

RELATED PARTY TRANSACTIONS

[Sec. 185 & Sec. 188 of Cos. Act, 2013]

Reference given to
Cos. (Amendment) Act, 2017
& SEBI (LODR) Regulations.

Interactive discussion & presentation by
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| Program on Related Party Transactions at ICSI, WIRC |

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HOLDING COMPANY

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What is the impact of the amendment in the definition of 'Holding Company'

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Can Company Incorporated Outside India be a Holding Company?

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Can LLP be a Holding Company?

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SUBSIDIARY COMPANY

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What is the impact of the amendment in the definition of ‘Subsidiary Company’

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Can LLP be a Subsidiary?

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Can Company Incorporated Outside India be a Subsidiary Company?

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ASSOCIATE COMPANY

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What is the impact of the amendment in the definition of 'Associate Company'

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Can Company Incorporated Outside India be an 'Associate Company' of an Indian Company?

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Can LLP be an Associate of another company – under Cos. Act, 2013

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RELATED PARTIES

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What is the impact of the amendment to the definition of 'Related Party' – under Cos. Act, 2013

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Whether Company incorporated outside India – which is an ‘Associate Company’ – is a ‘Related Party’ under Cos. Act, 2013

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What is the scope of ‘Venturer Company’ & ‘Investing Company’?

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AUDIT COMMITTEE

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Who determines that the transaction with related party is in the ordinary course of business? Is it the board of directors or the Audit Committee?

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Which transactions can Audit Committee recommend to BoD?

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Which transactions cannot be ratified by Audit Committee?

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Which transactions do not require the approval of Audit Committee u/s 177 of Cos. Act, 2013?

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Whether transactions are between a holding company and its wholly owned subsidiary company will section 177 of the Act be attracted?

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Can approval of Audit Committee to a related party transaction be granted by passing a circular resolution?

The Audit Committee of a company and the board had deferred the matter for the approval of a related party transaction to the shareholders. Can shareholders approve the transactions without recommendations of the Audit Committee/Board?

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LOANS TO DIRECTORS

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Whether the provisions of Sec. 185 of Cos. Act, 2013 (as substituted) are retrospective in nature?

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**Co. proposes to give L S G to Director of Company –
Whether such transaction is permitted u/s 185 of
Companies Act, 2013**

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Co. proposes to give L S G to a Firm in which director is a partner – Whether such transaction is permitted u/s 185 of Companies Act, 2013

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Co. proposes to give Loan to a LLP in which director is a partner / designated partner – Whether such transaction is permitted u/s 185 of Cos. Act, 2013

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Co. proposes to give L S G to a HUF in which director is a Karta or Co-parcener – Whether such transaction is permitted u/s 185 of Cos. Act, 2013

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Can a Public Co. give L S G to a Private Co. (in which director is common). What are the conditions?

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A Co. may give L S G to certain parties by passing a Special Resolution. Whether the resolution is ‘prior’ approval?

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Can a Public Co. give L S G to a Public Co. (in which director is common). What are the conditions?

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Can a Private Co. give L S G to a Body Corporate (in which director is common). What are the conditions?

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Can a Public Co. give L S G to a Body Corporate (in which director is common). What are the conditions?

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For which transactions, Sec. 185 of the Act is not applicable at all?

L / G / S between 2 companies:

**DSC Pvt. Ltd. provides a Loan to XBRL Pvt. Ltd.
There are common directors in both the companies.**

**DSC Pvt. Ltd. is Holding Co. of XBRL Pvt. Ltd. –
Whether Section 185 of the Act is applicable?**

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L / G / S between 2 companies:

**DSC Pvt. Ltd. provides a Loan to XBRL Pvt. Ltd.
There are common directors in both the companies.
XBRL Pvt. Ltd. is WOS of DSC Pvt. Ltd. – Whether
Section 185 of the Act is applicable?**

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**DSC Pvt. Ltd. is Holding Co. of XBRL Pvt. Ltd. –
Whether Section 185 of the Act is applicable?**

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RELATED PARTY TRANSACTIONS

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Will a preferential allotment of shares to a related party be treated as related party transaction under Section 188 of the Act?

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Whether the change in definition of ‘related parties’ has an impact on the compliances for ‘Related Party Transactions’

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Whether approval process [by the Audit Committee] for Related Party Transactions has changed by the Cos. (Amendment) Act, 2017?

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Whether approval process [by the Board of Directors] for Related Party Transactions has changed by the Cos. (Amendment) Act, 2017?

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Whether approval process [by Shareholders] for Related Party Transactions has changed by the Cos. (Amendment) Act, 2017?

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Whether rendering of service which is covered under proviso to Section 197(4) would attract provisions of Office of Profit under Section 188(1)?

X Ltd. Has one subsidiary Y Pty Ltd. In South Africa and another subsidiary Z Pte Ltd. in Mauritius. When a transaction takes place between Y Pty Ltd. and Z Pte Ltd., the amount gets consolidated in the accounts of X Ltd. Whether the provisions of Indian law for such transactions between Y Pty Ltd. and Z Pte Ltd. will be applicable?

The Managing Director of a listed company gives his building on rent to the company for registered office and rent agreement is executed for 11 months. Whether approval from members will be required every year if the transaction is not a material transaction?

Would the appointment of a Managing Director of a holding company as Chairman in a subsidiary company be treated as related party transaction even if he is not getting any remuneration from subsidiary?

Whether approval of the board will need to be taken by a wholly owned subsidiary which is not required to constitute and Audit Committee, for entering into transactions with related parties in the ordinary course of business and on an arm's length basis?

Cos. Act, 2013 Vs SEBI Listing Reg.

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Sr. No.	Points of Comparison
1	Related Party
2	Specified Transaction
3	Pricing Parameter
4	Ordinary Course of Business
5	Board Approval
6	Audit Committee's Omnibus Approval

Cos. Act, 2013 Vs SEBI Listing Reg.

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Sr. No.	Points of Comparison
7	Trigger point of shareholders' Approval
8	Resolution at shareholders' meeting
9	Voting Restrictions at shareholders' meeting

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Any further inputs & questions from participants?

Thank you ICSI – WIRC for the wonderful opportunity!! 😊

Thank you Members for active participation! 😊

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