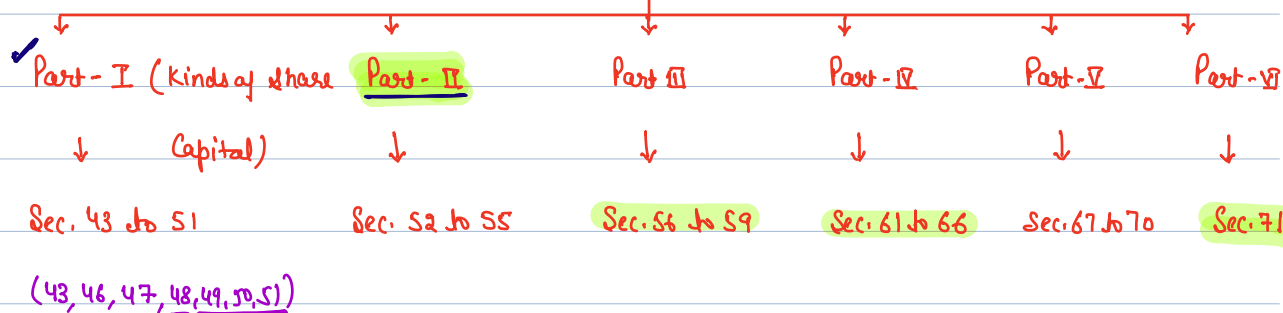


Chapter - 4 "Share Capital and Debentures" (Sec. 43 to 72)

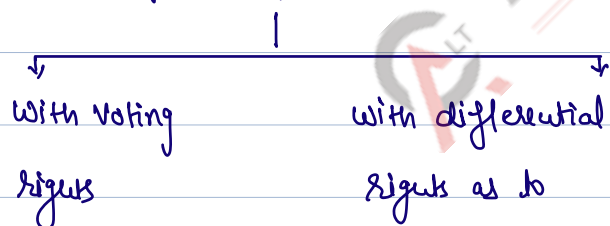


PART - I (Sec. 43 to 51)

(i) Kinds of Share Capital: (Sec. 43)

(a) Equity Share Capital

- All share capital which is not preference share capital.
- Equity share capital may be of two types:



- (a) dividend;
- (b) Voting; or
- (c) otherwise

in accordance with Rule 4 of Companies (Share Capital and Debentures) Rules, 2014

(Rule 4 - to be covered from book)

(b) Preference Share Capital

- that part of issued share capital which carries preferential rights as to:
- (i) payment of dividend.
 - (ii) repayment of capital in case of winding up of the company.

Note: There is no preferential requirement for preference shareholders in relation to:

- (a) distribution of surplus remains after payment of dividend; or
- (b) distribution of surplus remains after repayment of capital in case of winding up.

(iii) Certificate of Shares (Sec. 46):

(a) Meaning of Share Certificate: Document of title issued by the company declaring that the person named therein is the owner of specified number of shares in the capital of the company.

(b) Statutory Provisions:

Sec. 46 (1): Share certificate shall be prima facie evidence of the title of the person named therein.

Share certificate to be issued under Common Seal of the

Company, if any, (Or) to be signed by — $\left\{ \begin{array}{l} 2 \text{ directors} \\ \text{(Or)} \\ \text{one director (and)} \\ \text{CS (if employed)} \end{array} \right.$

Sec. 46 (2): Issue of duplicate share certificate:

Duplicate share certificate may be issued by a company, if

(a) It is proved that certificate have been lost or destroyed

Or

(b) Certificate has been defaced, mutilated and surrendered to the company.

Penalty for issuing duplicate share certificate with intent to fraud:

Sec. 46 (5):

Company: liable for fine

Officer in default: liable for action

(a) Min: 5 times of F.V. of shares involved

u/s 447.

(b) Max: Highest of (a) ₹ 10 Crores;

(b) 10 times of F.V. of shares involved.

(iii) Voting Rights (Sec. 47):

Company limited by shares

Equity Shareholders

Preference Shareholders

- Every member shall have a right to vote on every resolution placed before the Company/Meeting.
- Voting rights on a poll will be in proportion of his share in paid up equity share capital.

- Preference shareholders shall have a right to vote on following resolutions:
 - (a) which directly affect their rights;
 - (b) winding up of company;
 - (c) repayment/reduction of Equity or preference share capital.

Note: In case of Nidhi Companies, no member can exercise voting rights on a poll in excess of 5% of total voting rights.

- Voting rights shall be in proportion to his share in paid-up preference share capital.

Ex: Equity Capital = 90 lakh ✓
Preference " = 70 lakh ✓

160
(56.25%)
(43.75%)

Mr. P hold Equity Capital = 15 lakh and
Preference Capital = 10 lakh

Note:

Preference shareholders shall have a right to vote on all resolutions, if their dividend not paid for ≥ 2 years.

Determine Voting Rights of Mr. P on following resolution:

(i) Appointment of director. Sol: (i) $15/90 = 16.67\%$

(ii) winding up of company.

$$(ii) \left(\frac{15}{90} \times \frac{90}{160} \right) + \left(\frac{10}{70} \times \frac{70}{160} \right) = \frac{25}{160} = 15.625\%$$

(iv) Variation of shareholder's rights (Sec. 48):

(a) Conditions to be satisfied:

(i) Holders of not less than 75% of issued shares of the class whose rights are to be varied must give their consent in writing.

Or

Special resolution passed at a separate meeting of such shareholders.

(ii) Provision for such variation contained in MoA/AOA.

Or

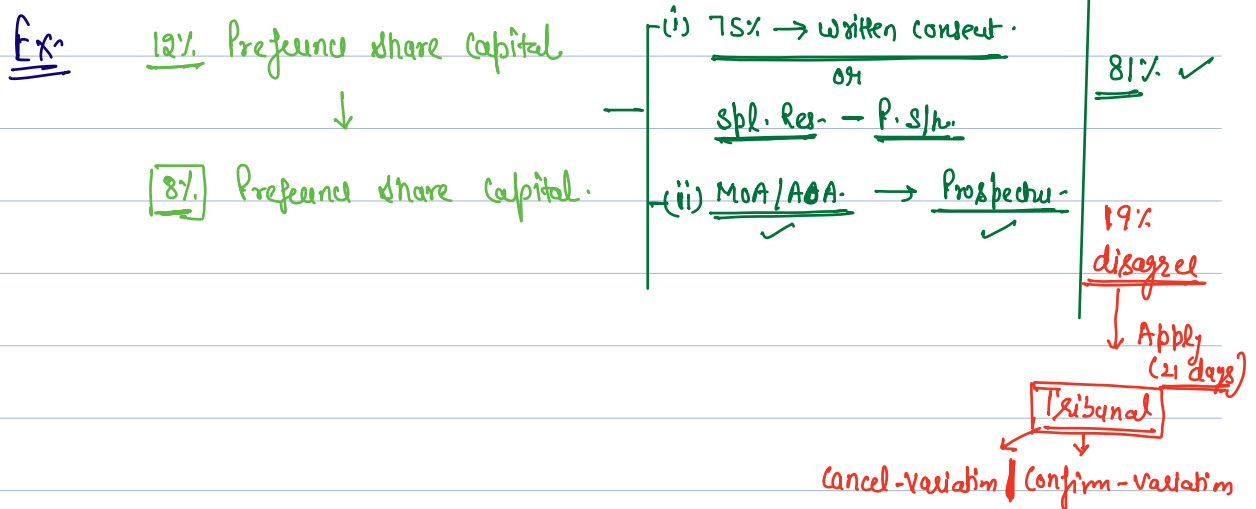
Such variation shall not be prohibited by the terms of issue of such shares.

Note: If such variation affects the right of any other class of shareholders, consent of $\frac{3}{4}$ th of that class shall also be obtained.

Ex: Preference shares \rightarrow (Non-convertible) $\xrightarrow{80\%}$ (Convertible) $\xrightarrow{85\% \checkmark}$ $\xrightarrow{75\% \checkmark}$ Equity affect - $\frac{3}{4}$ th consent

(b) Rights of dissentient shareholders:

- Dissentient shareholders holding $\geq 10\%$ of issued shares of that class may apply to Tribunal (NCLT) for cancellation of variation.
- Application shall be made within 21 days on which consent was given or resolution was passed.
- Decision of Tribunal shall be binding on the shareholders.
- Copy of Tribunal order is to be filed with ROC within 30 days of order of Tribunal.



(V) Calls on shares / dividend on shares (Sec. 49, 50, and 51):

(i) Sec. 49: Calls to be made on a uniform basis.

(ii) Sec. 50: - Calls in advance may be accepted if authorised by Articles.
 - Members shall not be entitled to any voting rights until the amount has been called-up.

(iii) Sec. 51: Dividend on paid-up capital:

If authorised by Articles, company may pay dividend in proportion of paid-up amount on each share.