



PAPER – 2: BUSINESS LAWS

PART – I: AMENDMENTS FOR SEPTEMBER 2026 EXAMINATIONS

CHAPTER 6: THE COMPANIES ACT, 2013

Notification G.S.R. 880(E) dated 1st December, 2025

The Central Government has amended the Companies (Specification of definition details) Rules, 2014, through the Companies (Specification of definition details) Amendment Rules, 2025.

Amendment:

In the Companies (Specification of definition details) Rules, 2014, in rule 2, in sub-rule (1), for clause (t), the following clause shall be substituted, namely:-

"(t) For the purposes of sub-clause (i) and sub-clause (ii) of clause (85) of section 2 of the Act, paid up capital and turnover of the small company shall not exceed rupees ten crores and rupees one hundred crores respectively."

New Law

Page 6.14 of the Study material

Small Company: Small company is given under the Section 2(85) of the Companies Act, 2013 which means a company, other than a public company—

1. **paid-up share capital** of which **does not exceed rupees ten crores** or such higher amount as may be prescribed which shall not be more than ten crore rupees; and
2. **turnover** of which as per profit and loss account for the immediately preceding financial year **does not exceed rupees one hundred crores** or such higher amount as may be prescribed which shall not be more than one hundred crore rupees:

Exceptions: This clause shall not apply to:

- (A) a holding company or a subsidiary company;
- (B) a company registered under section 8; or
- (C) a company or body corporate governed by any special Act.

Small Company –significant points

- ◆ A private company
- ◆ Paid up capital – not more than ₹ 10 crores
and
- ◆ Turnover – not more than ₹ 100 crores.
- ◆ Should not be – Section 8 company
- ◆ Holding or a Subsidiary company

PART – II: QUESTION AND ANSWERS

**QUESTIONS****Indian Regulatory Framework**

1. What do you understand by Law? Also, elaborate the procedure for making a law.

The Indian Contract Act, 1872

2. R owns an electronics store. P visited the store to buy a water purifier priced at ₹ 54,000/-. He specifically requested R for a purifier with a copper filter. As P wanted to buy the purifier on credit, with the intention of paying in 9 equal monthly instalments, R demands a guarantor for the transaction. S (a friend of P) came forward and gave the guarantee for payment of water purifier. R sold P, a water purifier of a specific brand. P made payment for 4 monthly instalments and after that became insolvent. Explain with reference to the Indian Contract Act, 1872, the liability of S as a guarantor to pay the balance price of water purifier to R.

What will be your answer, if R sold the water purifier misrepresenting it as having a copper filter, while it actually has a normal filter? Neither P nor S was aware of this fact and upon discovering the truth, P refused to pay the price. In response to P's refusal, R filed the suit against S, the guarantor. Explain with reference to the Indian Contract Act, 1872, whether S is liable to pay the balance price of water purifier to R?

3. Rahul directs Sarthak to sell laptops for him and agrees to give Sarthak eleven percent (11%) commission on the sale price fixed by Rahul for each laptop. As Government of India put restrictions on import of Laptops, Rahul thought that the prices of laptops might go up in near future and he revokes Sarthak's authority for any further sale. Sarthak, before receiving the letter at his end sold 5 laptops at the price fixed by Rahul. Sarthak asked for 11% commission on the sale of 5 Laptops for ₹ 1 lakh each. Explain under the provisions of the Indian Contract Act, 1872:

- (i) Whether sale of laptops after revoking Sarthak's authority is binding on Rahul?
 - (ii) Whether Sarthak will be able to recover his commission from Rahul, if yes, what will be the amount of such commission?
4. Preeti, a minor, falsely representing her age, enters into an agreement with an authorised Laptop dealer Mr. Mittal, owner of MP Laptops, for purchase of Laptop on credit amounting ₹ 60,000/- on 1st August 2022. She promised to pay back the outstanding amount with interest @ 16% p.a. by 31st July 2023. She told him that in case she won't be able to pay the outstanding amount, her father Mr. Ram will pay back on her behalf. After One year, when Preeti was asked to pay the outstanding amount with interest she refused to pay the amount and told the owner that she is minor and now he can't recover a single penny from her.

She will be a major on 1st January 2025 and only after that agreement can be ratified. Explain by which of the following ways, Mr. Mittal will succeed in recovering the outstanding amount with reference to the Indian Contract Act, 1872.
 - (i) By filing a case against Preeti, a minor for recovery of outstanding amount with interest?
 - (ii) By filing a case against Mr. Ram, father of Preeti for recovery of outstanding amount?
 - (iii) By filing a case against Preeti, a minor for recovery of outstanding amount after she attains majority?
5. (i) Mr. L let out his residential house to Mr. M for ₹ 50,000 p.m. for a period of one year. According to the Rent agreement, electricity bill will be paid by Mr. L. But Mr. L could not pay electricity dues up to 5 months, due to his financial hardships. The Electricity Board sent the notice of disconnection, if it is not paid within a week's time. To avoid all this, Mr. M paid the electricity bill of ₹ 50,000 with penalty. Later on, L refused to reimburse ₹ 50,000 and argued that he has paid bill voluntarily because of his own interest. Decide with reference to provisions of the Indian Contract Act, 1872 whether Mr. M is entitled to be reimbursed by Mr. L?

- (ii) Mr. A offered to sell 25 chairs to Mr. B @ ₹ 1,500 per chair on 12th February 2024. A promised B that he would keep the offer open till 15th February 2024. However, on 13th February 2024, he sold those chairs to Mr. C @ ₹ 1,700 per chair without the knowledge of B. Mr. B communicated the acceptance of the above offer on 14th February 2024.

Advise, with reference to provisions of the Indian Contract Act, 1872 whether Mr. B can claim damages from Mr. A?

- (iii) Mr. A was running an orphanage. His friend Mr. S, a philanthropist agreed to donate ₹ 2 lakh for treatment of a child, who was suffering from cancer. On emergency, Mr. A incurred ₹ 1.5 lakh on treatment of child. Now, Mr. S refused to pay. Whether Mr. A can claim ₹ 1.5 lakh from Mr. S with reference to provisions of the Indian Contract Act, 1872?

6. Mr. Sohan, a wealthy individual provided a loan of ₹ 80,000 to Mr. Mukesh on 26th February, 2025. The borrower, Mr. Mukesh asked for a further loan of ₹ 1,50,000.

Mr. Sohan agreed but provided the loan in parts on different dates. He provided ₹ 1,00,000 on 28th February, 2025 and remaining ₹ 50,000 on 3rd March, 2025.

On 10th March, 2025 Mr. Mukesh while paying off part ₹ 75,000 to Mr. Sohan insisted that the lender should adjust ₹ 50,000 towards the loan taken on 3rd March, 2025 and balance as against the loan on 26th February, 2025.

Mr. Sohan objected to this arrangement and asked the borrower to adjust in the order of date of borrowal of funds.

Now you decide:

- (i) Whether the contention of Mr. Mukesh correct or otherwise as per the provisions of the Indian Contract Act, 1872?
- (ii) What would be the answer in case the borrower does not insist on such order of adjustment of repayment?

- (iii) What would be the mode of adjustment/appropriation of such part payment in case neither Mr. Sohan nor Mr. Mukesh insist on any order of adjustment on their part?
- 7. In light of provisions of the Indian Contract Act, 1872 answer the following:
 - (i) Mr. S and Mr. R made contract wherein Mr. S agreed to deliver paper cup manufacture machine to Mr. R and to receive payment on delivery. On the delivery date, Mr. R did not pay the agreed price. Decide whether Mr. S is bound to fulfil his promise at the time of delivery?
 - (ii) Mr. Y has given loan to Mr. G of ₹ 30,00,000. Mr. G defaulted the loan on due date and debt became time barred. After the time barred debt, Mr. G agreed to settle the full amount to Mr. Y. Whether acceptance of time barred debt Contract is enforceable as per the Indian Contract Act, 1872?
- 8. Some objects and consideration are unlawful. Define any six with reference to provisions of the Indian Contract Act, 1872.

The Sale of Goods Act, 1930

- 9. What are the implied conditions in a contract of 'Sale by sample' under the Sale of Goods Act, 1930? Also state the implied warranties operative under the Act.
- 10. "Delivery of goods is an essential aspect of a contract of sale." Discuss the statement. Explain the various kinds of delivery recognised under the Sale of Goods Act, 1930.
- 11. J, a wholesaler of premium Basmati rice delivered on approval 100 bags of rice of 10 kg each to a local retailer, on sale or returnable basis within a month of delivery. The next day the retailer sold 5 bags of rice to a regular customer K. A week later K informed the retailer that the quality of rice was not as per the price.

The retailer now wants to return all the rice bags to J, including the 4 bags not used by K. Can the retailer do so?

Also briefly describe the provisions underlying in this context of the Sale of Goods Act, 1930.

12. Ritvik sold 500 bags of wheat to Anoj. Each bag contains 50 Kilograms of wheat. Ritvik sent 450 bags by road transport and Anoj himself took remaining 50 bags. Before Anoj receives delivery of 450 bags sent by road transport, he becomes bankrupt. Ritvik being still unpaid, stops the bags in transit. The official receiver, on Anoj's insolvency claims the bags. Decide the case with reference to the provisions of the Sale of Goods Act, 1930.
13. Mr. Mukesh was running a shop selling good quality washing machines. Mr. Vivaan came to his shop and asked for washing machine which is suitable for washing woollen clothes. Mr. Mukesh showed him a particular machine which Mr. Vivaan liked and paid for it. Later on, when the machine was delivered to Mr. Vivaan's house, it was found that it was the wrong machine and also unfit for washing woollen clothes. He immediately informed Mr. Mukesh about the delivery of the wrong machine. Mr. Mukesh refused to exchange the same, saying that the contract was complete after the delivery of the washing machine and payment of price. With reference to the provisions of the Sale of Goods Act, 1930, discuss whether Mr. Mukesh is right in refusing to exchange the washing machine.
14. Neeraj entered in a contract with Rahul to purchase 1000 litres of mustard oil at the price which should be fixed by Aakash. Rahul already delivered 600 litres out of 1000 litres to Neeraj but when remaining 400 litres was ready to deliver, Aakash denied fixing the price of mustard oil. Rahul asked Neeraj to return the oil already delivered and avoid the delivery of 400 litres. Neeraj sued Rahul for non-delivery of remaining 400 litres mustard oil. Advise in the light of the Sale of Goods Act, 1930.

The Indian Partnership Act, 1932

15. With reference to the provisions of Indian Partnership Act, 1932 explain the various effects of insolvency of a partner.
16. Ram and Sarthak are partners in a partnership firm styled as RS & Co. (the firm). Gopal, a renowned businessman, is their common friend. Ram

introduced Gopal to Sundar, a supplier to the firm, as his newly joined partner. Gopal knowing that he is not a partner preferred to keep quiet on such an introduction. This information about Gopal, being a partner of the firm, was shared by Sundar with another businessman Madhav. Next day, Sundar supplied the raw material on credit and Madhav lent ₹ 5 lakhs to the firm for a short period on the understanding that Gopal is a partner of the firm. On due dates, the firm failed to discharge its liability towards both. Advise Gopal, whether he is liable to Sundar and Madhav for the aforesaid liability of the firm.

17. Mr. Ram and Mr. Rakesh are working as teachers in Ishwarchand Vidhyasagar Higher Secondary School and also are very good friends. They jointly purchased a flat which was given on rent to Mr. John. It was decided between landlords and tenant that the rent would be ₹ 10,000 per month inclusive of electricity bill. It means electricity bill will be paid by landlords. The landlords, by mistake, did not pay the electricity bill for the month of March 2023. Due to this, the electricity department cut the connection. Mr. John has to pay the electricity bill of ₹ 2800 and ₹ 200 as penalty to resume the electricity connection. Mr. John claimed ₹ 3000 from Mr. Ram but Mr. Ram replied that he is liable only for ₹ 1500.

Mr. John said that Mr. Ram and Mr. Rakesh are partners therefore he can claim the full amount from any of the partners. Explain, whether under the provision of Indian Partnership Act, 1932, Mr. Ram is liable to pay whole amount of ₹ 3000 to Mr. John?

18. A, B and C are partners in an unregistered partnership firm named M/s ABC & Associates. Is the suit maintainable in the following cases as per the provisions of the Indian Partnership Act, 1932? Give justification also.
 - (i) A filed a suit against B who had stolen the goods of the firm.
 - (ii) A filed a suit against M/s ABC & Associates for claiming shares of the assets on its dissolution.
 - (iii) M filed a suit against the firm M/s ABC & Associates for the recovery of ₹ 10,000/- dues from the firm. M also owed ₹ 4,000/- to the firm. The firm claimed a set off of ₹ 4,000/-.

The Limited Liability Partnership Act, 2008

19. (i) Who are the individuals which shall not be capable of becoming a partner of a Limited Liability Partnership?
- (ii) What are the effects of registration of Limited Liability Partnership?

The Companies Act, 2013

20. Mr. R, a manufacturer of toys approached MNO Private Limited for supply of raw material worth ₹ 1,50,000/-. Mr. R was offered a credit period of one month. Mr. R went to the company prior to the due date and met Mr. C, an employee at the billing counter, who convinced the former that the payment can be made to him as the billing-cashier is on leave.

Mr. R paid the money and was issued a signed and sealed receipt by Mr. C. After the lapse of due date, Mr. R received a recovery notice from the company for the payment of ₹ 1,50,000/-.

Mr. R informed the company that he had already paid the above amount and being an outsider had genuine reasons to trust Mr. C who claimed to be an employee and had issued him a receipt.

The Company filed a suit against Mr. R for non-payment of dues. Discuss the fate of the suit and the liability of Mr. R towards company as on current date in consonance with the provision of the Companies Act, 2013? Would your answer be different if a receipt under the company seal was not issued by Mr. C after receiving payment?

21. (i) Mr. Vijay sold his business of cotton production to a cotton production company, CPL Private Limited, in which he held all the shares except one which was held by his wife. He is also the creditor in the company for a certain amount. He also got the insurance of the stock of cotton of CPL Private Limited in his own name and not in the name of the company. After one month, all the stocks of the cotton of CPL Private Limited were destroyed by fire. Mr. Vijay filed the claim for such loss with the Insurance company. State with reasons that whether the insurance company is liable to pay the claim?

- (ii) Alfa school is a section 8 company which started imparting education on 1.4.2015, with the sole objective of providing education to children of weaker society either free of cost or at a very nominal fee depending upon the financial condition of their parents. However, on 31st March 2023, it came to the knowledge of the Central Government that the said school was operating by violating the objects of its objective clause due to which it was granted the status of a section 8 company under the Companies Act, 2013. Describe what powers can be exercised by the Central Government against the Alfa School, in such a case?
22. (i) What do you mean by 'Common Seal'? Is it necessary for a company to have Common Seal? Discuss as per provisions of the Companies Act, 2013.
- (ii) Whether the phrases "Company Limited by Shares" and "Company Limited by Guarantee" are same? If not, explain any four differences between these two according to provisions of the Companies Act, 2013.

The Negotiable Instruments Act, 1881

23. Advik purchased a mobile from Bhanu. He issued a promissory note to Bhanu which was payable on demand but no specific place for payment was mentioned on it. On maturity, Bhanu did not present the promissory note for payment. As the promissory note was not duly presented for payment, whether Advik would be discharged from liability under the provisions of the Negotiable Instruments Act, 1881?
24. Shiva gave a gift of ₹ 21,000 to his sister through a cheque issued in her favour on the occasion of Raksha Bandhan. Afterwards, Shiva informed his sister not to present the cheque for payment and also informed the bank to stop the payment. Examining the provisions of the Negotiable Instruments Act, 1881, decide whether Shiva's acts constitute an offence under section 138 of the Act?

**SUGGESTED ANSWERS/HINTS**

1. **Meaning of Law:** Law is a set of obligations and duties imposed by the government for securing welfare and providing justice to society. India's legal framework reflects the social, political, economic, and cultural aspects of our vast and diversified country.

The Process of Making a Law

- When a law is proposed in parliament, it is called a Bill.
 - After discussion and debate, the law is passed in Lok Sabha.
 - Thereafter, it has to be passed in Rajya Sabha.
 - It then has to obtain the assent of the President of India.
 - Finally, the law will be notified by the Government in the publication called the Official Gazette of India.
 - The law will become applicable from the date mentioned in the notification as the effective date.
 - Once it is notified and effective, it is called an Act of Parliament.
2. As per section 126 of the Indian Contract Act, 1872, the contract of guarantee is defined as a contract to perform the promise or discharge the liability of a third person in case of his default.

In this case, S has given a guarantee for P's payment obligation towards R. When P defaulted after making four monthly instalments and became insolvent, S's liability as a guarantor will come into existence.

According to Section 128 of the Act, the liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

Since P failed to pay the remaining instalments due to insolvency, S, as the guarantor, is liable to pay the balance price of the water purifier to R. In the given situation, S will have to pay the balance amount of ₹ 30,000 to R. [54,000-(4x6,000)]

In the second situation, R sold the water purifier misrepresenting it as having a copper filter, while it actually has a normal filter; this changes the situation significantly.

According to Section 142 of the Act, any guarantee which has been obtained by means of misrepresentation made by the creditor, or with his knowledge and assent, concerning a material part of the transaction, is invalid. Here, guarantee is obtained by means of misrepresentation made by the creditor (R), and therefore the guarantee is invalid.

Furthermore, under Section 143, any guarantee which the creditor has obtained by means of keeping silence as to material circumstances, is invalid.

Here R misrepresented the filter type and both P and S were unaware of this fact. The creditor (R) has obtained the guarantee by remaining silent as to material circumstances. Therefore, the guarantee obtained from S will be considered to be invalid.

Consequently, S cannot be held liable to pay the balance price of the water purifier to R.

3. When termination of agent's authority takes effect as to agent, and as to third persons [Section 208 of the Indian Contract Act, 1872]:

The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them.

In the instant case,

- (i) The revocation of Sarthak's authority becomes effective only when it is communicated to and received by Sarthak. Since Sarthak had not received the revocation letter at the time of selling the laptops, his authority to sell on behalf of Rahul was still valid. Hence, the sale of laptops conducted by Sarthak is binding on Rahul.
- (ii) Sarthak is entitled to receive his commission for the sales made while he still had the authority to sell. Since he sold the laptops before receiving the revocation, he is entitled to his commission as per the initial agreement with Rahul.

Amount of Commission: Sarthak sold 5 laptops at the price fixed by Rahul, which is ₹1 lakh each. The total sales amount to ₹5 lakh. The agreed commission rate is 11% i.e. ₹ 55,000.

4. **A contract made with or by a minor is void ab-initio:** Pursuant to Section 11 of the Indian Contract Act, 1872, a minor is not competent to contract and any agreement with or by a minor is void from the very beginning.

- (i) By following the above provision, Mr. Mittal will not succeed in recovering the outstanding amount by filing a case against Preeti, a minor.
- (ii) **Minor cannot bind parent or guardian:** In the absence of authority, express or implied, a minor is not capable of binding his parent or guardian, even for necessities. The parents will be held liable only when the child is acting as an agent for parents.

In the instant case, Mr. Mittal will not succeed in recovering the outstanding amount by filing a case against Mr. Ram, father of Preeti.

- (iii) **No ratification after attaining majority:** A minor cannot ratify the agreement on attaining majority as the original agreement is void ab initio and a void agreement can never be ratified.

Hence, in this case also, Mr. Mittal will not succeed in recovering the outstanding amount by filing a case against Preeti, after she attains majority.

5. (i) According to Section 69 of the Indian Contract Act, 1872, a person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other.

In the instant case, Mr. M paid the electricity bill to avoid the disconnection that was pending due to Mr. L's failure to fulfil his contractual obligation. Hence, Mr. M is entitled to be reimbursed ₹ 50,000 from Mr. L.

- (ii) In terms of Section 5 of the Indian Contract Act, 1872, a proposal can be revoked at any time before the communication of its acceptance is complete as against the proposer.

Accordingly, an offer may be revoked by the offeror before its acceptance, even though he had originally agreed to hold it open for a definite period of time. So long as it is a mere offer, it can be withdrawn whenever the offeror desires.

In the instant case, B cannot claim damages from A because the offer made by A is a mere offer and it can be withdrawn whenever A desires.

- (iii) The general rule is that an agreement made without consideration is void (Section 25 of the Indian Contract Act, 1872).

However, in the following case, the agreement though made without consideration, will be valid and enforceable.

Charity: If a promisee undertakes the liability on the promise of the person to contribute to charity, there the contract shall be valid.

In the instant case, Mr. A can claim 1.5 lakh from Mr. S.

- 6. Appropriation of Payments:** In case where a debtor owes several debts to the same creditor and makes payment, which is not sufficient to discharge all the debts, the payment shall be appropriated (i.e. adjusted against the debts) as per the provisions of Section 59 to 61 of the Indian Contract Act, 1872.

- (i) As per the provisions of 59 of the Act, where a debtor owing several distinct debts to one person, makes a payment to him either with express intimation or under circumstances implying that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly.

Therefore, the contention of Mr. Mukesh is correct, and he can specify the manner of appropriation of repayment of debt.

- (ii) As per the provisions of 60 of the Act, where the debtor has omitted to intimate and there are no other circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, where its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

Hence in case Mr. Mukesh fails to specify the manner of appropriation of debt on part repayment, Mr. Sohan the creditor, can appropriate the payment as per his choice.

- (iii) As per the provisions of 61 of the Act, where neither party makes any appropriation, the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payments shall be applied in discharge of each proportionately.

Hence in case where neither Mr. Mukesh nor Mr. Sohan specifies the manner of appropriation of debt on part repayment, the appropriation can be made in proportion of debts.

7. (i) As per Section 51 of the Indian Contract Act, 1872, when a contract consists of reciprocal promises to be simultaneously performed, no promisor needs to perform his promise unless the promisee is ready and willing to perform his reciprocal promise. Such promises constitute concurrent conditions and the performance of one of the promise is conditional on the performance of the other. If one of the promises is not performed, the other too need not be performed.

Referring to the above provisions, in the given case, Mr. S is not bound to deliver goods to Mr. R since payment was not made by him at the time of delivery of goods.

- (ii) **Promise to pay time-barred debts - Section 25 (3):** Where a promise in writing signed by the person making it or by his authorised agent, is made to pay a debt barred by limitation it is valid without consideration [Section 25(3)].

In the given case, the loan given by Mr. Y to Mr. G has become time barred. Thereafter, Mr. G agreed to make payment of full amount to Mr. Y.

Referring to above provisions of the Indian Contract Act, 1872 contract entered between parties post time barred debt is valid so, Mr. G is bound to pay the agreed amount to Mr. Y provided the above mentioned conditions of section 25 (3) are fulfilled.

8. Some objects and consideration are unlawful

Under Section 23 of the Indian Contract Act, 1872 in each of the following cases the consideration or object of an agreement is said to be unlawful:

(i)	When consideration or object is forbidden by Law: Acts forbidden by law are those which are punishable under any statute as well as those prohibited by regulations or orders made in exercise of the authority conferred by the legislature.
(ii)	When consideration or object are of such a nature that if permitted, it would defeat the provisions of Law: If the consideration or the object of an agreement is of such a nature that not directly but indirectly, it would defeat the provisions of the law, the agreement is void.
(iii)	When it is Fraudulent: Agreements which are entered into to promote Fraud are Void. Example: A, B and C enter into an agreement for the division among them of gains acquired, or to be acquired, by them by fraud. The agreement is void, as its object, viz., acquisition of gains by fraud are unlawful.
(iv)	The general term "injury" means criminal or wrongful harm. In the following example, the object or consideration is unlawful as it involves injury to the person or property of another. Example: An agreement to print a book in violation of another's copyright is void, as the object is to cause injury to

	the property of another. It is also void as the object of the agreement is forbidden by the law relating to copyright.
(v)	When consideration is Immoral: The following are the examples of agreements where the object or consideration is unlawful, being immoral.
(vi)	When consideration is opposed to Public Policy: The expression 'public policy' can be interpreted either in a wide or in a narrow sense. The freedom to contract may become illusory, unless the scope of 'public policy' is restricted. In the name of public policy, freedom of contract is restricted by law only for the good for the community.

9. (i) **Sale by sample [Section 17 of the Sale of Goods Act, 1930]:** In a contract of sale by sample, there is an implied condition that
- the bulk shall correspond with the sample in quality;
 - the buyer shall have a reasonable opportunity of comparing the bulk with the sample,
 - the goods shall be free from any defect rendering them unmerchantable, which would not be apparent on reasonable examination of the sample. This condition is applicable only with regard to defects, which could not be discovered by an ordinary examination of the goods. If the defects are latent, then the buyer can avoid the contract. This simply means that the goods shall be free from any latent defect i.e. a hidden defect.
- (ii) **The following are the implied warranties operative under the Act:**
- Warranty as to undisturbed possession [Section 14(b)]:**
An implied warranty that the buyer shall have and enjoy quiet possession of the goods. That is to say, if the buyer having got possession of the goods, is later on disturbed in his possession, he is entitled to sue the seller for the breach of the warranty.

2. **Warranty as to non-existence of encumbrances [Section 14(c)]:** An implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time the contract is entered into.

3. **Warranty as to quality or fitness by usage of trade [Section 16(3)]:** An implied warranty as to quality or fitness for a particular purpose may be annexed or attached by the usage of trade.

Regarding implied condition or warranty as to the quality or fitness for any particular purpose of goods supplied, the rule is 'let the buyer beware' i.e., the seller is under no duty to reveal unflattering truths about the goods sold, but this rule has certain exceptions.

4. **Disclosure of dangerous nature of goods:** Where the goods are dangerous in nature and the buyer is ignorant of the danger, the seller must warn the buyer of the probable danger. If there is a breach of warranty, the seller may be liable in damages.

10. **Delivery - its forms and derivatives:** Delivery means voluntary transfer of possession from one person to another [Section 2(2)]. As a general rule, delivery of goods may be made by doing anything, which has the effect of putting the goods in the possession of the buyer, or any person authorized to hold them on his behalf.

Forms of delivery: Following are the kinds of delivery for transfer of possession:

- Actual delivery
- Constructive delivery
- Symbolic delivery

(i) **Actual delivery:** When the goods are physically delivered to the buyer. Actual delivery takes place when the seller transfers the physical possession of the goods to the buyer or to a third person

authorised to hold goods on behalf of the buyer. This is the most common method of delivery.

- (ii) **Constructive delivery:** When transfer of goods is effected without any change in the custody or actual possession of the thing as in the case of delivery by attornment (acknowledgement)

Constructive delivery takes place when a person in possession of the goods belonging to the seller acknowledges to the buyer that he holds the goods on buyer's behalf.

- (iii) **Symbolic delivery:** When there is a delivery of a thing in token of a transfer of something else, i.e., delivery of goods in the course of transit may be made by handing over documents of title to goods, like bill of lading or railway receipt or delivery orders or the key of a warehouse containing the goods is handed over to buyer. Where actual delivery is not possible, there may be delivery of the means of getting possession of the goods.

11. According to Section 24 of the Sale of Goods Act, 1930, in case of delivery of goods on approval basis, the property in goods passes from seller to the buyer:

- (i) When the person to whom the goods are given either accepts them or does an act which implies adopting the transaction.
- (ii) When the person to whom the goods are given retains the goods without giving his approval or giving notice of rejection beyond the time fixed for the return of goods and in case no time is fixed after the lapse of reasonable time.

In the given case, J (seller) has delivered on approval 100 bags of rice of 10 kg each to local retailer (buyer) on sale or returnable basis within a month of delivery. Out of these 100 bags, the local retailer sold 5 bags to K (customer). It implies that the local retailer has accepted 5 bags out of 100.

A week later, local retailer received the complaint of some defect in the rice bags, so, he wanted to return all the bags to the J (seller).

According to the above provisions, the local retailer is entitled to return only 95 bags to the J (seller) and not those 4 bags which are not used by

K. Because, as per clause (i) above, the local retailer has already sold 5 bags, signifying that he has done an act which implies adopting the transaction relating to those 5 bags.

- 12. Right of stoppage in transit (Section 50 of the Sale of Goods Act, 1930):** Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit and may retain them until paid or tendered price of the goods.

When the unpaid seller has parted with the goods to a carrier and the buyer has become insolvent, he can exercise this right of asking the carrier to return the goods back, or not to deliver the goods to the buyer.

In the instant case, Anoj, the buyer becomes insolvent, and 450 bags are in transit. Ritvik, the seller, can stop the goods in transit by giving a notice of it to Anoj. The official receiver, on Anoj's insolvency cannot claim the bags.

- 13.** According to Section 15 of the Sale of Goods Act, 1930, whenever the goods are sold as per sample as well as by description, the implied condition is that the goods must correspond to both sample as well as description. In case the goods do not correspond to a sample or description, the buyer has the right to repudiate the contract.

Further under Sale of Goods Act, 1930, when the buyer makes known to the seller, the particular purpose for which the goods are required and he relies on his judgment and skill of the seller, it is the duty of the seller to supply such goods which are fit for that purpose.

In the given case, Mr. Vivaan informed Mr. Mukesh that he wanted the washing machine for washing woollen clothes. However, the machine which was delivered by Mr. Mukesh was unfit for the purpose for which Mr. Vivaan wanted the machine.

Based on the above provision and facts of case, there is breach of implied condition as to sample as well as description, therefore Mr. Vivaan can either repudiate the contract or claim the refund of the price

paid by him or he may require Mr. Mukesh to replace the washing machine with desired one.

- 14.** By virtue of Section 9 of the Sale of Goods Act, 1930, the price in the contract of sale may be fixed by the contract, or agreed to be fixed in a manner provided by the contract, e.g., by a valuer, or determined by the course of dealings between the parties.

Further, section 10 provides for the determination of price by a third party in the following manner:

- (a) Where there is an agreement to sell goods on the terms that price has to be fixed by the third party and he either does not or cannot make such valuation, the agreement will be void.
- (b) In case the third party is prevented by the default of either party from fixing the price, the party at fault will be liable to the damages to the other party who is not at fault.
- (c) However, a buyer who has received and appropriated the goods must pay a reasonable price for them in any eventuality.

In the instant case, Neeraj contracted Rahul to purchase 1000 litres of mustard oil at the price fixed by Aakash. After, Rahul delivered 600 litres Aakash denied fixing the price of mustard oil. Rahul demanded back the oil already delivered and cancel the delivery of 400 litres. Neeraj sued Rahul for non-delivery of remaining 400 litres mustard oil.

On the basis of above provisions and facts, Neeraj is liable to pay a reasonable price of 600 litres while for remaining 400 litres, contract may be avoided.

- 15. Effects of insolvency of a partner (Section 34 of the Indian Partnership Act, 1932):**

- (i) The insolvent partner cannot be continued as a partner.
- (ii) He will be ceased to be a partner from the very date on which the order of adjudication is made.
- (iii) The estate of the insolvent partner is not liable for the acts of the firm done after the date of order of adjudication.

- (iv) The firm is also not liable for any act of the insolvent partner after the date of the order of adjudication.
- (v) Ordinarily, the insolvency of a partner results in dissolution of a firm; but the partners are competent to agree among themselves that the adjudication of a partner as an insolvent will not give rise to dissolution of the firm.

- 16. Partner by holding out (Section 28 of the Indian Partnership Act, 1932):** Anyone who by words spoken or written or by conduct represents himself, or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to anyone who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

In the instant case, since Gopal allowed himself to be represented as a partner to the RS & Co. and third parties acted based on this belief and therefore, Gopal is held liable to Sundar as he represented himself by his act to be a partner to the RS & Co.

However, Gopal is not liable to Madhav for the liabilities incurred by the firm. Information of Gopal being a partner to the firm was shared by the Sundar (Supplier to the firm) which is not falling within the ambit of doctrine of holding out.

Hence Gopal is liable to Sundar and not to Madhav for the liability of the Firm.

- 17.** According to Section 4 of the Indian Partnership Act, 1932, "Partnership" is 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. Therefore, for determining the existence of partnership, it must be proved that:
- 1. There must be an agreement between all the persons concerned;
 - 2. The agreement must be to carry on some business;
 - 3. The agreement must be to share the profits of a business and
 - 4. The business was carried on by all or any of them acting for all.

On the basis of above provisions and facts provided in the question, Mr. Ram and Mr. Rakesh cannot be said under partnership as they are teachers in a school and just purchased a flat jointly.

By merely giving the flat on rent, they are not doing business. They are just earning the income from the property under their co-ownership. Hence, there is no partnership between them. Therefore, Mr. Ram is liable to pay his share only i.e. ₹ 1500. Mr. John has to claim the rest of ₹ 1500 from Mr. Rakesh.

18. (i) A filed a suit against B who had stolen the goods of the firm:

The said suit by A is Maintainable.

Justification: According to Section 69(1) of the Indian Partnership Act, 1932, a partner of an unregistered firm cannot file a suit in any court against the firm or any partner to enforce a right arising from a contract, unless the firm is registered. Section 69 only bars civil suits to enforce contractual rights. It does not prevent criminal action. But, in this case, A had filed a suit against B for stealing the goods of the firm which is a criminal offense.

Hence the suit filed against B for the theft of the goods of the firm, is maintainable.

(ii) A filed a suit against M/s. ABC & Associates for claiming share of the assets on its dissolution

The said suit by A is Maintainable.

Justification: According to Section 69(3) of the Indian Partnership Act, 1932, a partner of an unregistered firm is precluded from bringing legal action against the firm. But such a person may sue for realization of his share in the firm's property where the firm is dissolved. Here, A's claim is valid as the shares are the assets of the dissolved firm and A can claim it even if the firm is unregistered.

(iii) M filed a suit against the firm for recovery of ₹10,000/- dues. M also owed ₹4,000/-. The firm claimed a set-off.

The said suit by M is Maintainable

Justification: According to Section 69(2) of the Indian Partnership Act, 1932, in case of an unregistered firm, an action can be brought against the firm by a third party. If an action is brought against the firm by a third party, then neither the firm nor the partner can claim any set-off, if the suit be valued for more than ₹ 100 or pursue other proceedings to enforce the rights arising from any contract.

Here, M filed a suit against the firm for the recovery of ₹ 10,000 dues from the firm. M also owed ₹ 4,000/- to the firm.

The firm cannot set-off the claim of ₹ 4,000/- as it is more than ₹ 100/. – Nevertheless, M is entitled for recovery of ₹ 10,000 from firm.

19. (i) Partners (Section 5 of Limited Liability Partnership Act, 2008): Any individual or body corporate may be a partner in a LLP.

However, an individual shall not be capable of becoming a partner of a LLP, if—

- (a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
- (b) he is an undischarged insolvent; or
- (c) he has applied to be adjudicated as an insolvent and his application is pending.

(ii) Effect of registration (Section 14 of Limited Liability Partnership Act, 2008): On registration, a LLP shall, by its name, be capable of—

- (a) suing and being sued;
- (b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;
- (c) having a common seal, if it decides to have one; and
- (d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

20. (i) Fate of the suit and the liability of Mr. R towards the company: Doctrine of the Indoor Management

According to the Doctrine of Indoor Management, the outsiders are not deemed to have notice of the internal affairs of the company. They are entitled to assume that the acts of the directors or other officers of the company are validly performed, if they are within the scope of their apparent authority. So long as an act is valid under the articles, if done in a particular manner, an outsider dealing with the company is entitled to assume that it has been done in the manner required. This is the indoor management rule, that the company's indoor affairs are the company's problem. This rule has been laid down in the landmark case-the *Royal British Bank vs. Turquand*. (Known as "Turquand Rule")

In the instant case, Mr. R is not liable to pay the amount of ₹ 1,50,000 to MNO Private Limited as he had genuine reasons to trust Mr. C, an employee of the company who had issued him a signed and sealed receipt.

(ii) Liability of Mr. R in case no receipt is issued by Mr. C:

Exceptions to doctrine of indoor management: Suspicion of irregularity is an exception to the doctrine of indoor management. The doctrine of indoor management in no way rewards those who behave negligently. It is the duty of the outsider to make the necessary enquiry, if the transaction is not in the ordinary course of business.

If a receipt under the company seal was not issued by Mr. C after receiving payment, Mr. R is liable to pay the said amount as this will be deemed to be a negligence on the part of Mr. R and it is his duty to make the necessary enquiry to check that whether Mr. C is eligible to take the payment or not.

21. (i) According to the decision taken in the case of *Salomon Vs. Salomon & Co. Ltd.*, a company has a separate legal entity. A company is different from its members. Further, according to the decision taken in the case of *Macaura Vs. Northern Assurance Co. Ltd.*, a member or creditor does not have any insurable interest in the property of the

company. Members or creditors of the company cannot claim ownership in the property of company.

On the basis of the above provisions and facts, it can be said that Mr. Vijay and CPL Private Limited are separate entities. Mr. Vijay cannot have any insurable interest in the property of CPL Private Limited neither as member nor as creditor. Hence, the insurance company is not liable to pay to Mr. Vijay for the claim for the loss of stock by fire.

- (ii) Section 8 of the Companies Act, 2013 deals with the formation of companies which are formed to promote the charitable objects of commerce, art, science, education, sports etc. Such company intends to apply its profit in promoting its objects. Section 8 companies are registered by the Registrar only when a license is issued by the Central Government to them. Since, Alfa School was a Section 8 company and it had started violating the objects of its objective clause, hence in such a situation the following powers can be exercised by the Central Government:
 - (a) The Central Government may by order revoke the licence of the company where the company contravenes any of the requirements or the conditions of this sections subject to which a licence is issued or where the affairs of the company are conducted fraudulently, or violative of the objects of the company or prejudicial to public interest, and on revocation the Registrar shall put 'Limited' or 'Private Limited' against the company's name in the register. But before such revocation, the Central Government must give it a written notice of its intention to revoke the licence and opportunity to be heard in the matter.
 - (b) Where a licence is revoked, the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section.

However, no such order shall be made unless the company is given a reasonable opportunity of being heard.

- (c) Where a licence is revoked and where the Central Government is satisfied that it is essential in the public interest that the company registered under this section should be amalgamated with another company registered under this section and having similar objects, then, notwithstanding anything to the contrary contained in this Act, the Central Government may, by order, provide for such amalgamation to form a single company with such constitution, properties, powers, rights, interest, authorities and privileges and with such liabilities, duties and obligations as may be specified in the order.

22. (i) **Meaning of Common Seal:** Common seal is the official signature of a company, which is affixed by the officers and employees of the company on its every document. The common seal is a seal used by a corporation as the symbol of its incorporation.

Is it necessary for a Company to have a Common Seal?

Having a common seal is optional now. The Companies (Amendment) Act, 2015 has made the common seal optional by omitting the words "and a common seal" from Section 9 of the Companies Act, 2013 so as to provide an alternative mode of authorization for companies who opt not to have a common seal. This amendment provides that the documents which need to be authenticated by a common seal will be required to be so done, only if the company opts to have a common seal.

In case a company does not have a common seal, the authorization shall be made by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.

- (ii) **Whether the phrases 'Company Limited by Shares' and 'Company Limited by Guarantee' are same?**

No, the phrases 'Company Limited by Shares' and 'Company Limited by Guarantee' are not same.

Distinction between "Company Limited by Shares" and "Company Limited by Guarantee" is tabulated as under:

S. No.	Company Limited by Shares	Company Limited by Guarantee
1.	It is defined under Section 2(22) of the Companies Act, 2013.	It is defined under Section 2(21) of the Companies Act, 2013.
2.	It is a company when the liability of the members of a company is limited by its Memorandum of Association to the amount (if any) unpaid on the shares held by them.	It is a company having the liability of its members limited by the Memorandum to contribute to the assets of the company in the event of its being wound up.
3.	The members may be called upon to discharge their liability only after commencement of the winding up and only subject to certain conditions.	The members may be called upon to discharge their liability at any time, either during the company's life-time or during its winding up.
4.	This company can raise its initial working funds from its members.	This company does not raise its initial working funds from its members.
5.	For meeting the debts of the Company, the shareholder may be called upon to contribute only to the extent of the amount which remains unpaid on his shareholdings. His separate property cannot be encompassed to meet the Company's debt.	The liability of a member of a guarantee company is limited to a stipulated sum mentioned in the memorandum. Members cannot be called upon to contribute beyond that stipulated sum.

- 23.** Section 64 of the Negotiable Instruments Act, 1881 provides, Promissory notes, bill of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder. However, where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

In the instant case, Advik issued a promissory note to Bhanu payable on demand without mentioning any specific place for payment. On maturity, the promissory note was not presented by Bhanu for payment.

On the basis of the above provisions and facts of the case, although non-presentment of promissory note for payment results in discharge of maker from liability but the given case is covered under the exception to section 64. Hence, Advik would not be discharged from liability even the non-presentment by Bhanu as the promissory note was payable on demand and no specific place for payment was mentioned.

- 24.** Section 138 of the Negotiable Instruments Act, 1881 provides where any cheque drawn by a person for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid due to insufficiency of fund, the drawer is punishable with imprisonment upto 2 years or fine upto 2 times the amount of cheque or Both. In other words, the liability under section 138 arises only if the drawer had issued the cheque to discharge a legally enforceable debt or other liability. Thus, where the drawer issues a cheque as a gift or charity, he is not liable under section 138 even if cheque is dishonoured.

In the instant case, Shiva gifted a cheque of ₹ 21,000 to his sister. Afterwards, Shiva informed his sister not to present the cheque for payment and also informed the bank to stop the payment.

On the basis of above, as the cheque was given as gift, provisions of section 138 will not be applicable on Shiva.