

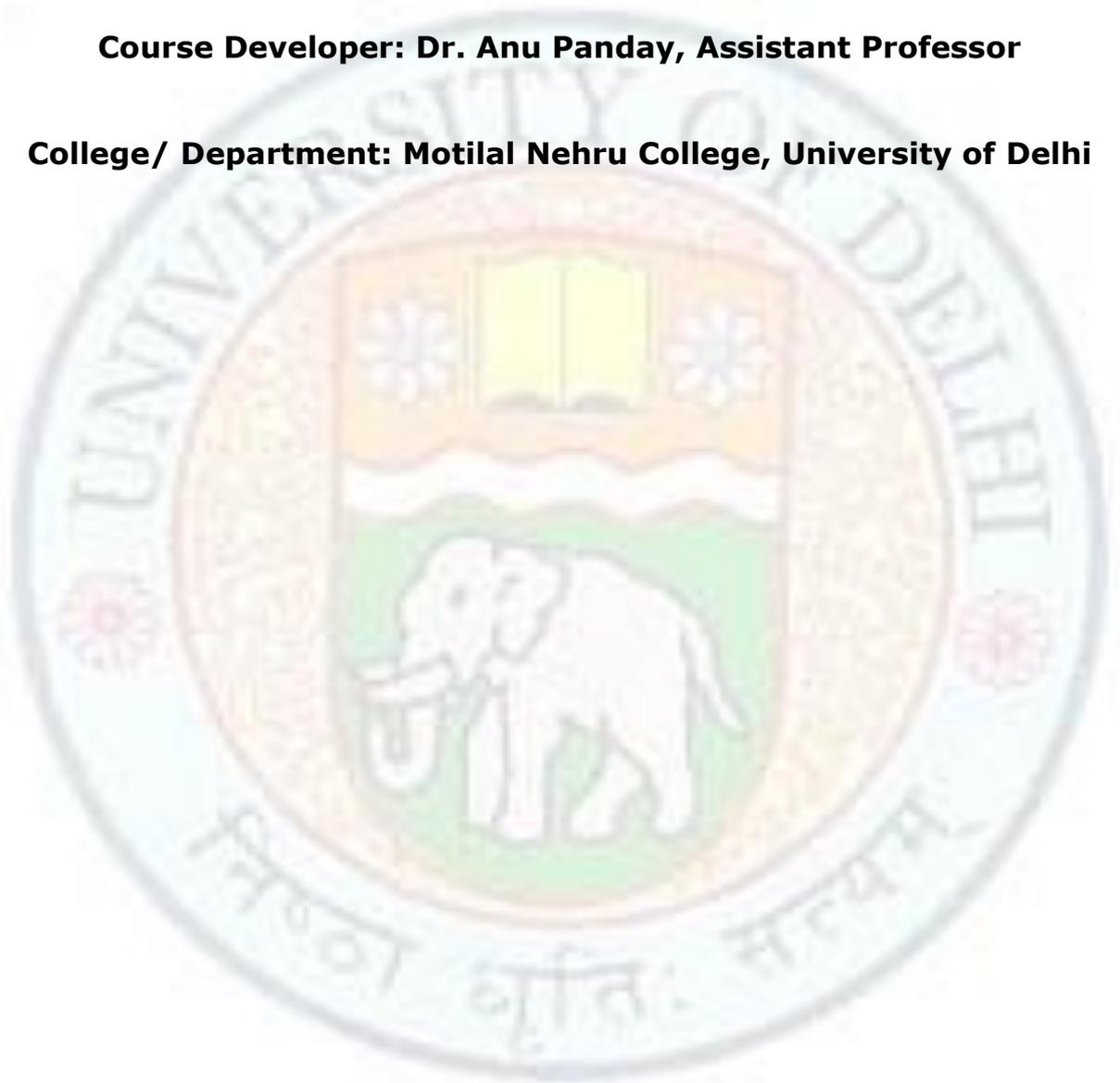
Investigation and Winding-up

Subject : Commerce

Lesson: Investigation and Winding-up

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Investigation and Winding-up

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Introduction

Once a company is formed it's very important that it is kept under constant check. After all the people who run the company are human beings and there are chances that money might make them greedy and corrupt. Inspection and investigation are two tools by which the management of a company can be kept under control. Under inspection and investigation, the books of accounts and other relevant documents of the company are checked to see that the company is not violating any provisions of law. This lesson discusses modes of inspection and investigation, qualifications and powers of an inspector, and the inspection report given by him after conducting the inspection. The lesson further discusses the winding up of a company. The various modes of winding up are discussed in this lesson.



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8.1 Inspection

According to 'Webster's New World Dictionary', inspection is defined as a 'critical examination or an official examination or review' and inspector is defined as an 'official examiner who inspects'. The Oxford Dictionary Of Law¹ has defined inspection as a process wherein 'once a party has been served a list of documents, the other party, together with any co-defendants, must be allowed to inspect the documents referred to in the list. However some



Figure 8.1: Inspector

documents, although they are disclosed in the list, may be privileged and thus exempted from the requirement to produce them for inspection'. In simple words, inspection is a process where a company's books of account and other documents are checked during business hours to ensure that the company is being run according to the rules and regulations and that they are not violating any provisions of the law.

Case law 1

C.V. Karupunni Vs. Joint Director, Inspection, Company Law Board - [(1986) 59 Comp.Cas.814.]

In this case the Kerala High Court held that the principle of ejusdem generis³ has applied in deciding the question as to the type of books and documents the inspecting officers are entitled to inspect. The documents and papers, which the inspecting officers are entitled to inspect, must be those which have the character of books of account. In the guise of carrying out an inspection of books of account and other books and papers, the inspecting authorities cannot make a roving enquiry into all the affairs of the company. The scope of inspection of books of account and other books and papers under section 209 A has its limits and has to be distinguished from the investigation under section 237.

¹ Oxford Dictionary of Law, Indian edition, sixth edition (2006), Oxford University Press.

³ It is the latin for 'of the same kind'. Here a law lists specific classes of persons or things and then refers to them in general. The general statements only apply to the same kind of persons or things specifically listed.

8.1.1 Qualification of an Inspector

If there is any suspicion that a company is violating the provisions of law in carrying out its business, then the Registrar has the power to inspect the books of accounts and other relevant documents of the company. Also an inspector can be a government officer who is authorized by the central government to carry out the inspection. In respect of listed companies or companies proposed to be listed, inspection can be carried out by the officers of SEBI (Securities and Exchange Board of India) in respect of matters under SEBI's administrative control as per provisions of section 55A of the Companies Act 1956.



Figure 8.2: Qualification of an Inspector

8.1.2 Powers of the Inspector (Section 240)

During inspection, the inspector can-

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- a. Make copies of books of account and other papers.
- b. Place any marks of identification as a proof that the inspection has taken place.

In addition to this the inspector has some more powers which are given below:

- He can exercise the power of civil court under civil procedure code.
- He has the power of discovery and production of books and documents.
- He can summon and enforce attendance of persons and examine them on oath.
- He can exercise the power of the Registrar while making the enquiries.

In case the Registrar is the inspector he enjoys in addition to the powers mentioned above certain other powers while making the inspection which are as follows:

1. If the information provided by the company during the inspection is not sufficient then the Registrar can order for further information in the form of books and papers within a prescribed time. If the company fails to furnish the information (books and papers) then the company is punishable with a minimum fine of Rs. 500 for each day till the day the information is furnished.
2. If during inspection the Registrar finds that the state of affairs of the company is unsatisfactory or the documents submitted by the company do not disclose full and fair statement of the affairs, then he can report this to the central government.
3. If the Registrar believes that the books and papers relating to the affairs of the company are likely to be destroyed, mutilated, altered or falsified by the company then he can make an application to a Magistrate and the Magistrate can authorize him to search the place and seize the relevant books and papers. However the seized papers are to be returned within thirty days.

8.1.3 Inspection Report and follow up action by the Central Government

The government has not prescribed any manner in which the inspection report is to be made by the inspector nor has it fixed any time limit within which the report has to be submitted. The report made by the inspector is not allowed to be disclosed to the public before the central government accepts it. If nothing serious is found in the report then the government can close the file but if it is found that something is amiss, then it may decide to take further action against the company in the form of investigation.



Figure 8.3: Follow up action of CG

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8.2 Investigation (sections 235 to 251)

Inspection is the preliminary step to find out whether the affairs of a company are being run according to the provisions of the law. If during the inspection it is found that the company is violating rules, then any authorized body, such as the central government or the Company Law Board, can order investigation into the affairs of the company. However investigation cannot be ordered unless there is sufficient evidence to prove that the company's affairs are not being run according to the provisions of the law.



Figure 8.4: Investigation

Case law 2

Andhra Pradesh State Civil supply vs. Delta Oils & Fats -[(1997) 3 CLJ 146=12 SCL 277 = 96 Comp Cas 303 (CLB)]

In this case it was held, that the investigation into the economic working is not to be ordered unless there is material to show that fall in profits was due to illegal actions. Mere statement of facts based on the auditor's report without any corroborative evidence will not assist the Company Law Board in forming the required opinion. Investigations will not be ordered unless at least prima facie evidence is produced which will lead to the conclusion that an investigation is necessary.

The investigation of a company can be done in any of the following ways:

1. Investigation by the order of the Central Government
2. Investigation by the order of the Company Law Board
3. Investigation on the basis of a special resolution passed by the Company
4. Investigation by the order of the Court
5. Investigation by the Police

Let us now discuss these in detail:

1 Investigation ordered by the Central Government

If the Central Government finds that the inspection report given by the Registrar is unsatisfactory then it can appoint one or more competent persons as inspectors for investigating the affairs of the company. The inspectors have to give their report to the Central Government after completion of the investigation. However instead of ordering for investigation the central government may choose to order for a special audit of the books of account by



Figure 8.5: Investigation of a Company

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a chartered accountant. The government can take the necessary action against the company on the basis of the report submitted by the chartered accountant.

2 Investigation ordered by the Company Law Board

The Company can order investigation in any of the following two ways:

1. On receiving an application from members
2. On its own

In the first case, the company law board can order for investigation of a company if it receives an application for investigation from at least two hundred members of the company or from members who are holding at least 10% of the total voting rights or from members who constitute at least 20% of the total membership of a company which has no public issue.

In the second case, the company law board can order for investigation if it is of the opinion that the company is carrying out business to defraud its creditors or members or that the persons concerned with the formation and management of the company are guilty of fraud or misconduct.

3 Investigation on the basis of a special resolution passed by the company itself

A company which wants its affairs to be investigated can do so by passing a special resolution⁵.

4 Investigation ordered by the court

A court has the power to declare that the affairs of a company need to be inspected by an inspector appointed by the central government. However it cannot suo moto (on its own motion) order or direct the central government to conduct the inspection. The following people can approach the court so that the court may give an order for investigation into the affairs of the company:

- a. A creditor of the company.
- b. The aggrieved members of the company who are not willing to give an application (for conducting an investigation) to the Company Law Board.
- c. The members who applied to the Company Law Board for investigation but whose application was rejected.
- d. A company which wants an investigation but fails to pass a special resolution.

5 Investigation by the Police

Investigation by the police can be carried out if the offence committed in the affairs of the

company is punishable under the Indian Penal Code.



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Figure 8.6: Police Investigation

⁵ A decision reached by a majority of not less than 75% of company members voting in person or by proxy at a general meeting.

A case under investigation

A classic case in very recent times is that of **Satyam Computer Services Ltd.** The founder of the company Mr. B. Ramalinga Raju and some other company officials are allegedly involved in a Rs. 7800 crore fraud. Several investigations have been initiated against them.

For more information go to the following link:
<http://www.yidio.com/consequences-satyam/id/2911232902>



Figure 8.7: The Satyam Scam

The police (CBI-Central Bureau of Investigation) is investigating offences committed by them under section 120-B (criminal conspiracy), section 409 (criminal breach of trust), section 420 (cheating), 467 (forgery) and 477A (falsification of accounts) of the Indian Penal Code.

To have more information on the police investigation go to the following link:
http://www.thaindian.com/newsportal/uncategorized/cbi-registers-case-against-satyams-raju-others-second-lead_100157724.html

The Supreme Court had given permission to SEBI to interrogate the Managing Director of Satyam Computer Services Ltd. Mr. B. Ramalinga Raju and his brother who were involved with the financial scam. It has appointed the General Manager of SEBI Mr. Sunil Kumar to do the interrogation.

For more information go to the following link:
<http://timesofindia.indiatimes.com/Satyam-scam-SEBI-gets-SC-nod-to-quiz-Raju/videoshow/4069995.cms>

8.2.1 Investigation of ownership of a company (Section 247)

The owners of a company are the people who actually control the working of the company and financially gain from the company. Investigation can be carried out to determine the real ownership of the company and to find the people who are in actual control of the company. The central government can order investigation to determine the ownership. The expenses of the investigation has to be borne by the central government. The money, which the central government uses to bear



Figure 8.8: Ownership of a Company

the expenses is provided by the parliament. However, the central government may choose not to bear the expenses and ask the person on whose application the investigation was ordered to bear the expenses.

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Illustration:

AB Company is a public limited company having its head office in Mumbai. For the past two years its books of accounts showed losses therefore it did not declare dividends. Very recently the company's Managing Director Mr Ashok Nagpal bought a Bungalow in a posh locality in the city of Mumbai and the Company's Manager Mr Harish Dwivedi went on a world tour with his family. This is quite ironical because while the company is having losses its top officials are spending money lavishly on personal things. This is enough ground for the Central Government to order investigation to determine the people who are in actual control of the company.

8.2.2 Investigation report and follow up action by the Central Government

The inspector can make an interim as well as a final report. He submits the final report to the central government. The final report is also sent to the company as well as to other body corporate⁶ which have been dealt with during the investigation. The report may also be supplied, on payment of fees, to any member of a company or creditor. A copy of the report has to be sent to the court if the investigation takes place as per the court order.

After receiving the report by the inspector the central government can take any of the following actions:

1. Initiate or start prosecution (file a suit) against the company for any criminal liability.
2. File petition for winding up or application for prevention of oppression and mismanagement or both.
3. Initiate proceedings for recovery of the damages for the fraud, misfeasance or other misconduct or for recovery of property of the company which has been misapplied.

⁶ A legal person such as a company, cooperative, natural person, political party etc. which has the ability to enter into legal transactions.

8.2.3 Distinction between Inspection and Investigation

Basis of distinction	Inspection	Investigation
Sections	Inspection is dealt under Section 209 A of the Companies Act 1956.	Investigation is dealt under Section 235, 237, 239 and 247 of the Companies Act 1956.
Evidence	It can take place without any material proof and evidence of fraudulent practice against the company.	It can take place only if the ordering authority has substantial proof of fraudulent practice against the company.
Notice	It can take place without giving any previous notice to the company.	A prior notice has to be given before conducting an investigation.
Stage of enquiry	Inspection is the preliminary stage of enquiry into the affairs of a company.	Investigation generally follows Inspection and it is the final and more formal stage of enquiry into the affairs of a company.
Area of investigation	The inspecting officer can inspect books of accounts and other relevant documents of	The inspector has the power to not only conduct inspection into the affairs of the company in question but can also investigate into the affairs of companies

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	only the company he is inspecting into.	related to it. These companies may be its holding company or its subsidiary company.
Report	The company or any member of the company or its creditors cannot ask for a copy of the report.	The company or any of its members or creditors can ask for a copy of the report on payment of a prescribed fee.
Expenses	The expenses incurred on inspection is entirely borne by the government and is not recoverable	The expenses incurred on investigation is borne by the government and these expenses can be recovered from the applicants (the persons on whose application the investigation was ordered)

8.3 Winding-up

One of the characteristics of a company is 'perpetual succession'. Perpetual succession means that a company comes into existence by law and law alone can dissolve it. Insolvency, death or incapacity of the members cannot affect the existence of the company. Winding-up is the process by which the company's life comes to an end. The law dissolves the company. Pennington⁷ has defined winding-up as 'the process by which the management of a company's affairs is taken out



Figure 8.9: Winding-Up

of its director's hands, its assets are realized by a liquidator, and its debts and liabilities are discharged out of the proceeds of realization and any surplus of assets remaining is returned to its members or shareholders. At the end of the winding-up the company will have no assets or liabilities, and it will therefore be simply a formal step for it to be dissolved, that is, for its legal personality as a corporation to be brought to an end.'

⁷ See *Pennington's Company Law, 5th edition, Butterworths (1985)*, by Robert R. Pennington.

8.3.1 Modes of Winding-up

There are two modes of winding-up which are given below:

1. Compulsory winding up by the order of the Court
2. Voluntary winding up
 - a. Members' voluntary winding up
 - b. Creditors' voluntary winding up

We can now discuss each one of these modes in detail

8.3.1.1 Compulsory Winding-up by the order of the Court (Tribunal) (Section 433)

Compulsory winding up can be done in any of the following circumstances:

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Special Resolution

If the company desires to be wound up by the Court it can do so by passing a special resolution. However the Court may choose not to wind up the company if it is of the opinion that winding up would be opposed to the public interest or not in the interest of the company.



Figure 8.10: Winding-up by Court Order

Illustration:

Mahakaal Company Limited has 500 employees working in it and it has not been making profits for the past five years. Every alternate year it has made losses. This year its management decides to wind up the company by the order of the Court. Accordingly it passes a special resolution for winding up. The Court decides not to wind up the company as it feels that closing the company will lead to 500 people becoming unemployed.

Default in holding Statutory Meeting or in delivering Statutory Report

In case a company fails to hold a statutory meeting or fails to deliver the statutory report to the Registrar, the court may either order the winding up of the company or penalize the officers responsible for it and extend the time for holding the statutory meeting or for delivering the statutory report.

Illustration:

Roopak Company Limited was incorporated on 12th October 2008 and it obtained the certificate to commence business on 30th October 2008. The company failed to hold the statutory meeting and six months lapsed after obtaining the certificate to commence business. The Court ordered the winding –up of the company.

Inability to pay debts

If a company fails to pay its debts in any of the following three cases then the court may decide to either issue an order for winding up of the company or to either postpone the winding-up order if it is of the opinion that the company can be in a position to pay its debts or refuse winding up if the majority⁸ in value of the creditors oppose the petition and prove that the company must continue to trade.



Figure 8.11: Inability to Pay Debts

The three cases are as follows:

1. Where a company fails to pay its creditor a sum exceeding Rs.500 within three weeks of the demand for payment.
2. Where a company fails to satisfy a court decree in favour of a creditor either in whole or

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- in part.
3. Where the court is satisfied that the company is unable to pay its debts.

Illustration:

Sita & Gita Company Limited is in the business of readymade garments for the last five years. The Company purchases garments from Ghanshyam Sons, who are manufacturers of garments. In August 2008 the company purchases five hundred readymade shirts worth Rs. one thousand each. They buy the shirts from Ghanshyam Sons on credit and promise to make the payment within three months. Three months elapse and the company does not make the payment. On December 2008 Ghanshyam Sons go to the court for recovery of their money. The Court finds that Sita & Gita Company has been incurring losses for the last twelve months and is unable to pay its debts. The Court orders winding-up of the company.

Failure to commence business within one year of incorporation or suspending business for a whole year

If a company is required to commence business within one year from the date of incorporation and if it fails to do so or suspends business for one whole year after commencement, then the court can order the winding-up of the company.

Illustration:

Galgot Company was formed to run a hospital. It got itself registered as Jan Urja Chikitsalaya on 30th July 2008. In the first week of August 2008 it advertised in the Times of India the posts of doctors, nurses and other staff required to run the hospital. The interviews were held on 1st September 2009 but no appointments were made. More than one year elapsed and the hospital did not have a single doctor or a nurse working in it. No patient was treated in the hospital. Hence the Court ordered Galgot company to wind up.

⁸ Fifty one percent or more creditors.

Membership below the minimum limit

If the membership falls below the minimum limit required, i.e. 7 in case of a public limited company and 2 in case of a private limited company, then the Court may order winding-up of the company.



Figure 8.12: Minimum 7 Members – Public Co

Illustration:

Sandy & Wandy Co. Ltd is a public limited company having seven members: Harish, Satish, Manish, Suresh, Ganesh, Rupesh & Mukesh. On 1st January 2009, Mukesh was going to Shimla with his family and on his way met with an accident. He went into coma. For the next six months he was totally bed-ridden, and during this time he did not visit the company nor

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looked into its affairs. Yet he was still a member of the Company. On 30th July 2009 Mukesh died, thus reducing the total membership of the company drop to six. The Company did not bring any new member and kept operating with six members for another eight months. On 1st April 2010 the Court ordered the company be wound up.

Just and Equitable Ground

If the Court is of the opinion that it is desirable to wind up the company then it can do so. However the winding up by the Court is done on a just and equitable ground.

Some of the just and equitable grounds on the basis of which the Court may order the winding up are given below:

- a. When a company is unable to make profits and is consecutively making losses every year. **Losses:**
- b. **Illegal Purpose:** If the company has been formed for a fraudulent or illegal purpose.
- c. **Management Deadlock:** When there is a deadlock in the management of the company.
- d. **Oppression of Minority:** If the shareholders adopt an aggressive and oppressive policy towards the minority shareholders.
- e. **Loss of Substratum:** In case the company fails to realize the main object for which it was formed or, in other words, it has lost its substratum.

Illustration:

Sukhdev Company Limited is a private company which was established five years back to export garments. Its main buyers were the US Nationals. For the last two years due to economic recession the company started running into huge losses. Its members decided to form another company with the objective to buy Sukhdev Company and sell the garments manufactured by it for domestic consumption and not for exports. They formed a company by the name of Dhanpati Company but very soon Sukhdev Company started making profits and therefore its members decided not to sell the company to Dhanpati Company. The main objective for which Dhanpati Company was formed could not be achieved hence the Court ordered for its winding up.

8.3.1.2 Voluntary Winding up (Section 518)

A company may wind up voluntarily by either passing an ordinary resolution or by passing a special resolution. If it is provided in the articles, a company can voluntarily wind up by passing an ordinary resolution provided the duration for which the company was formed has expired or an event has occurred on the occurrence of which the company is allowed to wind up. In case winding up is not mentioned in the articles then in such a case



Figure 8.13: Voluntary Winding up

the company can voluntary wind up by passing a special resolution. Within fourteen days of passing the resolution, the company has to give notice of the resolution through an advertisement in the official gazette and in some newspapers that circulate in the district of the registered office of the company.

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Voluntary winding up is of two types, namely:

1. Members' voluntary winding up
2. Creditors' voluntary winding up

8.3.1.2.1 Members' voluntary winding-up (Section 489)

Its members can do voluntary winding up of the company only when the company is solvent and is able to pay its liabilities fully. Some of the provisions to be fulfilled in member's voluntary winding-up are discussed below:

Declaration of solvency (Section 488): The company's directors or majority of its directors in a Board meeting make a declaration that the company has no debts, or that it will be able to pay its debts in full within a period not exceeding 3 years from the commencement of the winding-up as may be specified in the declaration. The declaration must be:

1. Made within five weeks immediately preceding the date of passing of the winding up the resolution by the members.
2. It should be delivered to the Registrar for filing before the said date.
3. It should be accompanied by a copy of the report of the auditors of the company on the profit and loss account and the balance sheet of the company made out as on the last mentioned date. This should also embody a statement of the company's assets and liabilities as on that date.

Appointment and remuneration of liquidators (Section 490): In a general meeting

the company must:

- a. Appoint one or more liquidators for the purpose of winding-up the affairs and distributing the assets of the company.
- b. Fix the remuneration, if any, to be paid to the liquidator or liquidators. Such remuneration cannot be increased in any circumstances with or without the sanction of the court (Tribunal). A liquidator cannot take charge of his office unless his remuneration is so fixed.

Board's power to cease (Section 491): After the appointment of a liquidator the powers of the Board of Directors and of the managing director, whole time director or manager cease except for the purpose of giving notice of such appointment to the Registrar.

Notice of Appointment of Liquidator to be given to Registrar (Section 493): The Company must give notice to the Registrar regarding the appointment of liquidator within 10 days of his appointment.

Notice of appointment to Income-tax officer: The liquidator appointed by the company for winding-up has to give notice of his appointment as liquidator to the income-tax officer within thirty days of his appointment.

Power of liquidator to accept shares, etc. as consideration of sale of property of the Company (Section 494): The liquidator may accept shares, policies or interests in consideration of the sale of the company's undertaking to another company in order to distribute them amongst the members of the transferor company.

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Duty of Liquidator to call creditors' meeting in case of insolvency (Section 495): If the liquidator at any time feels that the company will not be able to pay its debts in full within the period stated in the declaration of solvency, or that period has expired without the debts having been paid in full, then in that case it is the duty of the liquidator to call a meeting of the creditors and lay before them a statement of the assets and liabilities of the company.

Liquidator to call general meeting at the end of each year (Section 496): If winding-up continues for more than one year then the liquidator must at the end of each year call a general meeting of the company and lay before the meeting an account of his/ her acts and dealing and the conduct of the winding-up during the preceding year.

Final Meeting and Dissolution (Section 497): As the company is wound-up the liquidator can make an account of winding-up, showing how the winding-up was conducted and how the property of the company was disposed. The liquidator will also call a general meeting of the company for the purpose of laying the account before it.

Dissolution of the Company: Once the company is dissolved it cannot hold any property or be sued in Court of law. If any property still remains at the point of dissolution, then such property can vest in the Government.

8.3.1.2.2 Creditors' Voluntary Winding-up (Section 499)

Creditors' voluntary winding up can take place only when the company has become insolvent. The creditors appoint the liquidator and if desired they may appoint a committee of inspection which fixes the liquidator's remuneration.

Some of the provisions to be fulfilled in creditors' voluntary winding-up are discussed below:

Meeting of creditors (Section 500): The Board of Directors must summon a meeting of the creditors on the same day or the next day after the meeting at which the resolution for voluntary winding-up is to be proposed. The Board of Directors must prepare and lay before the meeting a statement of the position of the company's affairs, together with a list of its creditors and the estimated amounts of their claims. The meeting is chaired by one of the directors of the company.

Notice to Registrar (Section 501): A copy of the resolution passed at the creditors' meeting must be filed with the Registrar within 10 days of the passing thereof.

Appointment of Liquidator (Section 502): The creditors and the members at their respective meetings may nominate a person to be the liquidator for the purpose of winding up the affairs and distributing the assets of the company. If the members and creditors nominate different people as liquidators then in that case the creditor's nominee will as a rule be the liquidator.

Committee of inspection (Section 503): The creditors at their first or any subsequent meeting can appoint a committee of inspection. The committee of inspection will fix the remuneration to be paid to the liquidator.

Board's power to cease (Section 505): On the appointment of the liquidator the powers of the Board of Directors cease.

Power of the liquidator to accept shares etc. as consideration for the sale of property: The liquidator may accept shares, policies or interests in consideration of the sale of the company's undertaking to another company in order to distribute them amongst the members of the transferor company but only subject to the permission to exercise power granted either by the committee of inspection or of the Court (Tribunal).

Duty of the liquidator to call meeting of the company and of the creditors at the end of each year (Section 508): If the winding-up continues for more than one year then the

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liquidator must at the end of each year call a general meeting of the company and the meeting of the creditors and lay before the meeting an account of his/ her acts and dealings and the conduct of the winding-up during the preceding year.

Final meeting and dissolution (Section 509): As soon as the company is wound up the liquidator has to make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed and call a general meeting of the company and a meeting of the creditors for the purpose of laying the account before the meeting.

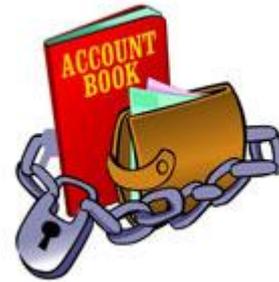


Figure 8.14: Winding Up

8.3.2 Distinction between Winding up and Dissolution

Basis of Distinction	Winding up	Dissolution
Meaning	Winding-up is a process by which the company's life is brought to an end.	Dissolution is a term signifying legal termination of the Company. On Dissolution the company ceases to exist.
Sequence	Winding-up is a process which precedes dissolution.	Dissolution follows Winding-up.
Legal Entity	During the process of winding-up the legal entity of the company exists.	After dissolution the legal entity of the Company no longer exists.
Register of Companies	During the winding up of the company its name still exists in the Register of Companies.	The Registrar strikes off the name of the company from the Register of Companies.
Sued in the Court	During the process of winding-up the Company can be sued.	Once the Company has been dissolved it cannot be sued.
Official Gazette	The information of winding up of the company need not be published in the Official Gazette	The information about the dissolution of the company has to be published in the official gazette.

8.3.3 Distinction between Winding up and Inspection

Basis of Distinction	Winding up	Inspection
Meaning	Winding up is a process by which the company's life is put to an end.	Inspection is a process in which a company's documents are checked to ensure that the company is not violating any provisions of the law.
Closure	Winding up leads to closure of the company	Inspection does not lead to closure of the company
Official Person	The person responsible to carry	The person responsible to carry out inspection is called an Inspector.

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	out winding-up of the company is called a Liquidator or Administrator.	
Result	Winding up ultimately leads to dissolution of the company. The life of the company comes to an end.	Inspection does not lead to the termination of the company. If the company is found to be violating rules then further action against the company is taken in the form of investigation; otherwise the company continues to function as it was functioning earlier.

Sections

IMPORTANT SECTIONS

SECTION	DESCRIPTION
235 to 251	Investigation
240	Powers of the Inspector
247	Investigation of ownership of a company
433	Compulsory winding-up by the order of the Court
518	Voluntary winding-up
489	Member's voluntary winding-up
499	Creditor's voluntary winding-u

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Summary

8.4 POINTS TO REMEMBER

Inspection

- Meaning
- Qualifications of an Inspector
- Powers of the Inspector
- Inspection Report

Modes of Investigation

- Investigation ordered by the Central Government
- Investigation ordered by the Company Law Board
- Investigation on special resolution passed by the company itself
- Investigation ordered by the Court
- Investigation by the Police

Investigation

- Investigation of ownership of a company
- Investigation Report
- Distinction between Inspection & Investigation

Winding-up & Modes of winding-up

- Meaning
- Compulsory winding-up
- Voluntary winding-up

Compulsory winding-up

- Special Resolution
- Default in holding statutory meeting or in delivering statutory report
- Inability to pay debts
- Failure to commence business within one year of incorporation or suspending its business for a whole year
- Membership below minimum
- Just and Equitable ground

Voluntary Winding-up

- Members' voluntary winding-up
- Creditors' voluntary winding-up

Provisions to be fulfilled in member's voluntary winding-up

Investigation and Winding-up

- Declaration of solvency
- Appointment and remuneration of liquidator
- Board's power to cease
- Notice of appointment of liquidator to be given to Registrar
- Notice of appointment to income tax officer
- Power of liquidator to accept shares, etc. as consideration of sale of property of the Company
- Duty of liquidator to call creditors' meeting in case of insolvency
- Liquidator to call general meeting at the end of each year
- Final meeting and dissolution
- Dissolution of the company

Provisions to be fulfilled in creditor's voluntary winding-up

- Meeting of creditors'
- Notice to registrar
- Appointment of liquidator
- Committee of inspection
- Board's power to cease
- Power of the liquidator to accept shares as consideration for the sale of property
- Duty of the liquidator to call meeting at the end of each year
- Final meeting and dissolution

