

Ch. 13 Transfer and Transmission of Securities

Provisions regarding Transferability

Free transferability of securities	<p>According to section 58(2), the shares in a public company shall be freely transferable. The Board of directors of a Company or the concerned depository has no discretion to refuse or withhold transfer of any shares. The transfer has to be effected by the company/depository automatically and immediately.</p>
Instruments of transfer to be presented to the company	<p>Under section 56 of the Companies Act, 2013, a company will register a transfer of securities of the company, only when a proper instrument of transfer as per the format laid down in Form No SH. 4 (when such securities are held in the physical form) is submitted to the company.</p> <p>(Rule 11 of Companies (Share Capital and Debentures) Rules, 2014).</p> <p>The form needs to be duly stamped, with adequate value, dated and executed by or on behalf of the transferor and the transferee.</p> <p>The form needs to be sent to the company by the transferor or the transferee within a period of sixty days from the date of execution, along with the share certificate/certificate relating to the securities. In case there is no such certificate, the application must be sent along with the letter of allotment of securities.</p> <p>A company will not register a transfer of partly paid shares, unless the company has given a notice in Form SH-5 to the buyer and has obtained no objection from the buyer within two weeks from the date of receipt of notice.</p>

Time Limit for Delivery of certificates

According to Section 56(4), every company, unless prohibited by any provision of law or any order of court, tribunal or other authority, deliver the certificates of all securities allotted, transferred or transmitted, within a period of one month from the date of receipt by the company of the instrument of transfer or as the case may be of the intimation of transmission.

Intimation to depository

Section 56(4) states that where the securities are dealt with in a depository, the company shall intimate the details of allotment of securities to depository immediately on allotment of such securities.

Transfer of securities by legal representative

According to section 56(5) of the Companies Act, 2013, the transfer of any security of a deceased person in a company made by his legal representative shall, even if the legal representative is not a holder thereof, be valid as if he had been the holder at the time of the execution of the instrument of transfer.

Penalties

According to Section 56(6), when any default is made in complying with the above provisions, the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees.

Punishment for Personation of Shareholders [Section 57]

Where any person deceitfully personates an owner of any share and (i) thereby obtains or attempts to obtain any such share or (ii) receives or attempt to receive any money due to any such owner, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to 3 years and with fine which shall not be less than one lakh rupees but which may extend to 5 lakh rupees.

POWER TO REFUSE REGISTRATION AND APPEAL AGAINST REFUSAL

According to section 58(1) of the Companies Act, 2013, if a private company limited by shares refuses to register the transfer of, or the transmission by operation of law of the right to, any securities of a member in, the company, it shall, within a period of thirty days from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transferee and the transferor or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.

STATUTORY REMEDY AGAINST REFUSAL UNDER SECTION 58

The right of the holder of securities to transfer his securities in a company is absolute but subject to provisions of the Act and restrictions, laid down in the AOA.

If a private company limited by shares refuses to register the transfer or transmission, the transferee may appeal to the Tribunal against the refusal within 30 days from the date of receipt of the notice or in case no notice has been sent by the company, within 60 days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, was delivered to the company. [Section 58 (3)]

If a public company without sufficient cause refuses to register the transfer of securities within 30 days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, is delivered to the company, the transferee may, within 60 days of such refusal or where no intimation has been received from the company, within 90 days of the delivery of the instrument of transfer or intimation of transmission, appeal to the Tribunal. [Section 58 (4)]

The Tribunal, while dealing with an appeal, after hearing the parties, either dismiss the appeal, or by order—

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within 10 days of the receipt of the order; or

(b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved. [Section 58 (5)]

If a person contravenes the order of the Tribunal, he shall be punishable with imprisonment for a term which shall not be less than 1 year but which may extend to 3 years and with fine which shall not be less than 1 lakh rupees but which may extend to 5 lakh rupees. [Section 58 (6)]

Case Laws

Shri Nirmal Kumar vs. Jaipur Metal and Electrical Limited)

Refusal to register share transfer on suspicion that the employee if admitted as a member will attend general meetings of the company and may create nuisance by raising irrelevant issues and also obtain access to the records to the company as a shareholder is not a valid reason.

Rangpur Tea Association Ltd. vs. Makkan Lal Samaddar

The mere attempts of a person to wind up a company more than once cannot be a ground for refusing to register transfer by the directors.

M.J. Amrithalingam vs. Gudiyatham Textiles Pvt. Ltd.,

Where the articles of association of a company confers a discretion on the directors with regard to acceptance of transfers, this discretion is a fiduciary one to be exercised bona fide in what the Board considers to be in the interest of the company. If on a true construction of the articles, the directors are only given the powers to reject on certain prescribed grounds and it is proved that on these grounds the request for transfer was rejected, the Court cannot substitute the opinion of the Board. If the articles of association give an unrestricted discretion, the court would interfere with it only on proof of bad faith.

Bajaj Auto Limited v. N.K. Firodia

The Supreme Court observed, in the exercise of the discretion, the directors will act in the paramount interest of the company and in the general interest of the shareholders. The directors are, therefore, required to act bona fide and not arbitrarily and not for any collateral motive”.

In this case, the articles permitted the directors to decline to register transfer of shares without stating reasons, the Court would not draw un-favorable inferences against the directors because they did not give reasons. The Court would assume that the directors acted reasonably and bona fide and those who allege to the contrary would have to prove and establish the same by evidence.

However, if the directors gave reasons, the Court would consider whether they were legitimate and whether the directors proceeded on right or wrong principle. The Court has also laid down three tests to determine the proper exercise of power by the Board of directors. The tests are:

1. Whether the directors acted in the interest of the company;
2. Whether they acted on a wrong principle; and
3. Whether they acted on a collateral purpose.

If the directors have uncontrolled and absolute discretion in regard to declining registration of transfer of shares, the Court would consider whether the reasons were legitimate or the directors acted on a wrong principle, or from corrupt motive. If the reasons for refusal given by the directors were legitimate, the Court would not over-rule that decision.

Where the appellant transferee and respondent company were in the same line of business and were rivals, the refusal on the ground of rivalry will be justified in terms of the decision rendered by the Supreme Court in the Bajaj Auto Case.

RECTIFICATION OF REGISTER OF MEMBERS (Section-59)

Without sufficient cause, if the name of any person is entered in the register of members of a company, or omitted therefrom, or unnecessary delay takes place in entering in the register, the fact of any person having become or ceased to be a member, the aggrieved person, or any member of the company, or the company may appeal to the Tribunal, for rectification of the register. [Section 59(1)]

The Tribunal may, after hearing the parties to the appeal, by order, either dismiss the appeal or direct that the transfer or transmission shall be registered by the company within 10 days of the receipt of the order or direct rectification of the records of the depository or the register and in the latter case, direct the company to pay damages, if any, sustained by the party aggrieved. [Section 59 (2)]

During the pendency of the appeal before the Tribunal, the holder of securities can transfer such securities and such further transfer would entitle the transferee to voting rights also, unless the voting rights in case of transferee have also been suspended by the Tribunal. [Section 59 (3)]

Where the transfer of securities is in contravention of any of the provisions of the Securities Contracts (Regulation) Act, 1956, the Securities and Exchange Board of India Act, 1992, the Tribunal may, on an application made by the depository, company, the holder of the securities or the Securities and Exchange Board, direct any company or a depository to set right the contravention and rectify its register or records concerned [Section 59(4)].

If any default is made in complying with the order of the Tribunal, the company shall be punishable with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to one year or with fine which shall not be less than one lakh rupees but which may extend to three lakh rupees, or with both [Section 59(5)].

STAMP DUTY PAYABLE

The transfer of securities attracts stamp duty under the Indian Stamp Act, 1899. Only the Central Government can levy stamp duty on share transfers. Stamps at the rate of twenty-five paise for consideration of Rs.100.

The stamp duty payable on transfer of debentures is, also governed by the Indian Stamp Act, 1899, and also varies from State to State.

In this case, the duty would be:

(i) The duty applicable where the deed is executed, or

(ii) The duty applicable where the registered office of the company is situated, whichever is higher.

The amount of consideration is required to be mentioned in the share transfer deed as otherwise the companies cannot verify whether share transfer stamp duty has been correctly charged thereby attracting the penal provisions of the Stamp Act in case of a default. Thus, in case where question of consideration does not arise like in the case of a gift of shares, stamp duty will be paid on the basis of the market value of shares and in case of unquoted shares or where quotations are not available at the face value of the shares.

NOTE	No stamp duty is payable for registration of transfer of shares in depository form. However, transaction charges are payable to depository participants.
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CASES

Shri Parveen Sharda vs. Chopsani Ice Aerated Water and Oils Mills Ltd.,

According to section 56(1) of the Companies Act, 2013, it is mandatory that the company shall not register the transfer of shares unless a properly executed instrument of transfer duly stamped has been delivered to the company.

Vardhaman Publishers Ltd. vs. Mathrubhumi Printing & Publishing Co. Ltd.

The Kerala High Court held that affixing stamps on a separate sheet of paper and attaching it to the transfer application or cancellation of stamps by drawing a line across the stamp was not improper and would not invalidate the said application.

On the question of whether a newly added Article empowering the Board to reject transfer of shares would affect transactions of sale of shares entered into before the insertion of the Article, the Court held that the property in the shares passes on the date of transfer and the right to have the shares registered in the transferee's name becomes crystallized on that day itself.

Any alteration of articles will not affect concluded transactions and in respect of such transactions, the existing articles would prevail. So, if the original (unaltered) Articles as on the date of transfer permit free transfer of shares, the Board cannot refuse registration of the transfer.

LOST TRANSFER DEEDS

It is sometimes found that the transfer documents sent to companies are lost, say, in transit. In such a case, the proviso to section 56(1) of the Act provides that where the instrument of transfer has been lost or the instrument of transfer has not been delivered within the prescribed period (within 60 days from the date of execution of the instrument of transfer), the company may register the transfer on such terms as to indemnity as the Board may think fit.

The Board of directors of the company should be satisfied that the instrument of transfer signed by or on behalf of the transferor and by or on behalf of the transferee has been lost. The proof may be in the form of an affidavit from the transferor or the transferee and supported by the purchase or sale note of the broker and the registration receipt issued by the postal authorities.

DELEGATION OF POWERS FOR TRANSFER

It is the articles of the company which authorize the Board of directors to accept or refuse transfer of securities, at their discretion. The Board further have the power to delegate all or any of their powers to any of the directors of the company or any person even not in the employment of the company. Therefore, the articles of association should authorize the Board of directors to delegate the powers suitably. Only in the case of refusal to register a transfer, the directors are required to exercise their discretion.

TRANSFER OF SHARES TO A MINOR

According to Section 11 of the Indian Contract Act, 1872, a minor is not competent to enter into any contract, it follows that his name cannot be entered in the Register of Members and therefore, he cannot become a member of a company.

However, there is no objection in law to the guardian of a minor entering into a contract on behalf of a minor, by virtue of the statutory right conferred on the guardian of a minor under the Hindu Minority and Guardianship Act, 1956.

Since Section 56 of the Companies Act, the transfer deed can be executed by a minor through his natural guardian as transferee, and the contract so entered into by a minor through his natural guardian is a binding and valid contract under Section 8 of the Hindu Minority and Guardianship Act, 1956.

NOTE: The articles of association of a company cannot impose a blanket ban prohibiting transfer of shares in favor of a minor, as such a restriction is unreasonable.

Where a blanket restriction is imposed on transfer to a minor, it would mean that the shares of a deceased member can never be inherited by the legal heir who might be a minor. This would lead to a highly unjust situation and cannot be accepted as tenable.

Accordingly, there is no reason why the shares which are fully paid-up and in respect of which no financial liability devolves on the minor are to be held as not transferable merely because of the ban imposed in the articles of association [**Saroj v. Britannia Industries Ltd.**].

TRANSFER OF SHARES TO PARTNERSHIP FIRM

A firm is not a person and as such is not entitled to apply for membership.

TRANSFER OF SECURITIES TO A BODY CORPORATE

An incorporated body being a legal person can acquire securities in its own name. Where a company is a transferee, the following documents are required to be submitted to the company:

- (a) A certified true copy of the Board resolution to execute the instruments;
- (b) A certified true copy of a Board resolution passed under Section 179(3)(e) of the Companies Act; and
- (c) A certified true copy of Memorandum and Articles of Association of a company.

The Board of Directors of a company or the concerned depository has no discretion to refuse or withhold transfer of any security.

TRANSMISSION OF SECURITIES

Meaning

Transmission of securities means where a person acquires an interest in property by operation of law, such as by right of inheritance or by reason of the insolvency or lunacy of the holder of securities or by purchase in a Court-sale.

Secretarial Standard SS-6 on transmission of shares and debentures by ICSI provides for the procedure to be followed for transmission.

Section 56(1) of the Companies Act, 2013 states that the transfer of securities must be effected by a proper instrument of transfer and that a provision in the articles of an automatic transfer of securities of a deceased securities-holder is illegal and void.

But for such transmission, instrument of transfer is not required, merely an application addressed to the company by the legal representative is sufficient.

The legal representative is, however, not a member of the company by reason only of being the legal owner of the shares. But he may apply to be registered as a member. On the contrary, instead of being registered himself as a member, he may make such transfer of the shares as the deceased member could have made. The Board of directors also have the same right to decline registration as they would have had in the case of transfer of shares before death. But if the company unduly refuses to accept a transmission, the same remedies are available to the legal representative as in the case of a transfer namely, an appeal to the Tribunal u/s 58.

DISTINCTION BETWEEN TRANSFER AND TRANSMISSION OF SECURITIES

Basis	Transfer of Securities	Transmission of Securities
Nature	Transfer takes place by a voluntary act of the transferor.	Transmission is the result of the operation of law.
Instrument	An instrument of transfer is required in case of transfer.	No instrument of transfer is required in case of transmission.
Circumstance	Transfer is a normal course of transferring property.	Transmission takes place on death or insolvency of a holder of securities
Consideration	Transfer of securities is generally made for some consideration	Transmission of securities is generally made without any consideration
Stamp Duty	Stamp duty is payable on transfer of securities by a holder of securities	No stamp duty is payable on transmission of securities.

Rejected Documents

Documents which are not duly stamped or where stamps are not cancelled should be returned to the person lodging them pointing out the errors so as to enable them to rectify the error.

In **Federal Bank Ltd. v. Smt. Sarla Devi Rathi**, the company had not registered 100 shares that Smt. Sarla Devi Rathi, the respondent, had purchased and neither they returned the share certificates to her. The company urged that since the respondent had not become a shareholder of the company, no cognizance of the complaint could be taken. The Tribunal held that there was a prima-facie case against the company.

The Tribunal has pointed out that the company on not registering the transfer should have returned the documents to the party who lodged them (the transferee in this case) and not to the transferor as the transferor loses his right in the shares as soon as he executes the transfer in blank.

Time for pointing out insufficiency of stamps

Where a company by mistake or otherwise registers a transfer which should have been refused because of insufficient or un-cancelled stamps, or because of the instrument being unstamped, it should point out the error to the transferee within one year from the date of execution so that the transferee can have the matters rectified through the orders of the Collector. Afterwards it would be too late. [**Kothari Industrial Corpn. Ltd. v. Lazor Detergents P. Ltd.**]

Impounding of Documents Relating to Share Transfer

The Board of directors are not persons to impound or regularize an instrument of transfer which is not duly stamped. [**Mathrubhumi Co. Ltd. v. Vardhaman Publishers Ltd.**]

Cases Regarding Transfer of Shares

Re. Letheby & Christopher Ltd.,

A transfer deed executed by the transferor alone does not pass the title in the shares to the transferee. Where the transferor's address and the distinctive numbers of the shares were not mentioned in the transfer form, the same was held to be not void because those particulars were verifiable from the accompanying share certificate.

CIT v. Ramaswamy

A transfer is complete as between the transferor and transferee when all the formalities such as execution of the transfer deed and handing over the share certificates are completed.

LIC of India v. Escorts Ltd.

The Supreme Court held that "a transfer effective between transferor and the transferee is not effective as against the company and any person without notice of the transfer being registered in the company's register.

Choukhani v. Western India Theatres Ltd.

If the director refuses the request for transfer of shares with mala fide intent i.e. if they act oppressively or corruptly, the Company Law Board (Now NCLT) will interfere and order registration of the transfer of shares.

Re. Wahib Bus and Mails Transport Co.

The onus of proving bad faith on the part of directors rests on the plaintiff.

Dr. Rajiv Das v. The United Press Ltd.

In the case, where the shares of a company are held in joint names and one of these joint holders requests the company to split the shares equally between the joint holders by issuing fresh certificates, the company shall not be legally bound to do so unless the share transfer

deeds executed by both the joint holders duly completed and stamped are lodged with the company together with the relevant share certificates, u/s 56 of the Companies Act, 2013.

T.S. Premkumar v. Tamil Nadu Mercantile Bank Ltd.

There shall be no justification, if a company/bank asks for information on Income Tax Returns (including that of the nominees of the transferee), the sources of the consideration paid for the purchase of shares, the details of the group to which the transferee is attached, for the purposes of registration of transfer of shares, if the number of the shares which are subject matter of transfer, is insignificant, and after the registration of which the controlling of interest in the company/bank is not changing.

COMPLIANCE WITH SECTION 56 – A MANDATORY PROVISION

The Allahabad High Court had held that the provisions of Section 56 are not mandatory but only directory and, therefore, the registration of a transfer of shares without an instrument of transfer is not void.

Maheshwari Khetan Sugar Mills vs. Ishwari Khetan Sugar Mills.

But section 56 of the Companies Act, 2013 mentions the words ‘shall not register’ which have the effect of forbidding the act of transfer except on the fulfilment of certain conditions precedent.

The above decision of the Allahabad High Court has since been reversed by the Supreme Court in **Mannalal Khetan vs. Kedar Nath Khetan** where the mandatory nature of the provisions of section 56 of the Companies Act, 2013 has been emphasized. The result is that without production of the share certificate along with the application for transfer, the transfer cannot be registered and if registered, the registration will be void.

In **Vasant Investment Corporation Ltd. vs. Company Law Board**, it was held that it is for the party making an appeal to the CLB (Now Tribunal) to prove that the decision of the Board of directors is initiated by an ulterior motive in case of a refusal by the Board to register a transfer.

BLANK TRANSFER

When a shareholder signs the transfer form without filling in the name of the transferee and the date of execution and hands it over with the share certificate to the transferee thereby enabling the transferee to deal with the shares, he is said to have made a transfer ‘in blank’ or a ‘blank transfer’.

Pledge of Security

Shares are usually transferred in blank when a shareholder borrows money on its security, e.g., by pledging the shares. If pledger makes a default in payment of the amount due at the time appointed for repayment, the pledgee, holding the share certificate and the blank transfer instrument, has implied power to fill up the blanks in the instrument by inserting the date and his own name as transferee and to get himself registered as a member of the company.

This right to get himself registered as a member is available to the transferee(pledgee) even after the death of the transferor (pledger). [**Re. Bengal Silk Mills Co. Ltd.**]

Howrah Trading Co. Ltd. v. C.I.T., the Supreme Court recognized the validity of “blank transfers” viz., where the name of transferor is entered and the transferor signs the transfer with the share scrip annexed, and hands it over to the transferee who, if he chooses, may complete the transfer by entering his name and then apply to the company to register his name in the place of that of the transferor.

FORGED TRANSFER

It may happen that a forged instrument of transfer is presented to the company for registration. In order to avoid the consequences which will follow a forged transfer, companies normally write to the transferor about the lodgment of the transfer instrument so that he can object if he wishes. The company informs him that if no objection is made by him before a day specified in the notice, it would register the transfer.

Consequences of a Forged Transfer

1. A forged transfer is a nullity and, therefore, the original owner of the shares continues to be the shareholder and the company is bound to restore his name on the register of members. [**People’s Ins. Co. vs. Wood and Co.**]
2. If the company issues a share certificate to the transferee and he sells the shares to an innocent purchaser, the company is liable to compensate such a purchaser, if it refuses to register him as a member, or if his name has to be removed on the application of the true owner.
The fact that the transferee was a bona fide purchaser for value did not make any difference and the transferee was bound to return the scrips to the person to whom the same rightfully belong. [**Kaushalya Devi vs. National Insulated Cable Company of India**]
3. If the company is put to loss by reason of the forged transfer, as it may have paid damages to an innocent purchaser, it may recover the same independently from the person who lodged the forged transfer.
4. Section 57 states that if any person deceitfully personates as an owner of any security, and thereby obtains or attempts to obtain any such security, or receives or attempts to receive any money due to any such owner, he shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Transposition of Name

In the case of joint-shareholders, one or more of them may require the company to alter or rearrange the serial order of their names in the register of members of the company. In this process, there will be need for effecting consequential changes in the share certificates issued to them. If the company provides in its articles that the senior-most among the joint-holders will be recognized for all purposes like service of notice, a copy of balance sheet, profit and loss account, voting at a meeting etc., the request of transposition may be duly considered and approved by the Board or other authorized officer of the company. Since no transfer of any

interest in the shares takes place on such transposition, the question of insisting on filling transfer deed with the company, may not arise. Transposition does not also require stamp duty.

DEATH OF TRANSFEROR OR TRANSFEE BEFORE REGISTRATION OF TRANSFER

Where the transferor dies and the company has no notice of his death the company would obviously register the transfer. But if the company has notice of his death, the proper course is not to register until the legal representative of the transferor has been referred to. Where the transferee dies and company has notice of his death, a transfer of shares cannot be registered in the name of the deceased. With the consent of the transferor and the legal representatives of the transferee, the transfer may be registered in the names of the later. But if there is a dispute, an order of Court will have to be insisted upon.

In **Killick Nixon Ltd. vs. Dhanraj Mills Ltd.**, it was held that the company is not bound to enquire into the capability of the transferee to enter into a contract. The company has to act on the basis of what is presented in the transfer deed.

Relationship between Transferor and Transferee

Pending registration, the transferee has only an equitable right to the shares transferred to him. He does not become the legal owner until his name is entered on the Register of Members in respect of the shares. But as between the transferor and the transferee, immediately after the transfer is made, the contract of transfer will subsist and the transferee becomes the beneficial owner of the shares so transferred to him. A relation of trustee (transferor) and beneficiary (transferee) is thereby established between them. The transferee should, however, take prompt steps to get himself registered as a member.

Section 126 of the Companies Act, 2013 provides that where the transferor gives a mandate to pay the dividend to the transferee pending registration of transfer, the same should be paid to the transferee, otherwise the dividend in relation to such shares should be transferred to the Unpaid Dividend Account mentioned in Section 124. It is further provided that in the case of offer of right shares or fully paid bonus shares, the same should be kept in abeyance till the title to the shares is decided.

Supreme Court held that the transferor could not be compelled by the transferee to take up on his behalf the rights shares offered to the transferor. [**Mathalone (R) vs. Bombay Life Assurance Co. Ltd.**]

Where a shareholder executes a blank transfer to enable another to deal with the shares, he is bound not to do anything to obstruct registration of the transfer and if he improperly intervenes he is liable in damages. [**Hooper vs. Herts**]

Transferor's right to indemnity for calls - Where a transferor has paid for calls to the company after the shares are transferred, there arises an implied promise by the transferee to indemnify the transferor. Such a promise to indemnify can be implied even in the case of blank transfers.
[**Re. Ashworth Partington & Co.**]

Transferee's right to Dividends, Bonus and Rights Shares –

Where the transferor, by reason of the shares standing in his name, has received after the transfer, any dividend on shares, bonus or other benefit accruing in respect thereof, the transferee being the person lawfully entitled thereto, can recover the same from the transferor. [**Chunnilal Khushaldas Patel vs. H.K. Adhyaru**]

Dividend to transferee after transfer –

In this case, the transfer was registered and dividends paid to the transferee. Later, the register was rectified by removing the transferee's name from the register on the ground of a technical nature, like inadequacy of stamps, it was held that the transferee was not bound to handover the dividend amount to the transferor. [**Kothari Industrial Corp. Ltd. vs. Lazor Detergents P. Ltd.**],. However, the Madras High Court held in this case that the company should not be allowed to rectify the register on a technical ground after transferring the shares.

Effect of Transfer

A company cannot refuse to register a transfer on the ground that the transfer was without consideration. Any objection about inadequate consideration can be raised only by the transferor himself and not by the company particularly where the shares are fully paid. [**Sanatan Investment Co. Pvt. Ltd. v. Prem Chand Jute Mills Ltd.**]

Pledging of Shares

In **Kanhaiyalal Jhanwar vs Pandit Shirali and Co.**, the Calcutta High Court held that the deposit of share certificates themselves is sufficient to create a pledge thereon.

Death of Owner

On the death of a sole owner of shares, the rights and liabilities goes in favour of the legal heirs. They are entitled to be registered as the holder of the shares. But the company can register them as members with only their consent and when they apply for it. [**Re Cheshire Banking Co., Duff's Executor's case**]

Transmission of shares to widow

If a widow applies for transmission of the shares standing in the name of her deceased husband without producing a succession certificate and if the articles of association of the company so authorizes, the directors may dispense with the production of succession certificate, upon such terms as to indemnity as the directors may consider necessary, and transmit the shares to the widow of the deceased by obtaining an indemnity bond.

Transmission of joint holdings

In case some shares are registered in joint names and the articles of the company provide that the survivor shall be the only person to be recognized by the company as having any title to the shares, the company is justified in refusing to register the transmission of title by operation of law in favor of the son of the deceased holder even though he may obtain succession certificate from the Court.

What is free transferability of securities?

It refers to a situation where on receipt of intimation regarding settlement of purchase transaction, the transfer of a security is effected immediately and the transferee enjoys all the rights and obligations associated with the securities. Once a genuine purchase transaction is settled, nobody including the issuer, depository, participant, any intermediary or regulatory authority can withhold the transfer of security.

Types of securities freely transferable

Only securities i.e. the shares, debentures, any other securities of a public limited company (listed as well as unlisted companies) have been made freely transferable.

The Board of directors of such a company or the concerned depository shall not have any discretion to refuse or withhold a transfer of such security.

Any other security, for example, shares or debentures of a private company or any unit of a mutual fund, or any security issued by any issuer other than a public limited company are not freely transferable and would be subject to the restrictions contained in the articles of association of the concerned issuer and terms of issue.