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BLOGS

Sectional Test on Winding Up of a Company for CLAT PG

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1. Under the Companies Act 2013, which of the following circumstances allows a company to be wound up by the Tribunal?

1. If the company has acted against the interests of sovereignty and integrity of India
2. If the Tribunal is of the opinion that it is just and equitable to wind up the company
3. If the company has defaulted in filing financial statements for five consecutive years
4. If the company has passed a special resolution for winding up

a. 1 and 2 only
b. 1, 2 and 4 only
c. 2, 3 and 4 only
d. 1, 2, 3 and 4

2. Which of the following statements correctly reflects the "just and equitable" ground for winding up?

a. It applies only when the company has suffered financial losses.
b. It is confined strictly to situations expressly mentioned in the statute.
c. It is an equitable remedy invoked when continuation of the company becomes unfair or impracticable.
d. It can only be invoked by creditors.

3. The principle that a company may be wound up when its main object has failed was established in:

a. Salomon v A Salomon & Co Ltd
b. Re German Date Coffee Co
c. Foss v Harbottle
d. Lee v Lee's Air Farming Ltd

4. Under the Insolvency and Bankruptcy Code 2016, voluntary liquidation of a corporate person can be initiated only when:

a. The company has committed a default

b. The company has no debts or is able to pay its debts in full

c. A creditor files an application before NCLT

d. The Central Government orders liquidation

5. Which of the following statements regarding the commencement of winding up is correct?

a. Winding up commences when the Tribunal passes the order.

b. Winding up commences when the petition is filed.

c. Winding up commences when the special resolution is passed.

d. Winding up commences when the liquidator takes charge.

6. In the context of winding up, the contributories of a company include:

a. Only present shareholders

b. Only past members who left within one year

c. Present members and certain past members liable to contribute to assets

d. Only directors

7. The doctrine that winding up may be ordered where there is a complete breakdown of mutual trust in a quasi-partnership company was recognised in:

a. Ebrahimi v Westbourne Galleries Ltd

b. Salomon v A Salomon & Co Ltd

c. Daimler Co Ltd v Continental Tyre

d. Ashbury Railway Carriage v Riche

8. Which of the following powers can the Company Liquidator exercise only with the sanction of the Tribunal?

1. Instituting or defending legal proceedings
2. Carrying on the business of the company for beneficial winding up
3. Selling company property
4. Making compromises with creditors

a. 1 and 2 only

b. 1, 2, 3 and 4

c. 2 and 3 only

d. 3 and 4 only

9. Which principle governs the order of payment of debts in liquidation under the Insolvency and Bankruptcy Code 2016?

a. Doctrine of Indoor Management

b. Waterfall Mechanism

c. Ultra Vires Doctrine

d. Constructive Notice

10. A winding up petition on just and equitable grounds is most likely to succeed where:

a. The company is profitable but minority shareholders disagree with management decisions

b. There is deadlock in management making business operations impossible

c. The company has minor procedural violations

d. A shareholder wants to exit the company

11. Assertion: The Tribunal may order winding up of a company if it is of the opinion that it is just and equitable to do so.

Reason: The "just and equitable" clause allows the Tribunal to apply equitable principles where strict legal remedies are inadequate.

a. Both Assertion and Reason are correct and Reason is the correct explanation of Assertion

b. Both Assertion and Reason are correct but Reason is NOT the correct explanation of Assertion

c. Assertion is correct but Reason is incorrect

d. Assertion is incorrect but Reason is correct

12. Assertion: Winding up of a company automatically dissolves the company.

Reason: Dissolution occurs only after the company's affairs are completely wound up and the Tribunal passes an order of dissolution.

a. Both Assertion and Reason are correct and Reason is the correct explanation of Assertion

b. Both Assertion and Reason are correct but Reason is NOT the correct explanation of Assertion

c. Assertion is correct but Reason is incorrect

d. Assertion is incorrect but Reason is correct

13. Assertion: A contributory can file a petition for winding up even if the company has no surplus assets.

Reason: The right of a contributory to file a petition is not dependent on the expectation of financial return.

a. Both Assertion and Reason are correct and Reason is the correct explanation of Assertion

b. Both Assertion and Reason are correct but Reason is NOT the correct explanation of Assertion

c. Assertion is correct but Reason is incorrect

d. Assertion is incorrect but Reason is correct

14. Assertion: The Tribunal may refuse to order winding up if another remedy is available and the petitioner is acting unreasonably in seeking winding up.

Reason: Winding up is considered a remedy of last resort.

a. Both Assertion and Reason are correct and Reason is the correct explanation of Assertion

b. Both Assertion and Reason are correct but Reason is NOT the correct explanation of Assertion

c. Assertion is correct but Reason is incorrect

d. Assertion is incorrect but Reason is correct

15. Assertion: Once a winding up order is passed, all suits against the company automatically stand dismissed.

Reason: The Tribunal may stay or permit continuation of suits against the company during liquidation.

a. Both Assertion and Reason are correct and Reason is the correct explanation of Assertion

b. Both Assertion and Reason are correct but Reason is NOT the correct explanation of Assertion

c. Assertion is correct but Reason is incorrect

d. Assertion is incorrect but Reason is correct

Answers

1. (B) Grounds under Section 271 include:Acting against sovereignty/integrity/security of India, Special resolution for winding up, Just and equitable grounds, Failure to file financial statements may lead to strike off, not necessarily winding up.

2. (C) The "just and equitable" clause is flexible and allows the Tribunal to wind up a company where continuation becomes unfair or impracticable.
3. (B) In Re German Date Coffee Co, winding up was ordered when the company's main commercial objective failed, making continuation futile.
4. (B) Under Section 59 IBC, voluntary liquidation is permitted only when the corporate person has not committed default and can pay its debts fully.
5. (B) Under company law principles, winding up is deemed to commence from the date of presentation of the petition.
6. (C) Contributories include present members and certain past members liable to contribute to the company's assets in winding up.
7. (A) In Ebrahimi, the House of Lords held that a breakdown of mutual trust in quasi-partnership companies can justify winding up on just and equitable grounds.
8. (B)These significant powers of the liquidator require Tribunal approval to protect creditor and stakeholder interests.
9. (B) Section 53 of IBC establishes the Waterfall Mechanism, which sets the priority order for distributing liquidation proceeds.
10. (B) Courts grant winding up on just and equitable grounds where management deadlock or irretrievable breakdown makes continuation impossible.
11. (A)
12. (D) Winding up and dissolution are two separate stages.
13. (A)
14. (A)
15. (D) Suits are not dismissed, but require leave of the Tribunal.