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DIVIDEND DISTRIBUTION THROUGH SHARE RE-PURCHASE

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Abstract: There are various forms for distribution of dividend. They are cash dividend, scrip dividend, property dividend, share re-purchase and stock dividend etc., Share re-purchase which is also called buy back of the company is a form of payment of dividend. To elaborate on the meaning, advantages and also the legal procedures to be followed by companies in India to re-purchase their shares is the main objective of this article. Particularly, it analyses the regulatory frame work of Indian buy back starting from the year 1998. Various provisions related to buy back of shares of the old Indian Companies Act, 1956 (ie., Sections 77A, 77AA & 77AB) and the new Companies Act, 2013(ie., Sections 68, 69 & 70) and the Securities Exchange Board of India (SEBI) Regulations, 1998& 2013 were also viewed for thispurpose.

Keywords**:** Dividends, buy back, share repurchase and bonus issue.

1. Introduction:

Share capital is the amount contributed by the public either at the inception of the company through Initial Public Offer (IPO) or at any time after such Initial Public Offer through rights issue. Shares of the company are of two types. They are preference shares and equity shares. The investorswho invested in the preference shares are called preference shareholders and the investors who invested in the equity shares are called equity shareholders of the company. Preference shareholders got priority in getting dividends and also getting back the capital at the time of liquidation of the company than equity shareholders and also having a right of a fixed rate of dividend. Equity shareholders do not have such privileges but still they will be considers as the real owners of the company and they have various rights of attending various meetings of the company and to vote in various resolutions of the company unlike the preference shareholders. During the years of profits, the company has to pay first the dividend to the preference shareholders (called preference dividend) and later to the equity shareholders (called equity dividend). The dividend discussed in this paper is all about equitydividend.

Dividends are the earnings of the companiesgiven to their shareholders either at any time during the year (called interim dividend) or at the year end (called final dividend) or by way of interim

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dividend and also by way of final dividend. Interim dividend can be declared and distributed by the Governing bodyof the company (if the company has huge amount of profits) at any time during the financial year. Generally, it will be paid during any part of the year hence it will also be called interim dividend. Alternatively, interim dividend can be defined as the dividend distributed by the company between the two AGMs. Final dividend means the dividend declared by the governing bodyof the company in the Annual General Meeting which is subjected to the approval of the shareholders in the same meeting, of course the shareholders have no legal power to increase the rate of dividend, but their approval is legally required. Dividends generally paid in cash. But even the strong financial companies and profitable companies may have liquidity problems and the payment of cash dividend may lead to the increase of liquidity or working capital problems of such companies because the payment of cash dividend increases the outflow of cash. Hence various companies resort to other forms of dividends like scrip dividend, property dividend, stock dividend etc., So, there are various forms of dividend and one such forms is share re- purchase which is also called buy back ofshares.

Share repurchase occurs when a company buys back its own shares from the market(usually at a price which is higher than the market price) and reduces the number of shares outstanding. This is considered as an alternative to the dividend payment as cash is returned to the investors through another way. Hence, it can also be considered as the investment of the company in its own shares. Purchase of ownequity shares by a company is also anothercapital restructuring form. It is a corporate financial strategy that prevalent globally and involves capital restructuring with the objectives of increasing Earnings Per Share, everything hostile take overs, improving the returns to stake holders and also realigning the sources of finance.

Generally share buy back will be made by the companies for improving their EPS, return on capital employed, return on net worth, to enhance the long-term shareholdersvalue, for providing the members an additional route of exit when undervalued shares, for enhancing the consolidation of stake in the company, and for optimizing the capital structure etc.,

The merits of buy back include the court approval is not required like in case of capital reduction, as result of buy back the EPS, ROCE, return on net worth and the long-term shareholders value will be increased.

2. **Research Methodology**: The paper is based on the descriptive study. Sources of data**:** The researcher has collectedis asecondary data mobilized from various academic books on GST, published research articles, and the relevant websites.

3. **Discussion:** This part of the article discussion about the following-The Companies (Amendment) Act, 1999 allowed the Indian companies to buy back their shares with retrospective affect from October, 1998 by introducing three new sections viz., Section 77A, Section 77AA and Section 77AB to the Companies Act,1956.

(i) **Section 77A** provides that companies can not buy back their shares unless its Articles of

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Association so authorized. However, also the papers of Association has to be altered by passing a proper resolution, If there's no similar provision in the Articles of Association. For this purpose, a Board resolution is sufficient if the buyback of shares is lower than 10% of the paid- up value of its share holders funds. But if it exceeds 10%, a proper resolution to be passed. Still, the maximum ceiling limit of buy back of the shares is 25 of the paid- up share capital and free reserves. A company isn't allowed to offer share buyback in a year. A company may buy their shares out of the free reserve, securities decoration, and proceeds of any shares and specified securities. No shares will be bought back from the money received from the issue of existing shares of the same kind.. Every share buyback shall be completed beforeone year of the special resolution. The company has to file a solvency report along with the resolution to the Registrar of companies and Securities Board of India(SEBI). This report has to be inked by two directors one of whom has to be a MD of the company and this instrument gives an assurance that an enquiry has made from the governing body about the company's fiscal status and the company is able to fulfil all its scores and it'll not be insolvent within one year. Once the company repurchases its shares, also it can not issue the same class of shares within six months. Post-buyback, the debt equity rate shouldn't be further than 2:1. For this purpose, debt means both secured and relaxed debts and the equity includes the share holders funds of the company. Companies can buy back the shares from the being shareholders on commensurate base or from open request or the workers to whom the issue made under stock option plan. A Company has to extinguish the securities physically in 7 days. A post buy back report shall be submitted in 30 days of the conclusion of the buy back to the Registrar of Companies and also to the SEBI. The officer in charges of companies who are in dereliction who fails to misbehave with these rules and regulations of this section are punishable within an imprisonment for a maximum period of two times or with a fine of Rs.50,000.

(ii) **Section 77AA** deals in creation of capital redemption reserve with a particular amount. When companies rescue shares out of their free reserve, also a sum equal to the nominal value of shares is transferred to the capital redemption reserve account.

(iii) **Section 77B** prohibits companies to buy their shares in certain circumstances like if a company is defaulted in paying interest on debentures or interest to the fiscal institutions or if it defaulted in payment of tip to the preference shareholders similar company is banned from buy back of its shares. A company is also banned from repurchase of its shares through a attachment or through an investment company.

(iv) **Companies Act, 2013**:We all apprehensive that the old Companies Act, 1956 is replaced with new Companies Act, 2013 in the time 2013. Sections 68, 69 & 70 contain the vittles related to buy back of shares. With minor changes the buyback vittles are the same in the new Companies Act, 2013. The fine quantum for violation of rules and regulations under companies Act, 2013 is increased from fifty thousand to maximum 3lakh rupees and a minimum of 1lakh rupees. The imprisonment period is increased from maximum 2 times to 3 times.

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(v).SEBI Rules regarding share buy back:All listed companies in Indian have to follow the regulations of SEBI for repurchase of their shares. SEBI, one of the controllers of Indian Capital Market, has its commencement in the time, 1992. All the listed companies in India have to misbehave with Companies Act as well as the regulations of SEBI. Fist time the SEBI framed the guidelines related to share buy back in the time, 1998 after a period of time it has amended several times.

(vi). SEBI (buyback) Regulations, 1998: These regulations are applicable to all the listed companies. All the listed companies can rescue their shares only through tender offer, open request operation and from odd- lot holders. The judgments passed by the company with regard to buy back should be filed with SEBI and stock exchanges concerned within seven and two days of the end of the resolution independently.

(vii). Share Buyback of Securities (Amendment) Regulations, 2013:These regulations made certain changes in the rules of open request system of share buyback in the time 2013. These changes applicable from 8th August 2013. Companies can partake buyback outside up to 15 of the capital and free reserves through the open market. However, also they should borrow tender offer route, If the companies want to exceed the limit specified in the correction also. Share buyback details prior to pandemic of some of the Indian companies:

(a) TCS's board approved a proposal to buy back on 15th June, 2018 up to 7.6 crore equity shares "for an aggregate amount not exceeding Rs 16,000 crore.
(b) PC Jewellers approved on 10th May, 2018 a buy back at Rs.350 per share.
A meeting of board of directors of the company is scheduled to be held on Monday, January 8, 2O18, to consider inter alia, proposal of buyback of the fully paid-upequity shares of the company," Aarti Drugs said in a BSE filing.
(c) Wipro shareholders approve Rs 11,000-cr buyback proposal- 30th August, 2017.
(d) HCL Tech to buy back stock at 17% premium for Rs.3,500 crore- 24th May, 2017.The company is proposing an offer for buyback of equity shares for cash at a price of Rs 1,000 per equity shares on a proportionate basis through tender offer process, HCL Technologies said in a regulatory filing.Source: https://economictimes.indiatimes.com/topic/share- buyback

4. **Conclusion:** Share buy-back or share repurchase is a corporate action adapted by the companies to reduce the number of shares outstanding and at the same time to enhance the management's share in the total outstanding shares. This corporate action can also be used as a form of dividend by distributing the surplus cash to its shareholders by purchasing their shares generally at a premium. In addition to that the management will adapt this strategy (of buying own shares from the existing shareholders or from the employees who acquired them under stock option plan) to prevent the hostile takeovers, to enhance the earnings per share, return on investments, return on net-worth and also to achieve the optimum capital structure etc., Though this strategy of buying back is adopted by

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companies all over the world, it can be concluded that, the companies, if strictly implemented and followed the rules and regulations prevalent, this corporate strategy gives certainly variousadvantages.

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