A Dissertation
On
A Study of Contemporary Business Regulatory Framework with Special Reference to The Companies Act 2013

Submitted For the Partial Fulfilment of The Degree of Master of Commerce Under Gauhati University

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DECLARATION

I hereby declare that this dissertation entitled **"A Study of Contemporary Business Regulatory Framework with Special Reference to The Companies Act 2013"** embodies the result of my original work carried out under the supervision and guidance of Bibhuti Bhusan Das, *HoD, Department of Management, Nalbari Commerce College, Nalbari,* and submitted for the partial fulfillment of the requirement of M. COM. 3rd semester examination. To the best of my knowledge and belief, the findings in the project are based on the data collected and have not been extracted from any published work or journals except those specified in the Bibliography. I further declare that neither the dissertation as a whole nor any part of it has been submitted so far elsewhere for any research degree or diploma.

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CERTIFICATE

This is to certify that Kushal Jain, a student of M. COM. 3rd Semester, of Nalbari Commerce College, Nalbari has prepared his dissertation entitled **"A Study of Contemporary Business Regulatory Framework with Special Reference to The Companies Act 2013"** for the partial fulfillment of the requirement of Degree of M. Com. course under my guidance and supervision. This dissertation is the result of his sincere effort and no part of it has been submitted to any other Department University or Institution for any degree.

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I would also like to express my thanks to the Department of Commerce, Gauhati University, and Nalbari Commerce College, Nalbari for giving me this opportunity to carry out a research study.

I apologize for every error and omission that I committed while presenting this report.

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SYNOPSIS

Title of the project:

"A Study of Contemporary Business Regulatory Framework with Special Reference to The Companies Act 2013"

Introduction and Objectives:

Law has become an integral part of any business activity, providing a framework necessary for maximum incentives to entrepreneurs, investors, and inventors. Business law secures the elements of trust and certainty that are vital to economic transactions. It also includes a study of legal compliances related to any business activity. Meanwhile, in the year 2013, the Companies Act of 1956 was repealed and a new Companies Act was passed in 2013 inserting new provisions with major changes. The present study will examine the new provisions and rationale behind the changes.

The study is conducted:

1. To analyze the legislation passed by the government of India to control the affairs of the Indian business houses
2. To make an overview of the special legal provisions of the Companies Act, 2013
3. To make a comparative analysis of the Companies Act of 2013 and 1956

Methodology:

The study is descriptive and analytical on the legal framework of the Indian business environment, and only relevant legislations were analyzed for drawing a meaningful conclusion.

Major Findings:

1. The Indian government enacted laws based on experimentation and practical considerations.
2. laws attempt to bring industrial peace and harmony.
3. Ethics In Business and Laws in Business Go Hand in Hand
4. Business Laws Protect the Rights of All Stakeholders.
5. Adherence to Legal Compliance is Binding.
6. Laws Creates Certain Authorities and Quasi-legal Authorities.
7. The provisions of the new Companies Act ensure good corporate governance, transparency, accountability, and protection of stakeholders' interests.
8. The Companies Act 2013 has brought about sweeping changes in the functioning of companies in India
9. The Act also aims to promote women's empowerment in the corporate sector by mandating the appointment of at least 1 woman director on the board of certain classes of companies.

Conclusion:

Business laws aim to promote industrial peace and harmony, satisfy stakeholders like government and business houses, and target groups directly or indirectly involved in business, as outlined in a table. Business laws protect the rights of all stakeholders, including workers, management, and promoters. They consider strike rights, lock-out rights, wage fixation rights, and company registration rights, ensuring fair treatment for all stakeholders.

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CHAPTER-1

Introduction

1.1. Introduction:

The role of business in any country's economy is of paramount importance. Business activities create job opportunities, generate revenue for the economic sector, and play a significant role in nation-building. However, the proliferation of business activities demands a mechanism to regulate its conduct, and this is where the law comes into play. Strong and productive economies require a well-enforced system of equally applied law. Law has become an integral part of any business activity, providing a framework necessary for maximum incentives to entrepreneurs, investors, and inventors. Business law secures the elements of trust and certainty that are vital to economic transactions. It also includes a study of legal compliances related to any business activity. In this Unit, we will discuss the concept of business and the objectives of business law. We will help you understand the significance of business law in the present business environment and elaborate on the various sources of business law. The terms "Business law" and "Business Laws" are used interchangeably in the text. "Business Law" is a generic or umbrella term that provides the legal and regulatory framework for doing business. The business environment in any country is governed by its business laws that are necessary for conducting business transactions and regulating business. Understanding the basics of business law is of utmost importance for students of business management to gain a deeper knowledge of the subject. This Unit will focus on defining the meaning of business, the scope and significance of business law in the current economic scenario, and acknowledge the different sources of law that contributed to the evolution of business law. In the modern-day nation, law is a necessary framework for the most effective functioning of the market as it glues together diverse peoples of different backgrounds into very large, organized groups. Law is intended to tell members of society what they can and cannot do, and it is one of the most significant social forces in the modern nation, holding society together.

The scope of business laws is very vast. It takes into its ambit the laws related to all the activities proving indispensable for the successful conduct of the business. The realm of business laws is expansive and encompasses not only laws related to companies but also laws regulating the business activities of other forms of business organizations. These laws cover a wide range of areas including contracts, property, agency, negotiable instruments, sale of goods, bailment, guarantees, and intellectual property. For companies, there are a plethora of laws such as corporate laws, securities laws, competition laws, foreign exchange laws, and tax laws, among others. Every significant act that a business entity may engage in throughout its lifetime is governed by numerous laws, from its incorporation to its ultimate dissolution. The laws governing business activities are designed to ensure that all activities are conducted lawfully and ethically.

Moreover, business laws play a crucial role in raising questions against governmental regulations in case they violate legitimate business practices. The legal consequences of multifarious business transactions are also significant to the accountant of the company in auditing the company's books and preparing the required financial statements. Additionally, business laws serve the interests of society at large, including laws dealing with insurance, environmental protection, taxation, and antitrust laws that keep a check on market concentration, monopolistic and oligopolistic companies, and the dominance exerted by these companies in the market.

Corporate restructuring is a vital aspect of business development, which involves a range of transactions such as changing a firm's capital structure, selling off business lines, making acquisitions, and making internal changes in the organization of the firm. Corporate restructuring is essential for a company's survival and sustenance in a competitive market. There are numerous ways by which a company may opt for internal or external restructuring such as merger and amalgamation, merger through absorption, merger through consolidation, acquisition, takeovers, divestiture, demerger, joint venture, and buyback of securities. The different forms of restructuring are also supervised by different branches of business law, such as the Companies Act, FEMA, Taxation laws, and SEBI Act. Each form of restructuring serves a specific purpose such as focusing on core competency, hiving off assets, eliminating competition, achieving economies of scope and scale, gaining access to R&D and technology know-how, synergistic effects, diversification, and enhancing public perception.

1.2. Objectives of the Study:

The study is conducted:

i. To analyze the legislation passed by the government of India to control the affairs of the Indian business houses

ii. To make an overview of the special legal provisions of the Companies Act, 2013

iii. To make a comparative analysis of the Companies Act of 2013 and 1956

1.3. Review of Literature:

The following studies provide insights into the legal business environment of India. The legal framework for doing business in India, including the Companies Act and regulations on foreign direct investment was a subject matter of the studies. Some highlight the challenges of investor protection in India due to corruption within the legal system and government. It also emphasizes the dominance of nonmarket sources of financing and the importance of informal governance mechanisms in the country. Focuses on the competition legislation in India, discussing the Competition Act and the role of the Competition Commission of India in regulating business practices have been analyzed by the researchers. Exploring how variations in the legal form of firms, such as public limited companies, private limited companies, or unincorporated enterprises, influence the internationalization patterns of software and IT companies in India is also highlighted.

Balasubramanian, B. (2013) finds that the Companies Act 2013 is a major development in India's corporate legislation, replacing the Companies Act 1956. The Act includes provisions to restrain the voting rights of interested shareholders on related party transactions, recognize board accountability to stakeholders, and extend good governance requirements to large unlisted corporations. There is some concern about possible overreach making life more difficult for companies and their independent directors.

Bhavya Gangwal, M.K., (2023) observed that the Companies Act of 2013 provides a comprehensive legal framework for mergers and acquisitions in India. The Indian government has taken steps to simplify investment regulations and provide tax breaks to encourage foreign investment. The legal framework of the Companies Act of 2013 provides useful policy guidelines for institutions and directors involved in M&A deals.

Mahajan, M. (2014) states that corporate governance is based on integrity, fairness, transparency, disclosure, accountability, and responsibility. Companies Act 2013 provides a framework for corporate governance in India, including provisions for civil or criminal prosecution of individuals who conduct unethical or illegal acts in the name of the enterprise. An effective corporate governance regime is essential for the benefit of all stakeholders, ensuring that the enterprise adheres to accepted ethical standards and best practices as well as formal laws.

Jain, S. (2018) comments that the government of India has implemented several legislations and institutional measures to ensure an efficient financial and taxation system. These legislations include the Prevention of Money Laundering Act, 2002; Credit Information Companies (Regulation) Act, 2005; Government Securities Act, 2006; Payment and Settlement Systems Act, 2007; Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 and Financial Sector

Legislative Reforms Commission (FSLRC), 2013. These reforms demonstrate India's commitment to the adoption of international standards and best practices for an efficient and transparent financial and taxation system.

McArdle, A. (2015) observes that India's Companies Act 2013 is the first legislation of its kind to mandate Corporate Social Responsibility (CSR) by requiring qualified business entities to dedicate 2% of profits to CSR endeavours in India. India's CSR mandate is a model for developing countries to encourage highly profitable businesses to invest in CSR to tackle dire social needs. The regulations of Section 135 of the Companies Act 2013 may be too onerous for affected businesses.

Bergman, M.M., et al., (2019) assert that the Companies Act 2013 has elicited an extensive academic debate regarding its advantages and disadvantages. Arguments for and against the Act are often connected to multiple stakeholders, including the government, business, and society. The Companies Act 2013 allows the Indian government to instrumentalize the success of the business sector to address local and national needs and expectations.

These papers collectively provide insights into the contemporary business regulatory framework in India, with a specific focus on the Companies Act, 2013. They highlight the issues and challenges in the current regulatory framework for Corporate Social Responsibility (CSR) in India, suggesting the need for legislative amendments to enhance accountability and transparency. The role of directors in implementing CSR provisions and sustainability initiatives, as mandated by the Companies Act, of 2013 was also analyzed. Some studies examine the advantages and disadvantages associated with the Companies Act, of 2013, revealing the complexities and stakeholder expectations involved in corporate responsibility programs in India. Some discuss the significant improvements in corporate governance standards brought about by the Companies Act, of 2013, while also acknowledging concerns of possible overreach. Overall, these papers shed light on the regulatory framework and its implications for corporate social responsibility and governance in India.

1.4. Methodology:

The methodology which is adopted for the study is obvious and simple. The study is descriptive and analytical on the legal framework of the Indian business environment, and only relevant legislations were analyzed for drawing a meaningful conclusion. The salient features of the legislation are described in such a manner that the concept of the whole legislation is reflected. Further, a special discussion has been made on the legal provisions of the Companies Act, 2013 and a comparison between the repealed and newly adopted Acts have been made. There was no use of primary data.

1.5. Research Design:

The research design followed is very simple. Before conducting the study, an extensive literature survey was made. It demands the study of various legislation creating the legal business environment of India. As the focus has been on the Companies Act on the Companies Act 2023, the said Act was elaborately discussed. The other laws which are the components of the study are the allied legislations such as the Industrial Disputes Act, 1947, Industrial Disputes Act, 1947; Minimum Wages Act, 1948; Indian Partnership Act, 1932; Indian Contract Act, 1972; Limited Liability Act, 2008; Sales of Goods Act, 1930; Payment of Gratuity Act, 1972; Factories Act, 1948 and Competition Act, 2002 were taken into consideration. The analysis of the Acts particularly the Companies Act enables concluding.

Review of Literature

Key Legislation	Allied Legislations
Companies Act, 2013	1. Industrial Disputes Act, 1947 2. Minimum Wages Act, 1948 3. Indian Partnership Act, 1932 4. Indian Contract Act, 1972 5. Limited Liability Act, 2008 6. Sales of Goods Act, 1930 7. Payment of Gratuity Act, 1972 8. Factories Act, 1948 9. Competition Act, 2002
Dimensions Studied	Dimensions Studied
Principal Dimensions of the Companies Act, 2013 And Comparative Analysis of Repealed and Newly Enacted Companies Act	Only The Salient Features to Reflect the Whole Notion of The Acts

Findings and Conclusions

1.6. Research Questions:

The following research questions arise after reviewing the literature:

1. The controlling of the affairs of business enterprises of the nation is a big, challenging, and comprehensive matter for the government. The government is the ultimate regulator of business affairs by adopting relevant legislation. Here the question arises:

What are the legislations passed by the government that are relevant to a particular business organization?

2. Secondly, in the present study a special emphasis has been placed on the legal matters enshrined in the Companies Act 2013, hence, it is crucial to understand the principal provisions in the Act relating to the company affairs. The government of India was certainly logical while inserting the provisions in the Companies Act. Therefore, it is necessary to know that,

   What are the reasons behind the inserting a particular provision in the Act?

3. The Government of India passed the Companies Act in 1956 which had been a comprehensive Act. However, the Act of 1956 was repealed in 2013. Therefore, the study attempts to know:

   Why was a new Companies Act passed repealing the earlier Companies Act of 1956?

4. It is also significant to know:

   What are the major changes that have been made in the new Companies Act 2023?

1.7. Research Gap:

The adoption of the new Companies Act 2013 was a significant event in the field of regulation of company affairs, according to scholars. The Act provides a comprehensive legal framework for mergers and acquisitions in India and corporate governance, with provisions for civil or criminal prosecution of individuals who conduct unethical or illegal acts in the name of the enterprise. In addition, India's Companies Act 2013 is the first legislation to mandate Corporate Social Responsibility (CSR) by requiring qualified business entities to dedicate 2% of profits to CSR endeavours in India. However, many studies on the legal business environment did not highlight the major changes in the new Companies Act and the reasons for which a new Act has been enacted or new provisions have been inserted. This leaves ample scope for further study and examination of the impact of the Acts on multiple stakeholders, including the government, business, and society.

1.8. Limitations of the Study:

The study is subject to subject to the following limitations:

1. The most of the laws regulating business affairs of the country, it is not feasible to include all the Acts in the study.
2. No comprehensive description could be made of the laws due to being a small study. The Acts that were considered in the legal business environment were briefly discussed including the logic behind the Act and salient features of the Act.
3. In the context of the Companies Act 2013, provisions of all the Sections could not be studied but of the principal provisions only.
4. As the study was a legal one, figures and tables did not work. However, thematic tables are the parts of the report.

1.9. Chapter Plan:

The following chapters have been included in the Plan:

Chapter 1 will contain the Introduction on The Topic, Objectives of The Study, Review of Literature, Methodology, Research Design, Research Questions, Research Gap, Limitations of The Study, And Chapter Plan.

Chapter 2 will describe various legislation in connection with a contemporary business environment.

Chapter 3 will analyze the special legal provisions of the Companies Act 2013.

Chapter 4 will deal with the comparative analysis of the Companies Act 1956 and Companies Act 2013

Chapter 5 is concerned with Major Findings, Implications, Future Scope for Research, Summary, and Conclusions.

Chapter-2

Regulatory Framework of Business in India

2.1. Introduction:

The legal environment includes the laws passed by the government as well as the decisions rendered by the various commissions and agencies at every level of the government. Every business must function according to the law of the area in which it wishes to operate. Not obeying the rules can result in legal trouble for the business. The legal business environment in India is governed by a complex framework of laws and regulations at both the national and state levels. The legal system in India is based on English common law principles, with a mix of statutory laws and judicial precedents. The word legal has a great impact on every aspect of lives as well as businesses. The meaning of legal is anything that is permitted by law. Though the source of law in different areas of the earth differ, there are different types of law-making bodies; for example, in India, which is a democracy, the law is made by a parliamentary form of government, and the parliament of India, as well as the State Legislature, are the law-making bodies. So, whatever laws are made by these bodies are legal.

The Legal Environment of Business is one of the essential components of the business. The Legal Environment of Business deals with the legal mechanism that governs every stakeholder of the business, including owners, laborers (organized and unorganized), consumers, etc. The Legal Environment of Business provides the mechanism under which the business activities of any country can flourish and run the business as per the laws of the nation. The Legal Environment of Business refers to the strategies, laws, and schemes adopted by the government to manage and help the business ecosystem of the country.

The Legal Environment of Business includes various legislations, laws, schemes, administrative orders by governmental authorities, judicial precedents, decisions by various commissions and agencies of the governments, etc. The Legal Environment of business not only provides smooth governance of business but also includes a safe pathway for the businesses to achieve their target which is profit making. Modern-day, there has been an enormous growth in the legal environment structure on the international level, which has created strong compliance in the legal environment of business. This chapter will highlight the major legislation that influences the Indian business houses.

2.2. Industrial Disputes Act, 1947:

The Industrial Disputes Act, 1947 is a key labor law in India that governs the resolution of industrial disputes between employers and employees. It provides a framework for the prevention and settlement of disputes, as well as for the regulation of conditions of employment and the rights of workers.

The act covers a wide range of issues, including the definition of industrial disputes, procedures for conciliation and arbitration, strikes and lockouts, retrenchment and layoff of workers, and the establishment of industrial tribunals and labor courts.

Under the Act, employers are required to provide notice to the appropriate government authority before initiating any action that may lead to an industrial dispute, such as retrenchment or closure of an establishment. The Act also provides for the appointment of conciliation officers who attempt to mediate and resolve disputes through negotiations between the parties.

If conciliation efforts fail, the Act allows for the reference of disputes to labor courts or industrial tribunals for adjudication. These bodies have the power to hear and decide on disputes related to wages, working conditions, layoffs, and other employment matters.

The Industrial Disputes Act, 1947 aims to promote industrial peace and harmony by providing a legal framework for the resolution of disputes fairly and equitably. It seeks to balance the interests of employers and employees, ensuring that workers' rights are protected while also allowing for the smooth functioning of businesses.

Businesses operating in India need to be aware of their obligations under the Industrial Disputes Act, 1947 and ensure compliance with its provisions. This may involve engaging in collective bargaining with employees, following proper procedures for retrenchment or closure of establishments, and participating in conciliation or arbitration processes when disputes arise. Seeking legal advice and guidance can help businesses navigate the complexities of this law effectively.

2.3. Minimum Wages Act, 1948:

The Minimum Wages Act, 1948 is another important labor law in India that aims to ensure fair and minimum wages for workers in various industries. The Act sets a minimum wage that employers must pay to their employees, taking into consideration factors such as the nature of work, skill required, and cost of living.

The Act applies to both the organized and unorganized sectors, and it empowers the appropriate government authority to fix and revise minimum wages for different categories of workers. The minimum wage rates may vary based on geographical locations, industries, and skill levels.

Employers are required to comply with the minimum wage rates set by the government and ensure that their employees receive at least the prescribed minimum wage. Failure to do so can result in penalties and legal consequences.

The Act also provides for the appointment of inspectors who have the authority to inspect workplaces and ensure compliance with the minimum wage provisions. Employees have the right to file complaints if they believe they are being paid less than the minimum wage, and the Act provides for the establishment of courts or tribunals to adjudicate on such complaints.

The Minimum Wages Act, 1948 aims to prevent exploitation of workers by ensuring that they receive a fair and reasonable wage for their work. It seeks to provide social justice and improve the standard of living of workers.

Businesses operating in India need to be aware of their obligations under the Minimum Wages Act, 1948 and ensure compliance with its provisions. This may involve regularly reviewing and revising wage rates, maintaining proper records of wages paid, and cooperating with inspectors during workplace inspections. Seeking legal advice and guidance can help businesses understand and fulfill their obligations under this law effectively.

2.4. Partnership Act, 1932:

The Indian Partnership Act, 1932 is another important law in India that governs the formation and operation of partnerships. A partnership is a business structure where two or more individuals come together to carry on a business to make a profit.

The Act defines a partnership as the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. It provides detailed provisions regarding the formation, rights, and duties of partners, dissolution of partnerships, and other important aspects.

According to the Act, a partnership can be formed either through an express agreement between the partners or by implication from their conduct. The agreement can be oral or written, although it is advisable to have a written partnership agreement to avoid disputes in the future.

The Act also specifies the rights and duties of partners, including the right to participate in the management of the business, the duty to act in good faith and with utmost loyalty towards the partnership, and the duty to indemnify the partnership for any losses caused by willful misconduct or negligence.

In case of disputes or disagreements among partners, the Act provides for various mechanisms for resolution, including arbitration and legal proceedings. It also allows partners to seek remedies for breach of partnership agreements or violation of their rights.

The Indian Partnership Act, 1932 is an important law for businesses operating as partnerships in India. Partnerships need to comply with its provisions and ensure proper documentation and adherence to legal requirements. Seeking legal advice and guidance can help partnerships understand their rights and obligations under this law effectively.

2.5. Indian Contract Act, 1972:

The Indian Contract Act, 1872 is another significant law in India that governs contracts and agreements. It defines and regulates the principles of contract law in the country.

The act defines a contract as an agreement enforceable by law. It provides detailed provisions regarding the formation, performance, and enforcement of contracts, as well as the rights and obligations of the parties involved.

According to the Act, for a contract to be valid, it must have certain essential elements, such as offer, acceptance, consideration, and intention to create legal relations. It also specifies various types of contracts, including contracts of sale, contracts of guarantee, contracts of bailment, and contracts of agency, among others.

The Act sets out the rights and duties of parties to a contract. It provides remedies for breach of contract, such as damages, specific performance, and injunctions. It also covers various aspects related to discharge of contracts, including frustration, breach, and impossibility.

The Indian Contract Act, 1872 applies to all types of contracts, including commercial contracts, employment contracts, and consumer contracts. Businesses and individuals need to understand the provisions of this Act to ensure compliance and protect their rights in contractual relationships.

In conclusion, both the Indian Partnership Act, 1932 and the Indian Contract Act, 1872 are important laws in India that govern different aspects of business relationships and agreements. Businesses should familiarize themselves with these Acts and seek legal advice when necessary to ensure compliance and protect their interests.

2.6. Limited Liability Act, 2008:

The Limited Liability Act, 2008 is another significant law in India that specifically governs the formation and operation of limited liability partnerships (LLPs). It was enacted to provide an alternative form of business organization that combines the benefits of a partnership and a company.

The Act defines an LLP as a partnership formed and registered under the provisions of the Act. It sets out the procedures for the incorporation, registration, and dissolution of LLPs. It also specifies the rights, duties, and liabilities of partners in an LLP.

One of the main features of an LLP is that it provides limited liability protection to its partners. This means that the personal assets of partners are protected from the debts and liabilities of the LLP. However, partners can still be held personally liable for their wrongful acts or negligence.

The Act also establishes the Registrar of LLPs, who is responsible for maintaining a register of LLPs and overseeing compliance with the provisions of the Act. LLPs are required to file certain documents and annual returns with the Registrar to ensure transparency and accountability.

The Limited Liability Act, 2008 applies to all LLPs registered in India. It provides a flexible and efficient business structure for professionals, entrepreneurs, and small businesses. It is important for individuals and businesses considering forming an LLP to understand the provisions of this Act and comply with its requirements.

In conclusion, the Indian Partnership Act, 1932, the Indian Contract Act, 1872, and the Limited Liability Act, 2008 are all significant laws in India that govern different aspects of business relationships and agreements. Businesses must be aware of these Acts and seek legal advice when necessary to ensure compliance and protect their interests.

2.7. Sales of Goods Act, 1930:

The Sales of Goods Act, 1930 is another important law in India that governs the sale and purchase of goods. It applies to all contracts for the sale of goods, whether it is a cash sale, credit sale, or hire-purchase agreement.

The Act defines various terms related to the sale of goods, such as goods, price, buyer, seller, and contract of sale. It sets out the rights and obligations of both the buyer and seller in a transaction.

Under the Act, the seller is required to have the right to sell the goods and ensure that they are of satisfactory quality and fit for their intended purpose. The buyer has the right to reject defective goods and seek remedies for any breach of contract by the seller.

The Act also covers various aspects of a sales transaction, such as delivery of goods, payment of price, transfer of ownership, and passing of risk. It provides guidelines for determining when the property in goods passes from the seller to the buyer. In case of disputes arising from a sales contract, the Act provides for remedies such as specific performance, damages, and repudiation of the contract. It also allows for the recovery of interest on unpaid prices and provides for the calculation of damages in case of breach of contract.

The Sales of Goods Act, 1930 applies to all sales transactions in India unless specifically excluded or modified by the parties. It provides a legal framework for businesses and individuals engaged in the sale and purchase of goods and helps ensure fair and transparent transactions.

In conclusion, the Indian Partnership Act, 1932, the Indian Contract Act, 1872, the Limited Liability Act, 2008, and the Sales of Goods Act, 1930 are all important laws in India that govern various aspects of business relationships and agreements. Understanding and complying with these Acts is essential for businesses to protect their interests and ensure legal compliance.

2.8. Payment of Gratuity Act, 1972:

The Payment of Gratuity Act, 1972 is another important law in India that governs the payment of gratuity to employees. It applies to establishments employing ten or more employees and provides for the payment of a gratuity amount to employees who have completed a minimum of five years of continuous service.

The Act defines various terms related to gratuity, such as employee, employer, continuous service, and gratuity amount. It sets out the eligibility criteria for employees to receive gratuity and the calculation method for determining the amount.

Under the Act, an employer is required to provide gratuity to eligible employees upon retirement, resignation, death, or disablement due to an accident or disease. The gratuity amount is calculated based on the employee’s last drawn salary and the number of years of service.

The Act also covers various aspects of gratuity payment, such as the time limit for making the payment, the manner of calculation, and the penalties for non-compliance. It provides guidelines for employers to follow to ensure timely and accurate payment of gratuity to eligible employees.

In case of disputes arising from gratuity payment, the Act provides for the establishment of a Controlling Authority and Appellate Authority to adjudicate and resolve such disputes. It also allows for the recovery of unpaid gratuity amounts and provides for the payment of interest in case of delayed payments.

The Payment of Gratuity Act, 1972 applies to all establishments employing ten or more employees in India, including factories, mines, oilfields, plantations, ports, railway companies, and shops. It provides a legal framework for the payment of gratuity to employees and helps ensure fair treatment and financial security for workers.

In conclusion, the Indian Partnership Act, 1932, the Indian Contract Act, 1872, the Limited Liability Act, 2008, the Sales of Goods Act, 1930, and the Payment of Gratuity Act, 1972 are all important laws in India that govern various aspects of business relationships, agreements, and employee benefits. Understanding and complying with these Acts is essential for businesses to protect their interests, ensure legal compliance, and provide fair treatment to employees.

2.9. Factories Act, 1948:

The Factories Act, 1948 is another significant law in India that governs the working conditions in factories. It applies to establishments that employ ten or more workers and are involved in manufacturing processes.

The act sets out various provisions related to the health, safety, welfare, and working hours of factory workers. It mandates that factories maintain certain standards for ventilation, lighting, cleanliness, and prevention of occupational hazards.

The Act also covers aspects such as the employment of young persons, including their working hours and conditions, and the provision of facilities like canteens, restrooms, and first aid.

Under the Act, factories are required to obtain licenses and comply with inspections conducted by factory inspectors appointed by the government. Non-compliance with the provisions of the Act can result in penalties and legal consequences for the factory owners.

The Factories Act, 1948 aims to ensure the well-being and safety of workers in factories and protect them from exploitation. It provides a legal framework for regulating the working conditions in factories and promoting a healthy and safe work environment.

In conclusion, the Factories Act, 1948 is an important law in India that governs the working conditions in factories. It sets out provisions related to the health, safety, welfare, and working hours of factory workers and aims to protect their rights and well-being. Compliance with this Act is crucial for factory owners to ensure legal compliance and provide a safe working environment for their employees.

2.10. Competition Act, 2002:

The Competition Act, 2002 is a law in India that aims to promote fair competition and prevent anti-competitive practices in the market. It replaced the Monopolies and Restrictive Trade Practices Act, 1969.

The Act prohibits anti-competitive agreements, and abuse of dominant position by enterprises, and regulates mergers and acquisitions that may hurt competition. It also establishes the Competition Commission of India (CCI) as the regulatory body responsible for enforcing the provisions of the Act.

The Act empowers the CCI to investigate and act against anti-competitive practices such as price fixing, bid rigging, and collusive agreements. It also provides for penalties and fines for violations of the Act.

The Competition Act, 2002 promotes fair competition, protects consumer interests, and encourages economic efficiency. It ensures a level playing field for businesses and prevents the concentration of economic power in the hands of a few dominant players.

In conclusion, the Competition Act, 2002 is an important law in India that promotes fair competition and prevents anti-competitive practices. It establishes the CCI as the regulatory body and provides for penalties for violations. Compliance with this Act is crucial for businesses to ensure fair competition and protect consumer interests.

2.11. Companies Act, 2013:

The Companies Act, 2013 governs the formation, operation, and regulation of companies. It replaced the Companies Act, 1956.

The act applies to all types of companies, including private limited companies, public limited companies, and one-person companies. It sets out the rules and regulations for the incorporation, management, and dissolution of companies.

The Companies Act, 2013 introduces several important provisions to enhance corporate governance and transparency. It mandates the appointment of independent directors, strengthens the role of auditors, and establishes stricter disclosure requirements for companies.

The Act also includes provisions to protect the interests of shareholders and stakeholders. It introduces class action suits, which allow shareholders to file lawsuits on behalf of a group of shareholders if their rights are violated. It also requires companies to have a mandatory corporate social responsibility (CSR) policy and contribute a certain percentage of their profits towards CSR activities.

Furthermore, the Act introduces stricter regulations for mergers and acquisitions, insider trading, and related party transactions. It also sets out provisions for the prevention of fraud and corporate misconduct.

The Companies Act, 2013 aims to promote good corporate governance, protect the interests of shareholders and stakeholders, and enhance transparency in the corporate sector. Compliance with this Act is essential for companies to ensure legal and ethical business practices.

In conclusion, the Companies Act, 2013 is a crucial law in India that governs the formation, operation, and regulation of companies. It introduces provisions to enhance corporate governance, protect shareholder interests, and promote transparency. Compliance with this Act is vital for companies to maintain legal and ethical business practices.

2.12. Major Observations:

1. **The Industrial Disputes Act 1947 takes a Crucial Role in Resolving Industrial Disputes:**

The Industrial Disputes Act, 1947 is a key labor law in India that provides a framework for the prevention and settlement of disputes between employers and employees. It covers a wide range of issues related to employment, including conciliation and arbitration procedures, strikes and lockouts, retrenchment and layoff of workers, and the establishment of industrial tribunals and labor courts. The Act aims to promote industrial peace and harmony by ensuring that workers' rights are protected while also allowing for the smooth functioning of businesses.

2. **Employers Must Observe the Provisions of the Minimum Wages Act 1948 while Determining Wages:**

The Minimum Wages Act, 1948 sets a minimum wage that employers in India must pay to their employees based on factors such as the nature of work, skill required, and cost of living. The Act applies to both organized and unorganized sectors and provides for the appointment of inspectors to ensure compliance. Businesses need to be aware of their obligations and seek legal guidance to fulfill them effectively.

3. **Indian Partnership Act, 1932 Helps in the Management of Partnership Businesses:**

The Indian Partnership Act, 1932 governs the formation and operation of partnerships in India. It defines a partnership as the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. The Act provides detailed provisions regarding the formation, rights, and duties of partners, dissolution of partnerships, and other important aspects. Seeking legal advice and guidance can help partnerships understand their rights and obligations under this law effectively.

4. **Indian Contract Act, 1972 Regulates the Contractual Relationship:**

The Indian Contract Act, 1872 governs contracts and agreements in India. It defines and regulates principles of contract law, covering formation, performance, enforcement, rights, and obligations of parties involved, and remedies for breach of contract. The Act covers commercial, employment, and consumer contracts and is crucial for businesses to understand to ensure compliance and protect their interests.

5. **Limited Liability Act, 2008 Allows Formation of Balanced Form of Business between Partnership and Company:**

The Limited Liability Act, of 2008 governs the formation and operation of limited liability partnerships in India, providing an alternative form of business organization that combines the benefits of a partnership and a company. It offers limited liability protection to partners, but they can still be held liable for wrongful acts or negligence. The Act establishes the Registrar of LLPs, who oversees compliance and requires LLPs to file certain documents. Businesses must be aware of all these Acts and seek legal advice when necessary to ensure compliance and protect their interests.

6. **The Sales of Goods Act, of 1930 Regulates the Transactions between Buyers and Sellers:**

The Sales of Goods Act, 1930 is a crucial law in India that governs all transactions related to the sale of goods, setting out the buyer and seller's rights and obligations. It outlines various terms, including delivery, payment, transfer of ownership, and passing of risk. In case of disputes, the Act provides remedies like specific performance, damages, and repudiation of the contract. Complying with this Act is essential for businesses to protect their interests and ensure legal compliance.

7. **Payment of Gratuity Act, 1972 Ensures the Retirement Benefits:**

The Payment of Gratuity Act, 1972 is an important law that governs the payment of gratuity to employees in India. It applies to establishments with ten or more employees and provides for the payment of gratuity to eligible employees who have completed five years of continuous service. The Act defines various terms and sets out the eligibility criteria, calculation methods, and guidelines for employers to ensure timely and accurate payment of gratuity. It also provides for the establishment of authorities to resolve disputes and penalties for non-compliance. Compliance with this Act is important for businesses to ensure legal compliance and fair treatment of employees.

8. **The Factories Act, 1948 is a Governing Statute for Working Conditions of Workers:**

The Factories Act, of 1948 governs the working conditions in factories in India. The Act covers aspects such as health, safety, welfare, working hours, and licensing requirements for factories. It aims to protect the rights and well-being of factory workers and promote a safe work environment. Compliance with this Act is crucial for factory owners to ensure legal compliance and provide a safe working environment for their employees.

9. Competition Act, 2002 Prevents Anti-Competitive Practices:

The Competition Act, of 2002 is a significant law in India that promotes fair competition and prevents anti-competitive practices. It prohibits anti-competitive agreements, and abuse of dominant positions, and regulates mergers and acquisitions. The Act establishes the Competition Commission of India as the regulatory body responsible for enforcing the provisions of the Act. It empowers the CCI to investigate and act against anti-competitive practices, provides for penalties, and fines for violations, and protects consumer interests. Compliance with this Act is crucial for businesses to ensure fair competition and prevent the concentration of economic power in the hands of a few dominant players.

10. Companies Act, 2013 Regulates the Affairs of Companies:

The Companies Act, of 2013 governs the formation, operation, and regulation of companies in India. It applies to all types of companies and sets out rules for their incorporation, management, and dissolution. The Act introduces several provisions to enhance corporate governance, protect shareholder interests, and promote transparency. Compliance with this Act is vital for companies to maintain legal and ethical business practices.

CHAPTER-3

Principal Legal Provisions of the Companies Act 2013

3.1. Introduction:

The study demands a description of the principal legal provisions of the Companies Act 2023. It is known that the history of registration of Joint Stock Companies in India dates back to the year 1850 when the first legislative enactment was passed, based on the English Companies Act of 1844. Although this Act recognized companies as distinct legal entities, it did not introduce the concept of limited liability. The Companies Act of 1857, following the English Companies Act of 1856, was the first to recognize the concept of limited liability in India. This Act continued to regulate business companies in India until the introduction of the Companies Act of 1956, which was based on the recommendations of the Bhabha committee report. After almost a decade of deliberations with stakeholders, the Companies Act of 2013 was passed to replace the previous Act and to simplify the process of setting up and maintaining an organization, thus promoting the growth and development of the economy.

A Company is an independent legal entity permitted by legislation, which allows a group of people, as shareholders, to pursue set objectives with legal rights that are usually reserved for individuals, such as to sue and be sued, own property, hire employees, or loan and borrow money. Compared to other forms of business like sole proprietorship, Hindu undivided family, partnership, Limited Liability Partnership, etc., the distinct legal features and characteristics of a company make it more advantageous. Understanding the features and advantages of a company is crucial in making informed decisions about the business structure.

The Companies Act of 2013 deals with the formation, regulation, responsibilities, and dissolution of companies. It aims to encourage the growth and development of the economy by simplifying the process of setting up and maintaining an organization. To achieve this, many rules and regulations mentioned in the Companies Act of 1965 were revamped and modernized. The Companies Act of 2013 defines a company as any entity that has come into existence under this act or any other company Act. The Act has 29 chapters and 470 sections, which define the principal legal provisions of the Companies Act of 2013. The chapter attempts to highlight the principal legal provisions of the Companies Act 2013 which are summarized below:

3.2. Applicability of the Act:

It is mandatory for any company registered in India under the Companies Act, 2013 to comply with its provisions. The applicability of such provisions is determined based on factors such as paid-up capital, turnover, type of company, net profit, or outstanding loans and borrowings. The Companies Act, 2013 applies to every company, including a foreign company, as defined in clause (42) of Section 2 of the act, except for some companies.

The act does not apply to banking companies, insurance companies, power companies, and non-banking financial companies. However, the companies listed with any stock exchange(s) in India or subsidiaries of any such company listed with any stock exchange(s) in India, all companies having a paid-up capital of Rs. 5 crore (five crore) and above, all companies having a turnover of Rs. 100 crore (one hundred crore) and above, and all the companies covered under the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011 are required to comply with the provisions of the Companies Act, 2013.

3.3. Provisions relating to the Incorporation of a Company:

The Companies Act provides detailed guidance on the process and requirements for incorporating a company. It outlines the necessary documents, fees, and procedures to be followed, ensuring that companies are incorporated in a proper and legally compliant manner, and providing clarity and transparency in their structure and operations.

The Act sets out specific provisions that must be followed when incorporating a company. One of the most significant is the name reservation process. The Companies Act may specify the procedure for reserving a unique name for the company. It may require the submission of a name reservation application and payment of a fee. This ensures that the name chosen for the company is unique and registered by the law.

Another important provision is the Memorandum of Association. The Companies Act may require the preparation and submission of a memorandum of association, which sets out the company's name, registered office, objectives, and authorized share capital. This document is crucial as it outlines the fundamental principles on which the company is based and the scope of its activities.

The Act may also require the preparation and submission of articles of association, which govern the internal management and operations of the company. The articles typically cover matters such as share capital, shareholders' rights, directors' powers, and procedures for meetings. These provisions ensure that the company operates according to the law and is transparent in its operations.

The Companies Act may specify the minimum share capital requirement for the incorporation of a company. It may also outline the rules regarding the issuance and transfer of shares. This provision ensures that the company has adequate capital to operate and grow.

The Act may also require the company to have a registered office within the jurisdiction where it is incorporated. The registered office is the official address of the company for communication and legal purposes. This ensures that the company is easily accessible to its stakeholders and is legally compliant.

The Companies Act may specify the documents that need to be submitted to the registrar of companies for the incorporation process. This may include the memorandum and articles of association, along with other necessary forms and declarations. This provision ensures that all necessary documentation is in order and submitted to the relevant authorities.

Finally, the Act may outline the fees payable for incorporating a company and provide instructions on how to register the company with the Registrar of Companies. This may involve submitting the necessary documents, paying the required fees, and obtaining a certificate of incorporation. These provisions ensure that the company is registered and legally compliant, providing clarity and transparency in its operations.

3.4. Public Offer and Private Placement of Securities:

The Companies Act plays a significant role in regulating the procedures and requirements associated with public offers and private placements of securities. The provisions in the act are designed to facilitate the raising of capital by companies from public or private investors while ensuring compliance with securities laws.

In the case of a public issue, the Companies Act may specify the requirements for making a public offer of securities such as shares or debentures. This may include the preparation and filing of a prospectus, which provides detailed information about the company and the securities being offered. The Act may also outline the obligations of the company in terms of disclosure, investor protection, and compliance with securities laws. Moreover, the Act may also specify the procedures for the allotment of securities and the timelines for the same.

Similarly, in the case of a private placement, the Companies Act may regulate the private placements of securities, which involve offering securities to a select group of investors, such as institutional investors or high-net-worth individuals. The act may require companies to comply with certain conditions such as obtaining prior approval from regulatory authorities or filing necessary documents with the registrar of companies. The Act may also impose restrictions on the number of investors or the amount of funds that can be raised through private placements. In addition, the Act may specify the eligibility criteria for investors and the procedures for the allotment of securities.

Overall, the Companies Act provides a robust framework for regulating the public offers and private placements of securities, thereby ensuring investor protection and compliance with securities laws.

3.5 Share Capital and Debentures:

The Companies Act 2013 is a legal framework that governs the operations of companies. It may contain specific provisions related to the share capital and debentures of companies. These provisions may cover various aspects, including the issuance, allotment, and transfer of shares, as well as the regulation of debt instruments called debentures.

Regarding share capital, the Act may define the requirements and procedures for the issuance, allotment, and transfer of shares in a company. This may include provisions regarding the authorized share capital, the types of shares that can be issued, and the rights and privileges attached to different classes of shares. Additionally, the Act may outline the procedures for increasing or reducing the share capital of a company.

Regarding debentures, the Act may regulate the issuance and redemption of these debt instruments by companies. It may specify the terms and conditions of debentures, such as the interest rate, maturity date, and security provided by the company. The Act may also outline the procedures for issuing, transferring, and redeeming debentures. These regulations ensure that companies operate within a legal framework for the benefit of all stakeholders.

3.6. Registration of Charges:

The Companies Act, which governs the formation, management, and dissolution of companies in various countries, including the UK, may contain special provisions regarding the registration of charges by companies. A charge is a type of security interest that a company may create over its assets to secure a loan or other obligation.

According to the Act, companies are required to register charges with the registrar of companies within a specified time frame. The registration process typically involves filing certain documents with the registrar and providing relevant information about the charge, such as the nature and extent of the security, the amount secured, and the parties involved. The registrar will then issue a certificate of registration, which serves as proof of registration.

The Act may also specify the consequences of failing to register a charge or registering it late. For example, if a charge is not registered within the prescribed period, it may be void against certain parties, such as liquidators or creditors of the company. This means that those parties may not be bound by the charge and may be able to take priority over it. In addition, the company and its officers may be liable to pay a fine for failing to register the charge within the specified time frame.

Furthermore, the Act may require companies to maintain a register of charges, which should be available for inspection by shareholders, debenture holders, and any other interested parties. The register typically contains detailed information about all charges created by the company, including information about the assets charged, the date of creation, and any subsequent modifications or releases of the charge. The register may also include details of any mortgages, pledges, or other security interests created by the company over its assets.

These provisions relating to the registration of charges aim to ensure transparency and provide notice to interested parties regarding the security interests created by companies. By requiring registration and maintaining a register of charges, the Act helps protect the rights of creditors and other stakeholders and facilitates effective enforcement of security interests in case of default or insolvency. The Act also helps prevent fraudulent or improper use of charges by companies, as the registration and maintenance of a register of charges provide an effective means of tracking and monitoring the creation and modification of security interests by companies.**3.7**

3.7. Company Management and Administration:

The Companies Act 2013 is a comprehensive legislation that governs the management and administration of companies in India. It includes several provisions that aim to promote good corporate governance, enhance transparency and accountability, and protect the interests of stakeholders. Let's take a closer look at some of the key provisions of the Act.

Board of Directors: The Act lays down detailed rules regarding the appointment, qualifications, and remuneration of directors. It also specifies their duties, powers, and responsibilities, including the requirement to act in the best interests of the company and exercise due diligence. The Act mandates that at least one-third of the board must consist of independent directors to ensure an objective and impartial decision-making process.

Meetings: The Act provides detailed guidelines for conducting board meetings, general meetings, and committee meetings. It covers aspects such as notice period, quorum, voting rights, and minutes of the meetings. The Act also mandates that companies must hold at least one annual general meeting (AGM) per year to provide shareholders with an opportunity to raise concerns, ask questions, and vote on important matters.

Shareholders’ Rights: The Act outlines the rights and obligations of shareholders, including the right to receive dividends, attend general meetings, and vote on important matters. It also covers issues related to share transfers, transmission of shares, and protection of minority shareholders’ interests. The Act mandates that companies must maintain a register of members to keep track of their shareholdings and other relevant details.

Auditors and Auditing: The Act establishes the role and responsibilities of auditors, including their appointment, qualifications, and remuneration. It also sets out the requirements for conducting audits, preparing financial statements, and reporting on the company's financial position. The Act mandates that companies must appoint an auditor to conduct an audit of their financial statements every year to ensure accuracy and transparency.

Related Party Transactions: The Act regulates transactions between a company and its related parties, such as directors, key managerial personnel, and their relatives. It requires disclosure of such transactions and imposes restrictions to ensure fairness and prevent conflicts of interest. The Act mandates that companies must obtain approval from their board of directors and shareholders for such transactions.

Corporate Social Responsibility (CSR): The Act mandates certain companies to spend a specified amount on CSR activities. It outlines the criteria for identifying eligible activities, reporting requirements, and penalties for non-compliance. The Act aims to encourage companies to become socially responsible and contribute to the welfare of society.

Insolvency and Liquidation: The Act provides a framework for dealing with insolvency and liquidation of companies. It includes provisions for the appointment of insolvency professionals, resolution processes, and distribution of assets to creditors. The Act aims to ensure that the interests of all stakeholders, including creditors, shareholders, and employees, are protected in case of insolvency or liquidation.

Overall, the Companies Act 2013 is a critical legislation that provides a robust framework for the management and administration of companies in India. Its provisions aim to promote good corporate governance, protect the interests of stakeholders, enhance transparency and accountability, and facilitate efficient management and administration of companies.

3.8. Declaration and Payment of Dividend:

Under the Companies Act 2013, there are certain special provisions related to the declaration and payment of dividends by companies. These provisions aim to ensure transparency, accountability, and protection of shareholders' interests. Here are some key points regarding these provisions:

1. Declaration of Dividend: A company can only declare a dividend out of the profits of the company for that financial year or out of the undistributed profits of any previous financial year(s) after complying with certain requirements.

2. Transfer to Reserves: Before declaring a dividend, a company must transfer a specific percentage of its profits for that financial year to a reserve account to ensure that the company retains a portion of its profits for future needs and contingencies.

3. Dividend Distribution Tax (DDT): The Act introduced the concept of DDT, a tax levied on the dividend distributed by the company. The DDT is paid by the company before distributing dividends to the shareholders.

4. Unpaid Dividend Account: If a dividend declared by a company remains unpaid or unclaimed for 30 days from the date of declaration, it must be transferred to a separate bank account called the "Unpaid Dividend Account." The company is required to provide necessary details about such unpaid dividends on its website.

5. Dividend Redemption Reserve: In case a company redeems any preference shares, it must create a "Dividend Redemption Reserve" before making such redemption. The amount transferred to this reserve must be equal to the nominal value of the preference shares redeemed.

6. Prohibition on Dividend in Certain Cases: The Act prohibits a company from declaring or paying dividends if it has defaulted in the repayment of its deposits,

debentures, or interest thereon, or if it has not complied with certain regulatory requirements.

3.9 Accounts of Companies:

The Companies Act 2013 is a crucial law that governs the management and administration of businesses in India. It covers topics such as insolvency and liquidation, protecting the interests of all stakeholders, including shareholders, creditors, and employees. By promoting good corporate governance, transparency, and accountability, the Act aims to facilitate efficient management and administration of companies.

Certain provisions of the Act focus on how companies declare and pay dividends. These provisions aim to ensure transparency, accountability, and protection of shareholders' interests. Here are the key points to keep in mind:

- A company can only declare a dividend out of its profits for the current financial year or the undistributed profits of previous years, as long as certain requirements are met.

- Before declaring a dividend, a company must transfer a specific percentage of its profits for the year to a reserve account. This ensures that the company has funds available for future needs.

- The Act introduces the Dividend Distribution Tax (DDT), which is a tax paid by the company before distributing dividends to shareholders.

- If a dividend remains unpaid or unclaimed for 30 days after the declaration, the company must transfer it to a separate bank account called the "Unpaid Dividend Account." The company must provide details about such unpaid dividends on its website.

- If a company redeems any preference shares, it must create a "Dividend Redemption Reserve" before doing so. The amount transferred to this reserve must be a specific percentage of the profits used for the redemption.

3.10. Provisions relating to Audit and Auditors:

Companies must follow certain rules when appointing auditors to ensure that audits are conducted independently and reliably. These rules are specified in the Companies Act 2013. By complying with these rules, companies can increase the credibility of their financial statements and comply with legal requirements.

To ensure independence, objectivity, and reliability in the audit process, the Act specifies several key points. Firstly, every company must appoint an auditor at its first annual general meeting (AGM), who will hold office until the conclusion of the sixth AGM. Subsequently, auditors are appointed for a term of five years, subject to ratification by the shareholders at each AGM.

Secondly, certain classes of companies are required to rotate their auditors after a specified period. For example, listed companies and certain other prescribed classes of companies must rotate their auditors every five years.

Thirdly, the Act prescribes certain qualifications and disqualifications for auditors. For example, a person can be appointed as an auditor only if they are a chartered accountant and are not disqualified from being appointed as an auditor under any other law.

Fourthly, auditors must examine the company’s financial statements and express an opinion on whether they give a true and fair view of the company’s financial position and performance. They also have the power to access all relevant books, records, and documents of the company.

Fifthly, auditors must submit an audit report to the company’s shareholders, along with the financial statements. The audit report must state whether the financial statements give a true and fair view and whether they comply with the applicable accounting standards.

Finally, the Act provides for the removal and resignation of auditors. For example, auditors can be removed by a special resolution passed by the company's shareholders. Auditors can also resign by giving notice in writing to the company.

3.11. Provisions relating to the Appointment of Directors and their Qualifications:

Companies operating under the Companies Act 2013 must adhere to specific regulations concerning the appointment of directors and their qualifications to ensure that they possess the necessary skills and competency to effectively manage the company's operations. These regulations are put in place to establish good governance, accountability, and transparency in the company's operations. The following key points highlight the provisions regarding the appointment of directors under the Act:

1. Appointment of Directors: Every company is required to appoint a specific number of directors based on its type and size, who are appointed by the shareholders at the annual general meeting (AGM) or by passing a resolution.

2. Qualifications of Directors: The Act stipulates certain qualifications that must be met for an individual to be appointed as a director, such as having a sound mind, not being disqualified from being a director under any law, and not having been declared insolvent.

3. Independent Directors: Certain companies are required to have independent directors on their board, who lack any material or pecuniary relationship with the company, its promoters, or management. Independent directors bring an objective and unbiased perspective to the board's decision-making process.

4. Rotation of Directors: Rotation of directors on the board is mandatory for certain companies such as listed entities, which is done in a phased manner to ensure continuity and fresh perspectives on the board.

5. Resignation and Removal of Directors: The Act provides for the resignation and removal of directors, who can resign by giving a written notice to the company. They can be removed by a special resolution passed by the shareholders.

6. Duties and Responsibilities of Directors: Directors have a fiduciary duty towards the company and its shareholders, and are required to act in good faith, exercise due diligence, and act in the best interests of the company. They are also responsible for ensuring compliance with applicable laws and regulations.

3.12 Board Meetings and Power of the Board:

Under the Companies Act 2013, companies are required to abide by certain provisions about board meetings and the power of the board. These provisions are crucial in ensuring that the company's governance is transparent, accountable, and effective in decision-making. The main aim is to ensure that board meetings are conducted efficiently and that the board possesses the necessary powers to make decisions in the best interests of the company. Here are some key points to remember about these provisions:

1. Board Meetings: As per the Act, every company should conduct a minimum of four board meetings in a year, with a maximum gap of 120 days between two consecutive meetings. The board meetings can be conducted physically or virtually, through video conferencing or other electronic means, provided that all participants can hear and see each other.

2. Notice of Meetings: The Act mandates that notice of board meetings should be given to all directors at least seven days in advance unless the articles of the company stipulate a longer notice period. The notice should specify the date, time, and place of the meeting and the agenda for the meeting.

3. Quorum: The Act specifies that the quorum for a board meeting should be one-third of the total number of directors or two directors, whichever is higher. If a quorum is not present within 30 minutes of the scheduled time of the meeting, the meeting stands adjourned.

4. Powers of the Board: As per the Act, the board of directors has the power to exercise all such powers and do all such acts and things that are necessary for the proper conduct of the company's business. However, certain powers are required to be exercised by the board with the approval of the shareholders, such as borrowing money, investing funds, or making substantial changes to the company's business.

5. Minutes of Meetings: The Act requires that minutes of all board meetings be prepared and maintained by the company. The minutes should contain a fair and correct summary of the proceedings of the meeting, including all resolutions passed and decisions taken.

6. Disclosure of Interest: The Act requires that directors disclose their interest in any contract or arrangement entered into or proposed to be entered into by the company. Such disclosures must be made at the first board meeting in which the contract or arrangement is discussed, or as soon as the director becomes aware of his/her interest.

3.13. Major Observations:

3.13.A. Registered Companies Must Adhere to the Provisions of the Act:

The Companies Act, 2013 mandates every company registered in India to comply with its provisions, except for banking, insurance, power, and non-banking financial companies. Factors such as paid-up capital, turnover, net profit, and outstanding loans and borrowings determine the applicability of the provisions. Companies listed on Indian stock exchanges, with a paid-up capital of Rs. 5 crore or more, or a turnover of Rs. 100 crore or more, and those covered under the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011 are required to comply with the act.

3.13.B. Investors Must be Protected through Regulatory Bodies:

The Companies Act regulates public offers and private placements of securities, ensuring compliance with securities laws. For public offers, it may require the preparation of a prospectus and outline obligations for disclosure and investor protection. For private placements, it may require approval from regulatory authorities and impose restrictions on the number of investors and the amount of funds raised.

3.13.C. Issue, Allotment, and Transfer of Shares are Regulated by the Act:

The Companies Act 2013 governs the operations of companies, including provisions related to share capital and debentures. The Act defines requirements and procedures for the issuance, allotment, and transfer of shares, as well as regulating the issuance and redemption of debt instruments called debentures. These regulations ensure that companies operate within a legal framework for the benefit of all stakeholders.

3.13.D. Fraudulent and Improper Use of Charges are Prevented by the Act:

The Companies Act regulates the formation, management, and dissolution of companies and includes provisions for registering charges. Companies must register charges with the registrar within a specified time frame and provide relevant information. Failure to do so may result in the charge being void against certain parties, a fine, and the maintenance of a register of charges. These provisions ensure transparency, protect the rights of creditors and other stakeholders and prevent fraudulent or improper use of charges.

3.13.E. Emphasis on Good Corporate Governance:

The Companies Act 2013 governs the management of companies in India. Its provisions ensure good corporate governance, transparency, accountability, and protection of stakeholders' interests. It covers the appointment, duties, and responsibilities of directors, guidelines for meetings, shareholders' rights, auditing, related party transactions, CSR, insolvency, and liquidation. Overall, it provides a robust framework for the efficient management and administration of companies.

3.13.F. Certain Provisions Must Be Followed for Payment of Dividend:

Companies must follow certain rules when they declare dividends under the Companies Act 2013. These rules aim to provide transparency, and accountability, and protect shareholders' interests. Dividends can only be declared from current or undistributed profits. Before declaring dividends, a portion of profits must be set aside for future needs and contingencies. Companies must pay a tax called Dividend Distribution Tax (DDT) on dividends before distributing them to shareholders. If a dividend remains unpaid or unclaimed for 30 days after being declared, it must be transferred to a separate bank account called the "Unpaid Dividend Account.". If a company redeems any preference shares, it must create a "Dividend Redemption Reserve" before doing so. Companies cannot declare dividends if they have not met certain regulatory requirements or have defaulted on the repayment of deposits or debentures.

3.13.G. Accounting Process of a Company Must Ensure Transparency and Accountability:

The Companies Act 2013 governs businesses in India, covering topics such as insolvency, liquidation, and protecting stakeholders' interests. It promotes corporate governance, transparency, and accountability for efficient management. Dividend declarations and payments are subject to provisions ensuring transparency, accountability, and protection of shareholders' interests. Key points to note include requirements to transfer profits to a reserve account before declaring a dividend, paying the Dividend Distribution Tax (DDT), and transferring unpaid dividends to a separate bank account. For preference shares redemption, a "Dividend Redemption Reserve" must be created.

3.13.H. Audit Process Must Ensure Independence and Reliability:

The Companies Act 2013 stipulates rules that companies must follow when appointing auditors to ensure independence and reliability in the audit process. The rules include appointing an auditor at the first annual general meeting for a term of six years, subject to rotation for certain classes of companies every five years. Auditors must have certain qualifications and must examine the company's financial statements, express an opinion, and submit an audit report to shareholders. The Act also provides for the removal and resignation of auditors.

3.13.I. Skilled and Qualified Directors Must Be Appointed:

The Companies Act 2013 outlines regulations for appointing directors who possess the necessary skills to manage company operations. The key provisions include mandatory appointment of directors based on company size, qualifications required for appointment, appointment of independent directors, rotation of directors, resignation and removal of directors, and director's fiduciary duties towards the company and shareholders.

3.13.J. The Board Must Ensure Transparent and Effective Governance.

Under the Companies Act 2013, companies must follow certain provisions regarding board meetings and the power of the board to ensure transparent and effective governance. The company should conduct a minimum of four board meetings per year with a maximum gap of 120 days between two consecutive meetings. Notice of board meetings should be given to all directors at least seven days in advance, specifying the date, time, place, and agenda. The quorum for a board meeting should be one-third of the total number of directors or two directors, whichever is higher. The board of directors has the power to exercise all necessary powers for the proper conduct of the company's business, but certain powers require the approval of the shareholders. Minutes of all board meetings must be prepared and maintained by the company. Directors must disclose their interest in any contract or arrangement entered into or proposed to be entered into by the company.

CHAPTER-4

Major Changes in the Companies Act 2013

4.1 Introduction:

Before the revision of the Companies Act in 2013, Indian companies were governed by the Companies Act of 1956. The implementation of the new Act brought significant changes to the way companies are operated and regulated. Although the Companies Act of 2013 is currently in effect, companies that were registered under the previous Act are still recognized. The new Act comprises 464 sections and 7 schedules, while the previous Act from 1956 had 658 sections and 15 schedules. The Indian Parliament passed the Companies Act of 1956 on April 1, 1956, and the Companies Act of 2013 on April 1, 2014. This chapter aims to evaluate and highlight the key differences between the two Acts, which include changes in regulations, provisions for corporate social responsibility, and the introduction of new concepts such as one-person companies.

4.1.A. Introduction of One-Person Company:

The Companies Act of 2013 introduced the concept of One Person Company (OPC)[1]. As the name suggests, it allows one person to form a company. An OPC has the same features as any other company, such as limited liability, perpetual succession, and a separate legal identity. Before this act came into effect, only two people could form a company. If someone wanted to start a company alone, they could only choose a sole proprietorship. In contrast, a minimum of two directors and two members were required to establish a company. The Companies Act, of 1956, followed this rule.

4.1.B. Prohibition against a Subsidiary Membership in the Holding Company:

As the provision in Section 19 (1) of the Companies Act, 2013 reads, "No Company shall, either by Itself or through its Nominees, hold any shares in Its holding company," as opposed to Section 42(1) of the Companies Act, 1956, which states, "A

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[1] Sec. 3(1) c

Body corporate cannot be a Member of a company which Is its holding company," the bar in Section 18 of the 2013 Act only applies to Companies and not to bodies corporate other than Companies[2].

4.1.C. Prohibition on Issuing Shares at a Discount:

The issue of shares (other than sweat equity shares) at a discount is prohibited by the 2013 Act. Only sweat equity shares are permitted to be offered at a discount under the 2013 Act.[3] Whereas, under certain conditions, Section 79 of the 1956 Act permitted the issuance of shares at a discount.

4.1.D. The Provision relating to the Issue of Bonus Share Amended:

No issue of bonus shares shall be issued by capitalizing reserves created by the revaluation of assets, according to the Companies Act of 2013. Furthermore, whether a company is listed or unlisted, it cannot issue bonus shares using revaluation reserves.

As opposed to this, the Companies Act of 1956 expressly permits the use of reserves created by the revaluation of assets for the issuance of fully paid-up bonus shares. If permitted by the company's articles of association, a company may issue Bonus shares by the capitalization of a revaluation reserve. An unlisted company may use a revaluation Reserve for issuing bonus shares under the 1956 Act.

4.1.E. The Provision relating to Registers, Copies of Annual Returns, etc:

Under the Companies Act of 2013, it is no longer required to keep a duplicate of the foreign registers in India, unlike under Section 158 of the 1956 Act. The 2013 Act allows companies to keep these registers or copies of returns at a location other than their registered office if certain conditions are met. These conditions include obtaining approval through a special resolution adopted at a general meeting of the company, ensuring that over 10% of the total members listed in the register of

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[2] Sec. 19(1) c

[3] Sec. 53 (1)

members reside at the new location, and providing the registrar with a copy of the proposed special resolution in advance.[4]

Similarly, under Section 163 of the 1956 Act, companies were allowed to keep these registers, copies of annual returns, and more at any other place within the city, town, or village in which the registered office is situated, provided that a special resolution was passed at a general meeting of the company and the Registrar was given a copy of the proposed resolution in advance.

4.1.F. Provisions relating to Certification of Annual Return by CS in Practice:

The 2013 Act expands this requirement to include unlisted companies with the prescribed paid-up capital and turnover.[5] While under the 1956 Act, only listed companies were required to have their annual returns certified by a "secretary in Whole-time practice," all Pvt. Companies may be covered under the new law.

4.1.G. Provisions Relating to Extraction of Annual Return in Board's Report:

According to the Companies Act of 2013, the Board's report must include an extract of the annual return in the prescribed form. While it was not necessary under the 1956 Act.[6]

4.1.H. Annual General Meeting:

i. Day, Venue, And Time for AGMs:

Every annual general meeting shall be called during business hours, which are between 9 a.m. and 6 p.m. on any day that is not a national holiday, according to Section 96(2) of the Companies Act of 2013[7]. Whereas the 1956 Act provided that

[4] Sec. 88
[5] Sec. 92
[6] Sec. 88
[7] Sec. 96

every AGM must be called during normal office hours on a day that is not an official holiday.

ii. Notice of AGM:

The Company may give notice of its general meetings via electronic means under Section 101 of the 2013 Act. While the 1956 Act did not explicitly permit giving notice in an electronic format.

iii. Provisions relating to the Mode of the consent of Members to shorter Notice for general Meetings:

According to the 2013 Act, all companies must express their consent in writing or electronically if they want to receive a shorter notice period.[8] Although the 1956 Act did not specify how consent for shorter notice of the meeting (i.e., less than 21 clear days' notice) should be accorded.

4.1.I. Quorum:

The quorum for general Meetings for Public Companies: Section 102 of the 2013 Act Fixes quorum for public Companies based on the number of members of the Company as under[9]:

a) If there are no more than 1000 members as of the meeting date, a quorum is defined as 5 members personally present. Again, if there are more than 1,000 but no more than 5,000 members as of the meeting date, then 15 members who are personally present are required for a quorum. If there are more than 5,000 members as of the meeting date, 30 members must be personally present.
b) As a result, the quorum requirements for a public company with more than 1000 members stand increased from 5 personally present members to 15/30 personally present members.

[8] Sec. 101
[9] Sec. 103

c) Contrarily, under the 1956 Act, a quorum for general meetings of public companies must consist of five personally present members unless otherwise provided for in the articles.

d) Additionally, it is stated that the Company must give the members at least three days' notice of any adjournments or changes to the day, time, or location of the adjourned meeting (which was adjourned inquorate). This notice may be given to each member individually or through a press release. Contrarily, Section 174(4) and (5) of the 1956 Act outlined what would occur if a quorum was not present within 30 minutes. Except where specifically stated otherwise, these provisions were in effect.

4.1.J. Resolutions:

The Companies Act 2013 provides that if a vote is cast electronically, it will be counted to pass an ordinary or special resolution[10]. Previously, the 1956 Act did not allow electronic voting to be counted for passing resolutions.

Regarding special notice of a resolution, the Companies Act 2013 states that if a resolution needs special notice, a notice of intention to move it must be given to the company by members holding at least 1% of the total voting power or by those holding shares on which a sum of up to Rs. 5,00,000 has been paid. In contrast, the 1956 Act did not require any specific number of members to give notice.

4.1.K. Secretarial Standards:

As per the provisions of the Company Secretaries Act, 1980 (56 of 1980), every company is required to comply with the secretarial standards prescribed by the Institute of Company Secretaries of India for conducting general and Board meetings.[11] It is pertinent to note that, unlike the 1956 Act, the current law mandates

[10] Sec. 115
[11] Sec. 118(10)

the observance of these standards, thereby ensuring greater transparency and accountability in corporate governance.

4.1.L. Provisions Relating to Specific Penalty / Punishment for Tampering with Minutes:

If someone is found guilty of tampering with the minutes of a meeting, they may be punished under Section 118(12) of the 2013 Act[12]. The punishment could include imprisonment for up to two years and a fine of at least Rs.25,000, but no more than Rs.1,00,000. This rule applies to all companies, unlike the 1956 Act, which does not have a specific punishment for tampering with minutes.

4.1.M. Provisions Relating to Whether Dividend Declaration/Payment is Barred if the Company is in Default on Repayment of Deposits:

A company that fails to comply with sections 73 And 74 of the 2013 Act shall not, so long as such failure continues, declare any dividend on its equity shares. Whereas no such bar in the 1956 Act.

4.1.N. Provisions Relating to Payment of Dividends Only from Free Reserves:

The provision to section 123(1) of the 2013 Act provides that no dividend shall be declared or paid by a company from its reserves other than free reserves by the companies whereas no express provisions in this regard in the 1956 Act were specified.

4.1.O. Provisions Relating to Whether Past Losses Are Required to be Set Off Before Declaring a Dividend:

The Tribunal may, at any time following the issuance of a winding-up order, issue an order requiring any contributory currently listed on the list of contributors to pay, in the manner specified by the order, any money owed to the company by him or the

[12] Sec. 118 (12)

estate of the person he represents, exclusive of any money due to the company from him or the estate as a result of any calls made under this Act.[13] But no such provision had been inserted in the Companies Act 1956.

4.1.P. Provisions relating to Payment of Dividends through Electronic Mode to Registered Shareholders:

In the Companies Act, 2013 it is expressly allowed to make payment of dividends through electronic mode[14] whereas, under the 1956 Act, no express provisions were made in Companies Act 1956 in this context.

4.1.Q. Provisions relating to Unpaid Dividend Accounts:

Section 124(6) of the 2013 Act takes things a step further than section 205C of the 1956 Act. It says that if a company transfers unpaid or unclaimed dividends to the Investor Education and Protection Fund, then all shares related to those dividends must also be transferred to the Fund. The company must transfer the shares under the name of the Investor Education and Protection Fund and provide a statement that includes all the necessary details.

The Investor Education and Protection Fund[15] is where a company sends money that was not claimed by people who own shares in the company. If the company does this, they also must give the shares to the Fund. The company has to say to whom they gave the shares and why.

4.1.R. Provisions for Accounts:

Under the Companies Act 2013, companies are allowed to keep their books of accounts and other relevant papers in an electronic mode as prescribed. However, the

[13] Sec. 123(1) b
[14] Sec. 123 (5)
[15] Sec. 125

1956 Act does not provide any provisions for companies to keep their books of accounts in electronic mode.

4.1.S. Provisions relating to Consolidated Financial Statements:

Under the Companies Act 2013, it is mandatory for companies with one or more subsidiaries, associates, or joint ventures to comply with certain regulations. However, no such provisions exist in the 1956 Act.

Under the Companies Act 2013, the requirements for holding companies to attach subsidiary company's accounts to their balance sheet were omitted. This is different from the 1956 Act which required a holding company to include a statement showing their interest in the subsidiary.

4.1.T. Provisions Relating to Compulsory Placing of Accounts on a Company's Website:

Listed companies are required to post their financial statements, including consolidated financial statements and other necessary documents, on their website. This website should be maintained by or on behalf of the company. This requirement does not apply to the 1956 Act.

4.1.U. Report of the Board of Directors:

The 2013 Act requires more disclosures in the Board's Report. Some of the new disclosures include the company's policy on Directors' appointment and remuneration, details about the policy developed and implemented by the company on Corporate Social Responsibility Initiatives, and a statement indicating the development and implementation of a risk management policy for the company. The Board must also provide explanations or comments on every qualification, reservation, or adverse remark made by the Company Secretary in practice in his secretarial audit report. In addition, the Board must disclose the particulars of loans, guarantees, or investments, as well as particulars of contracts or arrangements. The

Board must also provide a statement on the number of meetings held, a statement on the declaration given by independent directors, and a statement indicating the formal evaluation made by the Board of its performance and that of its committees and individual directors. The 1956 Act also requires many disclosures in the Board of Directors Report.

4.1.V. Corporate Social Responsibility:

Companies Act 2013 requires all companies meeting any one of the following criteria to spend at least 2% of their average net profits made in the last three financial years on Corporate Social Responsibility (CSR):

1. Net worth of Rs. 500 crores or more

2. Turnover of Rs. 1,000 crores or more

3. Net profit of Rs. 5 crores or more.

No provisions regarding CSR exist in the 1956 Act.

4.1.W. Appointment and Disqualifications of Directors:

Companies Act 2013 requires some companies to have a woman director, whereas no such requirement existed in the 1956 Act. Additionally, every company under the Companies Act 2013 must have at least one director who lived in India for 182 days or more in the previous calendar year, which was also not mandated by the 1956 Act.

4.1.X. Provisions Relating to The Appointment of An Independent Director:

Listed public companies under the Companies Act 2013 must have at least one-third of their directors as independent directors. The Central Government may require a minimum number of independent directors for specific classes of public companies. Independent directors are not entitled to stock options and can only receive a sitting fee, reimbursement for meeting participation expenses, and profit-related commission approved by members. This is a requirement that did not exist in the 1956 Act.

4.1.Y. Provisions Relating to the Maximum Number of Directors:

Public and private companies in India are legally permitted to have a maximum of 15 directors. However, a company can appoint more than 15 directors by passing a special resolution. The 1956 Act required central government approval for public companies to increase the number of directors beyond 12, but private companies had no such requirement. The Companies Act 2013 removed the central government approval requirement for public companies to increase the number of directors beyond the permissible maximum.

4.1.Z. Provisions Relating to The Declaration by The Person Proposed to Be Appointed as Director:

When appointing a director under the Companies Act 2013, the person must provide their Director Identification Number (DIN) as well as a statement confirming that they are eligible to become a director under this Act. This requirement was not necessary under the 1956 Act.

4.1.A.1. Provisions Relating to Disqualifications for Appointment as Director:

If someone is convicted of an offense and sentenced to seven or more years in prison, they can no longer be a company director under the 2013 Act. This is a permanent bar. Section 164 of the same Act has added two new reasons why someone can be disqualified from being a company director. These reasons did not exist in the 1956 Act. One is if the person has been convicted of an offense related to transactions with related parties in the preceding five years. The other reason is if they do not have a Director Identification Number.

4.1.A.2. Provisions Relating to Disqualifications of Directors If the Company Commits Specified Defaults:

If a company fails to file financial statements or repay deposits, it does not matter if it is a public company or not. Under section 164(2) of the 2013 Act, any director of that company will be disqualified from being re-appointed as a director of that company or appointed in another company, for five years from the date of the specified default. This disqualification applies regardless of whether the director was part of a public or private company. In the past, under the 1956 Act, a person was disqualified from directorships only if they were a director of a public company that had committed either of the specified defaults.

4.1.A.3. Provisions Relating to Limit on The Maximum Number of Directorships:

The Companies Act 2013 sets limits on the number of directorships an individual can hold. One person can hold up to 20 directorships, including alternate directorships, but only 10 of those can be with public companies. If a general meeting passes a special resolution, they can set a lower limit. The previous law, the 1956 Act, allowed individuals to hold up to 15 directorships.

4.1.A.4. Meeting of the Board:

The Companies Act of 2013 allows directors to participate in board meetings through video conferencing or other audiovisual means, which was not permitted under the 1956 Act. This participation will count towards meeting quorum requirements. The notice period for board meetings must be at least 7 days, but shorter notice may be given for urgent business if at least one independent director is present. If no independent directors attend, decisions made at the meeting must be circulated to all directors and must be ratified by at least one independent director. In addition, notice for board meetings may be given electronically under the Companies Act of 2013, which was not allowed under the 1956 Act.

The Companies Act of 2013 has specific rules regarding the frequency of Board of Directors meetings. According to the law, there must not be more than 120 days between two consecutive meetings. In contrast, the 1956 Act required a meeting of the Board of Directors to be held at least once every three months.

The Companies Act of 2013 also has specific rules regarding the quorum for meetings of the Board of Directors. The participation of directors at a meeting by video conferencing or other audiovisual means is now counted as a quorum, whereas the 1956 Act did not recognize such participation for quorum purposes.

Section 175 of the 2013 Act allows the electronic circulation of draft resolutions with necessary papers to directors or members of the committee through prescribed electronic means. This is not an enabling provision under the 1956 Act.

Approval of resolution by circulation is also required under Section 175 of the 2013 Act. It states that approval should be by many of the directors or members of the committee who are entitled to vote on the resolution. This was not required under the 1956 Act.

Finally, the Companies Act of 2013 provides that a resolution passed by circulation should be noted at a subsequent meeting of the Board or committee and made part of the minutes of such meeting. This was not required under the 1956 Act.

4.1.A.5. Audit Committee:

Provisions relating to for which companies it is Mandatory to constitute an Audit committee.

The Companies Act of 2013 requires every listed company and some other types of companies to comply with certain regulations. In contrast, the 1956 Act only required public companies with a paid-up capital of not less than five crore rupees to comply.

Under the 2013 Act, an audit committee must have a minimum of three directors, with a majority of independent directors. The majority of members, including the chairperson, should have the ability to read and understand financial statements. On the other hand, under the 1956 Act, the audit committee should consist of not less than three directors and several other directors as the board may determine, of which two-thirds of the total number of members shall be directors other than managing or whole-time directors.

The role and functions of the audit committee under the 2013 Act include acting according to the terms of reference in writing by the board, which shall include, among other things, the recommendation for appointment, remuneration, and terms of engagement of auditors of the company. The audit committee shall also review and monitor the auditor's independence and performance, and the effectiveness of the audit process. It shall examine the financial statements and the auditors' report thereon, approve or modify any subsequent transactions of the company with related parties, scrutinize inter-corporate loans and investments, and evaluate the internal financial controls and risk management systems. The committee shall also monitor the end-use of funds raised through public offers and related matters. The audit committee shall have the authority to investigate any matter related to these items or referred to it by the board. For this purpose, it shall have the power to obtain professional advice from external sources and have full access to the information contained in the records of the company.

Under the 1956 Act, the audit committee should have discussions with the auditors periodically about internal control systems and the scope of the audit, including the observations of the auditors. It should also review the half-yearly and annual financial statements before submission to the board and ensure compliance with internal control systems. The audit committee shall have the authority to investigate any matter about the items specified in this section, or referred to it by the board. For this purpose, it shall have full access to the information contained in the records of the company and external professional advice, if necessary.

4.1.A.6. Vigil Mechanism:

Companies Act 2013 requires listed companies or other prescribed classes of companies to establish a vigil mechanism for employees and directors to report genuine concerns. The mechanism and its details must be disclosed in the Board's report. There was no such requirement under the 1956 Act.

4.1.A.7. Committees:

Under the Companies Act 2013, it is mandatory to establish the Nomination and Remuneration Committee and the Stakeholders' Relationship Committee for prescribed Companies. The 1956 act only mentioned the Remuneration Committee under Schedule XIII.

4.1.A.8. Related Party Transactions:

Section 188 of the 2013 Act covers related party transactions such as the sale, purchase, or supply of goods or materials, selling or buying property, leasing property, availing, or rendering services, appointing agents for the purchase or sale of goods, materials, services, or property, and appointing a related party to any office or place of profit in the Company, its subsidiary or associate company. Underwriting the subscription of any securities or derivatives thereof of the company is also included. No contract or arrangement can be entered into, except with prior approval of the company by a special resolution, for companies with a paid share capital of not less than such amount or transactions not exceeding such sums as may be prescribed. The 1956 act allowed the purchase or sale of goods and materials for cash at prevailing market prices by any Director, relative, firm, partner, or private company.

Also, any contract between the company and any such director, relative, firm, partner, or private company must not exceed Rs.5000 in any year. In the case of a banking or insurance company, any transaction in the ordinary course of business with any related party is allowed. A director, relative, firm, partner, or private company may, in circumstances of urgent necessity, enter into any contract with the company for the sale, purchase, or supply of any goods, materials, or services even if the value of such goods or cost of such services exceeds Five thousand rupees in the aggregate in any year.

4.1.A.9. Companies Are Required to Follow Certain Provisions When Appointing Key Personnel:

Under the Companies Act 2013, companies must appoint a whole-time managing director, CEO, or manager, along with a company secretary and CFO. This is mandatory for all companies belonging to certain classes.

In contrast, the 1956 act required public companies and private companies that were subsidiaries of public companies to appoint a whole-time director or manager, with a paid-up capital of a prescribed sum. Additionally, all companies were required to have a paid-up capital of a prescribed sum to appoint a whole-time secretary.

The Companies Act 2013 also states that no person can be re-appointed as a managing director, whole-time director, or manager until one year before the expiry of their term. The 1956 act allowed for re-appointment, re-employment, or extension of a managing director or manager earlier than one year before the expiry of their term.

4.2. Concluding Observations:

The Companies Act 2013 has brought about sweeping changes in the functioning of companies in India. It has introduced the concept of class action suits, which empowers shareholders and stakeholders to take legal action against companies for various violations of their rights. Additionally, the Act provides for approvals from shareholders on significant transactions, enhancing their power and say in the running of the company.

The Act also aims to promote women's empowerment in the corporate sector by mandating the appointment of at least 1 woman director on the board of certain classes of companies. Furthermore, it stipulates that certain classes of companies must spend a specific amount of money every year on activities reflecting Corporate Social Responsibility.

The Companies Act 2013 has also introduced the National Company Law Tribunal and the National Company Law Appellate Tribunal, replacing the Company Law Board and Board for Industrial and Financial Reconstruction. This move aims to ease the burden on the courts and provide specialized justice.

The Act further proposes a fast-track and simplified procedure for mergers and amalgamations of certain classes of companies, such as holding and subsidiaries, and small companies. It also permits cross-border mergers with prior permission from the RBI.

The Companies Act 2013 prohibits directors and key managerial personnel from purchasing call and put options of company shares if they have access to price-sensitive information, thereby curbing insider trading.

The Act has also increased the maximum number of shareholders in a private company from 50 to 200, and the maximum number of persons/partners in any association/partnership to up to 100, with certain exemptions for professionals.

Furthermore, the Act provides for the entrenchment of articles of association that have been introduced and proposes E-Governance for various company processes like maintenance and inspection of documents in electronic form, keeping books of accounts in electronic form, and placing financial statements on the company's website.

The Companies Act 2013 has also defined the duties of a director, increased the liability of directors and officers, and provided for the rotation of auditors and audit firms in the case of publicly traded companies. It prohibits auditors from performing non-audit services to ensure their independence and accountability and makes the rehabilitation and liquidation process of companies in financial crisis time-bound.

Chapter-5

Findings, Conclusion, and Summary

5.1. Introduction:

The chapter relates to the findings and conclusion of the study. The findings have been segmented in two major heads viz. General Findings and Specific Findings. The General Findings are from the regulatory framework of business in India while Specific findings are from the principal Act, i.e., Companies Act 2013 under consideration. Th following findings are drawn from the study.

5.1.A. General Findings:

1. **The Adoption of Every Act Is Based on Logical Justifications:**
   The Indian government enacted laws based on experimentation and practical considerations. Every law was passed whenever it was thought necessary in response to the reality that occurred. For instance:

1. When it comes to resolving industrial disputes, the Industrial Disputes Act of 1947 is crucial.
2. The Minimum Wages Act of 1948 requires employers to follow its provisions when setting wages.
3. The Indian Partnership Act of 1932 Facilitates the Administration of Partnership Enterprises.
4. The contractual relationship is regulated by the Indian Contract Act, of 1872.
5. The Limited Liability Act of 2008 permits partnerships and companies to form balanced forms of business.
6. Transactions between buyers and sellers are governed by the Sales of Goods Act of 1930.
7. Retirement Benefits are ensured by the Payment of Gratuity Act of 1972.
8. The Factories Act of 1948 governs the working conditions of labourers.
9. Anti-competitive Behaviour is Prohibited by the Competition Act of 2002.

10. The Companies Act of 2013 governs the activities of companies.

Table: 5.1

Rationales of Legislation

Acts	Principal Objective
Industrial Disputes Act 1948	Resolving Industrial Disputes
Minimum Wages Act, 1948	Fixation of Minimum Wages of Workers
Partnership Act, 1932	Management of Partnership Businesses
Indian Contract Act 1872	Determination and Management of Contractual Relations between parties
Sales of Goods Act 1930	Regulation of Transactions between Buyers and Sellers
Limited Liability Partnership Act 2008	Formation of a Balanced Form of Business Between Partnership and Company
Payment of Gratuity Act 1972	Ensuring Retirement Benefits to the Employees.
Competition Act 2002	Prevention Anti-competitive Behaviour
Companies Act 2013	Regulation of Company Affairs

2. Business Laws are crucial for Industrial Peace and Good Industrial Relations:

When the objectives of the laws are logically analyzed it is observed that laws attempt to bring industrial peace and harmony. They also make an endevour to satisfy the stakeholders including the government associated with business houses. Laws generally are meant for target groups who are directly or indirectly involved in business. The following table will clarify the facts:

Table: 5.2

Target-Groups Focused by Legislation

Acts	Stakeholders/ Target Groups
Industrial Disputes Act 1948	Management and Workers-Centric
Minimum Wages Act, 1948	Workers-Centric
Partnership Act, 1932	Partners Centric
Indian Contract Act 1872	Party-Centric
Sales of Goods Act 1930	Buyers and seller-centric
Limited Liability Partnership Act 2008	Shareholders-Centric
Payment of Gratuity Act 1972	Employee-Centric
Competition Act 2002	Anti-competitive Businessmen and Consumers-Centric
Companies Act 2013	Shareholders, Creditors, Government and Consumer-Centric.

3. **Ethics In Business and Laws in Business Go Hand in Hand:**
The owners of the business enterprises must behave ethically. They are not expected to commit any unfair means while conducting business affairs for unfair gain. Whenever the ethics are violated by the businessman, the law intervenes. For example, in company affairs, there was no provision for full disclosure of information in the Companies Act of 1956. But when the government observed that associated parties of a company might be affected due to non-disclosure of information it felt necessary to insert the provision of full disclosure of information by the companies. Disclosure of information is now a legal ethic for companies.

4. **Business Laws Protect the Rights of All Stakeholders:**

   Laws consider every stakeholder commensurately. When the law considers the rights of the workers, it also considers the rights of the management. For instance:

   i. A strike is the right of the workers while the lock-out is the right of the management.

   ii. When the fixation of wages is the right of the management, bargaining is the right of the workers.

   iii. When registration of a company is a right of the promoter, de-registration is the right of the government.

5. **Adherence to the Legal Compliance is Binding**:

   Generally, when non-compliance with legal provisions ends, laws start. Law will not intervene till there is adherence to laws. But when the legal provisions are disrespected or not complied with, laws will intervene. Therefore, in certain cases where there is found disobedience to laws, provisions have been made to impose penalties and even imprisonment.

6. **Laws Creates Certain Authorities and Quasi-legal Authorities.**:

   Laws are principles and they must be implemented in practice by some legal authorities. Therefore, whenever necessary certain authorities and quasi-legal authorities are established by laws. The provisions of the Companies Act are inserted in the Act but to execute these provisions certain authorities like Registrar of Companies (RoC), Regional Directors, National Company Law Tribunal (NCLT), etc. are created.

5.1.B. Specific Findings:

1. The Companies Act, 2013 mandates every company registered in India to comply with its provisions, except for banking, insurance, power, and non-banking financial companies.
2. The Companies Act regulates public offers and private placements of securities, ensuring compliance with securities laws.

3. The Act defines requirements and procedures for the issuance, allotment, and transfer of shares, as well as regulating the issuance and redemption of debt instruments called debentures. These regulations ensure that companies operate within a legal framework for the benefit of all stakeholders.
4. These provisions for the registration of charges ensure transparency, protect the rights of creditors and other stakeholders, and prevent fraudulent or improper use of charges.
5. The Companies Act 2013 governs the management of companies in India. Its provisions ensure good corporate governance, transparency, accountability, and protection of stakeholders' interests.
6. Companies must follow certain rules when they declare dividends under the Companies Act 2013. Companies cannot declare dividends if they have not met these regulatory requirements or have defaulted on the repayment of deposits or debentures.
7. The Companies Act 2013 governs businesses in India, covering topics such as insolvency, liquidation, and protecting stakeholders' interests. It promotes good corporate governance, transparency, and accountability for efficient management.
8. The Companies Act 2013 stipulates rules that companies must follow when appointing auditors to ensure independence and reliability in the audit process. The Act also provides for the removal and resignation of auditors.
9. The Companies Act 2013 outlines regulations for appointing directors who possess the necessary skills to manage company operations.
10. Under the Companies Act 2013, companies must follow certain provisions regarding board meetings and the power of the board to ensure transparent and effective governance.
11. The Companies Act 2013 has brought about sweeping changes in the functioning of companies in India. It has introduced the concept of class action suits, which empowers shareholders and stakeholders to take legal action against companies for various violations of their rights. Additionally, the Act

provides for approvals from shareholders on significant transactions, enhancing their power and say in the running of the company.

12. The Act also aims to promote women's empowerment in the corporate sector by mandating the appointment of at least 1 woman director on the board of certain classes of companies. Furthermore, it stipulates that certain classes of companies must spend a specific amount of money every year on activities reflecting Corporate Social Responsibility.
13. The Companies Act 2013 has also introduced the National Company Law Tribunal and the National Company Law Appellate Tribunal, replacing the Company Law Board and Board for Industrial and Financial Reconstruction. This move aims to ease the burden on the courts and provide specialized justice.
14. The Act further proposes a fast-track and simplified procedure for mergers and amalgamations of certain classes of companies, such as holding and subsidiaries, and small companies. It also permits cross-border mergers with prior permission from the RBI.
15. The Companies Act 2013 prohibits directors and key managerial personnel from purchasing call and put options of company shares if they have access to price-sensitive information, thereby curbing insider trading.
16. The Act has also increased the maximum number of shareholders in a private company from 50 to 200, and the maximum number of persons/partners in any association/partnership to up to 100, with certain exemptions for professionals.
17. Furthermore, the Act provides for the entrenchment of articles of association that have been introduced and proposes E-Governance for various company processes like maintenance and inspection of documents in electronic form, keeping books of accounts in electronic form, and placing financial statements on the company's website.
18. The Companies Act 2013 has also defined the duties of a director, increased the liability of directors and officers, and provided for the rotation of auditors and audit firms in the case of publicly traded companies. It prohibits auditors

from performing non-audit services to ensure their independence and accountability and makes the rehabilitation and liquidation process of companies in financial crisis time-bound.

5.1.C. Summary and Conclusion:

The Indian government has enacted laws based on logical justifications, such as the Industrial Disputes Act of 1947, Minimum Wages Act of 1948, Indian Partnership Act of 1932, Indian Contract Act of 1872, Limited Liability Act of 2008, Sales of Goods Act of 1930, Payment of Gratuity Act of 1972, Factories Act of 1948, Competition Act of 2002, and Companies Act of 2013.

Business laws aim to promote industrial peace and harmony, satisfy stakeholders like government and business houses, and target groups directly or indirectly involved in business, as outlined in a table. Business laws protect the rights of all stakeholders, including workers, management, and promoters. They consider strike rights, lock-out rights, wage fixation rights, and company registration rights, ensuring fair treatment for all stakeholders.

Legal compliance is binding, and laws will intervene when non-compliance ends. Disobedience to laws can result in penalties and imprisonment. Laws establish certain authorities and quasi-legal authorities, such as the Registrar of Companies, Regional Directors, and National Company Law Tribunal, to implement provisions in the Companies Act. The Companies Act, 2013 in India mandates all registered companies to comply with its provisions, except for financial companies. It regulates securities laws, shares issuance, allotment, and transfer, and debenture redemption. The Act promotes transparency, accountability, and stakeholder protection. Companies must declare dividends if they meet regulatory requirements or have defaulted on deposits or debentures repayments. The Act covers topics like insolvency, liquidation, and stakeholder protection.

The Companies Act 2013 in India outlines rules for appointing auditors, directors, board meetings, and governance. It introduces class action suits, empowering shareholders, and stakeholders to take legal action against companies. The Act also mandates the appointment of at least one woman director and sets specific annual spending on Corporate Social Responsibility activities. The Act also introduces the National Company Law Tribunal and the National Company Law Appellate Tribunal to provide specialized justice and ease the burden on courts. The Companies Act 2013 simplifies merger procedures for certain companies and permits cross-border mergers with RBI permission. It restricts insider trading by prohibiting directors from purchasing shares with price-sensitive information. The Act increases shareholder numbers and permits electronic governance for company processes. It defines director duties, increases liability, and rotates auditors for publicly traded companies. It also makes the rehabilitation and liquidation process time-bound for companies in financial crises.

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