

P13_Practice Test Paper_Syl12_Dec13_Set 3

PAPER 13 : Corporate Laws & Compliance

Full Marks: 100

Time : 3 hours

SECTION A

[Answer to Q.No.1 is compulsory and attempt any 4 from the rest]

1. (a) Mr. Sanchay was appointed as an Additional Director of Conservative Finance Ltd. w.e.f. 1st October 2011 in a casual vacancy by way of a circular resolution passed by the Board of Directors. The next AGM of the Company was due on 31st March 2012 but the same was not held due to delay in the finalization of the accounts. Some of the Shareholders of the Company have questioned the validity of the appointment of Mr. Sanchay and his continuation as Additional Director beyond 31st March 2012. Advise the Company on the complaints made by the Shareholders. **[4]**

(b) Examine with reference to the provisions of the Companies Act, 1956 the validity of the following:

(i) A scheme provides for Amalgamation of a 'Foreign Company' with a Company registered under the Companies Act, 1956.

(ii) The statement forwarded with the notice convening a meeting of its members pursuant to Court's Direction under Section 391 contains only 'Exchange Ratio' without details of its calculation.

(iii) At the time of filing of the petition for Amalgamation, the object clause of both the Transferor and Transferee Companies does not contain power to Amalgamate. **[3]**

(c) Mr. Shyam goes abroad for four months from 04.01.2012 and an alternate director has been appointed in his place. Therefore, advice as to sending of notice as required under section 286 of the Companies Act, 1956. **[2]**

(d) ABC Company Limited, a closely held company comprised two groups of shareholders - one foreign and the other Indian. The foreign group held 55% and the Indian 45% of the shares of the company. The Articles of Association of the company provided all the matters of the mutual understanding of both the groups. The Articles also contained the provisions enabling the two groups to enjoy equal amount of managerial power. The relationship between the two groups could not last for a long time and differences arose between them. The two groups could not operate, leading to a deadlock. The Indian group, therefore, complained to the Company Law Board for action against the foreign group for oppression.

Referring the provisions of the Companies Act, 1956, decide:

(i) Whether the contention of the Indian group that the foreign group is acting in a manner oppressive to the Indian group will sustain?

(ii) What relief can the Company Law Board grant to the petitioners in this case? **[4]**

(e) ABC Banking Company Limited has advanced a sum of ₹25.00 lacs to Mr. Reliable, a director of the company, to meet his personal liabilities but due to some adverse conditions, Mr. Reliable is not in a position to repay the loan. The Board of directors of the

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company is considering to remit a sum of ₹10.00 lacs. The Board of Directors seeks your advice. **[2]**

2. (a) Mr. Vivaan, a chartered accountant is a director in PQR Limited. The company proposes to appoint or engage the firm Vivaan and Co. in which Mr. Vivaan is a partner in one or more of the following capacities:

- (i) Consultants on regular retainer basis.
- (ii) Authorised representative to appear before tribunals.

Discuss whether the provisions of section 314 of the Companies Act are attracted in the above situations. **[4]**

(b) M/s XYZ Ltd. was incorporated on 1st January, 2010. On 1st November, 2012 a political party approaches the company for a contribution of ₹10 lakhs for political purpose. Advise in respect of the following:

- (i) Is the company legally authorised to give this political contribution?
- (ii) Will it make any difference, if the company was in existence on 1st October, 2009?
- (iii) Can the company be penalised for defiance of rules in this regard? **[6]**

(c) Printed Computer is a Singapore based company having several business units all over the world. It has a unit for manufacturing computer printers with its headquarters in Pune. It has a branch in Dubai which is controlled by the headquarters in Pune. What would be the residential status under FEMA, 1999 of printer units in Pune and that of Dubai branch? **[5]**

3. (a) Mr. Naman holding 3% Shares in OPQ Ltd., became a Director of this Company on 01.05.2011. The Company prior to his appointment as Director, had commenced transactions with A Ltd. in the next Board Meeting to be held on 10.05.2011, the Board proposes to discuss about price revisions sought for by A Ltd. Briefly explain –

- (i) Whether Mr. Naman should make a disclosure of his interest in A Ltd, assuming that the Company is going to have transactions with A Ltd. on a continuous basis, if yes, when and how? When should it be renewed?
- (ii) Can he vote in the price revision resolution in the Board Meeting?
- (iii) You are informed that Mr. Naman holds 1.5% of the Share Capital of A Ltd and that his wife holds another 3% of the Share Capital of A Ltd. **[3]**

(b) Mr. Zen was appointed as a Member of the Competition Commission of India by Central government. He has a professional experience in international business for a period of 12 years, which is not a proper qualification for appointment of a person as member. Pointing out this defect in the Constitution of Commission, Mr. Yen, against whom the commission gave a decision, wants to invalidate the proceedings of the commission. Examine with reference to the provisions of the Competition Act, 2002 whether Mr. Yen will succeed. **[6]**

(c) The Official Liquidator of Arya Ltd (in liquidation) instituted misfeasance proceedings u/s 543 against 'A', a Director of the Company in liquidation. During the pendency of

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misfeasance proceedings, 'A' died. What is meant by Misfeasance? Is it possible for the Official Liquidator to implead the legal representatives of 'A' and continue the proceeding against them? **[2+4=6]**

4. (a) Mr. BPK was appointed as the sole selling agent of M/s KMP Ltd. w.e.f 1st January 2010 for a period of 5 years. Mr. BPK earned his remuneration as following during the years 2010 to 2012:

Year	Amount of remuneration
2010	₹4,41,000
2011	₹6,32,000
2012	₹7,45,000

On and from 1st January 2012, the sole selling agency agreement was terminated by M/s KMP Ltd. You are required to calculate the amount of compensation payable by the said company to Mr. BPK under the provisions of the Companies Act, 1956.

What would be your answer in a case where the said M/s KMP Ltd. was amalgamated with another company with effect from 1st January 2012 and Mr. BPK refused to act as the sole selling agent of the amalgamated company after amalgamation. **[3+2=5]**

(b) The Central Govt. acquired a Banking Company. The scheme of acquisition, apart from other matters, provided for the quantum of compensation payable to the shareholders are not satisfied with the amount of compensation fixed under the scheme of acquisition.

Is there any remedy available to the shareholders under the provisions of the Banking Regulation Act, 1949? **[3]**

(c) Mr. Lalit, a member of a Producer Company, wants to transfer his shares. State as to how he can transfer his shares under the provisions of the Companies Act, 1956. **[5]**

(d) Distinguish between Insolvency and Winding-up. **[2]**

5. (a) Following is the latest audited Balance Sheet of ABC Ltd.

Capital and liabilities	₹	Assets	₹
Equity Share Capital (10000 shares of 100 each)	10,00,000	Goodwill	1,00,000
Less: Calls unpaid	10,000	Land and Buildings	10,50,000
	9,90,000	Plant and machinery	20,25,000
Preference Share Capital	1,50,000	Equity shares in A Ltd.	1,25,000
Securities Premium A/c	1,50,000	Preference shares in B Ltd.	50,000
Capital Redemption Reserve	2,25,000	Debentures in C Ltd.	1,00,000
General Reserve	5,00,000	Shares in P Ltd.	2,25,000
Profit & Loss A/c	2,20,000	Capital in Z & Co.	1,00,000
Sinking Fund Reserve	1,10,000	Current Assets	55,000

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Dividend Equalisation Reserve	60,000		
Loan from TIIIC	10,00,000		
Deposits from S Ltd.	2,00,000		
Current Liabilities	1,25,000		
Provision for Taxation	1,00,000		
	38,30,000		38,30,000

The following is the additional relevant information:

1. Of the equity shares capital, 3,000 shares have been issued as rights shares and 2,000 shares as bonus shares.
2. B Ltd. is subsidiary of ABC Ltd. with 90% shareholding, whereas A Ltd. is wholly owned subsidiary of ABC Ltd.
3. Z & Co. is a partnership firm. The directors seek advice as to whether the following additional investments can be made by a decision taken in a Board Meeting:
 - (i) Loan to A Ltd. ₹10,00,000
 - (ii) Debentures in B Ltd ₹2,25,000
 - (iii) Purchase of shares of Shree Ltd. in the open market ₹95,000State reasons. **[8]**

(b) MAR Ltd wants to issue certain shares on preferential basis and has sought your advice in respect of pricing the shares for such issue. State the guidelines issued by SEBI in respect of pricing of the issue of shares on a preferential basis. **[7]**

6. **(a)** What are the powers of the Central Govt. under IRDA Act, 1999? Can Central Govt. supersede the IRDA? **[6]**

(b) The promoters of ABC Ltd., an Unlisted Company, decide to go for a public issue. They seek your advice in respect of the following matters:

- (i) Can equity shares be reserved in Firm Allotment Category for Promoters, at a price different from the price at which shares are offered to Public?
- (ii) Circumstances in which equity shares can be issued in denomination of ₹2 per share.
- (iii) Need for past track record of distributable profits.
- (iv) Requirement of Net Tangible Assets in previous years. **[4]**

(c) A Ltd. and B Ltd. both dealing in Chemicals and Fertilizers have entered into an agreement to jointly promote the sale of their products. A complaint has been received by the CCI stating that the agreement between the two is Anti-Competitive and against the interest of other in the trade. Examine what are the factors the CCI will take into account to determine whether the agreement in question will have any appreciable adverse effect on competition in the market. **[5]**

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SECTION B

[Answer any five questions from Q.No.7 (a) to (f)]

7. (a) "The German Corporate Governance system is based around a dual board system".
Elucidate the statement. **[5]**
- (b) Discuss the various reasons for Corporate Social Responsibility (CSR). **[5]**
- (c) Briefly discuss the various issues regarding the MoU System in Indian CPSEs. **[5]**
- (d) "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 view of the above, list the difficulties encountered in governance. **[5]**
- (e) Write short notes on:
(i) Corporate Governance in Germany
(ii) Risk and uncertainty in Whole Life Cycle Costing **[2.5*2=5]**
- (f) According to "Altered Images: the 2001 State of Corporate Responsibility in India Poll" a survey conducted by Tata Energy Research Institute (TERI), the evolution of CSR in India has followed a chronological evolution of 4 thinking approaches. Explain the same. **[5]**