



CA Final Law

IMPORTANT CASE LAWS FOR NOV 18 EXAMS

(Old / New Syllabus)



- CA AMMIT AGGARWAL

CA Final Law – Old/New Syllabus

IMPORTANT CASE LAWS

NOV 2018 EXAM

Sections covered – 123 to 205 of Companies Act , 2013

- By CA Ammit Aggarwal

*Note – Case Law from 1-6 are not applicable for new syllabus

Sr.	CRUX	CASE LAW
1	Declaration of dividend created a debt to the shareholder in whose favour it is declared . if a dividend is declared and the amount is paid or credited to the shareholders a dividend , the character of the credit or payment as dividend cannot be altered by a subsequent resolution.	Kishanchand chellaram vs CIT (SC)
2	Inspection can be only of books and accounts and papers connected with them . In case any person requires to inspect books other than books of account , he should seek a direction from the court .	CV Karuppunni vs CLB (Cal.)
3	A Director is entitled to inspect the account personally or through an agent provided that – (a) There is no reasonable objection to the person chosen , and (b) The agent undertake not to use the information obtained by him for any purpose other than the purpose of his principal. [Note: However , Foreign Financial information should be sought only by Director himself]	Vakharia vs Supreme General Film Exchange Co. Ltd
4	Though the balance sheet is signed by the Directors on behalf of the company several months after the balance sheet date , the acknowledgement can only relate to the	Gee & Co (Woolwich) Ltd

	date of the balance sheet and not on the date on which Director sign it	
5	Balance sheet showing fees due to Directors does not amount to an acknowledgement of the debt , on the ground that it is not competent for the Board of Directors to promise to pay themselves, since each is interested in the matter and incapable of binding the company by passing any Resolution.	Malayi Iyenger vs Official Liquidator
6	Deliberate omission by co. – A casual vacancy is not a vacancy created by any deliberate omission on the part of the company to appoint and Auditor in its AGM.	ICAI vs Janendra nath
7	where there was no appointment at all , the acts of such de facto Directors are not valid. Hence , acts of a Director , whose term of office has expired, cannot be regarded as valid, since it is not a defect discovered afterwards .	Kamal Distillery Vs Ladhi Parshad
8	Validity of Directors acts does not cover the case where there has not been any appointment at all. This rule is only to avoid calling into question the validity of transactions where there has been a slip or irregularity in the appointment of Directors and to override substantive provisions of law relating to such appointment .	Moris Vs Kaneseen
9	A Director who is required by rotation at an AGM cannot continue in office after the last day on which such AGM ought to have been called u/s 166 .	RHC Insurace Society ltd
10	Retiring Director will hold office only up to the last day on which AGM should have been held . However , special circumstances may justify continuation of Retiring Directors , as there cannot be a vacuum in the Board of Directors.	Ambica Tea Company Ltd.
11	Sec. 160 is not restricted to AGM. It enables a person to stand for Directorship at any general meeting .	Motion Picture Association
12	The power to appoint Additional Directors should be exercised bonafide in the interest of the company and not on extraneous consideration such as strengthening the position of the majority in the Board. Where there was no necessity for the co-option of Additional Director except	Dr. T.M. Paul Vs City Hospital Pvt ltd

	for gaining a majority , the co-option was held to fail. Such act may amount to oppression of minority.	
13	Where the AOA have conferred the power on Board for appointing Additional Directors, the Company cannot appoint Additional Director in general meeting.	Blair open Hearth Furnance co.
14	Company can appoint Additional Director in a General Meeting if there is a deadlock, or if there is no Board capable of making the necessary appointment.	Barrow Vs Potter
15	Where the Additional Director was also appointed as Managing Director, such office of managing director will also come to an end when the office of Additional Director comes to an end.	Department Clarification
16	Vacation of office (a) No board Resolution is required to be passed for showing that the office of the Director has been vacated by a particular Director. (b) No show cause notice is required to be served on the director before he is deemed to have vacated the office of the Director on his failure to attend Board Meeting.	Of Bharat Bhushan Vs H.B Portfolio Leasing Ltd.
17	Where there was no proof that notices of Board Meeting were served on Directors, Directors could not be removed on the ground that they have abstained from attending Board Meetings.	Vijay Krishna Jidka Vs Jaidka motor co. ltd
18	Board Meeting notice should be sent to the address of a Director where he is residing.	Bagri Cereals P Ltd.
19	Resignation letter must be submitted either to the company or to the Board of Directors. Resignation sent to a third party is not effective.	ROC Vs Orissa paper Products Ltd
20	A Director can resign just by sending in writing a letter informing either chairman or secretary of company , his intention to resign from the post of director.	Saumil Dilip Mehta Vs State of

	Where a Director had tendered his resignation and Board of Directors has accepted it and has acted on it, such a Director cannot be held liable for liability incurred by the said company after the date of acceptance of resignation, except liability which has been incurred by him only for shares of the said Company.	Maharashtra
21	Protection of third parties: if the Directors transact business at a meeting, which is not validly called, then outsiders will not be prejudiced by such irregularities, if they have no notice of it.	Royal british bank Vs Turquand
22	if notice of meeting is not given to all Directors , resolution passed at such meetings are invalid	Col. Kuldip singh Dhillon
23	Company in a general meeting cannot override the Board's power of carrying on the business, by prescribing a regulation or passing a resolution, taking away the powers which have been conferred upon the Board by AOA or the Act.	Automatic self Cleaning Vs Cunningham
24	The Board should not exercise the power u/s 180 without the consent of the company at General meeting. However, the Board is not bound to exercise such powers.	Pothen Vs Hindustan Trading Corporation
25	Money has been borrowed and used for the benefit of the Company and its legitimate business purpose. In such case , the Company cannot repudiate the liability on the ground that the Director has no power to borrow.	LTR. Practice Vs E.D SASSR & CO.
26	Sec 184 : failure to make the required disclosure renders the Director liable to punishment and gives an option to the company to avoid the contract, but does not make the contract illegal, void or unenforceable.	Amritsar Rayon & Silk Mills Ltd
27	Sec 184 : Mere relationship of friendliness with other Directors is not covered by indirect interest .	Re needle Industries Ltd

28	There is no ban as such on a contract in which a Director is interested . The only requirement is that the interest should be disclosed, bonafide and fair.	P. Leslie & Co vs V.O Wapshare
29	Sec 185 : the word “Indirectly” used u/s 185 only means that company shall not give the loan to a Director through the agency of one or more intermediaries. It cannot be read as converting what is not a loan , into a Loan.	Dr. Freddie Ardesir Mehta Vs UOI 70 CC 210
30	Sec 185 : A Company makes a quasi-loan to a Director when it pays a sum of money for the Director to a third person or reimburses expenditure incurred by a third party for the Director in such circumstances that the Director agrees or become liable to reimburse the Company . Such a transaction does not constitute a loan for the purpose of legislative prohibition on loans to Directors.	
31	Housing loan can be given to MD/WTD u/s 185, on the same terms and conditions as are applicable to all its Employees , or as approved by Special Resolution of Members.	
32	Sec196(3) Mere admission of appeal filed against order of conviction would not amount to staying the operation of disqualification arising u/s 196	Rama Narang Vs Ramesh Narang
33	When the office of a Director is terminated, his appointment as a MD would also terminate with it, but when he is removed from Managing Directorship only, his appointment as a Director would remain effective	Swapan das Gupta Vs Navin chand