

Paper-6: COMMERCIAL & INDUSTRIAL LAW AND AUDITING

SECTION - A

Answer Q No. 1 (Compulsory) and any 2 from the rest of Section A

Question 1:

Comment on the following based on legal provisions (no mark for wrong reasons or justification)
[2 X 7 = 14]

- (a) S induced R to buy his motorcycle saying that it was in a very good condition. After taking the motorcycle, R complained that there were many defects in the motorcycle. S proposed to get it repaired and promised to pay 40% cost of repairs. After a few days, the motorcycle did not work at all. Now R wants to rescind the contract.
- (b) P contracts with Q for a fixed price to construct a house for Q within a stipulated time. Q would supply the necessary material to be used in the construction. R guarantees P's performance of the contract. Q does not supply the timber as per the agreement. Is R discharged from his liability?
- (c) Bonus is payable only if there is profit. Comment.
- (d) Walter parks his car at a parking lot, locks it, and keeps the keys with himself. Whether this constitutes a contract of 'Bailment' under the provisions of the Indian Contract Act, 1872
- (e) Gratuity can be attached by an order of the court.
- (f) Anand drew cheques in favour of Bikash. Anand's clerk forged Bikash's endorsement and negotiated the cheques to Chetan who took them in good faith and for value. Chetan received payment of the cheques. Anand claims to recover the amount from Chetan. will he succeed?
- (g) Workmen working in a public utility services have right to go on strike even without giving notice.

Question 2:

- (a) A laboratory assistant consumes a chemical during the night shift and dies. The chemical was not of the laboratory kit. His wife claimed compensation under the Employees Compensation Act, 1923.
- (b) Safety officers in any factory are optional and not mandatory.
- (c) Farhan failed to give details of travelling expenses on account of tour inspite of several reminders. His company deducted the amount of tour advance from Farhan's salary after expiry of 3 months. Is the company justified under the Payment of Wages Act, 1936?
- (d) Y, on retirement withdrew the entire amount of his accumulation in the provident fund. Later on, he was re-appointed for a fixed tenure. The PF Inspector claimed contribution in respect of salary paid to Y. Is the demand made by PF Inspector tenable in law under The Employees

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'Provident' Funds and Miscellaneous Provisions Act, 1952?

- (e) What do you understand by the terms 'premises' and 'precincts' under the Factories Act, 1948?
- (f) Mr. X was shopping in a self-service Super market. He picked up a bottle of cold drink from a shelf. While he was examining the bottle, it exploded in his hand and injured him. He files a suit for damages against the owner of the market on the ground of breach of condition. Decide, under the Sale of Goods Act, 1930, whether Mr. X would succeed in his claim?
- (g) A agrees to sell to B a horse for ₹20,000 if it wins a race and for ₹500 if it does not. The horse wins the race. Advise the parties if —
- i) B refuses to pay ₹ 20,000 and buy the horse
 - ii) A refuses to sell the horse to B
 - iii) B agrees to buy the horse for ₹ 10,000
- (h) At an auction sale, A makes the highest bid for a flower vase. Purporting to accept the bid, the auctioneer strikes the vase and breaks it. Who is to bear the loss? Would your decision differ if the auctioneer had struck the table on which the vase was kept with the hammer and the vase fell down and broke to pieces?
- (i) A seller agrees to supply to the buyer timber of $\frac{1}{2}$ " thickness for being made into cement barrels. The timber actually supplied varies in thickness from $\frac{1}{2}$ " to $\frac{5}{8}$ ". The timber is merchantable and commercially fit for the purpose for which it was ordered. The buyer rejects the timber. Is his action justified?

[9 × 2 = 18]

Question 3:

- (a) A is the owner of a concern manufacturing cigars. 20 persons are employed in the concern. Of these 20 employees, one is a graduate for supervising the work and another apprentice learning work. The remaining 18 are employed not on the time wage system, but on the piece work system. Is the concern a factory within the meaning of the term under the Factories Act, 1948?
- (b) When an unpaid seller's lien is lost.
- (c) What are the exceptions to the doctrine of Caveat Emptor?
- (d) A sold some land to B. At the time of sale both parties believed in good faith that the area of the land sold was 10 hectares. It, however, turned out that the area was 7 hectares only. How is the contract of sale affected? Give reasons
- (e) H who was badly in need of money offered to sell his piano worth ₹5,000 to C for ₹4,000. C refused to buy. H gradually lowered his price until ₹1,000 was reached, which C accepted. Before the piano was delivered, H received an offer of a larger sum from T, and he refused to carry out the contract with C, claiming that the consideration was inadequate. Is H liable to pay damages to C for failure to carry out his part of the contract?
- (f) Explain the concept of 'misrepresentation' in matters of contract.

[3+3+4+2+3+3 = 18]

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Question 4:

- (a) Bill of Exchange dated 1st February, 2013 payable two months after date was presented to the maker for payment 10 days after maturity. What is the date of Maturity? Explain with reference to the relevant provisions of the 'Negotiable Instruments Act, 1881 whether the endorser and the maker will be discharged by reasons of such delay.
- (b) An understanding has been reached among the manufacturers of cement to control the price of cement, but the understanding is not in writing and it is also not intended to be enforced by legal proceedings. Examine whether the above understanding can be considered as an 'Agreement' with the meaning of Section 2(b) of the Competition Act, 2002.
- (c) H, a major, and N, a minor, executed a promissory note in favour of Q. Examine with reference to the provisions of the Negotiable Instruments Act, 1881 the validity of the promissory note and whether it is binding on H and N.
- (d) Under the Right to Information Act, 2005 competent authority means authority competent to seek information. Comment
- (e) Define a 'consumer' under the Consumer Protection Act, 1986.
- (f) What do you understand by "Agency by Ratification"? What is the effect of ratification?
[3 × 6 = 18]

SECTION - B

Answer Qs No. 5 (Compulsory) and any 2 from the rest of Section B

Question 5:

Comment on the following based on legal provisions (no mark for wrong reasons or justification)
[2 × 7 = 14]

- (a) Inventory turnover ratio is calculated by the auditor to obtain evidence concerning management's assertion about valuation of inventory.
- (b) Working Papers of the auditor are to be returned to his client after audit since these are the property of the client.
- (c) Non-adjusting events of a material nature need not be adjusted in accounts and can be disclosed by way of explanatory notes to the accounts.
- (d) Efficiency audit examines whether the transactions have been done in conformity with established rules, principles and some established standards.
- (e) Propriety audit is applicable to all limited companies in all aspects.
- (f) For an internal audit function to be effective, the same must be independent of the activities to be audited.

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(g) S Ltd. is the subsidiary of H Ltd. Ram owes S Ltd. ₹10,000, Laxman has given guarantee for the same. Can Laxman be appointed as statutory auditor of H Ltd.?

Question 6:

(a) How will you verify Development of Property?

(b) What are the main sources of GAAP in India?

(c) Proposed dividend is not adjusted in the financial statements. Decide

(d) As a Branch Auditor would you insist on approval of final accounts by the Board of Directors before submitting your report, though the Board refuses to do so and informs you that an Authorised Official will approve them ?

(e) The cost auditor of a company can be its internal auditor, and is to be appointed by the shareholders of the company. Comment on the validity.

(f) Briefly state the role of evidence in auditing.

[4+2+2+3+4+3 = 18]

Question 7:

(a) What are the consequences of payment of dividend out of capital?

(b) How is the subsequent auditor appointed in case of a government company? Answer with reference to Companies Act, 2013.

(c) Write a note on 'Compliance audit'.

(d) The Board of directors of a company decides to revise the accounts which have been submitted to the auditors, but the auditors have not yet given their report. Examine the validity.

[5+6+3+4 = 18]

Question 8:

(a) What are the types of internal controls likely to be found in a computer based system.

(b) Write short note on – Types of CAATs.

(c) How will the auditor overcome loss of or changes in audit trail in an EDP environment?

(d) Write short note on – Qualities of Management Auditor.

(e) Write a note on Information Technology Audit.

(f) Mother Ltd. had its Registered Office at Madras. During the current accounting year, it has shifted its Corporate Head Office to Kolkata though it has retained the Registered Office at Madras. The Managing Director of the Company wants to shift its books of account to Kolkata from Madras, as he feels that there is no legal bar in doing so. Comment

[3+3+3+4+3+2 = 18]