



PAPER 4

Corporate and Allied Laws

Time Allowed -3Hours

Maximum Marks- 100

Question No. 1 is compulsory answer any five from the rest

Question 1

- (a) ABC Limited is a wholly owned subsidiary company of XYZ Limited. The Company wants to make application for merger of Holding and Subsidiary Companies under Section 232 of the Companies Act, 2013. The Company Secretary of the XYZ Limited is of the opinion that company cannot apply for merger as per section 232. The company shall have to apply for merger as per section 233 i.e. Fast Track Merger. Is the contention of Company Secretary being valid as per law?
- (b) Urja Pvt Limited, a recently emerged company for conducting business of providing solar panels, held 3 board meetings till 31st October, 2017 during the year 2017. The next board meeting was due to be held on 27th December, 2017 but for want of quorum the meeting could not be held. A group of shareholders complained that the Company has violated the provisions of section 173 of the Companies Act, 2013 in not holding the required number of board meetings, and section 137 for default in filing of its financial statement. Company contended that they fall under the purview of section 173(5) of the Companies Act, 2013. State as to the validity of the contention of Urja Pvt Limited in the given above situations.
- (c) Mr. Moral, a member of SEBI was engaged in conducting of inquiries and Audit of various stock exchanges. A group of complainants suspected that Mr. Moral, have taken bribe in the conduct of inquiries and Audit of stock exchanges, therefore, he should be removed from his office. Examine with reference to the SEBI Act the rationality of the complainants on removal of Mr. Moral.



(d) XYZ Limited is an unlisted public company having a paid-up capital of twenty crore rupees as on 31st March, 2017 and a turnover of one hundred fifty crore rupees during the year ended 31st March, 2017. The total number of directors is thirteen.

State the following answers:

- i. Minimum number of directors appointed as Independent Director in XYZ Limited.
- ii. What will be the consequences where XYZ Ltd. ceases to fulfill any of the required conditions with respect to appointment of Independent directors for three continuous years?
- iii. If suppose XYZ Ltd. (Unlisted public company) is a dormant company, what shall be the law related to the appointment of Independent director?

[5×4=20 Marks]

Question 2

(a) Mr. Abhi was appointed as an additional director of Pioneer Limited on 14th March, 2016. The annual general meeting of the company was scheduled to be held on 29th September, 2016 but due to heavy rains and floods all records of the company were destroyed. In order to rebuild the records, the company approached the Registrar of Companies for extension of time for holding the annual general meeting till 30th December, 2016. In the light of the Companies Act, 2013 advise Mr. Abhi, who was appointed as additional director during the year.

[3 Marks]

(b) A Car manufacturer before beginning the manufacturing and delivery of newly introduced Cars into the market with effect from February 1999, with the installed capacity of approximately more than 50,000 cars in a year, invited the prospective customers to book the car through dealers. The booking amount demanded by the company was quite high and close to the estimated price finally payable which would include excise duty, sales tax and transportation charges. None of the persons who made the booking or purchased the car, withdrew the deposits with or without interest. However 3 complaints were made before the Commission by persons who claimed that they had intentions to make the booking but were dissuaded by the high quantum of deposit required for the purpose. Their specific objection was that the demanded amount exceeded the basic price of the car if cess, taxes and transportation cost



were left out. According to the complainants, the company has indulged in Unfair Trade Practice by demanding an excessive amount for bookings of cars and by including the likely taxes, cess and transportation cost.

[4 Marks]

(c) Ms. Ashima daughter of Mr. Mittal (an exporter), is residing in Australia since long. She wants to buy a flat in Australia. Since she is unmarried, she wants to make her father Mr. Mittal a joint holder in that flat, for which entire proceeds are to be paid by her.

(i) What are the provisions of FEMA governing such type of transaction?

(ii) Can Mr. Mittal join her daughter in acquiring such a flat in Australia?

(iii) Mr. Mittal, wants to receive advance payments against his exports from a buyer outside India. What are the relevant provisions?

[3 Marks]

(d) There are four directors in Two Squares Ltd. Mr. Rao, being the director in station, has been authorized to draw and endorse cheque or other negotiable instruments on account of the company and also to direct registration of transfer of shares and signing the share certificates etc. Whether as per provisions of the Companies Act, 2013, he will be treated as managing director of the company? Also narrate the procedure of appointment of a managing director in a company.

[6 Marks]

Question 3

(a) (i) Central Government and Government of Maharashtra together hold 40% of the paid-up share capital of MN Limited. A government company also holds 20% of the paid-up share capital in MN Limited.

(ii) PQ Limited is a subsidiary but not a wholly owned subsidiary of a government company.



Examine with reference to the provisions of the Companies Act, 2013 whether MN Limited and PQ Limited can be considered as Government Company.

[3 Marks]

- (b) XYZ Finance Ltd. is a NBFC company with total assets of 550 crore, and an NPA of 50 crore in its balance sheet. The 50 crore loan consists of 9 cases of 5 crore each and 10 cases of 50 lakhs each. The management of the company wants to sell bad loans worth 50 crore to an ARC. Of the ₹50 crore, 45 crore is secured against various properties, while one case of 5 crore is unsecured.

During detailed discussion with the legal counsel, it came to light that 2 crore of the secured bad loan has not been registered with the central registry CERSAI, however this was not informed to the buyer in the preliminary discussion. Analyse and advise the CEO of XYZ Finance Ltd. How much bad loan can he sell to the ARC under the SARFAESI, Act, 2002?

[4 Marks]

- (c) NCLAT was constituted by the Central Government consisting of a chairperson along with the Judicial and Technical members for hearing appeals against the orders of the Tribunal. Later it was discovered that chairperson is a judge of a high court. Aggrieved parties to a case challenged the sanctity of the order of the respective case and said that it is invalid. Examine in the light of the given situations the validity of the act or proceedings conducted by the NCLAT.

[3 Marks]

- (d) M/s. Multiplex Builders Limited is contemplating to enter into a joint venture agreement with another construction company for the development of landed properties located at Delhi. Since it is not possible to convene the Board Meeting immediately as the directors are at different place in connection with various works, the Managing Director seeks your advice on the following matters;

- a. Whether the resolution pertaining to the joint venture agreement is required to be passed at the Board Meeting convened for this purpose or whether it can be passed by means of a circular resolution?
- b. What are the resolutions that are required to be passed only at the meetings of the Board of



Directors?

- c. The steps that are required to be taken to pass the Board resolution by circulation.

Advise the managing Director in the light of the provisions of the Companies Act, 2013.

[6 Marks]

Question 4

- (a) Examine and state whether the following Companies can be considered as 'Foreign Company' under the Companies Act, 2013:

- (i) A company which is incorporated outside India employs agents in India but has no place of business in India.
- (ii) A company incorporated outside India having shareholders who are all Indian citizens.
- (iii) A company incorporated in India but all the shares are held by foreigners.
- (iv) A company which has no place of business established in India, yet, is doing online business through telemarketing in India.

[4 Marks]

- (b) The following particulars relate to BigRammy (Private) Ltd. which has gone into Corporate Insolvency Resolution Plan (CIRP):

Sr. No.	Particulars	Amount in ₹
1	Amount realized from the sale of liquidation of assets	14,00,000
2	Secured creditor who has relinquished the security	5,00,000
3	Unsecured financial creditors	4,00,000
4	Income-tax payable within a period of 2 years preceding the liquidation commencement date	50,000
5	Cess payable to state government within a period of one year preceding the liquidation commencement date	20,000
6	Fees payable to resolution professional	75,000
7	Expenses incurred by the resolution professional in running the business of the Big Rammy (Private) Ltd. on going concern	25,000
8	Workmen salary payable for a period of thirty months preceding the liquidation commencement date. The workmen salary is equal per month	3,00,000



9 Equity shareholders

10,00,000

State the priority order in which the liquidator shall distribute the proceeds under the Insolvency and Bankruptcy Code 2016.

[4 Marks]

- (c) What are the eligibility criteria for appointment of an Insolvency Professional as a Resolution Professional for a corporate insolvency resolution process?

[4 Marks]

- (d) ABC Ltd is an unlisted public company engaged in pharma sector and has paid up capital of rupees 10 crores and achieved turnover of rupees 200 crores during financial year 2015-16. Is it necessary for ABC Ltd to file its financial statement in XBRL mode? Discuss stating clearly the classes of companies mandated to file their financial statement in extensible Business Reporting Language (XBRL) mode with its key benefits. State exceptions, if any.

[4 Marks]

Question 5

- (a) Super Real Estate Limited, a listed company has made the following profits, the profits reflect eligible profits under the relevant section of the Companies Act, 2013.

Financial year	Amount (₹ In crores)
2011-12	20
2012-13	40
2013-14	30
2014-15	70
2015-16	50

- (i) Calculate the amount that the company has to spend towards CSR.
- (ii) Give the composition of the CSR committee of a listed and unlisted company.
- (iii) Will the company suffer penalties if they fail to provide for or incur expenditure for CSR? List only two activities that are expressly prohibited from being considered as CSR activities.

[8 Marks]



- (b) Draft a resolution proposed to be passed at a General Meeting of a Public Company giving consent to the Board of Directors for borrowing upto a specified amount in excess of the limits laid down under Section 180(1)(c) of the Companies Act, 2013 and also state the borrowings, which are to be excluded from the said limits.

[4 Marks]

- (c) Share holders of Hide and Seek Ltd. are not satisfied about performance of the company. It is suspected that some activities being run in the name of the company are not in the interest of the company or its members. 101 out of total 500 share holders of the company have made an application to the Central Government to appoint an inspector to carry out investigation and find out the true picture.

With reference to the provisions of the Companies Act, 2013, mention whether the shareholders' application will be accepted? Elaborate.

[4 Marks]

Question 6

- (a) Examine whether the office of the director of the below mentioned producer company shall fall vacant in the following circumstances under the Companies Act, 1956/2013.
- (i) Mr. Right a director of Strawberry Limited a producer company has made a default in payment of loan taken from a company and the default continued for 60 days.
- (ii) Mr. Pure a director of the above company could not call an annual general meeting for the company due to some natural "calamity occurred three days before the scheduled date.

[4 Marks]

- (b) (A) Mr. Vinay Kumar, applied for the first time for allotment of a Directors identification Number (DIN) on 1st November, 2016 as he is planning to incorporate a private limited company in Form No. DIN-3 under the Companies Act, 2013. The status of his DIN applications presently is showing as "Put Under Resubmission". He seeks your guidance as to whether his application has been rejected and is he required to obtain a fresh DIN. Advise.

(B) Explain the process and relevance of back office in MCA-21 Program of the Ministry of



Corporate Affairs.

[4 Marks]

(c) Industrial Finance Corporation of India, established under the Industrial Finance Corporation Act, 1948 having its registered office at Mumbai issued 8% Redeemable Bonds redeemable after 7 years. These bonds were issued directly to the members of the public and not through mechanism of Stock exchanges.

You are required to state with reference to the provisions of Securities Contracts (Regulation) Act, 1956, whether such direct issue of bonds by the Industrial Finance Corporation of India is not violating the provisions of the said Act.

[4 Marks]

(d) Winding up proceedings has been commended by the tribunal against DEF Limited, a government company (Central Government is a member). Even after completion of one year from the date of commencement of winding up proceedings, it has not possible to conclude the same. The liquidator is of the opinion that the statement shall be filed with tribunal and registrar only.

- (i) Examine the opinion made by the liquidator and penalty can be imposed on the liquidator for contravention of the provision as per Companies Act, 2013.
- (ii) State your answer if the DEF Limited is a non-government company?

[4 Marks]

Question 7

Write short notes on **any four** of the following:

(a) Wisdom Ltd. commits a default against the debts taken from the financial creditors. Mr. F, a financial creditor initiated the corporate insolvency resolution process against the Wisdom Ltd. Mr. X, another financial creditor, thereof files an application for initiating corporate insolvency resolution process with the Adjudicating Authority. State the validity as to the filing of an application by Mr. X for initiation of corporate insolvency resolution process?

[4 Marks]

(b) How will you interpret the definitions in a statute, if the following words are used in a statute?



(i) Means, (ii) Includes

[4 Marks]

(c) Shyamgarh Chemicals Limited, a listed company, having a paid-up equity share capital of ₹ 80 crore and net worth of ₹ 120 crores as on 31st March, 2012 proposes to raise funds to finance its expansion programme by issue of equity shares under the "Qualified Institutions Placement Scheme."

Answer the following with reference to the provisions of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009:

- (i) What are the conditions to be satisfied by the company so that it can make Qualified Institutions Placement?
- (ii) What is the maximum amount that can be raised by the company under the proposed issue of shares?
- (iii) What are the restrictions, if any, with regard to pricing of issue and transferability of shares by qualified institution buyers?

[4 Marks]

(d) Samridhi Pvt. Ltd. is declared as defaulter against Shubham cooperative Bank Ltd. for financial debt of ₹ 10 cr. against the business transactions. State in the given situation whether the Shubham cooperative Bank can initiate the insolvency resolution process against Samridhi Pvt. Ltd. under the provisions of the Insolvency & Bankruptcy Code.

[4 Marks]

(e) A company wants to include the following clause in its Articles of Association:

"Each director shall be entitled to be paid out of the funds of the company for attending meetings of the Board or a Committee thereof including adjourned meeting such sum as sitting fees as shall be determined from time to time by the Directors but not exceeding a sum of ₹30,000 for each such meeting to be attended by the Director."

You are required to advise the company as to the validity of such a clause and the correct legal position under the provisions of the Companies Act, 2013.

[4 Marks]

[4 × 4 = 16 Marks]