Liquidation of Company

Meaning :→

A company, being an artificial person is created by law and it can come to end only through a process of law. The legal process of winding up a company is designated as liquidation. It is not necessary that only an insolvent company should be liquidated. sometimes, it becomes necessary to liquidate even a solvent company.

Procedure :→

when liquidation take place, assets of the company are sold and out of the proceeds claims of Creditors are settled. If any surplus is left, it is distributed among the shareholders. It must be noted that disbursements to the claimants have to be made strictly in a prescribed order of payment when the winding-up is completed, the liquidator has to prepare a statement is called as "Liquidator Final statement of Account."

Liquidator's final statement of Accounts

Receipts	Amount	Payments	Amount
To Cash in hand To Amount Realised from the sale of Assets as:- Land & Building furniture Plant To Surplus amt received from Secured Creditor To Calls from Shareholders.		By legal charges By Liquidator's Remuneration (i) % on amt. realised from assets (ii) % on amt. pay to Creditors (iii) % on amt. paid to Shareholders By liquidation Expenses By Debentureholders or Creditors having a floating on assets By Preferential Creditors By other unsecured Creditors By Preference Shareholder By Equity Shareholders	

Liquidator must make the payments in the following order :-

1) Legal charges :- These include expenses incurred on filing the suit for the recovery of amounts due to the Company

(2) **Liquidator's Remuneration** :→ Remuneration to the liquidator normally is divided into three parts :-

(a) **Commission on amounts realised from Assets** :→ The liquidator normally gets remuneration in the form of Commission which is based on a % on asset realised.

$$\text{Amt. of Commission} \Rightarrow \frac{\text{Amt. realised from sale of Asset} \times \text{Rate of Commission}}{100}$$

(b) **Commission on amt paid to unsecured creditors** :→ when the liquidator entitled to a Commission based on the amount paid or distributed to unsecured creditors, Preferential creditors must also included under it.

It has two types

when the Company is Solvent

$$\text{Amount of Commission} = \frac{\text{Amt. of Unsecured Creditors} \times \text{\% of Commission}}{100}$$

when the Company is Insolvent

$$\text{Amount of Commission} = \frac{\text{Amt. available for unsecured Creditors} \times \text{\% of Commission}}{100 + \text{\% of Commission}}$$

iii) (c) Commission on Amt paid to Shareholders :- Sometimes, the liquidator is allowed a Commission on the amount distributed among shareholders.

Amount of Commission $\Rightarrow \dfrac{\text{Amt. available to Shareholder} \times \text{\% of Commission}}{100 + \text{\% of Commission}}$

(3) Liquidation Expenses :-> Liquidation Expenses are paid at number three.

(4) Debentureholder or Creditors having a floating charge on Assets :-> These are paid at number four. and Interest on debentures will be paid upto the date of actual payment in case of solvent Company. On the other hand, If the Company is insolvent then interest on debenture will be paid upto the date of liquidation.

(5) Preferential Creditors :-> following are the preferential Creditors according to Sec. 327 of the Companies Act 2013 :->

1) All taxes, rates due from the Company to the central or state Government with in 12 Months next before the Commencement of winding-up.

(2) All wages or salaries of any employee due for a period not exceeding 4 Months with in the 12 Months next before the commencement of winding up. providing the amt payable to the one claimant will not exceed ₹ 20,000

(3) All sum due to an employee from a provident fund, pension fund, gratuity fund or All sums due as Compensation under the Workmen's Compensation Act 1923.

(4) The expenses of any Investigation held under Section 213 or 216, in so far as they are payable by the Company.

(6)

Unsecured Creditors :- These are paid out of the balance left after payment preferential creditors.

(7) Preference shareholders :- Preference shareholders are entitled to return of capital in priority to any return of Capital to equity shareholders and payment of arrears of dividend is done according to articles of associations.

(8)

Equity shareHolders :- Any amount left after payment to preference shareholders will be distributed entirely among equity shareholders.