

Paper-6: COMMERCIAL AND INDUSTRIAL LAWS AND AUDITING

Full Marks: 100

Time Allowed: 3 Hours

The figures in the margin on the right side indicate full marks.

- Please: (i) Answer all bits of a question at one place
(ii) Open a new page for answer to a new question
(iii) Attempt the required number of question only.

Answer Question No. 1 and Question No. 5 which are compulsory and attempt any two from the rest in Section-I and any two from the rest in Section-II.

Section-I
(50 Marks)
(Commercial and Industrial Laws)

Question 1: Answer all questions

[2 X 7 = 14]

Comment on the following:

(i) "Fragrance" Soap Co. advertised that it would give a reward of ₹ 1,000 who developed skin disease after using, "Fragrance" soap of the company for a certain period according to the printed directions. Miss Nisha purchased the advertised "Fragrance" soap and developed skin disease in spite of using this soap according to the printed instructions. She claimed reward of ₹ 1,000. The company refused the reward on the ground that offer was not made to her and that in any case she had not communicated her acceptance of the offer. Decide whether Miss Nisha can claim the reward or not. Refer the relevant case law, if any.

(ii) A draws a bill on B. B accepts the bill without any consideration. The bill is transferred to C without consideration. C transferred it to D for value. Decide -

- A. Whether b can sue the prior parties of the bill, and
B. Whether the prior parties other than D have any right of action intense?

Give your answer with reference to the Provisions of Negotiable Instruments Act, 1881.

(iii) Mr. Wadhwa is working as an accountant in a company on salary basis. The following payments were made to him by the company during the previous financial year -

- (a) Overtime allowance,
(b) Dearness allowance
(c) Commission on sales
(d) Employer's contribution towards pension fund
(e) Value of free food.

Examine as to which of the above payments form part of 'salary' of Mr. Wadhwa under the provisions of the Payment of Bonus Act, 1965.

(iv) While an employee may increase his contribution to Provident Fund, is an employer also liable to proportionately increase his contribution to the above under the Employees Provident Funds and Miscellaneous Provisions Act, 1952? Comment.

(v) National Steels Limited decided to forfeit the amount of gratuity of its employee Cezar on account of disorderly conduct and other acts which caused loss to the property belonging to the company. Cezar committed the following act. He, after superannuation, continued to occupy the quarter of the company for six months.

Against the decision of the company, Cezar applied to the court for relief. The Company contented that the right to gratuity is not a statutory right and the forfeited amount of gratuity was within the law.

Examine the contention of the company and the decision taken by the company to forfeit the amount of gratuity in the light of the Payment of Gratuity Act, 1972.

(vi) With a view to boost sales Harmeet Automobiles sells a motorcar to Ms. Nikki on trial basis for a period of three days with a condition that if Ms. Nikki is not satisfied with the performance of the car she can return it back. However the car was destroyed in a fire accident at the place of Ms. Nikki, before the expiry of three days. Would Ms. Nikki be liable for the loss suffered?

(vii) Winston 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?

Question 2:

(i) Comment on the following:

- A. 'Goods seized by Customs Authority are a case of bailment under Indian Contract Act', offer your views.
- B. Mr. A, Mr. B & Mr. C are Sureties to Mr. D for the sum of ₹6000 lent to Mr. E failed to repay on due date. Mr. A. one of the sureties disagreed to pay. Advice whether 'A' is right.
- C. A deceit which does not deceive is not a fraud.

(ii) Raman instructed Soman, a transporter, to send a consignment of apples to Mumbai. After covering half a distance, Soman found that the apples will perish before reaching Mumbai. Hence, he sold the same at a half the market price. Raman sued against Soman. Will he succeed?

(iii) Bill of Exchange dated 1st February, 2014 payable two months after date - was presented to the maker for payment 10 days after maturity. What is the date of maturity?

(iv) How the surety is discharged from liability?

[6+3+3+6 = 18]

Question 3:

Comment on the following:

(i) In case of personal injury, the employer is liable to pay compensation within 3 months from the date when it falls due. State legal provisions

(ii) Personal Manager told to Director that at least one canteen shall be provided in every factory. Do you agree?

(iii) Calculate the amount of gratuity of Mr. X who joined the company on 1.5.83 and retired on 30.11.2013 when his salary was ₹ 26,000 per month. During November, 2013 he received overtime and incentive ₹5,000.

(iv) When and under what circumstances a person can receive pension under Employees Provident Fund Scheme?

(v) Dr. B has been dismissed by the Manager of an Industrial Establishment. Workmen demanded his reinstatement. Comment legal position.

(vi) 'A' saved life of 'B' who was drowning, Latter A' demanded remuneration from 'B' for saving of life was valid consideration, A' would succeed.

(vii) There are in total two parties to a Promissory Note.

(viii) What are the circumstances in which limited liability partnership may be would up by Tribunal?

[(7 × 2) + 4 = 18]

Question 4:

(i) Mr. Arun was an employee of High Developers Limited. He retired from the company after 30 years of continuous service. He applied to the company for payment of gratuity within the prescribed time. The company refused to pay the gratuity and contended that due to stringent financial conditions the company is unable to pay the gratuity. Mr. Arun applied to the appropriate authority for recovery of the amount of the gratuity. Examine the validity with reference to Payment of Gratuity Act, 1972

(ii) Kumari is an employee of Rahul software limited, which works 5 days a week. Kumari was not in continuous service during the financial year 2013-14. However, she worked only for 150 days because she was on maternity leave with full pay for 50 days. Referring to the provisions of Payment of Gratuity Act, 1972 decide whether kumari is entitled to gratuity payable under this Act. Would your answer be different had Rahul Software worked for 6 days a week.

(iii) X, a temporary employee drawing a salary of ₹3000 per month, in an establishment to which the Payment of Bonus Act, 1965 applies was prevented by the employers from working in the establishment for two months, during the financial year 2013-14, pending certain injury. Since there were no adverse findings X was re-instated in service. Later when the bonus was to be paid to the other employees, the employers refused to pay bonus to X, even though he had worked for the remaining ten months in the year. Referring to the provisions of Payment of Bonus Act, 1965 examine the validity of employers refusal to pay bonus.

(iv) Mr. Paul sold to Mr. Ray certain quantity of foreign refined palm oil warranted equal to sample. The samples consisted of palm oil mixed with vegetable oil. The oil tendered corresponds with the sample but it was not such as is known in market as foreign refined palm oil. Mr. Ray wants to reject the oil on the ground that the oil supplied was not in accordance with the foreign refined palm oil. Advise Mr. Ray.

(v) During 2001-2002, the employees were 50 and subsequently reduced to 10 during 2013-2014, Employer discontinued deduction as EPF not applicable due to reduction of Employees. Comment.

(vi) Manager of the factory fixed the working hours of women from 6:00 P.M. to 1:00 A.M. during the period from Monday to Friday of first week of May 2014. Whether it is permissible, cite with Rule position.

[2+5+5+2+2+2 = 18]

**Section-II
(50 Marks)
(Auditing)**

Question 5: Answer all questions

[2 X 7 = 14]

- (i) Propriety audit is applicable to all limited companies in all aspects.
- (ii) Accounting Standard – I requires all significant accounting policies to be disclosed normally in one place and as a part of the financial statements.
- (iii) While conducting audit of stocks, verification of stock records is of primary importance to operational auditor.
- (iv) Companies, on the grounds of confidentiality, may decline to provide information required by the auditor.
- (v) Interest accrued and due on secured loans has been disclosed in the Balance Sheet under the head "Current Liabilities and Provisions" on the ground that such interest has to be paid within six months from the end of the financial year.
- (vi) As per Indian GAAP, where the company has obtained credit limits from a bank but has not availed them, the details of unused credit lines need not be disclosed in the financial statements.
- (vii) Shareholders, by a majority vote, have authorized the Board of Directors to keep the books of accounts of the company in its Administrative Office, as against the earlier practice of keeping them in the Registered Office. The ROC was not informed about this change. Company intends that this practice is in order

Question 6:

- (i) State the matters which the statutory Auditor should look into before framing opinion on accounts on finalisation of audit of accounts?
- (ii) How will you vouch and/or verify the following?
 1. Goods sent on consignment
 2. Provision for Income Tax
 3. Goodwill

[6+(3 × 4) = 18]

Question 7:

- (i) Capitalisation of Borrowing Costs would continue during extended periods in which active development is interrupted. Comment
- (ii) Global Ltd. is engaged in manufacturing and supply of gear boxes to International Ltd. As per terms of supply, full price of the goods are not released by International but 10% thereof is retained and paid after one year, if there is satisfactory performance of the parts supplied. Global Ltd. accounts for only 90% of the invoice value as sale at the time of supply and balance 10% is accounted as sale in the year of receipt of payment.

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(iii) What are the main points involved in 'Performance Audit' under Government Accounting system?

(iv) As a protective function, the internal audit department has a big role to play in preventing frauds in any organization. Do you agree?

(v) Dividends can be declared out of balances in share premium account. Comment

[3+4+5+4+2 = 18]

Question 8:

(i) As a Company Auditor how would you react to the following situations?

1. Insurance claim of ₹ 5 lacs received stands included under Miscellaneous Income.

2. ₹ 7.50 lacs paid by a cosmetics company to the legal advisor defending the patent of a product treated as Capital Expenditure.

3. ABC Ltd. has not deposited provident fund contributions of ₹ 50 lacs to the authorities, but accounted in the books.

4. Directors of Sweet Ltd. declared a final dividend of 30% for 2013-14 in their meeting held on 11-8-2014.

(ii) In carrying out audit of Government expenditure, what are the basic standards that you will examine and consider?

(iii) Auditor of a company has to approach his work with suspicion. Comment

[(4 × 3)+4+2 = 18]