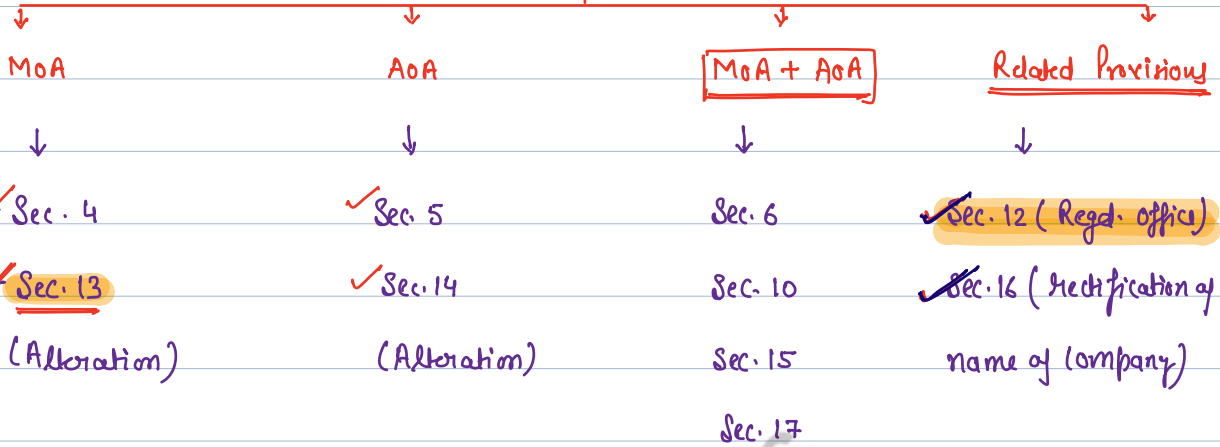


## Lecture No. 5 of Chapter 2

### (MoA + AoA)



### ⑦ Alteration of MoA: (Sec. 13)

(a) MoA may be altered by Special Resolution.

(b) Alteration of Name clause:

(i) Requires approval of Central Govt. in writing.

(ii) However, to add or delete the word 'Private' along with the name, no approval is required.

(iii) Copy of special resolution and C.G. approval shall be filed with the RoC.

(iv) RoC shall enter new name in the Register of Companies in place of old name and issue fresh Certificate of Incorporation.

Note: As per Rule 29 of Companies (Incorporation) Rules, 2014, change shall not be allowed to a company which has:

(a) not filed <sup>(s. 92)</sup> annual returns or <sup>(s. 137)</sup> financial statements; or

(b) failed to pay matured deposits or debentures or interest thereon; till time such default continues.

### (C) Alteration of Regd. office clause!

(i) Change in MOA will be required only when registered office shifts from one state to another.

Note: Alteration in MOA will not be required if Regd. office remains within same state.

(ii) For alteration in Regd. office clause in the MOA, approval of C.G. will be required. (Regional Director)

(iii) For this purpose, company shall make application to C.G. and C.G. shall dispose off the application within 60 days.

✓(iv) Before passing order for change, C.G. may satisfy itself that:

✓(a) Alteration has the consent of creditors, debenture holders, and other persons concerned with the company;

(b) Sufficient provision has been made for discharge of debts / obligations of the company;

(c) adequate security has been provided for discharge of debts of the company.

(v) Certified copies of SR and C.G. Order shall be filed by the company with the Registrar of each state.

(vi) Registrar of State where registered office is being shifted shall issue a fresh Certificate of incorporation indicating the alteration.

## (D) Alteration of Object clause:

(i) Alteration of Object clause shall not be allowed if Company raised money from public through issue of prospectus and still has unutilised money, unless:

Object Ed<sup>n</sup>  
Invest - Alt - B.C.

(a) details of such change is published in newspaper

(one in English language and another in Vernacular-local language) and shall also be placed on the website of the Company, if any; and

(b) dissenting shareholders shall be given an opportunity to exit.

(ii) Special Resolution shall be filed by the Company with ROC.

(iii) ROC shall register the Alteration within 30 days.

## ⑧ Registered office of Company: [Sec. 4, Sec. 12, Sec. 13]

Sec. 4(1): MoA shall state the State in which registered office of the Company is proposed to be situated.

Sec. 13(1): MoA may be altered with approval of members by a SR  
[Alteration will be required only if reged. office shifts from one State to another].

Sec. 13(4): Alteration of MoA relating to place of reged. office from one State to another requires approval of CG (Regional Director).

Sec. 12(1): Within 30 days of incorporation of company and at all times thereafter, Company shall have a registered office.

Sec. 12(2): Verification of regd. office is to be furnished to ROC within 30 days of incorporation.

[Rule 25 | 25A → INC 22 | 22A]

Sec. 12(3): Labelling of Name, regd. office and Contact details of the Co.

[Business location | Common Seal | Stationary | Negotiable Inst.]  
↳ Name + Regd. office      ↳ Name      ↳ Name      ↳ Name  
Regd. office, website, other contact details

Sec. 12(4): Notice of change of regd. office shall be given to ROC within 30 days.

Sec. 12(5): - Change of regd. office within the City - OR

- Change from one City to another - SR

(No change in ROC Jurisdiction)

- Change from one City to another - SR + approval  
(Change in ROC Jurisdiction) (Mumbai-Pune) from R.D.

12(6)

Company files an application with RD

30 days

Confirmation by RD to Company

60 days

Filing of Confirmation with ROC

30 days

ROC will

certify the change

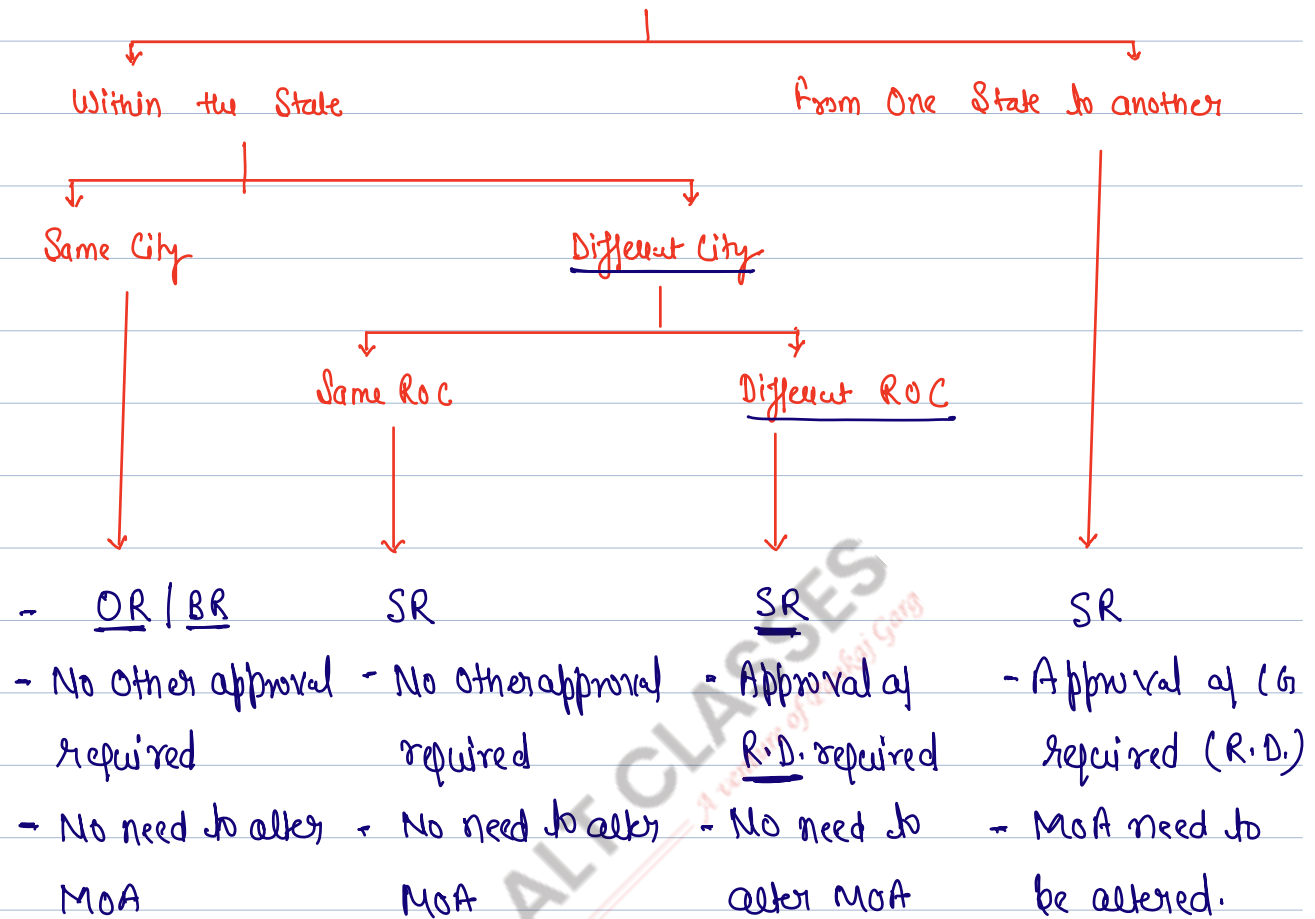
Sec. 12(7): Certificate issued by ROC shall be conclusive evidence.

Sec. 12(8): Penalties for contravention

Sec. 12(9): Physical verification of regd. office by Registrar

[Rule 25B]

## Change of Regd. office



### ⑨ Rectification of Name of Company: [Sec. 16]

(Consolidated provisions of Sec. 4, Sec. 13 and Sec. 16)

Sec. 4(1): MoA shall state the name of the company.

Sec. 4(2): Name of company shall not be identical with or resemble too nearly with the name of an existing company.

Sec. 4(3): Name of a company should not contain any word or expression which is likely to give impression that company is in any way connected with (G/SG).

Sec. 4(4): Application for reservation of name to be filed in prescribed form with the Registrar.

Sec. 4(5): Where after reservation, it is found that name was applied by furnishing wrong information, that ROC shall:

- (a) Cancel the reserved name, if company not yet incorporated, or
- (b) direct the company to change its name within 3 months through OR, if company already been incorporated.

Sec. 13(1): MOA shall be altered with approval of members by SR.

Sec. 13(2): To change the name of company, CG approval in writing is required.

No approval required for addition/deletion of the word 'Private' in name of company.

✓ Sec. 16(1): If through inadvertence or otherwise, a company is registered by a name which in the opinion of C.G.

↓

is identical with or too nearly resembles with the name of an existing company

↓

C.G. may direct the company to change its name within 3 months through OR.

✓ Sec. 16(1): If name resembles with the trade mark of any person

↓

C.G. may on an application recd. within 3 years of incorporation of such company,

↓

direct the company to change its name within 3 months through OR.

Sec. 16(3) : If a company defaults in complying with the directions given by C.G.,

↓

the C.G. shall allot a new name to the company

↓ and

Registrar shall enter the new name in the Register of Companies in place of old name.