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Introduction of Companies Act 2013

Companies Bill 2012

Received assent-
by President
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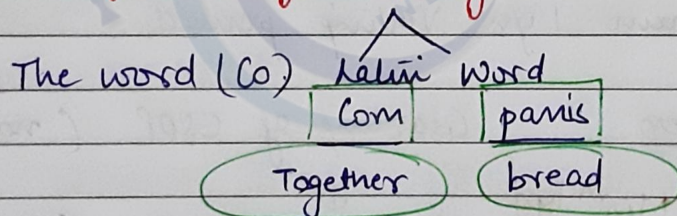
Aug 29, 2013

Notified in Official Gazettee
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Aug, 30, 2013

Companies Act, 2013 has undergone amendments various times.

Meaning and Definition of Company:



So, it referred to an association of persons who took their meals together

Pursuant to Section 2(20) of Companies Act 2013, a "company" means a company incorporated under this Act or under any previous company law.

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Nature and characteristics of a Company.

Since a corporate body (ie. a company) is the creation of law, it is not a human being, it is an artificial judicial person (ie. created by law)

and

it is clothed with many rights, obligations, powers and duties prescribed by law.

- 1.) Separate Legal Entity: It is separate from its members. It has its own name, acts, undersign, has a seal of its own and its assets are separate from its members.

Case: Salomon v. Salomon and Co. Ltd (1897)

- 2.) Company is an Artificial person: It is considered as a legal person created by law. It can enter into contracts, possess properties in its own name, sue and can be sued by others etc.

Case: Union Bank of India v. Khader International Construction and others (2001)

- 3.) Company is not a citizen:

As company is a legal person, it is not a citizen under Citizenship Act 1955 or the Constitution of India.

Case: State Trading Corporation of India Ltd

v
C.T.O. A.I.R. 1963 S.C. (181)

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4.) Company has Nationality and Residence:

5.) Limited liability: Company having Share Capital, the liability of members / shareholders extends to the contribution to the Capital of the company up to the nominal value of shares held & not paid by him.

Case: Buckley, J. in Re London and Globe Finance Corp. (1903)

6.) Perpetual Succession: Company never dies except when it is wound up as per the law.

"Members may come and go, but the company can go on forever".

7.) Transferability of Shares:

Company's capital is divided into parts, called shares.

Share are movable property and subject to certain conditions → freely transferable, so that no shareholder is permanently or necessarily wedded to the company.

8.) Capacity to sue and be sued:

A Co. being a body corporate, can sue and be sued in its own name.

To sue, means to institute legal proceedings against a person or to bring a suit in a court of law.

It can seek damages where a defamatory material published.

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9.) Separate Management:

Members may derive profits w/o being burdened with the management of the company. In other words, company is administered and managed by its managerial personnel.

10.) Termination of Existence:

Existence of Co. is terminated by means of winding up. However, to avoid winding up, sometimes companies adopt strategies like re-organisation, reconstruction, and amalgamation.