

EBQ2

Roll No.

Total No. of Printed Pages – 15

Total No. of Questions – 6

Maximum Marks – 70

GENERAL INSTRUCTIONS TO CANDIDATES

1. The question paper comprises two parts, Part I and Part II.
2. Part I comprises Multiple Choice Questions (MCQs).
3. Part II comprises questions which require descriptive type answers.
4. Ensure that you receive the question paper relating to both the parts. If you have not received both, bring it to the notice of the invigilator.
5. Answers to MCQs in Part I are to be marked on the OMR answer sheet as given on the cover page of descriptive answer book only. Answers to questions in Part II are to be written in the same descriptive answer book. Answers to MCQs, if written inside the descriptive answer book, will not be evaluated.
6. OMR answer sheet given on the cover page of descriptive answer book will be in English only for all candidates, including for Hindi medium candidates.
7. **The bar coded sticker provided in the attendance register, is to be affixed only on the descriptive answer book.**
8. You will be allowed to leave the examination hall only after the conclusion of the exam. If you have completed the paper before time, remain in your seat till the conclusion of the exam.
9. Duration of the examination is 3 hours. You will be required to submit (a) Part I of the question paper containing MCQs, and (b) the answer book in respect of descriptive answer book with OMR cover page to the invigilator before leaving the exam hall, after the conclusion of the exam.
10. The invigilator will give you acknowledgement on Page 2 of the admit card, upon receipt of the above-mentioned items.
11. Candidate found copying or receiving or giving any help or defying instructions of the invigilators will be expelled from the examination and will also be liable for further punitive action.

PART – II

70 Marks

1. Question paper comprises 6 questions. Answer Question No. 1 which is compulsory and any 4 out of the remaining 5 questions.
2. Working notes should form part of the answer.
3. Answers to the 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/her answers in Hindi will not be evaluated.



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PART – II

1. (a) Moon Light Ltd. proposes in May, 2023 to make investment of ₹ 40 Lakh in the equity shares of Sun Shine Investment (Pvt.) Ltd. The face value of the equity shares is ₹ 20 Lakh. The financial data related to Moon Light Ltd. and Sun Shine Investment (Pvt.) Ltd. as on 31.3.2023 is furnished below :

Particulars	Moon Light Ltd. (₹ In Lakh)	Sun Shine Investments (Pvt.) Ltd. (₹ In Lakh)
I. Authorized Capital	400	200
II. Subscribed and Paid-up capital		
(a) Equity shares	120	150
(b) Preference shares	10	-
III. Free Reserves	10	15
IV. Capital Reserves	10	-
V. Borrowings from Public Financial Institution	20	-

- (A) Moon Light Ltd. furnished the following information related to it as on the date of proposition :

1. No other body corporate has invested any money in its share capital.
2. There is default of only interest for 2 months on the loan borrowed from Public financial Institution.

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3. Moon Light Ltd. has granted guarantee to the tune of ₹ 50 Lakh to a Nationalized Bank in connection with the loan granted to Star Light Ltd.

4. Moon Light Ltd. has granted Housing loan of ₹ 10 Lakh to its employees, other than its Managing or Whole Time Director.

(B) Sun Shine Investment (Pvt.) Ltd. furnished the following other information related to it :

1. The total assets as on 31.3.2023 were ₹ 165 Lakh including investment in shares & debentures of body corporate ₹ 100 Lakh.
2. The income derived from investment in shares & debentures was ₹ 15 Lakh out of the gross income of ₹ 50 Lakh.

Analyzing and referring to the relevant provisions of the Companies Act, 2013 and relevant notifications/ circulars issued by the Ministry of Corporate Affairs :

- (i) Identify the authority and the Mode of approval for the investment proposal of ₹ 40 lakh in the equity shares in the above scenario.
- (ii) Identify the authority and the mode of approval for the investment proposal in case Moon Light Limited has provided Security valuing ₹ 50 Lakh to Star Light Ltd. instead of guarantee.
- (iii) Whether approval of the Public Financial Institution is required for the investment proposal ?
- (iv) Is there any exemption available to Moon Light Ltd. in case Moon Light Limited is a private company ?
- (v) Whether Sun Shine Investment (Pvt.) Ltd. is an investment company based on the data given above ?

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1. (b) AA Ltd. an unlisted company, is engaged in manufacturing ultra-powered guns. The Company has 12 directors on its Board as on 31.3.2022. The Articles of Association of the Company contain provisions for appointment of directors according to the principle of proportional representation and enabling procedure. At the last Annual General Meeting (AGM) held on 24th September, 2022, eight directors were appointed for a period of 3 years according to the principle of proportional representation by a system of cumulative voting. This is the first time the company adopted the principle of proportional representation. The company has three independent directors complying the provisions of the Companies Act, 2013. A Group of members has given a special notice of resolution to remove the following three directors.

1. A (non- executive director), who was appointed according to the principle of proportional representation at the AGM held on 24th September, 2022.
2. B (non- executive Independent Director) who was appointed at the AGM held on 20th September, 2021 for a second term of 5 years.
3. C (non- executive Woman Director).

On receipt of the special notice of the resolution to remove the above three directors, the company sought your opinion on the following matters in accordance with the provisions of the Companies Act, 2013 :

- (i) Whether the appointment of eight directors according to the principle of proportional representation at the AGM held on 24th September 2022 is valid ?
- (ii) Can the above three directors be removed by the Company ? If so, state the procedure of removal ?
- (iii) Is it necessary for the Company to send the copy of the Special notice of resolution to remove the directors to all the twelve directors ?

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2. (a) An investigation was ordered by the Central Government under 4

Section 216 of the Companies Act, 2013 against KVS Ltd. for determining the true ownership to decide who are really financially interested and who are in real control of the Company. In connection with investigation it appears to the Tribunal that there is good reason to find out the relevant facts about two lakhs Equity shares issued by the Company on 10th September, 2021. The Tribunal is of the opinion that unless restrictions are imposed on transfer of equity shares, the purpose cannot be achieved. Accordingly, the Tribunal, by an order, directed the company that transfer of equity shall be subject to restrictions for a period of one year.

Referring to the provisions of the Companies Act, 2013 examine and decide :

- (i) Whether the Tribunal has the power to restrict transfer of equity shares for a period of one year ?
- (ii) Whether the Tribunal has the power to restrict further issue of equity shares for a period of four years instead of restriction on transfer of equity shares for a period of one year ?
- (iii) Whether the stakeholders of KVS Ltd. can make a complaint to the Tribunal to put restrictions upon securities of the Company ?

2. (b) Examine the merits of the following petitions made under the 4
provisions of the Companies Act, 2013 for relief in case of oppression and mismanagement in the light of the said Act and judicial pronouncement :

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- (i) VR has been acting as Managing Director of ABC Limited, though he was not appointed by the Company as Managing Director. This fact is well known to a group of minority shareholders. The same group filed an application with the National Company Law Tribunal claiming that the functions discharged by VR amounted to oppression & mismanagement and sought relief.
- (ii) IK, legal heir of the deceased shareholder of RSM Ltd. filed an application to the National Company Law Tribunal seeking relief against oppression & mismanagement in relation to RSM Ltd. IK is in the position of minority shareholder. But his name is not in the register of members of the company.
- (iii) RR, a practicing advocate, representing all the depositors of On Road Limited, a listed company, filed an application with the National Company Law Tribunal for relief as they are of the opinion that the management of the company and affairs of the company are being managed or conducted in a manner which is prejudicial to the interest of the depositors and being oppressive.

2. (c) PSM Ltd. raised External Commercial Borrowings (ECB) with eligible lender through approval route after proper vetting of the application by their AD Category 1 bank. The Company failed to response for the e-mail numbering 8 sent by AD 1 bank during the last 2 quarters. As per the records available with AD 1 bank, PSM Ltd. is not found to be operative during the visit by the officials of AD 1 bank. However, the Company is regular in submitting its statutory Auditor's Certificate. Referring to the provisions of the Foreign Exchange Management Act, 1999, examine and decide :

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- (i) Whether PSM Ltd. is considered as untraceable entity ?
- (ii) Whether it is necessary to inform Directorate of Enforcement about PSM Ltd. under the above circumstance ?

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2. (d) AX resident in India had gone to London [UK] on a temporary visit in August, 2022 and to Bhutan in February, 2023. He brought in India at the time of his return, currency notes of Government of India and RBI Notes ₹ 20,000 from London and ₹ 1,00,000 from Bhutan in the denomination of ₹ 50. Referring to the provisions of the Foreign Exchange Management Act, 1999, examine and decide : 3
- (i) Whether import of Indian currency in the above situations are prohibited ?
- (ii) What would be your answer in case ₹ 1,00,000 from Bhutan was brought in the denomination of ₹ 100 by AX ?
3. (a) The Tribunal has passed an order for winding-up of Jagga Footwear Limited, a company limited by shares, on 1st April, 2023. Examine the liability of the following past members of the company, where present members are unable to satisfy the contributions required to be made by them in pursuance of the Companies Act, 2013. It is to be noted that they ceased to be the members of the company by way of transferring their partly unpaid shares to the transferees. 4
- (i) Liability of Jayanti towards a debt incurred by a company during the Financial Year 2021-22 where she has ceased to be the member on 31st March, 2022.
- (ii) Liability of Nayana towards a debt incurred on 31st December, 2022 where she has ceased to be the member on 30th November, 2022.
- (iii) Liability of Chitra towards a debt incurred on 31st December, 2022 where she has ceased to be a member on 1st January, 2023.

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3. (b) KRD Research Development Ltd. was registered in India under the provisions of the Companies Act, 2013. Its future project is to innovate unique business idea emerging from research and development in a new area. Due to the recession in the industry, the Company has no significant accounting transaction and business activities during the last two financial years. However, the Company has been regular in filing its financial statements and annual returns with the Registrar of Companies [RoC] by making payment of applicable fees. The Company decided to file the application for obtaining the status of dormant company. The Company instead of passing a special resolution to this effect in the general meeting of the Company, issued notice to all the shareholders of the Company for this purpose and obtained consent of 80% of shareholders in value. Referring the provisions of the Companies Act, 2013 and Rules made there under answer the following :
- (i) Whether the payment of filing fees to RoC could be considered as significant accounting transaction under the said Act ?
- (ii) Whether the application made by KRD Research Development Ltd. is in order, in the absence of passing a special resolution ?
3. (c) Ranjeet of Lucknow was posted as Tehsildar in a Tehsil Headquarter near Lucknow. After a year of his joining he purchased a ready built house in Lucknow in the name of his wife. He ostensibly showed the business income of his wife and availed loan of 90% of the value of house from a bank and also gave a guarantee of house loan. The Bank in this case, did not ensure the business activity of his wife, (address of business place, Income tax Return filed, how long she did business etc.) and solely relying that Ranjeet is giving the guarantee, it sanctioned the loan. After availing the loan, he continued to deposit some amount in the house loan account of his wife, regularly (apart from the EMI) and within a year, liquidated the loan account. One of the employees in his office made complaint to ED of taking of bribe / commission by him on regular basis and so liquidating the loan account in just a year.

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Examine whether Ranjeet was involved in the money laundering activity in the light of the given facts as per the provisions of the Prevention of Money Laundering Act, 2002 ?

3. (d) OSK Bank Limited, a reporting authority, is under enquiry by the Director appointed under the provisions of the Prevention of Money Laundering Act (PMLA), 2002. The Director having regard to the nature and complexity of the case directed OSK Bank Limited to get its records audited. The Chief Audit officer, Head of Internal Audit Department of the Bank audited the records and furnished the report to the Director. 3

Referring to the provisions of the PMLA, 2002 answer the following :

- (i) Whether the reporting authority has complied with the provisions of the Act ?
(ii) Who shall bear the expenses of audit ?

4. (a) Vijyan, a market intermediary was found to have violated the provisions of the Securities and Exchange Board of India (SEBI) Act, 1992 while dealing in securities of KGK Ltd. The SEBI, pending investigation for the reasons recorded in writing, proposed to attach the Bank Accounts maintained by Vijyan. Two current Accounts are maintained by him. One current account with Star Bank of India (SBI) where the proceeds involved in the dealing of Securities of KGK Ltd. alone have been routed through and another current account with Indian Domestic Bank (IDB) where his textile business transactions have been routed through. The debit balance of current account with SBI is ₹ one lakh and that of IDB ₹ 15 lakh. 4

Referring to the provisions of the SEBI Act, 1992 :

- (i) Advise the SEBI regarding the attachment of Bank current Account maintained with SBI or IDB or both.
(ii) Whether SEBI has the power to investigate the affairs of Vijyan in relation to the securities market ?

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4. (b) JKR Ltd., a listed company submitted the following Reports/ statement to the Stock Exchange : 4

- (i) Quarterly Compliance Report on Corporate Governance for the Quarter ended 31st December, 2022 on 18th January, 2023.
- (ii) Annual Compliance Report on Corporate Governance for the financial year ended 31.3.2022 on 4th October, 2022 after filing the Quarterly Compliance report on Corporate Governance relating to the second quarter of the financial year 2022-23.
- (iii) Statement of Grievance Redressal Mechanism showing only the number of investor complaints remaining unresolved at the Quarter ended 31st December, 2022 on 20th January, 2023.

Referring to the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, whether the Company has complied timelines requirements in the above cases and also the content requirement in respect of the statement of Grievance Redressal Mechanism.

4. (c) KK Medicare Trust in Hyderabad (India) was setup for poor class of society in the year 2015. Since then, the trust has been receiving huge foreign contribution regularly, out of which the medical hospital and residential flats for medical officers and staff have been constructed. Trustees of KK Medicare Trust in its meeting held on 30th April, 2023 decided to dissolve the trust and dispose off the property and assets of the trust, including the property created out of foreign contribution. Explain the trustees of KK Medicare Trust, the provisions applicable for disposal of property of the Trust created out of funds of foreign contribution in light of the provisions of the Foreign Contribution (Regulation) Act, 2010. 3

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4. (d) SAL and AFL enters into an Annual Maintenance Service contract on 10.1.2020 for a period of 4 years. The contract contained a clause that in the event of a dispute between the parties, such matter would be submitted to arbitration. A new Annual Maintenance Service contract was entered between the parties on 30th December, 2022. The New Annual maintenance service contract does not contain an arbitration clause as was in the contract dated 10.1.2020. Referring to the Provisions of the Arbitration and Conciliation Act, 1996, answer the following :
- (i) Whether the parties can refer any future dispute to Arbitration based on the contract dated 10.1.2020 ?
- (ii) Whether an arbitration agreement is discharged by the death of any party ?
5. (a) (i) Global Commercial LLC is a foreign company having its place of business in Mumbai, India. On default of repayment in loan installments, the lender bank in India wants to serve a notice on the LLC. Advise, whom and how the notice will be served on it as per the provisions of the Companies Act, 2013 ?
- (ii) MNO LLC (LLC), a foreign company, has failed to file its annual return and financial statements with the Registrar of Companies, Delhi relating to the financial year 2021-22 and the default continues. LLC has contracted for purchase of machinery which has been delivered on 1st January, 2023. The vendor wants to sue LLC for defaulting the payment terms of the contract. On the contrary, LLC is planning to sue the vendor for supplying defective spare parts along with the machinery. Referring to the provisions of the Companies Act, 2013 examine the entitlement of both the parties to sue each other.

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5. (b) The Registrar of Companies in the capacity of the Adjudicating officer, issued notice dated 10th March, 2023 to Straight Ltd. to show cause to reply within 10 days as to why the penalty should not be imposed on the company for contravening of a provision of the Companies Act, 2013. The Company submitted its reply within the time frame in electronic mode. The Registrar was of the opinion that physical appearance was not required. The Registrar considering the merit of the reply passed an order on 25th April, 2023 imposing penalty on the Company. The Company contended that the Registrar has not passed the order within the time frame specified under section 454 of the Companies Act, 2013. Hence, the order is not valid.

Referring to the provisions of the Companies Act, 2013, answer the following :

- (i) Whether the contention of the Company about the validity of the order is correct ?
- (ii) Identify the time frame for passing order in case physical appearance was found required and authorized representative appeared before the Registrar.
- (iii) Who is the authority to appoint adjudicating officer for adjudging penalty ?

5. (c) (A) Oman Inc. (HUF) filed a Petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) for initiation of Corporate Insolvency Resolution Process (CIRP) against D Ltd., [Corporate Debtor]. The Adjudicating Authority admitted the Petition vide order dated 26.9.2022 and initiated CIRP and appointed PS as an Interim Resolution Professional (IRP). Subsequently PS (IRP) has been replaced by SKA Resolution Professional, on 10.1.2023. The Insurance of the assets of the CD

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was lapsing on 16.12.2022. The IRP recognizing the urgent need to get the insurance renewed in order to safeguard the assets of the CD, decided to take new insurance policy at a higher premium rate comparing the previous Insurance policy without the prior consent of the Committee of Creditors. The IRP entered into the contract with the Insurance Company for taking the new Insurance Policy.

- (B) MN has granted an interest free loan to AB Private Ltd. with a condition to repay the loan within 3 years. AB Private Ltd. defaulted to repay the loan. MN filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) to initiate the CIRP against AB Private Ltd. after complying the required formalities. The Adjudicating Authority dismissed the Petition on the ground that it is an interest free loan and the applicant is not a financial creditor.

Referring to the provisions of IBC, 2016 decide :

- (i) Identify the date of commencement of CIRP in relation to CIRP initiated against D Ltd.
- (ii) Whether PS (IRP) has the authority in entering the new Insurance Policy ?
- (iii) Whether the rejection of the Petition made by MN on the ground mentioned above is valid ?

6. (a) (A) PK Ltd. is engaged in manufacturing of paper and paper boards. Brilliant was appointed as a director representing small shareholders for a period of 3 years. After one month from this appointment Brilliant was appointed by White Ltd. as small shareholder director for a period of 2 years. White Ltd. is engaged in manufacture of Passenger Cars. 4

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(B) Umesh was a small shareholder director of Slow Ltd. upto 15th September, 2020. Considering the professional expertise of Umesh, Slow Ltd. appointed him as Manager (Human Resource) with effect from 10th February, 2023.

Referring to the provisions of the Companies Act, 2013 examine and decide :

- (i) Validity of appointment of Brilliant as small shareholder director in White Ltd. for a period of 2 years.
- (ii) Validity of appointment of Umesh as Manager (Human Resources) in Slow Ltd.
- (iii) Whether a small shareholder director is eligible for re-appointment ?

OR

6. (a) Net Profit of Sonata Goldmines Limited is ₹ 200 Lakhs as per its audited financial statement for the year ending 31st March, 2022. The Profit and Loss Account contains the following items :

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Sr. No.	Particulars	Treatment given in Profit and Loss Account	INR (In lakh)
1	Subsidies received from a State Government which has not otherwise been directed by the Central Government	Credit given	5
2	Profits on sale of forfeited shares by the Company	Credit given	2
3	Directors' remuneration paid	Deducted	10
4	Income-tax payable	Deducted	30

Referring to the provisions of the Companies Act, 2013 you are requested to compute the net profits for the purpose of managerial remuneration payable under section 197 of the Act.

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6. (b) King Global Limited (KGL) is a multinational company. KGL appointed JiK (an expatriate managerial person) as its Executive Director and paid children's Education Allowance of ₹ 5,40,000 during the financial year 2022-23 at the rate of ₹ 15,000 per month per child for three children studying outside India, as per the terms & conditions of appointment. JiK has spent ₹ 2,00,000 per child for study of his Children. Compute the amount of Children's Education Allowance being perquisites which shall not be included in computation of the ceiling on remuneration specified in Schedule V-Managerial Remuneration of the Companies Act, 2013 in the above scenario. 4
- What would be your answer in case JiK is a person resident in India ?
6. (c) "The legal representative of the accused person will have no locus standi to continue the proceedings relating to attachment of property by order of the Special Court in the event of death or insolvency of such person." Examine the validity of the statement referring to the provisions of the Prevention of Money Laundering Act, 2002. 3
6. (d) After approval of an application made by the financial creditor for initiating Corporate Insolvency Resolution Process against the corporate debtor, the Committee of Creditors (CoC) has been constituted. Thereafter, the financial creditor wants to withdraw the application but is not willing to put forth the justification thereof. Will he succeed under the provisions of the Insolvency and Bankruptcy Code, 2016 ? Explain. 3