

AMR2
4/5
MAY 2019

AMR2

Roll No.

Total No. of Printed Pages – 11

Total No. of Questions – 6

FINAL
GROUP-I PAPER-4
CORPORATE AND
ALLIED LAWS

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 Questions in Part I are to be marked on the OMR answer sheet only. Answers to questions in Part II are to be written on the descriptive type answer book. Answers to MCQs, if written in the descriptive type answer book, will not be evaluated.
6. OMR answer sheet 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 type answer book. No bar code sticker is to be affixed on the OMR answer sheet.
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, (b) OMR answer sheet thereon and (c) the answer book in respect of descriptive type answer book 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) XYZ Ltd., having inadequate profits, proposes to declare 10% equity dividend out of its current profits and its free reserves.

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Following are the data drawn from the latest audited financial statements as at 31st March, 2019 :

17,500 Preference Shares of ₹ 100 each fully paid; (Dividend @ 9%)
7,00,000 Equity Shares of ₹ 10 each
General Reserves : ₹ 21,00,000/-
Capital Reserves : ₹ 3,50,000/-
Securities Premium : ₹ 3,50,000/-
Surplus (P&L) : ₹ 63,000/- (Excluding Current year's profit given below)
Net Profit for the Year : ₹ 3,57,000/-
Average Rate of Return for the last three years - 15%
Average Rate of Dividend during the last three years: 15%.
The company has declared dividends in each of the 3 preceding financial years.

In the light of the information given above, analysing and applying the provisions of the Companies Act, 2013 and the applicable Rules made thereunder, calculate the minimum amount that is required to be withdrawn from free reserves by XYZ Ltd. for declaring 10% dividend to the equity shareholders.

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(B) Mr. Mania is the Managing Director of S Limited (and nowhere else), which is a subsidiary of H Limited. Seeing the success of S Limited, the directors of H Limited (which is a listed company) decided and approached Mr. Mania to act as the Managing Director of H Limited. Mr. Mania agreed with the directors of H Limited subject to a condition that he will continue to act as the Managing Director of S Limited also. In this direction, the directors of H Limited propose to appoint him by means of a resolution (containing the terms and conditions of appointment excluding remuneration) by circulation. Referring to and analyzing the relevant provisions of the Companies Act, 2013, decide whether the decision of appointing and the proposed mode of appointment of Mr. Mania as the Managing Director of H Limited is valid.

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Will your answer differ in case S Limited is not a subsidiary of H Limited ?

(C) The Board of Directors of Tours Ltd., in terms of the Articles of the Company, filled up the casual vacancy caused by the resignation of Mr. Philip (who was appointed in a duly held general meeting) by appointing Mr. Max as a director on 1st May, 2019. Unfortunately Mr. Max expired on 10th May, 2019 after working for a period of about 10 days as a director. The Board now intends to fill up the casual vacancy by appointing Mrs. Nini (Wife of late Mr. Max) in the forthcoming meeting of the Board. Referring to and analysing the provisions of the Companies Act, 2013, Advise the Board whether it can do so.

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2. (A) M/s. Unicorn Rubber Sheets Limited was incorporated and registered in the United Kingdom. M/s. Artha Rubber Sheets Manufacturing and Trading Limited is an Indian Company incorporated and registered under the provisions of the Companies Act, 2013. A scheme of compromise between the above two companies provided for an amalgamation of the English Company with the Indian company. The CFO of the Indian Company is of the opinion that the companies being amalgamated must be companies registered in India and therefore an amalgamation with a company registered outside India is not possible. Explaining the relevant provisions of the Companies Act, 2013, examine the correctness or otherwise of the following with reference to a scheme of amalgamation of Companies :
- (i) Whether the contention of the CFO is correct that the 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 the directions of the Tribunal ? Is the scheme required to be approved by the preference shareholders ?
- (B) Members of Sarat Solutions Ltd. are concerned about the performance of the company as they suspect gross negligence and mismanagement of the affairs of the company that may be detrimental to the interests of the company and therefore filed an application to the Central Government to appoint an inspector to carry on the investigation. Mr X, who was appointed as inspector, is of the view that to find out the true picture it is necessary to investigate into the affairs of M/s. Hemant Softech Solutions Ltd., which is a subsidiary of Sarat Solutions Ltd. Referring to and analysing the provisions of the Companies Act, 2013 decide, whether the inspector has powers to investigate into the affairs of M/s. Hemant Softech Solutions Ltd.

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(C) Sakthi Cements Limited was incorporated on 1st April, 2015. The Company got its shares listed in Bombay Stock Exchange Limited on 30th September, 2016. The Company, at an Extra-Ordinary General Meeting held on 31st October, 2018, 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 2016-17 and 2017-18 was ₹ 50 Crores and ₹ 60 Crores respectively. During the financial year 2018-19 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 2018-19. Referring to the guidelines issued by Securities and Exchange Board of India, examine and advise the Company on the following :

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- (i) Whether the Company can go ahead with the public issue of equity shares as stated above ?
- (ii) What would be the position in case the Company in question changed its name to Annamalai Cements Limited during the year 2018-19, 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 2018-19 was 40% less than the total revenue for the financial year 2017-18 reckoned from the date of filing the offer document ?

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3. (A) Buina Limited has discontinued its business since 2015 and has not been filing annual returns. The Registrar of companies issued a notice for striking off the company. Since no reply was received within the time specified in the notice, the name of the company was struck off from the register of companies. There were tax arrears and a notice was sent to the company by the tax recovery officer. The Directors contended that since the company's name has been struck off, the company does not exist and not liable to pay the tax. Referring to and analysing the relevant provisions of the Companies Act, 2013 examine the validity of the Company's claim. **4**
- (B) Blue Berry Ltd. is a Company incorporated outside India. 50% of its preference share capital and 20% of its equity share capital are held by Companies incorporated in India. It issued prospectus inviting subscriptions in India for its shares but did not state the Country in which it is incorporated. Examine in the light of the provisions of the Companies Act, 2013 whether the issue of prospectus by the Company is valid. **2**
- (C) XYZ Producer Company Limited, a producer company, was incorporated on 1st April, 2003. At present it has got 200 members and its board consists of 10 Directors. The Board of Directors of the Company propose to advance a Loan of ₹ 10,000/- to Mr. X, a Director of the Company repayable within a period of six months. Explaining the provisions of the Companies Act, 1956, examine the validity of the above proposal. **2**

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(D) Sunita Garments Limited is engaged in the business of exporting leather garments. The company is neither located in a Special Economic Zone, nor has availed any special status like Status Holder Exporter, Export Oriented Unit or a unit under Bio-Technology Park. The company seeks your advice regarding the time limit within which the company is required to realise and import into India the foreign exchange arising out of export of goods by them and to be paid to the authorised dealer. Referring to the provisions of the Foreign Exchange Management Act, 1999 advise the company. **3**

(E) Mr. Jaydev was the Chairperson of the Competition Commission of India and he ceased to hold his office on 31st March, 2019. Recently, he has been offered the post of the Executive Director with an attractive remuneration and perquisites in the following organisations : **3**

(i) Arnab Limited, a private sector public company, which has been a party to a proceeding before the Competition Commission of India.

(ii) National Milk Products Limited, a Government Company, as defined under the provisions of the Companies Act, 2013.

Mr. Jayadev is confused and seeks your advice regarding selection of the appropriate concern, with which he should join. Examine the situation in the light of the provisions of the Competition Act, 2002 and advise him.

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4. (A) MF Capital Private Limited accepted inter-corporate deposits from JS financial Services Private Limited. MF Capital Private Limited is a Non-banking financial company which has obtained a certificate from the Reserve Bank of India for carrying on the business of providing financial services. As there was a default in repayment of deposits, JS Financial Services Private Limited filed an application with the NCLT under Section 7 of the Insolvency and Bankruptcy Code, 2016. Examine the validity of the Application. **4**
- (B) Mr. Atul was appointed as the Insolvency Resolution Professional for XYZ Ltd. An application to replace the Insolvency resolution professional was filed before the Adjudicating Authority by some Financial Creditors. The Financial Creditors propose to appoint Mr. K as the insolvency professional instead of Mr. Atul. Referring to the relevant provisions of the Insolvency and Bankruptcy Code 2016, decide whether Mr. Atul can be replaced and if so, state the procedure to be followed to appoint another IRP in place of existing one. **4**
- (C) Various complaints and allegations have been received by the Reserve Bank of India against the conduct of a Co-operative Banking Company to the effect that if un-inspected, the shareholders, depositors and others will suffer heavily, and in this regard the complainants requested for the inspection of the records of the Co-operative bank. Analysing the provisions of the Banking Regulation Act, 1949, decide whether the RBI has powers to inspect the records of the Co-operative Bank to ascertain the truthfulness or otherwise of the complaints. **3**

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- (D) Mr. Bagi, one of the Directors of Pradeep Life Insurance Company Limited, had taken some life insurance policies from the company. The total sum insured on all the policies amounted to ₹ 20,00,000/-. Till today, he had paid in total an amount of ₹ 3,00,000/- against all the life insurance policies. The surrender value of all these policies taken together comes to ₹ 1,80,000/-. He now wants to avail a temporary loan of ₹ 2,00,000/- from the company. The company refused to grant such loan on the ground that there is a prohibition in this regard. Advise Mr. Bagi with reference to the Insurance Laws (Amendment) Act, 2015 and Section 185 of the Companies Act, 2013, whether any amount of such loan can be availed by him. 3
5. (A) Aggrieved by an order of Hon'ble NCLT, dated 3rd April, 2018, passed without the consent of parties, Solan Minerals Limited decided to file an appeal before Hon'ble NCLAT. The order was received by the company on 4th April, 2018. The employees and officers went on a strike for a period of 10 days from 22nd May, 2018 demanding higher bonus and pay. In view of this, the management of the company was forced to a grinding halt during the strike period. Thereafter, the appeal was filed on 6th June, 2018 before the Hon'ble NCLAT and the company prayed for condonation of delay. Referring to and analysing the applicable provisions of the Companies Act, 2013, decide the following : 4
- (i) Whether the proposed appeal would be admitted by the Hon'ble NCLAT.
- (ii) What is the maximum period allowed by the NCLAT for condonation of delay ?

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- (B) Akri Nidhi Limited proposes :
- (i) To reappoint Mr. X, a Director who has completed a term of 10 consecutive years, as a Director of the Nidhi.
- (ii) To pay dividend at the rate of 45%.

Examine and analyse the validity of the above proposals with reference to Nidhi Rules 2014 formulated under Companies Act, 2013.

- (C) The Adjudicating Authority appointed under the Prevention of Money Laundering Act, 2002 issued an order attaching certain properties of SVG Limited, alleging to be involved in money laundering for a specified period. The Company, aggrieved by the Order of the Adjudicating Authority, seeks your advice about the remedy that is available under the Act. Analyse and apply the relevant provisions of the Act in relation to the above situation and advise.

- (D) Analyse and explain the significance of the conjunctive and disjunctive words "or" and "and" while you are involved in interpretation of statutes.

6. (A) KMR Limited, a listed public company, has 15 directors on its Board. The Articles of Association of the said company provide for the maximum number of Directors in the company to be 15. Due to diversification and expansion of activities, the Board of Directors of the said company desire to increase the number of Directors to 18. Decide with reference to the applicable provisions of the Companies Act, 2013 :
- (i) Whether the Board of Directors can do so ?
- (ii) Will your answer differ if the said Company would have been a Government Company ?

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B Ltd. is a listed Company and it has been served with a notice for appointment of a small shareholders' director. Referring to the provisions of the Companies Act, 2013, examine the following :

- (i) The tenure of small shareholders' director and whether he can be re-appointed as such, after expiry of his tenure ?
- (ii) Whether he can be appointed as an officer of the Company on expiry of his tenure as small shareholders' director.

- (B) Vogue Limited has an Authorised Capital of ₹ 250 lakhs and paid up capital of ₹ 200 lakhs. The free reserves are there to the tune of ₹ 150 Lakhs. The company has advanced a loan of ₹ 160 Lakhs to other companies as on 30th November, 2018. Now the company proposes to advance an interest free loan of ₹ 60 Lakhs to its wholly owned subsidiary Fashion Limited. 4

Discuss the validity of the proposed transaction with reference to the restrictions imposed by the applicable provisions of the Companies Act, 2013 and relevant Rules made thereunder.

- (C) Some coconut producers of Bengaluru in Karnataka are proposing to form an association to control the production of coconuts. Referring to the provisions of the Competition Act, 2002, examine whether the proposed association to control the production of coconuts will fall within the jurisdiction of the term "Cartel" under the provisions of the said Act ? 3

- (D) Mr. Manoranjan, an officer investigating a case of money laundering, is of the view that important evidence relating to the case is available in a foreign country (Contracting State) with which agreement for exchange of information has already been entered into. 3
- Advise Mr. Manoranjan, referring to the provisions of the Prevention of Money Laundering Act, 2002, about the procedure to be followed for collecting such evidence.

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