JEPPIAAR
ENGINEERING COLLEGE

DEPARTMENT OF MANAGEMENT STUDIES

I YEAR / I SEMESTER

BA4105 : LEGAL ASPECTS OF BUSINESS

Faculty In charge

Dr. E. Gopi

Anna University Chennai

Regulation 2021

TABLE OF CONTENTS

JEPPIAAR ENGINEERING COLLEGE

DEPARTMENT OF MANAGEMENT STUDIES

VISION

To build Jeppiaar Engineering College as an institution of academic excellence in technology and management education, leading to become a world class university.

MISSION

- To excel in teaching and learning, research and innovation by promoting the principles of scientific analysis and creative thinking.
- To participate in the production, development and dissemination of knowledge and interact with national and international communities.
- To equip students with values, ethics and life skills needed to enrich their lives and enable them to contribute for the progress of society.
- To prepare students for higher studies and lifelong learning, enrich them with the practical skills necessary to excel as future professionals and entrepreneurs for the benefit of Nation's economy.

PROGRAMME EDUCATIONAL OBJECTIVES (PEOs):

MBA programme curriculum is designed to prepare the post graduate students

I. To have a thorough understanding of the core aspects of the business.

II. To provide the learners with the management tools to identify, analyze and create business opportunities as well as solve business problems.

III. To prepare them to have a holistic approach towards management functions.

IV. To inspire and make them practice ethical standards in business

PROGRAMME OUTCOMES (POs)

- Ability to apply the business acumen gained in practice.
- Ability to understand and solve managerial issues.
- Ability to communicate and negotiate effectively, to achieve organizational and individual goals.
- Ability to understand one's own ability to set achievable targets and complete them.
- Ability to fulfill social outreach
- Ability to take up challenging assignments

COURSE OBJECTIVE:

The objective of this course is to familiarize the students with various laws that will help them to refine their understanding of how law affects the different aspects of business.

.

COURSE OUTCOME :

- Understand the fundamental legal principles in developing various contracts and
- commercial laws in the business world
- Identify the common forms of business associations and elements of Corporate Governance
- Develop insights regarding the laws related to industrial environment
- Ability to understand the fundamentals of corporate tax and GST
- Understand the role of consumer rights and cyber laws in the modern business environment

CO -PO Matrix

Course Outcomes	Program Outcomes					
	PO1	PO2	PO3	PO4	PO5	PO6
CO1	3	3				2
CO2	3	3				2
CO3	3	3				2
CO4	3	3				2
CO5	3	3				2
Average	**3**	**3**	**0**	**0**	**0**	**2**

LEGAL ASPECTS OF BUSINESS

UNIT I COMMERCIAL LAW 9

THE INDIAN CONTRACT ACT 1872
Definition of contract, essentials elements and types of a contract, Formation of a contract, performance of contracts, breach of contract and its remedies, Quasi contracts - Contract Of Agency: Nature of agency, Creation and types of agents, Authority and liability of Agent and principal: Rights and duties of principal and agents, termination of agency.

THE SALE OF GOODS ACT 1930 Nature of Sales contract, Documents of title, risk of loss, Guarantees and Warranties, performance of sales contracts, conditional sales and rights of an unpaid seller -

NEGOTIABLE INSTRUMENTS ACT 1881: Nature and requisites of negotiable instruments. Types of negotiable instruments, liability of parties, holder in due course, special rules for Cheque and drafts, discharge of negotiable instruments.

UNIT II COMPANY LAW AND COMPETITION ACT 9

COMPANY ACT 1956&2013 Major principles – Nature and types of companies, Formation, Memorandum and Articles of Association, Prospectus, Power, duties and liabilities of Directors, winding up of companies, Corporate Governance.
Compet ition Act 2002 - Introduction, Definitions, Enquiry into Certain Agreements and Dominant Position of Enterprise and Combinations.

UNIT III INDUSTRIAL LAW 9

An Overview of Factories Act - Payment of Wages Act - Payment of Bonus Act - Industrial Disputes Act.

UNIT IV CORPORATE TAX & GST 9

Corporate Tax Planning, Corporate Taxes and Overview of Latest Developments in Indirect tax Laws relating to GST:An introduction including constitutional aspects, Levy and collection of CGST & IGST, Basic concept of time and value of supply, Input tax credit, Computation of GST Liability, Registration, Tax Invoice, Credit & Debit Notes, Electronic Way bill, Returns, Payment of taxes including Reverse Charge

UNIT V CONSUMER PROTECTION ACT AND INTRODUCTION OF CYBER LAWS 9

Consumer Protection Act – Consumer rights, Procedures for Consumer grievances redressal, Types of consumer Redressal Machineries and Forums-- Cyber crimes, IT Act 2000 and 2002, Cyber Laws, Introduction of IPR Intellectual Property Laws- Introduction, Legal Aspects of Patents, Filing of Patent Applications, Rights from Patents, Infringement of Patents, Copyright and its Ownership, Infringement of Copyright, Civil Remedies for Infringement.– Copy rights, Trade marks, Patent Act. Introduction, Right to Information Act, 2005.

TOTAL:45 PERIODS

TEXT BOOKS

1. George E Belch and Michel A Belch, Advertising & Promotion, Tata McGraw Hill, 10th edition, 2014
2. Wells, Moriarty & Burnett, Advertising, Principles & Practice, Pearson Education, 7th Edition, 2007.
3. Kenneth Clow. Donald Baack, Integrated Advertisements, Promotion and Marketing communication, Prentice Hall of India, New Delhi, 3rd Edition, 2006.
4. Terence A. Shimp and J.Craig Andrews, Advertising Promotion and other aspects of Integrated Marketing Communications, CENGAGE Learning, 9th edition, 2016
5. S. H. H. Kazmi and Satish K Batra, Advertising & Sales Promotion, Excel Books, New Delhi, 3rd Revised edition edition, 2008.
6. Julian Cummings, Sales Promotion: How to Create, Implement and Integrate Campaigns that Really Work, Kogan Page, London, Fifth Edition Edition ,2010.
7. Jaishri Jefhwaney, Advertising Management, Oxford University Press, 2nd Edition, 2013.

UNIT – I

COMMERCIAL LAW

THE INDIAN CONTRACT ACT 1872

Contract is an agreement made between two or more parties which the law will enforce. It has two elements
1. Agreement 2. Its enforceable by law
Agreement = offer + Acceptance
Contract = Agreement + Enforceability by law

Essential Elements of Valid Contract

1. Offer & acceptance – Offer must be definite acceptance of offer must be absolute and unconditional
2. Intention to create legal relationship – When the two parties enter in to an agreement, their intention must be to create legal relationship.
3. Lawful consideration – It means something in return.
4. Capacity of parties - competency – must be capable of entering into the contract. Ie, sound mind, major.
5. Free and genuine consent – There must be a free and genuine consent of the parties to the agreement
6. Lawful object – Object must not be illegal, immoral, opposed to policy
7. Agreement not declared void - Must not have been expressly declared void by law in force in the country
8. Certainty and possibility of performance – The agreement must be certain and not vague
9. Legal formalities – Contract should be made in writing or in the presence of witness or registered.

Void agreement

An agreement not enforceable by law is said to be void

Void Contract

A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable

Quasi – contract

A quasi – contract is not a contract at all. A contract is intentionally entered into by the parties.

The Essentials For Formation Of Contract

The requirements for formation of contract are **agreement** and **consideration**. There is sometimes said to be a third element, namely, intention to create legal relations. But this third element is rarely a problem and it is true to say that, if it is a separate element, it goes without saying in the vast majority of cases.

Agreement

Agreement entails the transformation of negotiations into a settled bargain or deal. The negotiating process is obviously not contract and the law needs to be able to determine when that process has ceased and the parties have reached finality in their commercial arrangement. The traditional approach to answering the question: have the parties reached agreement? is to apply the rules of **offer and acceptance**. When a properly constituted offer has been made by one party and accepted by the other, then there is agreement at the moment of acceptance or, more precisely, at the moment of *communication* of acceptance.

Consideration

We have already seen that consideration involves a notion of exchange. There are rules about what constitutes an exchange and what might be exchanged in order to amount to a good consideration. We will look at these rules after we have examined the requirements of offer and acceptance. The relationship between the rules of offer and acceptance on the one hand and the rules of consideration on the other hand is that the exchange which constitutes an acceptance of an offer - in effect an exchange of promises is brought about by acceptance - is at the same time the necessary exchange which constitutes the consideration. All this will become clearer when we examine the doctrine of consideration in detail.

Performance of contract

Execution of a contract by which the contracting parties are automatically discharged of their obligations under it. Although contracts usually call for full and precise performance, a substantial performance may be acceptable under certain circumstances, on a pro rata basis, or on payment of damages for the unfinished or defective performance.

Discharge of Contract – A contract may be discharged

1. By performance – Actual performance, Attempted performance

2. By agreement or consent – Express consent, Implied consent (novation,recission,alteration)

3. By impossibility of performance

4. By lapse of time

5. By operation of law – By death, By merger, By insolvency

6. By breach of contract – actual breach, anticipatory breach

<u>THE SALE OF GOODS ACT 1930</u>

An Act to define and amend the law relating to the sale of goods

1. Short title, extent and commencement

(1) This Act may be called the Sale of Goods Act, 1930.

2 It extends to the whole of India [except the State of Jammu and Kashmir].]

(3) It shall come into force on the lst day of July, 1930.

2. Application of provisions of Act 9 of 1872

The unrepeated provisions of the Indian Contract Act, 1872, save insofar as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts for the sale of goods.

FORMATION OF THE CONTRACT OF SALE

Sale and agreement to sell

(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price. There may be a contract of sale between one part-owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale, but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

FORMALITIES OF THE CONTRACT

Contract of sale how made

(1) A contract of sale is made by an offer to buy or sell goods for a price and the acceptance of such offer. The contract may provide for the immediate delivery of the goods or immediate payment of the price of both, or for the delivery or payment by instalments, or that the delivery or payment or both shall be postponed.

(2) Subject to the provisions of any law for the time being in force, a contract of sale may be made in writing or by word of mouth, or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

SUBJECT MATTER OF CONTRACT

Existing or future goods

(1) The goods which form the subject of a contract of sale may be either existing goods, owned or possessed by the seller, or future goods.
(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.
(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods.

Goods perishing before making of contract

Where there is a contract for the sale of specific goods, the contract is void if the goods without the knowledge of the seller have, at the time when the contract was made, perished or become so damaged as no longer to answer to their description in the contract.

Goods perishing before sale but after agreement to sell

Where there is an agreement to sell specific goods, and subsequently the goods without any fault on the part of the seller or buyer perish or become so damaged as no longer to answer to their description in the agreement before the risk passes to the buyer, the agreement is thereby avoided.

THE PRICE

Ascertainment of price

(1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay the seller a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case.

Agreement to sell at valuation

(1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation, the agreement is thereby avoided;

PROVIDED that, if the goods or any part thereof have been delivered to, and appropriated by, the buyer, he shall pay a reasonable price therefore.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain a suit for damages against the party in fault.

CONDITIONS AND WARRANTIES

Stipulations as to time

Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

Condition and warranty

(1) A stipulation in a contract of sale with reference to goods which are the subject thereof may be a condition or a warranty.

(2) A condition is a stipulation essential to the main purpose of the contract, the breach of which gives rise to a right to treat the contract as repudiated.

(3) A warranty is a stipulation collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(4) Whether a stipulation in a contract of sale is a condition or a warranty depends in each case on the construction of the contract. A stipulation may be a condition, though called a warranty in the contract.

When condition to be treated as warranty

(1) Where a contract of sale is subject to any condition to be fulfilled by the seller, the buyer may waive the condition or elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(2) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, 5[***] the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

(3) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

Implied undertaking as to title, etc.

In a contract of sale, unless the circumstances of the contract are such as to show a different intention there is-

(a) an implied condition on the part of the seller that, in the case of a sale, he has a right to sell the goods and that, in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass;

(b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods;

(c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

Sale by description

Where there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

Implied conditions as to quality or fitness

Subject to the provisions of this Act and of any other law for the time being in force, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:-

(1) Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer relies on the seller's skill or judgement, and the goods are of a description which it is in the course of the seller's business to supply (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be reasonably fit for such purpose:

PROVIDED that, in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as its fitness for any particular purpose.

(2) Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or producer or not), there is an implied condition that the goods shall be of merchantable quality;

PROVIDED that, if the buyer has examined the goods, there shall be no implied condition as regards defects which such examination ought to have revealed.

(3) An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

(4) An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

Sale by sample

(1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

(2) In the case of a contract for sale by sample there is an implied condition-

(a) that the bulk shall correspond with the sample in quality;

(b) that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(c) that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

EFFECTS OF THE CONTRACT TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER

Goods must be ascertained

Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer unless and until the goods are ascertained.

Property passes when intended to pass

(1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

(3) Unless a different intention appears, the rules contained in sections 20 to 24 are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer.

Specific goods in a deliverable state

Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment of the price or the time of delivery of the goods, or both, is postponed.

Specific goods to be put into a deliverable state

Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

Specific goods in a deliverable state, when the seller has to do anything thereto in order to ascertain price

Where there is a contract for the sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Sale of unascertained goods and appropriation

(1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied, and may be given either before or after the appropriation is made.

(2) Delivery to carrier-Where, in pursuance of the contract, the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer, and does not reserve the right of disposal, he is deemed to have unconditionally appropriated the goods to the contract.

Goods sent on approval or "on sale or return"

When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the

(a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(b) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time.

Reservation of right of disposal

(1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to a buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.
(2) Where goods are shipped or delivered to a railway administration for carriage by railway and by the bill of lading or railway receipt, as the case may be, the goods are deliverable to the order of the seller or his agent, the seller is prima facie deemed to reserve right of disposal.
(3) Where the seller of goods draws on the buyer for the price and transmits to the buyer the bill of exchange together with the bill of lading or, as the case may be, the railway receipt, to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading or the railway receipt if he does not honour the bill of exchange; and, if he wrongfully retains the bill lading or the railway receipt, the property in the goods does not pass to him.
Explanation : In this section, the expressions "railway" and "railway administration" shall have the meanings respectively assigned to them under the Indian Railways Act, 1890.]

Risk prima facie passes with property

Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:

PROVIDED that, where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

PROVIDED ALSO that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party.

TRANSFER OF TITLE

Sale by person not the owner

Subject to the provisions of this Act and of any other law for the time being in force, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell

PROVIDED that, where a mercantile agent is, with the consent of the owner, in possession of the goods or of a document of title to the goods, any sale made by him, when acting in the ordinary course of business of a mercantile agent, shall be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the buyer acts is good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by one of joint owners

If one of several joint owners of goods has the sole possession of them by permission of the co-owners, the property in the goods in transferred to any person who buys them of such joint owner in good faith and has not at the time of the contract of sale notice that the seller has not authority to sell.

Sale by person in possession under voidable contract

When the seller of goods has obtained possession thereof under a contract voidable under section 19 or section 19A of the Indian Contract Act, 1872, but the contract has not rescinded at the time of the sale, the buyer acquires a good title to the goods, provided he buys them in good faith and without notice of the seller's defect of title.

Seller or buyer in possession after sale

(1) Where a person, having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same.

(2) Where a person, having bought or agreed to buy goods, obtains with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have effect as if such lien or right did not exist.

PERFORMANCE OF THE CONTRACT

Duties of seller and buyer

It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them, in accordance with the terms of the contract of sale.

Payment and delivery are concurrent conditions
Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price, and the buyer shall be ready and willing to pay the price in exchange for possession of the goods.

Delivery
Delivery of goods sold may be made by doing anything which the parties agree shall be treated as delivery or which has the effect of putting the goods in the possession of the buyer or of any person authorised to hold them on his behalf.

Effect of part delivery
A delivery of part of goods, in progress of the delivery of the whole has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Buyer to apply for delivery
Apart from any express contract, the seller of goods is not bound to deliver them until the buyer applies for delivery.

Rules as to delivery
(1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, if not then in existence, at the place at which they are manufactured or produced.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

PROVIDED that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.
(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

Delivery of wrong quantity
(1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered he shall pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate.

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest, or may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement of course of dealing between the parties.

Installment deliveries

(1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for, and the seller makes no delivery or defective delivery in respect of one or more installments, or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case, whether the breach of contract is a repudiation of the whole contract, or whether it is a severable breach giving rise to a claim for compensation, but not to a right to treat the whole contract as repudiated.

Delivery to carrier or wharfing

(1) Where, in pursuance of a contract of sale, the seller is authorised or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is prima facie deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer, the seller shall make such contract with the carrier or wharfinger on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do, and the goods are lost or damaged in course of transit or whilst in the custody of the wharfinger, the buyer may decline to treat the delivery to the carrier or wharfinger as a delivery to himself, or may hold the seller responsible in damages.

(3) Unless otherwise agreed, where goods are sent by the seller to the buyer by a route involving sea transit, in circumstances in which it is usual to insure, the seller shall give such notice to the buyer as may enable him to insure them during their sea transit and if the seller fails so to do, the goods shall be deemed to be at his risk during such sea transit.

Risk where goods are delivered at distant place

Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer shall, nevertheless, unless otherwise agreed, take any risk of deterioration in the goods necessarily incident to the course of transit.

Buyer's right of examining the goods

(1) Where goods are delivered to the buyer which he has not previously examined, he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he is bound, on request, to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

Acceptance

The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the goods without intimating to the seller that he has rejected them.

Buyer not bound to return rejected goods

Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them.

Liability of buyer for neglecting or refusing delivery of goods

When the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods:

PROVIDED that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

"Unpaid seller" defined

(1) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Act.-

(a) When the whole of the price has not been paid or tendered;

(b) When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Chapter, the term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price.

Unpaid seller's rights

(1) Subject to the provisions of this Act and of any law for the time being in force, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law-

(a) a lien on the goods for the price while he is in possession of them;

(b) in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them;

(c) a right of re-sale as limited by this Act.

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer.

UNPAID SELLER'S LIEN

Seller's lien

(1) Subject to the provisions of this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price in the following cases, namely:-

(a) where the goods have been sold without any stipulation as to credit;

(b) where the goods have been sold on credit, but the term of credit has expired;

(c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

Part delivery

Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien on the remainder, unless such part delivery has been made under such circumstances as to show an agreement to waive the lien.

Termination of lien

(1) The unpaid seller of goods loses his lien thereon-

(a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(b) when the buyer or his agent lawfully obtains possession of the goods;

(c) by waiver thereof.

(2) The unpaid seller of goods, having a lien thereon, does not lose his lien by reason only that he has obtained a decree for the price of the goods.

STOPPAGE IN TRANSIT

Right of stoppage in transit

Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit, and may retain them until payment or tender of the price.

How stoppage in transit is effected

(1) The unpaid seller may exercise his right of stoppage in transit either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice, to be effectual, shall be given at such time and in such circumstances, that the principal, by the exercise of reasonable diligence, may communicate it to his servant or agent in time to prevent a delivery to the buyer.

(2) When notice of stoppage in transit is given by the seller to the carrier or other bailee in possession of the goods, he shall re-deliver the goods to, or according to the directions of, the seller. The expenses of such re-delivery shall be borne by the seller.

Effect of sub-sale or pledge by buyer

(1) Subject to the provisions of this Act, the unpaid seller's right of lien or stoppage in transit is not affected by any sale or other disposition of the goods which the buyer may have made, unless the seller has assented thereto: PROVIDED that where a document of title to goods has been issued or lawfully transferred to any person as buyer or owner of the goods, and that person transfers the document to a person who takes the document in good faith and for consideration, then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or stoppage in transit is defeated, and, if such last mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or stoppage in transit can only be exercised subject to the rights of the transferee.

(2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

SUITS FOR BREACH OF THE CONTRACT

Suit for price

(1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods.
(2) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

Damages for non-acceptance
Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may sue him for damages for non-acceptance.
Damages for non-delivery
Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may sue the seller for damages for non-delivery.
Specific performance
Subject to the provisions of Chapter II of the Specific Relief Act, 1877, in any suit for breach of contract to deliver specific or ascertained goods, the court may, if it thinks fit, on the application of the plaintiff, by its decree direct that the contract shall be performed specifically, without giving the defendant the option of retaining the goods on payment of damages. The decree may be unconditional, or upon such terms and conditions as to damages, payment of the price or otherwise, as the court may deem just, and the application of the plaintiff may be made at any time before the decree.

Remedy for breach of warranty
(1) Where there is a breach of warranty by the seller, or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may-
(a) set up against the seller the breach of warranty in diminution or extinction of the price, or
(b) sue the seller for damages for breach of warranty.
(2) The fact that a buyer has set up a breach of warranty in diminution or extinction of the price does not prevent him from suing for the same breach of warranty if he has suffered further damage.
Repudiation of contract before due date
Where either party to a contract of sale repudiates the contract before the date of delivery, the other may either treat the contract as subsisting and wait till the date of delivery, or he may treat the contract as rescinded and sue for damages for the breach.

NEGOTIABLE INSTRUMENTS ACT 1881
The Negotiable Instruments Act was passed in 1881. Some provisions of the Act have become redundant due to passage of time, change in methods of doing business and technology changes.
The instrument is mainly an instrument of credit readily convertible into money and easily passable from one hand to another.
LOCAL USAGE PREVAILS UNLESS EXCLUDED - The Act does not affect any local usage relating to any instrument in an oriental language. However, the local usage can be excluded by any words in the body of the instrument, which indicate an intention that the legal relations of the parties will be governed by provisions of Negotiable Instruments Act and not by local usage. [section 1]. - - Thus, unless specifically excluded, local usage prevails, if the instrument is in regional language.

BILL OF EXCHANGE AND PROMISSORY NOTES EXCLUDED FROM INFORMATION TECHNOLOGY ACT - Section (1)(4)(a) of Information Technology Act provides that the Act will not apply to Bill of Exchange and Promissory Notes. Thus, a Bill of Exchange or Promissory Note cannot be made by electronic means. However, cheque is covered under of Information Technology Act and hence can be made and / or sent by electronic means.

CHANGES MADE BY AMENDMENT ACT, 2002 -
(a) Definition of ‗cheque‘ and related provisions in respect of cheque amended to facilitate electronic submission and/or electronic clearance of cheque. Corresponding changes were also made in Information Technology Act.
(b) Bouncing of cheque - Provisions amended
* Provision for imprisonment upto 2 years against present one year
* Period for issuing notice to drawer increased from 15 days to 30 days
* Government Nominee Directors excluded from liability
* Court empowered to take cognizance of offence even if complaint filed beyond one month
* Summary trial procedure permitted for imposing punishment upto one year and fine even exceeding Rs 5,000
* Summons can be issued by speed post or courier service
* Summons refused will be deemed to have been served
* Evidence of complainant through affidavit permitted * Bank‘s slip or memo indicating dishonour of cheque will be *prima facie* evidence unless contrary proved * Offence can be compounded. **- - *The amendments have been made effective from 6-2-2003.***

Transferee can get better title than transferor – Normal principle is that a person cannot transfer better title to property that he himself has. For example, if a person steals a car and sells the same, the buyer does not get any legal title to the car as the transferor himself had no title to the car. The real owner of car can anytime obtain possession from the buyer,*even if* the buyer had purchased the car in good faith and even if he had no idea that the seller had no title to the car. This provision is no doubt sound, but would make free negotiability of instrument difficult, as it would be difficult to verify title of transferor in many cases. Hence, it is provided that if a person acquires ‗Negotiable Instrument‘ in good faith and without knowledge of defect in title of the transferor, the transferee can get better title to the negotiable instrument, even if the title of transferor was defective. This is really to ensure free negotiability of instrument so that persons can deal in the instrument without any fear.

DIFFERENCE BETWEEN NEGOTIATION AND TRANSFER/ASSIGNMENT - Difference between ―Negotiation‘ and assignment/transfer is that in case of negotiation, the transferee can get title better than transferor, which can never happen in assignment/transfer.

STATUTORY DEFINITION OF NEGOTIABLE INSTRUMENT -
A ―negotiable instrument‖ means a promissory note, bill of exchange or cheque payable either to order or to bearer. A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two, or one or some of several payees. [section 13(2)].

***Promissory Note* -** A ―promissory note‖ is an instrument in writing (not being a bank-note or a currency-note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument. [Section 4].
Bill of Exchange – As per statutory definition, ―bill of exchange‖ is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument. [Para 1 of section 5]. A cheque is a special type of Bill of Exchange. It is drawn on banker and is required to be made payable on demand.

DRAWER, DRAWEE AND PAYEE **-** The maker of a bill of exchange or cheque is called the ―drawer‖; the person thereby directed to pay is called the ―drawee‖ [section 7 para 1]. **- -** The person named in the instrument, to whom, or to whose order the money is by the instrument directed to be paid, is called the

―payee‖ [section 7 para 5]. - - However, a drawer and payee can be one person as he can order to pay the amount to himself.

AT SIGHT, ON PRESENTMENT, AFTER SIGHT - In a promissory note or bill of exchange the expressions ―at sight‖ and ―on presentment‖ mean ‗on demand'. The expression ―after sight‖ means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance. [section 21]. - - Thus, in case of document ‗after sight', the countdown starts only after document is ‗sighted' by the concerned party.

Stamp duty on Negotiable Instrument – A negotiable instrument is required to be stamped. Stamp duty on Bill of Exchange and Promissory Note is a Union Subject. Hence, stamp duty is same all over India.

Hundi – a local instrument – *Hundi* is an indigenous instrument similar to Negotiable Instrument. The term is derived from Sanskrit word ‗hund' which means ‗to collect'. If it is drawn in local language, it is governed by local usage and customs.

Provisions in respect of Cheques - A ―cheque‖ is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand. ‗Cheque' includes electronic image of a truncated cheque and a cheque in electronic form. [section 6]. The definition is amended by Amendment Act, 2002, making provision for electronic submission and clearance of cheque. The cheque is one form of Bill of Exchange. It is addressed to Banker. It cannot be made payable after some days. It must be made payable ‗on demand'.

Crossing of Cheque – The Act makes specific provisions for crossing of cheques.

CHEQUE CROSSED GENERALLY - Where a cheque bears across its face an addition of the words ―and company‖ or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words ―not negotiable‖, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally. [section 123]
CHEQUE CROSSED SPECIALLY - Where a cheque bears across its face an addition of the name of a banker, either with or without the words ―not negotiable‖, that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker. [section 124].

PAYMENT OF CHEQUE CROSSED GENERALLY OR SPECIALLY - Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker. Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection. [section 126].

CHEQUE BEARING ―NOT NEGOTIABLE‖ - A person taking a cheque crossed generally or specially, bearing in either case the words ―not negotiable‖, shall not have, and shall not be capable of giving, a better title to the cheque than that which the person form whom he took it had. [section 130]

Electronic Cheque -Provisions of electronic cheque has been made by Amendment Act, 2002. As per *Explanation* I(a) to section 6, ‗A cheque in the electronic form' means a cheque which contains the exact mirror image of a paper cheque, and is generated, written and signed by a secure system ensuring the minimum safety standards with the use of digital signature (with or without biometrics signature) and asymmetric crypto system.

Truncated Cheque :

Penalty in case of dishonour of cheques for insufficiency of funds If a cheque is dishonoured even when presented before expiry of 6 months, the payee or holder in due course is required to give notice to drawer of cheque within 30 days from receiving information from bank.. The drawer should make payment within 15 days of receipt of notice. If he does not pay within 15 days, the payee has to lodge a complaint with Metropolitan Magistrate or Judicial Magistrate of First Class, against drawer within one month from the last day on which drawer should have paid the amount. The penalty can be upto two years imprisonment or fine upto twice the amount of cheque or both. The offense can be tried summarily. Notice can be sent to drawer by speed post or courier. Offense is compoundable. It must be noted that even if penalty is imposed on drawer, he is still liable to make payment of the cheque which was dishonoured. Thus, the fine/imprisonment is in addition to his liability to make payment of the cheque.

Return of cheque should be for insufficiency of funds The offence takes place only when cheque is dishonoured for insufficiency of funds or where the amount exceeds the arrangement. Section 146 of NI Act only provides that once complainant produces bank‘s slip or memo having official mark that the cheque is dishonoured, the Court will presume dishonour of the cheque, unless and until such fact is disproved

Calculation of date of maturity of Bill of Exchange - If the instrument is not payable on demand, calculation of date of maturity is important. An instrument not payable on demand is entitled to get 3 days grace period.

Presentment of Negotiable Instrument - The Negotiable Instrument is required to be presented for payment to the person who is liable to pay. Further, in case of Bill of Exchange payable ‗after sight‘, it has to be presented for acceptance by drawee. ‗Acceptance‘ means that drawee agrees to pay the amount as shown in the Bill. This is required as the maker of bill (drawer) is asking drawee to pay certain amount to payee. The drawee may refuse the payment as he has not signed the Bill and has not accepted the liability.

In case of Promissory Note, such acceptance is not required, as the maker who has signed the note himself is liable to make payment. However, if the promissory note is payable certain days ‗after sight‘ [say 30 days after sight], it will have to be presented for ‗sight‘.
If the instrument uses the expressions ―on demand‖, ―at sight‖ or ―on presentment‖, the amount is payable on demand. In such case, presentment for acceptance is not required. The Negotiable Instrument will be directly presented for payment

Acceptance and payment for honour and drawee in need Provisions for acceptance and payment for honour have been made in case when the negotiable instrument is dishonoured. Bill is accepted for honour when it is dishonoured when presenting for acceptance, while payment for dishonour is made when Bill is dishonoured when presented for payment.

Negotiation of Instrument - The most salient feature of the instrument is that it is negotiable. Negotiation does not mean a mere transfer. After negotiation, the holder in due course can get a better title even if title of transferor was defective. If the instrument is ‗to order‘, it can be negotiated by making endorsement. If the instrument is ‗to bearer‘, it can be negotiated by delivery. As per definition of ‗delivery‘, such delivery is valid only if made by party making, accepting or indorsing the instrument or by a person authorised by him.

Liability of parties Basic liability of payment is as follows – (a) Maker in case of Promissory Note or Cheque and (b) Drawer of Bill till it is accepted by drawee and acceptor after the Bill is accepted. They are liable as ‗principal debtors‘ and other parties to instrument are liable as sureties for maker, drawer or acceptor, as the case may be. When document is endorsed number of times, each prior party is liable to each subsequent party as principal debtor. In case of dishonour, notice is required to be given to drawer and all earlier endorsees.

PRESUMPTIONS AS TO NEGOTIABLE INSTRUMENTS **-** Until the contrary is proved, the following presumptions shall be made :— (a) **of consideration** - that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration; - - (b) **as to date** - that every negotiable instrument bearing a date was drawn on such date; - - (c) **as to time of acceptance** - that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity; - - (d) **as to time of transfer** - - that every transfer of a negotiable instrument was made before its maturity; - -

(e) **as to order of endorsements** - that the endorsements appearing upon a negotiable instrument were made in the order in which they appear thereon; (f) **as to stamps** -that a lost promissory note, bill of exchange or cheque was duly stamped; - - (g) **that holder is a holder in due course** - that the holder of a negotiable instrument is a holder in due course : provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder in due course lies upon him

AGENCY

An agent is a person employed to do any act for another, or to represent another tin dealings with third person, the person to whom such act is done, or who is so represented is called the principal.

Creation of Agency

1. Agency by express agreement
2. Agency by implied agreement – agency by estoppels, agency by holding out, agency by necessity
3. Agency by ratification

Classification of Agents

1. Extent of their authority – Special Agent, General Agent, Universal Agent

2. Nature of work performed – Commercial or mercantile agent, Banker, Non mercantile agent

Duties and rights of the agent

Agency termination

1. By act of party – Agreement, revocation by principal and by agent

2. By operation of law – performance of contract, Expiry of time, Death, Destruction of subject matter, becoming alien enemy, dissolution of company

UNIT – II

THE COMPANY ACT 1956 :

Company act 1956 :

Company act 1956 The company act came into force from 1 April 1956. The act was based upon the recommendation of company law committee appointed under the chairmanship of Mr. C. H. Bhaba on 25 - 10-1950. The committee submitted its report in 1952. The Indian company act extends to the whole India.

COMPANY :

COMPANY Section 3(1)(i)&(ii) of the Companies Act, 1956 defines a company as: ―a company formed and registered under this Act or an existing Company‖. ‗Existing Company' means a company formed and registered under any of the earlier Company Laws

INCORPORATION UNDER COMPANY ACT 1956.. :

1. Separate legal entity :

1. Separate legal entity A company is an separate legal entity means it is different from its members. It works as a individual body. It can make contracts, open a bank account, can sue and be sued by others.

Artificial person :

Artificial person A company is a purely a creation of law. It is invisible, intangible and exists only in the eyes of law. It has no soul, no body, but has a position to enter or exit into a contract. In short it can do every thing just like a natural person.

Perpetual existence sec 34(2) :

Perpetual existence sec 34(2) Section 34(2) of the act states that an incorporated company has perpetual life. The life of the company is not related to the life of the members . Law create the company and law alone can dissolve it. The existence of the company is not affected by death, insolvency, retirement or transfer of share of members.

Common seal :

Common seal A company being an artificial person can not work as a natural being. Therefore, it has to work through its directors, officers and other employees. Common seal used as a official signature of a company.

Limited liability :

Limited liability It means that the liability of a member shall be limited to the value of the share held by him, he cannot be called upon to bear the loss from his personal property.

Transferability of share sec 82 :

Transferability of share sec 82 The share of a company are freely transferable. The shareholder can transfer his share to any person without the consent of other members. A company cannot impose absolute restrictions on the rights of member to transfer their shares

Types of companies (Registered under company act 1956) :

Types of companies (Registered under company act 1956)

INCORPORATED :

1.CHARTERED COMPANIES These companies are incorporated under a special charter such as the east India company. The bank of England. the company act does not apply to it. 2.STATUTORY COMPANIES These companies are incorporated by special act of legislature(act of parliament or state legislature) eg. RBI, UTI, LIC REGISTERED COMPANIES companies registered under the Indian Companies Act, 1956 are called registered companies. To become a registered company one has to take the certification of incorporation from the registrar.

COMPANY WITH LIABILITY :

COMPANY WITH LIABILITY COMPANY LIMITED BY SHARE [sec12(2)a] companies in which the liability of its members is limited to the extent of the amount unpaid on the shares held by a particular member. COMPANY LIMITED BY GUARANTEE The liability of members is limited to a fixed amount which members undertake to contribute to the assets of the company in case of its winding up. UNLIMITED LIABILITY wherein members are liable for the debts of the company irrespective of their interest in the company

Number of members :

Number of members PRIVATE COMPANIES [sec 3(1)(iii)] A private company is one which, by its Article of association restricts the right to transfer its share, if any limits the maximum number of its member to fifty prohibits any invitation to the public to subscribe for any share or debenture of the company.

PUBLIC COMPANY [SEC 3(1)(iv)] A public company means a company which is not a private company. In other words, a public company, means a company which by its article does not- limit the number of its member. prohibit any invitation to the public to subscribe for any share in, or debentures, of the company.

companies according to control :
HOLDING AND SUBSIDIARY COMPANY where a company has control over another company, it is known as the holding company The company over which control is exercised is called the subsidiary company.
ownership :
GOVERNMENT COMPANY (sec617) a government company means any company in which at least 51% of the paid up share capital is held by the central government or by any state government or partly by one or more state Government.

MEMORENDUM OF ASSOCIATION:
The first step in the formation of the company is to prepare memorandum of association. it is one of the documents which has to be filed with registrar of the companies at the time of incorporation of a company. It is vital document; tell about the object of the company's formation, the power of the company as well as the boundaries beyond which the action of the company cannot go.
Contents of Memorendum of association
Name clause, Registered office clause, Object clause, Doctrine of ultra-vires, Liability clause,Capital clause
Importance of memorandum:
It defines the rights and liabilities of the members. It shows the capital structure of the company It shows the object of the company It specifies the state in which the registered office of the company is situated. It shows the constitution of the company It specify the conditions under which the company has been incorporated.

Article of association :
Contents of article of association :
Rights of different classes of shareholder. Use of common seal of the company. Keeping of book of accounts and their audit. Appointment , powers, duties, salary of MD, manager, and secretary. Borrowing power of directors. Voting rights of member . Board meetings and proceedings. Winding up company.

Prospectus
A prospectus, as per Section 2(36), means any document described or issued as prospectus and includes any notice, circular, advertisement or other document inviting deposits from the public or inviting offers from the public for the subscription or purchase of any shares or debentures of a body corporate.
Thus, a prospectus is not merely an advertisement; it may be a circular or even a notice. A document shall be called a prospectus if it satisfies two things:
(a) It invites subscription to shares or debentures or invites deposits.
(b) The aforesaid invitation is made to the public.

Duties of Director
Statutory Duties:
1.**To file return of allotment:** Section 75 of the Companies Act, 1956 requires a company to file with the Registrar, within a period of 30 days, a return of the allotments stating the specified particulars. 2. **Not to issue irredeemable preference share or shares or share redeemable after 20 years**
3.**To disclose interest**
4. **To disclose receipt from transfer of property**.
5. **To disclose receipt of compensation from transferee of shares**
6. **Duty to attend Board meetings**
7. **Other Duties:**

A. To convene statutory, Annual General meeting (AGM) and also extraordinary general meetings
B. To prepare and place at the AGM along with the balance sheet and profit & loss account a report on the company's affairs including the report of the Board of Directors
C. To authenticate and approve annual financial statement

D. To appoint first auditor of the company
E. To appoint cost auditor of the company

General Duty:
1. Duty of good faith, 2. Duty to care, 3. Duty not to delegate
Director's Liability:
1. Breach of fiduciary duty, 2. Ultra virs acts, 3. Negligence, 4. Mala fide acts

UNIT III

INDUSTRIAL LAW

Factories Act 1948

In India the first Factories Act was passed in 1881. This Act was basically designed to protect children and to provide few measures for health and safety of the workers. This law was applicable to only those factories, which employed 100 or more workers. In 1891 another factories Act was passed which extended to the factories employing 50 or more workers.

―Factory‖ is defined in Section 2(m) of the Act. It means any premises including the precincts thereof-

i. Where on ten or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on; or

ii .Where on twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on; But does not include a mine subject to the operation of the MinesAct,1952 or a mobile unit belonging to the Armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.

Employer to ensure health of workers pertaining to

Cleanliness Disposal of wastes and effluents -Sec 12
Ventilation and temperature dust and fume -Sec 13
Overcrowding Artificial humidification Lighting – Sec. 14
Drinking water Spittoons.- Sec. 18

Safety Measures

Fencing of machinery – Sec. 21
Work on near machinery in motion. – Sec 22
Employment prohibition of young persons on dangerous machines. – Sec 23
Striking gear and devices for cutting off power. – Sec 24
Self-acting machines.- Sec 25
Casing of new machinery.- Sec 26
Prohibition of employment of women and children near cotton-openers.- Sec27
Hoists and lifts.- Sec 28.

Welfare Measures

• Washing facilities – Sec 42
• Facilities for storing and drying clothing – Sec 43
• Facilities for sitting – Sec 44
• First-aid appliances – one first aid box not less than one for every 150 workers– Sec 45
• Canteens when there are 250 or more workers. – Sec 46
• Shelters, rest rooms and lunch rooms when there are 150 or more workers. – Sec 47
• Creches when there are 30 or more women workers. – Sec 48
• Welfare office when there are 500 or more workers. – Sec 49

Working Hours, Spread Over & Overtime of Adults

• Weekly hours not more than 48- Sec: 51
• Daily hours, not more than 9 hours. - Sec: 54
• Intervals for rest at least ½ hour on working for 5 hours. - Sec: 55
• Spread over not more than 10½ hours. - Sec: 56
• Overlapping shifts prohibited. - Sec: 58
• Extra wages for overtime double than normal rate of wages - Sec:59
• Restrictions on employment of women before 6AM and beyond 7 PM. - Sec: 60

Annual Leave with Wages

• A worker having worked for 240 days @ one day for every 20 days and for a child one day for working of 15 days.
• Accumulation of leave for 30 days.

THE PAYMENT OF WAGES ACT, 1936

OBJECT OF THE ACT

- To regulate the payment of wages to certain classes of employed persons. Two fold:-First the date of payment of wages and Secondly the deductions from wages whether as fine or otherwise. APPLICABILITY OF THE ACT

Persons employed in:-

- Any factory (a saw mill, ginning factory, godowns, yards etc as defined in Factories Act, 1948).
- Tramway service or motor transport service engaged in carrying passengers or good or both by road for hire or reward.
- Air transport service Dock, Wharf or Jetty, Inland vessel, mechanically propelled Mine, quarry or oil-field plantation
- Workshop or other establishment etc.

WAGE

Wage includes any remumeration:-

Payable under any award or settlement between the parties or order of a Court;

Over time work or holiday or any leave period;

Any additional remuneration under the terms of employment.

Wage does not includes any bonus, pension fund or provident fund, travelling allowance and any gratuity.

WAGES TO BE PAID IN CURRENT COINS OR CURRENCY NOTES

a . All wages shall be paid in current coins or currency notes or in both.

After obtaining the authorization, either by Cheque or by crediting the wages in employees banks Account {Section 6}

TIME OF PAYMENT OF WAGES

The wages of every person employed is paid. When less than 1000 persons are employed shall be paid before the expiry of the 7th day of the following month. When more than 1000 workers, before the expiry of the 10th day of the following month. (Section 5). Drawing average wage upto Rs.6500 pm as amended with effect from 6th September 2005.

COVERAGE OF EMPLOYEES

DEDUCTION MADE FROM WAGES

Deductions such as, fine, deduction for amenities and services supplied by the employer, advances paid, over payment of wages, loan, granted for house-building or other purposes, income tax payable, in pursuance of the order of the Court, Provident Fund contributions, cooperative societies, premium for Life Insurance, contribution to any fund constituted by employer or a trade union, recovery of losses, Employees State Insurance contribution etc. (Section 7).

DEDUCTION FOR ABSENCE FROM DUTIES FOR UNAUTHORISED ABSENCE

Absence for whole or any part of the day – If ten or more persons absent without reasonable cause, deduction of wages upto 8 days {Section 9}

For default or negligence of an employee resulting into loss. Show cause notice has to be given to the employee. {Section 10}

DEDUCTION FOR DAMAGE OR LOSS DEDUCTIONS FOR SERVICE RENDERED

When accommodation amenity or service has been accepted by the employee. {Section 11}

Deductions for recovery of Advance.

Deduction for recovery of loans.

Deductions for payment to co-operative societies and Insurance schemes.

AUTHORITIES UNDER THIS ACT INSPECTORS.

AUTHORITY TO HEAR CLAIMS.

Any commissioner for Workmen‘s Compensation; or Any Regional Labour Commissioner Any Assistant Labour Commissioner. Presiding Officer of any Labour Court or Industrial Tribunal.

PRESENTATION OF CLAIM APPLICATION

SINGLE APPLICATION IN RESPECT OF CLAIMS FROM UNPAID GROUP
APPEAL

Payment Of Bonus Act,1965.

Applicability :

Applicability Every factory or an establishment employing not less than 20 employees during an accounting year. The establishment once covered under the Act shall continue the coverage even if the number of employees falls below 20 subsequently.

Employee :

Employee Any person other than apprentice, engaged for hire or reward Includes supervisors Includes Managers. Includes all administrative staff. Includes a person who has worked not less than 30 days in an accounting year. But does not include any person whose salary exceeds 10000/- pm.

Can a person drawing wages more than 10000 make a claim? :

Can a person drawing wages more than 10000 make a claim? No. It is not maintainable under the Act.

Maximum salary :

Maximum salary Employees drawing salary upto Rs. 10000/- are eligible for Bonus. But their salary will be limited to Rs. 3500/- for the purpose of Bonus.

Max and Min Bonus :

Max and Min Bonus Maximum of 20% and Minimum of 8.33% of the Salary/ Wages. Maximum amount of Bonus is limited to Rs.84000/- (3500x12x20/100)

Can Bonus be denied to an employee on the condition that on the day of declaration of Bonus he was not in employment ? :

Can Bonus be denied to an employee on the condition that on the day of declaration of Bonus he was not in employment ? NO. It violates the provisions of Sec. 8 of the Act.

Whether a Probationer is eligible for Bonus ? :

Whether a Probationer is eligible for Bonus ? A probationer will be eligible for bonus as there is no exclusion in the definition of _employee‘ under the Act.

Forfeiture of Bonus. :

Forfeiture of Bonus. Sec. 9.Bonus can be forfeited to an employee who has been dismissed from service on grounds of fraud, theft, misappropriation, or sabotage of any property of the establishment.

Industrial Disputes Act 1947

Purpose of the Act

The Industrial Disputes Act, 1947 came into existence in April 1947.It was enacted to make provisions for investigation and settlement of industrial disputes and for providing certain safeguards to the workers.

AUTHORITIES UNDER THIS ACT

Works Committee

In the case of any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer.

Conciliation officers

The appropriate Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Boards of Conciliation

(1)The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting, the settlement of an industrial dispute.

(2) A Board shall consist of a Chairman and two or four other members, as the appropriate Government thinks fit.

(3) The Chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the

recommendation of that party: **Provided** that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.
(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number

Courts of Inquiry
(1)The appropriate Government may as occasion arises by notification in the Official Gazette, constitute a Court of Inquiry for inquiring into an matter appearing to be connected with or relevant to an industrial dispute.
(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman.
(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number

Labour Courts
(1)The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.
(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.
(3) A person shall not be qualified for appointment as the Presiding Officer of a Labour Court, unless -
(a) he is, or has been, a Judge of a High Court; or
(b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or
(c) he has held any judicial office in India for not less than seven years ; or
(d) he has been the Presiding Officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

Tribunals
(1)The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter and for performing such other functions as may be assigned to them under this Act.
(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.
(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless:
(a) he is, or has been, a Judge of a High Court; or
(b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge.
(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

National Tribunals
(1)The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.
(2) A National Tribunal shall consist of one-person only to be appointed by the Central Government.
(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless he is, or has been, a Judge of a High Court.
(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

Disqualifications for the Presiding Officers of Labour Courts, Tribunals and National Tribunals
No person shall be appointed to, or continue in, the office of the Presiding Officer of a Labour Court, Tribunal or National Tribunal, if -
(a) he is not an independent person; or
(b) he has attained the age of sixty-five years.

UNIT IV

INCOME TAX ACT AND VAT RIGHT TO INFORMATION ACT

It is the implementation of freedom of information legislation in India on a national level "to provide for setting out the practical regime of right to information for citizens." The Act applies to all States and Union Territories of India, except the State of Jammu and Kashmir - which is covered under a State-level law. Under the provisions of the Act, any citizen (excluding the citizens within J&K) may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. This law was passed by Parliament on 15 June 2005 and came fully into force on 13 October 2005

Information

The Act specifies that citizens have a right to:

- request any information (as defined).
- take copies of documents.
- inspect documents, works and records.
- take certified samples of materials of work.
- obtain information in form of printouts, diskettes, floppies, tapes, video cassettes 'or in any other electronic mode' or through printouts.

Process

Under the Act, all authorities covered must appoint their **Public Information Officer** (PIO). Any person may submit a request to the PIO for information in writing. It is the PIO's obligation to provide information to citizens of India who request information under the Act. If the request pertains to another public authority (in whole or part) it is the PIO's responsibility to transfer/forward the concerned portions of the request to a PIO of the other within 5 days. In addition, every public authority is required to designate **Assistant Public Information Officers** (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority. The citizen making the request is not obliged to disclose any information except his name and contact particulars.

The Act specifies time limits for replying to the request.

- If the request has been made to the PIO, the reply is to be given within **30 days** of receipt.
- If the request has been made to an APIO, the reply is to be given within **35 days** of receipt.
- If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is **30 days** but computed from the day after it is received by the PIO of the transferee authority.
- Information concerning corruption and Human Rights violations by scheduled Security agencies (those listed in the Second Schedule to the Act) is to be provided within **45 days** but with the prior approval of the Central Information Commission.
- However, if life or liberty of any person is involved, the PIO is expected to reply within **48 hours**.

Since the information is to be paid for, the reply of the PIO is necessarily limited to either denying the request (in whole or part) and/or providing a computation of "further fees". The time between the reply of the PIO and the time taken to deposit the further fees for information is excluded from the time allowed.

If information is not provided within this period, it is treated as deemed refusal. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided in the times prescribed is to be provided free of charge.

For Central Departments as of 2006, there is a fee of Rs. 10 for filing the request, Rs. 2 per page of information and Rs. 5 for each hour of inspection after the first hour. If the applicant is a Below Poverty Card holder, then no fee shall apply. Such BPL Card holders have to provide a copy of their BPL card along with their application to the Public Authority. States Government and High Courts fix their own rules.

What is not open to disclose?

- The following is exempt from disclosure [S.8)]
- information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, "strategic, scientific or economic" interests of the State, relation with foreign State or lead to incitement of an offence;
- information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

- information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- information received in confidence from foreign Government;
- information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- information which would impede the process of investigation or apprehension or prosecution of offenders;
- cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
- information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual (but it is also provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied by this exemption);

- Notwithstanding any of the exemptions listed above, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests. (NB: This provision is qualified by the proviso to sub-section 11(1) of the Act which exempts disclosure of "trade or commercial secrets protected by law" under this clause when read along with 8(1)(d))

VAT

Value Added Tax (VAT) Definition

Most of the states in India, with effect from April1,2005 have adopted Value added Tax. Value added tax or VAT is an indirect tax, which is imposed on goods and services at each stage of production, starting from raw materials to final product. VAT is levied on the value additions at different stages of production.

Concept of VAT

- VAT is a multi – point sales tax with set – off for tax paid on purchase.
- VAT being a multi – stage levy, it allows registered dealers to take credit for the tax paid on purchase from registered suppliers against the tax payable on the sales.

What is Value Added Tax?

VAT is a multi –point tax with set-off for tax paid on purchases. It is collected in installments at each transaction in the production and distributions system. It does not have cascading effect due to the system of deduction or tax credit mechanism.

The following illustration will help in highlighting the differences between a single point tax and Vat.

Assumptions:

First Stage

Selling price of manufacturer (Excluding tax) Rs. 100.00
Tax rate applicable- 20% Rs. 20.00
Selling price including tax Rs. 120.00

Second Stage

Cost price to Wholesale dealer Rs. 120.00
Overheads and profit margin Rs. 60.00
Selling price Rs. 180.00

Third stage:

Cost price to retail trader Rs.180.00
Overheads and profit margin at 50% Rs. 90.00
Selling price to consumer Rs.270.00

Thus, from the above illustration it is clear that the government gets only Rs. 20.00 whereas due to the cascading effect of tax the consumer is under compulsion to pay Rs. 45.00 indirectly towards tax.

By the introduction of vat the Tax base is widened and every intermediary is required to pay tax only on the value addition made by him.

Objecitves of VAT

1. Eliminates multiplicity of taxes such as entry tax, turnover tax, sales tax, surcharge, Excise duty etc,
2. Prevents double taxation with cascading effect.
3. Eliminates inter – state tax (eg. Central Sales Tax)
4. Rationalize all tax burdens in the cases of goods and services until sold for consumption.
5. Makes the tax structure, simple, efficient and transparent.
6. Improve tax compliance.
7. Development of fair and healthy competition in the interest of consumers.

What are the advantage of VAT?

- Less chances for tax evasion as the incidence of tax spread over every dealer.
- Lower tax rate.
- Increased revenue to state gets the tax on the sale price.
- A check on creation of black money.
- No procedural hazards.
- Uniformity of prices all over the country

VAT Rate Structure

- 1% on gold, Silver, precious metals, gems, and precious stones.
- 4% on Essential goods and primary raw materials.
- 12.5% on goods not covered in any schedule.

What is INPUT TAX

Input generally mean goods purchased by a dealer in the course of his business for re – sale or for use in the manufacture, processing, packing and storing of other goods or any other business use. The tax paid on inputs is known as Input Tax.

Dear Sir/Madam,

Advantages of VAT

1) Coverage

If the tax is carried through the retail level, it offers all the economic advantages of a tax that includes the entire retail price within its scope, at the same time the direct payment of the tax is spread out and over a large number of firms instead of being concentrated on particular groups, such as wholesalers or retailers.

2) Revenue security

VAT represents an important instrument against tax evasion and is superior to a business tax or a sales tax from the point of view of revenue security for three reasons.

3) Selectivity

VAT may be selectively applied to specific goods or business entities.

4) Co-ordination of VAT with direct taxation

Most taxpayers cheat on their sales not to evade VAT but to evade personal and corporate income taxes.

Disadvantages of VAT

1. No uniformity of price among the state – every stage has alter the vat
2. Other taxes also available along with VAT, so it is confused.
3. Continuance of CST under VAT regime
4. Sweeping powers given to Commissioners.

Goods covered under VAT

All goods (other than Petrol, Diesel, Aviation Turbine Fuel, IMFL and Sugarcane) including declared goods will be covered under VAT and will get the benefit of input tax credit.

Goods not covered under VAT

Petrol, Diesel, Aviation Turbine Fuel, Indian Made Foreign Liquor and sugarcane will not be taxed under VAT.

Dealers under VAT

1. Local authority, Company, Hindu undivided family, Association of persons, Firm.

2. Casual traders, factory, commission agent, Del – Credere agent, auctioneer, local branch of a firm or company situated out side the state.
3. Person who effects transfer of property in goods other than by way of sale.
4. Dealer in hire purchase works contract and persons who transfer rights to use the goods.
5. Dealers in eatables including food and drinks (eg. Hotels, restaurants and sweet stalls)
6. Port Trust, Railway administration, Shipping, Transport and Construction companies, Airlines
7. Any person of holding a permit for transport vehicles.
8. Tamil Nadu State Transport Corporation
9. Customs Department, Insurance Company, Advertising Agencies
10. Corporation or Companies of State and Central Govt.

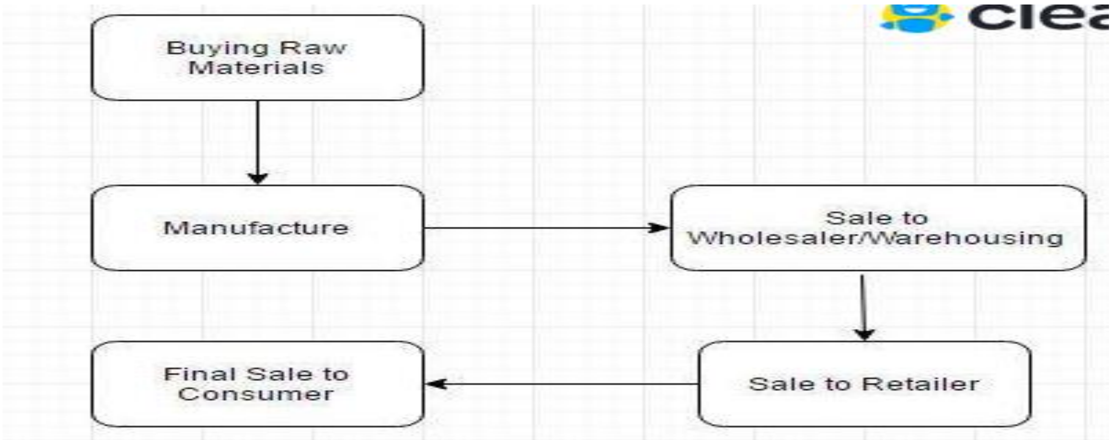
Registration
All Traders should registered for VAT
TIN (Taxpayer Identification Number)
An eleven digit number to be quoted in all VAT transactions and correspondences
All registered dealers under NGST ACT 1959 shall be provided with TIN automatically without any fee. On receipt of TIN, the dealers have to file application for obtaining certificate of registration under VAT.

GST

GST is known as the Goods and Services Tax. It is an indirect tax which has replaced many indirect taxes in India such as the excise duty, VAT, services tax, etc. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017 and came into effect on 1st July 2017.
In other words, Goods and Service Tax (GST) is levied on the supply of goods and services. Goods and Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that is levied on every value addition. GST is a single domestic indirect tax law for the entire country.
Before the Goods and Services Tax could be introduced, the structure of indirect tax levy in India was as follows: Under the GST regime, the tax is levied at every point of sale. In the case of intra-state sales, Central GST and State GST are charged. All the inter-state sales are chargeable to the Integrated GST.

Multi-stage
An item goes through multiple change-of-hands along its supply chain: Starting from manufacture until the final sale to the consumer.
Let us consider the following stages:

- Purchase of raw materials
- Production or manufacture
- Warehousing of finished goods
- Selling to wholesalers
- Sale of the product to the retailers
- Selling to the end consumers



The Goods and Services Tax is levied on each of these stages making it a multi-stage tax. A manufacturer who makes biscuits buys flour, sugar and other material. The value of the inputs increases when the sugar and flour are mixed and baked into biscuits. The manufacturer then sells these biscuits to the warehousing agent who packs large quantities of biscuits in cartons and labels it. This is another addition of value to the biscuits. After this, the warehousing agent sells it to the retailer.

The retailer packages the biscuits in smaller quantities and invests in the marketing of the biscuits, thus increasing its value. GST is levied on these value additions, i.e. the monetary value added at each stage to achieve the final sale to the end customer.

Destination-Based

Consider goods manufactured in Maharashtra and sold to the final consumer in Karnataka. Since the Goods and Service Tax is levied at the point of consumption, the entire tax revenue will go to Karnataka and not Maharashtra.

Objectives Of GST

- **To achieve the ideology of 'One Nation, One Tax'**
  GST has replaced multiple indirect taxes, which were existing under the previous tax regime. The advantage of having one single tax means every state follows the same rate for a particular product or service. Tax administration is easier with the Central Government deciding the rates and policies. Common laws can be introduced, such as e-way bills for goods transport and e-invoicing for transaction reporting. Tax compliance is also better as taxpayers are not bogged down with multiple return forms and deadlines. Overall, it's a unified system of indirect tax compliance.

- **To subsume a majority of the indirect taxes in India**
  India had several erstwhile indirect taxes such as service tax, Value Added Tax (VAT), Central Excise, etc., which used to be levied at multiple supply chain stages. Some taxes were governed by the states and some by the Centre. There was no unified and centralised tax on both goods and services. Hence, GST was introduced. Under GST, all the major indirect taxes were subsumed into one. It has greatly reduced the compliance burden on taxpayers and eased tax administration for the government.

- **To eliminate the cascading effect of taxes**

One of the primary objectives of GST was to remove the cascading effect of taxes. Previously, due to different indirect tax laws, taxpayers could not set off the tax credits of one tax against the other. For example, the excise duties paid during manufacture could not be set off against the VAT payable during the sale. This led to a cascading effect of taxes. Under GST, the tax levy is only on the net value added at each stage of the supply chain. This has helped eliminate the cascading effect of taxes and contributed to the seamless flow of input tax credits across both goods and services.

- **To curb tax evasion**
  GST laws in India are far more stringent compared to any of the erstwhile indirect tax laws. Under GST, taxpayers can claim an input tax credit only on invoices uploaded by their respective suppliers. This way, the chances of claiming input tax credits on fake invoices are minimal. The introduction of e-invoicing has further reinforced this objective. Also, due to GST being a nationwide tax and having a centralised surveillance system, the clampdown on defaulters is quicker and far more efficient. Hence, GST has curbed tax evasion and minimised tax fraud from taking place to a large extent.

- **To increase the taxpayer base**
  GST has helped in widening the tax base in India. Previously, each of the tax laws had a different threshold limit for registration based on turnover. As GST is a consolidated tax levied on both goods and services both, it has increased tax-registered businesses. Besides, the stricter laws surrounding input tax credits have helped bring certain unorganised sectors under the tax net. For example, the construction industry in India.

- **Online procedures for ease of doing business**
  Previously, taxpayers faced a lot of hardships dealing with different tax authorities under each tax law. Besides, while return filing was online, most of the assessment and refund procedures took place offline. Now, GST procedures are carried out almost entirely online. Everything is done with a click of a button, from registration to return filing to refunds to e-way bill generation. It has contributed to the overall ease of doing business in India and simplified taxpayer compliance to a massive extent. The government also plans to introduce a centralised portal soon for all indirect tax compliance such as e-invoicing, e-way bills and GST return filing.

- **An improved logistics and distribution system**
  A single indirect tax system reduces the need for multiple documentation for the supply of goods. GST minimises transportation cycle times, improves supply chain and turnaround time, and leads to warehouse consolidation, among other benefits. With the e-way bill system under GST, the removal of interstate checkpoints is most beneficial to the sector in improving transit and destination efficiency. Ultimately, it helps in cutting down the high logistics and warehousing costs.

- **To promote competitive pricing and increase consumption**
  Introducing GST has also led to an increase in consumption and indirect tax revenues. Due to the cascading effect of taxes under the previous regime, the prices of goods in India were higher than in global markets. Even between states, the lower VAT rates in certain states led to an imbalance of purchases in these states. Having uniform GST rates have contributed to overall competitive pricing

across India and on the global front. This has hence increased consumption and led to higher revenues, which has been another important objective achieved.

Advantages of GST

GST has mainly removed the cascading effect on the sale of goods and services. Removal of the cascading effect has impacted the cost of goods. Since the GST regime eliminates the tax on tax, the cost of goods decreases.

Also, GST is mainly technologically driven. All the activities like registration, return filing, application for refund and response to notice needs to be done online on the GST portal, which accelerates the processes.

Components of GST

There are three taxes applicable under this system:

- CGST: It is the tax collected by the Central Government on an intra-state sale (e.g., a transaction happening within Maharashtra)
- SGST: It is the tax collected by the state government on an intra-state sale (e.g., a transaction happening within Maharashtra)
- IGST: It is a tax collected by the Central Government for an inter-state sale (e.g., Maharashtra to Tamil Nadu)

In most cases, the tax structure under the new regime will be as follows:

Transaction	New Regime	Old Regime	Revenue Distribution
Sale within the State	CGST + SGST	VAT + Central Excise/Service tax	Revenue will be shared equally between the Centre and the State
Sale to another State	IGST	Central Sales Tax + Excise/Service Tax	There will only be one type of tax (central) in case of inter-state sales. The Centre will then share the IGST revenue based on the destination of goods.

Illustration:
Let us assume that a dealer in Gujarat had sold the goods to a dealer in Punjab worth Rs. 50,000. The tax rate is 18% comprising of only IGST.

In such a case, the dealer has to charge IGST of Rs.9,000. This revenue will go to Central Government.

The same dealer sells goods to a consumer in Gujarat worth Rs. 50,000. The GST rate on goods is 12%. This rate comprises CGST at 6% and SGST at 6%. The dealer has to collect Rs.6,000 as Goods and Service Tax, Rs.3,000 will go to the Central Government and Rs.3,000 will go to the Gujarat government since the sale is within the state.

Tax Laws before GST

- In the earlier indirect tax regime, there were many indirect taxes levied by both the state and the centre. States mainly collected taxes in the form of Value Added Tax (VAT). Every state had a different set of rules and regulations.
- Inter-state sale of goods was taxed by the centre. CST (Central State Tax) was applicable in case of inter-state sale of goods. The indirect taxes such as the entertainment tax, octroi and local tax were levied together by state and centre. These led to a lot of overlapping of taxes levied by both the state and the centre.

For example, when goods were manufactured and sold, excise duty was charged by the centre. Over and above the excise duty, VAT was also charged by the state. It led to a tax on tax effect, also known as the cascading effect of taxes.

The following is the list of indirect taxes in the pre-GST regime:

- Central Excise Duty
- Duties of Excise
- Additional Duties of Excise
- Additional Duties of Customs
- Special Additional Duty of Customs
- Cess
- State VAT
- Central Sales Tax
- Purchase Tax
- Luxury Tax
- Entertainment Tax
- Entry Tax
- Taxes on advertisements
- Taxes on lotteries, betting, and gambling

CGST, SGST, and IGST have replaced all the above taxes.

However, certain taxes such as the GST levied for the inter-state purchase at a concessional rate of 2% by the issue and utilisation of 'Form C' is still prevalent.
It applies to certain non-GST goods such as:

i. Petroleum crude;
ii. High-speed diesel
iii. Motor spirit (commonly known as petrol);
iv. Natural gas;
v. Aviation turbine fuel; and
vi. Alcoholic liquor for human consumption.

It applies to the following transactions only:

- Resale
- Use in manufacturing or processing
- Use in certain sectors such as the telecommunication network, mining, the generation or distribution of electricity or any other power sector

GST Made Price Reduction

During the pre-GST regime, every purchaser, including the final consumer paid tax on tax. This condition of tax on tax is known as the cascading effect of taxes.

- **GST has removed the cascading effect.** Tax is calculated only on the value-addition at each stage of the transfer of ownership. Understand what the cascading effect is and how GST helps by watching this simple video:
- The indirect tax system under GST will integrate the country with a uniform tax rate. It will improve the collection of taxes as well as boost the development of the Indian economy by removing the indirect tax barriers between states.
- The indirect tax system under GST will integrate the country with a uniform tax rate. It will improve the collection of taxes as well as boost the development of the Indian economy by removing the indirect tax barriers between states.

Illustration:

- Based on the above example of the biscuit manufacturer, let's take some actual figures to see what happens to the cost of goods and the taxes, by comparing the earlier GST regimes.

Tax calculations in earlier regime:

Action	Cost (Rs)	Tax rate at 10% (Rs)	Invoice Total (Rs)
Manufacturer	1,000	100	1,100
Warehouse adds a label and repacks at Rs.300	1,400	140	1,540
Retailer advertises at Rs. 500	2,040	204	2,244
Total	1,800	444	2,244

The tax liability was passed on at every stage of the transaction, and the final liability comes to a rest with the customer. This condition is known as the **cascading effect of taxes,** and the value of the item keeps increasing every time this happens.

Tax calculations in current regime:

Action	Cost (Rs)	Tax rate at 10% (Rs)	Tax liability to be deposited (Rs)	Invoice Total (Rs)
Manufacturer	1,000	100	100	1,100
Warehouse adds label and repacks at Rs. 300	1,300	130	30	1,430
Retailer advertises at Rs. 500	1,800	180	50	1,980
Total	1,800		180	1,980

- In the case of Goods and Services Tax, there is a way to claim the credit for tax paid in acquiring input. The individual who has already paid a tax can claim credit for this tax when he submits his GST returns.
- In the end, every time an individual is able to claims the input tax credit, the sale price is reduced and the cost price for the buyer is reduced because of lower tax liability. The final value of the biscuits is therefore reduced from Rs.2,244 to Rs.1,980, thus reducing the tax burden on the final customer.

New Compliances Under GST

Apart from online filing of the GST returns, the GST regime has introduced several new systems along with it.

e-Way Bills

- GST introduced a centralised system of waybills by the introduction of "E-way bills". This system was launched on 1st April 2018 for inter-state movement of goods and on 15th April 2018 for intra-state movement of goods in a staggered manner.
- Under the e-way bill system, manufacturers, traders and transporters can generate e-way bills for the goods transported from the place of its origin to its destination on a common portal with ease. Tax authorities are also benefited as this system has reduced time at check -posts and helps reduce tax evasion.

E-invoicing

- The e-invoicing system was made applicable from 1st October 2020 for businesses with an annual aggregate turnover of more than Rs.500 crore in any preceding financial years (from 2017-18). Further, from 1st January 2021, this system was extended to those with an annual aggregate turnover of more than Rs.100 crore.
- These businesses must obtain a unique invoice reference number for every business-to-business invoice by uploading on the GSTN's invoice registration portal. The portal verifies the correctness and genuineness of the invoice. Thereafter, it authorises using the digital signature along with a QR code.
- e-Invoicing allows interoperability of invoices and helps reduce data entry errors. It is designed to pass the invoice information directly from the IRP to the GST portal and the e-way bill portal. It will, therefore, eliminate the requirement for manual data entry while filing GSTR-1 and helps in the generation of e-way bills too.

UNIT V

Consumer Protection Act

The Act is designed to make available cheap and quick remedy to a small consumer. The Act was passed in 1986 and was made effective in 1987. Amendments were made in 1991 to provide for situations of absence of President of Forum. Major changes were made in 1993 (effective from 18-6-1993). - - On getting further experience of implementation of the Act, substantial changes have been made by Amendment Act, 2002. Major changes made in the Amendment Act are - * Enhancement in monetary limit of District Forum from Rs 5 lakhs to 20 lakhs and of State Commission from Rs 20 lakhs to Rs one crore * Payment of fees for filing complaint/appeal * Complaint/appeal will have to be admitted first * Reason to be recorded if decision not given within specified time * Cost of adjournment can be imposed * Interim orders can be passed * In absence of President, senior most member can discharge functions of President * Pre-deposit of certain amount before appeal is entertained * Notice can be sent by Fax/courier.

The amendments have been made effective from 15-3-2003.

Procedure under CPA - Section 12(1) provides that a complaint in relation to any goods sold or delivered or to be sold or delivered or any service provided or agreed to be provided may be filed with consumer forum.

The Act envisages setting up of ‗Consumer Disputes Redressal Agency' at local, i.e., district level, state level and national (Central) level. District Forum has jurisdiction to decide consumer disputes where value of goods or services and the compensation claimed does not exceed Rs. 20 lakhs. State Commission has jurisdiction to decide the cases where value of goods and services plus compensation is over Rs. 20 lakhs but not over Rs. 100 lakhs. In addition, it decides appeals filed against order of District Forum. National Commission (HQ at New Delhi) has original jurisdiction where matter is over Rs. 100 lakhs. It also has appellate jurisdiction over State Commission. Appeal against order of State Commission can be filed only in case of original order by State Commission i.e. when matter was over Rs. 20 lakhs. No appeal can be filed to National Commission in case where State Commission has passed order in appeal against original order of District Forum.

Appeal against order of National Commission lies with Supreme Court only in matters where it exercises original jurisdiction, i.e., when matter is over Rs. 100 lakhs. There is no provision of appeal in cases where National Commission decides under its appellate jurisdiction, i.e., when it decides appeal against order of State Commission.

Complaint can be filed by a consumer, a voluntary consumer association or Central/State Government. Class Action i.e., some consumers filing complaint on behalf of many consumers is also permitted. Complaint can be filed against

(*a*) deficiency in goods or service

(*b*) unfair trade practice or restrictive trade practice

(c) charging of higher prices

(d) Supplying hazardous goods or services. Fees are required to be paid along with the complaint. Complaint must be filed within two years from ‗cause of action'.

This period can be extended on showing sufficient cause. Appeal against order of District Forum/State Commission/National Commission must be filed within 30 days from date of order.

Penalty upto Rs. 10,000 can be imposed on a complainant, if it is found that he has made frivolous (bogus) complaint.

Persons not complying with order of redressal authorities can be punished with imprisonment upto three years and/or fine upto Rs. 10,000.

Provisions are made for enforcement of order and imposition of penalty in case order of consumer forum is disobeyed.

Complaint to consumer forum **-** Section 12(1) provides that a complaint in relation to any goods sold or delivered or to be sold or delivered or any service provided or agreed to be provided may be filed with consumer forum.

District, State Commission and National Commission are consumer forums, termed as Consumer Dispute Redressal Agencies. It is necessary to understand meaning of ‗complaint' and who can file the same.

Defect **-** The word ‗defect' means any fault, imperfection or shortcoming in the quality, quantity potency, purity or standard that is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or as is claimed by the trader in any manner whatsoever in relation to any goods (Section 2(1)(*f*) of CPA).

Consumer Dispute - ‗Consumer Dispute' means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint [section 2(1)(*e*)]. - - Obviously, if the person against whom complaint is made agrees to the complaint, there is no ‗consumer dispute'.

Who is 'Complainant' - Section 2(1)(*b*) of CPA defines that "Complainant" means (*i*) a consumer; or (*ii*) any voluntary consumer association registered under the Companies Act, or under any other law for the time being in force; or (*iii*) the Central Government or any State Government, who or which makes a complaint or (*iv*) One or more consumers, where there are numerous consumers having the same interest or *(v)* in case of death of a consumer, his legal heir or representative; - - who or which makes a complaint.

Exclusion if goods or a service for Commercial purpose - A person who buys goods for resale or commercial purposes or avails services for commercial purposes is specifically excluded from definition of ‗consumer'.

Trader - Complaint can be lodged against a trader in case of goods and against service provider in case of services. ‗Trader' includes manufacturer.

Deficiency in service - Complaint can be lodged against service provider if there is deficiency in service, or if he charges higher prices or provides services which are hazardous or where service provider follows unfair or restrictive trade practice.

Deficiency - ‗Deficiency' means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard, which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service. [section 2(1)(*g*) of CPA].

Restrictive and Unfair Trade Practices - Consumer Protection Act makes specific provisions in respect of Restrictive Trade Practices (RTP) and Unfair trade Practices (UTP).

Restrictive Trade Practice - Section 2(1)(nnn) of CPA [As amended by Amendment Act, 2002] define Restrictive Trade Practice (‗RTP') as one which tends to bring about manipulation of price or its conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs or restrictions and shall include— *(*a*)* delay beyond the period agreed to by a trader in supply of such goods or in providing the services which has led or is likely to lead to rise in the price; (b) any trade practice which requires a consumer to buy, hire or avail of any goods or, as the case may be, services as condition precedent to buying, hiring or availing of other goods or services.

Unfair Trade Practice - Unfair Trade Practice is defined under section 2(1)(*r*) of CP Act. ―Unfair trade practice‖ means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice.

IPR _- Copyright Act, 1957

Copyright is right of artist, author, producer of films etc. who have created a work by use of their artistic skills. On the other hand, Patents Act, 1970 is designed to protect inventions in respect of manufacture, machine or process of manufacture. Copyright Act has provisions to protect copyrights of foreign work also. This Act has attained special significance in view of GATT agreement. Under this international agreement, all signatory nations have to take steps to protect intellectual property rights (IPRs). It may be noted that registration of patent is compulsory, while registration of copyright or trade mark is optional. Rights in a patent can be availed only if it is registered, but copyrights or rights to trade mark are available even if the work is not registered.

Copyright protection is limited to an author‘s particular expression of idea, process and concept in a tangible medium. However, the law permits fair use.

Copyright is only in expression of an idea. There is no copyright in an idea. Copyright protects skill, labour and capital employed by the author. Its object is to protect the writer and author from the unlawful reproduction, plagiarism, piracy, copying and imitation. Thus, copyright is negative in nature. It is not a right in novelty of ideas.

Works in which copyright subsists - Section 13(1) of Copyright Act provides that copyright subsists in
(*a*) original literary, dramatic, musical and artistic works
(*b*) cinematograph films and
(*c*) sound recording.
Artistic work - ‗Artistic Work' means

(i) a painting, sculpture, a drawing (including a diagram, map, chart or plan), an engraving or photograph. It does not matter whether or not any such work possesses artistic quality and

(ii) (*ii*) work of architecture [section 2(*c*)]. ‗Work of Architecture' means any building or structure having an artistic character or design, or any model for such building or structure [section 2(*b*)]. Note that a trade mark designed in an artistic way can be protected under Trade Mark Act (as Trade Mark) as well as under Copyright Act (as artistic work).

Dramatic work - ‗Dramatic Work' includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise; but does not include a cinematograph film.
Literary Work - The term ‗Literary Work' includes computer programmes, tables and compilations including computer databases [section 2(o)].
Computer programme - It means set of instructions expressed in words, codes, schemes or in any other form including a machine readable medium capable of causing computer to perform a particular task or achieve a particular result [section 2(*ffc*)]. Computer includes any electronic or similar device having information processing capabilities [section 2(*ffb*)].
Musical work - ‗Musical work' means a work consisting of music and includes any graphical notation of such work, but does not include any words or any action intended to be sung, spoken or performed with the music [section 2(p)]. Composer means a person who composes the work whether or not it is recorded in form of graphical notation [section 2(*ffa*)].

Rights of a copyright owner - As per section 14, Copyright means exclusive right to do or authorise doing any of the following acts in respect of a work or any substantial part thereof (this right is subject to provisions of the Copyright Act).
RIGHTS IN LITERARY, DRAMATIC OR MUSICAL WORK -
(*i*) To reproduce the work in any material form including the storing of it in any medium by electronic means
(*ii*) to issue copies of work to the public - this clause does not apply to copies which are already in circulation (*iii*) to perform work in public or communicate to public (*iv*) to make any cinematograph film or sound recording (*v*) to make translation (*vi*) to make adaptation of work (*vii*) to do, in relation to translation or an adaptation of work, any of the aforesaid acts mentioned in clause (*i*) to clause (*vi*).

RIGHTS IN COMPUTER PROGRAMME - (*i*) To do any of the acts specified above in relation to literary work (*ii*) to sell or give on commercial rental or offer to sale or for commercial rental any copy of the computer programme. However, such 'commercial rental' does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.]. [proviso to section 14(b)(ii)]

RIGHTS IN ARTISTIC WORK - (*i*) to reproduce in any material form including depiction in two dimensions from three dimensions or *vice versa* (*ii*) to communicate work to public (*iii*) to issue copies of work to the public which are not already in circulation (*iv*) to include the work in any cinematograph film (*v*) to make any adaptation of the work (*vi*) to do in relation to an adaptation of the work, any of the acts specified in clause (*i*) to (*iv*) above.

RIGHTS IN CINEMATOGRAPH FILM - (*i*) To make a copy of the film, including a photograph of any image forming part thereof (*ii*) to sell or give on hire of offer for sale or hire, any copy of the film. It does not matter whether or not such copy was sold or given on hire on earlier occasions. (*iii*) to communicate the work to public.

RIGHTS IN SOUND RECORDING - (*i*) To make any other sound recording embodying it (*ii*) to sell or give on hire of offer for sale or hire, any copy of the film. It does not matter whether or not such copy was sold or given on hire on earlier occasions (*iii*) to communicate the sound recording to public.

Ownership of Copyright - Normally, author of work is the first owner (section 17). Author means (*a*) author of literary or dramatic work (*b*) composer of musical work (*c*) artist of artistic work (*d*) person taking the photograph (*e*) producer of cinematographic film or sound recording [section 2(*d*)]. Right of author is subject to some limitations.

Assignment of Copyright - The owner of copyright can assign the copyright to a work. Such assignment can be partial or full or subject to limitations and for limited term or full term. Even rights of future work can be assigned, but the assignment becomes effective only when the work comes into existence. [Some leading and popular authors sell their work at fat price even before it is complete.] After assignment, the assignee gets rights assigned and balance rights remain with the assignor (section 18).

Term of copyright - Normal term of copyright is throughout the lifetime of author plus 60 years from beginning of calendar year next following the year in which the author dies. In case of joint authorship, the author who dies last will be considered (section 22).

Compulsory licensing - If owner does not grant permission for re-publication, performance or communication to public, Copyright Board can direct Registrar of Copyrights to grant compulsory licence to complainant on such terms and conditions as it deems fit [section 31(1)].

Registration of Copyright is optional - Copyright *may* be registered with Registrar of Copyrights (section 44). Registration is not compulsory. The register will contain details like name or title of work, name and addresses of authors, publishers and owners of copyright. Application for registration has to be made in prescribed form with fees.

Infringement of Copyright - The Act provides for remedies in case of infringement of Copyright.

Civil and Criminal Remedies under Copyright Act - Owner of copyright has civil remedies against Infringement of Copyright Offences are also punishable

Patents Act, 1970 Patents Act, 1970 is designed to protect inventions in respect of manufacture, machine or process of manufacture. On the other hand, the Copyright Act, 1957 is to protect rights of artists, authors, producers of films, computer software owners etc. Patent is an exclusive rights granted to the patent holder, for a limited period, as a reward for creative work based on his private initiative. ‗Creativity' is accorded the status of ‗property' which can be bought, sold, licensed or hired like any other commodity. The principle behind patent protection is that creativity will not get encouragement if it cannot be protected from pirating or copying.
Major changes have been made by Patents (Amendment) Act, 2002, which was passed on 25-6-2002 aligning it to TRIPS in many aspects.
Highlights are -
* It provides for uniform protection for 20 years.
* Appellate Authority is provided. Appeal against order of Controller and Central Government and application for rectification of register of patents will be to appellate Board and not to High Court. [However, suit for infringement of Patent or revocation of patent will lie with Court only]
* Person other than patent holder to obtain marketing approval from regulatory authorities within 3 years before expiration of terms of patent
* Provisions for protection of bio-diversities of traditional knowledge
* Reversal of burden in case of process patent
* Procedural simplifications.

The amendments have not yet been brought into force. However, these have been incorporated in this write up at appropriate places.
What is a Patent - Section 2(1)(m) merely states ‗Patent' means a patent granted under this Act'. - - Thus, word ‗patent' is not defined under the Act, though what can be patented and what cannot has been specified.

- - A patent, generally speaking, is a grant from Government, which confers on the grantee for a limited period of time the exclusive privilege of making, selling and using the invention for which a patent has been granted and also of authorising others to do so.

Varieties of Patents - Three kinds of patents are granted under the provisions of the Act : (*a*) Ordinary patent (*b*) Patent of Addition (*c*) Patent in respect of convention
International Application - Patents Act allows grant of patents to persons out of India, on the basis of international arrangements. Such grant is available only if there is a convention, treaty or arrangement with the foreign country for grant of patents on reciprocal basis i.e., if that country also agrees to grant patents to Indian applicants (section 133). Government has to specify such countries by issue of notification in official gazette. India has signed Paris Convention in August 1998. Hence, any country which is signatory to Paris convention is a convention country.

What can be patented - Requirements of patent are : (*a*) The subject matter should be new. This is test of ‗novelty'. (*b*) It should be useful. This is test of ‗utility'. (*c*) It should be an ‗invention'. It should be non-obvious. (*d*) It should be a manner of manufacture, i.e. it should be capable of industrial application. (*e*) ‗Vendibility' test (i.e. test of marketability) is important - the subject matter should have commercial purpose. Any invention which satisfies the definition of the ‗invention' given in the Act may be patented.
Invention means a new product or process involving an inventive step and capable of industrial application. [section 2(1)(j)]. - - ‗Inventive step' means a feature that makes the invention not obvious to a person skilled in that art. [section 2(1)(ja). ‗Capable of industrial application', in relation to invention, means that the invention is capable of being made or used in an industry. [section 2(1)(ac)].

Life of Patent - Subject to the payment of prescribed renewal fee within the prescribed period, the term of every patent granted under the Act is do years from date of filing the application for patent. [section 53(1)]. [The period was 5 or 7 years for process of manufacture of food/medicine/drug and 14 years in other cases, prior to Amendment Act, 2002].

Rights of a patentee - Patentee has following rights (*a*) where the patent is for a product, the exclusive right to prevent third parties, who do not have his consent, from the act of making, using, offering for sale, selling or importing for those purposes that product in India (*b*) where the subject matter of patent is a process, the exclusive right to prevent third parties, who do not have his consent, from the act of using that process, and from the act of using, offering for sale, selling or importing for those purposes the product directly obtained from that process, in India. However, that product should not be such that no patent can be granted for that product in India. [section 48].

Working of patent and compulsory licensing - The general principle is that patents are granted to encourage inventions. *However, Patent is for use and not for hoarding or exploitation*.

Infringement of Patent - Patentee and his agents and licensees have exclusive rights to make, use, exercise or distribute the invention in India under section 48. Infringement means violating the statutory rights of patentee. Innocent infringement, i.e. infringement without knowledge that a patent exists does not require payment of damages and a share of profit (section 111). Suit for infringement can be filed only in District Court (section 104). The reliefs that can be claimed are (*a*) damages and a share of profit to patentee. (*b*) Injunction on infringee on the terms the Court may deem fit [section 108(1)]. Court can also order that the infringing goods shall be seized, forfeited or destroyed, as the Court deems fit.

Trade Marks Act, 1999
A ‗trade mark' is a very important and valuable asset of a company in a market oriented economy. The Act is designed to protect this valuable property. Customers identify a product by its trade mark. Value and importance of trade mark increases as business grows. Trade Marks Act, 1999 is enacted (in place of earlier 1958 law) with an intention to protect rights of trade marks of business. It is a self-contained and comprehensive code to deal with both the civil and criminal law relating to trade and merchandise marks. Procedures and forms are prescribed in Trade Mark Rules, 2002.
The 1999 Act has not yet been made effective.

***Trade Mark under Common law as well as Trade Mark Act* -** Protection to Trade Marks was first introduced in India in 1940. Prior to that, the law relating to trade mark was based on common law. At common law, right to property in trade mark was in the nature of monopoly enabling the holder of the said right to restrain others from using the trade mark. The trade mark had to be distinctive.
After passing of the Act, registration of trade mark is provided. However, registration of trade mark is not compulsory.

***What is a 'Trade mark'* -** Trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours. It also includes _certification trade mark' or _collective mark.
Mark can be in respect of goods or services. It should be capable of distinguishing the goods or services of one person from those of others. The mark should indicate a connection in the course of trade between the goods or services and some person having the right to use the mark.

QUESTION BANK

BA5104-LEGAL ASPECTS OF BUSINESS

UNIT – 1

PART A

1. Explain the need for the knowledge of law?
Laws are made to force people to be good, because individuals are more controlled more by there passion and education alone can't make them good, so laws were created to scare people in being 'good'.

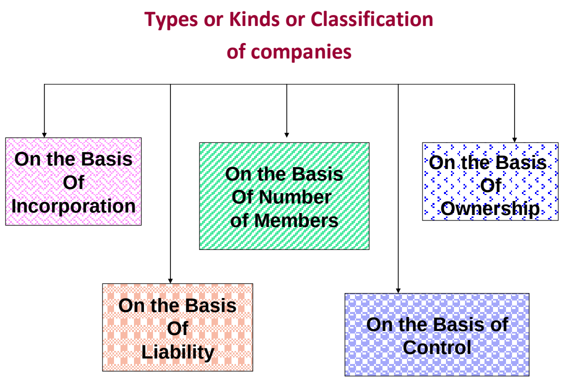
2. How do you classify contracts on the basis of their performance?
Accordingly, contracts may be:
(i) Executed and executory
(ii) Unilateral and bilateral

3. Make a distinction between fraud and misrepresentation?
Fraud
1. Fraud is defined under Sec. 17.
2. Fraud means a misrepresentation made with an intention to cheat
3. The distinction between fraud and misrepresentation is solely on intention.
4. In case of fraud, the aggrieved party can avoid the contract even if the means to discover the truth were available.
5. In case of fraud not only the agreement is voidable but also the aggrieved party can claim damages.
Misrepresentation:
1. Misrepresentation is defined under Sec. 19
2. Misrepresentation means a misstatement made innocently.
3. In case of misrepresentation misstatement is made innocently.
4. In case of misrepresentation if the aggrieved party has the means to discover the truth, it cannot avoid the contract.
5. In case of misrepresentation no damages can be claimed, the aggrieved party can only avoid the contract.

4. What do you understand by 'Caveat emptor'? Does it have any exceptions?
Caveat emptor is a latin phrase which in English is translated as Let the buyer beware which in simple words mean that it is the responsibility of the buyer himself to be aware of the goods (or subject matter) involved in the transaction and the other part i.e. the seller, has no specific responsibility to disclose anything about the goods even if the seller knows or doubts that the goods are not of the quality or nature as buyer has perceived them to be and the perception is based completely on buyer's own knowledge.

5. Why are bills of exchange, promissory notes and cheques, called 'Negotiable Instruments '?
An instrument in writing (not being a bank note of a currency note) containing an unconditional undertaking, signed by the maker to pay a certain sum of money to or to the order of a certain person or to the bearer of the instrument.
An instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to or to the order of a certain person or to the bearer of the instrument
A cheque is a species of a bill of exchange; but it has the following two additional qualifications,
(i) It is always drawn on a specified banker, and
(ii) it is always payable on demand.

6. What are the types of companies?



7. What is Value Added Tax(VAT)?

- Value Added Tax (VAT) is a general consumption tax that is assessed on the value added to goods & services.
- VAT is a multi-stage tax, levied only on value that is added at each stage in the cycle of production of goods and services with the provision of a set-off for the tax paid at earlier stages in the cycle/chain.
- It is the indirect tax on the consumption of the goods, paid by its original producers upon the change in goods or upon the transfer of the goods to its ultimate consumers.

8. What is Law?

Law is a system of rules which a particular country or community recognizes as regulating the actions of its members and which it may enforce by the imposition of penalties.

9. Write short note on business law?

The word "law" is generally associated with the word "rules." McInnes, Kerr, and Van Duzer provide a simple definition of law as "a rule that can be enforced by the courts."2 Similarly, Yates defines law as "the body of rules that can be enforced by the courts or by other government agencies.

10. Define commercial law?

Commercial law, also known as business law, is the body of law that applies to the rights, relations, and conduct of persons and businesses engaged in commerce, merchandising, trade, and sales. It is often considered to be a branch of civil law and deals with issues of both private law and public law.

Commercial law can be defined as, "the rights and obligations of commercial persons who deals with commercial transactions in respect of commercial property".

11. What is meant by valid contract?

A valid contract is a written or expressed agreement between two parties to provide a product or service. There are essentially six elements of a contract that make it a legal and binding document.

12. What are void Agreements?

Most contracts only need to contain two elements to be legally valid: All parties must be in agreement (after an offer has been made by one party and accepted by the other). Something of value must be exchanged -- such as cash, services, or goods (or a promise to exchange such an item) -- for something else of value.

It is an agreement which is not enforceable by law.

i) An agreement made without consideration is void.
ii) An agreement, the consideration of which is unlawful is void.
iii) An agreement in restraint of marriage of any person, other than a minor is void, etc.

13. Define contract?

A written or spoken agreement, especially one concerning employment, sales, or tenancy that is intended to be enforceable by law.A contract is an agreement enforceable at law, made between two or more persons, by which rights are acquired by one or more, to act on the part of the other.

14. State the meaning of performance of contracts?

Performance of contract' means fulfilment of the obligations by the parties. The parties who make the contract must fulfil their obligations according to the terms laid down in the contract. Performance of contract is one of the methods to discharge a contract.

15. What do you understand by Breach of contract?

Breach of contract is a legal cause of action in which a binding agreement or bargained-for exchange is not honoured by one or more of the parties to the contract by non-performance or interference with the other party's performance.

16. What are the remedies for breach of contract?

There are several remedies for breach of contract, such as award of damages, specific performance, rescission, and restitution. In courts of limited jurisdiction, the main remedy is an award of damages.

17. Discuss about Quasi contracts?

It is an obligation of one party to another imposed by law independently of an agreement between the parties.

18. What is contract of sale?

A contract of sale is a legal contract. It is a contract for the exchange of goods, services or property that are the subject of exchange from seller (or vendor) to buyer (or purchaser) for an agreed upon value in money (or money equivalent) paid or the promise to pay same.

19. Discuss about transfer of title?

The title-transfer theory of contract (TTToC) is a legal interpretation of contracts developed by economist Murray Rothbard and jurist Williamson Evers. The theory interprets all contractual obligations in terms of property rights, viewing a contract as a bundle of title transfers.

20. What are the condition and warranty in sales contract?

Conditions	Warranty
• Stipulations that are essential for main purpose of contract. Non-fulfillment of such will mean loss of foundation of contract. These are termed as 'Conditions'.	• Warranty is collateral to the main purpose of contract.
• A contract of sale cannot be fulfilled unless the condition to it, is fulfilled.	• The main contract can be fulfilled even if the warranty is not fulfilled.
• In case of breach of condition, the aggrieved party can reject the contract	• In case of breach of warranty, the aggrieved party can only claim for damages.
• Breach of condition can be treated as breach of warranty if the aggrieved party is happy with compensation.	• Breach of warranty can not be treated as breach of condition.

21. Define performance of sales contracts?

Performance of a contract of sale implies a duty of the seller to deliver the goods, and of the buyer to accept the delivery of the goods and make payment in accordance with the terms of the contract (sec. 31).

22. Who is an unpaid seller?

According to Sec 45, the seller of goods is deemed to be an unpaid seller.
(i) When the whole of the price has not paid or tendered.
(ii) When a bill of exchange or other negotiable instrument has been received as a condition payment and the condition on which it has been received remains unfulfilled by reason of dishonour of the instrument or other wise.

23. What is a Negotiable Instrument?
A check is considered a negotiable instrument. This type of instrument is a transferable, signed document that promises to pay the bearer a sum of money at a future date or on demand.
Examples also include bills of exchange, promissory notes, drafts and certificates of deposit.
A 'negotiable instrument' means a promising note, bill of exchange or cheque payable either to order or to bearer.

24. Define Negotiation?
The deliberation which takes place between the parties touching a proposed agreement. That which transpires in the negotiation makes no part of the agreement, unless introduced into it. It is a general rule that no evidence can be given to add, diminish, contradict or alter a written instrument. merc. Law.
Section 14 of the Negotiable Instrument Act lays down that "when a promissory note, till of exchange or cheque is transferred to any person, so as to constitute that person the holder there of, the instrument is said to be negotiated".

25. Write any five liabilities of the parties to a Negotiable Instrument?
Sec. 60. Liability of maker
Sec. 61. Liability of drawer
Sec. 62. Liability of acceptor
Sec. 63. When a person deemed indorser
Sec.67.Liability of indorser where paper negotiable by delivery
Sec. 69. Liability of an agent or broker.

26. Define law of agency.
An agent is a Person employed to do any act for another, or to represent another in dealings with third persons.
i. The person for whom such act is done, or who is so represented, is called the Principal.
ii. The function of an agent is to bring his principal into contractual relations with third person.

27. Who is a "holder in due course"?
'Holder in due course' means any person who for consideration and in good faith become the processor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable, to order before the amount mentioned in it become payable.

28. What are the obligations of a Banker to a customer?
1) Obligation to Honour cheques
2) Obligation to maintain secrecy of Account
3) Obligation to keep proper Records of Transactions.
4) Obligation to Abide by customer's Instructions.

29. Define agency?
An 'agent' is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done or who is so represented is called the "principal".

30. What are the different kinds of agents?
1) Auctioneer
2) Banker
3) Broker
4) Factor
5) Del credere agent
6) Commission agent
7) Indentor
8) Insurance agent

31. State the Agent's authority and liability of principal?

The competency or capacity of an agent to bind his principal by his acts is known as 'agent's authority'. An agent enjoys.

a) Actual or real authority
b) Ostensible or apparent authority, and
c) Agent's authority in emergency.

32. How will terminate the Agency?

i) By act of parties
ii) By operation of Law.

PART B

1. Describe the essential elements of a valid contract?
2. What are the characteristics of a partnership firm? Distinguish between partnership and co-ownership?
3. Explain the types and characteristics of a Negotiable instrument?
4. What is meant by discharge of contract? Discuss the various modes of discharging contract.
5. What is bill of exchanges? Explain the various penalties in case of dishonor of certain cheques for insufficiency of funds in the accounts.
6. Explain the ways and means of performance of a contract with illustration.
7. Explain the types of agents and their functions
8. Write short note on : Un enfoeceable contract, obligation, consensus and quasi contract.
9. Explain the legal rules regarding a valid offer in the law of contract Act.
10. Explain the approaches to law making

UNIT – 2
PART A

1. Define a “company“?

A company is an association or collection of individuals, whether natural persons, legal persons, or a mixture of both. Company members share a common purpose and unite in order to focus their various talents and organize their collectively available skills or resources to achieve specific, declared goals.

2. Classify the companies on the basis of liability?

On the basis of liability, companies can be classified into three types, as follows:

1. Company limited by shares
2. Company limited by guarantee
3. Unlimited company
4.

3. State any four differences between a public company and a private company

BASIS FOR COMPARISON	PUBLIC COMPANY	PRIVATE COMPANY
Meaning	A public company is a company which is owned and traded	A private company is a company which is owned and traded privately.
Minimum members	7	2
Minimum Directors	3	2
Certificate for Commencement of Business (mandatory)	Yes	No
Minimum paid up capital	5,00,000	1,00,000
Invitation to public	Yes	No
Issue of prospectus / Statement in lieu of prospectus (mandatory)	Yes	No
Quorum at AGM	5 members must present in person.	2 members must present in person.
Statutory Meeting (mandatory)	Yes	No
Term used at the end of name	Limited	Private Limited
Maximum members	Unlimited	50

4. Classify the companies on the basis of number of members?

(i) Private company

(ii) Public company

5. What is the minimum paid-up capital of a Private Limited Company?

The minimum paid up capital at the time of incorporation of a private limited company has to be Indian Rupees 1, 00,000 (about United States Dollars 2,000). There is no upper limit on having the authorized capital and the paid up capital. It can be increased any time, by payment of additional stamp duty and registration fee.

6. Describe the meaning of memorandum of Association.

Memorandum of Association' abbreviated as MOA, is the root document of the company, which contains all the basic details about the company.

7. What are articles of Association (AoA)?

Articles of Association 'shortly known as AOA, is also a major document which contains all the rules and regulations designed by the company.

The articles of association of a company and its bye laws are regulations which govern the management of its internal affairs and the conduct of its business. They define the duties, rights, powers and authority of the shareholders and the directors in their respective capacities and of the company and the mode and form in which the business of the company is to be carried out.

8. What are the contents of MoA?

- Name Clause
- Object Clause
- Liability Clause
- Capital Clause
- Subscription Clause

9. Give any two differences between memorandum and Articles

BASIS FOR COMPARISON	MEMORANDUM OF ASSOCIATION	ARTICLES OF ASSOCIATION
Meaning	Memorandum of Association is a document that contains all the fundamental information which are required for the incorporation of the company.	Articles of Association is a document containing all the rules and regulations that governs the company.
Defined in	Section 2 (28)	Section 2 (2)
Type of Information contained	Powers and objects of the company.	Rules of the company.
Status	It is subordinate to the Companies Act.	It is subordinate to the memorandum.
Retrospective Effect	The memorandum of association of the company cannot be amended retrospectively.	The articles of association can be amended retrospectively.
Major contents	A memorandum must contain six clauses.	The articles can be drafted as per the choice of the company.
Obligatory	Yes, for all companies.	A public company limited by shares can adopt Table A in place

BASIS FOR COMPARISON	MEMORANDUM OF ASSOCIATION	ARTICLES OF ASSOCIATION
		of articles.
Compulsory filing at the time of Registration	Required	Not required at all.
Alteration	Alteration can be done, after passing Special Resolution (SR) in Annual General Meeting (AGM) and previous approval of Central Government (CG) or Company Law Board (CLB) is required.	Alteration can be don in the Articles by passing Special Resolution (SR) at Annual General Meeting (AGM)

10.What is the Prospectus?
The prospectus is the very foundation of a company'sedifice. It is the document which is to contain all material facts concerning a company and its operation so that a prospective investor may make an informed decision as to the merit of an investment.

11. What is meant by director?
A director is a person who is in charge of an activity, department, or organization. A person is said to be occupying the position of a director if he has been charged., with the responsibility of managing the affairs of a company and as such, performs the duties and functions of director specified at random in the companies Act.

12. What is a Private Limited Company?
A Private Limited Company is a Company limited by shares in which there can be maximum 200 shareholders, no invitation can be made to the public for subscription of shares or debentures, cannot make or accept deposits from Public and there are restriction on the transfer of shares. The liability of each shareholder is limited to the extent of the unpaid amount of the shares face value and the premium thereon in respect of the shares held by him. However, the liability of a Director / Manager of such a Company can at times be unlimited. The minimum number of shareholders is 2.

13. What is a Public Limited Company?
A Public Limited Company is a Company limited by shares in which there is no restriction on the maximum number of shareholders, transfer of shares and acceptance of public deposits. The liability of each shareholder is limited to the extent of the unpaid amount of the shares face value and the premium thereon in respect of the shares held by him. However, the liability of a Director / Manager of such a Company can at times be unlimited. The minimum number of shareholders is 7.

14. State the modes of Removal of Directors
Different modes under which directors can be removed
A director may be removed from office before the expiry of his term by:-
(a) Shareholders of the company
(b) Central government
(c) Company law board

15. What are the provisions regarding powers of director?
- The Board of Directors of a company shall be entitled to exercise all such.
- powers, and to do all such acts and things, as the company is authorised to exercise and do:
- Provided that in exercising such power or doing such act or thing, the Board shall be.

16. Who can be appointed as a Director?

Appointment of a Director is not only a crucial administrative requirement, but is also a procedural requirement that has to be fulfilled by every company. Under the Companies Act, only an individual can be appointed as a Director; a corporate, association, firm or other body with artificial legal personality cannot be appointed as a Director.

17. List out the provisions regarding liabilities of directors?

Liability for illegal acts:
Director receiving secret commission or bribe:
Liability for negligence
Negligent misrepresentation:
Liability for breach of warranty of authority:
No personal liability under contracts signed for company.

18. Define Winding up of a company

Winding up is the process of selling all the assets of a business, paying off creditors, distributing any remaining assets to the principals or parent company, and then dissolving the business

19. What are the modes of winding up?

(a) Compulsory winding up by the court.
(b) Voluntary winding up, which is itself of two kinds:
i. Members' voluntary winding up.
ii. Creditors' voluntary winding up.
(c) Winding up under the supervision of the court.

20. Who can present petition for winding up?

Section 439 provides that an application to the Court for the winding up of a company can be made:—
(a) by the company;
(b) by any creditor or creditors, including any contingent or prospective Creditor or creditors;
(c) by any contributory or contributories;
(d) by all or any of the parties at (a), (b) and (c), whether together Or separately;
(e) by the Registrar of Companies;
(f) by any person authorised by the Central Government as a result of investigation carried out on the affairs of a company pursuant to section 237;
(g) by the Central Government or a State Government, in a case falling under clause (h) of section 433

21. What is member's voluntary winding up?

Directors of the company shall call for a Board of Directors Meeting, and make a declaration of winding up, accompanied by an Affidavit, stating that;

- The company has no debts to pay, or
- The company will repay it's debts; if any, within 3 years from the commencement of winding up, as specified in declaration (488)

22. State the remedies for breach of contract

The remedies for breach of contract are:
1. Suit for damages or compensation
2. Suit for specific performance
3.Suit for injunction
4.Suit for rescission
5. Punitive damages

23. What are the consequences of winding up?

The principal difference between public and privately held companies is thatpublic companies have shares that can be publicly traded on a stock market. A privately held company might become a publicly held company by conducting an initial public offering, which is the offering of shares of the company to the public.

24. What is a holding company?

A holding company is a parent corporation, limited liability company or limited partnership that owns enough voting stock in another company to control its policies and management.

25. Define corporate governance?

Corporate Governance refers to the way a corporation is governed. It is the technique by which companies are directed and managed. It means carrying the business as per the stakeholders' desires. It is actually conducted by the board of Directors and the concerned committees for the company's stakeholder's benefit.

26. Define corporate governance?

Corporate governance refers to an economic legal and institutional environment that allows companies diversify, grow, restructure and exist, and do everything necessary to maximize long term share holder value.

22. List out the principals of corporate Governance?

1. Right and equitable treatment shareholders.
2. Interests of other stake holders.
3. Role and responsibilities of the board.
4. Integrity and ethical behaviour.
5. Disclosure and transparency.

23. State the essentials of corporate governance?

The following are the four key elements of good corporate governance.

1. Transparency
2. Disclosure
3. Fairness
4. Independent Supervision.

24. Give any four benefits of good governance?

1. Good governance leads to good performance
2. It creates an open and transparent system
3. It improves Communication and breaks down systematic barriers to flow of information
4. Good governance allows decision making based on data. It reduces risk.

25. What are the selected best practices of corporate governance from Indian Corporate?

1. Empower the Board
2. Have an appropriate mix in the Board
3. Ensure that the Board is aware of its functions.
4. Make use of the sub committee.
5. Provide Transparency.

26. Define the concept of minimum wages.

According to the committee on fair wages, a minimum wage a minimum wage must provide not merely for the bare sustenance of life but the preservation of the efficiency of the worker

27. State the methods for fixing and revising minimum wages (section 5)

i) Committee method
ii) Notification method

28. Define 'Industry' in industrial disputes Act?

'Industry' means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

29. What is an “Industrial Dispute”?

An “Industrial dispute” means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms and conditions of employment of any person.

30. What are the modes of settlement of disputes under the Industrial dispute Act?

1. Voluntary settlement and conciliation
   - Works committee
   - Conciliation officers
   - Boards of conciliation
   - Courts of Inquiry
2. Adjudication Machinery
   - Labour courts
   - Industrial Tribunals
   - National Tribunals
3. Arbitration

31. What is ‘lock – out’?

Lock – out means the temporary closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.

PART –B

1. What are the powers, duties and liabilities of a director?
2. What are the characteristics of a company?
3. Define a company. Explain the classification of companies under the companies act,1956.
4. Explain about the clauses in MOA?
5. What are the various modes in winding up a company?
6. Explain in detail about "Just and Equitable clause"
7. What are the steps involved in forming a public ltd company?
8. What are the liabilities of a director in case of misstatement in prospectus?
9. Examine the features and positive factors of corporate governance and "Companies are well managed by the good corporate governance"-discuss
10. What are the special privileges of a private company? What is corporate veil? When it can be pierced? Explain about contents in prospectus.

UNIT -3
PART-A

1) What is a factory?

A **factory** (previously **manufactory**) or **manufacturing plant** is an industrial site, usually consisting of buildings and machinery, or more commonly a complex having several buildings, where workers manufacture goods or operate machines processing one product into another.

2) Give any three obje3ctives of factories Act?

The main objective of the Act is not only to ensure adequate safety measures but also to promote **health** and **welfare** of the workers employed in factories as well as to prevent haphazard **growth** of factories.

3) Define the term „worker" used in factories Act?.

- a person who does a particular job to earn money
- a person who is actively involved in a particular activity
- a person whose job does not involve managing other people

4) Write short note on the word "Occupier" as defined under factories act.

Section 2(n) states that `occupier' of a factory means the person who has ultimate control over the affairs of the factory; provided that:

i) in the case of a firm or other association of individuals, any one of the individual partners or members thereof shall be deemed to be the occupier;

ii) in the case of a company, any one of the directors, shall be deemed to be the occupier

5) What are the provisions of the factories act, 1948, Relating to Health of workers?

- Cleanliness of the factory premises
- Disposal of Wastes and Effluents
- Ventilation and Temperature
- Dust and Fume

6. What are the provisions of the factories act, 1948, Relating to safety of workers

- Fencing of machinery.
- Work on or near machinery in motion
- Striking gear and devices for cutting off power
- Self-acting machines

7. What are the provisions of the factories act, 1948, Relating to welfare of workers

- Storing and drying
- Canteens.
- Welfare officers
- First aid

8. List out the provisions of the factories act regarding the employment of Young persons.

- Employment of Children.
- No child who has not completed his fourteenth year shall be required or allowed to work in any factory.--sec. 67.
- Certificate of Fitness and Token

- Working hours for Children

9) State the provisions of the factories act regarding the employment of women.

- Maximum daily work is 9 hours
- prohibition of night work
- Change of shift only after holiday

10) Define „Wages" as per the payment of wages act?

Under section 2 (vi) of the **Payment of wages Act**. 1936, the term **wages** is **defined** as all remuneration, Whether by way of salaries, allowances or otherwise, expressed in terms of money or capable or implied were fulfilled, be **payable** to a person employed in respect of his employment or of work done in such employment.

11. State any four objectives of payment of wages Act.

To regulate payment of wages to persons employed directly or indirectly in Industry. Specifically, it applies to employees drawing a wage of upto Rs. 1600/- on an average per month and employed in (1) Factories, (2) Transport Service of all kinds, (3) Mines, (4) Plantations and
(5) Construction industry. The central and state Governments are empowered to bring any other industry or establishment under coverage after giving 3 months notice of their intention to do so.

12. What is a wage period?

Wage Period: Any period fixed by the employer not exceeding one month

13. What can be the time for payment of wage?

Wages are to be paid to the employees after the expiry of the wage period.
(a) Before the expiry of seventh day in establishments employing less than 1000 persons and
(b) Before the expiry of tenth day in establishments employing 1000 & more persons.
In the case of employees whose services are terminated by the employer, wages must be paid before the expiry of the second working day from the day on which the employment is terminated.

14. State any four permissible or authorized deductions under the payment of wages act.

Permissible Deductions from the wages:

a) fines, (b) deduction for absence of duty, (c) reimbursement of loss caused by the employee for damage etc., (d) house accommodation, (e) cost of amenities provided, (f) advances and interest thereon, (g) loans granted from any welfare fund, house building or other purposes approved by the State Government, (h) income tax,
(i) deductions as per court orders or decrees,
(j) payment to co-operative societies,
(k) Life Insurance Corpn. policy premium,
(I) purchase of Government securities,
(m) Fidelity guarantee bonds insurance premium.
(n) Contribution to Prime Minister's National Relief Fund or other Funds specified, notified by Central Government.

(0) contribution to union fund.

15. What are the limits on deductions?

Total amount of deductions not to exceed Seventy Five per cent of wages where deductions are made for payments to co-operative societies and not to exceed Fifty per cent in other cases.

The total amount of all categories of deductions from the wages of any employed person in any wage – period, should not exceed the following limits prescribed by section 7(3)

i) 75% of wages payable in case where such deductions are wholly or partly made for payment to co-operative societies under section 7(2)(j) of the Act.
ii) 50% of the wages payable in any other case

16. Describe the meaning of the word "Bonus"
A bonus is an additional compensation given to an employee above his/her normal wage. A bonus can be used as a reward for achieving specific goals set by the company, or for dedication to the company.

17. State the objectives of the Bonus Act.
To provide statutory obligations for payment of bonus to persons employed in certain establishments on the basis of profits or productivity.
Scope and Coverage

- Applicable all over India to factories under the Factories Act and to other establishments employing 20 or persons on any day during a year.
- Government can extend its coverage to establishments employing between 10 and 20 workers.
- Covers all workers including supervisors, managers, administrators, technical and clerical staff employed on salary or wages not exceeding Rs 2,500 ($55.97) per month.

18. What is minimum Bonus?
1.The minimum bonus which an employer is required to pay even if he suffers losses during the accounting year or there is no allocable surplus is 8.33 % of the salary or wages during the accounting year, or
2.Rs. 100 in case of employees above 15 years and Rs 60 in case of employees below 15 years, at the beginning of the accounting year, whichever is higher

19. What is maximum Bonus?
If in an accounting year, the allocable surplus, calculated after taking into account the amount 'set on' or the amount 'set of' exceeds the minimum bonus, the employer should pay bonus in proportion to the salary or wages earned by the employee in that accounting year subject to a maximum of 20% of such salary or wages.

20. What are the rights of employees under the bonus act?

- Right to forfeit bonus of an employee, who has been dismissed from service for fraud, riotous or violent behaviour, or theft, misappropriation or sabotage of any property of the establishment.
- Right to make permissible deductions from the bonus payable to an employee, such as, festival/interim bonus paid and financial loss caused by misconduct of the employee.
- Right to refer any disputes relating to application or interpretation of any provision of the Act, to the Labour Court or Labour Tribunal.

21. What are the duties of employees under the bonus act?

- To calculate and pay the annual bonus as required under the Act
- To submit an annul return of bonus paid to employees during the year, in Form D, to the Inspector, within 30 days of the expiry of the time limit specified for payment of bonus.
- To co-operate with the Inspector, produce before him the registers/records maintained, and such other information as may be required by them.
- To get his account audited as per the directions of a Labour Court/Tribunal or of any such other authority.

22. What are the offences under bonus act?
For contravention of the provisions of the Act or rules the penalty is imprisonment upto 6 months, or fine up to Rs.1000, or both.
For failure to comply with the directions or requisitions made the penalty is imprisonment upto 6 months, or fine up to Rs.1000, or both.

In case of offences by companies, firms, body corporate or association of individuals, its director, partner or a principal officer responsible for the conduct of its business, as the case may be, shall be deemed to be guilty of that offence and punished accordingly, unless the person concerned proves that the offence was committed without his knowledge or that he exercised all due diligence

23.How to calculate compute gross profit?

—The gross profits derived by an employer from an establishment in respect of the accounting year shall— (a) in the case of a banking company, be calculated in the manner specified in the First Schedule; (b) in any other case, be calculated in the manner specified in the Second.

24. Explain fencing of machinery under factories act?

In every factory the following, namely:—

(i) every moving part of a prime mover and every flywheel connected to a prime mover, whether the prime mover or flywheel is in the engine house or not;
(ii) the headrace and tailrace of every water-wheel and water turbine;
(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and
(iv) unless they are in such position or of such construction as to be safe to every person employed in the factory as they would be if they were securely fenced, the following, namely:—
(a) every part of an electric generator, a motor or rotary converter;
(b) every part of transmission machinery; and

25. What are safety provisions for young persons under factories act?

Employment of young persons on dangerous machines (Sec.23):
Section 23 provides that young person shall be required or allowed to work at any machine to which he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and-
(a) has received sufficient training in work at the machine, or
(b) is under adequate supervision by a person who has a through knowledge and experience of the machine.

26. Define adult and adolescent as per factories act?

"Adult" means a person who has completed his eighteenth year of age [Section 2 (a)];
"Adolescent" means a person who has completed his fifteen year of age but has not completed his eighteenth year [Section 2 (b)]

27. What is fencing of machinery under safety act?

Fencing of machinery (Sec. 21)

According to Section 21 of Factories Act, 1948, in every factory, the dangerous parts of all machineries should be securely fenced. The section provides for fencing the following machineries while they are in use—
(i) every moving part of a prime mover and every flywheel connected to a prime mover whether the prime mover or flywheel is in the engine house or not;
(ii) the headrace and tailrace of every water-wheel and water turbine;
(iii) any part of a stock-bar which projects beyond the head stock of a lathe; and
(iv)thefollowing should be securely fenced—
(a) every part of an electric generator, a motor or rotary convertor;
(b) every part of transmission machinery; and
(c) every dangerous part of any other machinery,

28. What are the payments to the employees which are not considered a "wages"?

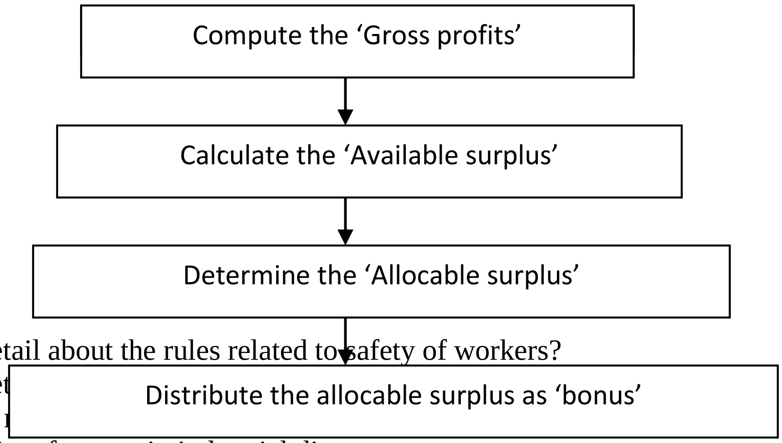
- Any bonus
- The value of any house accumulation
- Contribution to any pension or provident fund
- Any traveling allowance
- Any gratuity payable on the termination of the employment
- Any sum paid to the employed person to defray special expenses Entailed on him by the nature of his employment.

29. Define an 'Employee' in the Bonus Act?

An 'employee, means any person employed on a salary or wage not exceeding 3500 rupees per mensem in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.

30. State the "Bonus formula" given in the payment of Bonus Act, 1965.

The following schematic view gives the simple ‘bonus formula



PART B

1. Explain in detail about the rules related to safety of workers?
2. Explain in det
3. What are the
4. State the salient features in industrial disputes.
5. Explain the provision related to legality of strikes and lockouts?
6. Explain the provision related to employment of women and children in factory?
7. What are the deductions that can be made from a worker's wage?
8. Explain the terms 'set on' and 'set off' with an example.
9. Enumerate the important provisions of payment of Bonus Act. How will you determine the quantum of bonus as per payment of bonus act.
10. An employee was dismissed from service for an act of misconduct. The company did not pay any bonus to the dismissed employee for the accounting year in which the dismissal took place. Is the action of the company justified?

UNIT -4
PART-A

1. **Define Tax.**
Tax is a financial charge or other levy upon a **taxpayer** (an individual or legal entity) by a state or the functional equivalent of a state such that failure to pay is punishable by law.

2. **What do you mean direct Tax?**
The term **direct tax** generally means a tax paid directly to the government by the persons on whom it is imposed.

3. **Write short note on Indirect Tax.**
An **indirect tax** (such as sales tax, value added tax (VAT), or goods and services tax (GST)) is a tax collected by an intermediary (such as a retail store) from the person who bears the ultimate economic burden of the tax (such as the customer

4. **Define Income Tax**.
The Income Tax Act of 1961 stipulates that any person who qualifies as an assessee and whose gross income is more than the exemption limit is required to pay Income Tax in accordance with the rates indicated by the Finance Act.

5. **Define Corporate Tax.**
It is the tax charged on the profits earned by associations and companies by several jurisdictions. The rate of Corporate Tax in India depends on whether the profits have been passed on to the shareholders or not

6. **Define Value Added Tax**.
This is the tax that a manufacturer needs to pay while purchasing raw materials and a trader needs to pay while purchasing goods. VAT is eventually expected to replace Sales Tax. All goods and services provided by business individuals and companies come under the ambit of VAT

7. **Define Capital Gains Tax.**
A Capital Gain can be defined as an, any income generated by selling a capital investment (business stocks, paintings, houses, family business, farmhouse, etc.). The 'gain' here is the difference between the price originally paid for the investment and money received upon selling it, and is taxable.

8. **Define Service Tax.**
As per the Finance Act of 1994, all service providers in India, except those in the state of Jammu and Kashmir, are required to pay a Service Tax in India.

9. **Define Fringe Benefit Tax**.
As per Section 115WB of the Finance Bill, expenses incurred for employees, by an employer (individual/company/local authority/trader) for purposes of entertainment, gifts, telephone, clubbing, festivals etc., will be treated as Fringe Benefits and will be taxed.

10. **Define Sales Tax.**

A tax based on the cost of the item purchased and collected directly from the buyer

11. **What are the objectives of tax planning**?

i) **Reduction of Tax liability**
ii) **Growth of Economy**
iii) **Productive Investment**
iv) **Minimization of litigation**
v) **Economic Stability.**

12. What are the methods of tax planning?

Short range Tax Planning: It may be year to year planning to achieve specific or limited objectives.
Long range Tax planning: It involves entering into activities which may not pay off immediately.
Permissive Tax planning: It is tax planning under the express provisions of tax laws. Tax laws of our country offer many exemptions and incentives.
Purposive tax planning: It is based on the measures which circumvent the law. The permissive tax planning has the express sanction of the statue while the purposive tax planning does not carry such sanction.

13. **Who Pays Sales Tax In India?**

Sales Tax i.e. the **Central Sales Tax (CST)** is an indirect tax as it is recovered from the buyers/consumers as a part of the consideration for the sale of goods. However, for the purpose of CST, the actual payment of the Sales Tax is made by every dealer on the goods sold by him in the course of inter-state trade or commerce. This tax is payable even though there may be no liability to pay the tax on the sale of goods according to the tax laws of that particular state.

14. **Write short notes on Value Added Taxes (VAT).**

Value Added Tax (VAT) is a general consumption tax that is assessed on the value added to goods & services.
VAT is a multi-stage tax, levied only on value that is added at each stage in the cycle of production of goods and services with the provision of a set-off for the tax paid at earlier stages in the cycle/chain.
It is the indirect tax on the consumption of the goods, paid by its original producers upon the change in goods or upon the transfer of the goods to its ultimate consumers.

15. Define Tax Evasion?

Tax Evasion means avoiding tax by illegal mean, e.g., by suppressing facts, by not maintaining correct records, by falsifying facts, by giving false statements and would be punished in normal course.

16. What are the needs for corporate Tax Planning?

Every transaction entered into by a businessman will have direct and immediate impact on the tax liability of the person carrying on the business from the angle of income tax and surtax as well as sales tax, excise duty and customs duty with increasing burden of direct taxes, like income tax, gift tax, wealth tax, etc

17.Give any two differences between Tax Evasion and Tax planning

Tax Evasion	**Tax planning**
1. It means willful and deliberate Under-statement of income Over-statement of expenses / Losses and under-payment of tax 2. It is an offence under the law, Liable to penalty / prosecution	1. It means systematic arrangement of affairs with a view to minimize incidence of tax, in conformity will provisions of Law 2. It is permissible under law if it is not by way of colorable device to Shorter unit legal provisions

18. What is meant by Tax Management?

Tax management is concerned with compliance with legal obligations under the tax laws. A thorough under standing of legal provisions and timely compliance with them is essential to proper and effective tax management

19. What are the elements of Tax Management

1. Planning and execution of tax related matters, such as maintenance of books of account, compliance with audit requirements
2. Deduction of tax at source where necessary
3. Payment of installments of advance tax on time
4. Filing of tax returns on or before the due date
5. Getting the assessment done.

21. State any two differences between Tax management and Tax planning

Tax Management	**Tax planning**
1. It means planning of tax matters Such as maintenance of books of Accounts, getting the audited filling of returns, appeals etc 2. It has focus on the past present and the future	1. It is a wider term and includes tax management 2. It essentially concerns itself with the future

22. List out the authorities under the IT act?

The following are the appellate levels provided under the IT Act:

- ✓ Commission of Income Tax (Appeals)
- ✓ Appellate Tribunal
- ✓ The High Court
- ✓ The supreme court
- ✓

22.What are the procedures of filling appeal?

- ✓ Appeal against an order of commissioner (Appeals) must be filed within 60 days of the data on which the order is communicated
- ✓ In order case of order under sec. 158 BC with in 30 days
- ✓ The appeal must be in the prescribed form No. 36/36A and accompanied by the prescribed fee.

23.State the types of direct taxes.

1. personal income Tax
2. Corporation Tax
3. Wealth Tax
4. Gift Tax

24. List out the types of Indirect Taxes.

1. Customs Duty
2. Excise Duty
3. Value added Tax

25. What do you understand by value added tax?

VAT is an multi-stage tax, levied only on value Added at each stage in the chain of production of goods and services with the provision of a set-off for the tax paid at earlier stages in the chain..

26. Define Input Tax?

It means tax paid or payable by registered dealer in the course of business on the purchase of any good made from a registered dealer

27. What is the VAT Rate structure?

✓ The VAT rates are : 1% gold, silver precious metals, gems and precious stones

✓ 4% essential goods and primary raw materials
✓ 12.5% on goods not covered in any schedule

28. Define 'output Tax'

It means the tax charged or chargeable under this Act by registered dealer in respect of the sale of goods in the course of his business

29. State any five features of VAT

1. Registration
2. Incidence, levy and collection of Tax
3. Input tax credit
4. Rate of taxes
5. Composite dealers

30. Write any five shortcoming of VAT?

1. Continuance of CST under VAT regime
2. Difference tax treatment
3. Movement of goods
4. Incentive schemes
5. Exemption schemes

31. List out any differences between sales Tax and VAT?

Sales Tax	VAT
1. Single point Tax	1. Multipoint Tax
2. Narrow based	2. Broad based
3. High Administrative costs	3. Automated administration
4. Need intensive control	4. Self regularly
5. Double taxation tax on tax	5. No cascading effect off taxes

32. What is sales tax Act?

Sales Tax is a tax on the sales of goods. It is an Indirect Tax, under the constitutions of India in which both central and state Government are empowered to levy tax on sale of goods subject to certain conditions.

33. State any two objects of control Sales Tax

✓ To tax sale of goods in the course of inter – state trade and commerce and to exclude sale with in the state
✓ To enforce registration of dealers under the ACT for effective collection assessment and prevention of tax evasion

34. Give any three salient provisions of state sales Tax

✓ State sales Tax applied on sale and purchase of goods within the state
✓ State sales Tax Act enacted through state legislative
✓ Rate of sales tax is contained in the various schedules included in the Act

PART-B

1. Explain the corporate tax planning system in India and the pitfalls in the exemptions.
2. Explain about the authorities under the IT Act.
3. Explain in detail about direct taxes and indirect taxes.
4. Discuss the scope of CST Act and the issues in CST calculations.
5. Explain the various methods of computation and difficulties involved in VAT.
6. What are the objectives and disadvantages of VAT?
7. Discuss in detail about input tax credit method of computation of VAT.
8. Discuss about practical implications in CST and write a note on stock transfer, intra-state sales.

9. Explain the tax exemptions that an individual investor can apply for a better tax management.
10. Write a detailed note on GST and how it will help in improving the economy.

UNIT-V
Consumer Protection Act and Introduction of Cyber laws
PART A

1. Define Consumer protection Act?

The Consumer protection Act, 1986 attempts to provide an inexpensive, Simpler and quicker access to redressal of consumer grievances. The Act has provided machinery where by consumer can file their complaints against defective goods or deficient service with consumer forums.

2. Sate any two objectives of consumer protection Act?

* To provide an inexpensive, simpler and quicker access to redressal of Consumer grievances.
* To provide a machinery against defective goods or deficient services with Consumer forums.

3. What are the various rights of consumers recognised under the consumer Protections Act?

1. Right to safety
2. Right to Information
3. Right to Choose
4. Right to be heard
5. Right to seek Redressal against Exploitation
6. Right to consumer Education

4. Who is consumer?

'Consumer means' any person who buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment, and includes any person who uses such goods with the approval of the buyer.

5. Define 'Unfair' trade practice?

'Unfair trade practice' means a trade practices which. For the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts any unfair method or unfair or deceptive practices.

6. What is meant by restrictive trade practice?

"Restrictive trade practice" means a trade practice which tend to bring about manipulation of price and of its conditions of delivery or to affect flow of supplies in the market relating to goods or services in such a manner as to impose on the consumer's unjustified costs or restrictions.

7. Define Consumer Dispute

"Consumer dispute" means a dispute where the person against whom a complaint has been made denies or disputes the allegations contained in the complaint.

8. What are the rights of consumers to be protected by central council?

1. Right to safety

2. Right to information
3. Right to Choose
4. Right to be heard
5. Right against exploitation
6. Right to education

9. Discuss about consumer disputes redressal agencies.

The Consumer protection Act, 1986 provides for a three –tier remedial machinery for speedy redressal of consumer disputes namely

1. District forum
2. State commission and
3. National Commission

10. State the powers of the consumer forums?

1. Power similar to those of civil court
2. Additional power of the consumer forums(Rule 10)
3. Power to issue order.

11. Define Cyber Laws

The expression "Cyber law" encompasses all the cases. Statutes and constitutional provisions that affect persons and institutions who control the entry to cyberspace, provide access to cyberspace create the hard ware and software which enable people to access cyberspace or use their own devices to go 'Online' and enter cyberspace.

12. Define information Technology (IT)

The term information technology' generally applied to broad area of activities and technologies associated with the use of computers and communication. It is an application of computers to create store, process and use of information particularly in the field of commerce.

13. What is Information Technology Act 2000?

The law relating to 'information' technology' is contained in the Information Technology (IT) Act. 2000, which came into force on 17^{th} October, 2000. It is the first Cyber Law in India. It governs the processing and dissemination of information electronically.

14. Give any two objective of IT Act 2000.

- To give boost to electronic commerce e-transactions, associated with commerce and trade
- To facilitate electronic governance Co-governance by means of reliable electronic records.

15. Define the term 'Electronic Commerce'

The Term Electronic Commerce (e-commerce) refers to the business transacted electrically The term refers to trading of goods over the Interest. It is online sale and purchase of goods and services for value by using internet technologies such as internet processing e-mail and World Wide Web (www).

16. What is meant by Electronic Governance?

The term Electronic Governance refers to the application of information technology to the processes of Government functioning in order to bring about Simple, Moral, Accountable, Responsive and Transparent (SMART) Governance.

17. What is Digital Signature?

The expression digital Signature has been defined in section 2(1) (P) of the Act to mean authentication of any electronic record by a Subscriber, i.e., a person in whose name the "Digital Signature certificate" is issued by menas of an electronic method or procedure in accordance with the provisions of section3.

18. Define Electronic record?

It means data, record or data generated, image or sound stored, received or sent in an electronic form [sec 2(1) (r)] or microfilm or computer generated microfiche.

19. What do you understand by electronic form

With reference to information, 'electronic from' means any information generated, sent, received or stored in media, magnetic, optical, computer memory, microfilm, Computer generated micro fiche or similar device.

20. State any five provisions of electronic governance?

1) Legal Recognition of Electronic Records
2) Legal Recognition of Digital Signatures
3) Retention of Electronic Records
4) Public of Rules Regulations etc, in Electronic Gazette
5) Central Government empowered to make Rules

21. What are the regulations under IT Act

1) Role of Controller of certifying Authorities (CCA) in Regulating Certifying Authorities.
2) Role of Controller of Certifying Authorities(CCA) n Regulating flow of Information.
3) Role of cyber Regulations Appellate Tribunal (CRAT) as an Appelate Tribunal.
4) Role and constitution of Cyber Regulation Advisory Committee (CRAC)

22. What do you understand by Consumer protection councils?

The Consumer protection councils are established at centre State and District level. These Councils work towards the Promotion and protection of the rights of the Consumers.

23. Write short note on Copy rights

Copyrights are the exclusive rights to reproduce and sell literary, musical and artistic works.

24. Give any two examples of unfair Trade Practice

- Making false statements that the goods are of particular standard, quality, quantity, grade, composition, style or model.
- Making false statements that the Service is of a particular standard quality or grade.

25. What do you meant by patents?

Patents are the exclusive rights granted by the Government enabling the holder to control the use of an invention.

26.What are the objectives of CST act?

Formulate principles for determining when a sale or purchase of goods takes place :-

- in the course of interstate trade or commerce ; or
- outside a State ; or
- in the course of import into or export from India.

2. Provide for the :-

- levy of
- collection and
- distribution

Of taxes on sales of goods in the course of interstate trade or commerce.

27.What are the conditions for CST to becomeapplicable?

1. The sale should not take place in the course of import into or export from India.
2. There should be a Dealer and such dealer must be registered under the CST Act.
3. He should made a sale to any buyer (registered dealer or unregistered dealer)
4. He should carry on any business.
5. He should made a sale of any goods (declared or undeclared)
6. The sale should be made in the course of interstate trade or commerce (i.e. the sale should not be a sale inside a state.

28. What is sale price?

"Sale Price" means the amount payable to a dealer as consideration fro the sale of any goods. It does not include,

- Cash Discount (including Trade Discount, Quantity Discount, Additional Discount). This sum is deducted from sale consideration.
- Cost of installation, freight and delivery is excluded (if such cost is separately charged).
- Goods returned by buyer within 6 months.
- Goods rejected by buyer

29. Write any two CST transaction forms?

Form C

The sales tax on inter-state sale is 4% or the applicable sales tax rate for sale within the State whichever is lower if the sale is to a dealer registered under CST and the goods are covered in the registration certificate of the purchasing dealer. The purchasing dealer is eligible to get these goods at concessional rate if a declaration in C form is submitted to the selling dealer.

Form D

Sale to government is taxable @ 4% or applicable sales tax rate for sale within the State whichever is lower. This concession on CST is applicable if Form D is issued by the government department which purchases the goods.

30.What is GST?

The **GST** is a Value added Tax (VAT) is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at the national level. It will replace all indirect taxes levied on goods and services by the Indian Central and state governments.

PART B

1."Consumer Protection Act and Consumer movements in India have reached the best destination"-Discuss
2. Discuss the salient features of consumer protection act 1986.
3. Briefly explain the consumer disputes redressal commission as to its commission, jurisdiction and procedure to be followed to it.
4. Explain the types of cyber crimes that impact the business activities and the role of IT Act in governing cyber crimes.
5. Analyze the importance of IPR legislations in information economy.
6. Describe the components of IPR.
7. How are digital records and digital signatures secured? Briefly explain the term copyrights and license under the copy right act, 1957.
8. Explain in detail about trademark and patents.
9. Explain about competition commission of India.
10. Discuss about the objectives of competition act and penalties imposed under competition act. Explain about prohibition of agreements and abuse of dominant position in competition act

University Question Paper

Question Paper Code : 70159

M.B.A. DEGREE EXAMINATIONS, NOVEMBER/DECEMBER 2019
First Semester
BA 5104 – LEGAL ASPECTS OF BUSINESS
(Regulations 2017)

Time : Three Hours Maximum : 100 Marks

Answer ALL questions

PART – A (10×2=20 Marks)

1. What is an implied contract ?
2. What are the duties of the principal in a contract of agency ?
3. What is railway receipt ?
4. Who is a holder in due course ?
5. Distinguish between Memorandum of Association and Articles of Association.
6. What are the powers of the court on hearing petition for winding up ?
7. Define 'wages' as per the Payment of Wages Act, 1936 ?
8. What are the essentials of a lock out as laid down in the Industrial Disputes Act, 1947 ?
9. What are the rights of a consumer ?
10. What are the benefits of trademark registration ?

70159 -2-

PART – B (5×13=65 Marks)

11. a) i) By whom must contracts be performed ? (4)

ii) What are reciprocal promises ? Bring out the rules regarding the performance of reciprocal promises. (9)

(OR)

b) i) What are the essentials of the relationship of agency ? (3)

ii) Explain the various ways in which the relationship of agency is created. (10)

12. a) i) What do you mean by delivery of goods as per the Sale of Goods Act, 1930 ? (3)

ii) Explain any five rights and duties of the buyers in a contract of sale. (10)

(OR)

b) i) Who are the parties to a bill of exchange ? (2)

ii) Explain the different modes of discharge of a party or parties to a Negotiable instrument. (11)

13. a) i) Explain any five differences between a public company and a private company. (5)

ii) Examine the provisions of the Companies Act regarding appointment of Directors. (8)

(OR)

b) i) Summarise the duties of the liquidator of a company. (8)

ii) Emphasise the significance of corporate Governance in an emerging economy like India. (5)

14. a) i) Explain the provisions of the Factories Act, 1948, regarding facilities for the welfare of the workers. (8)

ii) Explain the rules for payment of wages as laid down in the Payment of Wages Act, 1936. (5)

(OR)

b) Elaborate the procedure laid down in the Industrial Disputes Act, 1947, regarding Award and Settlement. (13)

15. a) Explain the power of the Competition Commission of India as per the Competition Act, 2002. (13)

(OR)

b) Bring out the provisions of the Information Technology Act, 2000 regarding :

i) Authentication of electronic records. (6.5)

ii) Electronic Governance. (6.5)

Reg. No. :

Question Paper Code : 40138

M.B.A. DEGREE EXAMINATION, NOVEMBER/DECEMBER 2018.

First Semester

BA 5104 — LEGAL ASPECTS OF BUSINESS

(Regulations 2017)

Time : Three hours Maximum : 100 marks

Answer ALL questions.

PART A — (10 × 2 = 20 marks)

1. What is a voidable contract?

2. State any two differences between a cheque and a bill of exchange.

3. What are the contents of Articles of Association of a company?

4. When is a person disqualified for appointment as a director of a company?

5. Who is responsible for payment of wages as per the Payment of Wages Act, 1936?

6. What are the conditions for eligibility of Bonus as per the Payment of Bonus Act, 1965?

7. When CST is applicable in India?

8. What is VAT?

9. What is a restrictive trade practice as per the Consumer Protection Act, 1986?

10. What do you mean by copy right?

PART B — (5 × 13 = 65 marks)

11. (a) Explain the remedies available to an aggrieved party on the breach of a contract. (13)

Or

(b) What do you mean by delivery of goods as per the Sale of Goods Act, 1930? Bring out the rules as to delivery as laid down in the Act. (13)

12. (a) (i) How are the companies classified on the basis of liability? (4)

(ii) Explain the special privileges of a private company. (9)

Or

(b) What is winding up? Describe the grounds for compulsory winding up of a company. (13)

13. (a) (i) What is a 'Factory' as per the Factories Act, 1948? (3)

(ii) Explain any five provisions of the Factories Act, 1948 regarding safety of workers. (10)

Or

(b) (i) What is lay off? What are its essentials as per the Industrial Disputes Act, 1947? (6)

(ii) Point out the differences between lock out and closure. (7)

14. (a) What is corporate tax planning? Enumerate its objectives. (13)

Or

(b) (i) What do you mean by sale price under the Central Sales Tax? (4)

(ii) Explain the different methods of computation of VAT. (9)

15. (a) Explain the composition of the District Consumer Disputes Redressal Forum. What procedure is followed by it after receiving a complaint? (13)

Or

(b) Define the following terms as used in the Information Technology Act, 2000 as amended in 2008: (13)

(i) Appropriate Government

(ii) Asymmetric crypto system

(iii) Computer network

(iv) Electronic signature

(v) Electronic record

(vi) Originator

(vii) Private key.

Reg. No. :

Question Paper Code : 10207

M.B.A. DEGREE EXAMINATION, NOVEMBER/DECEMBER 2014.

First Semester

BA 9203/BA 915/CBA 9107 — LEGAL ASPECTS OF BUSINESS

(Regulation 2009)

Time : Three hours Maximum : 100 marks

Answer ALL questions.

PART A — (10 × 2 = 20 marks)

1. Define void contract?
2. What is the objective of VAT?
3. Discuss the exceptions of the doctrine of caveat emptor.
4. Explain the mode of charging the sales tax.
5. What is quasi contract?
6. Explain the types and effects of crossing made on cheques.
7. Differentiate between 'Sale' and 'agreement to sale'.
8. Define Partnership and explain its essentials.
9. Write short note on Wagering contracts.
10. Differentiate between Conditions and warranties.

PART B — (5 × 16 = 80 marks)

11. (a) What are the characteristics of a company?

Or

(b) Discuss the exceptions to the doctrine of indoor management.

12. (a) "Registration of Trade Union is not compulsory, but advisable." –Discuss this statement.

Or

(b) Discuss the rights and duties of Conciliation Officer.

M.B.A. DEGREE EXAMINATION, NOVEMBER/DECEMBER 2014.

First Semester

BA 9207/ BA 917/ UBA 9107 — LEGAL ASPECTS OF BUSINESS

(Regulation 2009)

Time : Three hours Maximum : 100 marks

Answer ALL questions.

PART A — (10 × 2 = 20 marks)

1. Define void contract?
2. What is the objective of VAT?
3. Discuss the exceptions of the doctrine of caveat emptor.
4. Explain the mode of charging the sales tax.
5. What is quasi contract?
6. Explain the types and effects of crossing made on cheques.
7. Differentiate between 'Sale' and 'agreement to sale'.
8. Define Partnership and explain its essentials.
9. Write short note on Wagering contracts.
10. Differentiate between Conditions and warranties.

PART B — (5 × 16 = 80 marks)

11. (a) What are the characteristics of a company?

Or

(b) Discuss the exceptions to the doctrine of indoor management.

12. (a) "Registration of Trade Union is not compulsory; but advisable." –Discuss this statement.

Or

(b) Discuss the rights and duties of Conciliation Officer.

13. (a) What is an Industrial Disputes ? Discuss its essentials.

Or

(b) Write note on "Presumption of Negotiable Instruments".

14. (a) Explain the conditions on which strikes and lockouts are prohibited

Or

(b) Discuss the provisions regarding the health of workers

15. (a) Explain the various kinds of agreements.

Or

(b) Examine the essentials of contract.