

Gurukripa's Guideline Answers to May 2011 CA Final Examinations Corporate and Allied Laws Exam Questions

Question No.1 is Compulsory. Answer any **5 Questions** from the remaining **6 Questions**

Qn.	Question	Reference / Hint	Marks												
1(a)	The Agenda for the Meeting of the Board of Directors of M/s. Brilliant Enterprises Ltd. held on 20.3.2011 for adopting the Annual Accounts for the year ended 31.12.2010 included an item relating to payment of Dividend. At the meeting it became apparent that the Profits made during the year ended 31.12.2010 were inadequate to declare Dividend. The Board was keen to maintain the rate of 20% Dividend on the Equity Shares as declared in the previous years so as to maintain the image of the Company. The Company has some Accumulated Profits earned in previous years, which were transferred to Reserves. Advise the Company as to how it should go about to achieve the objective to pay Dividend at the rate of 20% on the Equity Shares.	Refer Pg. No. 1.51. Hint: The Company is advised to make an application to the Central Government as the average rate of dividend goes above 10%.	5												
1(b)	Evershine Ltd whose Financial Year ended on 31st March, 2010 held its Annual General Meeting on 30th September, 2010. The meeting transacted all other businesses except the Accounts as they were not ready and adjourned the meeting to 20th December, 2010 for consideration of Accounts. The Registrar of Companies issued show cause notice for violation of Section 210 of Companies Act, 1956. Advise.	Refer Pg. No. 1.7. Hint: Company failed to lay the accounts within the 6 months and it had also not obtained permission for extension of time for holding AGM from ROC. Hence, it has violated provisions of S. 210 of Act and ROC was justified in issuing show-cause notice.	5												
1(c)	M/s. Ganesham & Company is a member of Recognized Stock Exchange. Nova Crafts Export Limited desires that Shares of the Company may be bought and sold by M/s. Ganesham & Company on their own as well as on behalf of the investors. Advise M/s. Ganesham & Company whether they can do so under the provisions of the Securities Contracts (Regulation) Act, 1956.	Refer Pg. No.13.14. Hint: Students may write the answers based on the provisions given u/s 15.	5												
1(d)	XYZ Ltd. was registered in the year 2005 under Companies Act, 1956. There are allegations that 3 Directors who manage the affairs of the Company are siphoning the funds of the Company. The Company has not declared any Dividends on the ground that Company is incurring Losses. Mr. A, who controls 51% of the Share Capital of the Company sends a notice to the Management that he will inspect the Books of Account to verify the allegations. Examine the right of Mr. A to carry out Inspection. State persons who have the right to carry out Inspection under Companies Act, 1956.	Refer Pg. No. 1.5. Hint: Mr. A cannot exercise the power to carry out the inspection even though he controls 51% of the equity share capital of the Company. It is, however, possible for him to come into the management by occupying the posts of Directors by virtue of Shareholdings and then inspect the books of Accounts of the Company.	5												
2(a)	The Balance Sheet of International Operations Ltd as at 31.03.2011 disclose the following position: <table><tr><th>Particulars</th><th>₹ (in Crores)</th></tr><tr><td>Share Capital</td><td>100</td></tr><tr><td>Reserves & Surplus</td><td>300</td></tr><tr><td>Secured Loans</td><td>150</td></tr><tr><td>Unsecured Loans</td><td>100</td></tr><tr><td>Current Liabilities</td><td>70</td></tr></table> Mr. X, Managing Director of the Company approaches the Royal Bank for a Secured Loan of ₹ 600 Crores to finance the new projects to be taken up shortly. The Bank seeks your advice whether it can Grant the Loan of ₹ 600 Crores on the application of Mr. X. Advise the Royal Bank having regard to provisions of Companies Act, 1956.	Particulars	₹ (in Crores)	Share Capital	100	Reserves & Surplus	300	Secured Loans	150	Unsecured Loans	100	Current Liabilities	70	Refer Pg. No. 4.29 Hint: In the given case, amount of ₹ 600 Crores proposed to be borrowed will exceed specified limits u/s 293(1)(d) and borrowing is outside the powers of the Board. Hence, the management of the Company should convene an EGM and pass a resolution as required u/s 293(1)(d), to make the borrowing.	8
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2(b)	Define "Contributory" in a winding up. Explain the liabilities of Contributories as Present and Past Members.	Refer Pg. No. 7.2 & 7.3, Q. No.5 & 7.	8
3(a)	The Members of both Sugam Synthetix Limited and Gaurav Textiles Limited approved the Scheme of Amalgamation by overwhelming majority. A reputed Firm of Chartered Accountants fixed the Exchange Ratio. The Scheme of Amalgamation was submitted, as per procedure, for the sanction of the Court. During Pendency of the matter a small group of members of one of the Merging Companies objected to the Amalgamation on the ground that the Exchange Ratio was unfair. Decide whether the said objection is likely to be sustained. Would your answer be different if similar objection was raised by the Central Government?	Refer Pg. No. 5.7. Hint: Court will refuse to interfere, unless proved that exchange ratio is unfair.	8
3(b)	Point out the circumstances where under the following powers may be exercised by SEBI: (i) Prohibiting a Company from issuing or publishing any document or advertisement Soliciting Money from Public for the Issue of Securities. (ii) Pass Cease and Desist Order in relation to any Listed Company. What remedies are available to Companies against such Orders under Securities and Exchange Board of India Act, 1992?	Refer Pg. No.14.26 – Same N06, J09.	8
4(a)	The Central Government acquired a Banking Company. The Scheme of Acquisition, apart from other matters, provided for the quantum of compensation payable to the Shareholders of acquired Bank. Some 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?	Refer Pg. No. 16.15, Q. No.32.	8
4(b)	X Ltd. was registered in the year 2005 under Companies Act, 1956. The Management of Company decides to make donation to a Recognized Political Party. Advise the Management about restrictions and extent upto which such donation can be made under the Act. Will it make any difference if X Ltd. was registered in the year 2009?	Refer Pg. No. 4.39. Hint: Case A: The Company is in existence for more than 3 Financial Years, the Company can donate to Political Parties subject to the condition that (a) Maximum of 5% of the Average Net Profits of 3 preceding financial years calculated as per Sec. 349 & 350 and (b) authorised by a resolution passed at a Board Meeting. Case B: The Company is in existence for less than 3 financial years. They cannot make political contributions.	8
5(a)	Explain what is meant by (i) Compoundable Offences and (ii) Non-Compoundable Offences. State the authorities who can Compound the said Offences. Indicate whether the following Offences are Compoundable or Non-Compoundable: (i) Failure to hold the Annual General Meeting of the Company. (ii) Failure to File Copies of Annual Accounts with the Registrar of Companies. (iii) Acceptance of Deposits in excess of the Prescribed Limits and (iv) Non-Distribution of Dividend to the Members within the prescribed time.	Refer Pg. No. 9.17. Hint: Case A: Fine Only, Case B: Fine and/or Imprisonment Only, Case C: Fine Only, Case D: Fine and Imprisonment Only. Case A/B/C: Compounding without Court permission. Case D: Compounding with permission of Court.	8
5(b)	Explain when a Public Limited Company is necessarily required to appoint a Managing Director under the Companies Act, 1956. Draft a Board resolution for the appointment of Mr. Intelligent as the Managing Director of Smart Limited on a Salary of ₹ 5 Lakhs per month along with other usual Perquisites.	Refer Pg. No. 3.62, Q.No.14.	8

Qn.	Question	Reference / Hint	Marks
6(a)	The Registrar of Companies, Mumbai filed a Petition in the Bombay High Court for Compulsory Winding Up of 'Constant Overtrading Ltd' on the ground that a perusal of the Balance Sheet of the Company as at 31.03.2009 revealed that its Liabilities far exceeded the Assets and consequently the Company is unable to pay its Debts. Examine with reference to the provisions of the Companies Act, 1956, the various factors the High Court will take into account before the Company is ordered to be wound up compulsorily and whether there is any justification in the present case for the Court to order Winding Up of the Company.	Refer Pg. No. 7.10. Hint: Refer ROC vs Ajantha Lucky Scheme and Investments Ltd in page No.7.9. Just because liability exceeds assets it does not means that Company is "Unable to pay debts".	8
6(b)	Annual General Meeting of Hero Ltd has been scheduled in compliance with the requirements of the Companies Act, 1956. In this connection, it has some Directors who are rotational and out which some have been appointed long back, some have been appointed on the same day. Decide in this connection – (i) Which of the Directors shall be retiring by rotation and be eligible for re-election? (ii) In case two Directors were appointed on the same day, how would you decide their retirement by rotation? (iii) In case the meeting could not decide how the vacancies caused by retirement to be dealt with, what shall be consequences? (iv) What will be your answer, assuming that the matter could not be decided even at the adjourned meeting?	Refer Pg. No. 3.23. Hint: Case A: Refer principles relating to Rotational Directors. Case B: Directors liable to retire may be determined as per any agreement between them. In the absence of any agreement in this regard, the Retiring Directors shall be determined by draw of lots Case C: If the vacancy is not filled up, the Retiring Director shall be deemed to be automatically re-appointed Case D: Deemed re-appointment. If Resolutions are lost, there is not deemed re-appointment.	8
7(a)	During the Financial Year 2010–11 Mr. Bhattacharyya resided in India for a period of 180 days and thereafter went abroad. On 1st April, 2011 Mr. Bhattacharyya came back to India as an employee of a Business Organization. Decide the Residential Status of Mr. Bhattacharyya during the Financial Year 2010–11 under the provisions of FEMA, 1999.	Refer Pg. No. 11.5 – Same N04, M07. During the RPY 2010–2011, Mr. Bhattacharyya has not fulfilled the basic condition of staying in India for more than 182 days. So, he is a person resident outside India during the Financial Year 2011–2012 notwithstanding the purpose or duration of his stay.	4
7(b)	What are the provisions in the Insurance Act, 1938 regarding Nomination by Life Insurance Policy Holder? Whether a Minor can be a Nominee in a Life Insurance Policy?	Refer Pg. No. 17.5, Q. No. 6.	4
7(c)	The Competition Commission of India has received a complain that M/s. ABC Company has been abusing its dominant position in the Food Processing Industry. Explain briefly the factors that will be considered by the Commission to ascertain whether M/s. ABC Company enjoys a Dominant Position in the Industry.	Refer Pg. No. 12.18.	4
7(d)	"Associate words should be understood in common sense manner". Explain the statement in the light of rules of interpretation of statutes.	Refer Pg. 18.11, Q. 13, Pt 2.	4
7(e)	RST Ltd. is a Securitization and Reconstruction Company under SARFAESI Act, 2002. The Certificate of Registration granted to it was cancelled. State the Authority which can cancel the registration and right of RST Ltd. against such cancellation.	Refer Pg. No. 16.20.	4