this loan facility.

a) Units of Unit Trust of India	Rs. 30.10.000.00
b) Government securities	Rs. 32.10.000.00
	Total <u>Rs. 62.20.000.00</u>

We hope. These securities would securities would provide sufficient margin as per your requirement. In addition one of our Direction shri. N.V. Shah is willing to officer personal guarantee for this loan.

I am enclosing herewith . completed loan application form with the necessary document for your consideration. We are also enclosing a project report for the new manufacturing unit at Khanapur Industrial Estate. We are also willing to discuss procedural details of this term loan as per your convenience.

Thanking You.

Your faithfully
Sd/-

(v.v.Gogate)
Secretary

Encl: As above

OBJECTIVES**Q.1. Select the most appropriate answer from the options given below:**

- a) Secretarial correspondence should be _____.
1) Prompt 2) Delayed 3) Postponed 4) Late
- b) The refusal to allot shares is intimated by letter of _____.
1) Allotment 2) Forfeiture 3) Regret 4) Thanks
- c) Debentureholders are the _____ of the company.
1) Owners 2) debtors 3) creditors 4) shareholders
- d) The institution which regulates and controls the stock exchange activities is called _____.
1) SEBI 2) BSE 3) ROC 4) NSE
- e) Bank loan are _____.
1) secured 2) unsecured 3) safe 4) unsafe
- f) Technology is _____ in secretarial correspondence.
1) Not Useful 2) useful 3) useless 4) not necessary
- g) Overdraft facility is a _____ facility.
1) Short term loan 2) Long term loan
3) medium term loan 4) lifelong loan
- h) Company secretary has to follow guidelines issued by _____ while correspondence with Debentureholders.
1) Solicitor 2) Bankers 3) SEBI 4) Stock exchange
- i) Bonus shares are issued to _____.
1) Existing equity holders 2) Existing creditors
3) Existing preference shareholders 4) Existing debtors

Ans: a-1, b-3, c-3, d-1, e-1, f-2, g-1, h-3, i-1

Q.2. State whether the following statements are true or false:

- a) Use of technology makes correspondence work prompt, neat and clean.
- b) Secretarial correspondence with Debentureholders is very limited.
- c) Bonus share are issued to Debentureholders.
- d) SEBI plays useful role in monitoring stock exchanges.
- e) The objective of SEBI is to protect the interest of the companies.
- f) Memorandum of association is submitted to ROC for company registration
- g) Listing of shares is done by SEBI.
- h) Overdraft facility is not useful to large companies.
- i) Technology makes correspondence work fast and economical.

Ans: True: a, b, d, f, i False: c, e, g, h