

## **LIQUIDATION OF COMPANIES**

### **Meaning:**

Liquidation or winding up of the company is the legal process by which a company is brought to an end that is the business of the company is completely closed down.

### **Types of liquidation/winding up:**

- i. Voluntary winding up
- ii. Compulsory winding up
- iii. Winding up under supervision of the court

#### **I. Voluntary liquidation:**

It refers to when the business of the company is closed and brought its company to an end by the company members without court order it is called voluntary liquidation.

There are two methods of voluntary liquidation such as.,

- a) Member's voluntary liquidation
- b) Creditor's voluntary liquidation

#### **II. Compulsory liquidation:**

When the court issues an order for the compulsory winding up of a company it is known as compulsory liquidation.

##### **Conditions for the compulsory winding up (sec.433)**

1. If the company has, by special resolution, resolved that the company be wound up by the court.
2. If a default is made in delivering the statutory report of the register of companies or in holding the statutory meeting of the company.
3. If the company does not commence its business within a year from its incorporation or suspends its business for a whole year.
4. If the number of members falls below seven in case of a public company or below two in case of a private company.
5. If the company is unable to pay its debts.
6. If the court is of the opinion that it is just and equitable that the company should be wound up.

#### **III. Winding up under supervision of the court:**

At any time after a company has passed a resolution for voluntary winding up, the court makes an order that the voluntary winding up shall continue, but subject to such supervision of the court and with such liberty for creditors, contributories or others to apply to the court and generally on such terms and conditions as the court thinks just. This type of liquidation is called winding up under supervision of court.

**LIQUIDATOR:**

He is a person who is appointed by the court or the members for conducting the proceedings of the liquidation of a company.

**Functions of liquidator:**

1. Realize the all assets of the company
2. Has to collect the money due from the contributories
3. Distribution of surplus among the shareholders(if any)
4. He has to maintain and submit the record of receipts and payments of cash to the members.
5. Payments of claims and obligations as per order of payments.

**CONTRIBUTORIES:**

Contributories are the members or the shareholders of the company who are liable to contribute the amounts remaining unpaid on their shares to the liquidator at the time of liquidation of the company.

**PREFERENTIAL CREDITORS:**

Preferential creditors are those creditors who an account of special provisions of the companies Act. of 1956 under section 530, have priority over other unsecured creditors.

Preferential creditors are:-

- a) All taxes, revenues and duties due from the company to the government.
- b) All wages and salaries of any employee in respect of service rendered to the company and due for a period not exceeding 4 months within the 12 months next before the relevant year subject to the maximum of 20,000 per employee.
- c) Any accrued holiday remuneration due to any employee.
- d) Any PF, pension fund or any other fund for employee welfare maintained by the company.
- e) All sums due as compensation under workmen's compensation act 1923
- f) The expenses of investigation held as per section 235 & 237 of companies act.

**LIQUIDATOR'S FINAL STATEMENT:**

It is a statement which shows all receipts and payments of a company. In other words it is like a cash book which shows all receipts in debit side and all payments in credit side.

**Order of payments.**

- a) Secured loan/creditors
- b) Legal expenses
- c) Liquidation expenses
- d) Liquidator's remuneration
- e) Interest on debentures
- f) Debenture capital
- g) Preferential creditors
- h) Unsecured creditors
- i) Calls in advance
- j) Preference dividend
- k) Preference capital
- l) Equity capital

**Format of liquidator's final statement.**

***LIQUIDATOR'S FINAL STATEMENT OF ACCOUNT***

Receipts	Amount	Payments	Amount
Cash in hand	xxx	Secured loan/creditors	xxx
Cash at bank	xxx	Legal expenses	xxx
All Assets realized	xxx	Liquidation expenses	xxx
Any calls in arrears	xxx	Liquidator's remuneration	xxx
Any other receipts	xxx	Debenture interest	xxx
		Debenture capital	xxx
		Preferential creditors	xxx
		Unsecured creditors	xxx
		Calls in advance	xxx
		Preference dividend	xxx
		Preference capital	xxx
		Equity capital	xxx
	xxx		xxx