

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 4

NOTE : All references to sections relate to the Companies Act, 1956 unless stated otherwise.

P A R T – A

(Answer Question No.1 which is compulsory
and any three of the rest from this part.)

1. (a) (i) ABC Ltd. has 700 creditors (in number) representing total value of Rs.100 crore as per its balance sheet. In a creditors meeting called under section 391 for considering proposed scheme of amalgamation with XYZ Ltd., out of total 700 creditors, only 150 creditors representing value of Rs.45 crore were present. Out of said 150 creditors present at the said meeting, only 140 creditors representing value of Rs.40 crore voted in favour of the resolution, while 10 creditors representing value of Rs.5 crore cast their dissenting vote against the scheme. Whether the motion proposing the scheme of amalgamation should be treated as approved or not ? Explain with reference to relevant provisions of law and case law, if any.
- (5 marks)
- (ii) In a scheme of arrangement made under section 391, a company proposes to transfer one of its undertakings to its subsidiary and also to reduce its share capital. Is the scheme valid ? Explain with relevant provisions of law and relevant cases.
- (5 marks)
- (b) State whether the following statements are true or false citing briefly relevant provisions of the law :
- (i) There is a bar on a company amalgamating with a newly incorporated company.
- (ii) A non-profit making company licensed under section 25 can be merged with a profit making company.
- (iii) High Court can sanction a scheme of merger of a sick industrial company when a revival scheme is pending before BIFR.
- (iv) An appeal can be preferred to the Supreme Court of India against the order passed under section 391/394 sanctioning a scheme of amalgamation.
- (v) The court can modify 'transfer date' proposed in a scheme of amalgamation.
- (2 marks each)
- (c) Explain the provisions relating to buy-back of shares through book-building route.
- (5 marks)

2. (a) Reduction of capital is one of the modes of re-organisation of capital structure of the company and to a certain extent it can be done without the sanction of the court. Explain with relevant provisions of the law. (7 marks)
- (b) Strategy is the very soul of any action and activity. Briefly define the strategy with 5Ps of Henry Mintzberg. (4 marks)
- (c) In a scheme of compromise, arrangement, reconstruction or amalgamation, various types of approvals are required. Describe briefly such approvals. (4 marks)
3. (a) In a buy-back of securities, a company has to pay stamp duty under the Indian Stamp Act, 1899 for physical shares. Do you agree ? Explain. (5 marks)
- (b) In an open offer in terms of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, what message is conveyed by the SEBI by way of 'disclaimer clause' to the shareholders of the target company ? (5 marks)
- (c) What do you mean by 'hostile takeover' ? Why these types of takeovers are resorted to and by whom, and what is the objective of the acquirer ? (5 marks)
4. (a) Good Value Ltd. (GVL) is contemplating acquisition of Fair Value Ltd. (FVL). GVL has 3,00,000 equity shares and FVL has 2,00,000 equity shares and the market value of shares are Rs.30 and Rs. 20 and EPS is Rs.4 per share and Rs.2.25 per share respectively. It is proposed to give one share of GVL to the shareholder of FVL for their two shares in FVL. Based on the above information, you are required to –
- (i) calculate EPS after the merger/acquisition of the company; and
- (ii) show the impact on EPS for the shareholders of both the companies. (5 marks)
- (b) X, an acquirer, fails to fulfil the offer obligation towards shareholders of target company who have lodged their shares with the acquirer. What are the remedies available to a merchant banker for discharge of the obligations especially towards shareholders who have participated in the offer as well as to deal with the escrow account ? (5 marks)
- (c) State whether any stamp duty is payable on transfer of properties under the order of amalgamation. Briefly comment with relevant case law. (5 marks)

5. (a) (i) The court has fixed meeting of equity shareholders of Rim Zim Ltd. on Tuesday, the 9th June, 2009 at Broadway Hotel, 3, Osaka Street, Mumbai for considering the proposed scheme of amalgamation with Jhil Mil Ltd. and appointed Kabir as Chairman and Mrs. Noori as alternate Chairperson of the meeting. As a Company Secretary of Rim Zim Ltd., draft the notice of the meeting.
(7 marks)
- (ii) After meeting of equity shareholders of Rim Zim Ltd., the proposed scheme of amalgamation of Rim Zim Ltd. with Jhil Mil Ltd. was passed. Draft the Chairman's report for onward submission to the court.
(4 marks)
- (b) Briefly explain with relevant provisions of the Companies Act, 1956 as to when the scheme of amalgamation would become effective.
(4 marks)

P A R T – B

(Answer ANY TWO questions from this part.)

6. (a) Explain the enforcement of security interest by a secured creditor under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.
(7 marks)
- (b) Define 'securitisation' and explain the objectives of securitisation.
(4 marks)
- (c) What do you mean by 'non-performing assets' under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ?
(4 marks)
7. (a) What do you understand by 'sick industrial company' ? Explain the immunities provided to a sick industrial company under the Sick Industrial Companies (Special Provisions) Act, 1985.
(7 marks)
- (b) Though, UNCITRAL Model Law is not a substantive law, yet it recommends protection to creditors and other interested persons. Briefly describe what are the protections provided under the UNCITRAL Model Law.
(4 marks)
- (c) The main objective of asset reconstruction company (ARC) is to act as an agent for banks and financial institutions. Briefly explain with the relevant provisions of law.
(4 marks)

8. (a) State the World Bank principles for effective insolvency and creditor rights systems.

(7 marks)

(b) On 2nd December, 1983, winding-up order was passed in respect of Heaven Ltd. On 1st December, 1989, official liquidator of Heaven Ltd. (in liquidation) initiated misfeasance proceedings against the promoter directors of the company. Directors pleaded that proceedings should be quashed being time barred. Briefly explain with support of relevant case laws, period of limitation for initiating misfeasance proceedings under the Companies Act, 1956.

(4 marks)

(c) Can an Indian court pass an order of amalgamation that has the winding-up effect in respect of the foreign company? Support your answer with relevant case law.

(4 marks)

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