

PAPER – 4 : CORPORATE LAWS AND SECRETARIAL PRACTICE

Question Nos. 1, 2 and 3 are compulsory.
Answer any four from the rest of the questions

Question 1

Answer any two of the following:

- (a) Primus Group of Companies has three Companies, viz., Primus Rolling Mills Ltd., Primus Steel Pipe Manufacturers Ltd. and Primus marketing Company Ltd. All the three Companies want to appoint Mr. Prem as their Managing Director. You are required to state with reference to the provisions of the Companies Act, 1956 whether such appointments are permissible. (5 Marks)
- (b) Working of City Stock Exchange Association Ltd., is not being carried on by its governing Board in public interest. On receipt of representations from various investors and Investors' Association, the Central government is thinking to withdraw the recognition granted to the said Stock Exchange. You are required to state the circumstances the procedure for withdrawal of such recognition as per the provisions of Securities Contracts (Regulation) Act, 1956 in this regard. Also state the effect of such withdrawal on the contracts outstanding on the date of withdrawal. (5 Marks)
- (c) The governing body of City Stock Exchange Association Ltd., is desirous of putting various restriction on voting rights of its members to be exercised in a meeting and on their right to appoint a proxy. You are required to state whether the same is permissible. Also state the role of Central Government in this respect. (5 Marks)

Answer

- (a) As per provisions of Section 316(1) and 316(2) of the Companies Act, 1956, no public company and no private company which is a subsidiary of a public company can appoint or employ a person as its managing director if such person is a managing director or manager of more than one other company, whether public company or private company which is a subsidiary of public company. In view of the above legal provisions, Mr. Prem can be appointed as a managing director of only two public companies and not three public companies.

However, Section 316(4) of the said Act provides an exception and states that the Central Government may, by order, permit any person to be appointed as a Managing Director of more than two companies, if the Central Government is satisfied that it is necessary that the companies should, for their proper working, function as a single unit and have a common Managing Director.

According to the exception provided, the Primus Group of Companies have to approach the Central Government and satisfy it about the necessity of having a common Managing Director for all the three companies. If the Central Government is satisfied and issues an order accepting the plea of the Group, then the Group can appoint Mr. Prem as Managing Director of all the three companies of the Group.

- (b) Section 5 of the Securities Contracts (Regulation) Act, 1956 empowers the Central Government to withdraw the recognition granted to a stock exchange. The circumstances and procedure to be followed for withdrawal of such recognition is stated below
- (i) if considering the interest of the trade or the public interest, the Central government is of the opinion that the recognition granted to a stock exchange should be withdrawn, the Central Government shall serve a written notice on the governing body of the stock exchange.
 - (ii) The said notice shall specify the reasons for the proposed withdrawal of the recognition.
 - (iii) The governing body of the stock exchange shall be afforded an opportunity of being heard by the Central Government.
 - (iv) Even after hearing the governing body, the Central Government is satisfied that the recognition granted to the stock exchange should be withdrawn; the Central Government may, by way of a notification in the Official Gazette, withdraw the recognition granted to the stock exchange.

The proviso to the said section 5 states that no such withdrawal shall affect the validity of any contract entered into or made prior to the date of notification withdrawing the recognition and the Central Government may, after consultation with the stock exchange, make such provision as it deems fit in the notification of withdrawal or in any subsequent notification for the due performance of any contracts outstanding on that date.

- (c) As per Section 7A(1) of the Securities Contracts (Regulation) Act, 1956 a recognized stock exchange may make rules or amend any rules made by it in respect of voting rights of its members and also on appointment of proxy. The restrictions can be put in respect of the following matters:
- (a) The restriction of voting rights to the members only in respect of any matter placed before the stock exchange at any meeting.
 - (b) The regulation of any voting rights in respect of any matter placed before the stock exchange at any meeting so that each member may be entitled to have one vote only, irrespective of his share of the paid up equity capital of the stock exchange.
 - (c) The restriction on the right of a member to appoint another person as his proxy to attend and vote at a meeting of the stock exchange.
 - (d) Such incidental, consequential and supplementary matters as may be necessary to give effect to the matters as stated (a), (b) and / or (c) above.

As per Section 7A(2) of the said Act, the role of the Central Government in respect of the restrictions placed by the stock exchange as stated above is as follows:

- (i) Approval of the proposed changes by the stock exchange
- (ii) Publishing the same in the Official Gazette

- (iii) To make such modification in the proposed changes as it deems fit.

Question 2

Answer any two of the following

- (a) TKM Exporter of New Delhi are engaged in Export Business. It made certain exports but failed to realise and repatriate to India the foreign exchange due on its exports. The Adjudicating Authority imposed a penalty under the provisions of Foreign Exchange Management Act, 1999 (FEMA). Being aggrieved by this penalty, the said exporter seeks your advice as to the authority to which appeal can be made and the time limit for making such appeals. You are required to advise on the matter. (7 Marks)
- (b) Mr. Kale, an Indian National desires to obtain foreign exchange for the following purposes:
- (i) Remittance of US Dollar 50,000 out of winnings on a lottery ticket.
 - (ii) US Dollar 100,000 for sending a tour of a cultural group to USA.
 - (iii) US Dollar 50,000 for meeting the expenses of his business tour to Europe.
- Advise him, if he can get the Foreign Exchange and under what conditions. (7 Marks)
- (c) (i) In a proceeding before the Competition Commission of India involving two Pharmaceutical companies, the plaintiff requested the presiding officer to call upon the services of experts from the pharmaceutical sector to determine the truth of the allegations leveled by it against the respondent. The respondent opposed the request on the ground that such action cannot be taken by the Competition Commission. You are required to state with reference to the provisions of the Competition Act, 2002, whether the contention of the respondent is tenable. (3 Marks)
- (ii) The Central Government has formed as opinion that Mr. CBM (a member of the Competition Commission of India) has acquired such financial interest that it may affect prejudicially his functions as a member of the Competition Commission and it wants to remove him from his office. You are required to state with reference to the provisions of the Competition Act, 2002, whether the Central Government can do so and if yes, how? (4 Marks)

Answer

- (a) Sections 17 and 19 of Foreign Exchange Management Act 1999 provide for appeals against orders of Adjudicating Authority. If the Adjudicating Authority is Assistant Director of Enforcement or Deputy Director of Enforcement, appeal will lie to Special Director (Appeals). Further appeal shall lie with Appellate Tribunal for foreign Exchange. However, the Adjudicating Authority is senior to the Assistant Director of Enforcement or Deputy Director of Enforcement, then the appeal shall lie directly to the Appellate Tribunal.

Appeal to Special Director (Appeals)

Appeal against order of Assistant Director of Enforcement or Deputy Director of Enforcement can be filed with Special Director (Appeals) under Section 17 of the said act within 45 days from the date on which the copy of the order made by the Adjudication Authority is received by the aggrieved person. The Special Director (Appeals) can condone the delay in filing the appeal if he is satisfied that there were sufficient cause for not filing the appeal within the stipulated time. Special Director (Appeals) will hear the parties and then pass his order. Copy of the order shall be sent to the concerned parties and the Adjudicating Authority.

Appeal to Appellate Tribunal

Appeal against the order of Adjudicating Authority being senior to Assistant Director of Enforcement or Deputy Director of Enforcement or against the order of Special Director (Appeals) can be made to the Appellate Tribunal for Foreign Exchange under Section 19 of Foreign Exchange Management Act, 1999 within 45 days from the date on which the copy of the order made by such Adjudicating Authority or Special Director (Appeals) is received by the aggrieved person. In this case also, the delay can be condoned by the Appellate Tribunal. In case of an appeal against the order imposing penalty, the appellant has to deposit the amount of such penalty with the authority prescribed by the Central Government. However, the Appellate Tribunal may waive such deposit to mitigate the likely hardship that may be caused to the appellant. After hearing of the appeal, the Appellate Tribunal shall pass a reasoned order.

It may be noted that the Tribunal is the final fact finding authority and no appeal lies against the facts determined by the Tribunal.

- (b) Under provisions of Section 5 of the Foreign Exchange Management Act, 1999 certain rules have been made for drawal of Foreign Exchange for Current Account transactions. As per these Rules, Foreign Exchange for some of the Current Account transactions is prohibited. As regards some other Current Account transactions, Foreign Exchange can be drawn with prior permission of the Central government or Reserve Bank of India.
 - (i) Remittance out of lottery winnings, is prohibited and the same is included in First Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence Mr. Kale cannot withdraw Foreign Exchange for this purpose.
 - (ii) Foreign Exchange or meeting expenses of cultural tour can be withdrawn by any person after obtaining permission from Government of India, Ministry of Human Resources Development, (Department of Education and culture) as prescribed in Second Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence, in respect of item (ii), Mr. Kale can withdraw the Foreign Exchange after obtaining such permission.
 - (iii) The type of payment as envisaged is covered under Third Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 and for withdrawing foreign Exchange exceeding US Dollar 25,000 for a business tour

irrespective of period of stay Mr. Kale will require the prior permission of the Reserve Bank of India.

In all the cases, where remittance of Foreign Exchange is allowed, either by general or specific permission, the remitter has to obtain the Foreign Exchange from an Authorised Person as defined in Section 2(c) read with Section 10 of the Foreign Exchange Management Act, 1999.

- (c) (i) As per provisions of Section 36(4) of the Competition Act, 2002 the Competition Commission may call upon such experts from the fields of economics, commerce, accountancy, international trade or other disciplines as it deems necessary, to assist the Commission in the conduct of any enquiry or proceeding before it. As per Regulation 54 of the Competition Commission (General) Regulations, 2004 made by the Commission under Section 64 of the Competition Act, 2002, it may draw up a panel of such experts.

In view of the above stated specific powers given to the Competition Commission, it can call upon the services of an expert from the pharmaceutical sector to determine the truth of the allegations leveled by the plaintiff against the respondent. Hence, the contention of the respondent is not tenable.

- (ii) Provisions of Section 11(2) of the Competition Act, 2002 empower the Central Government to remove, by an order, a member of the Competition Commission of India from his office if such member has acquired such financial interest as is likely to affect prejudicially his functions as a Member of the Competition Commission. However, provisions of Section 11(3) of the said Act put some restrictions on such powers of the Central Government. According to this section, in case as stated in the question, the Central Government wants to remove a member of the Competition Commission from his office, it has to make a reference to the Supreme Court. The Supreme Court shall hold an enquiry in accordance with the procedure formulated by it and then report that the member in question ought to be removed from his office.

Thus, the Central Government can remove a member of Competition Commission from his office by following the above procedure.

Question 3

Answer any two of the following:

- (a) (i) What do you understand by the term "Price Sensitive Information" as contemplated in the Securities and Exchange Board of India Act, 1992 ? What are the information which can be deemed to be "Price Sensitive Information". (4 Marks)
- (ii) MGR Ltd. wants to issue certain shares on preferential basis and has sought your advise in respect of pricing the shares for such issues. You are required to state the Guidelines issued by Securities and Exchange Board of India in respect of pricing of the issue of shares on a preferential basis. (4 Marks)
- (b) Excel Ltd., a Public Limited Company listed with the Stock Exchange, Mumbai, wants to

make issue of equity shares on preferential basis pursuant to a scheme approved under Corporate Debt Restructuring framework specified by Reserve Bank of India to various persons as may be selected by the Board of Directors of the Company. Following information relevant to the preferential issue is available.

- (i) Total No. of equity shares to be issued : 50 lac equity shares of Rs. 10 each out of which 30 lac equity shares will be allotted on 30th June, 2008 as fully paid up and balance 20 lac equity shares shall be allotted on the same date but paid up to Rs. 5 each and balance Rs. 5 shall be called upon at a later date and shall be paid up on 30th November, 2008.
- (ii) Out of the proposed allottees some persons are holding their shares in Excel Ltd. in physical form and not in dematerialized form and some persons had sold their entire shareholding in Excel Ltd. in January, 2008.
- (iii) The meeting of general body of shareholders for approving the preferential issue was held on 15th March, 2008.

Based on the above information you are required to answer the following queries with reference to the SEBI (Disclosure and Investor Protection) Guidelines, 2000:

- (i) What would be the lock-in period for the shares allotted on preferential basis?
- (ii) Who are the persons not entitled for allotment of shares on preferential basis?

(8 Marks)

- (c) (i) Explain the rules relating to interpretation of statutes when the terms "notwithstanding" and "Subject to" are used in any provision of an Act. (5 Marks)
- (ii) State the effect of the words "notwithstanding anything contained in this Act" used in Section 408 of the Companies Act, 1956 which vests certain powers in the Central Government to prevent oppression or mismanagement. (3 Marks)

Answer

- (a) (i) Any information which relates directly or indirectly to a company and which if published is likely to materially affect the price of securities of the company, is referred to as "Price Sensitive Information".

The following can be deemed to be "Price Sensitive Information":

- (i) Periodical financial results of the company
- (ii) intended declaration of dividends (both interim and final)
- (iii) issue of securities or buy-back of securities
- (iv) any major expansion plans or execution of new projects
- (v) Amalgamation or merger or takeovers
- (vi) disposal of the whole or substantial part of the undertaking
- (vii) any significant changes in policies, plans or operations of the company.

(ii) According to the Securities and Exchange Board of India (Disclosure and investor Protection) Guidelines, 2000 the issue of shares on a preferential basis can be made at a price not less than the higher of the following:

(i) the average of the weekly high and low of the closing prices of the related shares quoted on the stock exchange during the six months preceding the relevant date;

or

(ii) the average of the weekly high and low of the closing prices of the related shares quoted on a stock exchange during the two weeks preceding the relevant date.

For the purpose of above, “relevant date” means the date thirty days prior to the date on which the meeting of General Body of shareholders is held, in terms of Section 81(1A) of the Companies Act, 1956 to consider the proposed issue.

(b) (i) Lock-in period

As per Guidelines issued by SEBI (Para 13.3 1(e)), the lock-in period in respect of the shares issued on preferential basis pursuant to a scheme approved under Corporate Debt Restructuring framework specified by Reserve Bank of India, shall commence from the date of allotment and shall continue for a period of one year in case of fully paid up shares. In the case of allotment of partly paid shares, the lock-in period shall commence from the date of allotment and continue for a period of one year from the date when shares become fully paid up.

In view of the above guidelines of SEBI, the lock-in period for 30 lac shares to be allotted as fully paid up shall commence from 30th June, 2008 and shall continue for one year from that date. In case of 20 lac shares allotted as partly paid up on 30th June, 2008 and to be made fully paid up on 30th November, 2008, the lock-in period shall commence from 30th June, 2008 and shall continue till one year from 30th November, 2008 the date on which the same were made fully paid up.

(ii) Non-eligibility for preference shares

As per Guidelines issues by SEBI [Para 13.3 1(f)], where any shares are issued on preferential basis, any person who does not hold his entire shareholding in the issuing company in dematerialized form shall not be entitled for the preferential allotment of shares. Para 13.3 1(h) of the said guidelines disentitles any persons from receiving shares in a preferential issue, if such person has sold his shares in the issuing company during the six months period prior to the relevant date.

In view of the above guidelines, the persons who are holding the shares in Excel Ltd. In physical form and not in dematerialized form and the persons who have sold their shares in the said company in January, 2008 being falling within the period of six months prior to the relevant date, are not entitled to receive the shares in the preferential issue.

Relevant date for this purpose means the date thirty days prior to the date on which the meeting of general body of shareholders is held under Section 81(1A) of the Companies Act, 1956 to consider the proposed issue.

- (c) (i) The term 'notwithstanding' used along with the words 'anything contained' in an Act characterises the non obstante clause. It is used in a provision of an Act when the intention of the legislature is to give an over-riding effect to that provision over other provisions of that Act and/or over provisions of other Acts as may be specified later in such provision. If there is any inconsistency or departure between the non-obstante clause and other provisions, then the provisions as contained in the non-obstante clause shall prevail. [K Parsuramaiah Vs. Pakari Lakshman AIR (1965) AP 220].

As against the above non obstante clause, the term 'subject to' is used in a provision of an Act to convey the intention of the legislature that the particular provision is yielding place to another provision or provisions to which is made 'subject to'. Thus, it can be concluded that the effect of non obstante clause (i.e., not withstanding) is the opposite to a provision or provisions which includes the term "subject to".

- (ii) Section 408 of the Companies Act, 1956 starts with the words "notwithstanding anything contained in this Act". This is a non obstante clause which vests over-riding powers in the Central Government to nominate directors to prevent mismanagement or oppression. [Oriental Industrial Investment Corporation Ltd. Vs. Union of India (1981) 52 Comp. Cas. 487, 493]. This expression indicates that the appointment of the directors under this section is not to be controlled by other provisions of the Companies Act, 1956 such as maximum number or other proportion, if any, fixed by the said Act. Further, the directors so appointed are also not liable to be removed by the company at general meeting under the provisions of Section 284 of the Companies Act, 1956.

Question 4

- (a) Mr. Raj is director in 14 public limited companies as on 30th July, 2007 and continues to be so till 26th September, 2007. The following companies appoints Mr. Raj as a director at their respective Annual General Meetings held on dates mentioned against their names:
- (1) MLP Ltd. (AGM held on 27th September, 2007)
 - (2) PAT Private Ltd. (AGM held on 25th September, 2007)
 - (3) Retail Traders Association (a company registered under Section 25 of the Companies Act, 1956 (AGM held on 26th September, 2007)
 - (4) KMC Ltd. (AGM held on 29th September, 2007)

You are required to state with reference to the relevant provisions of the Companies Act, 1956 the options available to Mr. Raj in respect of accepting or not accepting the appointment of the above companies. (8 Marks)

- (b) What do you understand by the term "Director Identification Number" (DIN) ? Describe the procedure to obtain the same as enumerated under the Companies Act, 1956 read with the relevant Rules. (7 Marks)

Answer

- (a) Section 275 of the Companies Act, 1956 debars any person to hold office as a director of more than 15 companies simultaneously.

As per the provisions of Section 277(2) of the Companies Act, 1956 where a person holds directorship of 14 or less companies is appointed as a director of other companies and such appointments make the total number of his directorships more than 15, then the person concerned has to choose the directorships which he wishes to continue to hold or to accept so that the total number of directorships, old or new, henceforth to be held by him does not exceed 15.

The said section further provides that none of the new appointments shall be effective until such a choice is to be made and in case of failure of the person to make such a choice within 15 days of the day on which the last of the new appointments was made, all the new appointments shall become void.

Section 278 of the Companies Act, 1956 states that for the purpose of Section 275 and Section 277 the number of companies of which a person may be a director, following companies are not to be counted.

- (a) A private company unless it is a subsidiary of a public company
- (b) An unlimited company
- (c) An association not carrying on business for profit or which prohibits the payment of dividend
- (d) A company in which such person is only an alternate director.

In view of the abovementioned legal provisions, Mr. Raj who is already a director in 14 companies has to consider the following aspects.

As per provisions of Section 278 of the Companies Act, 1956 PAT Private Ltd. being a private company and Retail Traders Association being an association not carrying on business for profit and prohibiting payment of dividend by virtue of being a company registered under section 25 are not to be counted for the purpose of Section 277 read with Section 275.

Thus Mr. Raj can accept the appointment in PAT Private Ltd. and Retail Traders Association without any obstacle.

The appointment of Mr. Raj in the other two public companies along with the old directorships in 14 companies makes a total of 16 which is excess of 15 prescribed by Section 275. As per provisions of Section 277, Mr. Raj has to decide within 15 days from 29th September, 2007, the date on which the last appointment was made, as to the directorships which he wishes to continue hold or to accept so that the number of his total directorships does not exceed 15 and in case he fails to be decide within the said 15

days then his appointments as a director of MLP Ltd. and KMC Ltd. shall become void on the expiry of the said 15 days.

Note: A different view can also be taken to the extent that the appointment of Mr. Raj in MLP Ltd. on 26th September, 2007 will make the total number of directorships to 15 which is within the prescribed parameters. However, his appointment as Director of KMC Ltd. on 29th September, 2007 will make it 16 which is in excess of the permissible limit. Hence, the appointment in KMC Ltd. will become void and ineffective in case Mr. Raj does not decide about which of the two companies he should choose within 15 days.

- (b) Director Identification Number (DIN) is a Unique Identification Number given by the Ministry of Corporate Affairs. It is required to be obtained by every person who is intended to become a director of any company. DIN is a pre-requisite for filing various forms with the Registrar of Companies. The electronic system of the Ministry of Corporate Affairs will not allow to file / submit the forms if DIN of the signatory director is not mentioned in the form being filed / submitted.

In order to obtain DIN from the Ministry of Corporate Affairs following procedure is to be adopted:

- (i) To check whether the computer system through which the DIN Application is being made has the requisite hardware and the software as well as the internet facility.
- (ii) Using the internet facility, DIN Application Form has to be downloaded from the website of Ministry of Corporate Affairs
- (iii) The DIN application form is to be filled up and submitted electronically
- (iv) On electronic submission of the DIN application form, a provisional DIN will be generated and displayed on the said application form.
- (v) Thereafter, the form is to be printed, signed and submitted to the Ministry of Corporate Affairs – DIN Cell along with following papers/documents
 - (a) Passport size photograph of the applicant duly attested by a Magistrate or a Notary Public or a practicing Chartered Accountant or a practicing Company Secretary or a practicing Cost Accountant or a Gazetted Officer.
 - (b) Attested copy of any one of the following as a proof of identify
 - (i) Passport
 - (ii) Election / Voter Identity card
 - (iii) Driving Licence
 - (iv) Income tax PAN card
 - (v) Ration Card
 - (vi) Any other document which will prove the identity of the applicant
 - (c) Attested copy of any one of the following as a proof of residence
 - (i) Passport

- (ii) Election / voter identity card
- (iii) Driving Licence
- (iv) Ration Card
- (v) Electricity Bill
- (vi) Telephone Bill
- (vii) Bank Account Statement
- (viii) Any other document which will prove the identity of the applicant

On submission of the above, the DIN Cell of the Ministry of Corporate Affairs shall allot Final DIN and send an intimation letter to the applicant.

Question 5

- (a) A group of shareholders has approached you for advice regarding the affairs of LPM Paper Mills Ltd. According to them, the management of the company is not carrying out its functions in accordance with the prudent commercial practice and if the affairs of the company are allowed to run in future in the same manner, the company's solvency would be in danger. They want that a Special Audit be conducted to find out the actual nature of the transactions.
- (i) You are required to state with reference to the provisions of the Companies Act, 1956, as to when a special audit can be directed and by whom ?
 - (ii) Draft an application to be submitted to the appropriate authority in this respect.

(8 Marks)

- (b) Big Ball Ltd., a reputed Public Company, over the years, has performed excellently and its General Reserve is many times more than the paid up capital of the Company. The Chairman of the company came to know that a group of unscrupulous persons is cornering the shares of the company and may lodge them for transfer in their names. It is apprehended that such transfer may lead to change in the composition of Board of Directors which may be prejudicial to the Public interest.

You are required to state with reference to the provisions of the Companies Act, 1956 as to how Big Ball Ltd. can block the above stated transfer of shares. (7 Marks)

Answer

- (a) (i) Provision regarding Special Audit: Section 233A of the Companies Act, 1956 deals with the matter relating to Special Audit. The Special Audit can be ordered by Central government if it is of the opinion:
- (i) that the affairs of the company are not being managed in accordance with sound business principles or prudent commercial practices, or

(ii) that the company is being managed in a manner likely to cause serious injury or damage to the interests of the trade, industry or business to which it pertains, or

(iii) that the financial position of the company is such as to endanger its solvency.

Thus, the dissatisfied group of shareholders may make a complaint to the Central Government requesting for conducting the special audit. If the Central Government is satisfied that there exist sufficient reasons, it may order a special audit to be carried out by a Chartered Accountant who may or may not be company's statutory auditor or who may or may not be in practice.

(ii) DRAFT APPLICATION

Dated

To
The Secretary,
Ministry of Corporate Affairs,
Government of India,
New Delhi.

Sir,

We, the undersigned, the shareholders of LPM Paper Mills Ltd. would like to bring to your kind notice that for a long time the affairs of the said company are not being managed in accordance with sound business principles and prudent commercial practices.

We are of the view that certain expenditures which are being incurred by the company are not related to the business of the company and the company is not getting any benefit out of such expenses. Moreover, we have the apprehension that there are certain business transactions which are being entered into by the directors with the concerns which are owned by the relatives of the Directors and the prices charged for such transactions are not comparable with the prices charged by the other parties for similar transactions.

If such state of affairs is allowed to be carried on for long, the financial position of the company will reach a stage where it will endanger its solvency.

We feel that the modus operandi of the transaction is such that it may be difficult for the regular statutory auditor to detect them in course of normal audit.

It is, therefore, prayed that the Central Government be pleased to appoint, pursuant to Section 233A of the Companies Act, 1956, a Special Auditor to properly audit the

accounts of the Company and find the real nature of the transactions and determine the losses so far sustained and being sustained by the company on this account.

Yours faithfully

1.....
2.....
3.....
4.....
5.....

(Shareholders)

- (b) As per Section 250(4) of the Companies Act, 1956 where the Company Law Board (Company Law Board till the Company Law Tribunal becomes operational referred to as CLB hereinafter) has reasonable ground to believe that a transfer of shares in a company is likely to take place and the CLB is of the opinion that any such change would be prejudicial to the public interest, the CLB may, by an order, direct that any transfer of shares in the concerned company; during such period not exceeding three years, as may be specified in the order, shall be void.

As per Section 250(1) & (2) of the Companies Act, 1956, if the CLB is of the view that there are good reasons to find out the relevant facts about any shares and the CLB is of the opinion that such facts can not be found out unless the restrictions are imposed, as an interim measure, it may, by an order, direct that transfer of any; such shares shall be void and no voting right shall be exercised in respect of such shares.

However, the CLB is empowered to vary or rescind its order any time.

The facts given in the question squarely falls within the provisions of Section 250 of the Companies Act, 1956. The management of Big Ball Ltd. may make a complaint to the CLB and convince it that the transfer of shares in favour of the group of unscrupulous persons would change the composition of the Board of Directors of the Company which shall be prejudicial to the public interest and if the CLB is convinced of the plea of the company, it may pass an order as stated above which would block the transfer of shares as stated in the question.

Question 6

- (a) (i) An inter-state co-operative society has been incorporated on 1st May, 2008 as a Producer Company under the provisions of the Companies Act, 1956. Give your comments on its proposal to have 18 directors on its Board after incorporation as a Producer Company.
- (ii) Mr. Zameen, a member of a Producer Company, wants to transfer his shares. You are required to state as to how he can transfer his shares under the provisions of the Companies Act, 1956.

- (iii) A Producer Company wants to issue bonus shares. You are required to state the relevant provisions of the Companies Act, 1956 in this regard.
- (iv) What are the modes of investment, from and out of its general reserves, available to a Producer Company formed and registered under Section 581C of the Companies Act, 1956 ? (8 Marks)
- (b) Amar Textiles Ltd. is a company engaged in manufacture of fabrics. The Company has investments in shares of other bodies corporate including 70% shares in Amar Cotton Co. Ltd., and it has also advance loans to other bodies corporate. The aggregate of all the investments made and loans granted by Amar Textiles Ltd. exceeds 60% of its paid up share capital and free reserves and also exceeds 100% of its free reserves. In course of its business requirements, Amar Textiles Ltd. has obtained a term loan from Industrial Development Bank of India and is still subsisting. Now the Company wants to increase its holding from 70% to 80% of the equity share capital in Amar Cotton Co. Ltd. by purchase of additional 10% shares from other existing shareholders.

State the legal requirements to be complied with by Amar Textiles Ltd. under the provisions of the Companies Act, 1956 to give effect to the above proposal. Will answer be different in Amar Textiles Ltd. would have defaulted in payment of matured fixed deposits accepted by it from the public ? (7 Marks)

Answer

- (a) (i) As per provisions of Section 581-O of the Companies Act, 1956, any producer Company can not have more than fifteen directors. However, by way of a proviso, the said section further provides that in the case of an inter-state cooperative society which is incorporated as a Producer Company, may have more than fifteen directors for a period of one year from the date of its incorporation as a Producer Company.

In view of the above provisions of the Companies Act, 1956 the proposal to have 18 directors by the Producer Company after its incorporation as such, is a valid proposition, but since it is incorporated on 1st May, 2008, it can have more than 15 directors for one year only from the date of its incorporation.

- (ii) According to the provisions of Section 581ZD(1) and (2) of the Companies Act, 1956, the shares of a member of a Producer Company shall not be transferable but a member of a Producer Company may after obtaining the previous approval of the Board, transfer the whole or part of his shares along with any special rights, to an active member at par value.

Based on the above provisions relating to the transfer of shares of a member in a Producer Company, Mr. Zameen has to obtain prior approval of the Board and then transfer his shares to an active member of the Producer Company at par value.

- (iii) As per provisions of Section 581ZJ of the Companies Act, 1956, any Producer Company may, upon recommendation of the Board and passing of resolution in the general meeting, issue bonus shares by capitalization of amounts from general

reserves referred to in Section 581ZI in proportion to the shares held by the Members on the date of the issue of such shares.

- (iv) As per Producer Companies (General Reserves) Rules, 2003 issued by the Department of Company Affairs, Ministry of Finance, Government of India on 7th August, 2003, a producer company formed and registered under Section 581C of the Companies Act, 1956, shall make investments from and out of its general reserves in the following manner namely:
- (a) in approved securities, fixed deposits, units and bonds issued by the Central or State governments of cooperative societies or scheduled banks; or
 - (b) in a co-operative bank, State co-operative Bank, co-operative land development bank or Central co-operative bank; or
 - (c) with any other schedule bank; or
 - (d) in any of the securities specified in Section 20 of the Indian Trusts Act, 1882; or
 - (e) in the shares or securities of any other multi-State Co-operative society or any co-operative society; or
 - (f) in the shares, securities or assets of a public financial institutions specified under Section 4A of the Companies Act, 1956 specified.

Further, Section 581ZL of the Act provides that the general reserves of any producer company shall be invested to secure the highest returns available from approved securities. A producer company may, for promotion of its objectives acquire the shares of another producer company. Again a producer company, either by itself or together with its subsidiaries may invest in the shares of any other company, other than a producer company for an amount not exceeding thirty per cent of the aggregate of its paid up capital and free reserves. Provided that a producer company may, by special resolution passed in its general meeting and with prior approval of the Central Government, invest in excess of the limits specified in the section. All investments by a producer company may be made if such investments are consistent with the objects of the producer company.

- (b) Amar Cotton Co. Ltd. is not a wholly-owned subsidiary of Amar Textiles Ltd. and hence investments in such a subsidiary company is not covered by exemption under Section 372A(8) (e) of the Companies Act, 1956. As the aggregate of the investments in shares and loans granted to other bodies corporate exceeds 60% of the paid-up share capital and free reserves and also 100% of the free reserves, it is necessary for Amar Textiles Ltd., to pass a special resolution in the General Meeting before increasing its holding from 70% to 80%. [First proviso to Section 372A(1)]

The notice of special resolution must indicate clearly the specific limits, the particulars of the body corporate in which the investment is proposed to be made, the purpose of the investment, specific source of funding and such other details [third proviso to Section 372A(1)].

In the present case, Amar Textiles Ltd., obtained a term loan from Industrial Development Bank of India (IDBI) which is a public financial institution within the meaning of Section 4A of the Companies Act, 1956 and therefore the provisions of Section 372A(2) are attracted and such loan is still subsisting. The company is required to obtain prior approval of IDBI for making any further investment.

As required by provisions of Section 372(2), the investment proposal must be passed at the Board meeting by unanimous decision of all the directors present at the meeting.

The company must enter the prescribed particulars of investment in a register of investment within 7 days of making the investment. [Section 372A(5)]

The company must also take into consideration the guidelines, if any, prescribed by the Central Government under Section 372A(7) of the Companies Act, 1956.

If the company has defaulted in payment of matured fixed deposits accepted from the public, the company has violated the provisions of Section 58A(3A) of the Companies Act, 1956. Section 372A(4) of the said Act prohibits the company from making any additional investment till such default is subsisting. The company must make good the default under Section 58A(3A) in order to give effect to the proposed additional investment.

Question 7

- (a) The last three years' Balance Sheet of PTL Ltd., contains the following information and figures:

	As at 31.3.2006 Rs.	As at 31.3.2007 Rs.	As at 31.3.2008 Rs.
Paid up capital	50,00,000	50,00,000	75,00,000
General Reserve	40,00,000	42,50,000	50,00,000
Credit Balance in			
Profit & Loss Account	5,00,000	7,50,000	10,00,000
Debenture Redemption Reserve	15,00,000	20,00,000	25,00,000
Secured Loans	10,00,000	15,00,000	30,00,000
On going through other records of the Company, the following is also determined:			
Net Profit for the year (as calculated in accordance with the provisions of Section 349 & 350 of the Companies Act, 1956)	12,50,000	19,00,000	34,50,000

In the ensuing Board Meeting schedule to be held on 5th May, 2008 among other items of agenda, following items are also appearing:

- (i) To decide about borrowing from financial institutions on long terms basis.

(ii) To decide about contributions to be made to charitable funds.

Based on above information, you are required to find out as per provisions of the Companies Act, 1956 the amount upto which the Board can borrow from financial institutions and the amount upto which the Board of Directors can contribute to charitable funds during the Financial Year 2008-09 without seeking the approval in general meeting.

(8 Marks)

- (b) OGC Ltd. was a supplier of Raw Materials to SAM Ltd., which could not make payment to OGC Ltd. owing to huge losses and financial constraints. Ultimately, SAM Ltd. went into liquidation and Official Liquidator was appointed. OGC Ltd. filed a suit for recovery of its dues. The Court awarded a decree in favour of OGC Ltd. Armed with the Court's decree, OGC Ltd. approached the Official Liquidator to pay the amount to it in preference over dues of the workmen. The workmen protested the demand of OGC Ltd. and contended that their dues rank *pari passu* with the Secured Creditors and will override all other claims of other creditors even where a decree has been passed.

You are required to ascertain the validity of the argument of the workmen in the light of the provisions of the Companies Act, 1956 and the decide cases on the subject.

(7 Marks)

Answer

- (a) (i) Borrowing from Financial Institutions:

As per Section 293(1)(d) of the Companies Act, 1956, the Board of Directors of a public company or a private company which is a subsidiary of a public company without obtaining the approval of shareholders in a general meeting, can borrow the funds already borrowed upto an amount which does not exceed the aggregate of paid up capital of the company and its free reserves. Such borrowing shall not include temporary loans obtained from the company's bankers in ordinary course of business. Here, free reserves do not include the reserves set apart for specific purpose.

Since the decision to borrow is to be taken in a meeting to be held on 5th May, 2008, the figures relevant for this purpose are the figures as per the Balance Sheet as at 31.03.2008. According to the above provisions, the Board of Directors of PTL Ltd. can borrow without obtaining approval of the shareholders in a general meeting, upto an amount calculated as follows:

Paid up capital	Rs. 7,500,000/-
General Reserve (being free reserve)	Rs. 5,000,000/-
Credit Balance in Profit & Loss Account (to be treated as free reserve)	Rs. 1,000,000/-
Debenture Redemption Reserve (this reserve is not to be considered since it is kept apart for specific purpose of	-----

debenture redemption)

Aggregate of paid up capital and free reserve	Rs. 13,500,000/-
Total borrowing power of the Board of Directors of the company. i.e., 100% of the aggregate of paid up capital and free reserves	Rs. 13,500,000/-
Less amount already borrowed as secured loans	Rs. 3,000,000/-
Amount upto which the Board of Directors can further borrow without the approval of shareholders in a general meeting	Rs. 10,500,000/-

- (ii) Contribution to Charitable Funds: As per Section 293(1)(e) of the Companies Act, 1956, the Board of Directors of a public company or a private company which is a subsidiary of a public company, without obtaining the approval of shareholders in a general meeting, can make contributions to charitable and other funds not directly related to the business of the company or the welfare of its employees upto an amount which, in a financial year, does not exceed Rs. 50,000/- or five per cent of its average net profits as determined in accordance with the provisions of Sections 349 and 350 of the Companies Act, 1956 during the three financial year immediately preceeding which ever is greater.

According to the above provisions the Board of Directors of the PTL Ltd. can make contributions to charitable funds without obtaining approval of the shareholders in a general meeting, upto an amount calculated as follows:

Net profit for the year (as calculated in accordance with the provisions of Section 349 and 350 of the Companies Act, 1956.

For the financial year ended 31.03.2006	Rs. 1,250,000/-
For the financial year ended 31.03.2007	Rs. 1,900,000/-
For the financial year ended 31.03.2008	Rs. 3,450,000/-
TOTAL	Rs. 6,600,000/-
Average of net profits during three preceding financial years	Rs. 2,200,000/-
Five per cent thereof	Rs. 110,000/-

Since this amount is higher than Rs. 50,000/- the Board of Directors of PTL Ltd. can make contribution to charitable funds upto Rs. 110,000/- during the financial year 2007-08 without obtaining the approval of shareholders in a general meeting.

- (b) The problem given in the question is covered by the provisions of Section 529A of Companies Act, 1956 read with Sections 529 and 530 of the said Act. The effect of combined reading of these sections is that the workmen of the company become secured creditors by operation of law to the extent of the workmen's dues and are entitled to proportional payment along with other secured creditors. If there is no secured creditor

then the workmen of the company become unsecured preferential creditors under the said Section 529A to the extent of workmen's dues. The purpose of the said section 529A is to ensure that the workmen should not be deprived of their legitimate claims on the event of the liquidation of the company and the assets of the company would remain charged for the payment of workmen's dues and such charge will be pari passu with the charge of other secured creditors. There is no other statutory provision overriding the claim of the secured creditors except the said Section 529A.

Thus under the said Section 529A, the dues of the workmen and debt due to the secured creditors are to be treated pari passu and have to be treated as prior to all other dues.

Thus, the law is very much clear in this respect and the Hon'ble Supreme Court of India held in the case of UCO Bank [(1994) 81 Comp. Case 780] that the provisions of Section 529A of the Companies Act, 1956 will override all other claims of the creditors even where a decree has been passed by a court.

In view of the above stated legal position, the contention of the workmen of SAM Ltd. is valid and the Official Liquidator will have to pay their dues as provided in Section 529A of the Act.

Question 8

- (a) HPC Ltd. for a number of years was in various types of business. In order to exit from its non-core business, its management decided to hive off the business of food processing by demerging the said business with an associate company, namely BCD Ltd. You are required to advise briefly, with reference to the provisions of the Companies Act, 1956, the steps the management should take to give effect to the proposed demerger.

(8 Marks)

- (b) (i) Whether guarantee commission paid to a Director is remuneration to director requiring Central Government's permission when the amount of such commission exceeds the limit prescribed in Section 309 of the Companies Act, 1956.
- (ii) BHP Ltd. wants to make the liability to its directors unlimited. You are required to state with reference to the provisions of the Companies Act, 1956 whether this can be done.
- (iii) Mr. John is a director of MNC Ltd., which had accepted deposits from public. The Financial position of MNC Ltd. turned very bad and it failed to repay the deposits which fell due for payment on 10th April, 2007 and such repayment has not been made till 5th May, 2008. Another company JKL Ltd. wants to appoint the said Mr. John as its director at its annual general meeting to be held on 6th May, 2008. You are required to state with reference to the provisions of the Companies Act, 1956 whether Mr. John can be appointed as a director of JKL Ltd.

(7 Marks)

Answer

- (a) HPC Ltd. can demerge its food processing business with an associate company, BCD Ltd. by obtaining the approval of National Company Law Tribunal (NCLT) [earlier such

power was vested in High Court and the High Court can continue to exercise such power till the CLT becomes fully functional] as provided in Section 394 of the Companies Act, 1956. For this purpose, HPC Ltd. is required to take the following steps:

1. HPC Ltd., known as "transferor Company" for this purpose, has to prepare a scheme under which its properties and liabilities in respect of food processing business will be transferred to BCD Ltd., known as "Transferee Company" for this purpose. Such scheme must contain the consideration for transfer, known as "Exchange Ratio".
 2. An application under Section 391(1) of the said Act must be made to NCLT / High Court for an order convening meetings of creditors and / or members.
 3. Notice(s) of the meeting(s) must be sent to members/creditors as per the direction of NCLT/ High Court. Such notice must be accompanied by a statement under Section 393(1) of the said Act setting forth the terms of the compromise or arrangement and explaining its effect in general and in particular, the effect on the interests of Managerial Personal.
 4. To hold the said meetings and pass necessary resolution approving the scheme subject to the conformation of NCLT/ High Court. It may be noted that the resolution must be passed by a majority in number representing 3/4th in value of the members / creditors as required under Section 391(2) of the said Act.
 5. Thereafter, HPC Ltd. is required to move to NCLT / High Court jointly with BCD Ltd. for approval of the scheme disclosing all material facts relating to the Company. [Proviso to Section 391(2)], the High Court as required under Section 394A shall give notice to the Central Government and shall take into consideration any representation received from Central Government before passing any order on the application made to it for approval of the scheme.
 6. On receipt of NCLT's / High Court's order, HPC Ltd. is required to file a certified copy of the order with the Registrar of Companies (ROC) for registration within 30 days after making of the order by NCLT / High Court [Section 394(3)]. This is very important since the non-filing of the order with ROC would make the approval order ineffective.
 7. Lastly, to proceed to give effect to the scheme as approved by NCLT / High Court in the manner as directed by it.
- (b) (i) As per decision of the Hon'ble Delhi High Court in the case of Sussen Textile Bearings Ltd. Vs. Union of India, [(1984)55 Com Cases 492] guarantee commission paid to directors for giving surety against loans and credit facilities taken by the company from financial institutions is not a remuneration for any services rendered and therefore, permission of Central Government as envisaged under Section 309 of the Companies Act, 1956 is not necessary. The director giving guarantee does not render manual, clerical, technical, supervisory or administrative services. He gets the guarantee commission for the risk which he bears and that has nothing to do with his directorship. After the said decision, the then Department of Company

Affairs also issued a circular in the year 1994 accepting the view expressed therein.

- (ii) Section 323(1) of the Companies Act, 1956 states that a limited company may, if so authorized by its Articles of Association, by special resolution, alter its memorandum of association so as to render unlimited the liability of its directors or of any director or manager. Hence, by amending the Memorandum of Association of the company by way of passing a special resolution in a general meeting, BHP Ltd. can make the liability of directors unlimited.
- (iii) Section 274(1)(g) of the Companies Act, 1956 states that where a person is a director of a public company which has failed to repay its deposit on due date and such failure continues for one year or more, then such person shall not be eligible to be appointed as a director of any other public company for a period of five years from the date on which such public company, in which he is a director, failed to repay its deposit. In the instant case, MNC Ltd., has failed to repay its deposit on due dates and the default continues for more than one year. Hence, Mr. John will not be eligible to be appointed as a director of JKL Ltd.

Question 9

- (a) LMB Ltd., Kolkata is a multiproduct manufacturing company having paid up capital of Rs. 5.00 crores. In order to increase the product portfolio, the said company intends to procure certain machines and equipments worth Rs. 1.00 crore from a partnership firm, namely, M/s MLPK, in which the son of managing director of LMB Ltd. is a partner. The contract for purchase of said machines and equipments is to be placed before the board of directors of the company for its consideration.

In view of above facts, you are required to explain briefly the procedure under the provisions of the Companies Act, 1956 to be followed by the LMB Ltd., to enter into the said contract. (8 Marks)

- (b) Answer any one of the following:
 - (i) Board of Directors of DBM Limited held a board meeting on 2nd May, 2008 at its registered office. You are required to state the salient points to be taken into account while drafting the minutes of the said board meeting.
 - (ii) Draft a board resolution for appointment of Mr. Paul as the managing director for 5 years with effect from 1st June, 2008 of DBM Limited passed in the above stated board meeting (3 Marks).
- (c) Annual General Meeting of a Company has been concluded on 30th April, 2008. Now the Company is required to submit / file its Annual Return and Annual Accounts with Registrar of companies. You are required to state the procedure for such submission/filing. (4 Marks)

Answer

- (a) As per provisions of section 297 of the Companies Act, 1956, when a Company enters into a contract in which some of the directors are interested, then consent of the Board of

Directors of the Company is required to be obtained. In the present case since the Managing Director of LMB Ltd. is interested in the contract for the purchase of machines and equipments because of his son's partnership in the supplier firm, the same should be approved by the board of directors of the company.

Proviso to Section 297(1) states that in the case of a company having a paid-up capital of not less than rupees one crore, no such contract shall be entered into except with the previous approval of the Central Government. Since the paid up capital of LMB Ltd. is Rs. 5 crore, the company is required to take over prior approval of the Central Government.

For this purpose, following steps are required to be taken:

- (i) Hold a board meeting and place the terms of the contract for consideration. The managing director should disclose the nature of his interest as required under Section 299 of the Companies Act, 1956.
- (ii) The managing director should not participate in discussion when in the board meeting, the matter in respect of the abovementioned contract is being discussed. He must not also vote on the relevant resolution. Moreover, his presence shall also not be counted for determining the quorum of the board meeting. [Section 300 of the Companies Act. 1956]
- (iii) The consent of the board of directors must be accorded by way of a resolution and not otherwise.
- (iv) An application to the Central Government (by delegation to Regional Director) should be made in prescribed form (Form No. 24A). Following enclosures should be made with the said form:
 - (a) a certified true copy of the board resolution approving the contract
 - (b) a copy of the proposed agreement
 - (c) a copy of the Memorandum and Articles of Association of the company
 - (d) a copy of latest audited annual accounts with directors' and auditors' reports thereon.
 - (e) bank draft or treasury challan evidencing the payment of prescribed fees.
- (v) Necessary entries are to be made in the Register of Contracts (Section 301)

On receiving the approval from the Central Government (Regional Director), the company can proceed to enter into the contract for supply of machines and equipments with the firm M/s MLPK in which the son of Managing Director is a partner.

- (b) (i) While drafting the minutes of a board meeting following salient points should be kept in mind:
 - (a) the minutes may be drafted in a tabular form or they may be drafted in the form of a series of paragraphs, numbered consecutively and with relevant headings.
 - (b) the place, date and time of the meeting should be stated.

- (c) the minutes should contain the constitution of the meeting, i.e., persons present and the capacity in which present, e.g. name of the person chairing the meeting, names of the directors and secretary, identifying them as director or secretary, names of persons in attendance like auditor, internal auditor etc. The minutes should also contain the subject of leave of absence granted, if any, to any of the board members.
- (d) content of the meeting giving serial number of the minute, brief subject heading, full terms of the resolution adopted including the statistical details, if any.
- (e) names of the directors dissenting or not concurring with any resolution passed at the board meeting.
- (f) reference about interested directors abstaining from voting is also required to be stated in the minutes.
- (g) Chairman's signature and date of verification of minutes as correct.

- (ii) Resolution passed at the meeting of board of directors of DBM Limited held at its registered office situated at on 2nd May, 2008 at AM.

"RESOLVED that subject to the approval by the shareholders in a general meeting and pursuant to provisions of Sections 198, 309, 310, Schedule XIII and other applicable provisions of the Companies Act, 1956, Mr. Paul be and is hereby appointed as the Managing Director of the Company with effect from 1st June, 2008 for a period of five years on a remuneration approved by the Remuneration Committee as enumerated below:

- (1) Salary : Rs. per month
- (2) Perquisites, Benefits and Facilities

"RESOLVED FURTHER that Mr. Paul, so long as the functions as the Managing Director of the Company shall not be entitled to any sitting fee for attending any meeting of the board of directors or any committee thereof and that he shall not be liable to retire by rotation."

"RESOLVED FURTHER that Mr. Paul till he holds the office of Managing Director of the Company shall not become interested or concerned in any selling agency directly or through his wife or minor children in future without prior approval of the Central Government."

"RESOLVED FURTHER that Mr. Paul, the Chairman, as well as the Company shall have right to terminate the appointment by giving 3 (three) months' notice in writing."

"RESOLVED FURTHER that the Secretary of the company be and is hereby directed and authorized to file necessary returns with the Registrar of Companies and to do all other necessary things required under the provisions of the Companies Act, 1956."

- (c) The Annual Return of a company has to be filed with Registrar of Companies within sixty days from the day on which the Annual General Meeting of a company is held. This return is filed as an enclosure to Form No. 20B and is to be electronically submitted.

Similarly, Annual Accounts are to be electronically filed within 30 (thirty) days from the day on which the Annual General Meeting of a company is held. The Directors' Report, Auditors' Report, Balance Sheet and related schedules are enclosed to Form No. 23AC and the Profit and Loss Account and related schedules are enclosed to Form No. 23ACA.

Following procedure is to be followed for submitting / filing the above:

- (i) To check whether the computer has the required hardware, software and the internet connection.
- (ii) To download the forms, one by one, from the website of Ministry of Corporate Affairs.
- (iii) To fill up the Company Identification Number (CIN), as a first step, in the forms and thereafter, by clicking the profile button, company's name is automatically filled. It is to be noted that at this time, the computer must remain connected to internet.
- (iv) To fill up the desired information in the forms.
- (v) To attach the Annual Return and Annual Accounts to the respective forms.
- (vi) To check the forms with the help of the "check form" button provided in the forms.
- (vii) To digitally sign the forms
- (viii) To electronically submit / file the forms
- (ix) To pay the filing fee either through credit card or cash / cheque on generation of challan.
- (x) To check from the website of Ministry of Corporate Affairs, in due course, whether the forms submitted / filed have been approved.