

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.

PART — A

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

1. (a) "Corporate restructuring aims to achieve certain predetermined objectives at corporate level." Comment and explain how corporate restructuring would help bringing an edge over competitors.

(5 marks)
- (b) "In the modern business world, the strategic alliance and joint venture both have the same objective and end result, *i.e.*, pooling of resources, technologies and expertise, *etc.* to increase the market share, to enter into a new business and so on." Comment on this statement highlighting the basic differences between the two.

(5 marks)
- (c) Explain 'open offer thresholds' under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

(5 marks)
- (d) State whether the following statements are true or false citing relevant provisions of the law/case law :
 - (i) Where the non-banking financial company is proposed to be amalgamated with the banking company, the banking company should obtain approval of the Reserve Bank of India before the scheme of amalgamation is approved by the Board.
 - (ii) A scheme of amalgamation and arrangement under sections 391–394 has been unanimously passed by shareholders and secured creditors having 70% value of their shares and debts respectively. The company argued before the court that requisite approvals have been obtained and the majority of shareholders and secured creditors have sanctioned the scheme.
 - (iii) The amalgamated company has to issue new shares to non-resident Indians on amalgamation and for that it has to obtain permission of the Reserve Bank of India under the provisions of the Foreign Exchange Management Act, 1999.

- (iv) In amalgamation of companies, both the transferor and transferee need to be companies capable of being wound-up under the Companies Act, 1956.
- (v) In merger and amalgamation, dissolution without winding-up takes effect upon issue of order by the High Court.

(2 marks each)

2. (a) X Ltd. having equity share capital comprising 10 crore shares of ₹10 each totalling ₹100 crore and also having some reserves, has got assets worth ₹500 crore. It wants to merge with Y Ltd. for vertical integration so as to remain in a competitive market.

Y Ltd., which will remain after amalgamation, has share capital comprising 40 crore equity shares of ₹10 each totalling ₹400 crore and also has reserves and assets worth ₹700 crore.

All the assets of X Ltd. will be transferred to Y Ltd. upon approval of amalgamation.

The legal cell of Y Ltd. insists on the need for obtaining approval from the Competition Commission of India claiming it to be a pre-requisite for amalgamation.

You are required to —

- (i) Explain whether the contention of legal cell is tenable ?
(2 marks)
- (ii) Briefly write the relevant legal requirements of the Competition Act, 2002.
(4 marks)
- (b) According to section 390(b) (which interprets sections 391-393) the expression 'arrangement' includes the reorganisation of the share capital of the company :
 - (i) State the methods of arrangement as described in section 390(b).
(2 marks)
 - (ii) What are the other possible methods of arrangement ?
(3 marks)
- (c) A company has filed its application for amalgamation and arrangement under sections 391-394. After scrutinising the fairness of this scheme, the court ordered for calling class meetings and approved the notice submitted as per Form No. 35. However, the court also ordered publication of the notice in an English newspaper as well as in the Official Gazette.

State whether the court order to publish the notice in the English newspaper as well as in the Official Gazette is tenable as per law. Also discuss relevant provisions of the Companies Act, 1956 and relevant rules of the Companies (Court) Rules, 1959 in this regard.
(4 marks)

3. (a) Enumerate the main parameters to measure the post merger efficiency.
(6 marks)
- (b) While hearing a petition of amalgamation and arrangement, the Hon'ble High Court confirmed that the Court would not interfere with the valuation and its swap ratio approved by the shareholders. However, the Court felt that the valuation was 'without proper basis', the Court rejected the scheme not due to valuation but because it was not possible for the Hon'ble Court to come to the conclusion that the scheme is in public interest. Discuss whether the order of the Hon'ble High Court was made as per law citing relevant case law.
(5 marks)
- (c) In a scheme of amalgamation, the transferee/amalgamated company generally issues new shares to the shareholders of the transferor/amalgamating companies on the basis of valuation of shares of all transferor companies and the transferee company at a particular date and a swap ratio is arrived and included in the scheme. A company has prescribed its swap ratio on the basis of valuation at a date later than the appointed date. Can the swap ratio be rejected on the ground that valuation date is later than the 'appointed date' ? Discuss with case law.
(4 marks)
4. (a) What are the various ways in which demerger can be done ? Also explain the concept of partial demerger.
(8 marks)
- (b) Explain 'fair value of shares'. When is fair value of shares considered the appropriate method for valuation ?
(7 marks)
5. (a) Draft a Board resolution to be passed to consider offer of offeror company.
(6 marks)
- (b) What do you mean by a mandatory bid and when is it necessary ? Describe briefly.
(5 marks)
- (c) The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 provide some mechanism for automatic exemption from making 'mandatory offer' other than the *inter se* transfer among the promoters. Briefly state four such situations.
(4 marks)

PART — B

(Answer ANY TWO questions from this part.)

6. (a) Explain the provisions relating to appeal to the Debt Recovery Appellate Tribunal. State the quantum of amount to be deposited for entertainment of appeal by such Tribunal. *(8 marks)*
- (b) Mention the salient features of an 'inquiry' into the status of sick industrial companies contained in the Sick Industrial Companies (Special Provisions) Act, 1985. *(7 marks)*
7. (a) "Winding-up and dissolution are synonymous." Comment. *(5 marks)*
- (b) Enumerate the salient features of a desired code of ethics for insolvency practitioners. *(5 marks)*
- (c) Explain the purpose of UNCITRAL Model Law. *(5 marks)*
8. (a) Write short notes on the following :
- (i) Corporate insolvency
- (ii) Direction against disposal of assets under the Sick Industrial Companies (Special Provisions) Act, 1985
- (iii) Order of priority of debts under winding-up process. *(3 marks each)*
- (b) The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is an Act for speedy recovery of debts by the secured creditors. However, there are some exceptions where the Act is not applicable. Mention any six such circumstances. *(6 marks)*