

49
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76
Roll No.

Total No. of Questions - 7

Time Allowed - 3 Hours

Total No. of Printed Pages - 7

Maximum Marks - 100

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Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi medium, his answers in Hindi will not be valued.

Question No. 1 is compulsory.

Answer any five questions from the remaining six questions.

Marks

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1. (a) It is apprehended by the Directors of a Public Company that they are likely to be prosecuted for an offence under the Companies Act, 1956 which is not compoundable. Explain the provisions of the Companies Act, 1956 under which the Directors can seek relief from the liability for offence. What will be the position in case prosecution has already been launched?

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2. (b) The Securities and Exchange Board of India issued an order against ABC Limited for redressal of grievance of one of its members. On failure on the part of the company the Board imposed penalty upon the company under Section 15 C of the Securities and Exchange Board of India Act, 1992. The company seeks your advice whether it has any remedy against the order of the said Board.

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2. (c) The governing body of Jaipur Stock Exchange desires to establish an additional trading floor at Bikaner. Advise, whether additional trading floor can be established by the said stock exchange under the provisions of the Securities Contracts (Regulation) Act, 1956.

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- 4 (d) Mr. M was a member of the Competition Commission of India. On the basis of information that he had acquired such financial interest as was likely to affect prejudicially his functions as a member of the Commission, the Central Government appointed an officer to hold an inquiry. On the basis of report of the said officer the Central Government issued an order of removal of Mr. M. Decide whether the action of the Central Government is in order under the provisions of the Competition Act, 2002 ?

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- 6 2. (a) Modern Technologies Limited, an unlisted company, proposes to finance its expansion programme by issuing equity shares to public. The company has been making good profits every year from the commencement of business on 1st April, 2003, but it has not declared dividend so far. The company was started with initial equity share capital of ₹ 3 crores in January, 2003. The paid-up equity share capital and free reserves as per the latest audited Balance Sheet as at 31st March, 2010 amounted to ₹ 5 crores and ₹ 10 crores respectively.

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State the conditions which are required to be fulfilled by an unlisted company under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 in order to be eligible to make an initial public offer and also examine whether Modern Technologies Limited is eligible to make the proposed public issue.)

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- 3 (b) The Managing Director of BM Technologies Limited, a listed company having a large number of shareholders and employees, has confessed at the board meeting of the company that he has indulged in large scale manipulation of accounts during the last three years on account of which the financial position of the company has been adversely affected. The Central Government proposes to appoint its nominees as Directors of BM Technologies Limited to safeguard the interests of the company. Examine with reference to the provisions of the Companies Act, 1956 whether the Central Government has any 'Suo Motu' power in this regard. Explain the powers which can be exercised by the Central Government with regard to the affairs of the company when its nominees are appointed as directors of the company.

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3. (a) Examine with reference to the provisions of the Foreign Exchange Management Act, 1999 whether there are any restrictions in respect of the following :- 8

(i) Drawal of Foreign Exchange for payments due on account of Amortization of loans in the ordinary course of business.

(ii) A person, who was resident of U.S.A. for several years, is planning to return to India permanently. Can he continue to hold the investment made by him in the securities issued by companies in U.S.A. ? 7

(iii) A person resident outside India proposes to invest in the shares of an Indian company engaged in plantation activities.

(b) PQR Limited is being wound up by the Court. All the assets of the company 8

have been charged to the company's bankers to whom the company owes ₹ 1 crore. The company owes the following amounts to others :

(i) Dues to workers	₹ 25,00,000
(ii) Taxes payable to Government	₹ 5,00,000
(iii) Unsecured creditors	₹ 10,00,000

You are required to compute with reference to the provisions of the Companies Act, 1956 the amount each kind of creditors is likely to get if the amount realized by the official liquidator from the secured assets and available for distribution among the creditors is only ₹ 80 lakhs.)

4. (a) Mr. Suresh resided in India during the Financial Year 2008-09. He left India on 8

15th July, 2009 for Switzerland for pursuing higher studies in Biotechnology for 2 years. What would be his residential status under the Foreign Exchange Management Act, 1999 during the Financial Years 2009-10 and 2010-11 ? 7

Mr. Suresh requires every year USD 25,000 towards tuition fees and USD 30,000 for incidental and stay expenses for studying abroad. Is it possible for Mr. Suresh to get the required Foreign Exchange and, if so, under what conditions ?

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- (b) (i) A meeting of members of ABC Limited was convened under the orders of the Court to consider a scheme of compromise and arrangement. Notice of the meeting was sent in the prescribed manner to all the 700 members holding in the aggregate 20,00,000 shares. The meeting was attended by 400 members holding 13,00,000 shares. 160 members holding 10,00,000 shares voted in favour of the scheme. 150 members holding 2,40,000 shares voted against the scheme. The remaining members abstained from voting. Examine with reference to the relevant provisions of the Companies Act, 1956 whether the scheme is approved by the requisite majority. (7) 8
- (ii) Does the scheme of compromise or arrangement require approval of preference shareholders? 7/2 mark

5. (a) A producer company was incorporated on 1st September, 2009. At present the paid-up share capital of the company is ₹ 10 lakhs consisting of 1,00,000 equity shares of ₹ 10 each fully paid-up held by 200 individuals and 20 producer institutions. You are required to answer the following with reference to the provisions of the Companies Act, 1956 : - 8
- (i) What is the time limit for holding the First Annual General Meeting and the subsequent Annual General Meetings ?
- (ii) What is the Quorum for the Annual General Meeting ?
- (iii) State the manner in which the voting rights of the members are determined.
- (iv) Is it possible to remove a member ?
- (b) Explain the rule of "Ejusdem Generis" with reference to the interpretation of statutes. State the cases in which this rule is not applicable. 8

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6. (a) Examine the validity of the following with reference to the provisions of the Companies Act, 1956 : - 8

(i) EF limited re-appointed Naresh & Company, Chartered Accountants, as Auditors of the company at the Annual General Meeting held on 30th September, 2010. (Mrs. Kamala, wife of one of the partners of Naresh & Company, invested ₹ 1 lakh in the equity shares of EF Limited on 15th October, 2010. But Naresh & Company continues to function as statutory auditors of the company.)

(ii) Mr. Suresh, a Chartered Accountant, was appointed by the Board of Directors of AB Limited as the First Auditor. The company in General Meeting removed Mr. Suresh without seeking the approval of the Central Government and appointed Mr. Gupta as Auditor in his place.

- (b) A group of shareholders of Green Wheels Limited is of opinion that 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 financial position would be in danger. They want that a special audit be conducted to find out the actual nature of the transactions.

- (i) 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.

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7. Answer any **four** of the following :

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(a) Examine with reference to the provisions of the Securities Contracts (Regulation) Act, 1956 whether it is possible for City Stock Exchange Limited, a company incorporated under the Companies Act, 1956 and a recognized Stock Exchange, to insist that its members should appoint only other members as their proxies to attend and vote at the meeting of the Stock Exchange. 4

2 (b) The Articles of Association of AB Limited provide for a maximum of 15 directors but the company has only 10 directors. The Board Meeting held on 16th August, 2010 was attended by 6 directors out of which 3 directors were interested in an item which was considered and approved by 3 non-interested directors. Examine the validity of the resolution passed at the Board Meeting explaining the relevant provisions of the Companies Act, 1956. 4 3

2 (c) The management of Rampur Stock Exchange desires to transfer its duties and functions to a clearing corporation. Advise the management of the said stock exchange about the extent of control which may be exercised by the clearing corporation under the Securities Contracts (Regulation) Act, 1956. 4 2

2 (d) A dispute between PQR Limited and ABC Limited is pending in the Competition Commission of India. During the course of hearing, PQR Limited submitted an application that services of experts may be obtained for deciding an issue. ABC Limited raised objection that services of experts can not be obtained. Decide whether the Commission can obtain the services of experts under the provisions of the Competition Act, 2002. 4 3

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- (e) Gujarat Textiles Limited is having a foreign subsidiary company. The said Indian holding company failed to furnish particulars of its foreign subsidiary company in its Balance Sheet. Decide the liability of Gujarat Textiles Limited under the Companies Act, 1956.
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