

Company : Its Nature, Characteristics, Kinds And Formation Provided Under The Companies Act, 2013

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ABSTRACT

The company of any nature is formed with the common purpose and common trade or common business in order to share profit and loss arising therefrom. As we know company is a legal entity as per legislation provided. Certain characteristics are there related with company that has to be expressly discussed. There are different kinds of companies provided under the companies act, 2013. There is specific procedures and rules for the formation of each kinds of company. There are certain beliefs and behaviours that determine how employees of the company's interact and transact with each other. The culture of company may vary from company to company. The present study is about the nature of company alongwith its characteristics. The kinds of companies and also the rules for formation of companies are discussed.

Keywords : Act, Certain, Company, Kinds, Nature

I. INTRODUCTION

The word company is very popular and almost known to each person. Generally it is meant to a collection of many individual united in an association for the specific purpose. When many individuals together with make an agreement to carry out a business of trade, they such group is understood by the public as company. In the view of law, its deification may be some what different.

II. RESEARCH METHODOLOGY

The methodology of research for present research study is doctrinal in nature. The information with relation to the topic of paper is collected from secondary sources of data like bare acts, legal research journals, books published, internet website visited, etc. The information collected are compiled together in the shape of research work.

III. OBJECTIVE

The objective of the present study is to make the readers available a place where the provisions provided under the Companies Act, 2013 in connection with the Nature, characteristics of the companies and various kinds of companies alongwith their formation procedures and process.

IV. DISCUSSION

• Definition

According to Sec. 2(20) of the companies Act, 2013.

Company means a company incorporated under this act an under any previous company law.

• According to lord justice kindly

Company is an association of many persons who constitute money on money's worth to a common stock and employ it for a company purpose.

- **According to Chief Justice Marshal:**
Company is person artificial, invisible, intangible and existing only in the law. Being make a creation of law. It possess only those properties which the charter of its creation confer upon it either expressly as incidental to its very existence.
- **Characteristics of Company**

The following characteristics of company shall possess:

1. **Voluntary Organization:**

The first characteristic of company is of its formation as voluntary organization an association. Its creation is made under a contract in which the inclusion of persons by their own free consent. No boundation is on their own to became a member of company.

2. **Independent legal entity:**

The entity of company is seperate from the entity of its members. This is the reason that the liabilities and rights of the company are separate from those persons by whom the company has been created In Solman vs. Soloman and company In this company it has been considered as a separate legal entity under it a company namely Soloman and company was created by a person of the name Solman whose members were his family members. Latter due to bad economic conditions, the company went into liquidation. At that time they were two types of debentures holder of the company solman himself and his family members. When the question of payment of debenture arose then it was said by the House of lord that Soloman and Soloman company are two difficult legal entity. Soloman and company hasto pay the debt to two types of creditors: Firstly to Soloman who holds debentures with mortgage and secondly general creaditors who holds general debenture. In the eyes of Law, the debenture holder with mortgage have first right to recover the debt.

3. **Perpetual Succession**

The third charactersatics of a company is of its perpetual succession. It has permanent existence. Resigning from membership on becoming bankrupt, on death of member, on becoming vacant for other reason the existing of company not come to an end. The company is like a river where the temporary water flows from upward to downward but the river exist permanently.

4. **Professor Growey said:**

At the time of way, an member of a private company were killed by a bomb when the meeting of company was going on but the existence of company was continued and it was not destroyed even by hydrogen bomb.

5. **Common Seal:-**

The company have its common seal all works of the companies common seal. From the signatures done by the directors on the common seal of the company. The acts and liabilities of the company. Although the company is an artificial person, but its all acts are being done by the natural person under the force of common seal.

6. **Institution of suit:**

The another characterstics of company is that a suit can be instituted against and by the company. In case of any infringement of interest or right of a person by the company, a suit may be instituted against the company and if the rights of company are infrienged or violated by a person they a suit may be instituted by the company against such person.

7. **Centralized Management**

The management of the company several in the hands of directors and skilled professional managers. The policy matters of the company are done in the general meetings.

8. **Kinds of companies:**

The companies Act 2013 provides for three basic types of companies which may be registered under the Act the are-

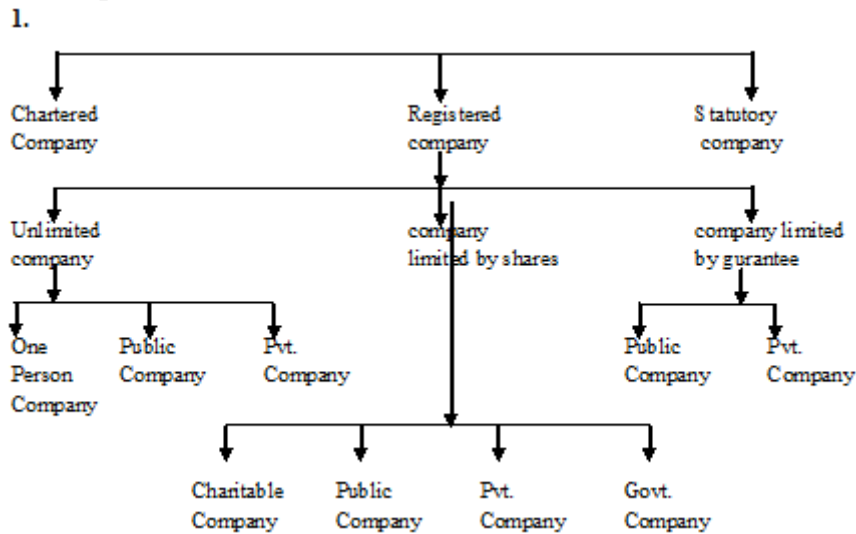
- ✓ One person company

- ✓ Private company
- ✓ Public company

These companies may be:-

- ✓ Company limited by shares
- ✓ Company limited by guarantee
- ✓ Unlimited company

9. Classification of companies



10. Company limited by shares:

The main attribute of limited company which attracts the investors limited liability of the share holder. Liability of a member, in the event of company winding up, in respect of share hold by him is limited to that extent of the unpaid value of such shares.

11. Companies limited by guarantee:

It is the company where in the liability of its members extends to the amount undertaken to be contributed by each of them towards the assets of the company. In the events its being woiund up a(s) stated in the memorandum of association of th(ii) company. The liability will arise only in the event of company being wound up and not otherwise. A guarantee company must suffix the words "ltd. Or Pvt. Ltd." As the case may be. A guarantee company may also state in its article of association the number of members with which it is registered.

12. Private Companies:

Sec. 2 (68) of he companies Act 2013 defined a private company as the company which has a

minimum paid up capital of 'one lakh rupees' or higher as may be prescribed and by its articles.

- (i) Restricts the right to transfer its shares.
- (ii) Except in the case of one person company, limits the number of its members to two hundred only.
- (iii) Prohibits any invitation to the public to subscribe for any securities of the company.

13. Public companies:

According to Sec. 2(71) of companies Act 2013, a public company means:

- A company which is not a private company.
- Has a minimum paid up capital (5 lakh rupees) as may be prescribed.

14. Formation of company:

Any seven or more persons together with may form a public company and two or more persons together with may form private company. A memorandum of association of such companies is prepared which contains the signature of members the number of they shares are given in it.

V. CONCLUSION

Company is an association of many persons who contribute money or money's stock to a common worth. The common stock contributed is the capital of the company. Certain characteristics are given in the companies act, 2013 as incorporated association, voluntary organization, independent legal entity, perpetual succession, common seal, institution of suit, centralized management. Certain kinds of companies are given like one person company, private company & public company. For the observation and well management of the affairs of the company it is essential to check regularly the day to day working and functions of the company. It is essential to assure that the provisions of the companies Act, 2013 are complied with.

VI. REFERENCES

- [1]. Dr. G.K. Kapoor, Taxmann's company Law and Practice-A, Comprehensive text book on companies Act, 2013, 2017 (22 Edition)
- [2]. Anil Kumar, Company Law, 2017
- [3]. Lexis Nexis, The companies Act, 2013 with Rules & Forms.
- [4]. Dr. S.R. Myeni, Company Law, 3rd Edition, 2017, Asian Law House.
- [5]. Universal's Companies Act, 2013 (No. 18 of 2013)
- [6]. Taxman's Companies Act, 2013, Volume I, 2