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Paper 13

Corporate Laws & Compliance

Full Marks: 100

Time Allowed: 3 hours

This paper contains 3 questions. All questions are compulsory, subject to instruction provided against each question. All workings must form part of your answer. Assumptions, if any, must be clearly indicated.

(1) Answer all questions: [20 marks]

(a) Sampuran, vice-president of PQR Ltd., was appointed as an additional director in January, 2012. On the office of managing director falling vacant he was appointed as managing director on existing remuneration. Whether Sampuran will cease to be managing director in the next annual general meeting? **(3 Marks)**

(b) What are the provisions regarding preservation of accounts and records of a company which has been amalgamated with any other company? **(3 Marks)**

(c) Legal representative of a deceased member of a company alleged oppression and mismanagement. He made a complaint to the Company Law Board for relief. The management of the company is of the opinion that the petitioner has no focus standi since he is not a member. The register still shows the name of the deceased as member. Will the representation be entertained by the Company Law Board? **(3 Marks)**

(d) A Co. Ltd. was amalgamated with, and merged in X Co. Ltd. Some workers of A Co. Ltd. refuse to join as workers of X Co. Ltd. and claim compensation for premature termination of services. X Co. Ltd. resists the claim on the ground that their services are transferred to X Co. Ltd. by the order of amalgamation and merger and, therefore the workers must join service of X Co. Ltd. and cannot claim any compensation. Who will succeed the workers of A Co. Ltd. or the X Co. Ltd.? Give reasons. **(3 Marks)**

(e) State the circumstances under which Securities and Exchange Board of India may prohibit a company from issuing prospectus, any offer document or advertisement soliciting money from public for the issue of securities. **(3 Marks)**

(f) State the benefits on Sustainability Reporting on Corporate Governance. **(2¹/₂ Marks)**

(g) State the features of Corporate Governance? **(2¹/₂ Marks)**

(2) Answer any four questions [4×15=60]

(a)(i) Answer the following with reference to a scheme of amalgamation of companies explaining the relevant provisions of the Companies Act, 1956.

(A) Whether companies being amalgamated must be companies registered in India.

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(B) What is the majority required for approving the scheme of amalgamation in a meeting of members of a company called as per directions of the Court? Is the scheme to be approved by preference shareholders?

(C) When will the Court order dissolution of the transferor company? **(5 Marks)**

(ii) SEBI received a complaint from an investor that he has not received the payment due to him from a registered stock broker. Explain the action that can be taken by SEBI against the stock broker under the provisions of Securities and Exchange Board of India Act, 1992 and the factors that will be taken into account while taking such action. **(5 Marks)**

(iii) Examine with reference to the provisions of the Companies Act, 1956 whether the following companies can be treated as foreign companies:

(A) A company incorporated outside India having a share registration office at Mumbai.

(B) Indian citizens incorporated a company in Singapore for the purpose of carrying on business there. **(5 Marks)**

(b) (i) Notice has been received from a member proposing himself for appointment as a director after the issue of notice convening the annual general meeting. As a secretary of a public company, how will you deal with the above situation? **(5 Marks)**

(ii) A meeting of members of ABC Equipments Limited was convened under the orders of the court for the purpose of considering a scheme of compromise and arrangement. The meeting was attended by 200 members holding 5,00,000 shares. 70 members holding 4,00,000 shares in the aggregate voted for the scheme. 120 members holding 90,000 shares in aggregate voted against the scheme. 10 members holding 10,000 shares abstained from voting. Examine with reference to the relevant provisions of the Companies Act, 1956 whether the scheme was approved by the requisite majority? **(5 Marks)**

(iii) Examine with reference to the relevant provisions of the Competition Act, 2002 whether a person purchasing goods not for personal use, but for resale can be considered as a 'consumer'.

(5 Marks)

(c)(i) Mr. A was appointed as the Managing Director of Z Ltd. for a period of 5 years w.e.f. 1st January, 2007. Since his work was found unsatisfactory, his services were terminated from 15th August, 2008 by paying compensation for the loss of office as provided in the agreement entered into by the company. Later, the company discovered that during his tenure of office Mr. B was guilty of many corrupt practices and that he should have been removed without payment of compensation. Advise the company whether the services of the Managing Director can be terminated without payment of compensation as provided in the agreement and whether the company can recover the amount already paid to Mr. A By filing a suit. **(5 Marks)**

(ii) Mr. Rakesh of Nagpur wants to travel to Nepal and for this purpose proposes to draw foreign exchange. Specify-

(A) Can Mr. Rakesh draw any foreign exchange for his journey?

(B) What are the purposes for which foreign exchange drawal is not allowed for current account transactions? **(5 Marks)**

(iii) Decide in the light of the provisions of the Companies Act, the validity and extent of powers of Board of Directors and the procedure to be complied with in the following matters:

Donation of ₹ 5 lakhs to a hospital established exclusively for the benefit of employees. **(5 Marks)**

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(d)(i) In what manner a securitisation or reconstruction company can takeover the management of a borrower? (5 Marks)

(ii) PQR Engineering Limited proposes to invest ₹20 lakhs in the equity shares of TQM Trading Limited. The proposed investment together with the investments in securities of companies and loans to body corporates already made exceed 60 per cent of the paid-up share capital and also 100 per cent of free reserves of the company. The company has taken term loans from UBI.

Explain the procedure to be followed by PQR Engineering Limited to give effect to the proposed investment. (5 Marks)

(iii) State the provisions of the Act relating to appointment, reappointment, termination and amendment of provisions relating to managing director, etc. (5 Marks)

(e)(i) State the powers of the Reserve Bank to give directions to the Banking Companies? (5 Marks)

(ii) How is the subsequent auditor appointed in case of a government company? (5 Marks)

(iii) Explain the provisions relating to transfer of assets and liabilities of Interim Insurance Regulatory Authority. (5 Marks)

(3) Answer any two question [2×10 = 20 Marks]

(a)(i) State the recommendation of Cadbury Committee relating to the Board of Directors.

(6 Marks)

(ii) What are the disclosure requirements relating to related party transaction under clause 49 of listing agreement? (4 Marks)

(b) What are the functions of the board of good Corporate Governance? (10 Marks)

(c)(i) What are the myths relating to Corporate Social Responsibility? (5 Marks)

(c)(ii) State the features of Corporate Governance. (5 Marks)