Roll No..............................

Total No. of Questions—12] [Total No. of Printed Pages—6

Time Allowed—3 Hours Maximum Marks—100

GUN

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 who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Answer **all** questions.

Marks

SECTION—A

1. (a) Prakash Carriers Limited appointed Mr. Raman as its auditor in the Annual General Meeting held on 30th September, 2009. Initially, he accepted the appointment. But he resigned from his office on 31st October, 2009. For personal reasons. The Board of Directors seeks your advice for filling up the vacancy by appointment of Mr. Albert as auditor. Advise. 5

   Also suggest the procedure to be adopted in case Mr. Albert is proposed to be removed from his office before the expiry of his term.

   (b) 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, 2009, but it has got adequate reserves which can be utilised 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 2008-2009. Would your answer be different if the company utilised 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 2008-2009 ? 5

Marks

2. (a) Explain the action that can be taken by the Central Government. When a complaint is received from some shareholders of a Public Company that a person has been appointed as the Managing Director of the Company without seeking the approval of the Central Government, when such approval is required. Also examine the validity of the acts of the Managing Director, if the complaint is found to be true. 5

(b) Mr. Kamlesh, son of Managing Director of a Public Company, is proposed to be appointed as Chief Executive of the Company on a Monthly remuneration of Rs. 75,000. State the provisions of the Companies Act, 1956 which are required to be complied with by the company in this regard ? 5

Will it make any difference if Mr. Kamlesh is appointed as whole-time Director on the same remuneration ?

3. (a) Proximo Limited has 9 Directors out of whom 3 Directors have gone abroad. The Chairman had an urgent matter to be approved by the Board of Directors which could not be postponed till the next Board meeting. The Company, therefore, circulated the resolution for approval of the Directors. 4 out of 6 Directors in India approved the resolution. The Company claimed that the resolution was passed. Examine with reference to the provisions of Section 289 of the Companies Act, 1956 the validity of the resolution. 5

(b) Premier Machineries Limited having paid-up share capital of Rs. 90 lakhs proposes to enter into contract with the following parties for supply of components with effect from 1st January, 2008 for a period of 3 years : 5

(i) XYZ Metal Forging Private Limited in which Mr. John, a Director of Premier Machineries Limited, is a Director and member.

(ii) ABC Casting Limited in which Mr. Philips, a Director of Premier Machineries Limited, holds 30% of the paid-up share capital.

The capital of Premier Machineries Limited was increased to Rs. 1.50 crores on 1st January, 2009 by issue of further shares.

Marks

Briefly discuss the legal requirements to be complied with under the Companies Act, 1956 to give effect to the above proposals taking into account the increase in the paid-up share capital on 1st January, 2009.

4. (a) The report submitted by the inspector appointed under Section 235/237 of the Companies Act, 1956 to investigate the affairs of a Company revealed that substantial funds of the company have been misappropriated by the Managing Director of the Company. The Central Government is of the opinion that effective action may not be taken by the company for recovery of the funds misappropriated by the Managing Director. Examine with reference to the provisions of the Companies Act, 1956 the action that can be taken by the Central Government for recovery of damages or funds misappropriated by the Managing Director. 5

(b) Answer the following explaining the relevant provisions of the Companies Act, 1956 : 5

(i) Whether the companies being amalgamated must be companies registered under the Companies Act, 1956.

(ii) Whether the Companies seeking sanction of the court for a scheme of amalgamation must have specific power to amalgamate in the object clause of their Memorandum of Association.

5. (a) A group of members of XYZ Limited has filed a petition before the Company Law Board alleging various acts of oppression and mismanagement by the majority shareholders of the Company. The Petitioner group holds 12% of the issued share capital of the company. During the pendancy of the petition, some of the petitioner group holding about 5% of the issued share capital of the company wish to disassociate themselves from the petition and they alongwith the other majority shareholders have submitted before the Company Law Board that the petition may be dismissed on the ground of non-maintainability. Examine their contention having regard to the provisions of the Companies Act, 1956. 5

Marks

(b) M/s. Raman Ltd. was wound up by the Court. The official liquidator invited claims from its creditors which stood as under : 5

Income tax dues	:	Rs. 11 lakhs
Sales tax dues	:	Rs. 5 lakhs
Dues of Workers	:	Rs. 25 lakhs
Unsecured loans payable to directors	:	Rs. 25 lakhs
Trade creditors who supplied raw material	:	Rs. 15 lakhs
Secured creditor being the bankers of the company	:	Rs. 75 lakhs
		Rs. 156 lakhs

Official Liquidator could realise only Rs. 80 lakhs by sale of assets and realisations made from the company's debtors, which is not sufficient to pay to all the creditors. Please decide the order of priority for payment to creditors explaining the relevant provisions of the Companies Act, 1956.

6. (a) Examine whether the following companies can be considered as 'Foreign Companies' under the Companies Act, 1956 : 5

(i) A company which is incorporated outside India employs agents in India but has no place of Business in India.

(ii) A company incorporated outside India having shareholders who are all Indian citizens.

(iii) A company incorporated in India but all the shares are held by foreigners.

(b) A producer company has received applications from Mr. Ramanathan, a Director of the company, and Mr. Prem, a member of the Company, for grant of loan of Rs. 2,00,000 and Rs. 25,000 respectively. Discuss the relevant provisions of the Companies Act, 1956 as to how the applications for grant of loan will be disposed of by the Company. 5

Marks

7. (a) A Company proposes to appoint a Sole Selling Agent for its products. State the cases in which such appointment requires approval of Central Government. Draft a Board Resolution to appoint a sole selling agent in a case where such appointment does not require approval of Central Government. 5

(b) The Board of Directors of LM Limited propose to donate Rs. 3,00,000 to a school established exclusively for the benefit of children of employees and also donate Rs. 50,000. to a political party during the Financial year ending 31st March, 2010. The average net profits determined in accordance with the provisions of Sections 349 and 350 of the Companies Act, 1956 during the three immediately preceding financial years is Rs. 40,00,000. Examine with reference to the provisions of the Companies Act, 1956 whether the proposed donations are within the powers of the Board of Directors of the Company. 5

SECTION—B

8. An Unlisted Public Company, having a paid-up equity share capital of Rs. 5 crores consisting of 50,00,000 equity shares of Rs. 10 each fully paid-up, proposes to reduce the denomination of equity shares to less than Rs. 10 per share and make an initial public offer of equity shares at a premium. Examine whether it is possible for the company to issue shares at a denomination of less than Rs. 10 and, if so, state the minimum issue price and other conditions to be fulfilled under the SEBI (Disclosure and Investor Protection) Guidelines, 2000. 6

9. A Company incorporated in United Kingdom established a branch at Chennai. What is the residential status of the Channai branch ? The Channai branch proposes to purchase some immovable property at Chennai for the purpose of its business. Is it a 'Capital Account Transaction' within the meaning of Section 2(e) of the Foreign Exchange Management Act, 1999 ? Are there any restrictions under the Foreign Exchange Management Act, 1999 in respect of such acquisition ? 6

Marks

10. Mr. Raj Behari retired as a Member of Competition Commission of India (CCI) on 31st October, 2008. He was offered the post of Chief Executive in M/s. LSD Ltd. which was earlier a party in the proceedings before CCI. Can he join the company with effect from 1st November, 2009 ? 6

What will be the position if Mr. Raj Behari joins Oil & Natural Gas Commission Ltd., a Government Company with effect from 1st April, 2009 ? ONGC was also earlier a party in the proceedings before CCI.

11. XLR Bank Limited is not managing its affairs properly. Employees as well as depositors of the bank have complained to the Central Government from time to time about such mismanagement and requested the Central Government to acquire the undertaking of the Banking Company. Explain the powers of the Central Government in this regard under the Banking Regulation Act, 1949. 6

12. Briefly discuss the Rule of 'ejusdem generis' as applied in the interpretation of statute. 6