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COMPANY LAW

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I INTRODUCTION

THE COMPANIES Amendment Act 2015[1]amended certain key provisions of the Companies Act, 2013. The amended law mainly addressed various issues faced by the stakeholders. In order to make the company law more investor-friendly, the new amended act has removed certain technicalities involved in the Companies Act, 2013 (Companies Act) like the minimum paid –up capital for establishing a private company, need for a business certificate *etc*. In addition to this development the majority of the judicial pronouncements on company law in the year 2015 are mainly on the issues of 'winding up of companies', 'directors liabilities', 'corporate social responsibility' *etc*.

II WINDING UP OF COMPANIES

In the matter of winding up of companies the courts are given inherent powers to recall an order of winding up if the company was able to pay the debts and there was no opposition to the prayer. Although such wide powers are given to the courts to recall the order of winding up it is the discretion of the court to initiate such proceedings. In *Kirtivan D. Kotian* v. *Mohan Singh*,[2] the High Court of Gujarat held that if a company is unable to pay debts it should be would up under sections 433 and 434 of the Companies Act. In this case the respondent company availed loan facility and did not make any payment to the petitioner company even after the repeated statutory notices issued by the petitioner company. By giving a liberal interpretation to section 434 of the Companies Act, the court held that 'if after the service of the statutory notice at the registered office of the company, the debtor neglects to pay it will be deemed that the company is unable to pay its debts. The court observed: [3]

> In this context, it would be appropriate to refer to the provisions contained under of the Companies Act, which inter alia provides that

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1 Act no.21 of 2015.

2 [2015] 191 Comp Cas 288.

3 *Id.*, para 17.

> if a company is unable to pay debts or if the Court is of the opinion that it is just and equitable that the Company should be wound up, in such circumstances company can be wound up. According to the section 434 of the Act, if after service of statutory Notice at the registered office of the Company debtor neglected to pay the same, it will be deemed that the Company is unable to pay its debts

In *Etisalat Mauritius Ltd.* v. *Etisalat DB Telecom Pvt. Ltd*,[4] the company was ordered for compulsory winding up on the ground that there was a complete lack of probity resulting in irretrievable breakdown between the major shareholders of the company. The court ordered for compulsory winding up of the company under section 433 (f) of the Companies Act, 1956 on the ground that the liabilities of the company had exceeded its assets.

In *Bank of New York Mellon* v. *Cranes Software International Ltd*.,[5] the High Court of Karnataka declined to entertain a winding up petition on the ground that the company's registered office was situated outside India. In this case a petition was filed seeking the winding-up of the respondent company owing to its alleged inability to pay its debts. The petitioners a London branch of the American company had entered into a trust deed with the respondent company whereby it was appointed as trustee foreign currency convertible bonds issued by the company to investors in the international capital markets. When the company made default in making the payment the petitioner company filed a petition seeking winding up of the company on the ground of its inability to pay debts. The high court held that since the contract was entered outside India the English courts alone were conferred with the jurisdiction decide the matter.

In *Assistant Commissioner* v. *Hindustan Urban Infrastructure Ltd*.,[6] a company registered under the Companies Act, 1956 was wound up by the order of the high court and an official liquidator was appointed to take charge of the assets and liabilities of the company. For the issue whether the official liquidator was liable to pay the tax due, the Supreme Court held that the official liquidator is liable to pay tax in case of winding up of companies under section 449 of the Act.

III DIRECTORS OF A COMPANY

Appointment of directors of a company has been the issue in *YES Bank Ltd* v. *Madhu Ashok Kapur.*[7] Section10A (6) of the Banking Regulation Act, 1949 bars the jurisdiction of the civil court to consider the validity of appointment of directors. The court held that the bar in sub-section (6) does not operate in respect of appointments made in compliance with the requirements under sub-section (2) and not under sub-

4 [2015] 189 Comp Case 304 (Bom).

5 [2015] 190 Comp Case 195 (Kar).

6 [2015] 189 Comp Case 283 (SC).

7 [2015] 191 Comp Case 312 (Bom).

sections (3), (4) and (5) of section 10 of the Banking Regulation Act, 1949. The court held that: [8]

> The object of the Legislature was not to exclude the challenge to the appointment of directors' altogether. The object of section 10 A was to provide for the nature of the constitution of the Board of directors of a banking company. The object was to ensure that a requisite percentage of the Board of directors hold the qualifications prescribed in sub-section (2) and to exclude the possibility of any conflict of interest of the nature stipulated in clause (b) of sub-section (2). The Legislature provided for a percentage of the total member of the Board of directors to consist of persons having a particular academic background and/or the requisite experience and/or possessing the requisite knowledge as stipulated in sub-clause (a) of sub-section (2) of section 10 A. The Legislature was obviously of the view that such a composition of a Board of directors was necessary in the interest of banking companies and, therefore, provided for the same. The intention, therefore, was to ensure that the Board of directors comprises of a percentage of directors with the requisite qualifications and/or experience and/or knowledge. The intention was not to interfere with the machinery provided under the Companies Act regarding the appointment and removal of directors. Nor was it to denude the civil courts of their jurisdiction to decide disputes relating to the validity of the appointments of directors on the Board of a banking company.

In *S. Satyanarayana* v. *Energo Masch Power Engineering and Consulting Pvt. Ltd*.,[9] the apex court set aside the decision of the high court which quashed the prosecution on the ground that the complaint was not maintainable as there was no allegation that the respondent company and the director had committed an offence under section 628[10] of the Companies Act, 1956. The factual matrix of the case was that the majority of the accused persons were the directors of the company except accused no. 10 a private person, who have given a fictitious authorisation in respect of a bank account by a resolution of the company. It was alleged that the accused entered into a criminal conspiracy to cheat the complainant and the company. The complaint was filed in respect of the offences allegedly committed under section 628

8 *Id.*, para 32.

9 [2015] 190 Comp Case 1 (SC).

10 Companies Act, 1956, s. 628 provides for penalty for false statements. If in any return, report, certificate, balance sheet, prospectus, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement- which is false in any material particular, knowing it to be false; or which omits any material fact knowing it to be material; he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

of the Companies Act 1956 and sections 120B and 420 of the Indian Penal Code, 1860 (IPC). The Supreme Court ruled that 'If a number of persons are accused of offences under a special enactment such as 'the Companies Act and as also the IPC' in respect of the same transaction or facts and even if some could not be tried under the special enactment, it is the special court alone which would have jurisdiction to try all the offences based on the same transaction to avoid multiplicity of proceedings'. The court further held that all the accused were liable to be tried by the special court in respect of the offences under IPC as well as the Act as alleged in the complaint.

In ***Rajan Sangameshwaran,***[11] the company law board held that the resignation of a director will not relieve him from any liability which he may have incurred while in office. In this case the petitioner was the founder promoter of the company who had resigned from the company and had communicated the same to the respondent with a request to the board of directors to record about his resignation with immediate effect which was refused by the respondents. The respondents alleged that the petitioner had committed mismanagement of the company and due to this the company had been burdened with extensive liabilities leading to the company to be wound up. With regard to the issue of the resignation of the director, company law board order the company to file form 32 with the concerned registrar showing cessation of the petitioner from the post of director within a period of 15 days from receipt of copy of the judgment. Accordingly it held that the resignation of a director takes effect immediately and any form of resignation whether oral or written is sufficient provided the intention to resign is clear.

Vicarious liability of the director of a company under section 141 of the Negotiable Instruments Act, 1881(NI Act) has been a major issue in company law. Regarding this issue the judicial trend was that the courts cannot reach into a universal principle to fasten the vicarious liability of the directors under section 141 of the NI Act as it is depends upon the facts and circumstances of each case. In *Gunmala Sales Pvt. Ltd* v. *Anu Mehta,*[12] with regard to the vicarious liability of the directors of a company under section 141 of the NI Act the court held that in order to attract the section the director of a company should be in charge and responsible for the conduct of the business of the company at the time of commission of the offence. In this case the directors were neither the signatories to the cheques nor the managing directors of the company hence cannot be held liable[13] under section 141 of the Negotiable Instruments Act, 1881.

Ram Prakash Singheswar Rungta v. *ITO,*[14] raised an important question whether directors of a company can be made liable for the recovery of tax due from the company on the ground that the directors were responsible for filing of tax return. By interpreting

11 *Rajan Sangameshwaran* v. *Saralaya Technologies Pvt. Ltd*. [2015] 190 Comp Case 7 (CLB).

12 [2015] 190 Comp Case 77 (SC).

13 Similar view was taken by the apex court in *Pooja R. Devidasani* v. *State of Maharashtra* [2015] 190 Comp Case 106 (SC).

14 [2015] 370 ITR 641 (Guj).

section 179[15] of the Income Tax, 1961 the court held that directors are not liable for tax dues in all cases. The court further held that, "In the absence of any finding that non-recovery of the tax due from the company can be attributed to any gross negligence, misfeasance or breach of duty on the part of the petitioners; no order could have been made under section 179(1) of the Act for recovering the same from the directors".

IV CORPORATE CRIMINAL LIABILITY

Corporate criminal liability has been a controversial issue raised in a number of cases in Company law. *Mens rea* being an important element in criminal offences, attributing criminal liability to a corporation or a company is not feasible. The reason is that companies or corporations are legal entities and would not be able to follow the procedural difficulties of criminal offences like arrest, search etc and hence companies cannot have the element of *mens rea*. The Indian courts have strongly taken steps to settle this issue in plethora of cases. In the landmark case, *Iridium India Telecom Ltd*. v. *Motorola Inc*,[16] the court settled the issue of corporate criminal liability for corporate offences by applying the principle of alter ego. In this case, the court held that the companies or corporations cannot claim immunity from criminal liability on the ground that they are incapable of possessing '*mens rea*' for the commission of the criminal offence.

The doctrine of alter ego is developed by the judges for attributing criminal liability for the artificial persons like company. By this doctrine the court has deemed the mind of certain agents to be the directing mind or alter ego of their company. Their conduct and their *mens rea*, when they are acting as authorised agents on behalf of the company and in the course of its business are attributed to the company. The question as to which agents will constitute the directing mind or person of a company for purposes of doctrine of identification is discussed in several important cases. The guilty mind of the director or managers will render the company itself liable. In *Sunil Bhart Mittal* v. *Central Bureau of Investigation*,[17]the court discussed an important issue pertaining to corporate criminal liability as to whether the directors or representative of the company can be prosecuted for criminal acts of the company. In this case by applying the principle of 'alter ego', the Supreme Court clarified that the principle of 'alter ego' can be applied only when the persons represents the company had criminal intent and their criminality can be imputed to the company as well as they are 'alter ego' of the company. The important issue raised in this case was:

Whether the principle of identification/alter ego can be applied to make the directors of the company liable for an offence committed by the company?

15 The Income Tax Act, 1961, s. 179 provides for joint and several liabilities of the directors of a private company wherein the tax due from such company in respect of any income of any previous year cannot be recovered.

16 (2011) 1 SCC 74.

17 [2015]191 Comp Case 177.

For this issue the apex court clarified that the principle of 'alter ego' can be applied only when the representative of the company had criminal intent that is to be imputed to the body corporate and not vice versa. The court observed: [18]

> It is abundantly clear from the above that the principle which is laid down is to the effect that the criminal intent of the "alter ego" of the company, that is the personal group of persons that guide the business of the company, would be imputed to the company/corporation. The legal proposition that is laid down in the aforesaid judgment is that if the person or group of persons who control the affairs of the company commit an offence with a criminal intent, their criminality can be imputed to the company as well as they are "alter ego" of the company.

The court held that an individual who has perpetuated the commission of an offence on behalf of a company can be made accused, along with the company, if there is sufficient evidence of his active role coupled with criminal intent. Also the directors can be attributed with criminal liability when the statutory regime itself attracts the doctrine of vicarious liability by specifically incorporating such position. In another case[19] by reversing the order of the high court the apex court held the directors of the company was not liable for the offence of cheating under section 420 of IPC. In this case, the allegation against the directors of the company was that they had committed cheating under section 420 of IPC. The factual matrix of the case was that in order to pay the defaulted repayment of the loan taken by the company the directors of the company entered into a agreement with a third party by the payment of a consultancy fees for settlement of the claim. Later the respondent filed a complaint against the directors of the company that they had committed cheating under section 420 of IPC as they did not pay him consultancy fee as promised and conspired to deceive him. Rejecting this the Supreme Court held that for the purpose of constituting the offence of cheating the complainant is required to show that the accused had fraudulent or dishonest intention at the time of making promise or representation.

In *E. Bapanaiah* v. *K.S. Raju*,[20] the Supreme Court held that the directors of the company liable for not complying with the order of the company law board (CLB) as the company had committed a willful disobedience of the order which amounted to contempt of court. As per the facts of the case, the director of the company gave undertaking before the company law board to repay depositors which was not fulfilled by him. The depositors filed application before the CLB under section 58-A of the Companies Act, 1956 under section 12 of the Contempt of Courts Act, 1971 for framing the scheme of repayment. During the pendency of the case, the director promoter of the company has given an undertaking with the assurance of paying half of the amount to the depositors. But no amount was paid by him wherein the high

18 *Id.*, para. 205.

19 *Vesa Holdings P.Ltd* v. *State of Kerala* [2015] 19 Comp Case 580 (SC).

20 [2015] 191 Comp Case 246 (SC).

court held that the director had willfully disobeyed the order of CLB. The Supreme Court also found that the behavior of the director who after giving the affidavit to repay the amount had resigned from the post as director of the company proved that he had done this to save himself from the liability of making the repayment to the depositors and hence he is liable and committed contempt of court of the orders of CLB.

V OPPRESSION AND MISMANAGEMENT

In *Shubhkam Ventures (I) P.Ltd* v. *Milton Plastics Ltd.*[21]filed a petition under sections 397 and 398 read with section 402 of the Companies Act, 1956 contending the respondent company had deprived his rights by not listing the share which amounted to the act of oppression. The CLB held that the petitioner had been pursuing the listing of shares with company keeping the petitioner in dark. It further held that avoiding to get its shares listed on a stock exchange amounted to act of oppression.

VI SHARES

Buy-back of shares under the Companies Act, 2013

The provisions[22] regarding buy-back by a company of its own shares have been subjected to a significant change with the incorporation of section 67, 68 and 77 A of the Companies Act. In many cases, the court also clarified that these provisions apply only in respect of buying by a company of its own shares. In *EDC Ltd*. v. *GKB Ophthalmic Ltd.,*[23] the issue was whether section 77 and 77 A can be attracted when a promoter is going to buy the company's shares from the equity investor as per an agreement with a company. Deciding favorably the court held that section 77 A can be applied in case of buy-back of shares by promoters of company from equity investor. In *Smart link Network Systems Ltd*. v. *State of Maharashtra*[24] the issue was the interpretation of section 77A of the Companies Act, 1956. For a question whether an offer made by the company for buy back of its shares can be withdrawn after the public announcement about the offer. In the present case, the company has proposed to buy back of its shares but withdrew it before the public announcement was made. The high court held that in this case one of the main ingredients for applying regulation 19 of Securities and Exchange Board of India (SEBI)[25] was the public announcement about the offer was not made by the company and hence the company had not committed any offence.

21 [2014] 185 Comp Case 240 (CLB).

22 These provisions provides that "no company limited by shares or by guarantee and having a share capital shall have power to buy its own shares unless the consequent reduction of share capital is effected under the provisions of the Act".

23 [2015] 191 Comp Case 262 (Bom).

24 [2015] 190 Comp Case 177 (Bom).

25 SEBI, Reg. 19: provides that the company which has proposed a buy-back of its shares prohibits withdrawal of the offer after public announcement about the offer is made.

Forfeiture of shares

In many cases the courts considered the forfeiture of shares very strictly and held that the strict compliance with the procedural formalities is mandatory for the forfeiture of shares. In *Arvind Mohan Johari* v. *Carlton Hotels P. Ltd.*,[26] the CLB held that the forfeiture was improper on the ground that the company could have appropriated the call money from the shareholders already lying with where in it wrote off the shareholding of the shareholder under the cover of the forfeiture. It further held that any omission or negligence to comply with any of the procedural formalities would render the forfeiture invalid. In *Uttar Pradesh State Industrial Development Corporation Ltd* v. *Monsanto Manufactures Pvt.ltd*.,[27] the issue was whether transfer of shares of a company results in transfer of industrial plot allotted to the company. By reversing the decision of High Court of Allahabad, the apex court held that the companies were liable to pay transfer fees since the shareholders were changed and that amounted to transfer of the lease land. The court further held that the "appellant rightly issued notice demanding transfer fee from each of the respondents and there was no reason for the High Court to interfere with the same".

In *Great View Properties Pvt. Ltd* v. *Shakti Insulated Wires Pvt. Ltd.*,[28] the CLB held that under section 111[29] of the Companies Act, 1956 the prescribed time for filing a petition is three years from the date of refusal to register the transfer of shares. As per the facts of the case, the petitioner company filed a petition under section 111 of the Companies Act, 1956 seeking relief in the form of direction to the respondent company to transfer the equity shares and register the same in the name of the petitioner company and direction for rectification of register of members of the petitioner company. For the issue whether the petition is barred by period of limitation the court held that the petition being filed within a period of three years from the date of refusal to transfer of shares was within the prescribed time. Similarly in another case[30] the CLB dismissed the petition by interpreting section 111A of the Companies Act, 1956 that whenever any person had any grievance over rectification or transfer he had to file an appeal before the CLB within 2 months of refusal by the company. In this case the petition was filed for rectification after 15 years which cannot be condoned for delay as there was no sufficient cause justifying the delay.

The CLB jurisdiction under section 111 of the Companies Act, 1956 to order rectification of register of members was the issue in *Advansys (India) Pvt. Ltd* v. *Ponds Investment Ltd*.[31] The court held that the CLB's jurisdiction under section 11 is summary in nature hence it is limited to this cases that can be decided in a summary

26 [2015] 192 Comp Case 90 (CLB).

27 [2015] 189 Comp Case 69 (SC).

28 [2015] 189 Comp Case 219 (CLB).

29 Companies Act, 1956, s.111 provides that ppower to refuse registration and appeal against refusal to register the transfer of shares.

30 *Surender Bhardwaj* v. *Hero Honda Motors Ltd*., [2015] 19 Comp Case 504 (CLB).

31 [2015] 18 Comp Case 122 (Bom).

fashion. If complex questions of fact are involved that must be referred to civil court for trial in an appropriate proceeding.

VII COMPANY LAW BOARD

In *Kalidoscope Travel Consultants Pvt. Ltd* v. *Travel Agents Association India*,[32] the CLB considered its power to call for the annual general meeting. It was held that the board is empowered to direct a company to hold an annual general meeting only when the company defaults in holding an annual general meeting with in the stipulated period prescribed in law. Section 166 of the Companies Act casts a statutory obligation on every company to hold an annual general meeting in every calendar year within 15 months of the previous annual general meeting. The Supreme Court in *Jai Mahal Hotels P.Ltd* v. *Rajkumar Devraj*,[33] reversed the order of the CLB which had dismissed an application for rectification of register of members in case of transmission of shares on the ground that the application involved complicated questions of facts. The apex court held that no real dispute existed between the parties and since the shareholder's children had submitted succession certificates, the CLB should have settled the issue.

VIII SCHEME OF ARRANGEMENT

Under sections 391 and 394 of the Companies Act, the companies were given freedom to frame any scheme of compromise or arrangement. In *Department of Income Tax* v. *Vodafone Essar Gujarat Ltd.*,[34] a scheme under sections 391 and 394 of the Companies Act, 1956 proposed by the respondent company for transfer of assets to the transferor company was objected by the income tax department on the ground that the tax was due by the transferee company. The division bench sanctioned the scheme of arrangement with an observation that the IT department has every right for the recovery of the dues from the transferor or transferee company. This view was reiterated by the Supreme Court.

In *Indian Seamless Enterprises Ltd., In Re*,[35] the High Court of Bombay refused to sanction a scheme of arrangement on the ground that distribution of company's asset by way of gift as part of a scheme of arrangement amounts to be dividend which can only be paid by way of cash only. In *Infrastructure Leasing and Financial Services Ltd*. v. *B.P.L. Ltd*,[36] the respondent company proposed a scheme of arrangement where under the existing business undertaking of the respondent would be transferred to a new company. Though the scheme was approved by the shareholders and creditors of the company, it was opposed by the respondent company and contented that it is not

32 [2015]192 Comp Case 190(CLB).
33 [2015] 193 Comp Case 214 (SC).
34 [2014] 187Comp Case 15 (Mad).
35 [2015] 193 Comp Case 25 (Bom).
36 [2015] 189 Comp Case 1(SC).

a secured creditor. When the matter came before the Supreme Court, it was held that since the respondent company remained as a secured creditor for it was registered as such with the registrar of companies the respondent company could not be treated as an unsecured creditor and it was not permissible for it to contend that it would not be bound by the scheme that had been approved by the company judge.

IX COMPANY MEETINGS

Section 100 [37] of the Companies Act deals with the provisions for 'calling the extraordinary general meetings on requisition'. Under this section the empowered members of the company can call an extra ordinary general meeting of the Company on requisition. The High Court of Gujarat in *Bharat J. Patel* v. *Jyoti Ltd*.,[38] directed the company to supply the list of members for holding the extra ordinary general meeting on requisition. The court ruled that the respondents were under a legal duty to submit the list of the members of the company to the requisitionists when they made a requisition notice for the same.

X SHAREHOLDER'S RIGHTS

In *Darius Rutton Kavasmaneck* v. *Gharda Chemicals Ltd*.,[39] the High Court of Bombay rejected the claim of a minority shareholder on the ground that he had no support of the other shareholders of the company. In this case, the plaintiff who held 12% of the shares of the company claimed against the managing director of the company that he had obtained many patents in his name which ought to belong to the company. Relying on the Common Law principles, the court applied the doctrine of "clean hands[40]" in this case and ruled that the claim of the minority shareholder could not be considered as the best interest of the company as earlier the plaintiff had initiated several cases against the defendants and he was intending to transfer his shares of the company to other competitor.

Section 109 A[41] of the Companies Act, 1956 provides that a shareholder of any company can nominate a person to whom his securities shall vest in the event of his death. Though the legislative intention was to recognise the shareholder's right to nominate a person of his choice, it never intended to exclude the right of the legal

37 Companies Act, 2013, s. 100(4): provides that if the Board does not, within twenty-one days from the date of receipt of a valid requisition in regard to any matter, proceed to call a meeting for the consideration of that matter on a day not later than forty-five days from the date of receipt of such requisition, the meeting may be called and held by the requisitonists themselves within a period of three months from the date of the requisition.

38 [2015] 191 Comp Case 343 (Guj).

39 [2015] 191 Comp Case 52 (Bom).

40 The doctrine of 'clean hands' is developed by the common law courts which means that a derivative action cannot be used to do injustice and such claim should be for the best interest of the Company.

41 See also, Companies Act, 2013, s. 72.

heirs of the shareholders. The courts[42] has given wide interpretations regarding the scope and ambit of section 109 A of the Companies Act. The High Court of Bombay in *Jayananad J. Salgaonkar* v. *Jayashree J. Salgaonkar,*[43] clarified the legislative intention of section 109 A of the Companies Act by holding *Harsha Nitin*'s[44] decision as *per incurium*. The court ruled that the nominee's rights over the securities are limited to a fiduciary relationship under the law of succession. It further held that the rights of the legal representatives under the law of succession do not replace the rights of the nominees under section 109 A of the Companies Act, 1956.

XI OPPRESSION AND MISMANAGEMENT

In *Babu Khandelwal* v. *Andhra Ferro Alloys Ltd*.,[45] the CLB held that if the company allot shares only to gain control of the management of the company that amounts to oppression. In the present case, shares were allotted thrice unilaterally respondents against the conditions mentioned in the articles of association. The CLB ordered to set aside the allotment made by the respondents for themselves on the ground that such allotments were illegal.

XII MISCELLANEOUS

The apex court in *Krishna Texport and Capital Markets Ltd.* v. *Illa A.Agrawal,* [46] has interpreted section 138 of the Negotiable Instruments Act, 1881 and held that in case of dishonor of a cheque by the company there is no requirement that the individual notice should be given to the directors of the company. The court further held that: [47]

> Section 141 again does not lay down any requirement that in the eventuality of an offence under Section 138, the directors must individually be issued separate notices under Section 138. The persons who are in charge of the affairs of the Company and running its affairs must naturally be aware of the notice of demand under Section 138 of the Act issued to such Company. It is precisely for this reason that no notice is additionally contemplated to be given to such directors.

XIII CONCLUSION

Though the Companies Act was enacted in 2013, the act is not clear about certain important provisions like derivative claim of the shareholders *etc.* For settling such issues the Indian courts are still relying on the Common Law principles.

42 In *Harsha Nitin Kokate* v. *Saraswat Co-Op. Bank Ltd.*,[2010] 159 Comp Case 221 (Bom), the court recognised the right of the nominee of the deceased shareholder by excluding the right of his legal heir.

43 [2015] 190 Comp Case 44 (Bom).

44 *Supra* note 42.

45 [2015] 190 Comp Cas 566 (CLB).

46 [2015] 190 Comp Cas 241 (SC).

47 *Id.*, para 14.

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