

Lecture 31

In case of default in holding an annual general meeting, the following are the consequences :-

1. Any member of the company may apply to the Company Law Board. The Company Law Board may call, or direct the calling of the meeting, and give such ancillary or consequential directions as it may consider expedient in relation to the calling, holding and conducting of the meeting. The Company Law Board may direct that one member present in person or by proxy shall be deemed to constitute the meeting. A meeting held in pursuance of this order will be deemed to be an annual general meeting of the company. An application by a member of the company for this purpose must be made to the concerned Regional Bench of the Company Law Board by way of petition in Form No. 1 in Annexure II to the CLB Regulations with a fee of rupees fifty accompanied by (i) affidavit verifying the petition, (ii) bank draft for payment of application fee.
2. Fine which may extend to Rs. 5,000 on the company and every officer of the company who is in default may be levied and for continuing default, a further fine of Rs. 250 per day during which the default continues may be levied.

Business to be Transacted at Annual General Meeting :

At every AGM, the following matters must be discussed and decided. Since such matters are discussed at every AGM, they are known as ordinary business. All other matters and business to be discussed at the AGM are special business.

The following matters constitute ordinary business at an AGM :-

- ☐ Consideration of annual accounts, director's report and the auditor's report
- ☐ Declaration of dividend
- ☐ Appointment of directors in the place of those retiring
- ☐ Appointment of and the fixing of the remuneration of the statutory auditors.

In case any other business (special business) has to be discussed and decided upon, an explanatory statement of the special business must also accompany the notice calling the meeting. The notice must also give the nature and extent of the interest of the directors or manager in the special business, as also the extent of the shareholding interest in the company of every such person. In case approval of any document has to be done by the members at the meeting, the notice must also state that the document would be available for inspection at the Registered Office of the company during the specified dates and timings.

C. Extraordinary General Meeting

Every general meeting (i.e. meeting of members of the company) other than the statutory meeting and the annual general meeting or any adjournment thereof, is an extraordinary general meeting. Such meeting is usually called by the Board of Directors for some urgent business which cannot wait to be decided till the next AGM. Every business transacted at such a meeting is special business. An explanatory statement of the special business must also accompany the notice calling the meeting. The notice must also give the nature and extent of the interest of the

directors or manager in the special business, as also the extent of the shareholding interest in the company of every such person. In case approval of any document has to be done by the members at the meeting, the notice must also state that the document would be available for inspection at the Registered Office of the company during the specified dates and timings.

The Articles of Association of a Company may contain provisions for convening an extraordinary general meeting. Eg. It may provide that "the board may, whenever it thinks fit, call an extraordinary general meeting" or it may provide that "if at any time there are not within India, directors capable of acting who are sufficient in number to form a quorum, any director or any two members of the company may call an extraordinary general meeting".

Extraordinary General Meeting on Requisition :

The members of a company have the right to require the calling of an extraordinary general meeting by the directors. The board of directors of a company must call an extraordinary general meeting if required to do so by the following number of members :-

- ☐ members of the company holding at the date of making the demand for an EGM not less than one-tenth of such of the voting rights in regard to the matter to be discussed at the meeting ; or
- ☐ if the company has no share capital, the members representing not less than one-tenth of the total voting rights at that date in regard to the said matter.

The requisition must state the objects of the meetings and must be signed by the requisitioning members. The requisition must be deposited at the company's registered office. When the requisition is deposited at the registered office of the company, the directors should within 21 days, move to call a meeting and the meeting should be actually be held within 45 days from the date of the lodgement of the requisition. If the directors fail to call and hold the meeting as aforesaid, the requisitionists or any of them meeting the requirements at (a) or (b) above, as the case may be, may themselves proceed to call meeting within 3 months from the date of the requisition, and claim the necessary expenses from the company. The company can make good this sum from the directors in default. At such an EGM, any business which is not covered by the agenda mentioned in the notice of the meeting cannot be voted upon.