

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 4

- NOTE :** 1 Answer SIX questions including Question No.1 which is compulsory.  
2 All references to sections relate to the Companies Act, 1956 unless stated otherwise.

1. Examine **any four** of the following statements and give your considered views :
- (i) Corporate managerial remuneration including executive remuneration has become a subject matter of serious questioning from public interest and social equity considerations.
  - (ii) It is in the interest of controlling shareholders to aid in the expansion of retail investors base in the company.
  - (iii) Will of majority shareholders determines the state of affairs of a company so long as the same does not seriously hurt minority shareholders, as a group or even individually.
  - (iv) In India, a two-tier Board has been introduced by statutory requirement for setting-up audit committee for bigger companies.
  - (v) The Sarbanes-Oxley Act, 2002 has many features, but perhaps its specific focus on audit function of companies makes it distinctive.

(5 marks each)

- 2 (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) Director Identification Number (DIN) is also \_\_\_\_\_ for directors of Indian companies, who are not \_\_\_\_\_ of India.
  - (ii) For confirmation of reduction of share capital, application shall be made by way of a \_\_\_\_\_ in Form No. \_\_\_\_\_ of the Companies (Court) Rules, 1959.
  - (iii) As per clause 49 of the listing agreement, in case of every listed company, a director shall not be a member in more than \_\_\_\_\_ committees or act as a Chairman of more than \_\_\_\_\_ companies.
  - (iv) A housing finance company should have a post buy-back debt-equity ratio not exceeding the ratio specified by \_\_\_\_\_ in consultation with \_\_\_\_\_.

- (v) The amount to be paid as preferential payment towards employees' dues for a period not exceeding \_\_\_\_\_ in case of winding-up must not exceed \_\_\_\_\_ in the case of each employee or workmen.
- (vi) The penalty for insider trading under section 15G of the Securities and Exchange Board of India Act, 1992 shall be \_\_\_\_\_ or \_\_\_\_\_ whichever is higher.

(1 mark each)

- (b) Zeal Ltd. intends to appoint Robert, an American national (who has been a resident of USA for the last 10 years) as the Managing Director of the company on a remuneration package of Rs.150 lakh per annum. List down the documentation required to be provided along with the application to the Central Government for seeking its approval.

(10 marks)

- 3 (a) State, with reasons in brief, whether the following statements are correct or incorrect :

- (i) Gaurav, who is not a party to the proceedings in respect of Moonlight Ltd. before the Company Law Board, cannot under any circumstances inspect the records of the proceedings and take copies of the exhibits put in evidence.
- (ii) At an annual general meeting held on 25<sup>th</sup> September, 2008, the auditor was appointed to hold office upto the conclusion of the next annual general meeting. The next annual general meeting was convened on 20<sup>th</sup> September, 2009 but stood adjourned without transacting any business. The retiring auditor claims that he continues to be in office beyond 20<sup>th</sup> September, 2009.
- (iii) Star Ltd. paid a sum of Rs.2 lakh to a director as commission for issuing a personal guarantee to the bankers of the company. This amount of commission is includible in the remuneration paid to the director for the purpose of section 309.
- (iv) Working capital loans cannot be included while reckoning effective capital in the context of managerial remuneration.
- (v) Vacancy in the position of an independent director must be filled-up within 120 days by a listed company in all cases as per the recent amendment of clause 49 of the listing agreement.

(2 marks each)

- (b) The issued, subscribed and paid-up capital of Integrated Projects Ltd. is Rs.88,05,28,000 consisting of 65,52,800 equity shares of Rs.10 each and 81,50,000 preference shares of Rs.100 each.

XYZ Ltd. holding 11% of equity share capital in Integrated Projects Ltd. filed an application under sections 397 and 398 alleging oppression and mismanagement on the part of Integrated Projects Ltd. and its directors.

Is the petition maintainable ? Support your answer with decided case law. Is the requirement for filing an application under section 397 and under section 398 different ?

(6 marks)

4. Comment on the following statements adducing proper reasons for your answer :
- (i) In a winding-up petition, the persons to be heard at the time of hearing of the petition are the company, its creditors, contributories and also the workers of the company.
- (4 marks)*
- (ii) Where a company has been dissolved as a result of the court's order that brings finality to the matter and no further order can be passed declaring the dissolution as void.
- (4 marks)*
- (iii) Section 433 contains grounds for winding-up of companies by the court. In all such cases, the court has the discretion to decide on the application.
- (8 marks)*
5. (a) Aloft Ltd., as a routine, takes up the applications for transfer of shares for consideration on the first Tuesday of every fortnight. In one such meeting, transfer of 1,000 equity shares of Rs.10 each in favour of Vijay, nephew of Amar, the Finance Director of the company, was considered and allowed. In the said meeting, Amar took part in the voting without disclosing his relationship with Vijay, the transferee. Does the transfer get vitiated for non-disclosure of relationship by Amar ? Give your views with reference to applicable law in this regard citing appropriate case law.
- (6 marks)*
- (b) Business Space Ltd. regularly purchases material from Enterprise Solutions, a partnership firm, in which a director of Business Space Ltd. is a partner. The paid-up capital of Business Space Ltd. is Rs.90 lakh at the time of purchase contract. Does this transaction require prior approval of Central Government or Regional Director ? State your answer adducing proper reasons.
- (6 marks)*
- (c) Will your answer be different if Business Space Ltd. purchases material from Active Solutions Ltd. instead of Enterprise Solutions, and that a director of Business Space Ltd. is also a director in Active Solutions Ltd. ?
- State your answer adducing proper reasons assuming that other details mentioned in part (b) above do apply to this case as well, except that the paid-up capital is Rs.110 lakh in place of Rs.90 lakh.

*(4 marks)*

6. Prosperity Ltd. has the following financials at the end of 31<sup>st</sup> March, 2009 :

Share Capital :

Equity share capital	Rs.100 lakh
Preference share capital	Rs.50 lakh
Reserves and surplus	Rs.450 lakh
Secured loan from IDBI	Rs.200 lakh

The company has surplus cash available and is working on a proposal to lend Rs.500 lakh to Silver Ltd. for a period of one year attracting interest rate of 4% per annum. As on 31<sup>st</sup> March, 2009, the paid-up share capital of Silver Ltd. is Rs.200 lakh made up of equity share capital of Rs.100 lakh and preference share capital of Rs.100 lakh. Silver Ltd. had a carried forward loss of Rs.50 lakh.

Prosperity Ltd. has not made any default in payment of principal and interest due on the secured loan from IDBI. You are required to --

- (i) Advise the company on the conditions to be fulfilled under the Companies Act, 1956 to execute the proposed lending. (8 marks)
  - (ii) Draft necessary resolution to be passed by Prosperity Ltd. to give effect to the proposal. (4 marks)
  - (iii) Narrate the procedure to be followed for the proposed lending by Prosperity Ltd. under the Companies Act, 1956. (4 marks)
7. (a) "Satyam episode shattered the faith and confidence of the general public in the Corporate Governance. While the dismay and anguish is understandable, the real point is that all concerned should explore and devise measures to strengthen the Corporate Governance system so as to restore the faith and confidence of the general public." Critically evaluate the statement. (10 marks)
- (b) Ivory Ltd., a listed company, wants to draw-up a code of conduct to be issued to its employees for prevention of insider trading as stipulated under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992. Advise Ivory Ltd. on the contents to be covered in the code of conduct. (6 marks)
8. Distinguish between the following :
- (i) 'Petition' and 'application' under the Company Law Board Regulations, 1991.
  - (ii) 'Inspection' and 'investigation' under the Companies Act, 1956.
  - (iii) 'Insolvency of an individual' and 'winding-up of a company'.
  - (iv) 'Secretarial standards' and 'accounting standards'.

(4 marks each)

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