

FINAL EXAMINATION

December 2023

*P-13(CLC)
Syllabus 2016*

CORPORATE LAWS & COMPLIANCE

Time Allowed: 3 Hours

Full Marks: 100

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

*Answer Question No.1 which is compulsory carrying 20 marks
and answer any five questions from Question No. 2 to 8.*

Section A

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- 1. Answer all questions mentioned below. Mark the correct answer. 1 mark for correct choice and 1 mark for the justification. 2×10=20**

- (i) Which of the following is not the benefit of CSR Programme?
- (A) Mutual trust
 - (B) Attracting and retaining employees
 - (C) Communities as suppliers
 - (D) Enhancing corporate reputation
- (ii) The Central Govt. may remove from office of the President, Chairperson or any other Member of the National Company Law Tribunal (NCLT) who
- (A) has been adjudged an insolvent.
 - (B) has been convicted as an offence and which involves moral turpitude.
 - (C) has become physically or mentally incapable to act on the same position.
 - (D) All of the above
- (iii) The Insolvency and Bankruptcy Code, 2016, does not cover
- (A) Financial Institutions
 - (B) Insurance Company
 - (C) Mutual Funds & Pension Funds
 - (D) None of the above
- (iv) The company shall furnish to the Registrar verification of its registered office within a period of _____ from the date of its incorporation.
- (A) 30 days
 - (B) 45 days
 - (C) 60 days
 - (D) 90 days

- (v) Which of the following is not the correct manner in the event of any change in his particulars as stated in Form DIR-3, an applicant intimate such change to the Central Government within a period of 30 days of such change in Form DIR-3?
- (A) The applicant shall download Form DIR-6 from the portal.
 - (B) The form shall be digitally signed by CA or CS or CMA.
 - (C) The applicant shall submit the fees.
 - (D) The applicant shall submit the form DIR-6.
- (vi) The quality of something which enables one to understand the truth easily. In this context of Corporate Governance, it implies an accurate, adequate and timely disclosure of relevant information about the operating result etc., of the corporate enterprise to the stakeholders. This principle is known as _____.
- (A) Transparency
 - (B) Accountability
 - (C) Independence
 - (D) Clarity
- (vii) Any allotment of securities made on the basis of Prospectus should be void if permission of listing is not granted by the Stock Exchange before expiry of _____.
- (A) 12 weeks from the closure of the issue.
 - (B) 10 weeks from the closure of the issue.
 - (C) 8 weeks from the closure of the issue.
 - (D) 30 days from the closure of the issue.
- (viii) Every Banking Company incorporated in India shall prepare a Balance Sheet and Profit and Loss Account as on the last working day of the _____.
- (A) Calendar Year
 - (B) Accounting Year
 - (C) Month
 - (D) None of the above
- (ix) A Government department supplying water for irrigation to the agriculturists after levying charges for water supplied can be considered as _____.
- (A) Firms
 - (B) Enterprise
 - (C) Joint Venture
 - (D) Joint sector

- (x) The Chairman of the Insurance Regulatory and Development Authority shall hold office for a term of _____ from the date on which he enters upon his office and should be eligible for reappointment.
- (A) 3 years
(B) 4 years
(C) 5 years
(D) 6 years

Section B

Answer *any five* questions. Each question carries 16 marks.

2. (a) Moon Electricals Ltd. (M) is a company in which Suriya Power Suppliers Limited (S) is holding 60% of paid up share capital. One of the shareholders of S made a charitable trust and donated his 10% shares in S and ₹ 50 crores to the trust. He appoint M as the trustee. All the assets of the trust are held in the name of M. Can a subsidiary hold shares in its holding company in this way?
- (b) The Promoter of the KSR Private Limited (a Start-up Registered company) incorporated on 20th June, 2022 is willing to accept deposit from its members. The shareholding of Mr. K, Mr. S and Mr. R as on the 31st March 2023 is as under:
Mr. K, Director of the company holding 4000 shares of ₹ 100 per share
Mr. S, Friend of Mr. K
Mr. R, holding 3000 shares of ₹ 100 per share
The Company is not having investment in any Subsidiary Company and Associate Company, the borrowing from the Financial Institutions as on 31st March, 2023 is ₹ 10 Crores. On the basis of these information, please advise whether the company can accept deposit from Mr. K.
- (c) Comment with reference to the provisions of the Companies Act, 2013 in respect of the following: (i) Mr. A who is not qualified to be appointed as an independent director is appointed by the Board of Directors of IJK Limited, for an independent director, as an alternate director. (ii) On the request of bank providing financial assistance, the Board of Directors of ABC Limited decides to appoint on its Board, Mr. P, as nominee director. Articles of Association of the Company do not confer upon the Board of Director any such power. Further, there is no agreement between the company and the bank for any such nomination.
- (d) An Audit Committee of a listed company constituted under Section 177 of the Companies Act, 2013, submitted its report containing the recommendations in respect of certain matters to the Board. The Board, however, did not accept the recommendations. In the light of the situation, analyze:

(i) Whether the Board is empowered not to accept the recommendations of the Audit Committee.

(ii) If so, what alternative course of action, would the Board resort to? 4+3+6+3

3. (a) 'BT' was a restaurant located at a leased premises in Chennai. It had a great reputation, award-winning chefs and tastefully designed interiors. Much of its business came from executive lunches and dinners. Following the opening of 'NR', another excellent restaurant in the nearby vicinity, trading losses were incurred by BT and eventually the business became insolvent.

Efforts to either have the rent reduced or to sell the business were unsuccessful. Suppliers of food, beverages and utilities were unpaid for supplies provided in the previous 45-60 days, amounting to around ₹ 80,000. There were rental arrears for one month amounting to ₹ 40,000 towards landlord, Mr. David (the landlord had received advance rent for three months, lease deed provided for one-month rent as security and one-month rent as advance).

BT also had a secured creditor, 'IOB'. The bank indicated that it did not wish to appoint a receiver/file for insolvency as the accounts were regularly maintained. BT was managed by Mr. Kannan as a sole proprietor. He employed a staff of 10 people, including a chef, an assistant chef, six waiters and two house-keeping staff. The salaries due to these employees were paid in half since the past three months. In light of the above whether BT can apply for fresh start process? Give answer with citing reasons.

- (b) RS has granted an interest free loan to XY Private Ltd. with a condition to repay the loan within 3 years. XY Private Ltd. defaulted to repay the loan. RS filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) to initiate the CIRP against XY Private Ltd. after complying the required formalities. The Adjudicating Authority dismissed the petition on the ground that it is an interest free loan and the applicant is not a financial creditor.

Referring to the provisions of IBC, 2016 decide whether the rejection of the Petition made by RS on the ground mentioned above is valid.

- (c) The issued and paid up capital of STD Limited is ₹ 5 crores consisting of 5,00,000 equity shares of ₹ 100 each. The said company has 500 members. A petition was submitted before the Tribunal signed by 80 members holding 10,000 equity shares of the company for the purpose of relief against oppression and mismanagement by the majority shareholders. Examining the provisions of the Companies Act, 2013, decide whether

the said petition is maintainable. Also explain the impact on the maintainability of the above petition, if subsequently 40 members, who had signed the petition, withdrew their consent.

- (d) Mr. R was appointed as a whole-time director and was heading the marketing department in SMP Limited. As a cost saving measure he was removed from the office as whole-time director. Mr. R demanded compensation for loss of office. Explaining the relevant provisions of the Companies Act, 2013, state whether he is entitled to compensation. If yes, how the compensation amount will be calculated? 4+3+5+4
4. (a) PQR Limited is a wholly owned subsidiary company of STU Limited. The Company wants to make application for merger of Holding and Subsidiary Companies under section 232. The Company Secretary of the STU 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) Before imposing penalty, the adjudicating authority issued a show cause notice to the company and its officers on 15th July, 2023 to represent before the adjudicating authority. The notice was served on them on 31st July, 2023. State the time period within which the company and its officers who were called upon may be presented before the Adjudicating authority.
- (c) FRC Limited is a foreign company having its places of business in Chennai and Bengaluru, India. It has amended its Memorandum of Association on 1st June, 2022 and closed branch office situated at Chennai. Referring to the provisions of the Companies Act, 2013 advise the company on the following matters:
- (i) Compliance procedure as regards to amendment of Memorandum of Association.
 - (ii) Compliance procedure as regards to closure of Chennai office and discontinuing submission of documents to the Registrar of Companies afterwards.
- (d) Business of VRS Ltd. a public company is not been conducted and managed by directors in accordance with sound business principles or prudent commercial practices. The shareholders of Company has referred the same to the Tribunal on 15th March 2023 with a request to the Tribunal to inquire into the case and take action against the directors of company. The Tribunal has, after making proper inquiry, passed the order against the directors on 16th September 2023. State whether the tribunal order is correct? Justify. 3+3+6+4

5. (a) SEBI received complaints from some investors alleging that KLM Ltd. and some brokers are indulging in price manipulation in the shares of KLM Ltd. Explain the powers that can be exercised by SEBI under the Securities and Exchange Board of India Act, 1992 in case the allegations are found to be correct.
- (b) The Board of Directors of Big Ltd. proposes to transfer more than 10% of the profits of the Company to the Reserves for the current year. Advise the Board of Directors of the said Company mentioning the relevant provisions of the Companies Act, 2013.
- (c) In what way does the Companies Act, 2013 restricts the non-cash transactions involving directors of Public Limited Company? Explain.
- (d) Upon an inquiry made by the Competition Commission of India it was found that Heavy Limited is enjoying dominant position in the market and there is every possibility that the company may abuse its dominant position. In order to overcome such a possible situation, the Competition Commission of India wants to order for division of Heavy Limited. Referring to the provisions of the Competition Act, 2002, describe the matters which may be provided in the said order. 5+3+5+3
6. (a) Referring to the provisions of the Foreign Exchange Management Act, 1999, examine whether VK, an exporter, is bound to make declaration of a gift of Jewellery valued at ₹ 20,000 exported from India to USA.
- (b) Mr. Karuna has been in employment in France for past 3 years. He was involved in a conduct which constituted an offence in France. The conduct would have been considered an offence in India as well if it had been committed in India. The proceeds involved in the offence was ₹ 60 lakhs. Mr. Karuna attempted to remit ₹ 50,00,000 out of the ₹ 60,00,000 to India but was not successful. The Government of India held this offence as an Offence of Cross Border implications as per Sec 2 (ra) of the Prevention of Money Laundering Act, 2002. State whether the contention of Government of India is correct.
- (c) Elucidate the Principle of Causa Proxima.
- (d) Enumerate the manner and effect of takeover of management under SARFAESI Act. 3+5+3+5
7. (a) The typical organizational structure of PSUs makes it difficult for the implementation of Corporate Governance practices as applicable to other publicly-listed private enterprises. In the given context, list the difficulties encountered in Governance.

(7)

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(b) Discuss some of the Governance Issues that crop up in Family Owned Businesses.

(c) How should companies evaluate a CSR Project?

5+8+3

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

4×4=16

(a) Corporate Insolvency Resolution Process

(b) Derivatives under Securities Act

(c) Procedure for investigation of combinations

(d) Government to Business (G2B) initiatives

(e) Report of the Committee (Kumar Manglam Birla) on Corporate Governance

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(b) Determine if the Corporation is a family-owned business.

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(c) How should corporate control be exercised?

1-10-2010

8. Write short notes on any four of the following:

(a) Corporate Governance: Business Process

(b) Director's duties: Business Act

(c) Procedure for appointment of directors

(d) Government of Companies Act 2013

(e) Report of the Committee on Corporate Governance