

Vt unit .

B.law B.com 1st year 2nd semester for honours a&b, computer A& B, general.

Q) What is winding up of a company, its types also discuss winding up by NCLT ?

And) u/s 2(94A) of C.A 2013 winding up means, winding up under this act or liquidation under the Insolvency and Bankruptcy code 2016 .

It is the process of dissolving a company, while winding up, a company ceases to do business as usual, its sole purpose is to sell of stock, pay off creditors, and distribute any remaining assets to the shareholders

Modes of winding up: u/s 270 of C.A 2013 -a) by tribunal b) voluntary winding up.

Winding up of a company by National Company Law Tribunal (NCLT): A tribunal is constituted by the central government u/s 10 FB of the act, to discharge the functions of winding up of a company .

u/s 271-NCLT may issue winding up orders in case of ;

- 1) If a special resolution is passed by the company in their general meeting to wind up company .
- 2) If the company acted against sovereignty and integrity of India-security, public order ..etc .
- 3) If an application is filed by ROC or central government for company's unlawful fraudulent etc activities
- 4) If the company fails to file financial statements for 5 years .
- 5) If the tribunal feels that it is just and equitable to wind up company.

Who can file petition: u/s 272 of C.A 2013 – members by passing a resolution/ any contributory/ROC /authorised person by central government/central or state governments.

Powers of tribunal : u/s 273 C.A 2013 tribunal may dismiss the petition/appoint liquidator/may order to wind up/any other order within 90 days. However reasonable opportunity will be given to company to make representation

Order to file statement of affairs: under section 274 of companies act 2013- if petition is filed by other than company nclt may order the company to file statement of affairs within 30 days – the directors may also submit audited books of accounts within 30 days – not followed imprisonment upto 6 months and fine upto 5,00,000 will be imposed .

Effect of winding up order : u/s 278 C.A 2013 the order for the winding up of a company shall operate in favour of all the creditors and contributors of company as if it had been made out on the joint petition by them.

Under section 279 when a winding up order is posted or provisional liquidator is appointed, no suit or other legal proceedings shall be commenced or pending proceedings shall be proceeded with or by the company except with leave of tribunal -this rule will not apply for the proceedings pending in High court or supreme court.

Under section 280 the tribunal can dispose of suits against company or any claims against company under this mode.

NOTE: students are advised to refer a textbook in order to have clear understanding.

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