

Test Series: August, 2012

MOCK TEST PAPER 1

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) The Articles of Association of a company have fixed the maximum strength of the board as 12 directors. At present the Board has 9 directors of whom 6 are liable to retire by rotation and 3 are not liable to retire by rotation. The Board wishes to appoint 3 additional directors. Can they appoint as desired? (5 Marks)
- (b) A is Managing Director of APAR Ltd. He gave his resignation letter to the Chairman of the Board of Directors on 31st December, 2010 and requested that he should be relieved immediately. When does the resignation of Mr. A take effect? (5 Marks)
- (c) The governing body of City Stock Exchange Association Ltd. is desirous of putting various restrictions on voting rights of its members to be exercised in a meeting and on their right to appoint a proxy. You are required to state whether the same is permissible. Also state the role of Central Government in this respect. (5 Marks)
- (d) 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. (5 Marks)
2. (a) M/s. City Hospital Private Ltd. has two groups of Directors. A dispute arose between the two groups out of which one group controlled the majority of shares. A very serious situation arose in the administration of the company's affairs when the minority group ousted the lawful Board of Directors from the possession and control of the management of the company's factory and workshop. Books of account and statutory records were held by the minority group and consequently the annual accounts could not be prepared for two years. The majority group applied to the Company Law Board for relief under Sections 397 and 398 of the Companies Act, 1956. You are required to decide with reference to the provisions of the said Act, the following issues:
 - (i) Can majority of shareholders apply to the Company Law Board for relief against the oppression by the minority shareholders?
 - (ii) Whether Company Law Board can grant relief in such circumstances. (8 Marks)

- (b) The Annual General Meeting of Robertson Ltd., for laying the Annual Accounts thereat for the year ended 31st March, 2010 was not held, as the accounts were not ready. In this context:
- (i) Advise the company regarding compliance of the provisions of Section 220 of the Companies Act, 1956 for filing of copies of Annual Accounts with the Registrar of Companies.
 - (ii) Will it make any difference in case the Annual Accounts were duly laid before the Annual General Meeting held on 27th September, 2010 but the same were not adopted by the shareholders? (8 Marks)
3. (a) Clever, a Director of ABC Ltd. made default in filing of Annual Accounts and Annual Returns with the Registrar of Companies for a continuous period of three financial years ending 31st March, 2005. Referring to the provisions of the Companies Act, 1956 examine the validity of the following:
- (i) Whether X can continue to be a Director of ABC Ltd. and also EF Ltd., where he is a Director. Also state whether he can be reappointed as a Director in ABC Ltd. as well as EF Ltd.
 - (ii) Would your answer be still the same in case X is a Nominee Director of a Public Financial Institution?
 - (iii) What would be your answer in case the defaulting company (i.e. ABC Ltd.) is a Private Company? (8 Marks)
- (b) M/s ABC Ltd. had power under its memorandum to sell its undertaking to another company having similar objects. The Articles of the company contained a provision by which directors were empowered to sell or otherwise deal with the property of the company. The Shareholders passed an ordinary resolution for the sale of its assets on certain terms and required the directors to carry out the sale. The Directors refused to comply with the wishes of the shareholders where upon it was contended on behalf of the shareholders that they were the principal and directors being their agents were bound to give effect to their decision. Based on the above facts, decide the following issues, having regard to the provisions of the Companies Act, 1956.
- (i) Whether the contention of shareholders against the non-compliance of their wishes by the directors is tenable.
 - (ii) Can shareholders usurp the powers which by the articles are vested in the directors by passing a resolution in the general meeting? (8 Marks)
4. (a) PQR Limited held three board meetings till 31st December, 2008 during the financial year 2008-09. The next board meeting was due to be held on 27th March, 2009, but for want of quorum the meeting could not be held. A group of shareholders complained that the Company has violated the provisions of Section

285 of the Companies Act, 1956 in not holding the required board meeting. Further, Mr. P and Mr. Q who are the directors of the Company informed the Company about their inability to attend the meeting because the notice of the meeting was not served on them. Discuss whether there is any default on the part of the Company and the consequences thereof. What will be the quorum in the given situation?

(8 Marks)

- (b) The official liquidator of ABC Limited (in liquidation) instituted misfeasance proceedings under section 543 of the Companies Act, 1956 against 'A', a director of the company in liquidation. During the pendency of misfeasance proceedings 'A' died.

What is meant by Misfeasance? Is it possible for the official liquidator to impede the legal representatives of 'A' and continue the proceeding against them? (8 Marks)

5. (a) How would you deal with the following situations in the matter of appointment of Auditors?

(i) The shareholding of L.I.C. and U.T.I. increased from 23 per cent to 27 per cent of the subscribed share capital of the company after issue of notice of the Annual General Meeting, but before the date of the Annual General Meeting.

(ii) Ordinary resolution is passed at the Annual General Meeting of a company when a special resolution is required to be passed for appointment of Auditor?

(8 Marks)

- (b) The Annual Accounts of CALM Ltd., a listed company for the year ended 31st March, 2003 were finalized on 31st May, 2004. The Company had a paid up capital of ₹ 50.00 Lacs and free reserves of ₹ 100.00 Lacs. The Company did not have any accumulated losses. The Board of Directors of the Company wishes to make a public issue of Equity Shares amounting to ₹ 10.00 Crores comprising of offer to public through offer document, firm allotment and promoters contribution. State, how this can be done under SEBI Regulations.

What would be your answer in the following cases?

(a) If CALM Ltd. was a Private Sector Bank known as CALM Bank Ltd.

(b) If the issue of above mentioned ₹ 10.00 Crores was a right issue (8 Marks)

6. (a) Explain the provision relating to audit of banking companies under the Banking Regulation Act, 1949. (8 Marks)

- (b) The Board of Directors of DJA Ltd. seeks your advice about the procedure to be followed for 'Electronic filing and Authentication of Documents' with the Registrar of Companies, Mumbai. Advise the Board about the procedure to be followed in this regard and explain the manner in which the 'E' filing is regulated by the Central Government. (8 Marks)

7. Attempt any **four**:

- (a) Mr. Ram had resided in India during the Financial Year 2009-2010 for less than 183 days. He again came to India on 1st May, 2010 for higher studies and business and stayed upto 15th July, 2011. State under the Foreign Exchange Management Act, 1999.
- (i) If Mr. Ram can be considered 'person Resident in India' during the Financial year 2010-2011 and
- (ii) Is citizenship relevant for determining such a status? (4 Marks)
- (b) Examine with reference to the relevant provisions of the Competition Act, 2002 the following:
- Whether a Government Department supplying water for irrigation to the Agriculturists after levying charges for water supplied (and not a water tax) can be considered as an 'Enterprise'. (4 Marks)
- (c) An Interstate Cooperative Society has been incorporated on 1st May, 2010 as a Producer Company under the provisions of the Companies Act, 1956. Give your comments on its proposal to have 18 directors on its Board after incorporation as a Producer Company. (4 Marks)
- (d) How far are (i) title and (ii) preamble in an enactment helpful in interpreting any of the parts of an enactment? (4 Marks)
- (e) How disputes are resolved under the SARFAESI Act, 2002? (4 Marks)