TRANSFER OF SHARES AND DEBENTURES

Points to Be Considered:

1. Consider the following points before registering any transfer of shares :

(i) the instrument submitted for transfer of shares is in prescribed Form 7B of Companies General Rules and Forms, duly executed and stamped, accompanied by the share/debenture certificate or in the absence of such certificate, letter of allotment of shares or debentures. For transferring debentures, the instrument of transfer need not be in the prescribed Form 7B as stated above. However, there is no restraint on using the same for sake of convenience.

(ii) the instrument bears the date, stamp and signature of the prescribed authority, and the instrument was delivered within its validity period.

Please note that no stamp duty is liable to be paid on transfer of registered ownership of shares from one person to a depository or from a depository to a beneficial owner.

(iii) the signature of the transferor matches with the specimen signature filed with the company.

(iv) the affixed share transfer stamps on the instrument are duly cancelled.

(v) there is a specimen signature of the transferee on the instrument.

(vi) in the case of partly paid up shares, a notice had been sent to the transferee and no objection has been raised by the transferee, within two weeks from the date of receipt of the said notice.

(vii) in case of the transferee being a minor, transfer deed had been signed by the natural guardian. In case the guardian is appointed by the court, a copy of the court's order had been forwarded to the company.

(viii) no right of lien exists on the shares unless permitted by articles.

(ix) the instrument was properly witnessed.

(x) the power of attorney, if any, under which an instrument was executed, was in order;

(xi) where the shares were to be transferred to or by a body corporate, a copy of **Board resolution**, Memorandum & Articles of Association was accompanied with the transfer deed.

(xii) no transfer of shares in the holding company was made to its subsidiary.

It may be noted that transfer of shares in a holding company to its subsidiary is void unless the subsidiary is concerned as the legal representative of a deceased member of the holding company or as a trustee.

(xiii) in case of joint shareholdings, transfer deed is signed by all the joint shareholders.

(xiv) in case of transfer to a non-resident, RBI's permission had been obtained under section 6 of the Foreign Exchange Management Act,1999. In case of transfer from a non-resident to a resident , no such permission is required but only the particulars are required to be furnished to the RBI.

(xv) in case of a listed company, if the transfer of shares would result in an increased holding of the transferee i.e. in excess of5% or 10% of the voting rights in the company, clauses 40A and 40B of the listing agreement would have to be complied with by the transferee and the company.

(xvi) in case of signed transfer deed being lost, check whether a written application has been made to the company with the requisite amount of stamps affixed on the written application. The Board may, if it thinks fit to do so, register the transfer on such terms of indemnity as it thinks fit.

(xvii) in case of a private company, restrictions imposed for transfer of shares in the Articles of Association of the company concerned have been complied with.

2. No registration fee for transfer of shares can be charged by the company if the shares are listed on a recognised stock exchange.

3. For approval of transfer of shares/debentures, pass a board resolution and make necessary entries the Transfer Register, Register of Members/Debenture-holders.

4. After making endorsement in the share certificate(s), deliver the same to the transferee within one month from the date of lodgment of share transfer deed (in case of listed company) or within two months from the date of lodgment, in any other case.

5. Please note that provisions of section 108 will not be applicable to transfer of security by the transferor and the transferee both of whom are entered as beneficial owners in the records of a depository. Note that inter-depository transfer of securities do not require compliance with the formalities prescribed under section 108 neither do they attract stamp duty.

6.Please note that if your company has a paid-up share capital of less than Rs. 5 crores but is equal to or more than Rs. 10 lakhs, obtain a Compliance Certificate from a secretary in whole-time practice. File it within 30 days from the date on which the Company's annual general meeting was held. with the Registrar mentioning that the company has delivered all the certificates on lodgement thereof for transfer in accordance with the provisions of the Act, as per paragraph 13(i) of the Form of Compliance Certificate appended to the Companies(Compliance Certificate) Rules, 2001.