CA Intermediate

Solution

1.

(a) Corporate Social Responsibility (CSR) implies a concept, whereby companies decide voluntarily to contribute to a better society and a cleaner environment — a concept, whereby the companies integrate social and other useful concerns in their business operations for the betterment of its stakeholders and society in general in a voluntary way.

According to section 135 of the Companies Act, 2013 -

i. Amount required to be spent on CSR

The Board of every company shall ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the 3 immediately preceding financial years, in pursuance of its CSR Policy.

Now in current case,

Average net profits during the 3 immediately preceding financial years = (30+70+50)/ 3
= ₹ 50 crore

Amount required to be spent towards CSR by Khanna Limited = 2% of 50 crore
= **₹ 1 crore**

ii. Composition of CSR Committee

Every company including having

1. net worth of ₹ 500 crore or more, or
2. turnover of ₹ 1000 crore or more or
3. a net profit of ₹ 5 crore or more

during any financial year shall constitute a CSR Committee of the Board.

CSR committee shall comprise of 3 or more directors, out of which at least one director shall be independent director.
However, where an unlisted public company or private company is not required to appoint independent director, it can constitute CSR Committee without such director.
Also, a Private company having only 2 directors, can constitute CSR Committee with 2 such directors.

iii. Activities expressly prohibited for CSR

- Activities undertaken in the normal course of business
- Projects or activities undertaken outside India
- Projects of activities that benefit only the employees and their families
- Contribution to any political party u/s 182

(b) In terms of section 2 (87) of the Companies Act 2013, "subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company –

(i) controls the composition of the Board of Directors; or
(ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies

For the purposes of this clause –

- a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

- the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors.

Further, as per Rule 2 of the Companies (Specification of Definitions Details) Rules, 2014; 'TOTAL SHARE CAPITAL' for the purpose of above class shall mean EQUITY SHARE CAPITAL and CONVERTIBLE PREFERENCE SHARE CAPITAL.

Now, in the present case, PQR Pvt. Ltd. and MNO Pvt. Ltd. together hold together only 3,50,000 equity shares out of 8,00,000 total share capital which is less than one half of the total share capital. Hence, UMC Private Limited (holding of PQR Pvt. Ltd. and MNO Pvt) will not be a holding company of ABC Pvt. Ltd.

Assumption – We have assumed the 2,00,000 cumulative preference shares to be non-convertible and accordingly has not been considered above for the purpose of total share capital.

However, if UMC Pvt. Ltd. has 8 out of 9 Directors on the Board of ABC Pvt. Ltd. i.e. controls the composition of the Board of Directors; it (UMC Pvt. Ltd.) will be treated as the holding company of ABC Pvt. Ltd.

(c) Section 62 (1) (a) of the Companies Act, 2013 provides that if, at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares should be offered to the existing equity shareholders of the company as at the date of the offer, in proportion to the capital paid up on those shares.

However, certain exceptions have been provided in the Companies Act, 2013 when such further shares of a company may-be offered to other persons as well. These are as under-

- Under section 62 (1) (b) issue of further shares may be offered to employees under a scheme of employees' stock option subject to a special resolution passed by the company and subject to such conditions as may be prescribed.
- Under section 62 (1) (c) such shares may be offered to any persons, if it is authorised by a special resolution, either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer, subject to the compliance with the applicable provisions of Chapter III and any other conditions as may be prescribed.
- if any equity shareholder to whom the shares are offered in terms of section 62 (1) (a) as described above, declines such offer, the Board of Directors may dispose of the shares in such manner as is not disadvantageous to the shareholders or to the company.

Preference Shareholders: From the wordings of Section 62 (1) (c), it is quite clear that these shares can be issued to any persons who may be preference shareholders as well provided such issue is authorized by a special resolution of the company and are issued on such conditions as may be prescribed.

(d) Under Section 118 (5) of the Companies Act, 2013, there shall not be included in the Minutes of a meeting, any matter which, in the opinion of the Chairman of the meeting –

- is or could reasonably be regarded as defamatory of any person;
- is irrelevant or immaterial to the proceeding; or
- is detrimental to the interests of the company;

Further, under section 118(6) the chairman shall exercise absolute discretion in regard to the inclusion or non-inclusion of any matter in the Minutes on the grounds specified in subsection (5) above.

Hence, in view of the above, the contention of Manoj, a shareholder of Amit Limited is not valid because the Chairman has absolute discretion on the inclusion or exclusion of any matter in the minutes for aforesaid reasons.

2.

(a)

(i) Yes, (being a fundamental right under the Constitution of India to go for legal proceedings) the registration of the company can be challenged but it will not in any way affect or cancel the registration of the company and the Memorandum and Articles.

Section 10 (1) of the Companies Act, 2013 states that subject to the provisions of the Act, the Memorandum and Articles shall, when registered, bind the company and the members thereof, to the same extent as if they respectively had been signed by the company and by each member, and contained covenants on its and his part to observe all the provisions of the Memorandum and of the Articles.

Conclusiveness of the Certificate of Incorporation

The current facts are based on the case of ***"Moosa vs. Ebrahim".*** In this case, the MOA of a company was signed by 2 adult members and by a guardian on behalf of 5 minor members. The Registrar had registered the MOA and the validity of the MOA was challenged on the similar grounds as mentioned in the question. However, the Court held that the certificate of incorporation is conclusive for all the purpose and that the certificate prevents anyone from alleging that the company does not exist.

Thus, in the given case, the Court will not upheld the plaintiff's contention.

(ii) Section 5 (1) of the Companies Act, 2013 states that the Articles of a company contain the regulations for the management of a company. Further section 5 (2) provides that the Articles of a company shall contain all matters that are prescribed under the Act and also such additional matters as may be considered necessary for the management of the company.

Removal of Law Officer

The Memorandum and Articles of Association of a company are binding upon company and its members and they are bound to observe all the provisions of memorandum and articles as if they have signed the same [Section 10(1)].

However, the company and members are not bound to outsiders in respect of anything contained in memorandum/articles by which such outsiders have been given any rights. This is based on the general rule of law that a stranger to a contract cannot acquire any right under the contract.

In this case, Articles conferred a right on 'Avanish', the law officer that he shall not be removed except on the ground of proved misconduct. In view of the legal position explained above, 'Avanish' cannot

enforce the right conferred on him by the articles against the company. Hence the action taken by the company (i.e. removal of 'Avanish' even though he was not guilty of misconduct) is valid.

Thus, unless Avanish proves a contract independent of the MOA and AOA, he cannot enforce any right against the company as he has no right to enforce the AOA against the company.

Same was also upheld in the case of ***Eley vs. Positive Government Security Life Assurance Co.***

(b) In terms of section 68 of the Companies Act, 2013 a company is allowed to buy back a maximum of 25% of the aggregate of its paid- up capital and free reserves (Free reserves include Securities premium for the purpose of buy-back).

Further, in respect of equity shares, the aggregate number of equity shares that can be bought back in a Financial Year shall not exceed 25% of the paid-up equity capital.

Hence, in the given, Amity Limited cannot buy back its entire equity shares. The buy-back in a Financial year cannot exceed 25% of the total paid-up equity capital.

Section 68 (1) of the Companies Act, 2013 specifies the sources of funding buy back of its shares and other specified securities as under -

i. Free reserves or
ii. Security Premium account or
iii. Proceeds of the issue of any shares or other specified securities
iv. However, under the proviso to section 68 (1) no buy back of shares or any specified securities can be made out of the proceeds of an earlier issue of the same kind of shares or same kind of specified securities.

Further, if company buys back from free reserves of securities premium, then the company needs to transfer an amount equal to the Nominal value of share bought back in the Capital Redemption Reserve account as per the provisions of Section 69.

(c) Under section 67 (2) of the Companies Act, 2013 no public company is allowed to give, directly or indirectly and whether by means of a loan, guarantee, or security, any financial assistance for the purpose of, or in connection with, a purchase or subscription, by any person of any shares in it or in its holding company.

However, section 67 (3) makes an exception by allowing companies to give loans to their employees other than its directors or key managerial personnel, for an amount not exceeding their salary or wages for a period of six months with a view to enabling them to urchase or subscribe for fully paid-up shares in the company or its holding company to be held by them by way of beneficial ownership.

Hence, Heavy Metals Ltd can provide financial assistance upto the specified limit to its employees to enable them to subscribe for the shares in the company provided the shares are purchased by the employees to be held for beneficial ownership by them.

However, the directors or key managerial personnel will not be eligible for such assistance.

(d) **Variation in rights of shareholders with consent**: Where a share capital of the company is divided into different classes of shares, the rights attached to the shares of any class may be varied with the consent in writing of the holders of not less than three-fourths of the issued shares of that class or by means of a special resolution passed at a separate meeting of the holders of the issued shares of that class –

- if provision with respect to such variation is contained in the memorandum or articles of the company; or
- in the absence of any such provision in the memorandum or articles, if such variation is not prohibited by the terms of issue of the shares of that class:

Provided that if variation by one class of shareholders affects the rights of any other class of shareholders, the consent of three-fourths of such other class of shareholders shall also be obtained and the provisions of this section shall apply to such variation.

3.

(a) According to section 76 of the Companies Act, 2013, a Public company, having

- Net worth of not less than ₹ 100 crore or
- Turnover of not less than ₹ 500 crore,

can accept deposits from persons other than its members subject to compliance with the requirements provided in section 73(2) and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe.

Further, such a company shall be required to obtain the rating from a recognised credit rating agency for informing the public the rating given to the company.

Since, ABC Ltd. has a net worth of ₹ 80 crores and turnover of ₹ 30 crores, which is less than the prescribed limits, hence, it cannot accept deposit from public other than its members. If the company wants to accept deposits from public other than its members, it has to fulfill the eligibility criteria of net worth or Turnover or both and then the other conditions as stated above.

(b)

(i) According to section 141(3)(d)(i) of the Companies Act, 2013, a person who, or his relative or partner holds any security of the company or its subsidiary or of its holding or associate company a subsidiary of such holding company, which carries voting rights, such person cannot be appointed as auditor of the company.

Provided that the relative of such person may hold security or interest in the company of face value not exceeding ₹ 1 lakh as prescribed under the Companies (Audit and Auditors) Rules, 2014.

In the case Mr. Prakash, Chartered Accountants, did not hold any such security. But Mrs. Sakshi, his wife held equity shares of PQ Limited of face value Rs. 1 lakh, which is within the specified limit. Hence, Nat & Company can continue to function as auditors of the Company even after 15th October, 2017.

(ii) The situation as stated in the question relates to the creation of a casual vacancy in the office of an auditor due to resignation of the auditor before the AGM in case of a company other government company.
Under section 139 (8)(i) any casual vacancy in the office of an auditor arising as a result of his resignation, such vacancy can be filled by the Board of Directors within 30 days thereof and in addition the appointment of the new auditor shall also be approved by the company at a general meeting convened within 3 months of the recommendation of the Board and he shall hold the office till the conclusion of the next annual general meeting.

Thus, in current case, when the auditor resigned on 31st December, 2017, the Board will fill the casual vacancy as above and the newly appointed auditor will hold office till the conclusion of next AGM.

(c) Preparation of revised financial statement or revised report on the approval of Tribunal: As per Section 131 of the Companies Act, 2013, if it appears to the directors of a company that –

- the financial statement of the company; or
- the report of the Board,

do not comply with the provisions of section 129 or section 134, they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar

Tribunal to serve the notice: Provided that the Tribunal shall give notice to the Central Government and the Income tax authorities and shall take into consideration the representations, if any, made by that Government or the authorities before passing any order under this section

Number of times of revision and recast: Provided further that such revised financial statement or report shall not be prepared or filed more than once in a financial year

Reason for revision to be disclosed: Provided also that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.

(d) Alteration in Articles of Association: Section 14 of the Companies Act, 2013, vests companies with power to alter or add to its articles. The law with respect to alteration of articles is as follows:

(1) Alteration by special resolution: Subject to the provisions of this Act and the conditions contained in its memorandum, if any, a company may, by a special resolution alter its articles.

(2) Filing of alteration with the registrar: Every alteration of the articles and a copy of the order of the Tribunal approving the alteration, shall be filed with the Registrar, together with a printed copy of the altered articles, within a period of fifteen days in such manner as may be prescribed, who shall register the same.

(3) Any alteration made shall be valid: Any alteration of the articles registered as above shall, subject to the provisions of this Act, be valid as if it were originally contained in the articles.

(4) Alteration noted in every copy: Every alteration made in articles of a company shall be noted in every copy of the articles, as the case may be. If a company makes any default in complying with the stated provisions, the company and every officer who is in default shall be liable to a penalty of one thousand rupees for every copy of the articles issued without such alteration. [Section 15]

4.

(a) As per Section 20 read with Rule 35(6) of Companies (Incorporation) Rules, 2014, service shall be deemed to have been effected at the expiry of 48 hours after it is posted.

Date of holding AGM	5th April, 2017
Excluding date of holding AGM i.e.	5th April, 2017
Reduction of 21 clear days	14th March, 2017
Reduction of 48 hours being deemed period of delivery by post	12rd March, 2017
→ Service of notice shall be deemed to be have been duly effected if it is despatched by POST on 12th March, 2017. → This will satisfy the requirement of 21 clear days' notice as well as 48 hours transmission by post.	

Note – This question is given in Study Mat and Study Mate has answered the question that the notice shall be despatched on 13th March, 2017 before 3:00 p.m. However, author contradicts on this point because the time of posting does not create any difference, since the date of holding AGM and date of dispatch of notice have to be excluded while computing 21 clear days.

(b) As per the provisions of Section 103 of the Companies Act, 2013; only the members personally present are counted for the purpose of quorum. Proxy is not a member personally present, hence he is excluded for the purpose of quorum. However, legal representative of a company is considered to be a member personally present and is counted for quorum.
Now, in present case,

Members personally present	- 13
Members represented by proxy	- Not counted for quorum

Representative	- Person representing 2 member companies will be counted as 2 members personally present
Thus, total members personally present	15
Required quorum	15
Thus, in the given case, quorum is present	

(c) The problem as asked in the question is governed by Section 58 of the Companies Act, 2013 dealing with the refusal to register transfer and appeal against refusal.

In the present case the company has committed the wrongful act of not sending the notice of refusal of registering the transfer of shares.

Under section 58 (4), if a public company without sufficient cause refuses to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer, appeal to the Tribunal.

Section 58 (5) further provides that the Tribunal, while dealing with an appeal made under sub-section (4), may, after hearing the parties, either dismiss the appeal, or by order —

- direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or
- direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved;

In the present case Ms. Mukta can make an appeal before the tribunal and claim damages.

(d) Section 40 (6) of the Companies Act 2013, provides that a company may pay commission to any person in connection with the subscription or procurement of subscription to its securities, whether absolute or conditional, subject to a number of conditions which are prescribed under Companies (Prospectus and Allotment of Securities) Rules, 2014. In relation to the case given, the conditions applicable under the above Rules are as under:

- The payment of such commission shall be authorized in the company's articles of association;
- The commission may be paid out of proceeds of the issue or the profit of the company or both;
- The rate of commission paid or agreed to be paid shall not exceed, in case of shares, 5% of the price at which the shares are issued or a rate authorised by the articles, whichever is less, and in case of debentures, shall not exceed 2.5 % of the price at which the debentures are issued, or as specified in the company's articles, whichever is less;

Thus, the Underwriting commission is limited to 5% of issue price in case of shares and 2.5% in case of debentures. The rates of commission given above are maximum rates.

In view of the above, the decision of Kapoor Builders Ltd. to pay underwriting commission exceeding 2% as prescribed in the Articles is invalid.

The company may pay the underwriting commission in the form of flats as both the Companies Act and the Rules do not impose any restriction on the mode of payment though the source has been restricted to either the proceeds of the issue or profits of the company.

(e)

(i) **Maintenance of the Register of Members etc**.: As per section 94(1) of the Companies Act, 2013, the registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company

Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company and the Registrar has been given a copy of the proposed special resolution in advance.

So, Tulip Ltd. can also keep the registers and returns at Kolkata after compliance with the above provisions, provided more than one-tenth of the total number of members entered in the register of members reside in Kolkata.

(ii) As per section 94(2) of the Companies Act, the registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.

Accordingly, a director Mr. Rich, who is a shareholder of the company, has a right to inspect the Register of Members during business hours without payment of any fees, as per the provisions of this section.

5.

(a)

(i) The auditor is right. Theoretically, accounts are presented to auditors only after they are approved by the Board and signed by authorized persons. The auditor is only expected to submit his report on the accounts presented to him for audit after conducting an examination of the necessary documents, analysing relevant information and test checking accounting records in order to be able to form an opinion of the financial statements presented to him. In practice, the checking of accounts is already completed before accounts are approved by the Board. Auditor informally approves the draft account with notes etc., before the accounts are approved by the Board. However, auditor signs the accounts only after these are approved by Board and signed by persons authorized by Board of the company.

(ii) As per the provisions of Section 53 of the Companies Act, 2013; a company cannot issue shares at discount. Any share issued at a discount by a company shall ne void.

However, there are 2 exceptions to the same –

- **Section 53(2A)** – A company may issue shares at discount to its creditors when its debt is converted into shares in pursuance of a statutory resolution plan or debt restructuring scheme in accordance with any guidelines or directions or regulations specified by RBI under RBI Act
- **Section 54** – A company may issue sweat equity shares at discount to its employees by following the provisions of section 54.

(b) XYZ Private Limited (a Private Company) is a subsidiary of SRN Limited (a Public company) and hence as per the provisions of Section 2(71), XYZ Private Limited will deemed to be a public company.

Further, as per the provisions of Section 67(2), no public company shall give, directly or directly or whether by means of a loan, guarantee, the provision of security or otherwise, any financial assistance to any person for the purpose of purchase or subscription of its shares or shares of its holding company.

However as per Section 67(3), public company may give loans
→ to its employees, other than directors or KMP,
→ for an amount not exceeding their 6 months' wages
→ for the purpose of purchasing FULL PAID UP shares in the company.

Now in current case, Mr. P is the Finance Manager and is not a director or KMP. However, the decision of Board of Directors to grant loan is not in compliance with above provisions because

- The loan of ₹ 2,00,000 exceeds the 6 months' salary (6 X 30,000 = 1,80,000); and
- Also, the loan is given to purchase the PARTLY PAID UP shares

(c) Section 118 of the Companies Act, 2013 provides that every company shall prepare, sign and keep minutes of proceedings of every general meeting, including the meeting called by the requisitionists and all proceedings of meeting of any class of shareholders or creditors or Board of Directors or committee of the Board and also resolution passed by postal ballot within thirty days of the conclusion of every such meeting concerned. Minutes kept shall be evidence of the proceedings recorded in a meeting.

By virtue of Rule 25 of the Companies (Management and Administration) Rules 2014 read with section 118 of the Companies Act, 2013 each page of every such book shall be initialled or signed and the last page of the record of proceedings of each meeting or each report in such books shall be dated and signed by, in the case of minutes of proceedings of a general meeting, by the chairman of the same meeting within the aforesaid period of thirty days or in the event of the death or inability of that chairman within that period, by a director duly authorized by the Board for the purpose.

Therefore, the minutes of the meeting referred to in the case given above can be signed in the absence of Mr Venkat, by any director who is authorized by the Board.

(d) Under section 102(2)(b) in the case of any meeting other than an AGM, all business transacted thereat shall be deemed to be special business.

Further under section 102 (1), a statement setting out the following material facts concerning each item of special business to be transacted at a general meeting, shall be annexed to the notice calling such meeting, namely –

- the nature of concern or interest, financial or otherwise, if any, in respect of each items, of -
  - → every director and the manager, if any;
  - → every other key managerial personnel; and
  - → relatives of the persons mentioned in sub-clauses (i) and (ii);

- any other information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decision thereon.

  Thus, the objection of the shareholder is valid since the details on the item to be considered are lacking. The information about the amount is a material fact with reference to the proposed increase of share capital. The notice is, therefore, not a valid notice under Section 102 of the Companies Act, 2013.

6.

(a)

i. As per Section 127, dividend shall be paid within 30 days of declaration. However, as per section 127, where dividend is lawfully adjusted by the company against any sum due to it from the shareholder then no default is deemed to have been committed by the company. Accordingly, company can adjust the amount payable by Mr. Ashok against the dividend.

ii. As per section 123(5), dividend is payable to registered shareholders or to his order or to his banker. As per section 126, where the shares have been transferred by one holder to another, then if the share is transferred before payment of dividend, it shall not be treated as pending transfer of shares and the transferee will be entitled to receive the dividend amount.
Accordingly, in the present case, while declaration of dividend on 20th September, 2016, no transfer of shares is pending and Mr. Raj, being transferee, will be entitled to dividend.

(b) As per Section 2(16) of the Companies Act, 2013; Charge means an
→ interest or lien
→ created on the property or assets
→ of a company or any of its undertakings or both
→ as security and includes a mortgage

Time Limit for Registration of Charge

Further, Section 77 lays down that it shall be the duty of every company to register the particulars of charge signed by the company and charge-holder together with the instrument creating the charge with the Registrar within 30 days.

Provided the Registrar may allow such registration to be made within a period of 300 days of such creation on payment of additional fees as may be prescribed

Provided further that if registration is not made within 300 days of such creation, the company shall seek extension of time from Central Government in accordance with section 87

Effect of Non-registration of charge

- The charge is void as against the liquidator if the company goes into liquidation i.e. liquidator shall not take unregistered charge into account
- During the liquidation, the charge-holder assumes the status of unsecured creditor
- Subsequent charge-holder whose charge is registered, gets a better title
- However, where a registrable charge is not registered, the obligation to repay the amount remains unaffected. That is to say, the charge is good against the company and the amount is payable by the company, even though the charge is not registered
- Company shall also be liable under section 86 for non-registration of charge

OR

Any company can accept deposits from its members by passing a resolution in general meeting subject to such rules as may be prescribed and subject to fulfilment of the following conditions

i. \issuance of a **CIRCULAR** to its members including therein a statement showing
- the financial position of the company,
- the credit rating obtained,
- the total number of depositors and
- the amount due towards deposits in respect of any previous deposits accepted by the company and
- such other particulars in such form and in such manner as may be prescribed;

ii. filing a copy of the circular along with such statement with the Registrar within 30 days before the date of issue of the circular;

iii. depositing **≥ 15%** of the amount of its deposits maturing during
→ a financial year + the financial year next following,
→ and kept in a scheduled bank in a separate bank account to be called as **DEPOSIT REPAYMENT RESERVE** account;

iv. providing such **DEPOSIT INSURANCE** in such manner and to such extent as may be prescribed;

v. **CERTIFYING** that the company has not committed any default in the repayment of deposits accepted either before or after the commencement of this Act or payment of interest on such deposits; and

vi. providing **SECURITY**, if any for the due repayment of the amount of deposit or the interest thereon including the creation of such charge on the property or assets of the company.

Provided that in case where a company does NOT secure the deposits or secures such deposits partially, then, the deposits shall be termed as "**UNSECURED DEPOSITS**" and shall be so quoted in every circular, form, advertisement or in any document related to invitation or acceptance of deposits.

(c) A proxy is an instrument in writing executed by a shareholder authorising another person to attend a meeting and to vote thereat on his behalf and in his absence. The term also applies to the person so appointed in

such case a proxy is a person appointed by a member of a company, to attend a meeting of the company and vote thereat on his behalf.

The various provisions relating to the appointment of a proxy is contained in section 105 of the Companies Act, 2013 are as under –

1. Under section 105 (1) any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person as a proxy to attend and vote at the meeting on his behalf.
2. The proxy need not be a member of the company, except in case of Section 8 company.
3. A proxy shall not have the right to speak at such meeting and shall not be entitled to vote except on a poll. This means that a proxy cannot vote on a resolution by a show of hands.
4. The Central Government may prescribe a class or classes of companies whose members shall not be entitled to appoint another person as a proxy.
5. Under section 105 (6) the instrument appointing a proxy shall be in writing; and be signed by the appointer or his attorney duly authorised in writing or, if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it.
6. The proxy form must be deposited with the company at least 48 hours before the meeting.
7. Under section 105 (7) an instrument appointing a proxy, if in the form as may be prescribed, shall not be questioned on the ground that it fails to comply with any special requirements specified for such instrument by the articles of a company.

(d) Shelf prospectus means a prospectus in respect of which the securities or class of securities included therein are issued for subscription in one or more issues over a certain period without the issue of a further prospectus

(1) According to Section 31 of the Company Act, 2013 any class or classes of companies, as the Securities and Exchange Board may provide by regulations in this behalf, may file a shelf prospectus with the Registrar at the stage—

(A) of the first offer of securities included therein which shall indicate a period not exceeding one year as the period of validity of such prospectus which shall commence from the date of opening of the first offer of securities under that prospectus, and

(B) in respect of a second or subsequent offer of such securities issued during the period of validity of that prospectus, no further prospectus is required.

(2) A company filing a shelf prospectus shall be required to file an information memorandum containing all material facts relating to new charges created, changes in the financial position of the company as have occurred between the first or previous offer of securities and the succeeding offer of securities and such other changes as may be prescribed, with the Registrar within the prescribed time, prior to the issue of a second or subsequent offer of securities under the shelf prospectus .

Thus, Prakhar Ltd. can follow the above provisions and can issue a shelf prospectus.