

Paper-13: CORPORATE LAWS AND COMPLIANCE

Full Marks: 100

Time Allowed: 3 Hours

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

Question 1: Answer all questions

[20 Marks]

(i) A public limited company has only seven shareholders, all the shares being fully paid-up. All the shares of one such shareholder are sold by the court in an auction and purchased by another shareholder. The company continues to carry on business thereafter. Discuss the liabilities of the shareholders of the company under the Companies Act, 1956. [3]

(ii) Describe the following in light of the Companies Act, 2013.

- A. Global Depository Receipts
- B. Key Managerial Personnel
- C. Sweat Equity Shares

[3]

(iii) The Registrar of Companies issued a certificate of Incorporation actually on 8th January, 2014. However, by mistake, the certificate was dated '5th January, 2014'. An allotment of shares was made on 7th January, 2014. Could the allotment be declared void on the ground that it was made before the company was incorporated, as per Companies Act, 1956? [3]

(iv) The Memorandum of Association of a company was presented to the Registrar of Companies for registration and the Registrar issued the certificate of incorporation. After complying with all the legal formalities the company started a business according to the object clause, which was clearly an illegal business. The company contends that the nature of the business cannot be gone into as the certificate of incorporation is conclusive. Answer the question whether company's contention is correct or not, as per Companies Act, 1956. [3]

(v) The Directors of a company registered and incorporated in the name 'Dharti Textile Ltd; desire to change the name of the company entitled 'National Textiles and Industries Ltd.'. Advise as to what procedure is required to be followed under the Companies Act, 1956? [3]

(vi) 'The institution of business exists only if it fulfills the society's expectations'. Comment. [3]

(vii) 'Business ethics helps to promote public reputation'. Comment. [2]

Question 2: Answer any four questions

[60 Marks]

Question 2(a):

(i) Star bank wants to acquire the financial assets of Moon Ltd. Is the bank or financial institution bound to give notice of acquisition of financial asset to the obligor? State the provisions in this regard with reference to SARFAESI Act, 2002.

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(ii) The Board of directors of M/s. Intelligent Consultants Limited, registered in Chandigarh, proposes to hold the next Board meeting in the month of May, 2014. They seek your advice in respect of the following matters:

- A. Can the Board meeting be held in Delhi, when all the directors of the company reside at Chandigarh?
- B. Whether the Board meeting can be called on a public holiday and that too after business hours as the majority of the directors of the company have gone to Delhi on vacation.
- C. Is it necessary that the notice of the Board meeting should specify the nature of business to be transacted?

Advise with reference to the relevant provisions of the Companies Act, 1956.

[6+9 = 15]

Question 2(b):

(i) The Board of Directors of Xee Ltd. has agreed in principle to grant loan worth ₹ 38 lakhs to Mee Ltd. on the basis of the following information. Advise Xee Ltd. about the requirements to be complied with under the Companies Act, 1956 for the proposed inter-corporate loan to Mee Ltd.

| Sl. No. | Particulars | Amount (₹) |
|---------|--|-------------|
| (i) | Authorised share capital | 1,00,00,000 |
| (ii) | Issued, subscribed and paid up capital | 50,00,000 |
| (iii) | Free reserves | 10,00,000 |

(ii) What are the consequences if a company makes inter-corporate loans and investments in contravention of the provisions of section 372A of Companies Act, 1956?

(iii) Super Limited, a banking company maintained the record of all transactions for a period of 5 years from the date of cessation of the transactions between the clients and the company. Decide whether the Company has fulfilled its obligation under the provisions of the Prevention of Money Laundering Act, 2002.

(iv) Examine the validity of appointment of Mr. Bonny, a minor, as a director of Max (Private) Limited, with reference to Companies Act, 1956.

[6+4+3+2 = 15]

Question 2(c):

(i) Mr. Devesh was appointed as the managing director of Casual Industries Ltd. for a period of five years with effect from 1.4.2008 on a salary of ₹ 12 lakhs per annum with other perquisites. The Board of Directors of the company, on coming to know of certain questionable transactions, terminated the services of the managing director from 1.3.2011. Mr. Devesh termed his removal as illegal and claimed compensation from the company. Meanwhile the company paid a sum of ₹ 5 lakhs on ad hoc basis to Mr. Devesh pending settlement of his dues. Discuss with reference to Companies Act, 2013, whether:

- A. The company is bound to pay compensation to Mr. Devesh, and, if so, how much.
- B. The company can recover the amount of ₹ 5 lakhs paid on the ground that Mr. Devesh is not entitled to any compensation, because he is guilty of corrupt practices.

(ii) The Board of directors of a beverage company producing several kinds of soft drinks, namely Priya Limited having a paid up capital of ₹ 25 lakhs appointed Nishi Limited as sole selling agent for all its products in India without prior approval of the company in general meeting without any condition that the appointment is subject to the approval of the company

in general meeting. Nishi Limited, its directors and their relatives are not holding any shares in Priya Limited. Discuss whether the appointment of Nishi Limited as sole selling agent is valid. State with reasons and reference to Companies Act, 1956, whether your answer will be different if:

- A. Nishi Limited are appointed as sole selling agents only for the State of Maharashtra, or for whole of India; and
- B. For only some of the products manufactured by Priya Limited or for the entire range of products.

(iii) Explain as per provisions of Companies Act, 1956, whether companies being amalgamated must be Companies registered under Companies Act, 1956?

[6+6+3 = 15]

Question 2(d):

(i) A Public Company secures residential accommodation for the use of its managing director by entering into a license arrangement under which the company has to deposit a certain amount with the landlord to secure compliance with the terms of the license agreement. Can it be considered as a loan to a director? Discuss with reference to Companies Act, 2013.

(ii) What are Special Courts? What are the powers of Special Courts with respect to offence of money laundering? Discuss with reference to prevention of Money Laundering Act, 2002.

(iii) Referring to the provisions of section 397, of Companies Act, 1956, examine whether the following acts of the company would amount to oppression:

- A. Allotment of shares by directors of the company by which existing majority is reduced to minority.
- B. Allotment of shares by directors of the company by which existing minority are made to majority
- C. A share sale agreement was executed by Vansh, an NRI. The shares and transfer deed was handed over to an escrow agent. The sale was subject to RBI permission. The shares were not transferred for 6 years, since RBI permission was not received. Vansh, after waiting for a long period of time raises the issue and complains of oppression in the capacity of a member. As per the agreement the sale was unconditional. During the above period Vansh did not exercise any right as shareholder, nor did the company treat him as a member.

[5+4+6 = 15]

Question 2(e):

(i) Solomon Ltd., a reputed Public Company, had advanced a certain sum of money to one of its Directors, Mr. Gold on certain terms and conditions and fixing the time limit for repayment thereof. Now, Mr. Gold has approached the company with a request to extend the time limit for repayment of the balance loan amounting to ₹ 12,00,000 by another 6 months. Who, as per Companies Act, 2013 is authorized to grant the extension as requested by Mr. Gold?

(ii) Briefly explain the meaning of the term 'investigation' and the kinds of investigations that can be ordered under the Companies Act, 1956?

(iii) The managing director of a company is convicted of an offence involving moral turpitude. He prefers an appeal against conviction. Can he continue as managing director pending disposal of the appeal? Can the appellate Court remove the disqualification or stay the same pending the disposal of the appeal? Discuss in light of Companies Act, 1956.

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(iv) Explain briefly the powers of the Central Government to issue directors to the IRDA, as per IRDA Act 1999.

[2+4+5+4 = 15]

Question 3: Answer any two questions

[20 Marks]

Question 3(a):

(i) 'Corporate Governance is about promoting fairness'. Is it truly beneficial?

(ii) Write a short note on SA 8000.

[6+4 = 10]

Question 3(b):

(i) Explain the importance of 'Ethics' for a finance and accounting professional.

(ii) If you are an accounting professional in a large multinational corporation, what steps would you undertake to create an ethical accounting environment? [5+5 = 10]

Question 3(c):

(i) Write a short note on Memorandum of Understanding and Public Sector Enterprises.

(ii) Discuss the difficulties faced in Governance by state owned businesses.

[5+5 = 10]