

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 2

NOTE : Attempt **ANY FIVE** questions. All questions carry equal marks.

1. (a) Madhusudan, the managing trustee of ABC Trust (Regd.) and Director of BB Corporation Ltd. (a listed public company) was being tried in the CJM's Court on a charge sheet accusing Madhusudan for moral turpitude, pending trial he sold off all his shares of the company but still contested for its directorship for the next year. He lost, yet in view of his exceptional calibre and proven track record in managing company's affairs successfully, 2/3rd of the shareholders nominated his ABC Trust (Regd.) to be the director of BB Corporation Ltd. for the next year. The Ministry of Corporate Affairs cancelled Madhusudan's DIN and rejected his nomination on the ground that neither Madhusudan nor ABC Trust (Regd.) was holding any share of the company.

Can the company appeal impugning the government orders rejecting nomination of Madhusudan ? On what grounds ? And, if not, why ? Cite applicable law along with judicial principles involved.

(15 marks)

- (b) Can Bank of Maharashtra, Mumbai Branch, apply to the Company Law Board or a Civil Court for recovery of `15 crore debt with interest @ 18% per annum, which XYZ Ltd., a listed company owes to the bank and has not paid it despite legal notice ? If yes, under which Act ? If no, why ?

(5 marks)

2. (a) Two cheques issued by Data Access (India) Ltd. (DAIL) to Bharat Sanchar Nigam Ltd. (BSNL) got bounced on presentation for insufficiency of funds. BSNL filed a criminal complaint against Rangachari, *inter alia*, under section 138 of the Negotiable Instruments Act, 1881, the Director of DAIL holding him responsible for company's transactions. Rangachari moved to the High Court of Delhi for quashing the proceedings against him under section 482 of the Code of Criminal Procedure, 1973 on the ground that neither had he signed the cheques nor was he the director on the dates cheques were issued; as he had resigned four days before the cheques were signed. The High Court dismissed the petition. On appeal, the Supreme Court too dismissed the appeal without going into the question that the appellant was not the director at the relevant point of time. Comment on two aspects of director's liability and directorship legal status involved in this rule.

(10 marks)

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- (b) “Auditors are like the cuckoos in cuckoo clocks : they come out, comment briefly and nip back inside. Ticking is what they do best.” Robert Hodgkinson when Chairman of the Financial Reporting Council, London (UK).

Do you agree ? How does the Companies Act, 1956 ensure effective cuckooing today ?

(10 marks)

3. Despite many similarities between the UK and US models of Corporate Governance, they are basically different in approach — US being rule-based wherein the regulators ask “is this legal” ? While UK is principle-based model wherein the regulators ask “is this right” ?

Now —

- (i) Which of these models is followed in the Indian Regulatory Framework (IRF) ?
- (ii) What would you recommend best for the IRF keeping in view the corporate operational backdrop today ?

(10 marks each)

4. Draft a voluntary code of conduct for independent directors that could be promulgated by the Ministry of Corporate Affairs for better performance of independent directors *qua* independent directors after the enactment of the Companies Bill, 2009.

(20 marks)

5. Discuss the salient features of the latest amendment to the SEBI Takeover Code. What would be its effect on good Corporate Governance in India ?

(20 marks)

6. (a) Explain your views on the effectiveness with which the purposes behind Competition Act, 2002 are being effectuated in India so as to improve Corporate Governance in India.

(10 marks)

- (b) Explain your views on the desired architecture for international financial regulation.

(10 marks)

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