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| Marks: 40 | FYJC Subject: Secretarial practice Topic – Joint Stock Company (Chap. 02) <u>SOLUTION</u> | Time: 1.5 Hrs. |
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Q.1. Give One Word. (8 Marks)

- 1) The owner who is the sole manager and decision maker of his business.
Ans. sole trader

- 2) The senior most family member of Joint Hindu Family Business.
Ans. Karta

- 3) The members of Joint Hindu Family Business.
Ans. Co-parceners

- 4) An artificial person created by law.
Ans. Joint Stock Company

- 5) The persons who have entered into an agreement of partnership.
Ans. Partners

- 6) A person who purchases shares of Joint Stock Company.
Ans. Shareholders

- 7) The official signature of Joint Stock Company.
Ans. Common seal

- 8) Name a company that is created by a special legislation of parliament or state assembly.
Ans. Statutory Company

Q.2. Complete the sentences. (2 Marks)

- 1) A company is a creation of law, hence it is called as **Artificial Person.**
- 2) A company which is incorporated under a special Act is called as **Statutory company.**
- 3) A Company which has only one member is called as **one person company.**
- 4) A listed company is must follow the provisions of Companies Act and **SEBI Guidelines.**

Q.3. Distinguish between the following. (Any Two) (10 Marks)

- 1) Sole Trading concern and Joint Hindu Family Business

Ans.

| Sole Trading concern | Joint Hindu Family Business |
|---|--|
| 1. Meaning | |
| A business which is owned, managed And controlled by one individual called sole trader for earning profit is called sole trading concern. | The ancestral business which is continued and conducted by the members of a Hindu Undivided Family under the direction of the senior most member for earning profit is called Joint Hindu Family firm. |

| 2. Membership | |
|---|---|
| Since, sole trading concern is owned and managed by a single person, there cannot be more than one member. | The minimum or maximum number of coparceners is not regulated by Hindu law. It changes with the number of birth and death in the family. |
| 3. Ownership | |
| The business assets (properties) are entirely owned by the sole proprietor himself. | All the members of the Hindu Undivided family are the joint owners of the ancestral business property. |
| 4. Liability | |
| The liability of a sole trader is unlimited. It means if the assets of the business are insufficient to pay its liability then the property of the sole trader will be attached and sold to pay business debts. | The liability of each coparcener is limited to the extent his share in the coparcenary, However, the liability of the <i>Karta</i> is unlimited. |
| 5. Financial Resources | |
| The financial resources of the sole trader are very limited in comparison to the Joint Hindu Family Firm. | The Financial resources of a Joint Hindu Family Firm are relatively more than that of sole trading concern. |
| 6. Stability | |
| The sole trading concern lacks stability because the survival and continuity of business are affected by death, lunacy or insolvency of a sole trader. | The Joint Family Firm is comparatively more stable because in the case of death of the <i>Karta</i> , the business is taken over and continued by the next senior most family member. |

2) Partnership Firm and Joint Stock Company.

Ans.

| Partnership Firm | Joint Stock Company |
|---|---|
| 1. Meaning | |
| A partnership firm is a form of business organization owned and managed by two or more persons i.e. partner for earning profit. | A Joint stock company is an incorporated voluntary association of individuals for profit, created by law, owned by the shareholders but managed by their few representatives, i.e. Directors. |
| 2. Membership | |
| The minimum number of member is 2, while the maximum number of member is 10 in the case of banking business and 50 in the case of any other business. | In the case of a private company the minimum number of member is 2 and the maximum of number member of 200. In the case of public Company, the minimum number is 7 and the maximum number is unlimited. |
| 3. Formation | |
| The formation of a partnership firm is easy and simple. Minimum legal formalities are involved. Only an agreement is necessary. Even registration is not compulsory. However, it is compulsory in the state of Maharashtra. | The formation of Joint stock company is rather difficult and complicated. Numerous legal formalities are involved. Registration is compulsory, costly, complicated and time consuming. |

| 4. Liability | |
|--|---|
| The liability of all the partners except minor partner is unlimited, Joint as well as several. | The liability of the shareholder is limited to the extent of the unpaid amount, if any, on the shares held by them. |
| 5. Regulatory Act | |
| The Partnership firm is regulated and governed by the provisions of the Indian Partnership Act, 1932 and also by the companies Act 2013. | A joint stock company is regulated and governed by the provision of the Indian Companies Act, 1956. |
| 6. Legal Status | |
| The partnership firm has no separate legal status distinct from its members (Partners). | A joint stock companies has separate legal status distinct from its members (Shareholders). |

3) Private company and Public company.

Ans.

| Private company | Public company |
|---|---|
| 1. Meaning | |
| A private company is the one which restricts the rights of its members to transfer shares. Limits the maximum number of member to 50 and prohibits an invitation to public to subscribe to its shares and debentures. | A public company is the one which does not restricts the rights of its members to transfer shares. Does not limits its membership to 50 and can invite the public to subscribe to its shares and debentures |
| 2. Number of directors | |
| A private company must have least 2 directors. | A public company must have minimum directors. |
| 3. Transfer of shares | |
| In private company, transferability of share is restricted by its articles. | In case of public company shares are freely transferable and usually quoted on a Stock Exchange. |
| 4. Number of member | |
| The minimum number of members is 2 while the maximum number of members is 200 in a private company. | The minimum number of members is 7, while there is no limit to the maximum number of members in a public company. |
| 5. Name | |
| A private company is required to add the word 'Private Limited' After its name. | A public company required to add the word 'Limited' after its name. |
| 6. Minimum capital | |
| A private company is required to raise minimum amount of paid up capital of ₹ 1 lakh. | A public company required to raise minimum amount of paid up capital of ₹ 5 lakh |

Q.4. Short notes. (Any Two)**(10 Marks)**

1) State the features of sole trading concern.

Ans. A Sole Trading Concern is a form of business organization. It is owned, managed and controlled by one person. It is also called as 'One Man Business'. A person who conducts the business is called 'Sole Trader'.

Features:

- 1) There is no separate Law or Act governing Sole Trading Concern, but it has to follow all the laws of Land.
- 2) Sole Trading Concern has only one owner.
- 3) Capital contributed by sole trader is very small.
- 4) There is no division of profit or loss as there is a single owner.
- 5) All decisions of business are taken by sole trader.
- 6) The proprietor (sole trader) can ensure maximum business secrecy.
- 7) The liability of sole trader is unlimited.
- 8) This business does not enjoy a separate legal status.
- 9) Sole Trading Concern is not suitable for large scale business operations.

2) State the features of Joint Hindu Family Business.

Ans. When a Hindu Undivided Family conducts business, inherited by it as per Hindu Law, it is called a Joint Hindu Family Business. It exists only in India. It is governed by Hindu Succession Act 1956.

Features:

- 1) Membership in the Joint Hindu Family Business is by birth only. Every child born in the family becomes a member.
- 2) The Head of the Family is known as 'Karta'.
- 3) Other members of the family are called as 'Co-parceners'.
- 4) Number of members - There is no limit on minimum and maximum number of members.
- 5) All Family members are engaged in the business.
- 6) The Liability of Karta is unlimited.
- 7) The Liability of co-parceners is limited.
- 8) Karta is the manager, controller and co-ordinator of the business.
- 9) Karta being the sole decision maker can take quick decisions.
- 10) The profit sharing ratio keeps on changing depending upon the births and deaths in the family.

3) State the features of Partnership firm.

Ans. The business organization which is owned, managed and controlled by two or more persons is called Partnership Firm. The owners are called Partners and the organization is called a Firm. Registration of Partnership firm is compulsory in Maharashtra state. This form of organization is governed by Indian Partnership Act 1932.

Features:

- 1) This business is started by an agreement between two or more persons.
- 2) Number of partners - Minimum-Two Maximum- Fifty for general business.
- 3) The liability of partners is Unlimited and it is joint and several.
- 4) Capital is contributed by partners.
- 5) Partnership firm does not enjoy separate legal status.

- 6) In Partnership Firm partners, cannot transfer their shares without the permission of other partners.
- 7) All partners are joint owners as well joint managers of business.
- 8) No separation of ownership and management in Partnership firm.
- 9) Partners share profit and losses in the agreed ratio as mentioned in partnership deed.

4) State the features of co-operative society.

Ans. A Co-operative Society is a voluntary association of persons formed to achieve certain economic objectives. The nature of co-operative organization is service oriented. The registration of a co-operative society is compulsory in the state of Maharashtra, under the Maharashtra State Co-operative Societies Act 1960.

Features:

- 1) Registration is compulsory.
- 2) The membership of co-operative society is open to all.
- 3) Number of members-Minimum-ten Maximum- no limit.
- 4) The liability of a member in a co-operative society is limited.
- 5) It differs from other forms of organization as its aim is not maximization of profit but to provide services to its members.
- 6) The organization enjoys independent legal status different from its members.
- 7) The management of co-operative organization is democratic in nature. There is equality in voting right. They follow the principle of 'One member one vote'.
- 8) There is control and supervision by the state government on the working of co-operative organization.

Q.5. Long Answer. (Any one)

(10 Marks)

- 1) Define Joint Stock Company and explain its features.

Ans. Definitions of Joint Stock Company:

- i) According to Section 2(20) of the Companies Act 2013
"Company means a company incorporated under this Act or under any previous company law."
It means every organization would get the status of a company if it is incorporated under the relevant law as a company before or after the enactment of the Companies Act 2013.
- ii) According to Prof. H. L. Haney
"A Joint stock company is a voluntary association of individuals for profit, having its capital divided into transferable shares, the ownership of which is the condition of membership."
The above definitions reveal some of the most important features of the company.
Thus to conclude we can say that-
A joint stock company is an incorporated association, which is an artificial person created by law, having a separate name, a separate legal entity and perpetual succession. The liability of its member is limited. A joint stock company may have common seal.

Features of Joint Stock Company:

- 1) Voluntary Association
 - 2) Incorporated Association
 - 3) Separate Legal Entity
 - 4) Artificial Person
 - 5) Perpetual Succession
 - 6) Common Seal
 - 7) Limited Liability
 - 8) Separation of Ownership and Management
 - 9) Transferability of shares
 - 10) Number of Members
 - 11) Capital
 - 12) Government Control
1. **Voluntary association:** A Joint Stock Company is a voluntary association of persons. Membership of the company is open to all. A person at his own wish can become or leave membership of the company subject to the provisions of Articles of Association of the company.
 2. **Incorporated association:** A Joint Stock Company is an association of persons formed and registered under the Companies Act. Registration or incorporation is compulsory. An association obtains the status of a Joint Stock Company only after its registration under the Companies Act.
 3. **Separate legal entity:** A Joint Stock Company has legal entity i.e. it enjoys separate legal status. Its existence is different from its members and directors. The members are the owners and are liable in limited way for the acts of their company and are conferred with rights and duties.
 4. **Artificial person:** A Joint Stock Company is an artificial person created by law. It is created by a legal process and has its own independent personality. It enjoys certain legal rights like a person for e.g. enter into contracts, purchase and sell assets and property, appoint persons as employees etc. But it cannot act on its own like a natural person as it is an artificial person.
 5. **Perpetual succession:** A Joint Stock Company has perpetual succession i.e. continuous existence. Its existence is not affected by death, insolvency or retirement of any of its members. A Joint Stock Company enjoys a very long and stable life unless it is wound up by following legal procedure.
 6. **Common seal:** A Joint Stock Company is an artificial person without physical existence like a natural person. Hence, it is not in a position to sign its name. However, it has a device in the form of common seal. This common seal acts as its signature. It is affixed on all the important documents and contracts of the company. Usually two directors and the Secretary sign the documents as witness after the seal is affixed.
 7. **Limited liability:** The liability of shareholders of a joint stock company is limited. It is limited up to the unpaid part of face value of shares held by a shareholder. Shareholder is liable to pay only the unpaid amount on his shares, if any. Shareholder is not concerned with debts and liabilities of the company. Personal property of the shareholders cannot be used for repayment of debts of a company.

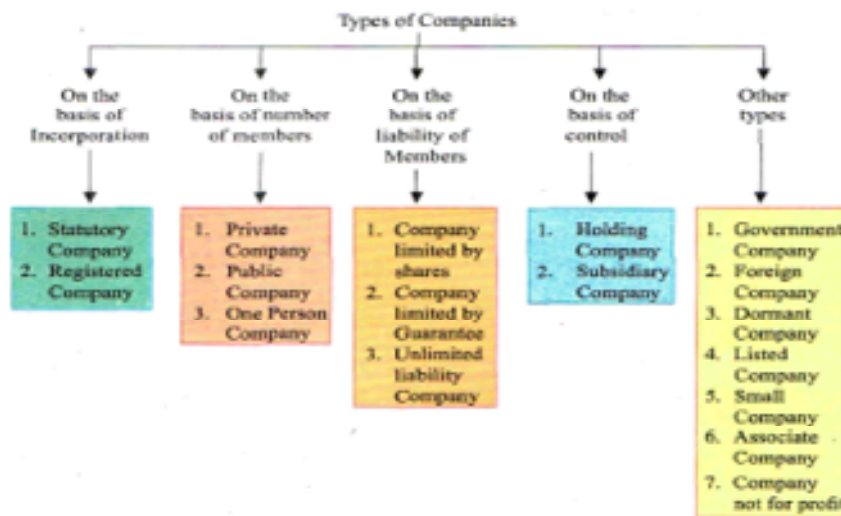
8. **Separation of ownership and management:** In a company, ownership is separated from management. Shareholders are real owners of the company; however they are unable to manage the day to day affairs of the company because
- They are large in number.
 - They are scattered and
 - They keep changing because shares are transferable. So they elect the Board of Directors to look after the management of the company. All policy decisions are taken by the Board of Directors.
- 9) **Transferability of shares:** The shares of public company are freely transferable. A shareholder can sell shares as and when he desires. Membership comes to an end once the shares are sold. Shares of private company are not freely transferable.
- 10) **Number of members:** A Joint Stock Company is usually owned by a large number of persons. A private limited company must have minimum 2 members and maximum 200 members. A public limited company must have minimum 7 members and there is no limit on the maximum number of members.
- 11) **Capital:** A Joint Stock Company can raise huge capital, due to large number of members. Huge amount of capital can be collected by the company in the form of shares, debentures, bonds, public deposits etc. it can also obtain loans from banks and financial institutions.
- 12) **Government control:** A Joint Stock Company has to work under Government control and supervision. Registration is compulsory for all companies. A registered company must follow the regulations given in company law. A company has to file a copy of statement of profit and loss, balance sheet and other financial statement with the registrar. It has to maintain proper books of accounts. These accounts must be audited. If a company does not fulfill these statutory obligations, it is penalized. This control is essential to protect the financial interest of small investors.

2) Define a 'company'. Explain the types of companies on the basis of liability of members.

Ans. **Definitions of Joint Stock Company:**

- According to Section 2(20) of the Companies Act 2013
"Company means a company incorporated under this Act or under any previous company law."
It means every organization would get the status of a company if it is incorporated under the relevant law as a company before or after the enactment of the Companies Act 2013.
- According to Prof. H. L. Haney
"A Joint stock company is a voluntary association of individuals for profit, having its capital divided into transferable shares, the ownership of which is the condition of membership."
The above definitions reveal some of the most important features of the company.
Thus to conclude we can say that-

A joint stock company is an incorporated association, which is an artificial person created by law, having a separate name, a separate legal entity and perpetual succession. The liability of its member is limited. A joint stock company may have common seal.



The following are the important types of companies

A) ON THE BASIS OF INCORPORATION:

- 1) **Statutory Company:** These companies are incorporated by a special Act passed by the central or state legislative, e.g. Reserve Bank of India, State Bank of India, Unit Trust of India, Life Insurance Corporation etc.
- 2) **Registered Company:** These companies are incorporated under the Companies Act 2013 or any previous company law.

B) ON THE BASIS OF NUMBER OF MEMBERS:

1) **Private Company:** (Section 2(68))

Private company means a company having a minimum paid up capital as may be prescribed and which by its Articles -

- i) Restrict the right of members to transfer its shares if any.
- ii) Restrict the number of its members up to 200.
- iii) Prohibits any invitation to the public to subscribe for any securities or deposits of the company.

All the above said conditions, should be fulfilled for a company to be called as private company. If any one of the condition is not fulfilled by the company, it shall be considered as a public company.

It must add the words "Private Limited" at the end of its name. A private company may be a company limited by shares or a company limited by guarantee or an unlimited company.

2) **Public Company:** According to Section 2(71) public company means a company which is not a private company. A public company -

- 1) Has no restriction on the transfer of its shares.
- 2) Minimum number of members should be seven.
- 3) Has to have a minimum paid up share capital as may be prescribed by its Articles.

4) Does not prohibit any invitation or acceptance of deposits from the public.

3) One Person Company: According to Section 2(62) a one person company is a company which has only one person as member.

It is private limited company and it has to fulfill and comply with all the formalities of private company unless otherwise specified in the Act or rules.

The concept of One Person Company was introduced through the Companies Act 2013. It is operated by a single promoter who has Limited Liability. It is a better form of business organization than the sole proprietorship because the liabilities of the member is limited to the extent of his capital in the company.

One Person Company can have one or more directors. There is no need to hold Annual General Meeting.

C) ON THE BASIS OF LIABILITIES OF MEMBERS:

1) Company limited by shares: Section 2(22): These types of companies have a share capital and the liability of each member is limited to the unpaid part of face value of shares purchased by member. During the existence of the company or in the event of winding up, a member can be called upon to pay the unpaid remaining amount on the shares purchased by him / her. A company limited by shares may be a public company or a private company. These are the most popular types of companies.

2) Company limited by Guarantee: Section 2(21): These types of companies may or may not have a share capital. Each member promises to pay a fixed sum of money specified in the Memorandum in the event of liquidation of the company for the payment of the debts and liabilities of the company.

Generally, such companies are not profit making companies because they are formed for the purpose of promotion of art, science, culture, charity, sports, or some other similar purpose.

3) Unlimited liability company: Section 2(92): A company not having any limit on the liability of its members is termed as an unlimited company. The members are fully liable to cover the debts of the company.

The unlimited company can be either a private or a public company or a one person private company.

D) ON THE BASIS OF CONTROL:

1) Holding company: Section 2(46)

A Holding company is a company which holds more than one half of the total share capital of another company or has powers to appoint or remove all or a majority of directors of another company.

2) Subsidiary company: Section 2(87)

A Subsidiary company is just the opposite of a holding company. It is a company which is controlled by a Holding company. Such control is possible because the Holding company purchases more than one half of the share capital of Subsidiary company or has powers to appoint or remove all or a majority of its directors.

E) OTHER TYPES:

- 1) **Government company:** Section 2(45): Government Company means any company in which not less than 51% of the paid up share capital is held by
 - 1) The central government or
 - 2) State government or governments or
 - 3) Partly by Central Government and partly by one or more State Governments or
 - 4) Subsidiary company of a government company.Government Company may be a private company or a public company. In fact it is a company registered and incorporated under the Companies Act 2013. e.g. Hindustan Machine Tools Limited, Steel Authority of India Limited., Bharat Heavy Electrical Limited, Coal India Limited. Oil Natural Gas Corporation Limited etc.
- 2) **Foreign company:** Section 2(42): Foreign Company means a company incorporated outside India, but having a place of business in India, e.g. Nestle India Limited, Bata India Limited. Whirlpool Corporation, etc.
- 3) **Dormant Company:** If company is registered for a future project or has not made any significant accounting transactions in last two years or has not filed financial statements or annual returns in last two years, after making application u/s 455 can be called as Dormant Company.
- 4) **Listed company:** Section 2(52) Listed company means a company which has any of its securities listed on any recognized stock exchange. A public limited company may be a listed company or unlisted company. The listed companies will also have to follow SEBI's guidelines and the provisions of the Companies Act.
- 5) **Small company:** As per Section 2(85) of the Act, small company means a company other than a public company -
 - 1) Paid up share capital of which does not exceeds ₹ 50 lakh or such higher amount as may be prescribed or
 - 2) Turnover of which as per its last profit and loss account does not exceed ₹ 2 crores or such higher amount as may be prescribed.Private company, One Person Company and company other than public company can be a small company.
- 6) **Associate company:** Section 2(6) An Associate Company is one over which another company exercise a significant degree of control which is less than the degree of control exercised over a subsidiary company.
Associate company in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company.
For the purpose of this clause 'significant influence' means control of at least 20% of total capital or of business decisions under an agreement.
- 7) **Company not for profit:** Under section 8 such companies are registered.