

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 3

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

1. Answer, in short, **any four** of the following :

- (i) Define Corporate Governance.
- (ii) State the key recommendations of the Cadbury Committee.
- (iii) What does section 404 of the Sarbanes-Oxley Act, 2000 require ?
- (iv) What is GRI ?
- (v) What is the role of the OECD principles of Corporate Governance ?
- (vi) What is a shadow director ?

(5 marks each)

2. Bharat Tools Ltd. (Bharat Tools), a company incorporated and registered under the Companies Act, 1956 and listed on BSE and NSE, is engaged in the business of production of machine tools. Bharat Tools took financial assistance from a group of public sector banks (PSBs). In terms of loan agreement, PSBs had a right to appoint its nominee on the Board of Bharat Tools and accordingly one, Shyam was nominated on the Board of Bharat Tools by PSBs in the year 2008. Unfortunately, Bharat Tools could not perform due to manufacturing defects in the machine tools resulting from defective technology supplied by overseas technology collaborator. The problems of defective production and issues arising out of defective technology provided by the overseas technology collaborator was frequently discussed in the Board meetings and meetings of the technical committee of the Board of which nominee of the PSBs was also a member. Apart from the above, lot of unjustified expenditure was incurred by Bharat Tools under the garb of technology improvements which was not monitored and no satisfactory explanation was forthcoming. In addition, the situation was aggravated, as there were other financial irregularities. The nominee of the PSBs found himself inadequate and helpless to extract satisfactory responses to various questions put forth by him. Ultimately, the nominee director escalated the issue to PSBs.

In light of the above, discuss the following :

- (a) How the nominee director in your view, in this case, ought to have reacted to the situations described above ?
- (b) What role should the nominee director play in the Board meetings of the company in which he/she is nominated by the stakeholders ?
- (c) Is the status of nominee director different from other directors ?
- (d) Can nominee director be treated as an independent director ?

(20 marks)

3. In 1999, the Daewoo Group, one of the biggest transnational conglomerates, collapsed, committing a staggering \$15.3 billion in accounting fraud in the process, the largest in world history. In 2006, its chairman was sentenced to eight years in prison and a disgorgement penalty of \$22.7 billion. Daewoo's problems, however, did not remain a case isolated to Korea and their mighty, family-controlled conglomerates called 'chaebol' (Chaebol means conglomerate or literally 'financial clique' or 'money clique' in Chinese characters and stems from the term *zaibatsu* in Japanese), Daewoo's foreshadowed corporate scandals that more recently ruined confidence in financial markets around the world. Leading financial institutions, investment banks, securities analysts, accounting firms and credit agencies from around the world failed to address its problems. Despite its warnings, policy discussion focusing on the importance of reputational intermediaries and gatekeepers in particular has only recently emerged. The history of Daewoo, a major chaebol, is a case of corporate governance failure.

In light of the aforesaid, discuss the corporate governance reforms initiated in Korea.

(20 marks)

4. (a) Write a lucid synopsis for a Post Membership Qualification dissertation on "The directors' juristic duties – *ex contractu* as well as *ex delicto* — as the key substrate for any Corporate Governance Model."

(10 marks)

: 3 :

- (b) Independence of directors is not merely the question of law or regulation. How you as a Company Secretary being close confident of the Board and individual directors ensure that independence is promoted at the Board and Committee meetings and also at the level of individual directors ?

(10 marks)

5. Arthur Anderson was one of the big five global accounting practices operating in most countries in the world providing audit, accountancy and consultancy services. Arthur Anderson's reputation in certainly the partnership self image, was as the international leader of the profession. Then in the early years of 21st century things went hopelessly wrong and some of their major US clients, Waste Management, Worldcom and Enron became insolvent and the auditors were claimed to be less than blameless. The claims for damages from the creditors and shareholders of the failed companies threatened the financial viability of the Arthur Anderson firm and it also was found guilty of destroying evidence, although that verdict was quashed on appeal. A question arose as to whether the Anderson partnership was based in America or were the partners in the Anderson practices around the world also stood exposed. There was an argument that partnerships were legally distinct, but in the event with the rapid loss of clients in countries around the world and partners leaving for practice in other firms led to the failure of the global practice and brought an end to the Arthur Anderson partnership.

In light of the above, discuss the governance of partnerships and why was the question, “whether the Anderson partnership was restricted to America, or whether the partners in the Anderson practices around the world hold responsible” viewed important. Is the position any different in the Indian context ? Discuss.

(20 marks)

6. The recent financial tsunami which lead to unprecedented global crisis prompted by securitisation of sub-prime mortgage loans leading to collapse, takeover, and in some cases nationalisation of banks and other financial institutions around the globe has raised fundamental Corporate Governance issues. In the aforesaid background, keeping in view the international best standards, briefly discuss the legal and regulatory framework for Corporate Governance in banking and financial sector in India and whether it is viewed adequate.

(20 marks)