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Valid Your Business Under Companies Act by Mukesh Kumar

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The corporate sector of any country is always the driving force behind its economic growth. Same is the case with India. Enhanced performance of Indian corporate sector is the biggest driving force behind Indiaâ€™s increasing GDP. With the liberalization of Indian economy, there is a resultant influx of both technology as well as investment. Global opportunities generating capital, technology, finance and expertise are no longer limited. It would not be wrong to say that all these changes have come about as a result of enabling regulatory framework which facilitates the corporate sector to function productively and responsibly. A company generally refers to a group or association of people who have contributed money and have joined together to achieve a desired goal. It is very much mandatory for a share holder having a stake in the company to be very much attentive and careful about the functioning of the company. He should keep track of all the transactions or the business.

Company Law Board:

Section 10E of the companies Act, 1956 empowers the central government to constitute by notification in the official gazette, a board to be called as Company Law Board. Section 397 and 398 of the companies Act empowers the CLB to provide relief to the share holders against the oppression and injustice of the majority group in the company. When the interest of the shareholder is at stake and the mismanagement and irregularities in the company are likely to cause loss to the interest of the shareholder, the shareholder may immediately approach the CLB if he is qualified to do so under section 399 of Companies Act, 1956 where the CLB is supposed to ignore technicalities and is supposed to 'put an end to the matters complained of'.

Settled Principles of Law not applicable in Company Law:

The settled principles of law which are applicable in civil and criminal courts are generally not applicable in Company. For example take the principle of res judicata which means that the same issue cannot be agitated between two competent forums simultaneously. This principle is based on a very sound logic that repeated trial of a finally disposed matter by a competent forum is against the ends of natural justice and will also be a waste of time. Now, section 10A of Companies Act, 1956 empowers the central government to constitute a tribunal and 10E empowers the Central government to constitute a CLB (however constitution of the tribunals has been abolished by the Companies Tribunals Abolition Act 1967) and these to have the powers to try any substantial as well as incidental matters. If this principle is applied mechanically while entertaining the company matters, then, the powers of the Company Law Board earlier and now the Tribunal under section 397/398 of the Act would become meaningless. The same will be the position while the company court dealing with a winding-up matter. Thus not all the settled principles of General Law may find an application under the Companies Act.

The main aim of the companies Act, 1956 is to protect the interest of the share holders who are not in a position to keep a track on the transactions of the company. The Act also facilitates constitution of a company law board to redress the grievances of the shareholder who has a substantial interest in the company and cannot venture ignoring his interest in the company.

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