PRODUCER COMPANIES

Section 465 provided that provisions of IX A of CA,1956 shall be applicable mutatis mutandis to producer company in a manner as if the CA1956, has not been repealed until a special act is enacted for producer companies

KEY POINTS FOR PRODUCER COMPANY:

- ✓ The members have necessarily to be primary producers
- ✓ Name of the company shall end with the words "Producer Company Limited".
- ✓ The limit of maximum number of members is not applicable to these Companies
- ✓ On registration, the producer company shall become as if it is a Private Limited Company for the purpose of application of law and administration of the company
- ✓ Minimum No. of 10 member (individual).
- ✓ Share capital of a Producer Company shall consist of equity shares only
- ✓ Minimum 5 and not more than 15 directors (In the case of the Inter-State Co-operative Society incorporated as a Producer Company, such company may have more than 15 directors for a period of one year from the date of its incorporation as a Producer Company.
- ✓ Producer Company can carry only activity prescribed under the Act-Sec 581B
- ✓ Only of individuals, then voting rights shall be based on a single vote for every member.
- ✓ A full time chief executive should (CEO) be appointed by the board shall be entrusted with substantial powers of management as the board may determine

INCORPORATION:

Any of the following combination of producers can incorporate a producer company:

- Ten or more producers (individuals); or Two or more producer institutions; or Combination of the above two (10+2).

SHARE CAPITAL:

- Share capital of a Producer Company shall consist of equity shares only.
- Members' equity cannot be publicly traded but only transferred

VOTING

- Only of individuals, then voting rights shall be based on a single vote for every member.
- Only of producer institutions, then voting rights on the basis of their participation.
- Combination of both individuals and producer institutions then voting rights shall be based on a single vote for every member.

MEMBERS' BENEFITS:

- Members will initially receive only such value for the produce or products pooled and supplied as the directors may determine.
- The withheld amount may be disbursed later either in cash or in kind or by allotment of equity shares.
- Members will be eligible to receive bonus shares.
- An interesting provision is for the distribution of patronage bonus [2](akin to dividend) after the annual accounts is approved — patronage bonus means payment out of surplus income to members in proportion to their respective patronage (not shareholding) A patronage dividend is a dividend or distribution that pays to its members determined according to their services

GENERAL MEETINGS

(a) Matters to be transacted at general meeting (Section 581S)

The Board of directors of a Producer Company shall exercise the following powers on behalf of the company, and it shall do so only by means of resolutions passed at the annual general meeting of its members, namely:

- ✓ approval of budget and adoption of annual accounts of the Producer Company, approval of patronage bonus, issue of bonus shares., declaration of limited return and decision on the distribution of patronage, specify the conditions and limits of loans that may be given by the Board to any director, and approval of any transaction of the nature as is to be reserved in the articles for approval by the members.

QUORUM (SECTION 581Y)

- Unless the articles require a larger number, one-fourth of the total membership shall constitute the quorum at a general meeting.

VOTING RIGHTS (SECTION 581Z)

- Subject to Sections 581D, (1) & (3), every member shall have one vote and in the case of equality of votes, the Chairman or the person presiding shall have a casting vote except in the case of election of the Chairman.

OTHER FEATURES

- ❖ Every producer company has to maintain a general reserve in every FY
- ❖ Dispute relating to producers can be settled under Arbitration and conciliation Act 1996
- ❖ Shares cannot be listed in stock exchange or tradable but transferable to producers
- ❖ No specific tax benefits available to producer company but upon nature of transcations nd agricultural activity exemption can be availed
- ❖ Expert directors or additional directors can be co-opted but not exceed $1/5^{th}$ of total number of directors subjects to articles of association
- ❖ Producer company shall consist equity shares only
- ❖ In case of alteration of AOA it has to be proposed by not less than $2/3^{rd}$ of the elected directors or by not less than $1/3^{rd}$ of the members and adopted by special resolution
- ❖ First AGM shall be conducted within 90 days from the date of incorporation
- ❖ AGM can be called by sending 14 days notice
- ❖ Board meeting shall be held atleast once in every 3 months and atleast 4 such meetings in every year
- ❖ Any amendment of the articles shall be proposed by not less than two-third of the elected directors or by not less than one-third of the Members of the Producer Company, and adopted by the Members by a special resolution and a copy of the amended articles together with the copy of the special resolution, both duly certified by two directors, shall be filed with the Registrar within thirty days from the date of its adoption.
- ❖ Chief executive shall give to the board atleast 7 days in advance of the meeting
- ❖ Every producer company, having average annual turnover exceeding 5 crore in each of the three consecutive financial years shall have a whole time company secretary
- ❖ It shall have internal audit of its accounts carried out in such intervals and in such manner as may be specified by its articles, by chartered accountant,
- ❖ Quorum of the board meeting- $1/3^{rd}$ of total strength and minimum 3
- ❖ Membership would be ceased if business interest conflict with personal interest