

Test Series: October, 2013

MOCK TEST PAPER – 2

FINAL COURSE: GROUP – I

PAPER – 4 : CORPORATE AND ALLIED LAWS

Question No.1 is compulsory.

*Attempt any **five** questions from the remaining **six** Questions.*

Time Allowed – 3 Hours

Maximum Marks – 100

1. (a) Mr. Atul who was appointed as a Director at the last annual general meeting resigned. The Board filled up the casual vacancy by appointing Mr. Arin. But within a few days of his becoming Director, Mr. Arin died. The Board wishes to fill up the casual vacancy by appointing Mr. Avatar in place of Mr. Arin in the next Board meeting. State the legal position. (5 Marks)
 - (b) XYZ Limited in its annual general meeting appointed all its directors by passing one single resolution. No objection was made to the resolution. Examine the validity of appointment of directors explaining the relevant provisions of the Companies Act, 1956. Will it make any difference, if XYZ Limited was a private company? (5 Marks)
 - (c) The Central Government has formed its opinion on certain grounds that the recognition granted to a Stock-Exchange be withdrawn. Examining the provisions of the Securities (Contracts) Regulation Act, 1956, explain the procedure that must be followed by the Central Government to give effect to the above. Also state whether any such withdrawal of recognition shall affect the validity of the contracts already entered into by Stock-Exchange, before withdrawal of recognition. (5 Marks)
 - (d) A Public Company has been declaring dividend at the rate of 20% on equity shares during the last 5 years. The Company has not made adequate profits during the year ended 31st March, 2013, but it has got adequate reserves which can be utilized for maintaining the rate of dividend at 20%. Advise the Company as to how it should go about if it wants to declare dividend at the rate of 20% for the year 2012-2013. Would your answer be different if the company utilized only the profits made in the previous years and retained in the profit and loss account for the purpose of payment of dividend at the rate of 20% for the year 2012-2013? (5 Marks)
2. (a) (i) A meeting of members of Acute 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.

- (ii) Does the scheme of compromise or arrangement require approval of preference shareholders? (8 Marks)

- (b) (i) The paid-up share capital of Akash Limited is Rs. 10 Crores consisting of 70 Lakhs Equity Shares of Rs. 10 each, fully paid-up and 30 Lakhs Preference Shares of Rs. 10 each, fully paid-up. Nationalised Banks, LIC, and IDBI hold among themselves 30 Lakhs Equity Shares and 25 Lakhs Preference Shares.

With reference to the provisions of the Companies Act, 1956, examine whether Akash Limited is a Government company. Explain the manner in which you would proceed in the matter of appointment of auditors for the said company.

- (ii) Mr. Purab, a Chartered Accountant in full time practice was appointed as the auditor of ABC Ltd., a company which is a subsidiary of DGH Ltd. and DGH Ltd. has another subsidiary called PKM Ltd. Mr. Purab had taken a loan of Rs. 25,000 from PKM Ltd. and the loan is outstanding as on the date of his appointment as auditor of ABC Ltd. Examine the validity with reference to the provisions of the Companies Act, 1956. (8 Marks)

3. (a) XYZ Automobiles Limited is a company engaged in the manufacture of Cars. The company's investment in the shares of other bodies corporate and the loans made to other bodies corporate exceed 60 per cent of its paid-up share capital and free reserves and also 100 per cent of its free reserves. The company has obtained a term loan from the Industrial Credit and Investment Corporation of India Limited. The company proposes to increase its investment in the equity shares of XYZ Forgings Limited from 60 per cent to 70 per cent of the equity share capital of XYZ Forgings Limited by purchase of shares from the Forgings Collaborator.

State the legal requirements to be complied with by XYZ Automobiles Limited under the Companies Act, 1956, to give effect to the above proposal. Will your answer be different if the company has defaulted in repayment of matured deposits accepted from the public? (8 Marks)

- (b) Non-executive Directors of ACE Limited, who are neither in the whole time employment of the company nor Managing Directors have been given the following remuneration --
- (i) Guarantee Commission has been paid to them for having guaranteed the term loans obtained from a financial institution.
- (ii) Commission payable to them is calculated on the basis of book-profits arrived at after providing for depreciation as per straight line method,

Examine the validity of these payments in the light of the provisions of the Companies Act, 1956. (8 Marks)

4. (a) (i) The Articles of Association of a company fixed 3 as the quorum for a meeting of the Board. At a meeting of the Board, all the 5 directors were present. They allotted the shares of the company to 3 of the directors. Is it valid?
- (ii) a meeting of the Board of directors of a company was convened to be held on 30th December, 2013, but the meeting could not be held for want of quorum. The last meeting of the Board of directors was held on 14th August, 2013. Advise. (8 marks)
- (b) Mercury India Limited, a company incorporated under the Companies Act, 1956 is being wound up by the court. After realization of the assets of the company, the official liquidator has an amount of ₹ 70,00,000 at his disposal towards payment of creditors of the said company. The details of creditors are as follows:
- (i) Unsecured creditors 50,00,000
 - (ii) Taxes and duties payable to Government 5,00,000
 - (iii) Dues to workers 30,00,000
 - (iv) Dues to secured creditors 40,00,000

The available amount with the liquidator, obviously, is not sufficient to meet the claims of all the creditors. Moreover, the company had already created a charge on all the assets of the company in favour of the secured creditors. Explain the procedure to be followed by the liquidator for payment of dues as provided in the Companies Act, 1956. (8 Marks)

5. (a) M/s. Zebra Private Limited was incorporated in the year 2010 under the Companies Act, 1956 by 3 brothers, namely A, B and C. All the three were Promoter-directors named in the Articles of Association and subscribed for 100 shares each in the company through Memorandum of Association. Thereafter, from time to time, further shares were allotted in proportion of one-third to each of them and in due course the company started earning substantial profits. Due to greed of money, the two brothers, namely A and B joined hands together and assumed complete control of the company leaving their brother C in lurch. Both the brothers got further shares allotted to themselves, thereby their joint shareholding increased from 66% to 90%, while the shareholding of C got reduced from the erstwhile 33% to 10%. No notice of any Board Meeting was sent to C, who was sidelined and was also removed as a Director.

Aggrieved by the decisions taken by his two brothers at his back, C seeks your advice for taking out appropriate proceedings before the Court or Judicial authority of competent jurisdiction. Also suggest the nature of reliefs he may claim while filing his case. (8 Marks)

- (b) Nirvana Limited was incorporated on 1st April, 2006. The Company got its shares listed at Bombay Stock Exchange on 30th September, 2007. The Company at an Extra-Ordinary General Meeting held on 31st October, 2009, decided to go for public issue of equity shares to an extent of ₹ 300 crores. The net worth of the Company as per the audited Balance sheets in the financial years 2007-08 and 2008-09 was ₹ 50 crores and 60 crores respectively. During the financial year 2008-09 the Company had already issued equity shares amounting to ₹ 20 crores. There is no change in the name of the Company or its business activities during the financial year 2008-09. Referring to the guidelines issued by Securities and Exchange Board of India, advise the Company on the following:
- (i) Whether the Company can go ahead with the public issue of equity shares as stated above.
 - (ii) What would be your advice in case the net worth of the Company as per audited balance sheets in the financial years 2007-08 and 2008-09 was ₹ 20 crores and 30 crores respectively?
 - (iii) What would be the position in case the Company in question changed its name to Nirma Limited during the year 2008-09, three months before filing the offer document and the revenue due to change of business activity suggested by the new name during the financial year 2008-09 was 40% of the total revenue for the financial year 2007-08 reckoned from the date of filing the offer document? (8 Marks)
6. (a) Various complaints have been made against the activities of a Co-operative Banking Company to the effect that if unchecked, the shareholders, depositors and others will suffer heavily and the complainants requested for the appointment of directors by Reserve Bank of India. Discuss whether the Reserve bank has any powers to inspect the records of the Co-operative Bank to ascertain the truth or otherwise in the complaints and to appoint directors in the Co-operative Bank under the Banking Regulation Act, 1949. (8 Marks)
- (b) Answer the following with reference to a scheme of amalgamation of companies explaining the relevant provisions of the Companies Act, 1956:
- (i) Whether companies being amalgamated must be companies registered in India.
 - (ii) What is the majority required for approving the scheme of amalgamation in a meeting of members of a company called as per directions of the court? Is the scheme to be approved by preference shareholders?
 - (iii) When will the court order dissolution of the transferor company? (8 Marks)

7. Attempt any **four**:

- (a) Examine the provisions of Foreign Exchange Management Act, 2002 and advise whether the approval of Central Government is needed in the following cases:
 - (i) X wants to remit certain sum of money out of lottery winnings.
 - (ii) Payment of Royalty in case it is 10% of local sales and 20% of exports and the lump sum payment of U.S. \$ 3 millions. (4 Marks)
- (b) Examine with reference to the relevant provisions of the Competition Act, 2002 the following:

Whether a person purchasing goods not for personal use, but for resale can be considered as a 'consumer.' (4 Marks)
- (c) Under provisions of Companies Act, 1956, relating to producer company, examine whether the office of director of such company shall fall vacant in the following circumstances:
 - (i) A a Director of XBC Ltd., a producer company has made a default in payment of loan taken from a company and default continues for 60 days.
 - (ii) Y a Director of the above company could not call the Annual General Meeting for the company due to some natural calamity which occurred three days before the Schedule date. (4 Marks)
- (d) Does an explanation added to a section widen the ambit of a section? Support your answer with an example from the Companies Act, 1956. (4 Marks)
- (e) Explain the term "Offence of Money Laundering" within the meaning of the Prevention of Money Laundering Act, 2002. State the punishment for the offence of money laundering. (4 Marks)