

**Subject – Secretarial Practices**  
**Subject code- BBA603 / BCH603**

## **Lecture 33**

### **B. Meeting of creditors**

Sometimes, a company, either as a running concern or in the event of winding up, has to make certain arrangements with its creditors. Meetings of creditors may be called for this purpose. Eg U/s 393, a company may enter into arrangements with creditors with the sanction of the Court for reconstruction or any arrangement with its creditors. The court, on application, may order the holding of a creditors' s meeting. If the scheme of arrangement is agreed to by majority in number of holding debts to value of the three-fourth of the total value of the debts, the court may sanction the scheme. A certified copy of the court's order is then filed with the Registrar and it is binding on all the creditors and the company only after it is filed with Registrar.

Similarly, in case of winding up of a company, a meeting of creditors and of contributories is held to ascertain the total amount due by the company and also to appoint a liquidator to wind up the affairs of the company.

### **Requisites of a Valid Meetings**

The following conditions must be satisfied for a meeting to be called a valid meeting :-

1. It must be properly convened. The persons calling the meeting must be authorised to do so.
2. Proper and adequate notice must have been given to all those entitled to attend.
3. The meeting must be legally constituted. There must be a chairperson. The rules of quorum must be maintained and the provisions of the Companies Act, 1956 and the articles must be complied with.
4. The business at the meeting must be validly transacted.. The meeting must be conducted in accordance with the regulations governing the meetings.

### **Notice of General Meeting**

A meeting cannot be held unless a proper notice has been given to all persons entitled to attend the meeting at the proper time, containing the necessary information. A notice convening a general meeting must be given at least 21 clear days prior to the date of meeting. However, an annual general meeting may be called and held with a shorter notice, if it is consented to by all the members entitled to vote at the meeting. In respect of any other meeting, it may be called and held with a shorter notice, if at least members holding 95 percent of the total voting power of the Company consent to a shorter notice.

Notice of every meeting of company must be sent to all members entitled to attend and vote at the meeting. Notice of the AGM must be given to the statutory auditor of the company.

Accidental omission to give notice to, or the non-receipt of notice by, any member or any other person on whom it should be given will not invalidate the proceedings of the meeting. The notice

may be given to any member either personally or by sending it by post to him at his registered address, or if there is none in India, to any address within India supplied by him for the purpose. Where notice is sent by post, service is effected by properly addressing, pre-paying and posting the notice. A notice may be given to joint holders by giving it to the jointholder first named in the register of members. A notice of meeting may also be given by advertising the same in a newspaper circulating in the neighbourhood of the registered office of the company and it shall be deemed to be served on every member who has to registered address in India for the giving of notices to him.

A notice calling a meeting must state the place, day and hour of the meeting and must contain the agenda of the meeting. If the meeting is a statutory or annual general meeting, notice must describe it as such. Where any items of special business are to be transacted at the meeting, an explanatory statement setting out all materials facts concerning each item of the special business including the concern or interest, if any, therein of every director and manager, is any, must be annexed to the notice. If it is intended to propose any resolution as a special resolution, such intention should be specified.

A notice convening an AGM must be accompanied by the annual accounts of the company, the director's report and the auditor's report. The copies of these documents could, however, be sent less than 21 days before of the date of the meeting if agreed to by all members entitled to vote at the meeting.