# Company Law PYQ 2020

Q1. Suvan holds 99 shares (out of 100) in Alex Furniture (Pt.) Ltd, while one share is held by Priyam. Suvan is also the substantial creditor of the company. Suvan is managing director of the company and he insured the raw material of the company in his own name. Unfortunately, fire breaks in the factory and the entire stock of wood gets destroyed. Can Suvan claim the compensation from the insurance company? Illustrate your answer with relevant case law. Also explain other features of a company citing examples.

Ans1 No, Suvan cannot claim the compensation from the insurance company as the insurance policy should have been in the name of the company, not in Suvan's personal name. By insuring the raw material of the company in his own name, Suvan violated his fiduciary duty towards the company and acted against the interests of other shareholders.

This situation is a classic example of a conflict of interest between a director and the company. Directors have a duty to act in the best interests of the company, not for their personal gain. By insuring the raw material in his own name, Suvan violated this duty and exposed the company to risk.

A relevant case law in this context is the case of "Cook v Deeks" (1916) 1 AC 554. In this case, the directors of a company transferred the company's assets to a new company in which they held majority shares, without the consent of minority shareholders. The court held that the directors had breached their fiduciary duty to act in the best interests of the company and ordered them to account for the profits made from the new company.

Other features of a company include:

1. Separate legal entity: A company is a separate legal entity from its shareholders. It can own property, sue and be sued in its own name.

2. Limited liability: Shareholders of a company have limited liability, meaning they are not personally liable for the debts of the company.

3. Perpetual succession: A company has perpetual succession, meaning it can continue to exist even if its shareholders change.

4. Centralized management: The management of a company is centralized and carried out by its board of directors, who are responsible for making decisions on behalf of the company.

Example: Apple Inc. is a multinational technology company that has separate legal entity status, limited liability for shareholders, and perpetual succession. The company is managed by a board of directors, who are responsible for making strategic decisions on behalf of the company.

Q2. An outsider is presumed to know the constitution and the statutory public documents of a company, but not what may or may not have taken place within the doors that are closed to him." Explain with reference to the Doctrine of Indoor Management. State its exceptions.

UniNotes.in

Ans2. The Doctrine of Indoor Management, also known as the Turquand Rule, is a legal principle that provides protection to third parties who enter into contracts with a company. According to this doctrine, an outsider dealing with a company is entitled to assume that the internal proceedings of the company have been properly followed, and is not bound to inquire into the regularity of internal procedures of the company. In other words, an outsider is presumed to know the constitution and the statutory public documents of a company, but not what may or may not have taken place within the closed doors of the company.

This doctrine was established by the landmark case of Royal British Bank v. Turquand (1856) 6 E&B 327. In this case, the bank entered into a contract with a company that was purportedly executed by two directors, even though the company's constitution required the approval of all directors. The court held that the bank was entitled to assume that the directors had the necessary authority to enter into the contract, as the company's constitution was publicly available and the contract was executed in the ordinary course of business.

Exceptions to the Doctrine of Indoor Management include:

1. Knowledge of irregularity: If the outsider has actual or constructive knowledge of any irregularity or departure from the internal procedures of the company, then the outsider cannot rely on the doctrine.

2. Fraud: The doctrine will not protect an outsider who has entered into a contract with the company with knowledge of fraud or misrepresentation on the part of the company's officers.

3. Ultra vires acts: If the contract involves an ultra vires act, i.e., an act that is beyond the powers of the company, then the outsider cannot rely on the doctrine.

4. Negligence: The doctrine will not protect an outsider who has acted negligently in not inquiring into the authority of the company's officers to enter into the contract.

In summary, the Doctrine of Indoor Management provides protection to an outsider who enters into a contract with a company based on the assumption that the company's internal procedures have been properly followed. However, this doctrine is subject to certain exceptions, including knowledge of irregularity, fraud, ultra vires acts, and negligence.

UniNotes.in

Q3. X. Y and P jointly purchased a constructed property at Rs 35,00,000 in June 2015. In November 2015, they promoted a company and sold this property to the company at Rs 65,00,000. Are they supposed to disclose this profit to the compony? What are the other obligations that they must fulfil standing in a fiduciary relationship with the company? Also mention various instances covered by Companies Act for which promoters are held personally liable.

Ans3 Yes, X, Y, and P are obliged to disclose the profit they made from selling the property to the company. As promoters of the company, they have a fiduciary duty to act in the best interests of the company and to disclose any personal interest they have in any transaction entered into by the company.

Under the Companies Act, promoters are held personally liable for various instances, including:

1. Misstatements in prospectus: If the prospectus issued by the company contains any misstatement or omission, the promoters who authorized the issue of the prospectus can be held personally liable.

2. Concealment of material facts: If the promoters conceal any material facts from the company or its shareholders, they can be held personally liable for any loss suffered by the company or its shareholders.

3. Profit from sale of property: If the promoters sell any property to the company at a profit without disclosing the profit, they can be held personally liable.

4. Improper use of company property: If the promoters use the company's property for their personal benefit or gain, they can be held personally liable for any loss suffered by the company.

In addition to these instances, promoters are also required to fulfill various other obligations under the Companies Act, including:

1. Duty of good faith: Promoters are required to act in good faith and in the best interests of the company.

2. Duty of care and skill: Promoters are required to exercise reasonable care and skill in the performance of their duties.

3. Duty to disclose interest: Promoters are required to disclose any personal interest they have in any transaction entered into by the company.

4. Duty not to make secret profits: Promoters are prohibited from making any secret profits at the expense of the company.

In summary, as promoters of the company, X, Y, and P have a fiduciary duty to act in the best interests of the company and to disclose any personal interest they have in any transaction entered into by the company. They are also subject to various obligations under the Companies Act, including the duty of good faith, duty of care and skill, duty to disclose interest, and duty not to make secret profits.

Q4. A public company proposes to purchase its own shares. Can it do so?

State the source of funds that can be utilised by the Company for purchasing its own shares and the requirements to be complied with by the company under the companies Act before and after the Share are so purchased?

Ans4. Yes, a public company can purchase its own shares, subject to certain conditions and restrictions under the Companies Act.

The sources of funds that can be utilized by the company for purchasing its own shares include:

1. Free reserves of the company

2. Securities premium account of the company

3. Proceeds of any shares or other securities issued by the company

4. Any other free source of funds available to the company

Before purchasing its own shares, the company must comply with the following requirements under the Companies Act:

1. It must have sufficient authorization in its Articles of Association to purchase its own shares.

UniNotes.in

2. It must pass a special resolution in a general meeting authorizing the purchase of its own shares.

3. The buyback must be authorized by the Board of Directors of the company.

4. The buyback must be made out of free reserves or securities premium account of the company.

5. The buyback must not exceed 25% of the total paid-up share capital and free reserves of the company.

6. The buyback must be completed within 12 months of the passing of the special resolution authorizing the buyback.

After the shares are purchased, the company must comply with the following requirements under the Companies Act:

1. The shares purchased must be kept in the custody of a depository participant or a registered custodian.

2. The company must extinguish and physically destroy the shares within 7 days of the purchase.

3. The company must file a return of the buyback with the Registrar of Companies within 30 days of the completion of the buyback.

4. The company must not make another buyback of its shares for a period of 365 days from the date of the completion of the earlier buyback.

In summary, a public company can purchase its own shares subject to certain conditions and restrictions under the Companies Act. The sources of funds that can be utilized by the company include free reserves, securities premium account, and other sources of funds. The company must comply with various requirements before and after purchasing its own shares, including passing a special resolution, authorizing the buyback, and filing a return of the buyback with the Registrar of Companies.

Q5. The board of directors of Swat Pyt. Ltd. had planned to meet on 15th May 2020 but due lo Corona pandemic they decided to meet virtually on a meeting app to discuss the future course of action to bo taken about their emplayees welfare and conduct of the business. Is such a meeting valid? What are the requirements to be fulfilled for organising such meeting through video conferencing? How are the minutes of such meetings recorded and approved by board members?

Ans5. Yes, such a meeting is valid as per the provisions of the Companies Act, 2013 which allows companies to conduct board meetings through video conferencing or other audio-visual means.

To organize a valid board meeting through video conferencing, the following requirements must be fulfilled:

1. The notice of the meeting must clearly mention that the meeting will be held through video conferencing or other audio-visual means.

2. The meeting must be conducted through a secure and reliable platform that provides clear audio and video transmission.

3. All participants must be able to hear and see each other clearly during the meeting.

UniNotes.in

4. Adequate safeguards must be put in place to ensure the confidentiality and security of the discussion.

5. A roll call must be taken at the beginning of the meeting to ensure that all participants are present and can hear each other.

6. The minutes of the meeting must be recorded and maintained in a safe and secure manner.

7. All board members must sign the minutes of the meeting either physically or through electronic signature.

The minutes of the meeting can be recorded and approved by board members in the following manner:

1. The chairman of the meeting or the company secretary can record the minutes of the meeting.

2. The minutes must be circulated among the board members within 15 days of the meeting.

3. The board members can suggest any corrections or additions to the minutes within 7 days of receiving the draft minutes.

4. Once the corrections are incorporated, the minutes must be signed by the chairman of the meeting or the company secretary and all board members either physically or through electronic signature.

In summary, board meetings can be conducted through video conferencing or other audio-visual means, provided the necessary requirements are fulfilled, and the minutes of the meeting are recorded and approved by board members.

Q6. There are only two members of a company. They are also the directors of the company. Both are not on speaking terms. Can the company be wound-up on this ground? Give reasons. Discuss in detail the circumstances under which a company may be compulsory wound up by the Tribunal under the Companies Act.

Ans6. The fact that the two members and directors of the company are not on speaking terms is not sufficient ground for winding up the company. Winding up a company is a drastic step and can only be done in specific circumstances as provided under the Companies Act.

Under the Companies Act, a company may be wound up voluntarily by its members or compulsorily by the National Company Law Tribunal (NCLT) in the following circumstances:

1. If the company is unable to pay its debts: This means that the company is insolvent and is unable to pay its debts as they become due. The company or its creditors may apply to the NCLT for winding up the company on this ground.

2. If the company has passed a special resolution for winding up: This means that the members of the company have passed a resolution for winding up the company voluntarily.

3. If the company has acted against the interests of sovereignty and integrity of India, security of the state, public order, decency or morality: The Central Government may apply to the NCLT for winding up the company on this ground.

UniNotes.in

4. If the company has not filed its financial statements or annual returns for a continuous period of three years: The Registrar of Companies may apply to the NCLT for winding up the company on this ground.

5. If the company has been formed for fraudulent or unlawful purposes: The NCLT may order the winding up of the company on this ground.

6. If the affairs of the company are being conducted in a manner prejudicial to public interest or in a manner oppressive to any member or members: The NCLT may order the winding up of the company on this ground.

It is important to note that winding up a company is a complex process and involves various legal and financial procedures. It is advisable to seek professional advice before initiating the process of winding up a company.

In summary, a company cannot be wound up simply because the directors are not on speaking terms. Winding up a company can only be done in specific circumstances as provided under the Companies Act, and the process is a complex one that requires professional advice.

UniNotes.in