# GUIDELINE ANSWERS

## PROFESSIONAL PROGRAMME

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### GROUP 1

भारतीय कम्पनी सचिव संस्थान
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IN PURSUIT OF PROFESSIONAL EXCELLENCE
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The Guideline Answers contain information based on the Laws/Rules applicable at the time of preparation and should be treated as indicative rather than exhaustive. The Students may note that the applicability of amendments to laws for CS Examinations is as under:

| | |
|---|---|
| December Session | upto 31 May of that Calendar year |
| June Session | upto 30 November of previous Calendar year |


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# ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) – PRINCIPLES & PRACTICE

## GROUP 1 PAPER 1

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

**NOTE :** *Answer ALL Questions.*

**PART–I**

### Question 1

*Alchemy Pharmaceuticals Ltd. is a listed company and is one of the leading pharma companies, having multiple factories across India. It is currently contemplating to further expand its operations. In April 2026, the statutory audit and annual activities by the secretarial team were in full swing as the financial year 2025-26 was over recently. Sashi, the Company Secretary of the Company, had a detailed meeting with Sumana, the Secretarial Auditor about the upcoming Secretarial Audit. He mentioned to Sumana that, Mannan, one of the independent directors had not attended the board meetings since last many quarters and does not appear to be interested to continue on the Company's Board. There were also media news about his involvement in activities / businesses with other companies, apparently compromising his integrity and independence.*

*On the point relating to independent directors and their role, Sumana highlighted that, as per SEBI (LODR) 2015, every listed entity should disclose in its report, a chart or a matrix setting out the skills, expertise and competence of the board of directors. And, with reference to the board's competency diversity, SEBI (LODR) 2015, with the objective of improving transparency, has widened the perspective of board diversity by adding skill diversity as an element of board composition. Therefore, building the right Board requires an understanding of director's competencies. He also emphasised that director's competencies encompass technical and behavioural competencies. He also suggested that the Company's Board can consider appointing a lead independent director, as done by many large corporates.*

*In last week of April 2026, the Board decided to appoint a new director and even considered convening a board meeting at short notice. Sashi was on a personal emergency leave, hence this matter was being handled by Arul, Sashi's assistant, a newly qualified Company Secretary, who joined the Company recently. Arul served the notice of the proposed board meeting to be held on 3rd May 2026 through speed post on 1st May 2026 stating in subject line as 'Proposed board meeting on 3rd May 2026' to discuss appointment of new independent director and to discuss other matters, on a plain paper mentioning the Company's name and date. One of the Directors, who was very senior and experienced, called Sashi, expressing concern about the validity of the notice stating that there should be a clear 7 days' notice and that the notice did not contain anything about the meeting being called at a shorter notice. Arul contended that there is a provision in the articles of association for a shorter notice, hence meeting can be held at shorter*

*notice. Considering his absence, Sashi asked Arul to consult you, a Senior Company Secretary on this matter. Based on the above facts, answer the following :*

*(a) Examine the validity of the notice narrating the irregularities, if any, and the consequences thereof.*

*(b) With reference to the provisions of Companies Act, 2013, outline the guidelines for professional conduct of Independent Directors.*

*(c) Elucidate the role of the Lead Independent Director.*

*(d) Advise the Board on considerations in evaluation of technical and behavioural competencies of directors.*

*(5 marks each)*

**Answer 1(a)**

**Provisions related to Notice of Board Meeting:**

As per Section 173 of the Companies Act, 2013 read with Para 1.3 of the Secretarial Standard–1 (SS-1), the Notice of Board Meeting shall be given in writing by the Company Secretary or where there is no Company Secretary, by any Director or any other person authorised by the Board, specifying the serial number, day, date, time and full address of the venue of the Meeting. The notice shall be served at least seven (7) days before the date of the Meeting, unless the Articles of Association prescribe for a longer period, in which case the Articles should be complied with. Further, in case, the Company sends the Notice by speed post or by registered post, an additional two days shall be added for the service of Notice, as provided in para 1.3.6 of the SS-1. However, a Board meeting may be called at a shorter notice to transact urgent business subject to the condition that the Articles of Association of the Company provide for giving such notice to transact urgent business. In accordance with para 1.3.11 of SS-1, the fact that meeting is being convened at a shorter notice shall be stated in the notice of the Meeting.

**Irregularities in the Notice**

Following are irregularities in the notice sent by Arul:

a. The serial number, day, time and full address of the venue of the Meeting and the fact that the meeting was being convened at a shorter notice was not mentioned therein.

b. In the absence of Sashi, Company Secretary of the Company, Arul must have been authorised by the Board to send the Notice of Board Meeting. The Notice of meeting does not state the name of the person sending the notice and whether he is the authorised person.

c. The notice of the meeting to be held on 3rd May, 2026 was sent through speed post on 1st May 2026. In this case, the two days for serving the notice through speed post was not provided and therefore, there is a possibility that one or more of the directors might not have received the notice in time to attend the board meeting.

d. The notice should contain detailed agenda and notes on agenda items. The facts indicate only a brief mention of appointment of a director and other matters.

The notice is procedurally defective and does not fully comply with Section 173 of the Companies Act, 2013 and SS-1.

**Consequences of Irregular Notice**

The irregularity in the Notice of the Board Meeting may affect the validity of the Meeting itself and the decisions taken thereat. Also, where the notice of meeting is not properly sent to all the Directors, Resolutions passed at such a meeting are not valid. Therefore, the Company and the officers of the Company may be exposed to penalties for non-compliance.

**Answer 1(b)**

The Schedule IV of the Companies Act, 2013 provides the Guidelines of professional conduct for Independent Directors. It is stated that adherence to these guidelines by Independent Directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent Directors.

Para I of the Schedule IV states that an independent director shall:

1. uphold ethical standards of integrity and probity;
2. act objectively and constructively while exercising his duties;
3. exercise his responsibilities in a bona fide manner in the interest of the company;
4. devote sufficient time and attention to his professional obligations for informed and balanced decision making;
5. not allow any extraneous considerations that will vitiate his exercise of objective independent judgment in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgment of the Board in its decision making;
6. not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person;
7. refrain from any action that would lead to loss of his independence;
8. where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly;
9. assist the company in implementing the best corporate governance practices.

In addition to the above, the Independent Director shall strive to perform the functions and duties as provided in the Schedule IV.

**Answer 1(c)**

It is a good corporate governance practice to designate an independent director as a lead independent director who keeps a keen eye on whether the chair is performing in his/her role to the board's satisfaction without losing objectivity or independence. The lead independent director monitors the relationship between the chair and the CEO, and ensure that it is a well-

functioning working relationship without becoming too close or powerful. The role of the lead independent director is mentioned as under:

1. Acts as the principal liaison between the independent directors of the Board and the Chairman of the Board;
2. Develops the agenda for and preside at executive sessions of the Board's independent directors;
3. Advises the Chairman of the Board as to an appropriate schedule for Board meetings, seeking to ensure that the independent directors can perform their duties responsibly while not interfering with the flow of Company operations;
4. Approves with the Chairman of the Board the agenda for Board and Board Committee meetings and the need for special meetings of the Board;
5. Advises the Chairman of the Board as to the quality, quantity and timeliness of the information submitted by the Company's management that is necessary or appropriate for the independent directors to effectively and responsibly perform their duties;
6. Recommends to the Board the retention of advisors and consultants who report directly to the Board;
7. Interviews, along with the chair of the Nominating and Corporate Governance Committee, all Board candidates, and make recommendations to the Nominating and Corporate Governance Committee;
8. Assists the Board and Company officers in better ensuring compliance with and implementation of the Governance Guidelines;
9. Serves as Chairman of the Board when the Chairman is not present; and
10. Serves as a liaison for consultation and communication with shareholders.

**Answer 1(d)**

In terms of the provisions of Companies Act, 2013 and SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, evaluation of Directors' competencies is to be carried out which involves consideration of the directors' experience, skills, attributes and capabilities. Director competencies encompass two distinct areas: Technical Competencies and Behavioural Competencies, which are detailed as under:

Technical competencies:

1. Accounting & legal skills
2. Industry knowledge
3. Experience in strategic planning and corporate governance

Behavioural Competencies of Directors:

1. Ability to positively influence people and situations
2. Ability to assimilate and synthesise complex information
3. Time availability

4. Honesty and integrity
5. High ethical standards.

While evaluating the technical and behavioural competencies of directors, the Board shall consider the Director's ability to understand regulatory frameworks and read financial statements, knowledge relevant to the organization's specific sector and operational environment and other attributes as stated above. An effective Board evaluation is necessary to ensure a diverse, competent and high-performing Board aligned with the company's strategic objectives.

**Question 2**

*(a) Mehr Fashions Ltd, is a public limited company, promoted by five founders. It manufactures textiles and is well known for its brand 'Flash'. As part of its expansion plans and also to raise funds from PE firms, the founders were evaluating to appoint new Directors, who would not only contribute to the Company's strategic growth, but also help in expanding its business. One of the founders Mahik, holds 26% equity in Klothing Private Ltd ('Klothing'). He proposed that if the Company enters into an agreement with Klothing, it can procure raw materials at reasonable price, thereby increasing the profit margin. He recommended the Company Secretary, to take up this agreement for Board approval in the upcoming meeting and said that he would brief the other Board members, to ensure that this agreement is approved. He also suggested that, there was no requirement to inform the Board about his holding in Klothing, as it would not impact the decision.*

*With reference to provisions of Companies Act, 2013, comment whether Mahik's contention is justified ?*

*(5 marks)*

*(b) Muneem, is the Chief Manager of Swayan Seva Trust, a registered trust. It is an established Trust which is seeking funds from Corporates, out of their Corporate Social Responsibility (CSR) corpus. One of the trustees asked Muneem whether the Trust will be eligible to receive such CSR funds, as they have never received such funds historically. As Muneem was not sure about the legal requirements, he approached you, a practising Company Secretary to guide him on this matter.*

*Prepare a brief note indicating the entities that are eligible to undertake CSR and the procedure thereof as per the provisions of Companies Act, 2013.*

*(5 marks)*

*(c) Pivot Ltd is a listed company, manufacturing fertilisers. Initially, the Company had an established track record of profitability and followed good corporate governance practices. However, due to business pressures, the management shifted its focus to profitability and has been bypassing the processes and controls for business reasons. Apurv, a Partner of M/s AP & Co., LLP, the statutory auditors of the Company had highlighted these issues to the Audit Committee in his quarterly presentation. During the finalisation of the financial statements for FY 2025-26. Apurv issued a management letter indicating the process improvements and internal control weaknesses. He also asked the CFO, to present these documents to the Audit Committee for their review. The CFO contended, that these documents are not required to be reviewed by the Audit Committee.*

*With reference to the information which an Audit Committee shall mandatorily review, comment whether the CFO's contention is justified.*

*(5 marks)*

**Answer 2(a)**

In terms of Section 184(2) of the Companies Act, 2013, every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate, shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting. Further, as per Section 166 of the Act, a director of a company shall not involve in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

Mahik is one of the founders of Mehr Fashions Ltd. and holds 26% equity in Klothing Private Limited, with which it is being proposed to enter into an agreement for procurement of raw materials. Based on the assumption that Mahik is also a director in Mehr Fashions Ltd., compliance of Section 184(2) as stated above is to be ensured and therefore, it is mandatory to disclose Mahik's shareholding in Klothing Private Limited at the meeting of the Board in which the agreement shall be placed for approval since he holds more than two per cent. of shareholding.

Further, being an interested Director, he cannot participate in the said Board Meeting to brief the Board Members on the transaction.

In addition to above, as per Section 184 (3) of the Companies Act, 2013, a contract or arrangement entered into by the company without disclosure under section 184(2) or with participation by a director who is concerned or interested in any way, directly or indirectly, in the contract or arrangement, shall be voidable at the option of the company.

Mahik's shareholding of 26% in Klothing Private Limited creates a direct interest in the proposed contract. Accordingly, he must disclose his interest to the Board, abstain from participation in the Board Meeting and voting on the matter, and cannot seek to influence the decision-making process. Therefore, his contention that there is no need to inform the Board is not legally sustainable under Sections 184 and 166 of the Companies Act, 2013.

**Alternate Answer 2(a)**

In terms of Section 184(2) of the Companies Act, 2013, every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate, shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting. Further, as per Section 166 of the Act, a director of a company shall not involve

in a situation in which he may have a direct or indirect interest that conflicts, or possibly may conflict, with the interest of the company.

Mahik is the founder of Mehr Fashions Ltd. and based on the facts of the case, it is assumed that Mahik is not a Director on the Board of the Company. Therefore, the provisions related to Disclosure of Interest by Director under Section 184 of the Act and Duties of Directors under Section 166 of the Act, as not applicable on Mahik. In view of this, he is not debarred from participating in the Board Meeting in which the agreement with Klothing Private Limited is proposed to be placed for approval and Mahik is also not mandatorily required to disclose his shareholding in Klothing Private Limited as he shall not be a part of decision-making process in the meeting, though the Board must still independently consider the transaction in compliance with the Act.

**Answer 2(b)**

In terms of Section 135 of the Companies Act, 2013 read with Rule 4 (1) of Companies (Corporate Social Responsibility Policy) Rules, 2014, apart from the Company itself, following entities are eligible to undertake CSR activities-

1. A company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, established by the company, either singly or along with any other company; or
2. A company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government; or
3. Any entity established under an Act of Parliament or a State legislature; or
4. A company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

For the purpose of clause (c), the term “entity” shall mean a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the Act.

Procedure for registration of entities is given as under:

a. As per Rule 4 (2) of Companies (Corporate Social Responsibility Policy) Rules, 2014, every entity, covered under Rule 4(1), who intends to undertake any CSR activity, shall register itself with the Central Government by filing the form CSR-1 electronically with the Registrar.

b. The Form CSR-1 shall be signed and submitted electronically by the entity and shall be verified digitally by a Chartered Accountant in practice or a Company Secretary in practice or a Cost Accountant in practice.

c. On the submission of the Form CSR-1 on the portal, a unique CSR Registration Number shall be generated by the system automatically for registration of entity.

Considering the above, Swayan Seva Trust can receive CSR funds if it has an established track record of at least three years in undertaking similar activities and completes registration formalities on the MCA portal by filing form CSR-1.

**Answer 2(c)**

As per Regulation 18(3) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 read with Schedule II to the Regulations, the audit committee shall mandatorily review the following information:

1. Management discussion and analysis of financial condition and results of operations;
2. Management letters / letters of internal control weaknesses issued by the statutory auditors;
3. Internal audit reports relating to internal control weaknesses;
4. The appointment, removal and terms of remuneration of the chief internal auditor.
5. Statement of deviations:
    a. quarterly statement of deviation(s) including report of monitoring agency, if applicable, submitted to stock exchange(s) in terms of Regulation 32(1).
    b. annual statement of funds utilized for purposes other than those stated in the offer document/ prospectus/notice in terms of Regulation 32(7).

Pivot Ltd. is a listed company and therefore, any management letter or communication issued by the statutory auditor highlighting process improvements, deficiencies or internal control weaknesses falls within the ambit of matters that are required to be reviewed by the Audit Committee. Accordingly, the Audit Committee is under a statutory obligation to review such management letters and internal control observations. Hence, the CFO's contention that these documents are not required to be placed before or reviewed by the Audit Committee is contrary to Regulation 18(3) read with Schedule II of the SEBI (LODR) Regulations, 2015 and is therefore not tenable.

**Question 3**

*(a) Nitika Energies Ltd, is a growing company in non-renewable energy space. It has 9 directors on its Board, of which three are independent directors. As a good governance practice, the Company follows board procedures in true letter and spirit. The Company was proposing to enter into an agreement for acquiring solar panels, which would help in expansion of its solar business. The Chairperson of the Company instructed Minu, the Company Secretary to pass this as a business item through resolution by circulation. Minu noted that three of the directors were interested in this item.*

*Advise Minu, on the procedure to be followed for passing the resolution by circulation. Also indicate, when will this resolution be treated as passed.*

*(5 marks)*

*(b) Smruti, a Senior Company Secretary was invited to speak at Woman's Day celebrations at FICI event. While she was preparing for her talk, she was discussing about the woman's work place safety with her friend Zeena, a human rights activist and lawyer. During the conversation, Zeena highlighted that, the Supreme Court of India held that sexual harassment of a woman at the workplace violates her fundamental rights under the Constitution of India. The Court further concluded that such acts constitute a violation of women's human rights. She asked Smruti to cover the guidelines that must be fulfilled by employers and other responsible persons or institutions in relation to sexual harassment at the workplace, in her talk.*

*Prepare a brief note covering the judicial precedents, if any and the requirements that must be fulfilled by employers and other responsible persons in relation to sexual harassment at workplace.*

*(5 marks)*

*(c) 'Friends in Need', a Not-for-Profit Organization (NPO), is registered on a Social Stock Exchange. Vibhu, the Company Secretary of 'Friends in Need', is required to make a presentation before the Governing Body, about the annual disclosures to be made to the Social Stock Exchange. He reaches out to you, a Company Secretary for inputs and guidance.*

*Suggest the key points that Vibhu, should incorporate in his presentation with reference to social impact under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the framework of the Social Stock Exchange.*

*(5 marks)*

**Answer 3(a)**

As per Section 175 of the Companies Act, 2013 and Para 6 of the Secretarial Standard – 1 on Board Meetings, following procedure shall be followed by Minu for passing the Resolution of Board of Directors by circulation:

1. The draft resolution, together with the necessary papers, if any, shall be circulated to all the Directors including Interested Directors on the same day, at their addresses (postal or e-mail) registered with the company in India by hand delivery or by post (speed or registered) or by courier, or e-mail or by any other recognised electronic means. In case of absence of such details or any change thereto, any of the addresses appearing in the Director Identification Number (DIN) registration of the Director may be used.
2. Each business proposed to be passed by way of Resolution by circulation shall be explained by a note setting out the details of the proposal, relevant material facts that enable the Directors to understand the meaning, scope and implications of the proposal, the nature of concern or interest, if any, of any Director in the proposal, which the Director had earlier disclosed and the draft of the Resolution proposed.
3. The note shall also indicate how a Director shall signify assent or dissent to the Resolution proposed and the date by which the Director shall respond.

4. Not more than seven days from the date of circulation of the draft of the Resolution shall be given to the Directors to respond and the last date shall be computed accordingly. An additional two days shall be added for the service of the draft Resolution, in case the same has been sent by the company by speed post or by registered post or by courier.

The provisions related to approval of resolution by circulation are as under:

1. The Resolution is passed when it is approved by a majority of the Directors entitled to vote on the Resolution, unless not less than one-third of the total number of Directors for the time being require the Resolution under circulation to be decided at a Meeting. Interested Directors shall not be excluded for the purpose of determining the above one-third of the total number of Directors.
2. However, an Interested Director shall not be entitled to vote on the resolution.

In the present case, the Board comprises 9 Directors, of whom 3 Directors are interested in the proposed transaction. Accordingly, only 6 Directors are entitled to vote on the resolution. Since approval by a majority of the Directors entitled to vote is required, the resolution will be deemed to have been passed only if at least 4 out of the 6 non-interested Directors signify their assent within the prescribed period. Further, if not less than one-third of the total number of Directors, i.e. 3 Directors out of 9, require that the matter be considered at a Board Meeting, the resolution cannot be passed by circulation and must instead be placed before the Board at a duly convened meeting.

The resolution, shall be deemed to have been passed on the earlier of the last date specified for signifying assent or dissent or the date on which assent has been received from the required majority. The resolution shall be effective from that date if no other effective date is specified in the resolution.

**Answer 3(b)**

The landmark judicial precedent in relation to protection of women against sexual harassment at workplace is the case of *Vishaka* vs. *State of Rajasthan and Ors., JT 1997 (7) SC 384 (Bhanwari Devi Case).*

The Supreme Court held that the sexual harassment of a woman at a workplace would be violative of her fundamental rights of gender equality and right to life and liberty under Articles 14, 15, 19 and 21 of the Indian Constitution. The court concluded that such act would be considered as a violation of women's human rights.

The case laid down the guidelines and the following requirements which need to be fulfilled by the employer as well as other responsible persons or institutions were provided:

1. For preventing the acts of sexual harassment in the workplace, it should be the duty of the employer or any other responsible person to prescribe for procedures and settlements.
2. Formation of a complaint committee at all workplaces which shall be headed by a woman employee only and should have NGO or third-party participation.
3. Half of the members of a committee should be comprised of women only.

4. All complaints regarding sexual harassment of a woman employee would be dealt by this committee only, appropriate action in this regard shall be initiated by the employers in accordance with the concerned law.
5. The committee would advise and recommend to the victim for the further course of action.
6. Provides for the definition of sexual harassment.

The abovementioned judgment led to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 which came into force from 9 December 2013 covering the aspects of Vishaka Guidelines. This Act superseded the Vishaka Guidelines for prevention of sexual harassment introduced by the Supreme Court of India.

**Answer 3(c)**

As per Regulation 91E of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and the framework on Social Stock Exchange (SSE), a Social Enterprise which is either registered with or has raised funds through a SSE shall be required to submit an Annual Impact Report (AIR). The AIR shall be assessed by a Social Impact Assessment Organisation employing Social Impact Assessors for listed projects and shall be self-certified for non-listed projects. The AIR shall cover atleast 67% of the program expenditure in the previous financial year. Following are the key points in relation to the AIR:

1. All Social Enterprises which have raised funds using SSE will have to provide duly assessed AIR to SSE by October 31st of each year or before the due date of filing the income tax return as prescribed under the provisions of the Income Tax Act, 1961, whichever is later.
2. The AIR shall capture the qualitative and quantitative aspects of the social impact generated by the entity and where applicable, the impact that is generated by the project or solution for which funds have been raised on SSE.
3. In case an NPO is registered without listing any security, the AIR will be self-reported and must cover the NPO's significant activities, intervention, programs or projects during the year and the methodology for determination of significance must be explained. Additionally, if there is an activity, intervention, program or projects covered under a listed security, it will qualify as a significant activity, intervention, program or project.
4. For a Social Impact Fund where the underlying recipients of funds are SEs which have registered or raised funds using SSE, must disclose an overall AIR for the fund covering all investee/grantee organizations where the fund is deployed.
5. The AIR should at a minimum, cover the aspects related to Strategic Intent and Planning, Approach and Impact Score Card.
6. The Social Enterprises shall disclose the report of Social Impact Assessors along with AIR.

***Attempt all parts of either Q. No. 4 or Q. No. 4A***

**Question 4**

*(a) Spurhan Financial Services Private Ltd, is registered as a Non-Banking Financial Company (NBFC) as per the requirements of Reserve Bank of India (RBI). Neyo, its Company Secretary is a proactive professional and endeavours to ensure compliance well within timelines. He came across the guidelines on Corporate Governance for NBFCs issued by the RBI under its Master Directions, about the requirements to appoint Chief Risk Officer (CRO). He informed Muthu, the Managing Director of the Company about these provisions and requirements to appoint CRO, considering that the Company was registered as a NBFC. Muthu, contended that the requirements to appoint CRO, may not apply to the Company, as it has been in operations since last five years only.*

*Advise Neyo, on the requirements to appoint CRO as per the RBI guidelines.*

*(5 marks)*

*(b) Miraj a Senior Professional working with a waste management company in India, was approached by a leading corporate magazine to provide a write up for publication in its monthly journal, 'A Perspective'. He asked Pari, his assistant to prepare a brief write-up on the initiatives to formalize the e-waste recycling sector, by the Indian Government. He suggested Pari to include few points from the E-Waste (Management) Rules, 2016, which provide for compulsory authorization of dismantling and recycling units from the concerned State Pollution Control Boards (SPCBs) or Pollution Control Committees (PCCs). In this context, prepare a brief note explaining the steps taken by Government to address the problems related to e-waste management in India.*

*(5 marks)*

*(c) Shyama, a multifaceted professional, is a practising Company Secretary and on board of many large corporates as an advisor on Human relations (HR) and labour related matters. She is also an accomplished speaker at various forums. She was invited on a podcast titled 'Insights', wherein she spoke about the current day workplace challenges, Gen Z and their thoughts. During the conversation she mentioned that 'Gender Parity' and 'Gender Equality' at work, are very important. The host in the podcast, asked her the following questions :*

- *What is 'Gender Parity' and 'Gender Equality' at work.*
- *How workplace gender equality can be achieved.*

*Indicate briefly what should Shyama's response be for the hosts above questions.*

*(5 marks)*

***OR (Alternative questions to Q. No. 4)***

**Question 4A**

*(i) A notice was received by the Lotus Petals Resident's Welfare Association (LPRWA) from Tirupati Urban Development Authority (TUDA) alleging violations in the construction of the apartments. One of the representatives went to meet the concerned officials of TUDA and had a heated argument. A false complaint was filed against Himan, an officer in*

*T'UDA, by LPRWA. Himan approaches you seeking advice to deal with this false complaint and the relief available to him.*

*With reference to the Lokpal and Lokayuktas Act, 2013, advise Himan.*

*(5 marks)*

*(ii) Virup is an Environmental Auditor, registered with a designated environmental audit agency, for undertaking environmental audits. He is engaged by Varna Ltd, a Company engaged in Coal mining activities as an environmental auditor. Outline Virup's role and responsibilities, while conducting an environmental audit of as per the Environment Audit Rules, 2025.*

*(5 marks)*

*(iii) As part of periodic updates to the Board, Kirit, the Company Secretary of Jiyot Techno Ltd, informed the Board of Directors about the National Data Governance Policy. He further added that 'to promote innovation and research by start-ups and academia, the Union Budget 2023-24 proposed the introduction of a National Data Governance Policy to enable access to anonymized data for fostering innovation. As part of this policy, the Government of India also plans to establish the India Datasets Programme, which will consist of non-personal and anonymized datasets collected by government entities from Indian citizens or individuals residing in India.' Upon detailed deliberations, the Board asked Kirit, to provide further inputs from a regulatory perspective to understand data privacy requirements and to draft an appropriate policy for the Company.*

*Prepare a brief note on important regulatory dimensions relating to privacy and disclosure of information under the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 framed under the Information Technology Act, 2000.*

*(5 marks)*

**Answer 4(a)**

With the increasing role of NBFCs in direct credit intermediation, there is a need for NBFCs to augment risk management practices. While Boards of NBFCs should strive to follow best practices in risk management, NBFCs with asset size of more than Rs. 5000 Crore shall appoint a Chief Risk Officer (CRO) with clearly specified role and responsibilities. The CRO is required to function independently so as to ensure highest standards of risk management.

The NBFCs shall strictly adhere to the following requirements with respect to appointment of CRO:

1. The CRO shall be a senior official in the hierarchy of NBFC and shall possess adequate professional qualification/ experience in the area of risk management.
2. The CRO shall be appointed for a fixed tenure with the approval of the Board. The CRO can be transferred/ removed from his post before completion of the tenure only with the approval of the Board and such premature transfer/ removal shall be reported to the Department of Non-Banking Supervision of the regional office of the Bank under

whose jurisdiction the NBFC is registered. In case the NBFC is listed, any change in incumbency of the CRO shall also be reported to the stock exchanges.

3. The Board shall put in place policies to safeguard the independence of the CRO. In this regard, the CRO shall have direct reporting lines to the MD & CEO/ Risk Management Committee (RMC) of the Board. In case the CRO reports to the MD & CEO, the RMC/ Board shall meet the CRO without the presence of the MD & CEO, at least on a quarterly basis. The CRO shall not have any reporting relationship with the business verticals of the NBFC and shall not be given any business targets. Further, there shall not be any 'dual hatting' i.e. the CRO shall not be given any other responsibility.
4. The CRO shall be involved in the process of identification, measurement and mitigation of risks. All credit products (retail or wholesale) shall be vetted by the CRO from the angle of inherent and control risks. The CRO's role in deciding credit proposals shall be limited to being an advisor.
5. In NBFCs that follow committee approach in credit sanction process for high value proposals, if the CRO is one of the decision makers in the credit sanction process, the CRO shall have voting power and all members who are part of the credit sanction process, shall individually and severally be liable for all the aspects, including risk perspective related to the credit proposal.

**Answer 4(b)**

In order to cater to the problems related to e-waste management in the country, the Ministry of Environment, Forest and Climate Change (MoEFCC) notified the E-Waste (Management) Rules, 2022 on 2nd November, 2022 replacing the E-waste (Management) Rules, 2016 and effective from 1st April, 2023. These rules launched a new Extended Producer Responsibility (EPR) regime for e-waste recycling. The salient feature of new rules are as under:

1. Applicable to every manufacturer, producer, refurbisher, dismantler and recycler.
2. All the manufacturer, producer, refurbisher and recycler are required to register on portal developed by CPCB.
3. No entity shall carry out any business without registration and also not deal with any unregistered entity.
4. Authorization has now been replaced by Registration through online portal and only manufacturer, producer, refurbisher and recycler require Registration.
5. Schedule I of the Rules includes 106 Electrical and Electronic Equipment (EEE) under EPR regime.
6. Producers of notified EEE, have been given annual E-Waste Recycling targets based on the generation from the previously sold EEE or based on sales of EEE as the case may be. Target may be made stable for 2 years and starting from 60% for the year 2023-2024 and 2024-25; 70% for the year 2025-26 and 2026-27 and 80% for the year 2027-28 and 2028-29 and onwards.
7. Management of solar PV modules /panels/ cells.

8. The quantity recycled will be computed on the basis of end products, so as to avoid any false claim.
9. Provision for generation and transaction of EPR Certificate.
10. Provisions for environment compensation and verification & audit.
11. Provision for constitution of Steering Committee to oversee the overall implementation of E-Waste (Management) Rules, 2022.
12. Every producer of EEE and their components shall ensure that their products do not contain lead, mercury and other hazardous substances beyond the maximum prescribed concentration.
13. Recognition and registration, skill development, monitoring and ensuring safety and health, of workers involved in dismantling and recycling of e-waste.

**Answer 4(c)**

**Gender Parity**

Parity means that each gender is represented equally. It is ensuring the access of women and men to the same opportunities, rights, opportunities to choose, material conditions while respecting their specificities. The notion of parity constitutes the foundation of policies to combat the disparities between women and men.

**Gender Equality**

Gender equality refers to how people of different genders are treated, understanding the needs of each gender, while providing equal opportunities and outcomes for women and men, not necessarily outcomes that are exactly the same for all.

Workplace gender equality will be achieved when people are able to access and enjoy equal rewards, resources and opportunities regardless of gender, which requires the following:

- Workplaces to provide equal pay for work of equal or comparable value;
- Removal of barriers to the full and equal participation of women in the workforce;
- Access to all occupations and industries, including leadership roles, regardless of gender; and
- Elimination of discrimination on the basis of gender, particularly in relation to family and caring responsibilities.

**Answer 4A(i)**

Section 46 of the Lokpal and Lokayuktas Act, 2013 provides the following with respect to the prosecution for false complaint and payment of compensation, etc., to public servant:

1. Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.

2. No Court, except a Special Court, shall take cognizance of an offence under sub-section (1).
3. No Special Court shall take cognizance of an offence under sub-section (1) except on a complaint made by a person against whom the false, frivolous or vexatious complaint was made or by an officer authorised by the Lokpal.
4. The prosecution in relation to an offence under sub-section (1) shall be conducted by the public prosecutor and all expenses connected with such prosecution shall be borne by the Central Government.
5. In case of conviction of a person being an individual or society or association of persons or trust (whether registered or not), for having made a false complaint under this Act, such person shall be liable to pay compensation to the public servant against whom he made the false complaint in addition to the legal expenses for contesting the case by such public servant, as the Special Court may determine.
6. Nothing contained in this section shall apply in case of complaints made in good faith.

   For the purpose of this sub-section, the expression "good faith" means any act believed or done by a person in good faith with due care, caution and sense of responsibility or by mistake of fact believing himself justified by law under section 79 of the Indian Penal Code.

**Answer 4A(ii)**

As per the Environment Audit Rules, 2025, the roles and responsibilities of Vipul as a Registered Environment Auditor shall include the following:-

1. Undertaking environment audits of projects, activities, or processes governed by applicable environmental laws and regulations;
2. Conducting sampling and analysis of emissions, effluents, wastes, and evaluating the effectiveness of pollution control and waste management systems installed;
3. Reporting any violations or non-compliance of applicable environmental regulations related to the project, process, or activity, as the case may be;
4. Computing environment compensation for non-compliance and violations, wherever required by the competent authority;
5. Preparing and submitting environment audit reports in accordance with extant regulations and guidelines;
6. To undertake environment audit assigned by the Central Pollution Control Board, either directly or through a designated agency, or by the State Pollution Control Board or the Pollution Control Committee, including under the Extended Producer Responsibility framework as prescribed in the rules notified under the Environment (Protection) Act, 1986;
7. To undertake, upon assignment by the project proponent, environment audits of projects, activities, or processes governed under extant environmental laws, rules, regulations, notifications and orders.

**Answer 4A(iii)**

The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 provides the regulatory framework for data privacy and disclosure of information and requires formulation of policy thereof. The statutory provisions in relation to the same are as under:

(1) The body corporate or any person who on behalf of body corporate collects, receives, possess, stores, deals or handle information of provider of information, shall provide a privacy policy for handling of or dealing in personal information including sensitive personal data or information and ensure that the same are available for view by such providers of information who has provided such information under lawful contract.

(2) Such policy shall be published on website of body corporate or any person on its behalf and shall provide for—

(i) Clear and easily accessible statements of its practices and policies;

(ii) type of personal or sensitive personal data or information collected under rule 3;

(iii) purpose of collection and usage of such information;

(iv) disclosure of information including sensitive personal data or information as provided in rule 6;

(v) reasonable security practices and procedures.

As per Rule 2(i), "Personal information" means any information that relates to a natural person, which, either directly or indirectly, in combination with other information available or likely to be available with a body corporate, is capable of identifying such person.

As per Rule 3, Sensitive personal data or information of a person means such personal information which consists of information relating to:

(i) password;

(ii) financial information such as Bank account or credit card or debit card or other payment instrument details;

(iii) physical, physiological and mental health condition;

(iv) sexual orientation;

(v) medical records and history;

(vi) Biometric information;

(vii) any detail relating to the above clauses as provided to body corporate for providing service; and

(viii) any of the information received under above clauses by body corporate for processing, stored or processed under lawful contract or otherwise.

Further, any information that is freely available or accessible in public domain or furnished under the Right to Information Act, 2005 or any other law for the time being in force shall not be regarded as sensitive personal data or information for the purposes of these rules.

## PART–II

***Attempt all parts of either Q. No. 5 or Q No. 5A***

### Question 5

*Hiranya Infratech Ltd is a prominent player in infrastructure sector, specializing in the construction of high-speed highways, metro rails, toll plazas, and expressways in Eastern India. Despite being a fast-growing entity, the Company has recently encountered a series of systemic failures. Media reports have frequently highlighted heavy fines imposed on the Company for non-compliance with various laws and regulations. This regulatory friction, combined with a string of lost business tenders, has led to a significant erosion of the Company's reputation and market share. The Company is currently grappling with a spectrum of risks.*

*To address the situation and to develop a time-bound corrective action plan, the CEO convened a high-level meeting with all functional heads and the Head of Risk Management. The leadership team identified that risk management must transition to a core management tool integrated into the Company's strategy. The Company now aims to implement a comprehensive internal control system that moves beyond simple protection to a process of detailed risk management across all functions.*

*In one of the Board meetings, Binak, an independent director, during discussions, provided detailed insights on risk management. He explained to the Board, that all organisations, no matter how big or small, public or private, should practise risk management by implementing appropriate system of internal controls. Effective risk management procedures promote accountability, performance evaluation and compensation and they can boost productivity throughout the entire organisation at all levels. A thorough knowledge and comprehension of the organisation (internally and externally) and the business processes are necessary for risk management. Better risk management strategies offer early warning signs so that the problem can be solved quickly. Traditional concepts solely viewed natural disasters like fires, earthquakes and floods as risks and they presumptively reduced those risks by maintaining safeguard equipment and other measures. However, new and different kinds of hazards have evolved as a result of the fast-paced developments in technology, business dimensions and complexity, regulatory changes and environmental concerns. Therefore, managing different forms of risks has become crucial in the age of the rapidly evolving global economy, numerous regulatory compliances, cross-border commercial activities and the need to maintain the survival, viability and sustainability of businesses.*

*The Company's strategy incorporates risk management as part of its overall organisational strategy. The goal of risk management is to enable an organisation to minimise losses and maximise possibilities by establishing detailed processes and procedures.*

*Based on the above, answer the following questions :*

*(a) Explain the inter-dependent scope of risk-management and internal control.*

*(b) Prepare a suggestive template of risk-register covering business risk, financial risk, regulatory and compliance risk.*

*(c) Outline the importance of internal audit with reference to risk assessment framework.*

*(d) 'Investors are increasingly using these environmental, social and governance (ESG) factors as part of their analytical process to identify significant risks and growth opportunities'. Explain the significance of ESG risk assessment.*

*(5 marks each)*

***OR (Alternative questions to Q. No. 5)***

**Question 5A**

*Vrindavan Mithai Wala Ltd, a listed company, has long been a popular name in the retail stores and restaurants. With an expansive footprint of retail stores and restaurants across the country, the brand became synonymous with quality and consumer trust. Building on this established brand equity, the Board of Directors approved a capital-intensive diversification strategy transitioning from sweets and restaurants into the full-scale hospitality sector. This culminated in the launch of a premium hotel wing under the group's popular flagship brand. The transition from high-volume food retail to complex hotel management presented immediate structural challenges. While the initial phase of hotel operations appeared to stabilize, the Company's internal control oversight failed to keep pace with the specialized regulatory requirements of the hospitality industry.*

*Following a surprise survey conducted by Government authorities, several critical deficiencies were identified in the Company's management practices, like non-compliances with FSSAI regulations, waste management, child labour, labour laws, PF & ESI Acts. The Company was levied substantial regulatory fines that directly impacted its profitability. News of the environmental and other non-compliances were reported by the media, causing a sharp decline in share price and brand goodwill. Plans for further expansion into the hospitality sector were immediately suspended as the management shifted its focus toward damage control and risk mitigation.*

*In the wake of these losses, the executive management embarked on a comprehensive study of corporate risks and review of internal control system by internal audit function. It also considered a detailed risk analysis to address the existing issues and recommend further course of action. The internal audit department was entrusted with assessment of operational non-compliances and to recommend remediations thereof. The internal audit manager prepared a detailed programme in light of the main risks identified by the Company.*

*Based on the above answer the following questions :*

*(i) Outline the specific responsibilities and duties of internal auditors.*

*(ii) 'Identification of current and potential hazards is the first stage in risk analysis. These might originate from a wide range of sources.' Discuss.*

*(iii) Explain operational risk and highlight the challenges witnessed in mitigating such risks.*

*(iv) Indicate who is responsible for risk management in the background of Companies Act, 2013 and SEBI (LODR), 2015.*

*(5 marks each)*

**Answer 5(a)**

Risk Management is identifying, understanding, assessing and handling the risks faced by an organisation which increases the likelihood of its success while minimising the consequences and chances of failure. Internal Controls are the controls included into the strategy, governance, management processes and operational activities of an organisation.

It is the responsibility of each business to put in place risk management and internal control systems that are suitable for the circumstances.

Risk management focuses on identifying threats and opportunities, while internal control helps counter threats and take advantage of opportunities. Proper risk management and internal control assist organizations in making informed decisions about the level of risk that they want to take and implementing the necessary controls to effectively pursue their objectives.

Successful organizations integrate effective governance structures and processes with performance-focused risk management and internal control at every level of an organization and across all operations.

For example, in a group, the parent company must make sure that each of its subsidiaries has internal control and risk management procedures in place. These systems must be modified to account for the unique traits of the subsidiaries and their interactions with the parent company.

**Answer 5(b)**

The risk profile of a company may be represented through a Risk Register. A risk register maps the risk areas, the key risks, the root cause and risk mitigation measures. A suggestive template of Risk Register is provided below:

| ***Risk Area*** | ***Key Risks*** | ***Root Cause*** | ***Mitigation Measures*** |
|---|---|---|---|
| Business Risk | Decreasing market share | Lack of innovation, market survey, etc. | Keeping a vigil on latest developments and continuous monitoring |
| Financial Risk | Leveraging capital structure and the cash flows | Inability to assess the appropriate funding requirements | Adopting Resource planning policy |
| Regulatory and Compliance Risk | Non-compliance of applicable laws | Not keeping abreast of the latest changes in the Regulatory environment | Knowledge updation and maintenance of a robust compliance check list |

## Answer 5(c)

An internal audit involves a continuous and critical appraisal of the functioning of an entity with a view to suggest improvements thereto, add value thereto and strengthen the overall governance mechanism of the entity, including the entity's strategic risk management and internal control system. The Internal audit provides independent assurance that an organization's risk management, governance, and internal control processes are operating effectively. The importance of internal audit with reference to risk assessment is given as under:

1. *Increase productivity*: Internal audit is an objective assurance and consulting activity designed to add value and improve business operation. Internal audit can help an organization accomplish its strategic objectives by bringing a systematic, discipline approach to evaluating and improving the effectiveness of risk management, control and governance process. By continuously monitoring and reviewing the organization processes, internal auditor can identify the controls to improve the efficiency and effectiveness of these processes and they also help an organization to depend on processes rather than people.
2. *Evaluate Risk and protect the assets*: A regular internal audit assesses a company's control mechanisms and helps to uncover evidence of frauds, identify any gaps in the environment and allow for formulation of a remediation plan. Internal audit program will help an organization track and document any changes that have been made to environment and ensure the mitigation of risks.
3. *Quality Control*: Internal auditor analyses how well the system and process are designed and keep the company goals on track and also provides the views on how to improve those system and processes, if and when necessary.
4. *Independent and unbiased insight*: Internal audit provides unbiased view on how effective internal controls are. If an organization has limited resources and they are unable to setup an independent audit team, they could cross-train employees to audit each other's departments.
5. *Good Corporate Governance*: Internal audits evaluate a company's internal controls, including its corporate governance and accounting processes. They ensure compliance with laws and regulations, accurate and timely financial reporting and data collection. They also help maintain operational efficiency by identifying problems and correcting lapses before they are discovered in an external audit.

## Answer 5(d)

ESG Risk Assessment is evaluation of Environmental Risks, Social Risks and Governance Risks that an organisation may encounter. The ESG Risk Assessment is significant in view of the following:-

1. *Enhanced Sustainability :* Evaluation of ESG risks helps the companies in effective utilization of resources, tackle rising operation costs, make safe investments, improve employee retention and adhere to regulations easily. Recognizing potential risks and

effectively managing them not only makes the organization resilient to future challenges but also provides a competitive advantage making them sustainable.

2. *Improved Regulatory Compliance* : With the growing stakeholder demands for accountability, there is also an increase in the regulatory obligations for ESG. Integrating ESG factors as a part of the risk management structure ensures effective communication with governing authorities while minimizing the resource burden and requirement for legal intervention.
3. *Increased Investment Potential* : Socially aware investors are now seeking the integration of ESG values into their portfolios to ensure sustainable investments. The organizations that have well-established ESG risk management systems have better potential of attracting the socially aware investors.
4. *Better Employee Productivity* : An ESG-conscious organization has capability to enhance employee productivity, motivation, and retention by inculcating a sense of purpose among the workforce. Also, ESG risk management promotes employee well-being through considerations such as health & safety, work schedules, diversity, and inclusion. This not only enhances employee experience but also stimulates better performance.
5. *Greater Profitability* : Mitigating ESG risks not only makes a company favorable for investments but also enhances its profitability through effective utilisation of resources.

**Answer 5A(i)**

The Internal auditors play an important role in evaluating and improving the effectiveness of an organization's governance, risk management and internal control processes. Their primary objective is to provide independent and objective assurance to management and the Board. The Internal Auditor assesses the operation of internal control system and makes recommendations to improve it. The key responsibilities and duties of internal auditors are given as under:

1. Evaluating risk management activities within the organization.
2. Determining the organization’s compliance with relevant laws and regulations.
3. Evaluating and making recommendations that can assist in improving internal control.
4. Investigating fraud via a fraud risk assessment that uses fraud deterrence principles.
5. Offering an objective source of independent advice to help reach the goal and achieve legality and validity.
6. Performing audit assignments assigned to them.
7. Learning and studying the organization’s policy and guidelines.
8. Identifying audit scope and developing annual plans within the organization.
9. Gathering, analyzing, evaluating, and presenting accounting documentation, reports, data, and flowcharts.
10. Following up the audits to monitor the managements’ intervention.
11. Promoting ethics and identifying improper conduct within the company.

Internal auditors serve as an independent assurance function that assists management and the Board in achieving organizational objectives by evaluating and improving the effectiveness of governance, risk management and internal control processes. They contribute significantly to transparency, accountability and operational excellence.

**Answer 5A (ii)**

Risk analysis involves identification of threats and estimation of risk. Identification of current and potential hazards is the first stage in risk analysis. The threats might originate from a wide range of sources given as under:

1. Human – Illness, death, injury, or other loss of a key individual.
2. Operational – Disruption to supplies and operations, loss of access to essential assets, or failures in distribution.
3. Reputational – Loss of customer or employee confidence, or damage to market reputation.
4. Procedural – Failures of accountability, internal systems, or controls, or from fraud.
5. Project – Going over budget, taking too long on key tasks, or experiencing issues with product or service quality.
6. Financial – Business failure, stock market fluctuations, interest rate changes, or non-availability of funding.
7. Technical – Advances in technology, or from technical failure.
8. Natural – Weather, natural disasters, or disease.
9. Political – Changes in tax, public opinion, government policy, or foreign influence.
10. Structural – Dangerous chemicals, poor lighting, falling boxes, or any situation where staff, products, or technology can be harmed.

**Answer 5A(iii)**

Operational risk is the risk of losses caused by flawed or failed processes, policies, systems or events that disrupt business operations. Employee errors, criminal activity such as fraud, and physical events are among the factors that can trigger operational risk. In evaluating operational risk, practical remedial steps should be emphasized to eliminate exposures and ensure successful responses. If left unaddressed, the incurrence of operational risk can cause monetary loss, competitive disadvantage, employee or customer-related problems, and business failure.

The challenges witnessed in mitigating operational risks are as under:

1. The data required is not readily available.
2. Operational complexity is growing in enterprises.
3. The universe of operational risk types expands.
4. Operational risk oversteps with other risk functions.

5. Other risk functions feel threatened by what seems like duplicative risk function and don't cooperate.
6. Operations staff complain that monitoring and reporting take time away from their other responsibilities.

**Answer 5A(iv)**

1. As per Section 134(3)(n) of the Companies Act, 2013, the report of the Board of Directors shall provide a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company. The policy is to be laid down by the Board of Directors.
2. SEBI (LODR) Regulations, 2015 also provide that the company shall lay down procedures to inform Board members about the risk assessment and minimization procedures. The Board shall be responsible for framing, implementing and monitoring the risk management plan for the company.
3. The Risk Management Plan must include all elements of risks. The traditional elements of potential likelihood and potential consequences of an event must be combined with other factors like the timing of the risks, the correlation of the possibility of an event occurring with others, and the confidence in risk estimates.
4. Risk management policies should reflect the company's risk profile and should clearly describe all elements of the risk management and internal control system and any internal audit function. A company's risk management policies should clearly describe the roles and accountabilities of the board, audit committee, or other appropriate board committee, management and any internal audit function.
5. A company should have identified Chief Risk Officer with the vision and the diplomatic skills to forge a new approach. He may be supported by "risk groups" to oversee the initial assessment work and to continue the work till it is completed.
6. Regulation 21 of SEBI (LODR) Regulations, 2015, requires that every listed company should have a Risk Management Committee.

## PART-III

**Question 6**

*(a) Pheonix Ltd is among top 200 companies in terms of market capitalization of various companies listed on the stock exchanges. While discussing ESG disclosures in the Board meeting, CEO of the Company, asks Sini, the Company Secretary to brief the Board on applicability of ESG disclosures pertaining to value chain participants. Sini collated the following value chain data :*

- *Total purchases in FY 2025-26 : ₹1,000 crores*
- *Total sales in FY 2025-26 : ₹800 crore*
- *Upstream (Purchases) :*

| *Supplier* | *Value (₹in crore)* |
|---|---|
| *A* | *300* |
| *B* | *200* |
| *C* | *150* |
| *D* | *100* |
| *E* | *50* |
| *F* | *30* |
| *G* | *20* |
| *H* | *10* |

*On the basis of the above, indicate the suppliers for which the Company is required to make ESG disclosures for value chain.*

*(6 marks)*

*(b) Global Reporting Initiative (GRI) Reporting protocols aim to cover a wide range of ESG issues. GRI offers environmental performance indicators divided into primary categories that should be used as part of the environmental sustainability report. Outline any five primary categories under which these indicators are categorized.*

*(5 marks)*

*(c) 'There are several standards and guidelines that organizations can use to conduct sustainability audits.' Explain.*

*(4 marks)*

**Answer 6(a)**

1. As per the SEBI's Master Circular dated November 11, 2024 amended vide SEBI's Circular dated March 28, 2025, ESG disclosures for the value chain shall be applicable to the top 250 listed entities (by market capitalization), on a voluntary basis from FY 2025-26 where for the first year of reporting ESG disclosures for value chain, reporting of previous year numbers shall be voluntary and the assessment or assurance shall be applicable on a voluntary basis from FY 2026-27.
2. Disclosures for value chain shall be made by the listed company as per BRSR Core, as part of its Annual Report. For this purpose, value chain shall encompass the top upstream and downstream partners of a listed entity, individually comprising 2% or more of total purchases and sales (by value). However, the listed entity may limit disclosure of value chain to cover 75% of its purchases and sales (by value), respectively.

3. If a listed entity provides ESG disclosures for value chain, then it shall disclose the percentage of total sales and purchases covered by the value chain partners, respectively, for which ESG disclosure are provided.
4. Listed entities shall report the KPIs in the BRSR Core for their value chain to the extent it is attributable to their business with that value chain partner. Such reporting may be segregated for upstream and downstream partners or can be reported on an aggregate basis.
5. The scope of reporting and any assumptions or estimates, if any, shall be clearly disclosed.

In view of the above, since Pheonix Ltd is among Top 250 listed entities, ESG disclosures on value chain are applicable on a voluntary basis from FY 2025-26. On the basis of data given in the problem, percentage of total Purchases has been computed as under:

| ***Supplier*** | ***Value (₹ in crore)*** | ***% of Total Purchases*** |
|---|---|---|
| A | 300 | 30 |
| B | 200 | 20 |
| C | 150 | 15 |
| D | 100 | 10 |
| E | 50 | 5 |
| F | 30 | 3 |
| G | 20 | 2 |
| H | 10 | 1 |

Starting from the top Upstream partners, it can be observed that Suppliers A to G individually contribute 2% or more of total purchases and are in scope of ESG disclosures. However, cumulatively, Suppliers A to G contribute 98% of total purchases and hence, the Company may choose to limit disclosure to the top suppliers covering 75%, that is up to supplier D.

**Answer 6(b)**

The Global Reporting Initiative (GRI) offers 30 environmental performance indicators that should be used as part of the environmental sustainability report. These performance indicators are divided into nine primary categories given as under:

1. *Materials*: Includes raw materials (natural resources, manufactured chemicals, and materials needed for manufacturing) as well as packaging materials and recycled product content.
2. *Energy*: Includes direct and indirect energy consumption, renewable energy amounts used, such as wind, solar, and geothermal, and efforts made to reduce energy requirements through more energy efficient processes.
3. *Water*: Covers the total amount of water withdrawn from water sources and company impact on those water sources, as well as the percentage and total volume of water that is recycled or reused.

4. *Biodiversity*: Provides information regarding company impact on the biodiversity of adjacent/nearby protected areas and/or areas considered to have high biodiversity, as well as company strategies for managing impacts on biodiversity.
5. *Emissions, Effluents, Waste*: Includes total weight of direct and indirect emission of GHGs, ozone-depleting emissions, and NOx, SOx, and other air emissions by type; total water discharge by quality and destination; total weight of waste generated by type and disposal method; total weight of treated, transported, or imported hazardous waste either as well as the percentage of waste shipped internationally; total volume and number of spills on and off-site.
6. *Products and Services*: Provides the percentage of products sold and packaging materials that are reclaimed/recycled.
7. *Compliance*: Provides the total monetary value of noncompliance fines and number of non-compliance sanctions.
8. *Transport*: Describes the impact of transporting your materials and finished products.
9. *Overall*: Provides the total values of environmental protection expenses and investments.

**Answer 6(c)**

There are several standards and guidelines that organizations can use to conduct sustainability audits. Some of the most widely used include:

1. *Global Reporting Initiative (GRI) Standards* : The GRI is a widely recognized sustainability reporting framework that provides guidelines and indicators for organizations to measure and report on their sustainability performance. The GRI Standards provide a comprehensive and consistent approach to sustainability reporting, and are used by organizations around the world to report on their sustainability performance.
2. *ISO 26000* : ISO 26000 is an international standard for corporate social responsibility that provides guidelines for organizations on how to implement, maintain, and continually improve their social responsibility practices. This standard can be used as a framework for conducting sustainability audits, and provides guidance on topics such as environmental responsibility, human rights, and community involvement.
3. *Sustainability Assessment Standards* : There are a number of sustainability assessment standards that organizations can use to conduct sustainability audits. These standards provide a systematic and comprehensive approach to sustainability assessment, and include the Environmental Management Accounting (EMA) standards, the AA1000 Account Ability Principles Standard, and the Sustainability Assessment Framework (SAF).
4. *National and Regional Standards* : There are also a number of national and regional standards that organizations can use to conduct sustainability audits. For example, the European Union has developed the EU Eco-Management and Audit Scheme (EMAS), which provides a framework for organizations to measure and report on their sustainability performance.

***

# DRAFTING, PLEADINGS & APPEARANCES

## GROUP 1 PAPER 2

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

**NOTE :** *Answer ALL Questions.*

**PART–I**

### Question 1

*ALN Biotech LLP, a limited liability partnership incorporated under the Limited Liability Partnership Act, 2008, is engaged in the research and manufacture of medical diagnostic equipment in India.*

*In 2022, with the objective of expanding its product portfolio and accessing advanced medical technology, ALN Biotech LLP (Referred as 'ALN Biotech') entered into a Joint Venture arrangement with Karl Global GMBH (Referred as 'Karl Global'), a foreign corporation based in Germany, for the manufacture and distribution of specialized medical devices in India.*

*After negotiations, the parties executed a document titled "Memorandum of Understanding and Joint Venture Framework Agreement" containing, inter alia, the following key provisions:*

- *Profit Sharing Clause : The profits of the joint venture business were to be shared between ALN Biotech and Karl Global in the ratio of 60 : 40 respectively.*
- *Confidentiality Clause : Both parties agreed to maintain strict confidentiality regarding proprietary technology, manufacturing processes, research data, and business strategies exchanged during the course of the joint venture.*
- *Non -Compete Clause : Karl Global agreed that during the subsistence of the joint venture and for three years thereafter, it would not engage, directly or indirectly, in the manufacture or sale of similar medical devices in India without the consent of ALN Biotech.*
- *Arbitration Clause : Any dispute arising out of or relating to the agreement was to be resolved through arbitration seated in New Delhi in accordance with the provisions of the Arbitration and Conciliation Act, 1996.*
- *Termination Clause : Either party could terminate the agreement upon material breach by the other party after giving 90 days' written notice and an opportunity to cure the breach.*

*The document was signed by authorised representatives of both entities. However, it was titled as "Memorandum of Understanding (MoU)", and certain operational details were to be finalized in subsequent agreements.*

*For about 18 months, the parties collaborated in developing medical devices using technology provided by Karl Global and manufacturing infrastructure provided by ALN Biotech.*

*Subsequently, Anuj one of the Partner of ALN Biotech discovered that Karl Global had begun independently manufacturing and marketing similar medical devices in India through another affiliated company. ALN Biotech LLP alleges that the foreign partner :*

- *Misused confidential technical information shared during the joint venture;*
- *Violated the non-compete obligation contained in the agreement; and*
- *Diverted potential customers of the joint venture business.*

*In response, Karl Global contends that :*

- *The document signed between the parties was merely a Memorandum of Understanding expressing intent and not a legally binding contract.*
- *The confidentiality and non-compete provisions are not enforceable.*
- *No formal joint venture company was incorporated; therefore, the arrangement lacks legal enforceability.*

*ALN Biotech LLP has approached you as a Practicing Company Secretary to examine the agreement and provide a detailed legal opinion on the enforceability of the arrangement and the remedies available. On the above background, answer the following questions referring relevant provisions :*

*(a) Whether the contention of Karl Global on confidentiality clause and non-compete clause in the present case is correct. Discuss with reference to the relevant provisions of the Indian Contract Act, 1872.*

*(b) Distinguish between an Agreement, Contract, and Deed in legal drafting. Explain how the enforceability of the document signed between ALN Biotech and Karl Global would be determined with reference to the Indian Contract Act, 1872.*

*(c) Explain the principles of clarity, precision and consistency in legal drafting. How do these principles help to avoid disputes regarding the interpretation of contractual clauses ?*

*(d) Prepare a note to the Partners of ALN Biotech, briefing on structuring of Joint Ventures and important clauses normally be included in a Joint Venture Agreement.*

*(e) State how Foreign Collaboration Agreement and Joint Venture Agreement are different and also state the important clauses a Foreign Collaboration Agreement should contain for its enforceability.*

*(5 marks each)*

## Answer 1(a)

### Enforceability of Confidentiality & Non-Compete clauses

The confidentiality clause is generally enforceable under the Indian Contract Act, 1872 as it protects proprietary information and does not amount to restraint of trade. Indian courts have consistently upheld such clauses when they are reasonable and necessary to safeguard trade secrets and business interests.

The non-compete clause, however, must be examined under Section 27 of the Indian Contract Act, 1872, which renders agreements in restraint of trade void to that extent. In India, post-termination non-compete restrictions are generally unenforceable unless they are reasonable and protect legitimate business interests, such as confidential information or goodwill.

In this case, Karl Global violated the non-compete clause by manufacturing similar devices during the 18-month joint venture period, which falls within the enforceable portion of the clause. The 3-year post-termination restriction is void under Section 27, but this is severable from the in-term obligation. Since the breach occurred while the joint venture was active, the non-compete clause is enforceable against Karl Global for that period, and ALN Biotech LLP has valid grounds for legal action.

Therefore, while confidentiality obligations are enforceable, the non-compete clause is only partially valid and subject to judicial scrutiny for reasonableness.

**Answer 1(b)**

**Agreement, Contract and Deed**

| **Basis** | **Agreement** | **Contract** | **Deed** |
|---|---|---|---|
| **Meaning** | Every promise and every set of promises, forming the consideration for each other, is an agreement. | An agreement enforceable by law is a contract. | Deed is the term normally used to describe all the instruments by which two or more persons agree to effect any right or liability. |
| **Enforceability** | Not always enforceable. | Legally enforceable. | Binding even without consideration. |
| **Mode** | It may be oral or in writing. | Preferable in writing. | Preferable in writing. |
| **Purpose** | Agreement on certain Act or Omission. | Enforceability of agreements according to Law. | Effecting a Right or Liability. |
| **Requirement** | Offer plus Acceptance. | Offer plus Acceptance plus Legal enforceability. | Offer plus Acceptance plus Legal enforceability Plus Written, signed, executed. |
| **Law** | Indian Contract Act, 1872 | Indian Contract Act, 1872 | Specific laws |

| | | | |
|---|---|---|---|
| **Creation of records** | Not necessary | Yes | Yes |
| **Relation** | Agreements are not necessarily Deeds or Contracts. | It succeeds Agreement. | Deed may be agreements and contracts. |
| **Example** | Non-Disclosure Agreements, Joint Venture Agreements. | Agreements reduced into writing and enforceable under any law. | Sale Deed, Lease Deed etc. |

**Enforceability of Memorandum of Understanding under Indian Contract Act, 1872**

The enforceability of the document signed between ALN Biotech and Karl Global would be determined by examining whether it satisfies the essential requirements of a valid contract under Section 10 of the Indian Contract Act, 1872. Despite being titled "Memorandum of Understanding," the document contains clear substantive terms including profit sharing, confidentiality obligations, non-compete restrictions, arbitration mechanism, and termination provisions, which demonstrate the parties' intention to create legal relations. The crucial factor is that the parties actually collaborated for 18 months, with Karl Global providing technology and ALN Biotech providing manufacturing infrastructure, constituting part performance that transforms the MoU into a binding contract. Under Indian law, the title of the document is not determinative; rather, the substance of the agreement, presence of lawful consideration (technology and infrastructure exchange), lawful object (medical device manufacturing), and the fact that authorized representatives signed it establish that it meets all essentials under Section 10: offer, acceptance, free consent, competency of parties, lawful consideration, and lawful object.

**Answer 1(c)**

Clarity, precision, and consistency are foundational principles of effective legal drafting. Clarity ensures that contractual language is simple, unambiguous, and easily understood, thereby reducing interpretational conflicts. A Company Secretary must avoid vague expressions and ensure that rights and obligations are explicitly stated. Precision requires the use of exact and appropriate legal terminology, defining key terms and avoiding overbroad or uncertain expressions. This aligns with enforceability standards under the Indian Contract Act, 1872. Consistency mandates uniform use of terms, structure, and references throughout the document, preventing contradictions or conflicting interpretations.

These principles collectively minimize ambiguity, which is a primary cause of contractual disputes. Clear and precise clauses reduce judicial intervention, while consistency ensures coherence in interpretation. For a Company Secretary, adherence to these principles enhances legal certainty, strengthens enforceability, and safeguards the commercial intent of the parties, thereby significantly reducing the risk of litigation and disputes.

In this case, drafting deficiencies—such as titling the document "MoU" despite containing binding clauses, deferring operational details to "subsequent agreements," and inconsistent terminology—created the disputes. Karl Global exploited by arguing the document was non-binding and clauses unenforceable, demonstrating how adherence to these principles would have prevented such ambiguity and strengthened enforceability.

**Answer 1(d)**

**Note on Structuring of Joint Ventures and Important Clauses of Joint Venture Agreements**

A joint venture (JV) means a strategic arrangement between two or more businesses, where resources are pooled, to work together on a specific project or an ongoing basis. Joint ventures are a useful way of collaborating with other businesses and to combine different areas of expertise for targeted or general business purposes.

Each of the participants in a JV is responsible for profits, losses, and costs associated with it. However, the venture is its own entity, separate from the participants' other business interests. It is important that the parties to the joint venture define their respective roles and responsibilities early on and how the parties will work together to achieve the joint venture's targets. There are several types of ways to structure a joint venture.

Before taking too many steps towards a joint venture it is important to note whether the deal is for a short or long-term arrangement, whether a separate company should be set up for the purpose, whether it is purely a loose collaboration agreement or whether there is a view to a merger or acquisition in the future. Among the categories of JV Agreements, Contractual Joint Venture can take the form of two or more parties coming together to collaborate on a specific project, share the costs of Research & Development act or share knowledge and expertise on an ongoing basis, Partnership where two or more parties start working together and carry on a business in common with a view to profit they will form a de facto partnership, even if the parties are unaware of this and Limited Liability Company involve a high-cost project, eg. developing a new product or service, and both parties will put capital into the venture, they may decide to form a new company for this purpose (sometimes called a 'special purpose vehicle/SPV').

Important clauses of joint venture agreement include:

- Parties to the Joint venture
- Business object
- Purpose of the Joint Venture
- The Structure of the Joint venture
- Financial arrangements
- Management
- Distribution of shares
- Contribution of parties
- Rights and obligations of the parties

- Representation and warranties
- Indemnity clause
- non-compete clause
- Confidentiality
- Dispute resolution
- Force Majeure
- Exit mechanism and Termination

**Answer 1(e)**

When two parties join hands for exchange of technical know-how, technical designs and drawings; training of technical personnel of one of the parties in the manufacturing and/or research and development divisions of the other party; continuous provision of technical, administrative and/or managerial services, they are said to be collaborating in a desired venture. The word "collaboration" has, however, acquired a specific meaning, which refers to cooperation between a party within India and a party abroad. The agreements drawn and executed between such collaborating parties are known as "foreign collaboration agreements".

Whereas, a joint venture (JV) means a strategic arrangement between two or more businesses, where resources are pooled, to work together on a specific project or an ongoing basis. Joint ventures are a useful way of collaborating with other businesses and to combine different areas of expertise for targeted or general business purposes.

**Two important Clauses for Foreign Collaboration Agreements:**

Every Foreign Collaboration Agreement should contain one or more clause to the effect –

- The agreement shall be subject to Indian laws.
- The agreement shall be subject to the approval of the Government of India.

**Question 2**

*(a) Arjun, the promoter shareholder of Viru Sports Accessories Private Limited, agreed to sell 25% of the company's equity shareholding to Kavin, a strategic investor, through a Share Purchase Agreement (SPA) executed between the parties.*

*The agreement recorded the purchase consideration, payment schedule, representations and warranties relating to the company's financial statements and an arbitration clause for dispute resolution. However, the agreement did not contain several clauses that are normally expected in a contemporary acquisition transaction, including provisions relating to indemnification for undisclosed liabilities, conditions precedent to closing, disclosure scheclules, limitation of liability and governing law.*

*Six months after completion of the transaction, Kavin discovered that the company had substantial undisclosed tax liabilities arising from past regulatory assessments which were not disclosed during negotiations, even these points where not known to Arjun. Hence, both Arjun and Kavin re-negotiated the deal and Arjun agreed to enhance Kavin's*

*equity stake to 33%. Now, both want to execute a comprehensive agreement to cover the risks of both the parties. On this background answer the following questions:*

*(i) As a Company Secretary, recommend additional contractual clauses and safeguards that should have been incorporated in the agreement to adequately protect the interests of Kavin as a buyer of Shares.*

*(ii) Evaluate the legal role of representations and warranties in acquisition agreements and explain how they operate as mechanisms for risk allocation and post-transaction remedies.*

*(5 marks each)*

*(b) You are a Company Secretary in Practice. One of your clients approached for registration of Society. As your staff is not aware of the provisions regarding drafting Bye-laws for the Societies, explain him, how Societies differ from the Companies, its Registration Authority and what are the points to be kept in mind while drafting Memorandum and Bye-laws for the Society.*

*(5 marks)*

**Answer 2(a)(i)**

**Additional Contractual Clauses & Safeguards to Protect Buyer's Interests**

The Share Purchase Agreement should incorporate robust clauses to protect the buyer's interests under the Indian Contract Act, 1872. Key additions can include:

- Indemnity clause: obligating the seller to compensate for undisclosed liabilities (especially tax exposures);
- Conditions precedent: ensuring completion only after satisfactory due diligence and regulatory compliance;
- Disclosure schedules: requiring full and specific disclosure of liabilities, thereby limiting disputes;
- Limitation of liability: with defined caps, baskets, and survival periods for claims;
- Governing Law and Jurisdiction: Explicit clause specifying Indian law as governing law and designating courts in a specific city for dispute resolution, ensuring legal certainty;
- Due Diligence Rights and Access: Provision granting pre-closing access to all company records, financial documents, tax filings, contracts, and employee records;
- Escrow mechanism: retaining part of consideration to secure indemnity claims;
- Material Adverse Change (MAC) clause: allowing withdrawal upon adverse developments; and
- Additionally, tax-specific warranties and indemnities should be expressly included.

These safeguards ensure effective risk allocation, post-closing protection, and enforceability, minimizing the buyer's exposure to undisclosed risks.

## Answer 2(a)(ii)

### Role of Representations and Warranties in Acquisition Agreements

In Acquisition Agreements, representations and warranties serve as critical contractual assurances by the seller regarding the company's financial position, compliance, and absence of liabilities, governed by principles under the Indian Contract Act, 1872. They perform a dual function: risk disclosure and risk allocation. By making specific representations (e.g., no undisclosed tax liabilities), the seller assumes responsibility for their accuracy. If such statements prove false, they constitute misrepresentation or breach of warranty, giving rise to post-transaction remedies such as damages or indemnification.

From a risk allocation perspective, warranties shift pre-closing risks to the seller, while the buyer relies on them instead of exhaustive due diligence. In the absence of express indemnity clauses, the buyer may still claim damages for breach. Thus, representations and warranties operate as protective mechanisms, ensuring transparency, allocating liability for undisclosed risks, and enabling the buyer to seek compensation for losses discovered after completion.

The representations and warranties thus function as both pre-closing due diligence tools and post-closing remedies (providing enforceable claims for breach), effectively allocating the risk of unknown or undisclosed liabilities to the seller who made the warranties.

## Answer 2(b)

A society may be defined as an association of persons united together by mutual consent to deliberate, determine and act jointly for same common purpose.

When a charitable organization intends to have an open participation of large number of people in its functioning and decision making, it must be registered as a Society. Societies have been envisaged as welfare and charitable associations of people having a broad-based membership and comparatively more democratic and transparent set up as compared to such set ups as public charitable trusts.

A Society and a Company are different legal entities having distinct objectives and regulatory frameworks. A Society is generally formed for charitable, literary, scientific, educational, cultural, social welfare or similar non-profit purposes and is governed by the Societies Registration Act, 1860 or the corresponding State enactments. A Company is incorporated under the Companies Act, 2013 or under any previous companies act and may be established either for profit-making purposes or, in the case of a Section 8 Company, for charitable and non-profit objectives.

A Society is managed through a Governing Body, Managing Committee or Executive Committee elected by its members, whereas a Company is managed through a Board of Directors. Registration of a Society is carried out before the Registrar of Societies, whereas a Company is incorporated by the Registrar of Companies under the Ministry of Corporate Affairs.

According to Section 20 of the Societies Registration Act, 1860, the following societies can be registered under the Act: 'charitable societies, military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the diffusion of political education, the foundation or maintenance of libraries or reading rooms for general

use among the members or open to the public, or public museums and galleries of paintings and other works of art, collection of natural history, mechanical and philosophical inventions, instruments or designs.'

The main instrument of any society is the memorandum of association and rules and regulations. All promoters should sign each page of the memorandum and the signature should be witnessed by competent officers/professionals with their rubber/official stamp and complete address.

The Memorandum should contain name, registered office, area of operation, objects, name of members of governing body and names of promoters.

The Rules and Regulations should include all the provisions that would regulate functioning of the proposed Society; it should comprise membership, powers and responsibilities of office-bearers, meetings, quorum of meetings, termination of membership, operation of bank account and financial year, procedure of dissolution or merger of Society if so required, and other general rules required to manage the society.

According to the provisions of Societies Registration Act, 1860, minimum seven or more adult persons can form a Society. For a national level Society eight persons from seven different states would be required as promoters. An authorised person from among the promoters must apply to the concerned Registrar with preferably three alternative names of the proposed Society so as to avoid any inconvenience if the envisaged name has already been allotted to some other Society. Individuals (excluding minors but including foreigners), partnership firms, companies and registered societies are eligible to form a Society.

Registration can be done either at the state level (i.e., in the office of the Registrar of Societies) or at the district level (in the office of the District Magistrate or the local office of the Registrar of Societies).

A society registered under the Act enjoys the status of a legal entity apart from the members constituting it. A society so registered is a legal person just as an individual but with no physical existence. As such it can acquire and hold property and can sue and be sued. The society should be registered under the Act to acquire the status of juridical person. When the society is registered, it and its members become bound to the same extent, as if each member had signed the memorandum. A society, registered under this Act, must confine its activities to the sphere embraced by its objects.

An unregistered society cannot claim benefits under the Income-tax act. All societies in India have to be registered under the Societies Registration Act 1860. By and large, the registration and filing procedures are similar in all the states. The only difference is that in some states there is a little more paperwork than the others.

**Question 3**

*(a) You are a newly appointed Company Sccretary of Style Hub Private Limited, (Referred as 'the Company') a growing ready-made garment company. The Company recently expanded its operations through online platform to cater the needs of wider population and thereby expanding its customer base. In that process, the Company has entered into multiple digital arrangements, including agreements with logistics partners, online*

*marketplaces and direct consumers through its website and mobile applications. Most of these transactions are executed electronically, where users accept terms by clicking "I Agree" or by simply continuing to browse or purchase products.*

*The company also exchanges bulk order information with suppliers through automated systems. While these digital methods have irnproved efficiency and specd, the management is concerned about the legal validity and enforceability of such electronic agreements, especially in cases of disputes, unauthorized access, or denial of consent by users. The Managing Director of the Company has asked you to review and explain on how different forms of e-contracts operate and their recognition under Indian law. In the context of your Company's online operations, state how are click-wrap and browse-wrap agreements legally recognized and what factors determine their enforceability in India ?*

*(5 marks)*

*(b) You have been recently appointed as Company Secretary of Project Implementation Company. During the course of its business, the Company has to execute many Contracts. Hence, your Management is keen to devise a best Negotiation Policy for the use of Marketing Department. Managing Director of the Company informed you that 'Negotiation with vendors is essential to secure favorable pricing, service levels and operational efficiency while minimizing risks' and he has asked to prepare a note explaining the key steps involved in negotiating the best commercial and operational terms with a vendor ?*

*(5 marks)*

*(c) For each of the scenario mentioned below, applying the provisions of Transfer of Property Act, 1882 and identify the type of mortgage with reasoning :*

*(i) Subham borrowed money from a bank and mortgaged his house as security without transferring possession. He agreed that if he failed to repay, the bank could approach the court to sell the property and recover dues. He retained ownership and possession.*

*(ii) Sita borrowed money from Mohan and transferred her land in the name of Mohan as a security attaching a condition that 'the transfer of Land will become absolute Sale, if Sita fails to repay the loan within two years and if she repaid on time (before two years), the property would revert back to her'.*

*(iii) Amit mortgaged his farmland to Ramesh and handed over possession. Ramesh was entitled to enjoy the produce and profits from the land instead of receiving interest on the loan. Until repayment, Amit could not reclaim possession.*

*(iv) Neha borrowed funds from a financial institution and transferred ownership of her property absolutely, with a promise to repay on a fixed date. The lender agreed to re-transfer the property upon repayment.*

*(v) Karan approached a bank in Delhi and deposited his property title deeds as security for a loan without executing a formal document. The intention was to create security over the property.*

*(1×5=5 marks)*

**Answer 3(a)**

Click-wrap agreements (where users actively click "I Agree") are generally considered more enforceable because they demonstrate clear consent. Browse-wrap agreements, on the other hand, rely on implied consent through website use and are enforceable only if users are given proper notice of the terms. Under the Information Technology Act, 2000, electronic records and digital acceptance are legally valid, provided there is free and informed consent as required by the Indian Contract Act, 1872. Courts may tend to favor click-wrap agreements due to explicit user action, while browse-wrap agreements may face challenges if terms are not prominently displayed or easily accessible.

Section 10A of the Information Technology Act, 2000 expressly recognises validity of contracts formed through electronic means. However, validity still depends on offer, acceptance, lawful consideration, free consent and intention to create legal relations under the Indian Contract Act, 1872.

Shrink-wrap agreements are typically used in packaged goods, where terms are accepted upon opening the product; their enforceability depends on whether the buyer had an opportunity to review and reject the terms. Electronic Data Interchange (EDI) refers to automated, system-to-system business transactions, commonly used for bulk orders and supply chain operations, where contracts are formed through standardized electronic communication. Online shopping agreements involve terms accepted during purchase transactions, usually through click-wrap mechanisms. All these forms are recognized under the Information Technology Act, 2000, which validates electronic contracts. However, their enforceability depends on clarity of terms, proper communication, and valid consent as per general contract principles.

**Answer 3(b)**

The steps involved in negotiation of best Commercial and Operational terms with Vendor include:

1. *Prepare a Plan*: It is always beneficial to prepare a plan before starting the negotiation process. A plan inter alia should include Services or products that can be offered or to be purchases or availed, payment terms, time required for finalization, Cancellation clauses, Penalties including late penalties etc.
2. *Finalise the communication system*: Frequent communication can be said to be starting point of the trust in negotiations. Every effort should be made to observe and fulfil whatever has been committed. The response is one another important area that can enhance the trust of other party. Timely response is also beneficial. Single point of contact is one other aspect that gives an added advantage. Further, vendors sending personal communication are generally open to negotiations as against Bulk Messages.
3. *Offer competitive Prices*: Proper research should be done before finalizing the prices of products or services. The prices of similar or competitive products should be studied before offering a price to the customers.
4. *Respect the experience of the other Party and help them*: Treat the other party as an expert in their area. Try to learn from them. It can prove to be beneficial if you express that you are looking for long associations and you are also interested in the growth of

their businesses. Further, it should be demonstrated that how you can help them in growing their businesses.

5. *Be open for the competition*: You may be sure which vendor you prefer but it is better to obtain the Commercial Contract Management quotes from various vendors also. This activity can keep the prices in control. When you are taking the quotes, try to take the quotations for different quantities for the purpose of evaluation and finalization of quantities to be ordered. So that you will be able to purchase the quantity which is most beneficial to you.
6. *Different aspects may be explored*: In certain situation, you may find a vendor who is not ready to negotiate the prices of the product or services. It does not mean that there is no scope of negotiation. Other aspects such as Payment terms, Interest, discounts etc. may still be negotiated.
7. *Deposits*: Vendors are providing their product and services to you in anticipation of the payments within time. However, there may be doubt about the timely payments in their minds. Therefore, deposits can build trust and confidence for you amongst the Vendors.
8. *Win-Win solution*: While negotiating try to suggest the option which is beneficial for both the parties. Working on a Win-Win situation can make you a preferred party.

**Answer 3(c)**

**(i)** **Type**: Simple Mortgage

*Reason:*

- Ownership and possession remain with Shubham.
- No transfer of possession to the bank.
- The bank only has the right to approach the court for sale in case of default.

These are the defining features of a simple mortgage under Section 58(b) of Transfer of Property Act, 1882 (TPA).

**(ii)** **Type**: Mortgage by Conditional Sale

*Reason*:

- Property is transferred with a condition.
- If the loan is not repaid → sale becomes absolute.
- If repaid → property reverts to Sita.

This conditional nature matches Section 58(c) of TPA.

**(iii)** **Type**: Usufructuary Mortgage

*Reason*:

- Possession is transferred to the mortgagee (Ramesh).
- Mortgagee enjoys profits/produce instead of interest.
- No personal liability on Amit to repay immediately.

These elements are define in Section 58(d) of TPA.

**(iv)** **Type**: English Mortgage

*Reason*:

- Absolute transfer of ownership to lender.
- Borrower promises to repay on a specific date.
- Lender agrees to re-transfer property upon repayment.

This aligns with Section 58(e) of TPA.

**(v)** **Type**: Mortgage by Deposit of Title Deeds (Equitable mortgage)

*Reason*:

- No formal written mortgage deed.
- Security created by depositing title deeds with intention to create a mortgage.
- Commonly valid in notified cities.

Covered under Section 58(f) of TPA.

***Attempt all parts of either Q. No. 4 or Q. No. 4A***

**Question 4**

*(a)* *Zuben Developers Limited (Referred as 'Zuben Developers'), a real estate development company, permitted Urban Café Private Limited to operate a café within a premium commercial complex owned by it. The agreement executed between the parties described the arrangement as a "License Agreement" and stipulated that Urban Café would occupy the designated premises for a fixed period of five years, subject to payment of monthly charges.*

*However, in practice, the café operator was granted exclusive possession of the premises, had the right to install fixtures and interior infrastructure and operated the premises without any regular interference from the developer.*

*After three years, Zuben Developers sought to terminate the arrangement with immediate effect on the ground that it was merely a licence revocable at will. Urban Café, however, disputed the termination and argued that the arrangement was in substance is a lease rather than a licence, thereby conferring statutory protection against arbitrary termination.*

*The dispute has raised on the true legal nature of the agreement and this has also highlighted them the importance of careful drafting in property transactions. On this background, answer the following questions referring case laws wherever applicable :*

*(i)* *Distinguish between a lease and a licence in property law and also highlight the legal consequences that may arise from each form of arrangement.*

*(ii)* *Referring the case law, state the test(s) applied by courts in determining whether a particular property arrangement constitutes a lease or a licence, irrespective of the terminology used in the document.*

*(5 marks each)*

*(b) Define 'Endorsements' and Distinguish between Endorsement in a Deed and Supplemental Deed. Also examine whether such instruments are liable to stamp duty, giving reasons.*

*(5 marks)*

***Or (Alternate question to Q. No. 4)***

**Question 4A**

*(i) Iowa Renewable Energy Private Limited (Referred as 'Iowa'), a company engaged in solar power generation, entered into a Power Equipment Supply Agreement with Green Grid Engineering Limited (Referred as 'Green Grid') for the supply and installation of solar power equipment worth ₹ 50 Crore.*

*As per the agreement :*

- *Green Grid agreed to supply solar panels and install them within six months.*
- *Iowa paid 40% advance at the time of signing the agreement.*
- *The agreement contained clauses relating to performance guarantee, indemnity, force majeure and arbitration.*

*However, due to delays in supply and alleged defectivc equipment, Iowa suffered substantial financial loss. The company now intends to :*

1. *Examine the essential clauses of the agreement to determine whether the contract was properly drafted and enforceable.*
2. *Secure its interest by executing a Deed of Indemnity from the supplier for losses caused due to defective equipment.*

*The company has sought advice from a Company Secretary regarding the drafting and its legal implications. On the above background, answer the following questions :*

*(a) Explain the objectives and important clauses of a commercial agreement, particularly in relation to the one mentioned in the given case.*

*(5 marks)*

*(b) Identify and explain the important clauses that must be included in a commercial agreement to protect the interests of parties in large infrastructure supply contracts.*

*(5 marks)*

*(ii) Akil entered into an Agreement for Sale on 10th January 2025 to purchase a residential property from Yash for ₹ 80 Lakh. Akil paid ₹ 20 Lakh as advance. The agreement stipulated that the balance amount would be paid within three months, upon which Yash would execute the sale deed in favour Akil. However, before the expiry of the stipulated period, Yash sold the same property to a third party, Leena, for a higher consideration, without informing Akil. Akil seeks legal opinion regarding his rights and remedies. In the given case, state whether a clause providing for exception and reservations would have legally protected Akil and explain in detail Exceptions and Reservations Clause included in a Deed.*

*(5 marks)*

## Answer 4(a)(i)

### Lease vs Licence

Courts consistently hold that mere terminology (e.g., "Licence Agreement") is not conclusive. The real intention of the parties and the substance of the transaction determine whether an arrangement is a lease or a licence.

### Distinction between Lease and Licence

Technically, the right to occupy premises under a lease agreement is governed by the provisions of section 105 of the Transfer of Property Act, 1882 whereas the right to occupy licensed premises is governed by section 52 of the Indian Easement Act, 1882.

### Legal Consequences

A lease under the Transfer of Property Act, 1882 creates an interest in immovable property, granting the lessee exclusive possession for a specified term in consideration of rent. It confers statutory protection, and termination must comply with legal procedures.

In contrast, a licence under the Indian Easements Act, 1882 merely permits use of property without transferring any interest. It is generally revocable and does not create proprietary rights.

The key distinction lies in exclusive possession and intention. In the present case, despite being termed a "licence," the grant of exclusive possession and operational autonomy suggests characteristics of a lease.

Legally, a lease provides enforceable tenancy rights and protection against arbitrary eviction, whereas a licence offers limited, contractual rights. Thus, misclassification can lead to unintended legal consequences, including restriction on the owner's right to terminate.

## Answer 4(a)(ii)

### Tests Applied by Courts to Determine Whether an Arrangement is a Lease or a Licence

In *Chandulal* v. *Delhi Municipal Corporation*, court held lease transfers interest; licence is personal, revocable, creating no proprietary rights.

Courts apply substance-over-form principles, disregarding nomenclature and focusing on the true intention of parties. The primary test is exclusive possession — if the occupant enjoys control without interference, it indicates a lease.

The distinction between a lease and a licence is determined not by the title or nomenclature used in the document but by the real nature of the rights created. Courts consistently apply the principle that substance prevails over form.

Other factors to determine lease or licence may include:

- Intention of parties inferred from terms and conduct
- Duration and certainty of term
- Right to transfer or sub-let
- Control retained by owner

- Nature of consideration (rent vs licence fee)
- Exclusive Possession
- Transfer of Interest
- Right of Termination
- Surrounding Circumstances and Conduct of Parties

Judicial precedents emphasize that even if an agreement is labelled as a licence, it may be construed as a lease if it confers proprietary interest. If the occupier has the right to exclude everyone, including the owner (except for limited purposes), from the premises, it is a lease. Mere possession without exclusive rights indicates a licence.

**Answer 4(b)**

Endorsement means to write on the back or on the face of a document wherein it is necessary in relation to the contents of that document or instrument. The term "endorsement" may be used with reference to negotiable documents like cheques, bill of exchange etc and also in other situations such as endorsement in a deed.

Endorsement in a deed helps in putting new facts in words on such document with a view to inscribe with a title or memorandum or to make offer to another by inscribing one's name on the document or to acknowledge receipt of any sum specified by one's signatures on the document or to express definite approval to a particular document. Supplemental deed is a document which is entered into between the parties on the same subject on which there is a prior document existing and operative for adding new facts to the document on which the parties to the document have agreed which otherwise cannot be done by way of endorsement. Thus, supplemental deed is executed to give effect to the new facts in the deed.

As regards stamp duty, such instruments generally attract stamp duty if they create, modify, or extinguish rights or liabilities. The applicability depends on the nature and substance of the transaction under the relevant Stamp Law. An endorsement, being an instrument that alters or confirms rights, is similarly treated as a chargeable instrument under the Indian Stamp Act, 1899, and attracts stamp duty based on its nature and the relevant state schedule. Legal consensus indicates that if a supplementary deed is executed as a registered deed, stamp duty and registration charges must be paid again, though unregistered supplementary attachments may not require additional duty. Purely explanatory endorsements without legal effect may not attract duty.

**Answer 4A(i)(a)**

When the business starts to make agreements with other businesses for supply or sale of goods and services, then a proper commercial contract is required to record these agreements and protect the parties in case of a dispute. Commercial contracts are legally enforceable agreements between two or more parties. They are agreements used to govern commercial activity(s) and involve with the commercial aspects of a product or service. They guarantee that parties follow their word and streamline transaction flow. The terms of a commercial agreement are usually quite formal and vary for each organisation and transaction. A commercial contract meets two objectives:

- the first is that it must simultaneously advance and protect the business interests of the parties.

- the second, and often overlooked, goal of a properly drafted commercial contract is that it should not unduly disturb or endanger the commercial arrangement that the two contracting parties have struck.

**Important Clauses of commercial Agreement between Iowa Renewable Energy Private Limited and Green Grid Engineering Limited can inter alia include:**

- Confidentiality clause to prevent unauthorized disclosure of confidential information.
- Dispute resolution including arbitration clause stating how disputes arising from the transaction will be handled.
- Details on the court that will have jurisdiction over matters arising from the transaction and the governing law, especially for domestic and international cross-border transactions.
- Termination clause detailing how any party can opt-out of the arrangement and conditions that will end the contract.
- Indemnity clause to protect parties from liabilities caused by a breach of contract or negligent acts of third parties.
- Liquidated damages clause to specify damages upon breach of contract.
- Force majeure clause to remove liability for failure to perform contractual obligation caused by unforeseen and unavoidable circumstances.

**Answer 4A(i)(b)**

**Important Clauses in large Infrastructure Supply Agreements**

Large infrastructure supply contracts demand comprehensive risk-allocation and performance-oriented drafting to ensure enforceability and commercial certainty under the Indian Contract Act, 1872. A well-drafted commercial agreement must clearly include a clause to define the scope of work and technical specifications, leaving no ambiguity regarding quality standards, design parameters, and installation obligations. Equally important is a time and liquidated damages clause, which imposes pre-estimated penalties for delay, thereby ensuring adherence to project timelines. The inclusion of a performance guarantee clause, typically backed by a bank guarantee, secures due performance by the supplier. Further, indemnity and warranty/defect liability clauses are crucial to protect the buyer against losses arising from defective equipment, substandard performance, or third-party claims. The agreement should also clearly specify the defect liability clause for defining the period during which the supplier remains responsible for defects, the obligation to repair or replace defective equipment at its own cost, service-level standards for installation, maintenance and performance, and liquidated damages payable in case of delay, defective performance or failure to achieve agreed performance benchmarks. Such provisions ensure accountability and provide an effective contractual remedy without requiring proof of actual loss. Further, the Intellectual Property Rights clauses are important as it defines ownership of background IP (pre-existing technology) and foreground IP (new innovations), ensuring party to use solar panels without infringement claims and Confidentiality Clause protects commercial and technical information shared between parties.

The contract must also incorporate a force majeure clause to address unforeseen contingencies, along with a termination clause enabling exit in case of material breach. Additionally, a limitation of liability clause balances risk exposure, while an insurance clause safeguards against transit and operational risks. Lastly, an effective dispute resolution clause, preferably arbitration, ensures efficient resolution. Collectively, these clauses ensure risk mitigation, performance assurance, and dispute minimisation.

**Answer 4A(ii)**

In this scenario, the agreement between Akil and Yash constitutes a valid and enforceable contract under the Indian Contract Act, 1872. Yash's act of selling the property to a third party during the subsistence of the agreement amounts to breach of contract. Akil has a strong case for specific performance under the Specific Relief Act, 1963, provided he can demonstrate readiness and willingness to perform his part of the contract. Alternatively, he may claim damages for breach. If Leena purchased the property with knowledge of the prior agreement, Akil may also seek relief against her. It is advisable for Akil to promptly file a suit for specific performance and seek interim relief to restrain further alienation.

**Exceptions and Reservations Clause**

It refers to admission of certain rights to be enjoyed by the transferor over the property to be agreed to by the transferee. All exceptions and reservations out of the property transferred should follow the parcels and operative words. It is the contractual right of the parties to the contract or to the document to provide exceptions and reservations which should not be uncertain, repugnant or contrary to the spirit of law applicable to a particular document or circumstances. For example, Section 8 of the Transfer of Property Act, 1882 provides for transfer of all the interest to the transferee in the property and any condition opposing the provisions of law will be void. Further, Section 10 of the said Act provides that any condition or limitation absolutely restraining the transferee of property in disposing of his interest in the property is void. So, nothing against the spirit of law can be provided in the document.

The clause generally is signified by the use of words "subject to" in deeds, where it is mentioned, it is advisable that both the parties sign, to denote specific understanding and consenting to this aspect.

In view of the nature of this clause, an exception and reservation clause would not by itself fully protect Akil against sale to a third party. Akil's stronger protection would be a properly drafted and registered agreement for sale, specific performance clause, negative covenant restraining alienation, notice/public record protection where available, and immediate interim injunction. The exception/reservation clause is relevant only if some rights were expressly reserved or made subject to the prior agreement.

## PART–II

### Question 5

*Doom Infratech Limited, a public company engaged in infrastructure development and construction of large public projects, has recently been facing severe financial difficulties due to project delays, escalating operational costs and increasing debt obligations.*

*A consortium of financial institutions and banks, which had extended substantial credit facilities to the company, has filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal (NCLT) seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against the company on the ground of default in repayment of financial debt.*

*Simultaneously, the Securities and Exchange Board of India (SEBI) has issued a Show Cause Notice to Doom Infratech Limited alleging violations of disclosure obligations under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. SEBI has proposed to initiate penal proceedings against the company for failure to make timely and accurate disclosures to investors.*

*Further complicating the situation, the Competition Commission of India (CCI) has initiated an investigation against Doom Infratech Limited and several other industry participants on allegations of bid rigging and anti-competitive conduct in public infrastructure tenders.*

*In light of these regulatory and legal challenges, the Board of Directors of Doom Infratech Limited has decided to engage a Company Secretary in Practice to represent the company before the relevant authorities and to advise the company on appropriate legal strategies.*

*(a) As a Company Secretary advising the company, outline an appropriate legal and representation strategy before the National Company Law Tribunal in relation to the Corporate Insolvency Resolution Process initiated under the Insolvency and Bankruptcy Code, 2016.*

*(b) The company intends to explore the possibility of settling the proceedings initiated by SEBI. Explain the key elements of a consent Settlement Application that may be filed before SEBI under the applicable settlement regulations.*

*(c) The company has authorized a Company Secretary to appear before the Competition Commission of India in connection with the ongoing investigation. Discuss the essential components and legal significance of an authorization for appearance before the Competition Commission of India.*

*(5 marks each)*

**Answer 5(a)**

**Legal & Representation Strategy before NCLT (CIRP under IBC, 2016)**

As a Company Secretary in Practice, the strategy should be divided into Admission Stage, Defence Strategy, Corporate Insolvency Resolution Process (CIRP) Stage, Pleadings & Advocacy, with proper legal backing.

As advisor, strategy must align with the Insolvency and Bankruptcy Code, 2016. First, examine the Section 7 application to verify existence of financial debt and default. If defects exist, file a Reply/Objection challenging maintainability. If default is evident, adopt a resolution-oriented approach by cooperating with the Interim Resolution Professional (IRP) and preserving going concern status.

Second, explore pre-admission settlement under Section 12A (with creditor consent) to avoid CIRP. Third, ensure proper representation before NCLT, including filing vakalatnama/

authorisation and all financial records. Fourth, assist in constitution of Committee of Creditors (CoC) and facilitate submission of a viable Resolution Plan.

**Answer 5(b)**

The key elements of Consent Settlement Application according to Securities and Exchange Board of India (Settlement Proceedings) Regulations, 2018 are as follows:

**Application for Settlement (Regulation 3)**

(1) A person against whom any specified proceedings have been initiated and are pending or may be initiated, may make an application to the Board in the Form specified in Part-A of the Schedule-I.

(2) The application made above shall be accompanied by a non-refundable application fee as specified in Part-B of Schedule I and the undertakings and waivers as specified in Part-C of Schedule-I.

Provided that the rejection or withdrawal of the application shall not affect the continued validity of the undertakings and waivers given in respect of limitation or laches in respect of the initiation or continuation or restoration of any legal proceeding and the waivers given under sub-paras (d), (e), (f) and (g) of para 12 of the undertaking and waivers as provided in Part-C of the Schedule-I and subject to such undertakings and waivers, the Board or the applicant, shall be free to initiate or pursue such proceedings as may be appropriate in accordance with law.

(3) The applicant shall make full and true disclosures in the application in respect of the alleged default(s):

Provided that the facts established against the applicant or admitted in any ongoing or concluded proceedings in India or outside India, with respect to the same cause of action, under any law, shall be deemed to be admitted by the applicant in respect of the proceedings proposed to be settled.

(4) The applicant shall make one application for settlement of all the proceedings that have been initiated or may be initiated in respect of the same cause of action.

(5) An application that is not complete in all respects or does not conform to the requirements of these regulations shall be returned to the applicant.

(6) The applicant whose application has been returned under sub- regulation (5) may, within fifteen days from the date of communication from the Board, submit the complete and revised application that conforms to the requirements of these regulations:

Provided that no further opportunity shall be given to the applicant to make an application in respect of the alleged default at the same stage of the proceedings, as indicated in Table I in Schedule-II.

(7) Where the applicant is an association or a firm or a body corporate or a limited liability partnership, the application and undertakings and waivers shall be executed by the person in charge of, and responsible for the conduct of the business of such firm or

association or body corporate and the same shall bind the firm or association, the body corporate and any officer who is in default.

*Explanation.* - For the purpose of this sub-regulation, the expression 'officer who is in default' shall have the same meaning as provided in sub-Section (60) of Section 2 of the Companies Act, 2013.

(8) An application for settlement of defaults related to disclosures, shall to the extent possible, be made after making the required disclosure.

A Consent Settlement Application before SEBI must be well-structured, transparent, and supported by full disclosures. It should clearly present facts, grounds, settlement terms, and undertakings, ensuring compliance with SEBI regulations.

**Answer 5(c)**

Sections 35 of the Competition Act, 2002 authorises Company Secretaries in practice to appear before Competition Commission of India. Besides, there are a number of concepts and terms such as value of assets, turnover, determination of market, relevant market, geographic market which require active professional involvement and advice. Further, Competition Act, 2002 provides a number of factors to be considered by the Competition Commission of India in determining appreciable adverse effect on competition.

The Competition Act, 2002 is the primary legislation governing competition law in India. The Competition Commission of India (CCI) is the regulatory body responsible for enforcing competition law in India. The CCI has the power to investigate, regulate, and take enforcement action against companies, intermediaries, and individuals engaged in anti-competitive practices. In this context, the Competition Act, 2002 provides for various provisions related to appearance before the CCI.

Some of the key provisions related to appearance under the Competition Act, 2002 are as follows:

1. **Appearance before the CCI in complaint and information matters**

   The CCI has the power to initiate investigations into anti-competitive practices based on complaints or information received from various sources. In this context, the CCI may issue notices and require parties to appear before it to provide evidence and arguments in connection with such investigations.

2. **Appearance before the CCI in combination matters**

   The CCI has the power to review mergers, acquisitions, and other forms of combinations that may have an adverse effect on competition in India. In this context, the CCI may require parties to appear before it to provide evidence and arguments in connection with such reviews.

3. **Appearance before the CCI in appeal and review matters**

   The Competition Act, 2002 provides for appeals against CCI's orders to the National Company Law Appellate Tribunal (NCLAT) and to the Supreme Court. In this context, parties may be required to appear before the NCLAT or the Supreme Court to provide evidence and arguments in connection with such appeals.

**4. Appearance before the CCI in leniency matters**

The Competition Act, 2002 provides for a leniency program to encourage companies and individuals to come forward and disclose anti-competitive practices. In this context, parties seeking leniency may be required to appear before the CCI to provide evidence and arguments in connection with such disclosures.

Under the Competition Act, 2002, parties may be required to appear before the CCI in various proceedings related to the regulation of competition in India. It is important to comply with these requirements and to seek legal advice and representation as necessary to protect one's rights and interests.

**5. Company Secretary as an expert**

According to section 35(2) of the Competition Act, 2002, a party may call upon experts from the fields of economics, commerce, international trade or from any other discipline to provide an expert opinion in connection with any matter related to a case. A CS is a competent professional that may give advices to the parties under section 35(2) on calling upon by any party.

An authorization for appearance before the Competition Commission of India is a crucial legal document that empowers a Company Secretary to represent the company. It ensures validity of representation, procedural compliance, and binding effect of actions, thereby playing a vital role in effective advocacy and protection of the company's interests.

***Attempt all parts of either Q. No. 6 or Q. No. 6A***

**Question 6**

*(a) Julu Retail Limited is a Public Limited Company having a Chairman (who is also a Director), a Managing Director, four whole-time directors (Finance, Technical, Marketing, etc.), six other Directors including five Independent Directors and one-woman Independent Director. The Chairman, who has very influential background, frequently bypasses the formal chain of command and directly instructs the Finance Director to carry out certain tasks. Although uncomfortable, the Finance Director complies due to pressure. One day, the Chairman asks the Finance Director to carry out certain questionable instructions. This time, the Finance Director refuses, stating that such actions are not legally or ethically permissible. The Chairman becomes angry and, acting unilaterally, removes the F'inance Director from his position without following any due process or corporate formalities.*

*On this background referring relevant provisions of the law and case laws, answer the following questions :*

*(i) Stating the relevant provisions of the law, explain what options does the Finance Director have to challenge the decision ?*

*(ii) Explain the principle of corporate democracy on removal of Directors without special notice by citing certain case laws ?*

*(5 marks each)*

*(b) A civil suit is filed by Arvind against Birbal for recovery of money based on an alleged agreement. The Court issues summons to Birbal and the matter now reaches the stage where Birbal has to file his written statement. Birbal intends to contest the claim on multiple ground he disputes the existence of the agreement, claims that the suit is barred by limitation, and also argues that the Court lacks territorial jurisdiction. He approaches you to draft the written statement and wants to ensure that all possible defences are properly raised in a single document.*

*On the above background, as a Company Secretary explain Birbal on points that should be kept in mind while drafting the written statement, especially when multiple and different kinds of defences are to be taken ?*

*(5 marks)*

***OR (Alternative question to Q. No. 6)***

**Question 6A**

*(i) Kris Infra Limited (Referred as 'Kris Infra'), a large construction company engaged in commercial real estate development, entered into a comprehensive construction agreement with Sunder Lal Builders Private Limited (Referred as 'Sunder Lal Builders') for design and development of a multistorey commercial complex in Bengaluru. The agreement stipulated specific timelines for completion of various phases of the project along with detailed payment milestones.*

*During the course of execution of the project, disputes arose between the parties regarding delays in construction and alleged deviations from agreed project specifications. Kris Infra alleged that Sunder Lal Builders failed to meet the contractual deadlines and did not adhere to the technical standards specified in the contract. On this basis, Kris Infra terminated the contract and withheld payments amounting to ₹ 20 Crore. Aggrieved by the termination and non-payment, Sunder Lal Builders instituted a civil suit before the competent Civil Court seeking recovery of the outstanding amount along with damages for wrongful termination of the contract. In response, Kris Infra denied the allegations and contended that the termination was justified due to breach of contractual obligations and substantial delay attributable to Sunder Lal Builders.*

*The Court directed both parties to file their pleadings and supporting affidavit-in-evidence in order to determine the issues involved in the dispute.*

*(a) Trace out the Legitimacy of Sunder Lal Builders' Claim and also discuss the remedies available to Kris Infra Limited.*

*(5 marks)*

*(b) As a Company Secretary of Kris Infra Limited draft an affidavit-in-evidence to be submitted before the court.*

*(5 marks)*

*(ii) Regulatory and quasi-judicial authorities play a significant role in corporate governance and compliance. In this backdrop, discuss the role of a Company Secretary while appearing before such authorities and indicate the procedural and professional responsibilities expected while representing a client.*

*(5 marks)*

## Answer 6(a)(i)

The unilateral removal of the Finance Director by the Chairman, merely because the Finance Director refused to comply with an instruction that was questionable, is not legally sustainable. The Finance Director may challenge the action under the Companies Act, 2013, the SEBI Regulations, principles of corporate governance, and the law relating to contracts.

**1. Challenge to Removal under the Companies Act, 2013**

Under Section 169 of the Companies Act, 2013, a director can be removed by the shareholders through an ordinary resolution/special resolution after complying with the prescribed procedure and after giving the concerned director a reasonable opportunity of being heard. A Chairman does not possess unilateral authority to remove a director. If the prescribed procedure has not been followed, the removal may be challenged as illegal and void.

Further, if the removal has been carried out in violation of the Articles of Association of the company or without proper approvals, the Finance Director may challenge such action as being ultra vires the constitutional documents of the company.

**2. Remedy before National Company Law Tribunal (NCLT)**

Where the conduct of the Chairman amounts to oppression and mis-management, the Finance Director, may request to Central Government for taking action 241(2) of the Companies Act, 2013 and the Central Government, if it is of the opinion that the affairs of the company are being conducted in a manner prejudicial to public interest, it may itself apply to the Tribunal for an order under the Chapter relating to oppression and mismanagement. Appropriate relief may inter alia include suitable directions as may be found just and equitable by NCLT.

Further, the finance director may bring the matter before the members of the company through legal means for taking action against chapter XVI relating to oppression and mis-management.

**3. Corporate Governance and SEBI (LODR) Regulations**

In the case of a listed company, the Finance Director may raise the issue before the Board of Directors, Independent Directors, Audit Committee, Nomination and Remuneration Committee, or other governance mechanisms established under the SEBI Regulations. The principles of transparency, accountability, integrity, and protection of stakeholder interests require that key managerial personnel and directors should not be subjected to arbitrary action for performing their fiduciary duties.

**4. Protection for Refusal to Commit Unlawful Acts**

Directors and Key Managerial Personnel are under a statutory duty to act in good faith, exercise due care and diligence, and act in the best interests of the company and its stakeholders. Refusal to participate in an unlawful or unethical act cannot ordinarily be treated as misconduct. If the Chairman's instructions involved violation of law, the Finance Director's refusal strengthens his legal position and demonstrates compliance with his fiduciary obligations.

**5. Vigil Mechanism and Whistleblower Protection**

The Finance Director may utilise the vigil mechanism or whistleblower framework established under section 177 the Companies Act, 2013 (if applicable) and applicable corporate governance requirements. Appropriate protection may be sought against retaliatory action.

**6. Contractual Remedies**

If the Finance Director is appointed under an employment contract, service agreement or any other contractual arrangement, he may enforce his contractual rights under the Indian Contract Act, 1872. In case of wrongful termination or breach of contractual obligations, he may claim damages, compensation, or other remedies available under law.

**7. Regulatory and Other Remedies**

Where the company is listed and by reason of such removal, any SEBI related laws have been violated, complaints may also be made before SEBI. The Finance Director may further seek appropriate legal remedies before competent courts or tribunals depending upon the nature of the rights affected.

**Conclusion**

The Chairman cannot remove a Finance Director merely on personal discretion or because the Director refused to carry out a questionable instruction. Such removal must comply with the Companies Act, 2013, the Articles of Association, SEBI Act & regulations, contractual obligations, and principles of corporate governance. The Finance Director may challenge the removal before appropriate forums and seek restoration of rights, compensation, or other suitable reliefs available under law.

**Answer 6(a)(ii)**

Corporate democracy means that the ultimate control of a company lies with its shareholders, and decisions especially those relating to the appointment or removal of directors must be taken collectively through prescribed procedures. Directors, though involved in management, hold office subject to the will of the shareholders expressed in a legally valid manner.

Removal of a director is therefore not a matter of individual discretion (even of a Chairman or majority on the Board), but must follow due process, including proper notice and opportunity to be heard. This ensures fairness, transparency, and protection against arbitrary exercise of power.

**Position when removal is attempted without special notice:**

The requirement of special notice is a crucial safeguard. It serves two purposes:

- It alerts the concerned director in advance so that he can defend himself.
- It informs shareholders about the proposed action so they can make an informed decision.

If a director is removed without complying with this requirement, the action is generally treated as invalid because it violates the principles of corporate democracy and natural justice.

**Relevant Case Laws:**

*Manmohan Singh Kohli (Capt.) v. Venture India Properties P. Ltd., (2005)*

The dispatch of notice is not bad in law because it is sent from some other post office which is not situated near to the company's registered or working office.

The removal of director without serving the notice u/s 284 is invalid and is an act of oppression & mismanagement. Consequently, the director shall be restored to his original position as director and all subsequent actions taken by the company in this regard would also be null and void.

*B.V. Thirumalai v. Best Vestures Trading P. Ltd., (2004)*

It is settled proposition of law that further shares could be issued only for the benefit of the company and not with a view to create a new majority, even if the powers to issue shares is vested in the Board. If the purpose of allotment of shares is for upsetting the existing shareholding to the detriment of one group, then such an allotment of shares is to be held an act of oppression.

The procedure u/s 284 for the removal of director shall be followed:

An extraordinary general meeting being conducted without a board meeting is invalid & the director removed at such meeting is invalid and he is entitled to receive the pending remuneration.

If it is proved that a director is fooled by the other for resigning from the post of directorship shall be considered an act of oppression more so, when the company is a family company.

*Naginder Singh Shiena v. R.S. Infrastructures Ltd., (2007)*

If it is established that the resolutions in the EOGM were passed with a view to oust the directors from the management of the company and take control of the affairs of the company, then, the same could be agitated in a petition under Sections 397/398 of the Act.

In case of closely held companies, the removal of any shareholder from the board who has been associated with the company for long, could be considered to be an act of oppression and could be agitated in a petition under Sections397/398 of the Act.

*Corresponding provisions under the Companies Act, 2013 are Section 169 for removal of directors and Sections 241–242 for oppression and mismanagement."

*LIC of India v. Escorts Ltd.*

- The Court emphasized that corporate decisions must reflect the will of the shareholders, and such will must be expressed in accordance with statutory procedures. Any deviation undermines corporate democracy.
- It was reiterated that shareholders are supreme, but their power must be exercised through proper legal channels—not arbitrarily.

*Shanti Prasad Jain v. Kalinga Tubes Ltd.*

The Court highlighted that majority powers in a company must be exercised bona fide and in accordance with law. Any action violating procedure or fairness can be challenged.

*Parmeshwari Prasad Gupta v. Union of India*

It was held that removal or termination of directors without following proper procedure (such as valid meetings and notice) is invalid.

Corporate democracy does not merely mean majority rule — it means rule by majority in accordance with law. Removal of a director without special notice violates:

- Statutory requirements,
- Principles of natural justice, and
- The foundational concept of corporate democracy.

**Answer 6(b)**

A Written Statement is the pleading of the defendant in answer to the plaint filed by the plaintiff. It is governed principally by Order VIII of the Code of Civil Procedure, 1908. The object of a Written Statement is to place before the Court the defence of the defendant and identify the real issues in controversy.

While drafting a Written Statement (especially when multiple and different kinds of defences are to be taken), the following points should be kept in mind:

1. **Specific Denial of Allegations**

   The defendant must specifically deal with each allegation contained in the plaint.

   General or evasive denials are not sufficient.

   Under Order VIII Rules 3, 4 and 5 CPC, allegations not specifically denied may be deemed to be admitted.

2. **Paragraph-wise Reply**

   The Written Statement should answer the plaint paragraph by paragraph.

   Each averment should be expressly admitted, denied, or stated to be not within the defendant's knowledge.

3. **Material Facts Only**

   Only material facts constituting the defence should be pleaded.

   Evidence by which such facts are to be proved should not ordinarily be stated in the pleading.

4. **Pleading of New Facts**

   Any new facts constituting a defence, such as fraud, payment, release, limitation, estoppel, waiver, accord and satisfaction, or discharge, should be specifically pleaded.

5. **Preliminary Objections**

   Objections relating to jurisdiction, maintainability, limitation, misjoinder or non-joinder of parties, valuation, court fees, or other legal bars should be raised at the outset.

**6. Set-off and Counterclaim**

If the defendant has any claim against the plaintiff arising out of the same transaction or otherwise permissible under law, the same may be pleaded by way of set-off or counterclaim in accordance with Order VIII CPC.

**7. Consistency in Defence**

The defence should be clear, coherent and consistent.

Alternative pleas may be taken where permissible, but mutually destructive or contradictory pleas should be avoided.

**8. Legal Grounds**

Relevant statutory provisions, contractual clauses, and legal grounds supporting the defence should be properly stated.

**9. Documents Relied Upon**

The defendant should disclose and produce documents on which reliance is placed in support of the defence in accordance with procedural requirements.

**10. Prayer or relief Clause**

The Written Statement should conclude with an appropriate prayer seeking dismissal of the suit, costs, or any other relief claimed by the defendant.

**11. Verification**

The Written Statement must be properly verified by the defendant, clearly specifying which statements are based on personal knowledge and which are based on information and belief.

**12. Timely Filing**

The Written Statement should be filed within the period prescribed under the Code of Civil Procedure, 1908, as delay may result in adverse procedural consequences.

Thus, a properly drafted Written Statement should contain clear and specific denials, material facts constituting the defence, all preliminary objections and legal grounds, together with proper verification and supporting documents, so as to enable the Court to effectively determine the real issues in dispute.

**Answer 6A(i)(a)**

The claim of Sunder Lal Builders Pvt. Ltd. is prima facie maintainable under the Indian Contract Act, 1872, as it arises from a valid construction agreement and alleged non-payment of INR 20 crore. If the plaintiff proves substantial performance, adherence to specifications, and that termination was wrongful, it can claim recovery of dues and damages. However, its case depends on establishing that delays or deviations were not attributable to it or were condoned/waived by the defendant.

On the other hand, Kris Infra Limited has strong defensive remedies. It can justify termination based on breach of contractual timelines and specifications, and deny liability for payment due to non-performance. It may also raise set-off or counterclaim for losses caused by delay,

defective work, or cost overruns. Additionally, it can rely on contractual clauses relating to termination, liquidated damages, or performance standards.

Thus, the legitimacy of the plaintiff's case hinges on proof of performance, while the defendant's remedy lies in justification of termination and counterclaim for breach, making the dispute fact-intensive.

**Answer 6A(i)(b)**

**Draft Affidavit-in-Evidence**

**IN THE COURT OF _____ AT BENGALURU**

Civil Suit No. _____ of 20__

**Sunder Lal Builders Pvt. Ltd.** ...Plaintiff

*Versus*

**Kris Infra Limited** ...Defendant

AFFIDAVIT-IN-EVIDENCE ON BEHALF OF THE DEFENDANT

I, _____, S/o _____, aged about ___ years, working as _____ in **Kris Infra Limited**, having its registered office at _____, do hereby solemnly affirm and state as under:

1. **Deponent**

   I am the authorized representative of the Defendant Company and am well acquainted with the facts of the present case and competent to swear this affidavit.

2. **Agreement**

   The Defendant entered into a construction agreement dated ___ with the Plaintiff for development of a multi-storey commercial complex at Bengaluru.

3. **Contractual Obligations**

   As per the agreement, the Plaintiff was required to complete the project within stipulated timelines and adhere to prescribed technical specifications.

4. **Delay in Construction**

   The Plaintiff failed to complete the project within the agreed timelines and caused substantial delay.

5. **Deviation from Specifications**

   The Plaintiff did not adhere to the agreed specifications and compromised quality standards.

6. **Notices**

   The Defendant issued several notices requesting the Plaintiff to rectify defects and adhere to contractual obligations, but no effective action was taken.

7. **Termination**

   Due to continuous breaches and delay, the Defendant lawfully terminated the contract as per agreed terms.

**8. Withholding Payment**

The Defendant withheld ₹20 crore as the Plaintiff failed to satisfactorily perform its obligations and caused losses.

**9. Denial**

The Plaintiff's claims are denied as false and baseless. The termination was justified.

**10. Documents**

The Defendant relies on:

- Construction Agreement (Annexure A)
- Correspondence and Notices (Annexure B series)
- Inspection Reports (Annexure C series)

**VERIFICATION**

I, the above-named deponent, verify that the contents of paragraphs 1 to 10 are true to my knowledge and belief and nothing material has been concealed.

Verified at Bengaluru on this ___ day of ____, **20.**

**DEPONENT**

**ATTESTATION**

Sworn before me on this ___ day of ____, **20** at Bengaluru.

(Signature & Seal of Notary/Oath Commissioner)

**Answer 6A(ii)**

***Quasi-Judicial* Authorities**

Quasi-judicial authorities are statutory bodies entrusted with adjudicatory powers and functions. Although they are not courts in the strict sense, they possess powers similar to those of a court for conducting inquiries, receiving evidence, hearing parties, determining rights and liabilities, and passing reasoned orders.

Examples of quasi-judicial authorities include the National Company Law Tribunal (NCLT), National Company Law Appellate Tribunal (NCLAT), Securities and Exchange Board of India (SEBI), Securities Appellate Tribunal (SAT), Competition Commission of India (CCI), Real Estate Regulatory Authority (RERA), Adjudicating Officers under various statutes, Consumer Commissions and other statutory tribunals and regulatory authorities exercising adjudicatory functions.

**Role of a Company Secretary in Representation before Quasi-Judicial Authorities**

A Company Secretary in Practice plays a significant role in representing clients before various quasi-judicial authorities. The role extends beyond mere appearance and includes advisory, drafting, compliance and advocacy functions.

1. *Advisory Role*

   The Company Secretary advises the client regarding applicable legal provisions, procedural requirements, rights, obligations, remedies available under law and the appropriate strategy to be adopted in the proceedings.

2. *Drafting of Pleadings and Documents*

   The Company Secretary is required to prepare and draft:

   - Applications
   - Petitions
   - Appeals
   - Replies to notices
   - Written statements
   - Affidavits
   - Rejoinders and counter-replies
   - Written submissions and synopsis of arguments
   - Authorisations, vakalatnamas and powers of attorney wherever required

   Proper drafting is essential as the outcome of proceedings often depends upon the quality and precision of pleadings.

3. *Collection and Presentation of Evidence*

   The Company Secretary assists in collecting, organising and presenting documentary and other evidence in support of the client's case. Relevant records, agreements, resolutions, statutory filings, correspondence and other supporting documents are compiled and presented before the authority.

4. *Appearance and Advocacy*

   The Company Secretary appears before the authority on behalf of the client, presents oral and written arguments, explains legal and factual issues, answers queries raised by the authority and seeks appropriate reliefs. Effective advocacy requires thorough preparation, knowledge of law, facts and procedural requirements.

5. *Compliance and Follow-up*

   After the order is passed, the Company Secretary advises the client regarding compliance with the directions of the authority, filing of appeals, review petitions or implementation of the order wherever necessary.

**Procedural Aspects of Appearance**

The following procedural requirements are generally required for appearance before quasi-judicial authorities:

(i) *Authorisation*

The representative must possess valid authority from the client through a Board Resolution, Letter of Authority, Power of Attorney or other prescribed authorisation.

(ii) *Filing of Pleadings*

The petition, application, appeal, reply, affidavit and supporting documents must be filed in the prescribed form and manner within the stipulated time.

(iii) *Service of Documents*

Copies of pleadings and documents must be served upon the opposite party in accordance with the applicable procedural rules.

(iv) *Hearing*

The authorised representative appears before the authority, presents arguments, cites legal provisions and judicial precedents and responds to issues raised during the proceedings.

(v) *Production of Evidence*

Evidence and supporting records are produced before the authority to substantiate the claims and contentions of the parties.

(vi) *Compliance with Orders*

The representative assists in implementing the order and advising on further remedies, including appeal, review or execution proceedings wherever available.

**Professional Responsibilities of a Company Secretary**

Apart from adherence to provisions prescribed under the Company Secretaries Act, 1980 read with the regulations, guidelines, etc. made thereunder, the professional responsibility of a company secretary can be as follows:

1. *Duties towards the Court/Tribunal*: It includes conduct himself with dignity and self-respect, maintain towards the Courts a respectful attitude, Conflict of Interest, etc.
2. *Duties towards Client*: It includes not ordinarily withdrawing from engagements once accepted, making full and frank disclosures to his client relating to his connection with the parties, uphold the interest of his client by all fair and honourable means, etc.
3. *Duty to Opponent*: It includes not in any way communicate or negotiate upon the subject-matter of controversy with any party represented by an Advocate except through that Advocate, shall do his best to carry out the legitimate promise/ promises, made to the opposite- party, etc.

***

# COMPLIANCE MANAGEMENT, AUDIT & DUE DILIGENCE

## GROUP 1 PAPER 3

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

**NOTE :** *Answer ALL Questions.*

**PART–I**

**Question 1**

*(a) Sharad Dhagge and Shailesh Jhawar are partners in the DJ and Company (Company Secretarial firm). They have got the Secretarial Audit assignment of MNL Limited, a manufacturing company. Abhilash (Trainee) was appointed for this assignment. Abhilash has been busy with his studies since his examination were approaching and hence, he has not studied the documents in detail and reported all area under the audit to be in order. However, in reality, the documentation related to company secretarial compliances and statements were not correctly maintained by the company. Based on the Abhilash's inputs and without even cross checking the documents, Shailesh Jhawar PCS signed and certified the Secretarial Audit Report of MNL Limited.*

*Analyze and decide based on the Code of Conduct of ICSI, whether the act of Shailesh Jhawar is appropriate.*

*(5 marks)*

*(b) PQR Ltd., a growing company, has recently expanded its operations. increasing its turnover from ₹ 500 crore to ₹ 750 crore, and in the process of commencing a new business division. During the year, 3 (three) nos of new laws became applicable, existing legal provisions were re-interpreted by regulators, and judicial developments widened the liability of directors and officers. An internal review identified 8 (eight) potential areas of non-compliance out of 20 (twenty) applicable laws, with possible penalties ranging from ₹ 10 lakh to ₹ 1 crore, risk of potential operational disruption, and potential reputational damage due to adverse media reporting. In view of these developments and increased stakeholder expectations, the Board has directed the compliance officer to conduct a fresh risk assessment in alignment with the revised business profile.*

*In the light of the above case, identify the types of risks that should be included in the risk assessment process of PQR Ltd., and explain while identifying inherent risks how the risks drivers could be categorised into legal, financial, business and reputational effects.*

*(5 marks)*

*(c) Sai Tech Ltd. had implemented a digital document management system for maintaining statutory registers, contracts, and financial statements. During scrutiny under Section 128 and Section 206, it was observed that, file coding and nomenclature included multiple special characters such as ampersands brackets, slashes, commas and percentage symbols in file names. Due to incompatible naming conventions across*

*servers, as a result, several files could not be sorted chronologically, certain backups failed validation, and search results generated incomplete outputs. The authority concluded that careless use of punctuation and special characters in coding created ambiguity and operational risk, thereby amounting to defective maintenance of books and records, reinforcing the principle that standardized and symbol free nomenclature is a compliance requirement and not merely an administrative preference. Do you agree with this, suggest them the best practices for file-naming?*

*(5 marks)*

*(d) You are the Practicing Company Secretary. You have to advise your audit team regarding provision related to Companies Act, 2013 in relation to the Board meeting and its notice related to the board meeting. Answer each of the following questions as per provisions of the Companies Act, 2013:*

*(i) Board meetings of a Limited Company.*

*(ii) Board meetings of a Specified IFSC Private Company.*

*(iii) Board meetings of a Dormant Company.*

*(iv) Notice of Appointment of Auditor to Registrar.*

*(v) Notice of the Board meetings at a shorter notice.*

*(5 marks)*

**Answer 1(a)**

Clause (2) of Part I of the second schedule to the Company Secretaries (CS) Act, 1980 provides that a Company Secretary in Practice shall be deemed to be guilty of professional misconduct, if he– "certifies or submits in his name or in the name of his firm a report of an examination of the matters relating to Company Secretarial practice and related statements unless the examination of such statements has been made by him or by a partner or any employee in his firm or by another Company Secretary in practice."

This clause is intended to imbibe in a member in practice, a higher degree of responsibility and care while certifying any fact or a statement. Either he himself or his partner or any employee of his firm should have examined what is being certified. The words "or by another Company Secretary in Practice" used in this clause envisage a situation where the responsibility for the certification is undertaken by a Company Secretary in Practice, who is neither a partner nor an employee of the Company Secretary concerned, for an examination done by another member in Practice.

This clause prohibits PCS from certifying or submitting in his name a report of an examination of the matters relating to company secretarial practice unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another Company Secretary in Practice.

Trainees working in the office of PCS are not to be considered as his employees for the purpose of this item.

In the given case, Shailesh Jhawar, PCS has not himself verified the documents nor his partner or employee has checked the documents. He has signed and certified the Secretarial Audit Report of MNL Limited based on inputs received from his trainee and without cross checking of documents, which is a professional misconduct under the CS Act, 1980.

Hence, in the given case, the act of Shailesh Jhawar PCS is not appropriate.

**Answer 1(b)**

Risk assessments should be done according to the changes in the business profile. Such changes may result because of new laws or regulations, new interpretations of existing laws or regulations, new theories of liability, a new activity of the business or changing social standards.

Risk assessment includes:

1. Identification areas of potential non-compliances
2. Rating the risks
3. Assessing the outcomes to find the need for training, monitoring, internal controls, detailed reviews and corrective steps.

In the risk assessment process, the company identifies the inherent risk of each obligation as critical, high, medium or low. The outcome determines the type of risk mitigation strategy. However, the systems and procedure at the first line tracking and second line monitoring needed to effectively utilize to manage the risk. Thereafter the business assesses its managed risk levels for the identified compliance obligations.

There are two types of risk assessments that can be performed by the company, i.e., High Level Risk Assessment and Detailed Risk Assessments. Reports from the detailed and high-level risk assessments must include key compliance risks, with existing and approved risk mitigation activities. Assessment Reports must be discussed and signed off in accordance with the risk management procedure of the company. Risk assessment techniques can be a combination of desk assessments, interviews and/or workshops; however, they should be aligned with risk management standards of the company.

While identifying inherent risks, it needs to consider the following risks drivers which can be categorized in the following:

*Legal Effect*: Non compliances by the organization can leads to various penalties, fines, imprisonment, debarment, and seizing the products etc. against the organization and its officers.

*Financial Effect*: Low share prices of the securities of the organization, financial losses and low revenues and lowering the trust of the investors are some of its negative effects.

*Business Effect*: Shutdown of the factories can affect the business operations of the organization.

*Reputational Effect*: Loss in customers' confidence in the brand of the organization, bad media or social discussion can tarnish the reputation of the organization.

**Answer 1(c)**

Punctuation, symbols, or special characters (periods, commas, parentheses, ampersands, asterisks, etc.) should be avoided in file naming. Some applications and computer scripts could not recognize spaces or process files differently when using spaces. A best practice is to replace spaces in file names with an underline (_) or hyphen (-).

Best practices for file naming - it should:

- Be unique and consistently structured;
- Be persistent and not tied to anything that changes over time or location;
- Limit the character length to no more than 25-35 characters;
- Use leading 0s (Zeros) to facilitate sorting in numerical order if following a numeric scheme "001, 002, 010, 011 … 100, 101, etc." instead of "1, 2, …10, 11 … 100, 101, etc.";
- Contain a file format extension;
- Use a period followed by a file extension (for example, .tif, .jpg, .gif, .pdf, .wav, .mpg);
- Use lowercase letters. However, when a name has more than one word, start each word with an uppercase letter for example, "File_Name_Convention_001.doc";
- Use numbers and/or letters but not characters such as symbols or spaces that could cause complications across operating platforms;
- Use hyphens or underscores instead of spaces;
- Use standard date notation (YYYY-MM-DD or YYYYMMDD);
- Avoid blank spaces anywhere within the character string; and
- Not use an overly complex or lengthy naming scheme that is susceptible to human error during manual input, such as "filenameconventionjoesfinalversioneditedfinal.doc".

**Answer 1(d)**

**(i) Board Meetings of a limited company**

Every company shall hold the first meeting of the Board of Directors within thirty days of the date of its incorporation and thereafter hold a minimum number of four meetings of its Board of Directors every year in such a manner that not more than one hundred and twenty days shall intervene between two consecutive meetings of the Board. (Section 173 of the Companies Act, 2013)

**(ii) Board meetings of a Specified IFSC Private Company**

In case of Specified IFSC Private Company–the Company shall hold the first meeting of the Board of Directors within sixty days of its incorporation and thereafter at least one meeting of the Board of Directors in each half of a calendar year. (Section 173 of the Companies Act, 2013)

**(iii) Board meetings of a dormant company**

A dormant company shall be deemed to have complied with the provisions of section 173 of the Companies Act, 2013 if at least one meeting of the Board of Directors has been conducted in each half of a calendar year and the gap between the two meetings is not less than ninety days.

**(iv) Notice of Appointment of Auditor to Registrar**

Notice to the Registrar for appointment of auditor shall be filed by the company in Form No. ADT-1 within 15 days of the meeting in which the auditor is appointed. (Section 139 of the Companies Act, 2013)

**(v) Notice of the Board meetings at a shorter notice**

A meeting of the Board shall be called by giving not less than seven days' notice in writing to every director. However, a meeting of the Board may be called at shorter notice to transact urgent business subject to the condition that at least one independent director, if any, shall be present at the meeting. In case of absence of independent directors from such a meeting of the Board, decisions taken at such a meeting shall be circulated to all the directors and shall be final only on ratification thereof by at least one independent director, if any. [Section 173 of the Companies Act, 2013]

***Attempt all parts of either Q. No. 2 or Q. No. 2A***

**Question 2**

*(a) Provision of Companies Act, 2013 states that Company has to inform within 30 days after the date of Incorporation and shall submit in Form INC-22 to Registrar of Companies whenever there is a change in registered office. Using the judicial pronouncement of M/s Joy Ice Cream (Bangalore) Private Limited, analyse and decide the consequences of non-filing of Form INC 22 with ROC.*

*(5 marks)*

*(b) Answer each of the following:*

*(i) UDIN Guideline, mandatory indication of UDIN and consequences of violation*

*(ii) If a Certificate is signed on September 28, 2019, indicate the date UDIN may be generated ideally as well as in exceptional cases.*

*(3+2=5 marks)*

*(c) "The Companies Act, 2013 casts immense responsibility on the Company Secretaries being the professionals certifying the critical document of Annual Return. Any failure or lapse on the part of PCS may attract penalty both under the Companies Act, 2013 as well as under the Company Secretaries Act, 1980 for professional or other misconduct." You are a Company Secretary in whole time practice and have the assignment to certify the Annual Return of TKJ Ltd.*

*In this regard, citing the relevant provisions, inform:*

- *the threshold limits of Annual Return Certification for TKJ Limited*

- *applicable e-form for the certification of annual return for TKJ Ltd*
- *assuming if TKJ Ltd is a small company, what should be the applicable e-form*
- *which documents must be examined by the PCS for checking of annual return certification?*

*(5 marks)*

*(d) A large corporate fraud was detected in a company BNT Ltd. involving manipulation of financial statements and diversion of funds. The matter was investigated by the Serious Fraud Investigation Officer (SFIO) under the Companies Act, 2013. After investigation, SFIO filed a complaint before the Special Court constituted under Section 436. The accused argued that the Special Court could not take cognizance directly and that the matter should first be committed by a Magistrate.*

*Analyze and decide whether the Special Court can directly take cognizance of the offences under the Companies Act, 2013 without committal by a Magistrate. Specify the offences triable by special courts under Section 436.*

*(5 marks)*

***OR (Alternate Question to Q. No. 2)***

**Question 2A**

*(i) Ansh Limited failed to file its annual return and certain statutory forms within the prescribed time under the Companies Act, 20l3. The Registrar of Companies issued a notice stating that the matter would be adjudicated by an Adjudicating Officer, who may impose a monetary penalty for the default. The directors of the company argued that any offence under the Companies Act, 2013 should be tried only by a court and not by an administrative officer.*

*With respect to above facts:*

*(i) Discuss the concept of adjudication of offences.*

*(ii) Explain the genesis of the adjudication mechanism under the Companies Act, 2013.*

*(iii) Advise whether the action of the Registrar is justified.*

*(5 marks)*

*(ii) Wealth Ltd. is a listed company having 1,200 shareholders and debenture holders. The company has traditionally maintained its statutory registers and records in physical form at its registered office. In April 2025, the Board of Directors of Wealth Ltd. proposed to shift the maintenance of all statutory registers, records and documents to electronic form in order to improve efficiency and ensure easier retrieval of information. However, one of the directors raised a concern that the Companies Act, 2013 requires certain records to be maintained physically and therefore questioned whether the company could legally maintain such records in electronic form.*

*The Company Secretary of Wealth Ltd. referred to Section 120 of the Companies Act, 2013 read with Rule 27 of the Companies (Management and Administration) Rules, 2014, which permits maintenance of records in electronic form subject to certain conditions.*

*Stating the provision, specify whether Wealth Ltd. can maintain its statutory records in electronic form. Elucidate the manner in which a company can maintain its records in electronic form in accordance with Rule 27.*

*(5 marks)*

*(iii) A group of young Agrotech innovators, calling themselves 'Innovate Aggro', decided to build a digital platform to link small farmers from little towns with buyers across India. They faced the usual hurdles like burdensome paperwork and uncertainty about government benefits. But India's recent startup reforms helped turn their idea into a formal business.*

*In the context of the Government of India's ongoing efforts to encourage entrepreneurship and innovation, particularly by simplifying and facilitating the registration of start-ups across the country, including small and medium cities, list out any five specific initiatives/measures which have been introduced recently to reduce procedural hurdles by Government to simplify and facilitate the registration of start-ups, including small and medium cities as per notification dated August 19, 2025 and make the process more accessible to emerging enterprises for Innovate Aggro.*

*(5 marks)*

*(iv) Explain the Compounding Authorities for Compounding of offences under section 441 of the Companies Act, 2013. Differentiate between Compoundable and Non- Compoundable Offences.*

*(5 marks)*

**Answer 2(a)**

***Case : M/s Joy Ice Cream (Bangalore) Private Limited.***

**Facts of the case:**

- M/s Joy Ice Cream (Bangalore) Private Limited was incorporated on July 25, 1996. As per Section 12(1) of Companies Act, 2013 a company shall, within thirty days of its incorporation, have a registered office which shall be capable of receiving and acknowledging all the communications and notices which are addressed to it. In case there is a change in the registered office of the company, the company shall give notice of change in the registered office within thirty days after the date of change and shall submit in Form INC 22 to the registrar.
- On the verification of the record, the authority came to the conclusion that the company has not filed the Form INC 22. When the office issued a letter on July 27, 2018, for seeking reply with regard to complaints received against the company, the letter was returned unserved.

- The adjudicating authority issued a notice to the company and the officers in default under section 454 of Companies Act, 2013 for violation of Section 12 of Companies Act, 2013.

**Decision of the Case:**

- The Company and its officers in default were called upon along with the representatives to present before the registrar of companies. But none of them was present on the said date.
- The adjudicating authority under section 454(3) of Companies Act, 2013 imposed a penalty of Rs. 1 lakh on each director and the company and were required to pay the amount on MCA portal and proof of payment to be produced within thirty days from the date of receipt of order.
- In case a company does not pay the penalty within ninety days as specified under section 454(8) of Companies Act, 2013, the company shall be punishable with fine which shall not be less than Rs. 25 thousand but which may extend to Rs. 5 lakh. Further, in case of failure to pay penalty, an officer of the company or any other person who is in default shall be punishable with imprisonment which may extend to six months or with fine which shall not be less than Rs. 25,000 but which may extend to Rs. 1 lakh or with both.

**Answer 2(b)**

(i) UDIN Guideline, mandatory indication of UDIN and consequences of violation

Unique Document Identification Number (UDIN) Guidelines, 2019 have been issued by the Institute of Company Secretaries of India ("ICSI") in order to-

- Enable the stakeholders to verify the authenticity of various documents certified by Company Secretaries in Practice (PCS);
- Prevent counterfeiting of various attestations / certifications;
- Provide ease of maintaining the Register of Attestation /Certification services rendered by practicing members;
- Ensure compliance of the Guidelines issued by the Institute w.r.t ceilings on the number of the various certification / attestation services that may be rendered by the practitioners;
- Auto-prefill details of Certification / Attestation services rendered by practicing members in the form for renewal of Certificate of Practice.

Quoting UDIN on certificates, reports, returns and other documents as specified in UDIN Guidelines has been made mandatory w.e.f. 1st October, 2019.

Any non-compliance with the UDIN Guidelines shall render the PCS liable for action under the Company Secretaries Act, 1980 read with First Schedule and Second Schedule to the Company Secretaries Act, 1980.

(ii) If a Certificate is signed on September 28, 2019, the UDIN should ideally be generated on September 28, 2019. In exceptional cases, the UDIN may be generated 7 days in advance, i.e., any time during September 21, 2019 to September 28, 2019. Thereby, providing a window of advance seven days for UDIN generation.

**Alternative Answer 2(b)(ii)**

Since UDIN was made mandatory with effect from October 1, 2019, it is not applicable in the given case.

**Answer 2(c)**

(i) Threshold limit of Annual Return certification for TKJ Limited

Section 92(2) of the Companies Act, 2013 read with Rule 11(2) of the Companies (Management and Administration) Rules, 2014:

The annual return, filed by a listed company or a company having paid-up share capital of ten crore rupees or more or turnover of fifty crore rupees or more, shall be certified by a Company Secretary in practice.

(ii) Applicable e-form for Certification of Annual Return for TKJ Limited

Section 92(2) of the Companies Act, 2013 read with Rule 11(2) of the Companies (Management and Administration) Rules, 2014:

The annual return, filed by a listed company or a company having paid-up share capital of ten crore rupees or more or turnover of fifty crore rupees or more, shall be certified by a Company Secretary in practice and the certificate shall be in Form No. MGT.8.

(iii) Assuming if TKJ Ltd is a small Company, annual return shall be filed in Form No.MGT-7A.

(iv) Documents must be examined by PCS for Annual Return Certification:

- Statutory registers, such as the register of members, shareholders, debenture holders, securities, charges etc.
- Incorporation documents, i.e., Memorandum & Articles of association.
- E-forms filed with MCA.
- Latest Financial statements of the company.
- List of Promoters.
- Shareholding pattern/ownership structure of the company.
- Minutes of Board, Committee & General Meetings. Resolution passed, notices and agenda of meetings.

**Answer 2(d)**

Under Section 436(1)(d) of the Companies Act, 2013, Special Courts are expressly empowered to take cognizance of offences without requiring committal proceedings.

Section 436(1) of the Companies Act, 2013 provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 [replaced by Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)]—

a) all offences specified under section 435(1) shall be triable only by the Special Court established for the area in which the registered office of the company in relation to which the offence is committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court concerned;

b) where a person accused of, or suspected of the commission of, an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973, such Magistrate may authorize the detention of such person in such custody as he thinks fit for a period not exceeding 15 days in the whole where such Magistrate is a Judicial Magistrate and 7 days in the whole where such Magistrate is an Executive Magistrate. However, where such Magistrate considers that the detention of such person upon or before the expiry of the period of detention is unnecessary, he shall order such person to be forwarded to the Special Court having jurisdiction;

c) the Special Court may exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167 of the Code of Criminal Procedure, 1973 in relation to an accused person who has been forwarded to him under that section; and

d) a Special Court may, upon perusal of the police report of the facts constituting an offence under this Act or upon a complaint in that behalf, take cognizance of that offence without the accused being committed to it for trial.

When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act with which the accused may, under the Code of Criminal Procedure, 1973 be charged at the same trial.

In view of above, special court can directly take cognizance of the offences under the Companies Act, 2013 without committal by a Magistrate.

**Answer 2A(i)**

(i) "Adjudication" is the legal process by which an arbiter or judge reviews evidence and argumentation, including legal reasoning set forth by opposing parties or litigants to come to a decision which determines rights and obligations between the parties involved.

As per Ramanathan's Law Lexicon "Adjudication" is the determination of matters in dispute by the decision of a competent Court, arbitration of the determination of such matters by the decision of arbitrators, whose decision may not be binding until confirmed by a higher Court or assented to by the parties.

(ii) Genesis of Adjudication mechanism under the Companies Act, 2013

Section 454 of the Companies Act, 2013 ("the Act") read with the Companies

(Adjudication of Penalties) Rules, 2014 deals with the manner and procedure of adjudication of penalties. The Registrar of Companies (ROC) has been shouldered with the responsibility of adjudicating officer for their respective jurisdiction.

The Act envisages a natural justice-based mechanism of adjudication of penalties whereby the ROC has been mandated to provide reasonable opportunity of being heard to the Company and Officer in default before imposing any penalty.

It is not as if adjudication never happened before enactment of the Companies Act, 2013, for violation of certain sections in the Act. The erstwhile CLB had and now the NCLT has been adjudicating in a limited sense. However, the penal provisions which were in existence in many of the sections could not be implemented due to lack of judicial or quasi-judicial powers with the administrative authorities so much so that the show cause notices issued by the Registrar of Companies on the defaulting companies or the officers in default culminated in the launch of legal proceedings against them before a Magistrates Court or wherever compounding was possible and sought, the Regional Director could dispose of only those cases.

Clause 23 of the J.J. Irani Committee Report which is essentially the backbone of the Companies Act, 2013, recommended adjudication as a tool to empower the Registrar of Companies in levying penalties for offences under various sections of the Act to obviate the cumbersome legal process to bring the defaulters to book. Inter alia the Report stated that:

*"Under the proposed "in-house" procedure, the power to impose penalty (in the form of fine) may be vested with the Registrar of Companies who is a statutory authority. Since the minimum and maximum quantum of fine would be defined in the Act, this would restrict the scope for discretionary exercise of power. However, it would be necessary to provide for a mechanism for appeals against the orders of such authorities. Such appellate authority may also be specified in the Act."*

Thus, was born the formal adjudicating power which got vested with the Central Government in the form of section 454. Therefore, in exercise of the powers conferred by section 454 read with section 469 of the Companies Act, 2013, the Central Government has framed the rules titled the "Companies (Adjudication of Penalties) Rules, 2014.

(iii) In view of above, the action of the Registrar is justified as such offences can be adjudicated by the Adjudicating Officer under Section 454 of the Act, and therefore trial at a court is not required.

**Answer 2A(ii)**

According to Section 120 of the Companies Act, 2013 ("the Act") read with Rule 27 of the Companies (Management and Administration) Rules, 2014, every listed company or a company having not less than 1,000 shareholders, debenture holders or other security holders may maintain its records, as required to be maintained under the Act or rules made there under, in electronic form. Further, explanation to said rule states that the term "records" means any register, index, agreement, memorandum, minutes or any other document required by the Act or the Rules made thereunder to be kept by a company.

Since, the Wealth Ltd. is a listed company having 1,200 shareholders and debenture holders, it can maintain statutory records in electronic form. Rule 27 provides that the records in electronic form shall be maintained in such manner as the Board of directors of the company may think fit, subject to the following:

a) the records are maintained in the same formats and in accordance with all other requirements as provided in the Act or the rules made there under;

b) the information as required under the provisions of the Act or the rules made there under should be adequately recorded for future reference;

c) the records must be capable of being readable, retrievable and reproducible in printed form;

d) the records are capable of being dated and signed digitally wherever it is required under the provisions of the Act or the rules made there under;

e) the records, once dated and signed digitally, shall not be capable of being edited or altered;

f) the records shall be capable of being updated, according to the provisions of the Act or the rules made there under, and the date of updating shall be capable of being recorded on every updating.

**Answer 2A(iii)**

The Government of India has undertaken a number of steps to simplify and facilitate the registration of companies including start-ups throughout the country, including in small and medium cities. Some of the important measures are as under:

- A single integrated new web form called SPICe+ along with AGILE PRO-S has been deployed. This form provides eleven services related to 'starting a business' namely (i) Name Reservation, (ii) Incorporation, (iii) Permanent Account Number (PAN), (iv) Tax Deduction Account Number (TAN), (v) Director Identification Number (DIN), (vi) Employees' Provident Fund Organisation (EPFO) Registration, (vii) Employees' State Insurance Corporation (ESIC) Registration, (viii) Goods and Services Tax (GST) number, (ix) Bank Account Number, (x) Profession Tax Registration (Mumbai, Kolkata and Karnataka), (xi) Delhi Shops and Establishment Registration.
- Zero fee is now charged for incorporation of all companies with authorized capital up to Rs. 15 lakh or with up to 20 members where no share capital is applicable.
- A Central Registration Centre (CRC) has been set up for name reservation and incorporation of companies & Limited Liability Partnership (LLP).
- The application process for startup recognition under the Startup India initiative has been streamlined and made entirely digital through an interactive Startup India portal and the National Single Window System (NSWS) making the same accessible from any part of the country.
- The documentation process for recognition is simplified with self-certification. Recognition handbook and tutorials have also been developed and uploaded on Startup India portal for ease of navigating recognition process.

- To promote startup recognition and to handhold entrepreneurs, workshops are held across States/UTs with support of State/UT nodal agencies for startups, and regional stakeholders such as incubators.

**Answer 2A(iv)**

Provisions for compounding of offences, which are punishable under the Companies Act, 2013 are stipulated under Section 441, which provides for following two Compounding Authorities:

(i) Where the maximum amount of fine which may be imposed for such offence is upto Rs. 25 lakh - Regional Director or any officer authorised by the Central Government is the compounding authority.

(ii) In case maximum amount of fine exceeds Rs. 25 lakh, National Company Law Tribunal (NCLT) is the Compounding authority.

**Difference between Compoundable and Non-Compoundable Offences:**

An offence may be "Compoundable" or "Non-Compoundable". An offence punishable under the Companies Act, 2013 with imprisonment only or with imprisonment and also with fine is a non-compoundable offence. All other offences, i.e., offences punishable with (a) fine only, or (b) fine or imprisonment and (c) fine or imprisonment or both are compoundable offences under the Act.

(a) Compoundable Offences: Not being an offence punishable with imprisonment only or punishable with imprisonment and also with fine.

(b) Non-Compoundable Offences:

- Punishable with imprisonment only or imprisonment and also with fine
- Investigation has been initiated or pending against a company
- An offence is committed by a company or its officer within a period of 3 years from the date on which a similar offence committed by it or him was compounded.

## PART -II

**Question 3**

*(a) CS Anupam Gupta worked as Chief Compliance Officer (CCO) with PQR Limited till 31/08/2024. Since he got lucrative offer from XYZ Limited, he could not resist and joined on 1/09/2024 as CCO there. Because of differences of opinion with management, he had to leave that organisation on 31/10/2025. Post this incidence, he was in dilemma and searching for a suitable opportunity.*

*In the meantime, his friend informed him about an opening with ABC & Company, (Company Secretarial Firm) where he applied and joined with effect from 01/02/2026. Because of his contacts, he was able to secure a secretarial audit assignment for the firm for FY 2026-27 of MNC limited which is the subsidiary of PQR Limited where he already worked as CCO.*

*Analyse and decide whether ABC & Company should take up the Secretarial Audit Assignment for the FY 2026-27?*

*(5 marks)*

(b) *"Different projects undertaken by Social Enterprises may involve varied social issues and challenges. In such circumstances, the Social Auditor is required to exercise technical judgment in determining the issues that should be subject to inquiry, while also addressing certain minimum mandatory issues."*

*Explain how addressing these minimum issues during a Social Audit helps in assessing the extent of the social impact, identifying potential social obstacles, and anticipating adverse social effects, thereby enabling measures to avoid, minimize, or offset such effects.*

*(5 marks)*

(c) *You have been appointed as the Secretarial Auditor of Alpha Beta Limited. State what are the preconditions for accepting professional assignment which has to be mandatorily checked by the Auditor?*

*(5 marks)*

**Answer 3(a)**

CSAS-1 Auditing Standard on Audit Engagement issued by the ICSI provides that the Auditor shall not have any substantial conflict of interest with the Auditee. Where an Auditor was in employment of the Auditee, its holding or subsidiary company and 2 (two) years have not lapsed from the date of cessation of employment, the same shall be considered as substantial conflict of interest.

A PCS or member/partner of a PCS firm cannot undertake the audit of that undertaking where the member was in employment prior to holding the Certificate of Practice, unless two years have lapsed from the date of cessation of employment.

**Conclusion:**

- In the given case, substantial conflict of interest with PQR Ltd. and its subsidiary MNC Ltd., will be applicable only if CS Anupam Gupta has joined as Partner of the ABC & Company.
- If CS Anupam Gupta has joined the ABC & Company as an employee, then the firm ABC & Company can take the secretarial audit of MNC Limited for the Financial Year 2026-27.

**Answer 3(b)**

A social audit helps to narrow gaps between the goal and reality, by understanding, measuring the impact, verifying and reporting on social projects.

Different projects may have a very different list of social issues. The Social Auditor is to exercise his own technical judgement to determine which issues should be subject to inquiry.

The minimum issues which must be addressed by the Social Auditor are enumerated as under:

- Will the project significantly impact the economic, environment and social condition of the local community?
- Will there be a significant change in the general access that the communities have to natural resources, such as drinking water and energy?
- Does the local community have effective governance mechanisms to deal with the long-term effects of the project?
- Are there groups (indigenous groups, women, ethnic minorities, LGBTQIA+ and so on) who will be differentially impacted by the project?
- Will the project increase or decrease the demand for services, such as education or health?
- Will the project produce any population or demographic movement, such as the change in size of the communities affected by the project?

Above questions can help the auditor and the Enterprise to determine the extent of the impact, as well as any unmanageable social obstacles ahead of the project. This allows for the anticipation of any adverse significant social effects of the infrastructure and for avoiding, minimizing, or offsetting them.

**Answer 3(c)**

**Preconditions of accepting any professional engagement**

Prior to acceptance of any Audit engagement, the auditor, in order to establish whether the preconditions for accepting professional assignment are present, the auditor should check that:

(a) Whether the reporting framework as required in the preparation, performance of audit, review of the secretarial/ non-financial statements is acceptable; and

(b) Whether the management is in agreement to acknowledge and understands its responsibility relating to:

  (i) Preparation of the secretarial/ non-financial statements in accordance with the applicable reporting framework, including their fair presentation;

  (ii) Development of internal control/systems/procedure to enable the preparation of secretarial/non-financial statements which are free from material misstatement, whether due to fraud or error; and

  (iii) Providing:

    - Access to all information of which management is aware that is relevant to the preparation/audit/ review etc. of the secretarial/ non-financial statements such as records, documentation and other matters;
    - Additional information that the auditor may request from management for the relevant purpose; and

- Unrestricted access to persons within the company from whom the auditor determines it necessary to obtain audit evidence.

**Question 4**

*(a) To simplify corporate restructuring and reduce procedural delays, the Government amended the Companies (Compromises, Arrangements and Amalgamations) Rules 2016 via notification dated on 4th September, 2025. Analyse the amendments made and explain which additional categories of companies which are now eligible to undertake mergers or demergers through the fast-track procedure under Rule 25.*

*(3 marks)*

*(b) While performing substantive testing during the audit of a company's financial statements, an auditor may discover certain errors or misstatements in the financial records or supporting documents. In such circumstances, the auditor may require additional audit procedures to be performed and may communicate the observations through a management letter addressed to the management and the Audit Committee. With reference to the provisions of the Companies Act, 2013, explain the reasons why errors or misstatements usually arise in a company's financial statements or records.*

*(3 marks)*

*(c) During the course of an audit, the auditor is required to assess the risks associated with the company's operations and identify critical and high-risk areas to ensure effective audit planning. Explain how an auditor can carry out risk assessment and identify critical and high-risk areas during the audit process.*

*(3 marks)*

*(d) The Quality Review is focused towards evaluation and review of quality of services rendered by members and adherence to various statutory and other regulatory requirements. Explain how the appointment of Quality Reviewer is done?*

*(3 marks)*

*(e) The Council of the Institute of Company Secretaries of India (ICSI) has approved the issuance of four ICSI Auditing Standards. The Standards are required to be observed by the Company Secretaries undertaking Audits. The Standards seek to promote best auditing practices, uniformity and consistency while conducting audits. Explain any three of them.*

*(3 marks)*

**Answer 4(a)**

Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 were amended on 4th September, 2025 to include following additional classes of companies in Rule 25 for availing fast-track merger/demerger procedure:

a. Two or more unlisted companies (other than section 8 companies) which meet prescribed thresholds of outstanding loans, debentures or deposits;

b. Holding company and subsidiary companies excluding cases where transferor company is a listed company;

c. Two or more subsidiaries of the same holding company excluding cases where transferor company is a listed company.

**Alternative Answer 4(a)**

Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 were amended on 4th September, 2025 to include following additional classes of companies in Rule 25 for availing fast-track merger/demerger procedure:

a. one or more unlisted company, (not being company referred to in section 8 of the Act) with one or more unlisted company, (not being company referred to in section 8 of the Act), where every company involved in the merger-

   (a) has, in aggregate, outstanding loans, debentures or deposits not exceeding two hundred crore rupees, and

   (b) has no default in repayment of loans, debentures or deposits referred to in sub-clause (a), on a day, not more than thirty days before the date of notice referred to in section 233(1)(a) of the Act and on the date of filing of scheme under section 233(2) of the Act:

b. a holding company (listed or unlisted) and a subsidiary company (listed or unlisted). Provided that this clause shall not apply where the transferor company or companies are listed;

c. one or more subsidiary company of a holding company with one or more other subsidiary company of the same holding company where the transferor company or companies are not listed.

**Answer 4(b)**

If an auditor finds any errors in a company's financial statements or the supporting documents while performing substantive testing during audit, the auditor may require the company to do further audit testing. The auditor writes a management letter with a summary of the errors found and shares the letter with the company and the audit committee. Usually, there are errors due to:

- External auditors don't detect an error during audit procedures, which is called detection risk.
- Internal auditors or the internal record systems don't identify or fix an error, which is called control risk.
- The company or auditor doesn't detect initial errors when the financial process and reporting begin.

Section 129 of the Companies Act, 2013 provides that the financial statements shall give a true and fair view of the state of affairs of the company and comply with the accounting standards notified under section 133. Where the financial statements of a company do not comply with the accounting standards, the company shall disclose in its financial statements, the deviation from the accounting standards, the reasons for such deviation and the financial effects, if any, arising out of such deviation.

**Answer 4(c)**

Risk assessment of the Auditee with respect to and connected/relevant to the Audit Engagement shall be done considering industrial & business environment, organisational structure and compliance requirements. The industrial & business environment includes the regulatory changes & judicial orders, compliance and disclosure requirements, etc.

The Auditor shall endeavor to make assessment of risk and shall identify critical and high-risk areas; the risk assessment by Auditor can be made:

- by considering the underlying risk assessed by Management or internal and/or specific expert/ agencies and analysis thereof;
- by reviewing policies and procedures put in place to mitigate risk;
- by having insight into the objectives, key performance indicators, risks and control measures and holding meetings with key executives of the Auditee.

**Answer 4(d)**

**Appointment of Quality Reviewers**

Quality Reviewers are appointed by the Quality Review Board (QRB) of ICSI on the basis of their experience in terms of seniority and the relevant work exposure. Further for getting assignments the Quality Reviewers must have undergone training organized for this purpose by the QRB from time to time.

Eligibility conditions for empanelment of Quality Reviewers are as per the criteria mentioned in following para I or II.

I. An individual desiring to be empaneled, shall:

   (a) Be a Fellow member of ICSI; and

   (b) Possess at least fifteen (15) years of post-membership experience as Company Secretary in Practice or employment in the Secretarial Department of a Company or as a combination of practice and employment in the Secretarial Department of a Company; and

   (c) Be currently in practice of the profession of company secretaries. 'or'

II. An individual desiring to be empaneled shall:

   Be empaneled as Peer Reviewer in terms of the Guidelines for Peer Review of Attestation and Audit Services by Company Secretary in Practice and has completed minimum 5 assignments of Peer Review.

While only a Company Secretary in Practice fulfilling the eligibility criteria can be empaneled as Quality Reviewer, the other conditions to be fulfilled include that the member shall not

have been found guilty under the Company Secretaries Act, 1980 or regulations made thereunder by Board of Discipline / Disciplinary Committee during the previous 5 years.

**Answer 4(e)**

The Council of the ICSI has issued following four Auditing Standards:

**CSAS-1:** Auditing Standard on Audit Engagement which lays down the Auditor's role and responsibilities with respect to an Audit Engagement and the process of entering into an understanding/agreement with the Appointing Authority for the purpose of audit.

**CSAS-2:** Auditing Standard on Audit Process and Documentation which lays down the responsibilities and duties of the Auditor with respect to Audit Process in conducting audit and maintaining proper audit records.

**CSAS-3:** Auditing Standard on Forming of Opinion covers the basis and manner for forming Auditor's opinion on subject matter of the audit.

**CSAS-4:** Auditing Standard on Secretarial Audit covers the basis and manner for carrying out the Secretarial Audit.

**Question 5**

*(a) 'The Audit Documents shall contain sufficient information to enable an Auditor, having no previous connection with the audit, to ascertain from such documents the significant findings and conclusions of the Auditor. Audit documents should be comprehensive, understandable with ease and contain all the significant information related to the scope covered under the audit.'*

*Do you agree with the above statement and discuss why the documentation is important?*

*(5 marks)*

*(b) Quality Review is an engagement that needs to be carried out in a manner that ensures that the work performed by the Quality Reviewer and the review team meets the professional standards established by ICSI. A well-planned review engagement ensures that a review is performed in an effective manner.*

*Explain how the planning in Quality Review should take place? What aspects Reviewer should consider while framing overall review strategy?*

*(5 marks)*

*(c) Labour Law Audit envisages a systematic scrutiny of records prescribed under labour legislations by a professional like Company Secretary, who shall report to the compliance and non-compliance/extent of compliance and conditions of labour in the Indian Industry/ Business and in any commercial establishments.*

*As Secretarial Auditor of the company, state the important points you will take care while doing this Audit under Payment of Bonus Act, 1965.*

*(5 marks)*

## Answer 5(a)

Yes, the given statement is correct. Audit Documentation shall take place throughout the audit process. Working papers shall be complete and appropriately detailed to provide a clear trail of the audit. Audit Documents shall be properly indexed, referenced with and supplemented by the set of working papers.

The Audit documentation is important for several reasons including:

- Confirm and support the Auditor's opinion and reports;
- Increase the efficiency and effectiveness of the audit;
- Serve as a source of information for preparing reports and or answering any enquiries from the Auditee or from any other party;
- Serve as evidence of the Auditor's compliance with applicable standards;
- Facilitate planning and supervision;
- Help the Auditor's professional development;
- Help to ensure that delegated work has been satisfactorily performed;
- Provide evidence of work done for future reference;
- The user of the audit report relies upon the audit report with proper documentation;
- It confirms that the Auditor's report is in conformity with the applicable laws, rules, regulations and standards, etc.

## Answer 5(b)

### Planning the Quality Review

The nature and extent of the planning required for a review will vary according to the size of the Practice Unit (PU), nature and complexity of the quality control system in PU and the engagements under review, the experience and competence of the review team and any changes that may occur subsequently in the circumstances of the review. The initial planning activities relating to the review would include:

- Performing procedures regarding the acceptance of the review assignment;
- Evaluating compliance with independence requirements;
- Establishing an understanding of the terms of the assignment.

The Reviewer should establish an overall review strategy that would set the scope, timing and direction of the Quality Reviewer, and guide the development of plan to conduct the quality review. In establishing the overall review strategy, the Reviewer needs to consider the following:

- Characteristics of the review assignment that would determine the scope of the review, viz., evaluation of design and implementation of systems and evaluation of compliances;
- Reporting objectives of the review, to plan the timing of the review and the nature of the communication required with the PU;

- Factors that, in the Reviewer's judgment, are significant in directing the review team's efforts; and
- Ascertain the nature, timing and extent of resources necessary to perform the review assignment.

Since quality review is essentially an "on-site" engagement, it is important that the on-site visit to the PU is also properly planned. This planning would include:

- Preparing the checklists of the activities during review process.
- Preparing a list of documents that would be required from PU for quality review.
- Coordinating with the PU as to the timing of the visit and the authorized coordinating person/s at PU so as to ensure minimum disruption to the PU.

**Answer 5(c)**

Important compliance points to be checked under the Payment of Bonus Act, 1965;

1. The Payment of Bonus Act, 1965 is applicable to the company.
2. Computation of available surplus, allocable surplus and bonus are correctly arrived at.
3. Any amount has been deducted from bonus and if so, whether it is in accordance with the provisions of section 18
4. Bonus is paid to the eligible employees.
5. The minimum or maximum amount of bonus paid is in accordance with section 10 or section 11, as the case may be.
6. The company has paid bonus to the employee:
    - Where there is a dispute regarding payment of bonus pending before any authority under section 22-within a month from the date on which the award becomes enforceable or the settlement comes into operation, in respect of such dispute;
    - In any other case-within a period of eight months from the close of the accounting year.
7. The company has maintained the registers as provided in rule 4.
8. The company has submitted the annual return of payment of bonus to the Inspector in Form No. D within thirty days after the expiry of the time limit prescribed in section 19.

***Attempt all parts of either Q. No. 6 or Q. No. 6A***

**Question 6**

*(a) Auditors use various Audit techniques to obtain sufficient and appropriate audit evidence. Mention any ten such techniques.*

*(5 marks)*

*(b) You are partner in CPA & Co (Company Secretarial Firm). Firm has got assignment from MNP Bank regarding the due diligence of ABC Ltd.*

*Your senior partner has guided you that*

*"While the RBI Notification has opened up a significant area of practice for Company Secretaries, it equally casts immense responsibility on them and poses a greater challenge whereby they have to justify fully the faith and confidence reposed by the banking industry and measure up to their expectations."*

*What is the meaning of this statement and what methodology should be adopted by you for doing Bank due diligence?*

*(5 marks)*

*(c) Fraud detection and reporting requires the practicing Company Secretaries to focus beyond compliance. Discuss the statement and differentiate between Fraud v/s Non-compliance.*

*(5 marks)*

***OR (Alternate Question to Q. No. 6)***

**Question 6A**

*(i) Internal auditors of NPD Ltd. have completed the internal audit of manufacturing division of the company and now have to communicate in writing the audit engagement result to the management.*

*What are the objectives of issuing Internal Audit Reports?*

*State basic steps of the Audit Report.*

*(5 marks)*

*(ii) Forming of Opinion based on the audit observations is an important part of any audit, as through this process, the outcome of audit is presented in the form of Audit Report to the intended users. Audit inter alia involves reporting compliance of or deviations from the applicable laws.*

*How shall the Auditor consider the materiality while forming his opinion?*

*(5 marks)*

*(iii) The main objective of appraisal of management decision is to see how decisions are taken by the Management. Discuss the steps in appraisal of Management Decision.*

*(5 marks)*

**Answer 6(a)**

Audit techniques are the methods and procedures used by auditors to obtain sufficient and appropriate audit evidence to support their audit opinion. Here are some common audit techniques used by auditors:

1. *Examination of Record* : This technique is commonly used by the auditors; the inspection of books and documents is made to verify the validity of data.
2. *Inquiry* : Auditor can also use the technique of inquiry. He can get the information from resource persons inside or outside the enterprise.

3. *Sampling* : Auditor can select few items from whole accounting information. This technique enables the auditor to obtain and evaluate the evidence of some characteristics of the whole class. It is helpful in forming the conclusion.
4. *Confirmation* : To ensure the accuracy of the data, auditor can collect the information from the debtor. Confirmation is response to an inquiry to prove certain data recorded in the books.
5. *Compliance* : To check the arithmetical accuracy of accounting record, the balancing accounts can be compared with the vouchers to test the reliability of data.
6. *Compliance Test* : These tests are designed to check the effectiveness and compliance of internal control. In obtaining the audit evidence, auditor is concerned with the existence of effective internal control.
7. *Use of Computer Techniques* : There are large number of audit techniques like audit software, test packs and mapping which can be used by the auditor to test the accuracy of the data.
8. *Substantive Test* : These are designed to obtain evidence that data produced by accounting system is accurate or not. It has two kinds;
    a) Test of detail transaction.
    b) Test of significant ratios and trends.
9. *Dependence on Experts and Auditors*: The auditor has to rely on the internal and other auditors to complete his work. He has also to rely on other experts like lawyers, engineers and doctors for their expert opinion about the business.
10. *Analytical Review*: It consists of studying significant ratios, trends and investigating different changes. This review procedure is based on the expectations of relationship among the past and present data.

These are just a few of the many audit techniques that auditors may use to obtain sufficient and appropriate audit evidence. The selection of techniques depends on the auditor's judgment and the nature of the entity being audited.

**Answer 6(b)**

The Bank conduct due diligence whenever the company intends to borrow the money from the bank. The Practicing Company Secretary (PCS) are authorized to certify compliance in respect of matters specified in the RBI Circular on the subject matter. Company Secretaries must take adequate care while issuing Diligence Report. Any failure or lapse on the part of a Practising Company Secretary (PCS) in issuing a Diligence Report may not only attract penalty for false reporting and disciplinary action for professional or other misconduct under the provisions of the Company Secretaries Act, 1980 but also make him liable for any injury caused to any person due to negligence in issuing the Diligence Report. Therefore, it becomes imperative for the PCS to exercises great care and caution while issuing the Diligence Report and also adheres to the highest standards of professional ethics and excellence in providing services.

**Methodology for Diligence Reporting:**

- To enable the PCS to issue the Diligence Report, the Company (borrower) should provide the PCS access at all times to the books, papers, minutes books, forms and returns filed under various statutes, documents and records of the company, whether kept in pursuance of the applicable laws or otherwise and whether kept at the registered office of the company or elsewhere which he considers essential for the purposes of Diligence Reporting.
- The PCS shall be entitled to require from the officers or agents of the company, such information and explanations as the PCS may think necessary for the purpose of such Reporting. However, depending on the facts and circumstances, PCS may obtain a letter of representation from the company in respect of matters where verification may not be practicable for example matters such as (i) show cause notices received; (ii) persons and concerns in which directors are interested, etc.
- If the scope of work required to be performed- is restricted on account of limitations imposed by the company or on account of circumstantial limitations (like certain books or papers being in custody of another person or Government Authority) the Report shall indicate such limitation.
- PCS shall have due regard to the circulars and/or clarifications issued by the Reserve Bank of India from time to time. It is recommended that a specific reference of such circulars at the relevant places in the Report shall be made, wherever possible.

The qualification, reservation or adverse remarks, if any, may be stated by the PCS at the relevant places. It is recommended that the qualifications, reservations or adverse remarks of PCS, if any, should be stated in thick type or in italics in the Diligence Report. If the PCS is unable to form any opinion with regard to any specific matter, the PCS shall state clearly the fact that he is unable to form an opinion with regard to that matter and the reasons thereof.

**Answer 6(c)**

Yes, the statement is absolutely correct. In the matter of *Globe Motors Limited v. Mehta Teja Singh & Company, the Delhi High court* observed that although an agreement in which a director was interested could not said to be invalid in view of compliance with the requirements of the Act, yet it is only a formal aspect of compliance with the statutory provisions; the basic question is as to the conduct of the director and whether it satisfies the test considering their fiduciary relationship to the company. Directors are expected to display utmost good faith towards the company in their dealings with the company or on behalf of the company; they should not use the company's money or other property or information or other matters in their possession in order to gain any advantage to themselves. Therefore, a practicing company secretary should not be satisfied only with compliance during secretarial audit. He needs to look beyond and satisfy himself that the transactions which have taken place during audit period do not contain any fraud element.

**Fraud v/s Non-compliance**

The term fraud can be defined as act or course of deception, an intentional concealment, omission, or perversion of truth, to-

1. gain unlawful or unfair advantage,
2. induce another to part with some valuable item or surrender a legal right, or
3. inflict injury in some manner.

Willful fraud is a criminal offense which calls for severe penalties, and its prosecution and punishment. However, incompetence or negligence in managing a business or even a reckless waste of firm's assets (for example by speculating on the stock market) does not normally constitute a fraud.

**Non-Compliance:**

The term non-compliance refers to failure to comply with the laws, rules regulations etc., the term non-compliance is commonly used in regard to a failure to meet the compliance requirements be it the failure in following procedures, filing of information, eligibility conditions, reporting etc.

The relationship between Fraud and non-compliance can be constructed as the non-compliance in the company may lead to a fraud, however it may also be noted that the fraud can also be made in the compliant company.

**Answer 6A(i)**

The essential part of internal audit is the dissemination of the results of internal audit and reporting the findings to management, and those charged with governance. The objectives of issuing Internal Audit Reports on significant internal audit assignments are to:

(a) Share with the auditee, details of all significant findings based, on audit procedures undertaken;

(b) Allow management to understand the issues and take corrective actions

(c) Leads to improved performance and control framework

(d) Follow-up process to monitors the progress of agreed action plan and reports this progress to senior management and the audit committee.

The overall objective of reporting results is to highlight the effectiveness of internal controls and risk management processes to enhance governance in line with the Internal Audit Charter.

An Internal Audit report is basically a four-step process comprising of:

1. What is Wrong? - Disclosure of findings and processes involved in arriving at such finding.
2. Why it is Wrong? - Description of the findings-the root cause analysis.
3. How to correct it?- Recommendations and Suggestions.
4. What will be done?- Auditee's views and comments.

**Answer 6A(ii)**

Materiality consists of both quantitative and qualitative factors. Determining Materiality is a matter of professional judgement and depends on the Auditor's interpretation of the user's needs. A matter can be judged material if knowledge of it is likely to influence the decisions of the intended users. Materiality is a relative concept. In practice, Auditors evaluate materiality on a standalone basis. What is material for one Auditee may not reach the Materiality threshold for another. Materiality is important while conducting the audit process and also while forming the audit opinion based upon the evaluation of conclusions drawn on the basis of the audit process.

The Auditor shall consider Materiality while forming his opinion and adhere to:

(a) The principle of completeness that requires the Auditor to consider all relevant Audit Evidence before issuing a report;

(b) The principle of objectivity that requires the Auditor to apply professional judgement and skepticism in order to ensure that all reports are factually correct and that findings or conclusions are presented in a relevant and appropriate manner;

(c) The principle of timeliness that implies preparing the report in due time; and

(d) The principle of a contradictory process that implies checking the accuracy of facts and incorporating responses from concerned persons.

**Answer 6A(iii)**

The main objective of appraisal of management decision is to see how decisions are taken by the management:

- Whether the decisions are taken after following the decision-making process.
- Whether such decisions meeting the organization objectives.
- Whether such decisions are documented in a fair manner.

Steps in appraisal of management decision:

In appraisal of management decision, the following step should be considered by the auditor.

1. Whether the management decision is well defined or not.
2. Whether the Objectives and desired output has been set out clearly and relate explicitly with the policy or strategy adopted by the company to help in post event evaluation of the management decisions. Ideally the objectives of every management decision should be specific, measurable, agreed, realistic and time-dependent.
3. While taking decision, whether the management has considered the effect of the associated risk; time availability; scale and location; scope for alternative arrangements with other public bodies; degree of involvement of regulators and civic bodies; capacity of the market to deliver the required output; alternative asset uses; use of new or established technology; and environmental issues.
4. In case of the major investment decision, whether the various possible options were considered.

5. Whether such potential options are analyzed and reviewed in terms of value, costs, benefits, risk and uncertainties of options.
6. Whether the options are selected after due analysis and a consensus decision is taken after a manager has analyzed all the alternatives.
7. Whether the selected alternative was implemented efficiently.
8. Ongoing review of management decision control and evaluation system actions need to be monitored.

***

# CSR & SOCIAL GOVERNANCE

## GROUP 1 ELECTIVE PAPER 4.1

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

**NOTE :** *Answer ALL Questions.*

**PART–I**

### Question 1

*Veda Gyan Global Ltd. (VGGL), a listed entity in India with a vast portfolio in biotechnology and medical research, has recently come under intense regulatory scrutiny following a series of controversial board-level decisions. For years, the Board of Directors and the senior management operated under a misguided sense of complacency, assuming that their massive annual investments in research and development (R&D) and high-profile global sponsorships automatically fulfilled their ethical and social obligations. However, a recent internal audit and a subsequent whistle-blower report have exposed a profound lack of 'front-end intelligence'. It was revealed that the leadership had no accurate snapshot of the Company's actual progress on the Corporate Social Responsibility (CSR), leading to business decisions that were neither sustainable nor legally aligned with regulatory requirements.*

*The management had consistently ignored the necessity of a formal assessment, a tool that serves as a vital reminder of existing legal mandates and provides a deep understanding of the internal and external drivers motivating a firm toward a systematic approach. Without this roadmap, the Board was unable to identify significant gaps in their values and ethics, leading to the launch of several ineffective and potentially non-compliant initiatives. The crisis began when the Board launched a massive 'Health for All' initiative, which was essentially a rebranding of its routine R&D activities for new medical devices. The Company claimed these were valid social expenditures because they related to the global pandemic, despite these projects being part of the Company's 'normal course of business', the usual routinue sale, purchase and core operations. While the Company did collaborate with an external institute, it failed to provide any separate disclosure of these activities in its reporting to the shareholders.*

*Company' international division directed substantial funds towards an expansive welfare program in Europe, asserting that any activity outside the domestic territory was valid if it targeted 'humanitarian aid.' In doing so, they ignored the strict legal limitations as per the Indian laws and regulations. The governance failure deepened when it was discovered that VGGL had been using these funds on a 'sponsorship basis' to gain direct marketing benefits for its latest wellness products. The Company's payroll department revealed that a significant portion of the social budget was diverted to activities specifically benefitting the Company's own staff, as defined under the current labour laws.*

*Complicating the matter further, the Chairman authorized a direct financial contribution to a local political party, mistakenly categorizing it as 'Social Governance Expenditure' rather than a restricted political donation. Board also neglected to evalaute its current decision-making structure, failing to recognize the human resource and budgetary implications of an integrated strategy. This lack of oversight meant that the Company was essentially heading in a direction that was not sustainable in business terms, resulting in failure to engage with key stakeholders and address their underlying concerns.*

*The Board's most controversial move involved its subsidiary, Veda-Retail Pvt. Ltd., and a foreign branch office located in India. The Board directed the subsidiary to fulfil the parent Company's financial targets for CSR, despite the subsidiary not meeting the specific criteria required by law. The management argued that compliance is a consolidated group requirement rather than a company-specific one, a theory that has been met with significant scepticism by legal experts. The Company's statutory auditor is now facing questions for failing to verify if the spending was in accordance with accounting and reporting requirements.*

*With the account for unspent funds showing major discrepancies, the Company's legal standing is now being challenged. In instances where the Company utilized a third-party registered Trust for implementation, it failed to obtain an independent report on the utilization of those funds. This was a critical lapse in verifying that the third party actually spend the money on the intended CSR activities rather than administrative overhead. The auditor's failure to comply with the reporting requirements has left the Company's financial transparency in tatters.*

*Based on the above facts, answer the following :*

*(a) (i) According to Michel Hopkins "Corporate Social Responsibility is concerned with treating the stakeholders of a company or institution ethically or in a responsible manner." Elucidate the statement in reference to the ideology/belief that Corporate Social Responsibility is an important business strategy.*

*(2 marks)*

*(ii) How did the lack of a CSR assessment and "front-end intelligence" prevent VGGL from identifying ethical gaps and making sustainable, data-driven Board decisions?*

*(3 marks)*

*(2+3=5 marks)*

*(b) Assess how responsibility of auditors could be ensured to avoid breach of professional standards to apply statutory requirements. How can he verify third-party fund utilization reports ?*

*(5 marks)*

*(c) (i) Do you agree with the statement as opined by Milton Friedman, that companies have no responsibility towards the society and that their objective was primarily the enhancement of shareholders' wealth ? Discuss.*

*(3 marks)*

*(ii) Is it true that CSR programs have generally been most common among large corporations only ?*

*(2 marks)*

*(3+2=5 marks)*

*(d) Define the following :*

*(i) Tools to find out if the company is CSR-proof.*

*(ii) Guidelines for CSR by Central Public Sector Enterprises in Aspirational districts.*

*(iii) Goals of Integrated Reporting.*

*(2+2+1=5 marks)*

**Answer 1(a)(i)**

According to Michel Hopkins "Corporate Social Responsibility is concerned with treating the stakeholders of a company or institution ethically or in a responsible manner". 'Ethically or in a responsible manner' refers to treating key stakeholders in a manner deemed acceptable according to international norms.

Corporate Social Responsibility is an important business strategy because, to some extent a consumer wants to buy products from companies he trusts, a supplier wants to form business partnership with companies he can rely on, an employee wants to work for a company he respects, other concerns want to establish business contacts with companies seeking feasible solutions and innovations in areas of common concern. It reduces investment risks and maximises profits by taking all the key stakeholders into confidence. It is a tool to increase the reputation of the company in the Society.

**Answer 1(a)(ii)**

When the board of directors and top management or owners do not have an accurate snapshot of how far the company is down the CSR road, it is unlikely they will be able to make informed decisions about moving ahead. Front-end intelligence gathering in the form of a CSR assessment can save a company from launching an ineffective CSR approach or heading in a direction that is not sustainable in business terms.

An assessment can also help identify CSR gaps and opportunities and thereby improve business decision making. A proper CSR assessment provides an understanding of the following:

1. the company's values and ethics;
2. the internal and external drivers motivating the firm to undertake a more systematic approach to CSR;
3. the key CSR issues that are affecting or could affect the firm including the mandatory requirements;
4. the key stakeholders who need to be engaged, and their concerns;

5. the current corporate decision-making structure and its strengths and inadequacies in terms of implementing a more integrated CSR approach;

6. the human resource and budgetary implications of such an approach; and

7. existing CSR-related initiatives.

VGGL's failure to conduct a formal CSR assessment left the board without a factual roadmap of their ethical progress, fulfilment of legal obligations and stakeholder concerns. It also led to wrong classification of routine business activities as CSR expenditure, ignorance of legal provisions regarding CSR spending and reporting, making decisions based on assumptions rather than reliable data and compliance requirements. This lack of "front-end intelligence" resulted in ineffective, non-compliant initiatives that were disconnected from actual legal mandates and long-term business sustainability.

**Answer 1(b)**

In case a Company undertakes CSR activity itself, the auditor of the company should ensure that:

1. The activity/ project undertaken is within the purview of Schedule VII of the Act.

2. If mere contribution/donation is given, then the same is specifically allowed as per Schedule VII of the Act.

3. Separate disclosure of expenditure on CSR activities is made as per Schedule III of the Act.

4. The expenditure on the project is incurred as per Companies (CSR Policy) Rules 2014.

5. The company has complied with applicable Accounting Standards in accounting, recognition and disclosure related to CSR spend.

6. He has complied with relevant Standards on Auditing for audit of CSR spend including:

    a) SA 250 - Consideration of Laws and Regulations in an Audit of Financial Statements.

    b) SA 720 (Revised) - The Auditor's Responsibilities Relating to Other Information.

7. He has complied with the Guidance Note on Audit of Expenses.

Wherever a Company undertakes CSR activity through a Third Party being eligible Section 8 Company / Registered Trust / Registered Society, the company should obtain an Independent Practitioner's Report on utilisation of such CSR Funds from the auditor / CA in practice of the third party, to whom the funds are given by the Company for implementing CSR activity. The auditor / CA in practice of the third party before issuing the Independent Practitioner's Report on Utilization of CSR Funds should ensure that the third party has spent the funds on CSR activities as per Section 135 of the Companies Act, 2013, read with Schedule VII to the Act and related regulations.

**Answer 1(c)(i)**

No, I do not agree with the statement by Milton Friedman, the reputed Economics Nobel laureate, who opined in 1960s that companies have no responsibility towards the society and that their objective was primarily the enhancement of shareholders' wealth.

Organisations use resources that belong to the society and it is expected that they should operate in a sustainable manner and spend some amounts for preservation and sustainability of resources which belong to the society. Augmenting profits is no longer the sole business performance indicator for the corporates and they have to play the role of responsible corporate citizens by undertaking activities for betterment of the society and the environment under the umbrella of Corporate Social Responsibility (CSR). Governments across the world have been using different forms of regulations to improve corporate behaviour so as to promote increased accountability, disclosures and transparency from them. With the introduction of Companies Act, 2013 in India, there is a statutory obligation for the corporates to take initiatives towards Social, Environmental and Economic Responsibilities. The initiatives taken have also to be reported to the shareholders and other stakeholders appropriately.

**Answer 1(c)(ii)**

Although CSR programs have generally been most common among large corporations, small businesses also participate in CSR through smaller-scale programs, such as donating to local charities and sponsoring local events in form of dental health check-ups, distribution of books amongst under-privileged kids, promoting healthy lifestyle amongst women, etc. As important as CSR is for the community, it is equally valuable for a company. CSR activities can help forge a stronger bond between employees and corporations, boost morale, and aid both employees and employers in feeling more connected to the world around them.

**Answer 1(d)(i)**

Following tools can be used to find out if the company is CSR-proof:

a) CSR risk management in 6 steps: The Social and Economic Council of the Netherlands (SER) offers a practical step-by-step guide to make your company CSR-proof.

b) CSR scan and ISO 26000 guide: You can find out how much progress your company has made on CSR by following the CSR guideline ISO 26000.

c) CSR passport: An overview of important CSR terms, information and organisations.

**Answer 1(d)(ii)**

Following guidelines for Central Public Sector Enterprises undertaking CSR activity in Aspirational districts need to be adhered to:

1. designate a senior level functionary as nodal officer to liaise closely with the District Administration of concerned Aspirational district.
2. furnish the details of nodal officer along with the name of selected aspirational district(s) to NITI Aayog, DPE and concerned administrative Ministry/Department of the CPSE.

3. furnish the details of projects funded by CPSE under CSR in an aspirational district to NITI Aayog, DPE and concerned administrative Ministry/Department of CPSE.
4. brief the concerned Central Prabhari Officer of Aspirational District (Joint Secretary/Additional Secretary nominated by GOI for aspirational district), about the CSR project being funded by CPSE.

It will be the responsibility of the concerned CPSE to ensure that all the CSR activities being undertaken are in accordance with the relevant provisions of the Companies Act 2013, its Schedules and Rules issued under the said Act and there is no deviation from statutory provisions.

**Answer 1(d)(iii)**

The goals of Integrated Reporting are to:

1. Improve the quality of information provided to investors and lenders.
2. Communicate the full range of factors that materially affect the ability of an organization to create value over time by using a more cohesive and efficient approach to corporate reporting which draws on different reporting strands.
3. Enhance accountability and stewardship for the broad base of six capitals (financial, manufactured, intellectual, human, social and relationship, natural) and promote understanding of their interdependencies.
4. Support integrated thinking, decision-making and actions so as to create value.

**Question 2**

*(a) EcoVision Industries Ltd. is a manufacturing company covered under CSR provisions of the Companies Act, 2013. For the financial year 2024-25, the company had a CSR obligation of ₹ 2 crores. During the year, the company actively undertook CSR initiatives through its in-house foundation and in collaboration with a registered trust. It also encouraged employee volunterring in community engagement programs. These initiatives helped the company gain positive media attention, improve employee morale and attract investor interest. However, by the end of the financial year, the company could spend only ₹ 1.2 crores. The remaining ₹ 80 lakhs remained unspent. Out of this :*

- *₹ 50 lakhs relate to an ongoing multi-year rural development project approved by the Board.*
- *₹ 30 lakhs were not allocated to any project.*

*The company transferred the ₹ 50 lakhs relating to the ongoing project into a single "Unspent CSR Account" opened for the financial year. However, due to internal financial constraints, the company utilized a part of this amount temporarily for its routine business operations. Further, instead of transferring the ₹ 30 lakhs to a Schedule VII fund within the prescribed time, the company decided to utilize it for CSR activities in the next financial year.*

*Examine the compliance requirements relating to treatment of unspent CSR amount in the given case. Further, also analyse the validity of the company's delivery mechanism for implementation of CSR activities.*

*(5 marks)*

*(b) Vardhano Infrastructure and Development Ltd. (VIDL) is a leading Indian company engaged in large-scale urban development projects. The Company, which is prominently held by promoters with a 55% stake, maintains an eleven-member Board of Directors and a dedicated CSR Committee. In its recent sustainability disclosures, the Company declared that its social spending commitments have reached a substantial scale, averaging an annual requirement of ₹ 12 Crore over the last three financial years. One of its flagship initiatives, a comprehensive rural housing colony completed in January 2026 with a total expenditure of ₹ 2.5 Crore, has been a cornerstone of its compliance claims.*

*The governance framework of VIDL recently faced scrutiny when the Internal Auditor flagged that the Company had utilized its own internal 'Strategy and Planning' division to evaluate the outcomes of the housing project just six months after the keys were handed over to beneficiaries. The Company justified this by stating that as per its internal policy, the Board has the absolute right to determine the evaluator for their social initiatives. However, the statutory authorities have questioned this approach, asserting that the current evaluation methodology lacks the necessary detachment and timing required for a company of VIDL's financial profile.*

*Is the Company's contention tenable? Analyse the case by outlining the role of Indian Legislative framework for Social Impact Assessment. Also identify who is responsible for the conduct of Impact Assessment.*

*(5 marks)*

*(c) Horizon Infra Ltd. is a company required to undertake CSR activities. The CSR Committee of the company meets only once a year and submits a broad proposal to the Board without specifying the list of projects, fund allocation, implementation schedules, or monitoring mechanisms. The Committee has also not recommended any annual action plan during the year. The Board independently finalizes and approves the CSR activities, including the amount of expenditure. Further, no periodic review or monitoring of CSR projects is carried out. A stakeholder has raised concerns that the CSR Committee is functioning merely as a formality and is not effectively discharging its responsibilities. 'The CSR Committee is a key governance body and not merely a procedural requirement."*

*In light of the above statement, discuss whether the annual action plan and functioning of the CSR Committee in the given case is in accordance with the Companies Act, 2013 and CSR Rules, 2014. Give reasons in support of your answer.*

*(5 marks)*

**Answer 2(a)**

As per Section 135 of the Companies Act, 2013 read with the Rule 4 of the Companies (Corporate Social Responsibility Policy) Rules, 2014:

1. If a company fails to spend the CSR amount relating to a financial year and it does not relate to any ongoing project, the unspent amount must be transferred to a fund specified in Schedule VII within 6 months from the end of the financial year.
2. If the unspent amount was allocated to an ongoing project, the same shall be transferred to a special account called "Unspent CSR Account" in a scheduled bank

within a period of thirty days from the end of the financial year and must be utilized only for that project.

3. The amount in such account cannot be used for any other purpose of the company.
4. A separate "Unspent CSR Account" is required for each financial year, but not for each project.
5. The CSR activities may be undertaken by the company itself or through –
    a. a company established under Section 8, registered public trust or registered society exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961 (43 of 1961), established by the company, either singly or along with any other company; or
    b. a company established under section 8 of the Act or a registered trust or a registered society, established by the Central or State Government; or
    c. any entity established under an Act of Parliament or a State legislature i.e. a statutory body constituted under an Act of Parliament or State legislature to undertake activities covered in Schedule VII of the Act; or
    d. a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, and having an established track record of at least three years in undertaking similar activities.

In the given case, the amount of ₹50 lakhs relating to the ongoing project has been correctly transferred to the Unspent CSR Account. Also, opening a single account for the financial year is in compliance. However, utilization of this amount for routine business operations is not permitted, as the amount must be used only for ongoing CSR projects and cannot be used for general business purposes. Further, the CSR amount of ₹30 lakhs not relating to any ongoing project should have been transferred to a Schedule VII fund within 6 months from the end of the financial year. The company's decision to carry it forward for future CSR activities is not in compliance. Thus, there is only partial compliance in treatment of unspent CSR amount.

Further, EcoVision Industries Ltd. has undertaken CSR activities through its in-house foundation, and in collaboration with a registered trust, which is a permissible mode of implementation. Thus, the delivery mechanism adopted by the company is in compliance with the prescribed framework.

**Answer 2(b)**

As per Companies Act, 2013 and Rule 8(3) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, amended as on date:

1. Every company having average CSR obligation of Rs. 10 Crore or more in the 3 immediately preceding financial years, shall undertake impact assessment of their CSR projects having outlays of Rs. 1 Crore or more.

2. The Impact Assessment shall be conducted by an independent agency.
3. The CSR project must have completed not less than one year before undertaking the impact study.
4. The impact assessment reports shall be placed before the Board and shall be annexed to the annual report on CSR.
5. The Board has the prerogative to decide on the eligibility criteria for selection of the independent agency for impact assessment.

In the present case, the impact assessment of Rural Housing project completed with a total expenditure of Rs. 2.5 Crore was conducted 6 months after the handing over the project to beneficiaries and the study was conducted in-house. However, in terms of the aforesaid provisions, VIDL's contention that impact assessment was done in a valid manner is not tenable because companies with a CSR obligation exceeding Rs. 10 Crore must appoint an independent agency for impact assessment, rather than using an internal division. Furthermore, the assessment was premature as the law mandates that at least one year must have passed following project completion before an impact study can be conducted.

**Answer 2(c)**

In terms of Rule 5(2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014, the CSR Committee shall formulate and recommend to the Board of Directors, an annual action plan in pursuance of its CSR Policy, which shall include the following, namely: -

1. the list of CSR projects or programmes that are approved to be undertaken in areas or subjects specified in Schedule VII of the Act;
2. the manner of execution of such projects or programmes;
3. the modalities of utilisation of funds and implementation schedules for the projects or programmes;
4. monitoring and reporting mechanism for the projects or programmes; and
5. details of need and impact assessment, if any, for the projects undertaken by the company.

Further, the Board of Directors may alter such plan at any time during the financial year, as per the recommendation of its CSR Committee, based on the reasonable justification to that effect.

In addition to above, in terms of Section 135 of the Companies Act, 2013, the CSR Committee shall undertake the following functions:

1. formulate and recommend to the Board, a CSR Policy on the basis of the approach and direction given by the Board, which shall indicate the activities to be undertaken by the company in areas or subject, specified in Schedule VII to the Act and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan;
2. recommend the amount of expenditure to be incurred on the CSR activities;

3. monitor the CSR Policy of the company from time to time.

Based on the facts of the given case, the CSR Committee of Horizon Infra Ltd. is not functioning in line with the provisions of Section 135 of the Companies Act, 2013 read with Rule 5(2) of the Companies (Corporate Social Responsibility Policy) Rules, 2014. The Annual Action Plan must be formulated and recommended by the CSR Committee to the Board of Directors for approval.

***Attempt all parts of either Q. No. 3 or Q. No. 3A***

**Question 3**

*(a) 'A business entity incorporated with an objective to earn profits has certain responsibilities towards its stakeholders. In order to enable these stateholders to make informed decisions certain Disclosures are required.' Elucidate. What are the factors that determine whether information is material in its inclusion or not ?*

*(5 marks)*

*(b) A Trust Bank Ltd. is a private sector bank incoporated under the Companies Act, 2013. For the financial year 2024-25, it reported substantial profits but did not allocate 2% of its net profits towards CSR activities, arguing that banks are primarily regulated by RBI norms.*

*At the same time, State Bank of India, a public sector bank, made donations amounting to 1.5% of its net profits towards various charities and research institutions.*

*Analyze the applicability of CSR provisions to both banks. Distinguish between CSR obligations and RBI guidelines on donations. Do you agree that their actions are in compliance with the applicable legal framework ?*

*(5 marks)*

*(c) ABC Ltd., a manufacturing company, reports high profits and has undertaken environmental sustainability initiatives such as carbon reduction and waste management. However, it faces criticism for poor labour conditions, low employee welfare, and weak community engagement. Examine whether the company can be considered socially responsible pertaining to 'the three pillars' of the business entity ? Identify the neglected pillar and suggest measures to strengthen the third pillar.*

*(5 marks)*

***OR (Alternate Question to Q. No. 3)***

**Question 3A**

*(i) The Ministry of Corporate Affairs (MCA), Government of India, released a set of guidelines in 2011, expected to provide guidance to businesses on what constitutes responsible business conduct. Identify what they were called after revision and state the principles relating to human rights and goods and services in a manner that is sustainable and safe.*

*(ii) What is meant by Social Impact Assessment and Social Impact Indicators ? Provide supportive examples to explain.*

*(iii) Mention any ten Guidelines applicable to all CPSEs which are generally in the nature of guiding principles.*

*(5 marks each)*

**Answer 3(a)**

A business entity incorporated with an objective to earn profits has certain responsibilities towards its stakeholders. These stakeholders may include investors, employees, suppliers, customers etc. The stakeholders track the developments in the company by means of the disclosures which such incorporated entities are mandated to make under laws applicable to them in order to make informed decisions. The disclosures are of two kinds: financial, or non-financial.

The financial disclosures include various documents like the balance sheet, profit and loss account, cash flow statements etc. Whereas the non-financial disclosures include the Boards' Report, Corporate Social Responsibility reporting and various Corporate Sustainability Reporting.

CSR or Sustainability Reporting is a means for corporate disclosures, companies need to disclose to its stakeholders, the adverse impact they are making and potential risks to society, economy, and environment by their operations. Not only the adverse impacts, but companies need to disclose the remedial and preventive measures being taken by them in order to address issues arising out of their operations. These disclosures not only help companies to gain competitive advantage but also assist in attracting investments, value creation for share-holders and business stakeholders, attracting and retaining consumers/customers, positive branding, and competitive market advantages. Measuring the adverse impact a business is making on social, economic and environmental spheres through its existence and processes, and also measuring the initiatives being taken by the business in terms of protecting and taking remedial measures is utmost important.

Whether information should be prepared and presented, that is, whether it is material in its inclusion is determined by:

1. Identifying relevant matters based on their ability to affect value creation—that is how it increases, decreases, or transforms the capitals caused by the organization's activities. This may be value created for the organization itself or for stakeholders, including society itself.
2. Evaluating the importance of relevant matters in terms of their known or potential effect on value creation. This includes evaluating the magnitude of an occurrence's effect and its likelihood of occurrence.
3. Prioritizing those matters based on their relative importance so as to focus on the most important matters when determining how they should be reported.

**Answer 3(b)**

In terms of Section 135 of the Companies Act, 2013, CSR provisions are applicable to companies incorporated under the Act, including private sector banks registered as companies. Such entities are required to spend at least 2% of their average net profits earned

in the three immediately preceding financial years on CSR activities. Since the Nationalized Banks are not incorporated as a company under the Companies Act, 2013, they are not covered under section 135 of the Act and accordingly, the requirement to spend 2% of net profits on CSR activities remains voluntary for such banks. However, as per RBI Circular dated 21 December 2005, banks are permitted to make donations of upto 1% of their published net profits. These donations are voluntary contributions and are distinct from CSR, which involves structured, monitored, and policy-driven activities.

In the present case, Trust Bank Ltd., being a private sector bank incorporated under the Companies Act, 2013, is clearly covered under Section 135. Therefore, it is under a statutory obligation to spend 2% of its average net profits of three immediately preceding financial years on CSR activities. Its contention that banks are primarily governed by RBI norms is not valid, as compliance with RBI regulations does not override statutory obligations under the Companies Act. Accordingly, failure to spend the prescribed CSR amount amounts to non-compliance, and the bank must follow provisions relating to unspent CSR amount and disclosures.

In contrast, the State Bank of India, being a public sector bank, is not governed by Section 135 of the Companies Act. Hence, it is not mandatorily required to spend 2% of its profits on CSR activities but it is permitted to make donations of up to 1% of net profits as per RBI guidelines. In this case, State Bank of India has contributed 1.5% of its net profits, which exceeds the prescribed limit. Therefore, its action is not in conformity with RBI guidelines, unless such excess falls within exempted categories like contributions to specified funds or institutions.

**Distinction between CSR obligations and Donations:**

CSR is a mandatory, structured, and policy-driven obligation applicable to companies under the Companies Act, focusing on sustainable and monitored social development activities. Donations, on the other hand, are voluntary contributions governed by RBI guidelines in the case of banks and are not equivalent to CSR in terms of scope, accountability, or reporting requirements.

Trust Bank Ltd. has failed to comply with mandatory CSR provisions under the Companies Act, 2013. State Bank of India is not bound by CSR provisions but appears to have exceeded the permissible donation limit under RBI guidelines. Therefore, both entities must align their actions with their respective regulatory frameworks to ensure compliance.

**Answer 3(c)**

People, Planet and Profit are “the three pillars” of a business entity. The Triple Bottom Line (TBL) framework is based on the premise that business entities have more to do than make just profits for the owners of the capital and therefore, requires a company to balance Profit, People, and Planet for sustainable and responsible business conduct.

In the present case, the company demonstrates Strong economic performance (Profit) and active environmental initiatives (Planet), but it fails in the social dimension (People) due to poor labour conditions, inadequate employee welfare, and weak community engagement.

Therefore, the company cannot be considered fully socially responsible, as TBL mandates a holistic balance among all three pillars. A partial approach undermines long-term sustainability despite short-term profitability. If a company pays attention to Profit and Planet, disregarding the People, in the long term it can lead to the fall of employees' morale and the breach of social contract, which in turn would lead to less consumer engagement and loyalty.

**Neglected Pillar -** People: ABC Ltd. has significantly neglected the "People" aspect, which includes employee welfare and fair labour practices, Stakeholder engagement and community development. This imbalance may lead to reduced productivity and reputational risks. The company may undertake following measures to Align with TBL:

1. Strengthen Employee Welfare by ensuring fair wages, safe working conditions, compliance with labour laws, introduction of health insurance and skill development programs.
2. Enhance Community Engagement by investing in local development initiatives such as education, healthcare, and livelihood programs.
3. Adopt Stakeholder-Centric Governance by establishing transparent communication channels and addressing grievances.
4. Integrate CSR into Core Strategy and align CSR policy with all three pillars: Profit, People, and Planet.

**Answer 3A(i)**

The Ministry of Corporate Affairs (MCA), Government of India, released a set of guidelines in 2011 called the National Voluntary Guidelines on the Social, Environmental and Economic Responsibilities of Business (NVGs). This was expected to provide guidance to businesses on what constitutes responsible business conduct. In order to align with the Sustainable Development Goals (SDGs) and the United Nations Guiding Principles on Business and Human Rights (UNGP), the NVGs were revised and updated. After, revision and updation, the new principles are called the National Guidelines on Responsible Business Conduct (NGRBC). As with the NVGs, the NGRBC has been designed to assist businesses to perform above and beyond the requirements of regulatory compliance.

The National Guidelines on Responsible Business Conduct Principals and its core elements pertaining to human rights and provision of goods and services in a manner that is sustainable and safe are discussed as follows:

Principle 2: Businesses should provide goods and services in a manner that is sustainable and safe.

***Core Elements:***

1. Businesses should, in designing, producing and making available goods and services, endeavour to ensure that resource-efficient and low-carbon processes and technologies are deployed to minimize adverse environmental and social impacts.
2. Businesses should provide stakeholders across the value chain with adequate information about environmental and social issues and impacts across product life

cycle from design to disposal. This may be done through appropriate and relevant tools such as certifications, labels, ratings and other communication and disclosure platforms including reports, websites, etc.

**Principle 5: Businesses should respect and promote human rights.**

***Core Elements:***

1. The Governance Structure should ensure that the business undertakes to make its employees aware of the human rights content of the Constitution of India, relevant national laws and policies, and the International Bill of Human Rights and their application to businesses as outlined in the United Nations Guiding Principles for Business and Human Rights. It should further ensure that the responsibility for addressing such impacts is assigned to the appropriate level and function within the business.
2. The Governance Structure should ensure that the business has in place such policies, structures and procedures that demonstrate respect for the human rights of all stakeholders impacted by its business. This includes carrying out human rights due diligence to identify, prevent, mitigate and account for how they address adverse human rights impacts.

**Answer 3A(ii)**

**Social Impact Assessment:**

As per International Institute of Sustainable Development, "A Social Impact Assessment is a process of research, planning and the management of social change or consequences (positive and negative, intended and unintended) arising from policies, plans, developments and projects". In other words, Social Impact refers to net effect of the proposed project on stakeholders. This may include impact on community as whole or on individuals or upon a single family or set of families, organisations, or industries as a whole. The detailed assessment of such impact upon lives of community or individual would help the originator of CSR projects to plan and execute such projects more properly.

*Examples of Social Impact include:*

1. People's way of life – that is, how they live, work, play and interact with one another on a day-to-day basis.
2. Their culture – that is, their shared beliefs, customs, values and language or dialect.
3. Their community – its cohesion, stability, character, services, and facilities.
4. Their political systems – the extent to which people can participate in decisions that affect their lives, the level of democratization that is taking place, and the resources provided for this purpose.
5. Their health and well-being – health is a state of complete physical, mental, social, and spiritual well-being and not merely the absence of disease or infirmity.

If the planned project impacts the availability of ventilator beds in a rural hospital, then the social impact assessment study should extract the number of ventilator beds per 1000 population in the area.

**Social Impact Indicators:**

a. The best way to define organisation's social impact indicators is to refer back to its social model's theory of change and theory of action.

b. These elements of organisation's social model should outline the key activities and interventions that it might wish to measure and the corresponding outcome it aiming to achieve.

c. The purpose of organisation's social impact indicators is to measure output and outcomes achieved by the organisation, creating clear evidence based on its social model.

*Examples of Indicators:*

1. Female Workforce Participation
   - Indicator: Proportion of women in whole workforce in the community aged between 18- 64
2. Cost of Living
   - Indicator: Consumer Price Index for the community
3. Occupational Structure
   - Proportion of total labour force in the community holding professional, executive, managerial, official, or technical jobs.
4. Voter Registration
   - Indicator: Proportion of population age 18 and older who are currently registered voters in the community.

**Answer 3A(iii)**

The following Guidelines applicable to all CPSEs are generally in the nature of guiding principles. The guidelines contain certain additional requirements as mentioned below:

1. It is mandatory for all profit making CPSEs to undertake CSR activities as per the provisions of the Act and the CSR Rules. Even the CPSEs which are not covered under the eligibility criteria based on threshold limits of net-worth, turnover, or net profit as specified by Section 135 (1) of the Act, but which made profit in the preceding year, would also be required to take up CSR activities as specified in the Act and the CSR Rules, and such CPSEs would be expected to spend at least 2% of the profit made in the preceding year on CSR activities.
2. All CPSEs must adopt a CSR and Sustainability Policy specific to their company with the approval of the Board of Directors. The philosophy and spirit of CSR and Sustainability must be firmly ingrained in the policy, and it must be consistent with the CSR provisions

of the Act, Schedule VII of the Act, CSR Rules, the Guidelines, and the policy directions issued by the Government from time to time.

The CSR and Sustainability policy of a CPSE should serve as the referral document for planning its CSR activities in accordance with Schedule VII of the Act and give a road map for formulation of actionable plans.

3. If the CPSEs feel the necessity of taking up new CSR activities / projects during a year, which are in addition to the CSR activities already incorporated in the CSR policy of the company, the Board's approval of such additional CSR activities would be treated as amendment to the policy.

4. It would be mandatory for all CPSEs which meet the criteria as laid down in Section 135(1) of the Act, to spend at least 2% of the average net profits of the three immediately preceding financial years in pursuance of their CSR activities as stipulated in the Act and the CSR Rules. This stipulated percentage of average net profits is to be spent every year in a manner specified in the Act and CSR Rules.

   In case a company fails to spend such amount, it shall have to specify the reasons for not spending it. However, in case of CPSEs mere reporting and explaining the reasons for not spending this amount in a particular year would not suffice and the unspent CSR amount in a particular year would not lapse. It would instead be carried forward to the next year for utilisation for the purpose for which it was allocated.

5. While selecting CSR activities / projects from the activities listed in Schedule VII of the Act, CPSEs should give priority to the issues which are of foremost concern in the national development agenda, like safe drinking water for all, provision of toilets especially for girls, health and sanitation, education, etc.

   The main focus of CSR and Sustainability policy of CPSEs should be on sustainable development and inclusive growth, and to address the basic needs of the deprived, under privileged, neglected and weaker sections of the society which comprise of SC, ST, OBCs, minorities, BPL families, old and aged, women / girl child, physically challenged, etc.

6. For CPSEs to fully exploit their core competence and mobilize their resource capabilities in the implementation of CSR activities / projects, they are advised to align their CSR and Sustainability policy with their business policies and strategies to the extent possible, and select such CSR activities / projects which can be better monitored through in-house expertise.

7. All CPSEs are expected to act in a socially, economically, and environmentally sustainable manner at all times. Even in their normal business activities, public sector companies should try to promote sustainable development through sustainability initiatives by conducting business in a manner that is beneficial to both, business, and society. They are advised not to lose sight of their social and environmental responsibility and commitment to sustainable development even in activities undertaken in pursuance of their normal course of business.

National and global sustainability standards which promote ethical practices, transparency and accountability in business may be referred to as guiding frameworks to plan, implement, monitor, and report sustainability initiatives. But the amount spent on sustainability initiatives in the pursuit of sustainable development while conducting normal business activities would not constitute a part of the CSR spend from 2% of profits as stipulated in the Act and the CSR Rules.

8. As a part of their sustainability initiatives CPSEs are expected to give importance to environmental sustainability even in their normal mainstream activities by ensuring that their internal operations and processes promote renewable sources of energy, reduce / re-use / recycle waste material, replenish ground water supply, protect / conserve / restore the ecosystem, reduce carbon emissions, and help in greening the supply chain.

   CPSEs are expected to behave in a responsible manner by producing goods and services which are safe and healthy for the consumers and the environment, resource efficient, consumer friendly, and environmentally sustainable throughout their life cycles i.e., from the stage of raw material extraction to production, use / consumption, and final disposal.

   However, such sustainability initiatives will not be considered as CSR activities as specified in the CSR Rules, and the expenditure incurred thereon would also not constitute a part of the CSR spend. Nevertheless, CPSEs are encouraged to take up such sustainability initiatives from their normal budgetary expenditure as it would demonstrate their commitment to sustainable development.

9. Sustainability initiatives would also include steps taken by CPSEs to promote welfare of employees, especially women, physically challenged, SC / ST / OBC categories, by addressing their concerns of safety, security, professional enrichment and healthy working conditions beyond what is mandated by law. However, expenditure on such sustainability initiatives would not qualify as CSR spend.

10. The philosophy and spirit of CSR and Sustainability should be understood and imbibed by the employees at all levels and get embedded in the core values of the company.

11. CPSEs should extend their reach and oversight to the entire supply chain network to ensure that as far as possible suppliers, vendors, service providers, clients, and partners are also committed to the same principles and standards of corporate social responsibility and sustainability as the company itself. CPSEs are encouraged to initiate and implement measures aimed at `greening' the supply chain.

12. As mentioned in the Act, CPSEs should give preference to the 'local area' in selecting the location of their CSR activities. It is desirable that the Board of Directors of CPSEs define the scope of the `local area' of their commercial units / plants / projects, keeping in view the nature of their commercial operations, the extent of the impact of their operations on society and environment, and the suggestions / demands of the key stakeholders, especially those who are directly impacted by the company's commercial

operations / activities. The definition of 'local area' may form part of the CSR policy of the CPSE.

13. After giving due preference to the local area, CPSEs may also undertake CSR activities anywhere in the country. The Board of Directors of each CPSE may also decide on an indicative ratio of CSR spend between the local area and outside it, and this may be mentioned in the CSR policy of the CPSE. CPSEs, which by the very nature of their business have no specific geographical area of commercial operations, may take up CSR activities / projects at any location of their choice within the country.

14. As far as possible, CPSEs should take up the CSR activities in project, which entails planning the stages of execution in advance by fixing targets at different milestones, with pre-estimation of quantum of resources required within the allocated budget, and having a definite time span for achieving desired outcomes.

15. CPSEs should devise a communication strategy for regular dialogue and consultation with key stakeholders to ascertain their views and suggestions regarding the CSR activities and sustainability initiatives undertaken by the company. However, the ultimate decision in the selection and implementation of CSR activities would be that of the Board of the CPSE.

16. As per the CSR Rules, all companies are required to include an annual report on CSR in their Board's Report. The template / format for reporting CSR activities as provided by CSR Rules should be strictly adhered to.

    However, CPSEs shall also have to include in the Board's Report a brief narrative on the action taken for the implementation of the Guidelines so that the stakeholders are informed of not only the CSR activities but also of the sustainability initiatives taken by the CPSEs.

    CPSEs are further advised to prepare an Annual Sustainability Report, which would go a long way in imparting greater transparency and accountability to the company's operations, apart from improving the brand image.

17. It is desirable that CPSEs get a baseline/ need assessment survey done prior to the selection of any CSR activity. It is also desirable that CPSEs should get an impact assessment study done by external agencies of the CSR activities / projects undertaken by them. Impact assessment is mandatory for mega projects, the threshold value of which can be determined by the Board of a CPSE and specified in its CSR and Sustainability policy.

    However, the expenditure incurred on baseline survey and impact assessment study should be within the overall limit of 5% of administrative overheads of CSR spend as provided for under the CSR Rules.

18. Within the provisions of the Act, Schedule VII of the Act, and the CSR Rules, CPSEs are encouraged to take up CSR activities / projects in collaboration with other CPSEs for greater social, economic, and environmental impact of their CSR activities / projects.

19. CSR projects taken up by CPSEs in 2013-14 under DPE guidelines on CSR & Sustainability which were effective from 1st April 2013, may be continued till their completion. However, CPSEs to ensure that all new CSR activities / projects are in accordance with the CSR Rules.

20. CPSEs which are statutory corporations should also comply with the provisions of the Act, CSR Rules, and the Guidelines.

21. These guidelines will supersede the guidelines / circulars / instructions issued earlier by DPE about CSR and Sustainability.

**PART-II**

**Question 4**

*(a) Samarth Infra-ventures Ltd. (SIL) is a Jaipur-based infrastructure development company engaged in the construction of urban housing projects, rural connectivity roads and community utility installations across five states in India. Incorporated in 2009, the Company has a diversified promoter group holding 52% of the paid-up equity capital, with the remaining stake distributed among domestic institutional investors, foreign portfolio investors and retail shareholders. SIL has been listed on both the BSE and NSE and has consistently positioned itself as a socially responsible enterprise committed to sustainable development and inclusive growth. The Company's Board of Directors comprises eleven members, including four independent directors and one-woman independent director. SIL has constituted all mandatory statutory committees including Audit Committee, Nomination and Remuneration Committee, Stakeholder Relationship Committee, and a dedicated Corporate Social Responsibility and Sustainability Committee. The Company publishes an annual Sustainability Report aligned with global reporting standards and has, over successive annual resports, made strong representations to its investors and regulators regarding its robust social governance framework.*

*In 2022, SIL successfully bid for a large state government contract to develop integrated township infrastructure in a tribal belt district of Rajasthan. As part of its project approval process, SIL submitted a social governance compliance declaration to the relevant statutory authority, claiming that its internal systems were fully equipped to identify, assess and manage all social risks associated with the project. The Company further represented that it had established comprehensive policies for community engagement, supply chain conduct and employment equality and that these were actively monitored and reported upon.*

*However, during the third quarter of project execution, a Civil Society Organisation filed a complaint with the state government alleging that SIL had commenced construction activities without adequately assessing the project's impact on the local indigenous community, which depended on shared water body situated within the construction zone. The complaint further alleged that the Company had made no arrangements to address the displacement of seasonal agricultural workers in the affected villages, many of whom belonged to a marginalised demographic group. It was also alleged that SIL's workforce*

*practices at the project site reflected significant wage disparity between male and female contract workers performing identical roles, and that no formal non-discrimination or equal opportunity framework had been communicated to site-level supervisors or labour contractors.*

*The matter attracted regualtory attention when SEBI initiated a preliminary inquiry into SIL's representations made in its public disclosures and sustainability filings. SIL's subsidiary, Samarth Social Foundation (SSF), a non-profit entity registered under the Companies Act, 2013, which had been separately seeking registration on the Social Stock Exchange to raise funds for its rural skilling programmes, came under scrutiny. It emerged during the SEBI inquiry that one of the trustees of SSF had previsously been identified as a wilful defaulter by a scheduled commercial bank and that a promoter-director of SIL was simultaneously a director of a another company, that had been debarred from accessing the securities market by SEBI, though the debarment period for that enterprise had since concluded.*

*The Audit Committee of SIL convened an emergency meeting and commissioned an independent review. The review revealed that while SIL had adopted several social governance policies on paper, none had been operationalised through measurable performance indicators or integrated into project-level decision-making. The Company's Social Auditor, appointed for the township project, had submitted a limited-scope report that failed to examine several critical community-level concerns, raising questions about the minimum scope of inquiry expected of a Social Auditor in infrastructure projects of this nature.*

*The Board, now facing reputational damage and regulatory exposure, sought urgent advice from its Practising Company Secretary on multiple governance dimensions. Based on the above facts, answer the following questions :*

*(i) What systematic steps should the Company follow to set up a social governance framework before commencing a high-impact infrastructure project ?*

*(5 marks)*

*(ii) Is Social Audit necessary ? Do you agree that the Social Auditor must examine social issues to ensure that the impacts on local communities and natural resources are adequately mitigated ?*

*(5 marks)*

*(b) State True or False with brief justifications :*

*(1) Vocational training, tailoring, motor repairs, computers etc. are considered to be educational activities permitted to be carried out by Associations having different nature.*

*(2) Any foreign contribution or any income arising out of utilization of Foreign Contribution shall be used for "speculative business".*

*(3) All organizations that receive funding from a foreign source must act in accordance with the Foreign Contribution (Regulations) Act (FCRA) 2010.*

*(4) Minutes once entered in the Minutes Book, shall be altered.*

*(5) Quorum shall be present throughout the Meeting.*

*(1×5=5 marks)*

*(c) Rajesh Sharma, an entrepreneur based in Jaipur, started a boutique and retail clothing business with a small initial investment. He operates the business independently and has complete control over all its activities, including procurement, pricing, marketing and customer dealings. To assist in daily operations, he has employed a few workers; however all decisions are taken solely by him. The business is not registered as a Company or a Limited Liability Partnership and is run in his individual capacity. Over time, the business has grown signficantly, and its turnover has increased beyond the threshold limits prescribed under tax laws. Despite this growth, Sharma has not obtained any formal business registration except opening a bank account in his own name. He is also unaware of the need for registration under the GST law and the Shops and Establishments Act. Recently, he suffered financial losses due to market fluctuations and had to use his personal savings to meet business liabilities. Further, Sharma is planning to expand his business by opening additional outlets and is exploring the possibility of raising funds from external sources. However, financial institutions are hesitant to provide loans due to the absence of a formal business structure and lack of separate legal identity. Additionally, concerns have been raised about the continuity of the business in case of any unforeseen circumstances affecting Sharma. In this context, Sharma seeks clarity regarding the nature of his business form, its legal implications, compliance requirements and the taxation framework applicable to him.*

*Identify the form of business organization in the above case and explain its key characteristics. How can Sharma complete the registration procedure which may be applicable to such business under the prevailing legal framework ?*

*(5 marks)*

**Answer 4(a)(i)**

The formation and implementation of social governance within a company requires a deliberate and systematic approach. Following systematic steps should be followed by the Company to set up a Social Governance Framework:

1. *Identify and prioritize social issues*: Companies should conduct a social risk assessment to identify and prioritize social issues that are relevant to their operations and stakeholders. This can involve consulting with stakeholders, analyzing data and trends, and reviewing regulations and industry standards.
2. *Develop policies and standards*: Once social issues have been identified, companies should develop policies and standards that outline their commitments to addressing these issues. This can involve consulting with stakeholders, benchmarking against industry peers, and aligning with relevant regulations and international standards.
3. *Communicate policies and standards*: Companies should communicate their social governance policies and standards to employees, suppliers, and other stakeholders.

This can involve training programs, supplier codes of conduct, and other communication mechanisms.

4. *Implement policies and standards*: Companies should implement their social governance policies and standards, which may involve changes to their operations, supply chain management, and other business processes. This can involve establishing performance indicators and targets, monitoring progress, and integrating social governance into decision-making processes.
5. *Monitor and report on performance*: Companies should monitor their social governance performance and report on their progress to stakeholders. This can involve collecting and analyzing data, conducting audits, and reporting through sustainability reports, annual reports, and other communication channels.
6. *Continuously improve*: Companies should continuously improve their social governance practices over time, based on feedback from stakeholders, changes in social and regulatory environments, and emerging best practices. This can involve regular reviews of policies and standards, engagement with stakeholders, and ongoing monitoring and reporting.

SIL should have moved beyond "paper policies" by conducting a formal social risk assessment and establishing measurable performance indicators integrated into project-level decisions. Proactive consultation with stakeholders and training site supervisors would have ensured that governance commitments were operationalized rather than being merely disclosed.

Overall, the formation and implementation of social governance within a company requires a comprehensive and ongoing effort, involving stakeholder engagement, policy development, communication, implementation, monitoring, and continuous improvement.

**Answer 4(a)(ii)**

Yes, Social audit is necessary to ascertain the impact made by the Social Enterprise through its activities, intervention, programs or projects implemented during the reporting period. It aims to highlight the positive impact made to the target area, unintended negative impact and gap between desired object and actual. The following are the advantages of Social Audit:

1. *Financial data on social activities/ programs/ interventions*: Social Audit assesses the source of funding, its utilisation and appropriate reporting to the Governing Body of the Social Enterprise.
2. *Encourages for social performance*: Social Audit assesses the impact of the activities undertaken and brings the social point of view to the attention of the management, and thus encourages the Social Enterprise to perform better.
3. *Improves relationships with Stakeholders*: By implementing the auditors' recommended improvements, the Social Enterprise can meet stakeholder expectations, enabling it to build a good relationship with them in the long term.
4. *Comparison of different activities*: The Social Audit provides data for comparing effectiveness of different types of social welfare programmes undertaken and this further enables to assess which activity has better social impact.

5. *Enhances Social Reputation*: Social Audit helps the organization to build up the image and reputation of the organization in the minds of the public.
6. *Sense of Social Responsibility among Shareholders and Community as a whole*: Social Audit helps shareholders as well as other stakeholders realize the importance of socially beneficial programmes and extend their cooperation to the Social Enterprise's programmes of social welfare and development.

Different projects may have a very different list of social issues. The Social Auditor is to exercise his own technical judgement to determine which issues should be subject to inquiry. Yes, Social Auditor was obligated to examine the project's impact on shared natural resources (water bodies) and the displacement of marginalized demographic groups (indigenous and seasonal workers). Addressing these issues would have provided SIL with the necessary foresight to avoid local conflict and regulatory scrutiny through early mitigation.

**Answer 4(b)**

(1) **False**: Vocational training, tailoring, motor repairs, computers etc. are considered to be **Economic** but not being commercial or profit-making activities permitted to be carried out by Associations having different nature.

(2) **False**: Under the Foreign Contribution (Regulation) Act, 2010 (FCRA), any Foreign Contribution or any **income (interest, rent, enterprise or FD etc.**) arising out of utilization of Foreign Contribution shall not be used for "speculative business". Such funds must be utilized only for the objectives for which they were received and in accordance with the provisions of FCRA.

(3) **True**: All organizations that receive funding from a foreign source must act in accordance with the Foreign Contribution (Regulations) Act (FCRA) 2010. Under the FCRA, foreign contributions include currency, securities, and articles.

(4) **False**: Minutes once entered in the Minutes Book, shall not be altered. Any alteration in the Minutes as entered shall be made only by way of approval of the Governing Council at its subsequent Meeting and shall be recorded in the Minutes of that Meeting.

(5) **True**: Quorum shall be present throughout the Meeting. If the required quorum is not present at any stage of the Meeting, the remaining item(s) of business shall not be taken up for consideration.

**Answer 4(c)**

The form of business in the given case is a Sole Proprietorship, which is established and managed by a single individual. It is most suitable for small businesses requiring low investment, such as boutiques and retail stores.

The key characteristic of Sole Proprietorship is sole ownership, where Mr. Rajesh is the only owner and controller of the business. He enjoys all profits and bears all losses. Another important feature is unlimited liability, meaning he is personally liable for all business obligations, as seen when he used personal savings to cover losses. A sole proprietorship has no separate legal entity, and the business and owner are treated as one. It also involves sole decision-making, allowing quick and independent decisions without consultation.

Additionally, there is no perpetual succession, as the business can end anytime due to unforeseen circumstances affecting the owner. Thus, it is simple and flexible but inherently dependent on a single individual.

**Registration Requirements:**

No specific registration required for starting a sole proprietorship form of business. It can be started without any formal incorporation. The proprietor may obtain a PAN card (if not already available), and open a bank account to manage financial aspects. However, following mandatory registrations (as applicable) are required to be obtained:

1. Registration under Shops and Establishments Act of the concerned State.
2. GST registration if turnover exceeds prescribed threshold.

The sole proprietorship can also obtain registration as a Small and Medium Enterprise (SME) under MSME Act, though not mandatory, it is beneficial.

Further, the revenue earned by sole proprietors is considered personal income and is taxed appropriately and therefore, sole proprietors are exempt from filing a separate tax return for the revenue received from their business.

In the given case, Mr. Rajesh Sharma has only opened a bank account and has not obtained other required registrations such as GST or Shops and Establishment registration. As his turnover has increased, he must comply with the aforesaid requirements.

**Question 5**

*(a)* *(i)* *Who plays the role in convening meeting of Non-Corporate Entities and state the role.*

*(2 marks)*

*(ii)* *To ensure effectiveness and efficiency of any meeting what is necessary to be drafted and by whom it is to be drafted ?*

*(3 marks)*

*(2+3=5 marks)*

*(b)* *'Nandlal Traders' is a large, family-run partnership firm in India with a turnover exceeding ₹ 50 crores. Firm is engaged in Sweets and Namkeen business and having 10 company owned stores in India. For decades, it followed a simple, cash-based accounting system to meet tax compliance requirements. The firm was seeking a bank loan for expansion and potential lenders required a transparent and comparable financial position. Younger, modern-minded family partners demanded greater transparency and accountability in financial and non-financial performance to build global presence and brand image in purview to the recent goverrnment guidelines particularly on standardized reporting and disclosure frameworks for non-corporate entities.*

*Nandlal traders hired you as an Advisor to discuss the merits on standaridized reporting and disclosure on financial and non-financial reporting. Also identify some key takeaways on this.*

*(5 marks)*

(c) *Gyandeep Shiksha Samiti (GSS) is a registered society based in Lucknow, engaged in promoting elementary and adult education in underserved districts of Uttar Pradesh. The Samiti recently received an offer of financial assistance from an overseas philanthropic foundation wishing to support its educational outreach work. Encouraged by the offer, the Samiti's executive committee immediately began utilising the incoming remittance to procure study materials and initiated construction of a residential facility for economically weaker students, without completing any prior statutory formality. A whistle-blower complaint filed by a former member of the Samiti's governing council brought this to the attention of the Ministry of Home Affairs, which initiated an inquiry. Based on the case answer the following :*

(i) *Define Foreign Contribution and advise GSS regarding different modes of obtaining permission to accept foreign contribution.*

(ii) *Examine the permissible educational activities which can be carried out.*

*(2+3=5 marks)*

**Answer 5(a)(i)**

The Secretary shall convene a Meeting on the direction of the Chairman or any other competent authority, if any, appointed for this purpose. If a Meeting is statutorily required to be convened within a prescribed period, the Secretary shall convene such Meeting in consultation with the Chairman or any other competent authority, if any.

The Secretary, on requisition by the majority of the Members, shall consult the Chairman or the competent authority, if any, for convening the Meeting.

The Chairman or the competent authority may, whenever thought it, and shall, upon the written request of the majority of the Members, require the Secretary to call a Meeting within the prescribed period from the date of receipt of such request and to take such steps as may be necessary to convene the Meeting. In case the Chairman or the competent authority fails to call a Meeting, then the vice-chairman or any other person authorised for this purpose may call such Meeting and require the Secretary to give notice to the Members and to take such steps as may be necessary to convene the Meeting.

**Answer 5(a)(ii)**

To ensure effectiveness and efficiency of any meeting, it is necessary to draft the agenda of the Meeting. The Secretary shall finalise the Agenda and Notes on Agenda of every Meeting in consultation with the Chairman.

In the absence of the Chairman, the Agenda and Notes thereon shall be finalised in consultation with any other competent authority for this purpose. Each item of business to be taken up at the Meeting shall be serially numbered.

Agenda setting out the business to be transacted at the Meeting and Notes on Agenda shall be given to all the Members along with the Notice of the Meeting, unless otherwise provided in the applicable laws or Bye-laws. The Notes on Agenda shall specify details about the business to be transacted at the Meeting. The Notes on Agenda may be sent separately after issuing the Notice, but at least 3 clear days before the Meeting, unless otherwise provided in the applicable laws or Bye-laws.

For considering any urgent matter as decided by the Chairman, the Agenda and Notes thereon may be given at any time before the Meeting, subject to consent of the majority of the Members. Agenda and Notes on Agenda of the Meeting shall be sent by the Secretary or by such other person as may be authorised for this purpose.

**Answer 5(b)**

**Financial reporting:**

As an advisor, I would suggest to adopt new vertical format prescribed by the Institute of Chartered Accountants of India (ICAI) to make financial reporting in standardized form. Following are the merits of standardized reporting and disclosure on financial and non-financial reporting:

1. *Transparency and Accountability* : The information is provided in a consistent manner. This enables stakeholders, including lenders, investors, regulators, donors, members, and beneficiaries, to assess the entity's performance and activities more effectively. The stakeholders' confidence is also improved.
2. *Comparability* : Standard reporting facilitates comparison across entities, sectors, and reporting periods.
3. *Access to financial market*: Standardized reporting of financial and non-financial information makes it more reliable for the financial institutions while extending loans and credit facilities.

**Key takeaways:**

1. *Regulatory push for standardization*: The ICAI's guidance has acted as a catalyst, pushing large NCEs to adopt a more formal and structured approach to financial reporting, akin to corporate entities.
2. *Voluntary vs. mandatory reporting*: While financial reporting is increasingly standardized and mandatory for large NCEs, non-financial reporting remains largely voluntary. However, the benefits of transparency often outweigh the cost of disclosure.
3. *Growing stakeholder demands*: Stakeholders are no longer satisfied with financial data alone. There is a growing demand for non-financial information to assess a company's long-term sustainability and ethical standing, regardless of its legal structure.
4. *Scalability of reporting*: As the case shows, the level of financial and non-financial reporting for NCEs is often scaled according to size and stakeholder demands. Small NCEs (Levels III–IV) have relaxed reporting requirements, whereas large ones (Level I) are expected to demonstrate higher transparency.

**Answer 5(c)(i)**

As per Section 2(1)(h) of Foreign Contribution (Regulation) Act, 2010, "foreign contribution" means the donation, delivery or transfer made by any foreign source –

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift is not more than such sum

as may be specified from time to time by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act, 1999.

In the given case, the financial assistance offered by the overseas philanthropic foundation constitutes a foreign contribution under FCRA.

As per the provisions of FCRA, 2010, Gyandeep Shiksha Samiti (GSS) can obtain permission to accept foreign contribution either by Registration under the Act or seeking Prior Permission. An existing entity satisfying the conditions under the Act can obtain registration. However, an organisation in formative stage is not eligible for registration and therefore, it can obtain prior permission.

Since GSS started utilising the foreign remittance without completing statutory formalities, it has violated the provisions of FCRA. It should immediately obtain either FCRA Registration or Prior Permission, as applicable, before accepting or utilising any foreign contribution.

**Answer 5(c)(ii)**

Associations having definite cultural, economic, educational, religious or social programme can accept foreign contribution only after obtaining either prior permission or registration from the Central Government. Following is an illustrative but not exhaustive list of educational activities which may be permissible and may be carried out by associations of different nature:

1. Construction and maintenance of schools/colleges.
2. Construction and running of hostels for poor students.
3. Grant of stipends/scholarships/assistances in cash or kind to poor/deserving children.
4. Purchase and supply of educational material-books, notebooks etc.
5. Conducting adult literacy programs.
6. Conducting research.
7. Non-formal education/schools for the mentally challenged.
8. Non-formal education projects/coaching classes.
9. Any other activities related to the above.

While the Samiti's projects - such as building student hostels and distributing materials for economically weaker students - fall under permissible educational activities, the acceptance of foreign remittance for these activities without prior statutory clearance constitutes a serious violation of the FCRA.

***Attempt all parts of either Q. No. 6 or Q. No. 6A***

**Question 6**

*(a) Answer the following :*

*(i) In 1872, Lord Mayo introduced elected representatives for the municipalities and this was further developed by his successor in 1882. Name the successor.*

*(ii) Identify the Reforms which widened the participation of people in governing process.*

*(iii) With the Dissolution of the Government which Bill was lapsed ?*

*(1+2+2=5 marks)*

*(b) A partnership firm consisting of A, B and C was dissolved. The firm had outside creditors, and there were also certain advances made by partners apart from their capital contribution. After dissolution, it was found that the firm had suffered losses and there was deficiency in capital. The firm's assets were realized and additional contributions were required from partners to settle accounts. A dispute arose regarding the order in which losses should be borne and how the assets should be applied among creditors and partners.*

*Explain the effects of dissolution as mentioned in Section-48 under Indian Partnership Act, 1932 and right to return of premium.*

*(5 marks)*

*(c) Rameshwar Charitable Trust was established in Chennai in 1978 through a deed executed by a retired industrialist, with the stated objective of providing financial asistance to members of a specific community residing in Tamil Nadu who were engaged in traditional weaving occupations. The trust deed further directed that any surplus funds, after meeting the primary objective, he applied towards establishing a weaving training institute exclusively for the male members of the settler's family. Over decades, the weaving community in the region has undergone significant socio-economic transformation, rendering the original mode of assistance largely impractical. The trustees contended to modify the Trust's framework and approached the Court seeking modification of the Trust's operational framework to extend benefits to a broader section of artisan communities across the state. A dispute arose as to whether the Trust constituted a valid public charitable trust and whether the court could permit any departure from the founder's original directions, prompting a detailed legal examination of the Trust's character and the applicable doctrines governing administration of charitable trusts.*

*Is the contention of trustees justified ? Give reasons. What is the basis for classification of Trusts ?*

*(5 marks)*

***OR (Alternate Question to Q. No. 6)***

**Question 6A**

*(i) Answer the following :*

*(a) Name of the Greek Ambassador who visited the court of Chandragupta Maurya in 303 B.C ? What did he do ?*

*(b) Describe the Amendments that constitute a new chapter in the process of democratic decentralization in the country.*

*(c) Who should be reported about any illegal act/misconduct/misuse/abuse of powers by the Sarpanch or Up-Sarpanch ?*

*(1+2+2=5 marks)*

*(ii) A & Co. is registered as a partnership firm in 2015 with A, B and C partners. In 2016, A dies. In 2017, B and C sue X in the name and on behalf of A & Co., without fresh registration.*

*(a) Decide whether the suit is maintainable.*

*(b) Whether your answer would be same if in 2017, B and C had taken a new partner D and then filed a suit against X without fresh registration ?*

*(5 marks)*

*(iii) Ram, representing the 'Greenwood Apartment Owners Association', has approached you to facilitate the formal registration of the Association under the Societies Registration Act. He seeks clarity on the essential documentation, including the bye-laws, the necessity of witnessed signatures and other documents.*

*As a Company Secretary, advise Ram on the documents required to be filed with the Registrar of Societies. He also wants to have information pertaining to alteration, extension or abridgment of the objects of a society.*

*(5 marks)*

**Answer 6(a)(i)**

In 1872, Lord Mayo introduced elected representatives for the municipalities and this was further developed by his successor, Lord Ripon, in 1882.

**Answer 6(a)(ii)**

The Minto-Morley Reforms, 1909 and the Montague Chelmsford Reforms, 1919, when Local Self Government became a transferred subject, widened the participation of people in the governing process and, by 1924-25, district boards had a preponderance of elected representatives and a non-official Chairman. This arrangement continued till the country's Independence in 1947 and thereafter till the late 1950s.

**Answer 6(a)(iii)**

In 1990, a combined Constitution Amendment Bill, covering both Panchayati Raj Institutions (PRIs) & Urban Local Bodies (ULBs) was tabled in Parliament. It was a skeleton legislation which left the details to be crafted by the State Governments in their State enactments; even matters concerning elections were left completely to the discretion of the State Government. With the dissolution of the Government, this Bill too lapsed.

**Answer 6(b)**

Section 48 of the Indian Partnership Act, 1932 provides that in settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

(a) Losses, including deficiencies of capital shall be paid first out of undistributed profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits.

(b) The assets of the firm, including the sums, contributed by the partners to make up losses or deficiencies of capital shall be applied in the following manner and order:

i. in paying outside creditors;

ii. in repaying advances made by partners (distinct from investment of capital);

iii. in repaying capital to partners; and

iv. the ultimate residue, if any, shall be divided among the partners in the proportions in which profits are divisible.

**Right to Return of Premium:**

To buy entry into an existing firm, a new partner sometimes has to pay a premium to the existing partners in addition to any investment of capital. In terms of Section 51 of the Indian Partnership Act, 1932, on dissolution, he is entitled to demand the return of a proportion of the premium if the partnership was for a fixed term and was dissolved before the expiry of that term, unless dissolution was caused by –

i. agreement, or

ii. misconduct of the party seeking return of the premium, or

iii. death of a partner.

The partnership firm of A, B and C can resolve the dispute regarding the order in which losses should be borne and how the assets should be applied, in compliance with Section 48 of the Act.

**Answer 6(c)**

In order to determine whether a deed of trust is a valid public or charitable trust, it is necessary to see what is the dominant intention of the testator, namely, who are the real objects of his bequest and secondly whether the class indicated as the object of charity forms at least a section of the public. Where the main and paramount intention of the settler was to benefit the members of his family and thereafter the members of his caste who might need assistance from such funds there could be no public or charitable trust created.

It is one of the cardinal rules governing execution of charitable trusts that the intention of the donor must be observed. This principle has been evolved as an auxiliary to this rule and is never allowed to defeat it. If the charity can be administered according to the directions of the

founder, the law requires that it should be so administered. The Courts will not allow any departure from them on the grounds of expediency.

Cy pres means near to it. The doctrine of Cy pres applies only to charitable trusts. The reason is that a public charity is perpetual and the rule against perpetuity does not apply to it. It can never die though its nature may be changed. In Halsbury's Law of England, in 3rd Edition. Vol. 4, P. 317, it is stated: "Where a clear charitable intention is expressed, it will not be permitted to fail because the mode, if specified, cannot be executed, but the law will substitute another mode Cy pres, that is, as near as possible to the mode specified by the 'donor'. However, the doctrine is subject to the doctrine of severability, i.e., the doctrine of Cy pres, applies if the nature of the charitable object is general and not specific.

The contention of the trustees is not justified as the trust fails the "public character" test by prioritizing family members and a specific caste, which prevents it from being classified as a valid public charitable trust. Since the Doctrine of Cy-pres applies exclusively to perpetual public charities with a general intent, the court cannot permit a departure from the founder's specific directions based on mere socioeconomic expediency.

Trusts are divisible into several classes according to the mode of their creation.

**Answer 6A(i)(a)**

The Greek Ambassador, Megasthenes, visited the court of Chandragupta Maurya in 303 B.C. He described the City Council which governed Pataliputra – comprising six committees with 30 members.

**Answer 6A(i)(b)**

The 73rd and 74th Amendments to the Constitution constitute a new chapter in the process of democratic decentralisation in the country. In terms of these Amendments, the responsibility for taking decisions regarding activities at the grass roots level which affect people's lives directly would rest upon the elected members of the people themselves. By making regular elections to Panchayati Raj/Municipal bodies mandatory, these institutions have been given permanency as entities of self-government with a specific role in planning for economic development and social justice for the local area. In totality, the intention of these Amendments is to assign a position of command to them in the democratic framework of the country.

**Answer 6A(i)(c)**

In case of any illegal act or misconduct or misuse or abuse of powers, any infringement of the legal provisions by the Sarpanch or Up-Sarpanch, the Secretary of a Gram Panchayat shall report the same to the Block Development Officer, as soon as it comes to his knowledge.

**Answer 6A(ii)(a) & (b)**

As per section 69 of the Indian Partnership Act, 1932, if a partnership firm wants to sue a third-party, following two conditions must be fulfilled:

1. the firm must be registered; and
2. the partners suing should be named as partners of the firm in the Register of Firms.

In case of a registered firm, if the firm continues its business after the death of a partner without any fresh registration, a suit can be filed by the remaining partners in respect of any subsequent dealings or transactions without notifying to the Registrar of Firms, the changes in the constitution of the firm. The suit shall be valid if it is filed by the remaining partners in respect of such subsequent dealings or transactions. However, in case a new partner joins the firm, the suit cannot be filed without fresh registration and entering the name of new partner in the Register of Firms.

In the above case A & Co. a registered partnership firm with A, B and C as partners. A dies and without fresh registration, the firm sues X. In view of this, the suit by B and C against X in the name and on behalf of A & Co. is maintainable.

Further in 2017, B and C had taken a new partner, D, and then filed a suit against X without fresh registration. Where a new partner is introduced, the fact is to be notified to Registrar who shall make a record of the notice in the entry relating to the firm in the Register of firms. In this case, the second condition that partners suing should be named as partners of the firm is not fulfilled, as the name of D is not registered. Therefore, the suit filed after D joins the firm without registration, is not maintainable.

**Answer 6A(iii)**

The following documents are required to be filed with the Registrar of Societies for registration of a society under the Societies Registration Act, 1860:

1. Covering letter requesting for registration stating various documents annexed to it addressed to the registering authority and signed by all the subscribers to the Memorandum or by a person authorised by all of the them.
2. Memorandum of Association (in duplicate) containing –
   (a) name of the society;
   (b) the objects of the society;
   (c) the names, addresses and occupation of the members of the governing body;
   (d) the place of registered office of the Society, and
   (e) the names, addresses and full signatures of the seven or more persons subscribing their names to the memorandum of Association. Their signatures should be witnessed.
3. Rules & Regulations/Bye-laws (in duplicate) duly signed by at least three members of the governing body.
4. Affidavit on non-judicial stamp paper of requisite value by the President or secretary of the society duly attested by Oath Commissioner or Notary Public or Magistrate of first class.
5. Documentary proof such as rent receipt or property tax receipt in respect of the Registered office of the Society or no-objection of the owner of the premises.

6. Registration fee in cash or by demand draft.

The objects of a society are its constitution and the society has to act within the framework of its objects. Any act done by the society beyond the objects clause shall be ultra vires. Under Section 12 of the Act, the following steps are required for alteration, extension or abridgment of the objects of a society –

1. Submission of the proposal by the governing body to the members of the society;
2. Ten days' notice to members about holding of a special general meeting;
3. Convening a special meeting for consideration and passing of the proposal by 3/5th of the members;
4. Convening second special general meeting after a month; and
5. Confirmation to the proposal by 3/5th of the members present at the second special meeting.

Every change is required to be registered with the Registrar or the authority as prescribed as per the rules and regulations of the society.

***

# INTERNAL AND FORENSIC AUDIT

## GROUP 1 ELECTIVE PAPER 4.2

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

**NOTE :** *Answer ALL Questions.*

**PART–I**

### Question 1

***Case Study :***

*Unique Healthcare Ltd. is a radiological instruments manufacturing company in Northern India having its registered office and factories in New Delhi. Company deals in wide range of radiological instruments supplying its products to private and public sector hospitals and healthcare centres. In recent past, due to increasing demand of the company's products, several new products have been added in its product line. Company's operations with new technology, sales turnover and customer base are increasing leaps and bounds.*

*Company's Managing Director and CEO a Professional Entrepreneur, appreciates that an internal audit is an independent objective assurance and consulting activity to add-value and improve an organization's operations. It helps an organization in accomplishing its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.*

*Considering potential of internal auditing, CEO Gupta has high expectations from internal audit activity. He believes that internal audit provides a value-added service to the management and to the board of directors by detecting and correcting weaknesses in a process before external audits discover them. This protects the organization from loss of reputation and regulatory fines. He believes that the objective of an Internal Audit is to evaluate compliance with procedures, applicable laws, regulations and international standards. Data and reports are reviewed to assure consistency and compliance.*

*Currently, company has a small in-house team lead by an unqualified person for internal audit function guided by the company's statutory auditors. Now, company, realizing the benefits of sound internal control systems that ensure compliance with laws and regulations, enhancing efficiencies and minimizing losses, has decided to outsource the internal audit activity, instead of creating a new full-fledged internal audit department in the company. This would also help company avoid huge costs in managing and in-house internal audit department.*

*You, a qualified Company Secretary practising mainly in internal auditing, have been approached by the MD. You have been offered the internal audit of the company for next three years.*

*In your letter of appointment of internal auditor, in the scope of audit and in the terms of reference paragraphs, management has entrusted you to carry out a comprehensive review of all operations of the company and to evaluate and assess the existence, adequacy and effectiveness of internal controls therein, pointing out weaknesses if any in and suggesting measures to control them in an actionable manner.*

*Apart from the above, company management has specifically mandated you to minimize non-compliance and penalties and also the adverse comments in statutory auditors' reports.*

*With reference to the above, you as a Company Secretary are required to answer the following questions :*

*(a) With respect to internal auditing describe authority and responsibility of internal auditor.*

*(b) What are the laws and regulations that govern internal audit activities in India ?*

*(c) What are the factors that company's statutory auditors are mandated to examine to ensure whether company's internal audit system is commensurate with the size of the company and nature of its business ?*

*(5+5+5=15 marks)*

**Answer 1(a)**

Internal auditing is an independent, objective assurance and consulting activity designed to add-value and improve an organisation's operations. It helps an organisation in accomplishing its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

The Authority and Responsibility of internal auditing include the following:-

1. To work with board and management to ensure that a system is in place which ensures that all major risks are identified and analyzed. Evaluate and provide reasonable assurance that risk management, control, and governance systems are functioning as intended and will enable the organisation's objectives and goals to be met.
2. To plan, organize and carry out the internal audit function including the preparation of an audit plan which fulfils the responsibility of the department, scheduling and assigning work and estimating resource needs.
3. Report risk management issues and internal controls deficiencies identified directly to the audit committee and provide recommendations for improving the organization's operations, in terms of both efficient and effective performance.
4. Evaluation of information security and associated risk exposures. Evaluation of the organization's readiness in case of business interruption.
5. Evaluation of regulatory compliance program with consultation from legal counsel.
6. Maintain open communication with management and the audit committee. Team with other internal and external resources as appropriate. Engage in continuous education

and staff development. To report to both the audit committee and management on the policies, programmed and activities of the department.

7. Provide support to the company's anti-fraud programs.
8. To coordinate coverage with the external auditors and ensure that each party is not only aware of the other's work but also well briefed on areas of concern.
9. To review and report on the accuracy, timeliness and relevance of the financial and other information that is provided for management.
10. To associate closely with management and keep knowledge up to date by being informed about all important occurrences and events affecting the business, as well as the changes that are made in business policies.
11. To make recommendations on the systems and procedures being reviewed, report on the findings and recommendations and monitor management's response and implementation.

**Answer 1(b)**

There are several laws and regulations that govern internal audit related activities in India. Some of the key laws applicable to internal audit in India are:

1. *Companies Act, 2013* : Section 138 of the Companies Act, 2013 mandates that certain classes of companies shall appoint an internal auditor who shall conduct an internal audit of the functions and activities of the company. These requirements are defined in Rule 13 of the Companies (Accounts) Rules, 2014.
2. *Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements), Regulations 2015* : These regulations define requirements for listed companies' audit committee and their interaction with internal audit activity. They cover amongst others, reporting of internal audit, specific items to be reviewed in relation to internal audit, and audit committee interactions with internal auditors.
3. *Reserve Bank of India (RBI) Guidelines* : The RBI has issued guidance note on Risk Based Internal Audit for various entities such as banks, non-banking financial companies (NBFCs), and payment system providers. These guidelines were amended in January 2021 and their applicability was extended to NBFCs, and UCBs also in February 2021.
4. Insurance Regulatory and Development Authority of India (IRDAI) has issued Guidelines for Corporate Governance for Insurers in India in 2009, which have been updated in 2016. These guidelines define the requirements for Board to lay down policy framework for control functions such as internal audit department, audit committee oversight on internal audit activity, and responsibilities of internal auditors.

   Further, specific provisions in Companies Act, 2013 and underlying Rules specify the requirements about stating whether the internal controls were adequate and effective during a financial reporting period by various corporate governance stakeholders

such as Board, Audit Committee, Statutory Auditors etc., thus indirectly requiring an internal audit of internal controls on regular basis.

**Answer 1(c)**

ICAI has issued a Guidance Note on The Companies (Auditor's Report) Order, 2020. As per this Guidance Note, the auditor needs to examine the following aspects to evaluate whether the internal audit system is commensurate with the size of the company and the nature of its business:

1. The size of the internal audit department considering the nature of the business of the company, the number of operating locations, the extent to which internal controls are decentralized, the effectiveness of other forms of internal control, etc.
2. Qualifications of the persons who undertake the internal audit work is a necessary aspect to be reviewed to ensure that there are adequate number of qualified personnel. In cases where external agencies are appointed, the auditor would need to evaluate their competency, objectivity and the independence. The auditor may do this by assessing the qualifications, experience and the professional standing.
3. Reporting responsibility of the internal auditor: It is expected that the internal auditor would report to those charged with governance. As per section 138 of the Companies Act, 2013, the internal auditor reports to the Board/ Audit Committee. In case of listed companies, compliance of provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 with regard to review of internal audit function by audit committee, presence of head of internal audit in the audit committee meetings, audit committee involvement in appointment, removal and terms of remuneration of the chief internal auditor, a direct communication link between the internal auditor and audit committee, etc. shall be verified by the auditor.
4. Involvement of Board or Audit Committee in formulation of scope, functioning, periodicity and methodology of Internal Audit shall be examined by the auditor. As per guidance note, it is a good practice that statutory auditors are also involved by the internal auditor/ those charged with governance in determining the scope of work and periodicity of reporting.
5. Technical assistance to the internal auditor: In companies where the operations are highly technical or automated in nature, an internal auditor cannot function effectively unless he has adequate technical assistance. Statutory auditor shall review the availability of technically qualified persons (either full time or assignment based).
6. Reports submitted by the internal auditor.
7. Existence of adequate follow-up system to ensure that the deficiencies pointed out are corrected and remedial action taken on the deficiencies are reported upon.
8. Minutes of the meetings of the Board of Directors and audit committee to get useful evidence regarding the efficiency and efficacy of the internal audit system.
9. Existence or otherwise of other forms of internal control: Internal audit system is a part of the overall internal control system. Therefore, the scope of the internal audit

and the extent of its coverage will, to some extent, depend upon the existence or otherwise of other forms of internal control. This is also a factor to be considered when evaluating the adequacy of the internal audit system.

10. If the statutory auditor determines that the internal audit system is not commensurate with the size and nature of business of a company, then the auditor should communicate with the Audit Committee or Board and seek their inputs as part of "Communication to Those Charged with Governance" and accordingly report the fact under this report.

**Question 2**

*(a) "Communicating audit results effectively is a very crucial aspect of the audit engagement." Internal auditor must prepare a draft issue sheet, draft report of all the issues identified during the audit engagement and the same must be communicated to the relevant management level and concluded with agreed action plan to be implemented for improving internal controls.*

*You are required to prepare a format of audit issue sheet, what an issue sheet should include, mentioning any two key considerations to be made while communicating audit issue ?*

*(5 marks)*

*(b) During the verification of transactions, the auditor examines the supporting documents and records. In scrutiny of documents, the auditor comes across various records and documents and if he comes across any unusual transactions, he verifies the same thoroughly. This is called scanning of records which require expertise and experience. The auditor can rely on the documents depending upon the origin (source) of the documents and the efficiency of the internal control system in operation.*

*You, a practising Company Secretary have deputed a newly appointed assistant for carrying out preliminary routine internal audit procedures. You have assigned him the task of vouching. Your assistant is curious to know about vouching. You have been asked to answer following questions ?*

*(i) What are the purposes of vouching ?*

*(ii) What are the major reliability categories of documents based on their origin and availability ?*

*(2+3=5 marks)*

*(c) Artificial intelligence (AI) and Machine Learning (ML) are revoltuionizing, transforming various industries, including the field of internal control. Internal control refers to the processes, procedures and systems that an organization has in place to ensure that it operates efficiently, effectively and ethically.*

*As an internal auditor, describe how Artificial Intelligence (AI) and Machine Learning (ML) can improve internal controls in current digital era ?*

*(5 marks)*

**Answer 2(a)**

An Internal Auditor is required to draft issue sheet detailing the issues identified during the audit. A detailed issue sheet should include the following:

1. Title – What is the issue?
2. Detailed Observation – Detailed explanation of the issue or gap?
3. Risk Rating – Critical / Major / Moderate
4. Root cause – Why did this happen?
5. Exposure / Impact – So what? What is the risk? What is Implication of risk?
6. Recommendation – What do we do now?
7. Management comments with clear action plan
8. Responsibility and Due date

Following key considerations should be made in communicating audit issues:

1. Communication with client management should take place throughout the audit process.
2. Audit issues/reports should be communicated in detail with crystalize risk / exposure and specific business impact.
3. In case of any fraud / Red Alert, issue must be reported on timely basis to the highest appropriate level of management keeping in mind confidentiality and sensitivity of the issues.
4. Must ensure that all the audit issues noted during the audit are part of the draft and final audit report issued to the management.
5. Proper review of the audit report is done by the Chief Audit Executive or Audit In-charge before communicating results with the management.

**Answer 2(b)(i)**

Vouching is the technique of examining the supporting documents and records by the auditor while verifying various transactions. The purposes of vouching i.e. examining the documents and records include the following:

1. to confirm the authenticity (genuineness) of the transaction.
2. to find whether the transactions and the supporting documents are appropriate.
3. to ensure whether the transactions are authorized (approved).
4. to ensure whether the classification of the transaction is proper.

**Answer 2(b)(ii)**

Documents which have their origin in the hands of the third parties and held by third parties are more reliable than the documents which have their origin in the organization itself and held by the organization.

Based on their origin and availability, the reliability of documents can be categorised as under:-

1. Documents which have their origin in the hands of the third party and held by them – Most reliable evidence.
2. Documents which have their origin in the hands of the third party and held by the organization – More reliable.
3. Documents which have their origin in the hands of the organization and held by the third party – Reliable.
4. Documents which have the origin in the hands of the organization and held by the organization – Reliable only if the internal control is effective.

**Answer 2(c)**

Artificial intelligence (AI) and machine learning (ML) are revolutionizing various industries, including the field of internal control. AI and ML can enhance internal control by automating repetitive and time-consuming tasks, providing insights into patterns and anomalies, and reducing the risk of fraud and errors. Following points may be noted in this regard:

1. *Fraud detection* : AI and ML algorithms can analyse large amounts of data to detect patterns that may indicate fraud. These algorithms can also learn from historical data to identify new patterns and adapt to changing fraud tactics.
2. *Risk assessment* : AI and ML can be used to identify and assess potential risks, such as cybersecurity threats or compliance violations. By analyzing data from various sources, these technologies can provide a more comprehensive and accurate risk assessment.
3. *Process automation* : AI and ML can automate routine processes, such as data entry or invoice processing, reducing the risk of human error and freeing up time for internal control professionals to focus on higher-value tasks.
4. *Predictive analytics* : By analyzing historical data and identifying outliers, AI and ML can predict future trends and patterns, helping organizations make informed decisions about internal control measures and resource allocation.

**Question 3**

*(a) Nest Advisors is a management consulting firm having 250 fortune company client bases. The CEO of the company is concerned about high employee attrition rate in his company. He has given assignment to you to dig out the reasons for such high attrition rate as well as any way forward. What factors does an Internal Auditor consider in such analysis ?*

*(5 marks)*

*(b) Sunny Electric Ltd. is a regional electricity supply company facing frequent power outages, billing discrepancies and high transmission losses. The management has asked the internal audit team to conduct an audit of the company's operations, focusing on technical efficiency, revenue assurance and regulatory compliance.*

*Based on the above information, you are required to :*

*(i) Identify the key areas the internal audit team should focus on while auditing Sunny Electric Ltd.*

*(ii) Suggest internal audit procedures to evaluate operational efficiency and control effectiveness in these areas.*

*(3+2=5 marks)*

*(c) CA RR, the internal auditor of ABC Ltd., a medium-sized trading company, was reviewing the company's internal control system as part of his audit procedures. He noticed following instances where errors and lapses occurred :*

- *An employee failed to take action on an important report due to lack of understanding of its content.*
- *The finance team made duplicate payments.*
- *Two employees colluded to override a system check related to customer credit limits.*
- *The owner approved certain transactions bypassing standard operating procedures, raising concerns about management override.*
- *Duties were not segregated properly due to limited staff strength.*

*CA RR discussed these findings with the management and explained that such control failures, despite the existence of internal controls, are not rare. He also highlighted that internal control systems inherently have certain limitations.*

*(i) Based on the above, what is CA RR trying to communicate to the management ?*

*(ii) What are the inherent limitations of internal control systems that may have led to these issues ?*

*(2+3=5 marks)*

**Answer 3(a)**

In order to find out the reasons for high attrition rate in Nest Advisors, following factors shall be considered:

1. Job stress & work life imbalance
2. Wrong policies of the Management
3. Unbearable behaviors of Senior staff
4. Safety factors
5. Limited opportunities for promotion
6. Low monetary benefits
7. Lack of labour welfare schemes

8. Whether the organization has properly qualified and experienced personnel for the various levels of works?
9. Is the number of people employed at various works centers excessive or inadequate?
10. Does the organization provide facilities for staff training so that employees and workers keep themselves abreast of current techniques and practices?

**Answer 3(b)(i)**

The focus areas while conducting internal audit of Sunny Electric Ltd., an Electricity Supply Company, include the following:

1. Power Generation and Transmission Efficiency: Assess losses during transmission and distribution, and reasons for power outages.
2. Billing and Revenue Collection: Review accuracy and completeness of billing systems, meter reading, and collection processes.
3. Regulatory Compliance: Check adherence to electricity regulatory authority guidelines and licensing requirements.
4. Collection of debts: Review collection timeline for recovery of debts.
5. Inventory and Asset Management: Verify controls over critical equipment, spares, and infrastructure maintenance.
6. Safety and Environmental Compliance: Ensure compliance with safety standards and environmental regulations.

**Answer 3(b)(ii)**

In order to evaluate the operational efficiency of Sunny Electric Ltd. and review the effectiveness of internal controls in the Company, the following internal audit procedure is suggested:

1. *Analyze Transmission Loss Data* : Review technical reports and compare actual losses against industry benchmarks.
2. *Test Meter Reading and Billing* : Sample customer meters and invoices to verify accuracy and timely billing.
3. *Review Revenue Collection Process* : Check for delays or discrepancies in cash collections and receivables aging.
4. *Inspect Maintenance Records* : Verify preventive maintenance schedules and history of equipment failures.
5. *Compliance Checks* : Examine documentation related to licenses, permits, and regulatory filings.
6. *Interview Operations Staff* : Understand operational challenges and identify gaps in processes.

7. *Review the accounting records* : Proper accounting should be done for arrears, revenue and capital expenditure.

**Answer 3(c)(i)**

In the given case, CA RR, the internal auditor, identified various lapses in the company's internal control system, such as employees failing to act on important reports, duplicate payments, collusion to override system checks, management override of procedures and lack of segregation of duties due to limited staff. While discussing the findings of the audit with management, he explained that the internal controls have certain limitations and therefore, despite the presence of internal controls in the Company, certain failures may occur due to inherent limitations of internal control.

**Answer 3(c)(ii)**

Internal control systems can provide only reasonable assurance as it is affected by certain inherent limitations which include the following:

1. *Human judgement in decision making* : Human judgement in decision-making may not be appropriate and therefore, breakdowns in internal control can occur because of human error.
2. *Lack of understanding the purpose* : The operation of a control may not be effective, such as where information produced for the purposes of internal control (e.g. an exception report) is not effectively used because the individual responsible for reviewing the information does not understand its purpose or fails to take appropriate action.
3. *Collusion among people* : Controls can be circumvented by the collusion of two or more people or inappropriate management override of internal control. E.g. management may enter into side agreements with customers that alter the terms and conditions of the entity's standard sales contracts, which may result in improper revenue recognition. Also, edit checks in a software program that are designed to identify and report transactions that exceed specified credit limits may be overridden or disabled.
4. *Judgement by Management* : In designing and implementing controls, management may make judgements on the nature and extent of the controls it chooses to implement, and the nature and extent of the risks it chooses to assume.

***(Attempt all parts of either Q. No. 4 or Q. No. 4A)***

**Question 4**

*(a) Culture is an important factor in organizational success and can have a significant impact on risk management. Internal auditors are being asked to assess the culture of the organization and to help identify potential cultural risks that may affect the organization's objectives.*

*What are the ways in which internal auditors can evaluate and assess organizational culture ?*

*(5 marks)*

(b) *ABC Ltd., a manufacturing company, has recently implemented a new ERP system for processing all financial transactions. During the audit, the auditors notice that :*

- *some User IDs are being shared among employees.*
- *It is not clear whether the audit trail feature has been consistently active and secure, and*
- *access logs for audit trails and configuration changes are not routinely reviewed.*

*You are required to :*

(i) *Explain the purpose and importance of an audit trail in a computerized accounting system.*

(ii) *Also advise the key internal controls which may be required to be implemented and operated to verify the functionality of the audit trail by the auditor.*

*(2+3=5 marks)*

(c) *Sankalp Manufacturing Ltd. has recently appointed a new audit firm to conduct its statutory audit. During the initial planning meeting, the audit partner emphasized the firm's commitment to quality control in compliance with SIA 220.*

*However, the audit team faced challenges including unclear delegation of responsibilities, inconsistent documentation and inadequate review of audit procedures by the engagement partner.*

*The audit firm now wants to strengthen its quality control procedures as per SIA 220 to ensure the audit is conducted effectively and meets professional standards. With reference to the above information, explain how the audit firm can apply SIA 220 to improve the quality control of the audit engagement at Sankalp Manufacturing Ltd. Illustrate key elements of quality control that should be implemented.*

*(5 marks)*

***OR (Alternative to Q. No. 4)***

**Question 4A**

(i) *CA SS is conducting a training session for newly joined audit trainees. She explains the concept of audit risk and its three components. She mentions that while two components of audit risk are beyond the auditor's control, one component can be influenced by the auditor.*

(a) *You are advised to identify the component of audit risk that can be controlled by the auditor. Give two examples of this component.*

(b) *Also explain how the auditor can manage this component to keep audit risk at a low level.*

*(3+2=5 marks)*

*(ii) Cancer Research Hospital, a charitable healthcare institution, provides medical services at subsidized rates. During the audit for the financial year 2025-26, the auditor observed the following :*

- *Bills had not been issued to some partients even though they were recorded in the patient register.*
- *Certain donations received for setting up a dialysis unit were utilized for general administrative expenses.*
- *Grants received from a government health scheme were recorded, but supporting documentation or correspondence were missing.*
- *The hospital maintained a large stock of medicines and medical supplies, however, there were no proper records or controls over their issues and use.*
- *There were significant deviations between budgeted and actual expenditures, particularly in staff salaries and equipment maintenance, but no explanation was documented by the management.*

*In view of above, discuss the special steps or audit procedures an auditor should apply while auditing the transactions of hospital ?*

*(5 marks)*

*(iii) Tushar has been appointed as internal auditor for Spark Limited, a medium-sized manufacturing company. During the review, Tushar notices several discrepancies in the disbursement records and suspects there might be weaknesses in the internal control system. Additionally, there have been recent changes in the company's business policies that he was not informed about. Tushar is concerned about maintaining his independence and objectivity while ensuring that management is aware of these issues.*

*What are the responsibilities of Tushar as an Internal Auditor with respect to the accounting function and financial records of the organization ?*

*(5 marks)*

**Answer 4(a)**

Internal auditors are expected to evaluate the organization culture and help identify potential cultural risks that may affect the organization's objectives. Organizational culture plays a crucial role in influencing the effectiveness of governance, risk management, and control processes in an organisation. The internal auditors can evaluate and assess organizational culture in the following manner:

(i) *Conduct culture assessments*: Internal auditors can conduct culture assessments to gain insight into the organization's values, beliefs, and behaviours. This can involve conducting interviews, surveys, and focus groups with employees at all levels of the organization.

(ii) *Evaluate tone at the top*: Internal auditors can assess the tone of top management by evaluating the leadership's behaviours and how it influences the organization's culture. The tone of the top management can affect the behaviour of employees, and

therefore, has a significant impact on the effectiveness of risk management and control processes.

(iii) *Review policies and procedures*: Internal auditors can review policies and procedures to ensure that they are consistent with the organization's values and culture. Policies that are inconsistent with the organization's culture can lead to employees feeling disconnected from the organization's values and beliefs.

(iv) *Assess employee engagement*: Internal auditors can assess how engaged employees are with the organization's culture. Engaged employees are more likely to understand and follow the organization's values and beliefs, leading to a more effective risk management and control environment.

(v) *Evaluate training and communication*: Internal auditors can evaluate the organization's training and communication programs to determine how well they promote the organization's culture. Training and communication programs that are aligned with the organization's culture can help employees understand the importance of the organization's values and beliefs.

**Answer 4(b)(i)**

Audit Trail is a chronological record that captures all transactions and activities processed within a computerized accounting system including creation, modification, and deletion of entries. Any change to data including creating new data, updating or deleting data must be recorded. Records maintained as audit trail may include the following information:

1. when changes were made i.e. date and time (timestamp).
2. who made the change i.e. User Id.
3. what data was changed?

The Audit Trail enables users, auditors, and management to trace every financial transaction from its origin to its final recording in the financial statements. It facilitates verification of the accuracy and completeness of accounting records and provides evidence supporting financial transactions and accounting entries. The Audit Trail also provides documentation required during audits, investigations, and regulatory inspections.

The Audit Trail plays an important role in strengthening internal controls, detection of errors and frauds, transparency, creating responsibility by linking transactions and modifications to specific users and discouraging unauthorized activities and fraudulent practices.

**Answer 4(b)(ii)**

In order to ensure that the audit trail feature is functioning effectively and reliably, it is important to implement specific internal controls which may include the following:

1. Controls to ensure that the audit trail feature permanently enabled in the accounting software and the ability to disable or alter audit trail settings is restricted to authorized personnel only.

2. Implementation of role-based access controls (RBAC) with strong authentication mechanisms to ensure users have access only to functions required for their responsibilities.
3. Change management controls requiring formal authorization and documentation for changes to accounting systems, master data, and application settings and logs of such changes are maintained.
4. Integrity controls to ensure that audit logs cannot be edited, overwritten, or deleted by ordinary users and the audit trail records are stores in a secure and tamper-resistant environment.
5. Establishing exception reports to identify unusual transactions, unauthorized changes, or suspicious activities and investigate and document all significant exceptions identified through audit trail reviews.

As per facts of the case, in ABC Ltd., the new ERP system shows weaknesses such as shared User IDs and lack of clarity over activation and review of audit trails. Since an audit trail records all data changes with user and time details, it ensures accountability and reliability of financial records. If not properly enabled and monitored, data integrity may be affected. Hence, the auditor should ensure the compliance of above.

**Answer 4(c)**

The SIA 220 requires the internal audit plan to ensure that the audit activities are strategically aligned with the organisation's objectives, risk profile and governance priorities. The firm shall implement policies and procedures to ensure quality control throughout the audit engagement. Applying SIA 220 can aid in improving the quality control of the audit engagement at Sankalp Manufacturing Ltd. in the following manner:

1. Leadership Responsibilities for Quality within the Engagement (Engagement Partner's Role): The firm shall clearly define the engagement partner's responsibility to promote an audit culture emphasizing quality and ensure that the partner actively oversees the audit, provides guidance, and reviews significant judgments.
2. All the team members shall confirm compliance with independence, integrity, and confidentiality standards.
3. The firm shall assess the risk environment of Sankalp Manufacturing Ltd. before accepting the engagement, ensuring the firm has competence and resources.
4. The Audit Plan shall provide for clear delegation of tasks and responsibilities among team members.
5. The firm should establish consistent documentation standards for audit procedures and findings and also, conduct regular and timely reviews by the engagement partner of work performed, especially critical areas.
6. Implementation of procedures to monitor compliance with quality standards during the audit and addressing any deviations or issues promptly to maintain audit quality.

The Quality Control of the audit engagement has the following merits:

1. Clear delegation avoids confusion and ensures accountability.
2. Consistent documentation enhances transparency and supports conclusions.
3. Partner's review detects errors or misstatements early.
4. Ethical compliance strengthens independence and objectivity.
5. Ongoing monitoring helps maintain standards and improve future audits.

**Answer 4A(i)(a)**

The audit risk is composed of inherent risk, control risk and detection risk where the auditor can only influence detection risk as the inherent risk and control risk belong to the entity and are influenced by the entity. Detection risk is the risk that the audit procedures performed by internal auditors will fail to detect a material error, fraud, control weakness, or non-compliance that exists within the organization. The examples of detection risks are as under:

1. *Procurement Irregularities* - An internal auditor reviews only a small sample of procurement transactions and does not verify the same with procurement conditions. Therefore, the internal audit fails to identify mismatch in actual procurement vis a vis stipulated conditions and fraudulent vendor payments.
2. *Inventory Misappropriation* – The Warehouse staff misappropriates inventory and manipulates stock records. The auditor relies on inventory reports without conducting physical verification, resulting in non-detection of shortages and misappropriations.

**Answer 4A(i)(b)**

The internal auditors should adopt a risk-based and systematic approach to minimize detection risk, which may include the following:

1. Conducting comprehensive risk assessment of the concerned organization and allocating greater audit attention to high-risk activities and transactions.
2. The Audit Plan should comprise of audit procedures that adequately address identified risks and allocation of audit activities is to be made to competent and experienced person.
3. The Auditor should apply appropriate audit procedures and increase the extent of testing where the unusual, high-value, and high-risk transactions should be tested separately.
4. Conduct thorough examination of audit trails and investigate unusual system activities and exceptions.
5. Utilization of Computer-Assisted Audit Techniques (CAATs) and data analytics tools while analyzing entire populations of transactions rather than limited samples, where feasible.

**Answer 4A(ii)**

The special steps or audit procedures an auditor should apply while auditing the transactions of hospital include the following:

1. *Register of Patients*: Vouch the Register of patients with copies of bills issued to them. Verify bills for a selected period with the patients' attendance record to see that the bills have been correctly prepared. Also see that bills have been issued to all patients from whom an amount was recoverable according to the rules of the hospital.

2. *Collection of Cash*: Check cash collections as entered in the Cash Book with the receipts, counterfoils and other evidence. E.g. copies of patients' bills, counterfoils of dividend and other interest warrants, copies of rent bills, etc.

3. *Income from Investments, Rent, etc*.: See with reference to the property and Investment Register that all income that should have been received by way of rent on properties, dividends, and interest on securities have been collected.

4. *Legacies and Donations*: Ascertain those legacies and donations received for a specific purpose have been applied in the manner agreed upon.

5. *Reconciliation of subscriptions*: Trace all collections of subscription and donations from the Cash Book to the respective Registers. Reconcile the total subscriptions due (as shown by the Subscription Register and the amount collected and that still outstanding).

6. *Authorization and sanctions*: Vouch all purchases and expenses and verify that the capital expenditure was incurred only with the prior sanction of the trustees or the Managing Committee and that appointments and increments to staff have been duly authorized.

7. *Grants and TDS*: Verify that grants, if any, received from Government or local authority has been duly accounted for. Also, that refund in respect of taxes deducted at source has been claimed.

8. *Budgets*: Compare the totals of various items of expenditure and income with the amount budgeted for them and report to the Trustees or the Managing Committee, significant variations which have taken place.

9. *Internal Check*: Examine the internal check as regards the receipt and issue of stores; medicines, linen, apparatus, clothing, instruments, etc. so as to ensure that purchases have been properly recorded in the Inventory Register and that issues have been made only against proper authorization.

10. *Depreciation*: See that depreciation has been written off against all the assets at the appropriate rates.

11. *Registers*: Inspect the bonds, share scrips, title deeds of properties and compare their particulars with those entered into the property and investment registers.

12. *Inventories*: Obtain inventories, especially of stocks and stores as at the end of the year and check a percentage of the items physically; also compare their total values with respective ledger balances.

13. *Management Representation and Certificate*: Get proper Management Representation and Certificate with respect to various aspects covered during the course of audit.

**Answer 4A(iii)**

In the given case, Tushar notices several discrepancies in the disbursement records and suspects there might be weaknesses in the internal control system. While reporting the issues to the management and maintaining his independence & objectivity, the responsibilities of Tushar as an Internal Auditor with respect to the accounting function and financial records of the organization include the following:

1. To ascertain adequacy of system of internal control by a continuous examination of accounting procedures, receipts and disbursements, and to provide adequate safeguards against misappropriation of assets.

2. To operate independently of the accounting staff and must not in any way divest any of the responsibilities placed upon him.

3. Not to involve in the performance of executive functions in order that the objective outlook does not get obscured by the creation of vested interest.

4. To observe facts and situations and bring them to notice of authorities who would otherwise never know them and also, critically appraise various policies of the management and draw its attention to any deficiencies, wherever required.

5. To associate closely with management and keep knowledge up to date by being informed about all important occurrences and events affecting the business, as well as the changes that are made in business policies.

6. To recommend improvements to accounting controls, processes, and systems and avoid implementing controls or making accounting decisions, as these are management's responsibilities.

7. To assess the processes used to prepare financial statements and management reports and evaluate whether financial information is timely, accurate, and useful for decision-making.

8. To remain free from undue influence by management or operational personnel and avoid assuming management responsibilities related to accounting or financial reporting.

9. To provide unbiased assessments of accounting processes and financial records.

## PART-II

### Question 5

***Case Study :***

*Balaji Enterprises Private Limited (BAPL) is one of the major agricultural equipment manufacturers and suppliers in Uttar Pradesh. Company has achieved a sales turnover of ₹ 100 crore in financial year 2024-25 and has estimated a sales turnover ₹ 200 crore in FY 2025-26. Company has several group companies in different business lines. BAPL has cash credit facilities of ₹ 50 crore and performance bank guarantee of ₹ 30 crore from a public sector bank. Two months ago, company renewed the CC limit with enhancement to ₹ 100 crore. In a recent stock audit conducted by the bank's stock auditors, it has been pointed out that enhanced limit has not been utilized for intended purpose and end-use of funds, as declared by the borrower, has not been verified by the bank and enhanced funds have been siphoned in group companies. Stock auditors asked the borrower to produce the ledger accounts of all related parties and the transactions in the ledgers substantiated those funds have been siphoned to these companies.*

*Surprisingly, company's statutory auditors, though specifically mandated to comment on utilization of working capital funds in company's statutory auditors' report, have not commented upon the same. Rather, statutory auditors have confirmed that there is no mis-utilization of working capital funds. Stock auditors requested to the borrower's accounts department to arrange a meeting with Directors. However, manager accounts denied for approaching the company directors directly.*

*The ubiquitous issue of corruption and the high risk of internal fraud raise serious concerns about the liability of corporate directors. There has been seminal shift in the Indian corporate legal regime with the enactment of the Companies Act 2013 and more recent amendments.*

*Bank management in compliance of stock auditors' findings, asked various explanations from the borrower. The borrower replied that as the funds have been utilized by the group companies under the same management, hence bank should have no objection as there is no mis-utilization of the funds. Borrower contended that they are paying interest regularly and are maintaining their all-loan accounts standard.*

*Borrower further stated that bank has hypothecated the immovable valuing more than the loan amount. Therefore, the bank management should not have any objection and no such fraud has been committed by the borrower.*

*Based upon the above, you are asked to answer following questions :*

*(a) Whether there are any fraud indications in the case ? Briefly describe what kinds of frauds, specifically to economy and financial transactions, have occurred ?*

*(b) What are the different job-roles of Company Secretary in the field of Forensic Audit ?*

*(c) Briefly explain Corruption, Asset Misappropriation and Financial Statement Fraud in brief.*

*(d) In forensic auditing, specific procedures are carried out in order to produce evidence. Investigator uses various techniques and procedures to identify and to gather evidence*

*to prove, for example, how long have fraudulent activities existed and carried out and how it was conducted and concealed by the perpetrators. What are the techniques investigators can use in gathering evidences ?*

*(5+5+5+5=20 marks)*

**Answer 5(a)**

As per facts of the case, Balaji Enterprises Private Limited has enhanced the Cash Credit Limit with the bank from Rs. 50 Crore to Rs. 100 Crore but the enhanced limit has not been utilized for the intended purpose, instead the funds have been siphoned in group companies. This indicates the corporate fraud of siphoning off funds which involves transferring funds from a company for personal gain or to hide illegal activities.

In specific to the impact on economy and financial transactions, following frauds have occurred:

1) *Bank Frauds*: The number of bank frauds in India is substantial. It is increasing with the passage of time in the major operational areas in banking. There is different area in Bank Deposits, loan, inter branch, accounting, etc.

2) *Corporate Frauds*: In India, Corporate Frauds from leading Indian businesses are shaking the economy time and again. From Satyam Computers that stunned the national financial world in 2009, when Satyam's Founder B. Ramalingan Raju declared he had inflated profit and jacked up the company's Balance Sheet by more than one billion dollars to the incident of PNB Fraud in the year 2017, frauds are apparent in the corporates. This needs to be checked strictly to ensure financial stability and emerging economy.

3) *Insurance Frauds*: There is different type of frauds in insurance sectors. E.g. health insurance, claims fraud, false claims, insurance speculations, application frauds etc.

4) *Cyber Frauds*: Cyber Frauds are the frauds done with the help of the internet targeting the unauthorized use of digital instruments like credit card, ATM card, cyber equipment's at home etc.

5) *Securities Frauds*: Apart from Corporate Frauds, frauds in the securities and securities market are also affecting many people time and again. From the perspective of frauds in securities, investor community could not forget the under truncate Rs. 4000 crore of Harshad Metha scam and over Rs. 1,000 Crore of Ketan Parekh scams which duped the shareholder with the loss of their wealth in the big markets. In addition to this, the instances of Insider trading are also considered as securities fraud in many circumstances.

**Answer 5(b)**

Company Secretary is a catalyst in upholding good governance via Forensic Audit. His role in specific to Forensic audit is given as under:

1. *Criminal Investigations*: A Company Secretary would use his/her investigative accounting skills to examine the documentary and other available evidence to give

his/her expert opinion on the matter. Their services could also be required by Government departments, the Revenue Commissioners, the Fire Brigade, etc. for investigative purposes. Practicing forensic accountants could be called upon by the police to assist them in criminal investigations which could either relate to individuals or corporate bodies.

2. *Personal Injury Claims*: Where losses arise as a result of personal injury, insurance companies sometimes seek expert opinion from a forensic auditor before deciding whether the claim is valid and how much to pay.

3. *Fraud Investigations*: A Company Secretary might be called upon to assist in business investigations which could involve funds tracing, asset identification and recovery, forensic intelligence gathering and due diligence review. In cases involving fraud perpetrated by an employee, the forensic auditors will be required to give his/her expert opinion about the nature and extent of fraud and the likely individual or group of individuals who have committed the crime. The forensic expert undertakes a detailed review of the available documentary evidence and forms his/ her opinion based on the information gleaned during the course of that review.

4. *Investigation and Inspection:* Company Secretary may help the Police and other investigating authorities in collecting evidences and other investigation purposes. For example, sections 17 and 18 of the Prevention of Corruption Act, 1988; Section 6 of The Bankers Books Evidence Act, 1891; Section 78 of Information Technology Act, 2000; Section 447 of the Companies Act, 2013 wherein the Court or Police may require the skills of Forensic auditors while inspecting any books in so far as related to the accounts of an accused.

5. *Expert Opinion*: Company Secretaries see and carefully examine the accounts and balance sheets and use his skills to find out whether there is any fraud committed or any anomaly associated with it by giving his expert opinion.

6. *Professional Negligence*: The forensic auditor might be approached in a professional negligence matter to investigate whether professional negligence has taken place and to quantify the loss which has resulted from the negligence. A matter such as this could arise between any professional and their client. The professional might be an accountant, a lawyer, company secretary etc. The forensic expert uses his/her investigative skills to provide the services required for this assignment.

7. *Expert Witness Cases*: Company Secretary as Forensic Auditor often attend court to testify in civil and criminal court hearings, as expert witnesses. In such cases, they attend to present investigative evidence to the court so as to assist the presiding judge in deciding the outcome of the case.

8. *Mediation and Arbitration*: Some forensic auditors because of their specialist training they would have received in legal mediation and arbitration, have extended their forensic auditing practices to include providing Alternative Dispute Resolution (ADR) services, in absence of which a matter could be expensive and time consuming for individuals or businesses involved in commercial disputes with a third party.

9. *Litigation Consultancy*: Company Secretaries are eligible to be engaged in litigation and assisting with evidence, strategy and case preparation.
10. *Computer Forensics*: A Company Secretary is trained to assist in electronic data recovery and enforcement of IP rights etc.

**Answer 5(c)**

**Corruption** : There are three types of corruption fraud: conflicts of interest, bribery, and extortion, explained as under:

1. In a conflict-of-interest fraud, the fraudster exerts their influence to achieve a personal gain which detrimentally affects the company. The fraudster may not benefit financially, but rather receives an undisclosed personal benefit as a result of the situation. For example, a manager may approve the expenses of an employee who is also a personal friend in order to maintain that friendship, even if the expenses are inaccurate.
2. Bribery is when money (or something else of value) is offered in order to influence a situation.
3. Extortion is the opposite of bribery, and happens when money is demanded (rather than offered) in order to secure a particular outcome.

**Asset Misappropriation**: The common feature of Asset misappropriation is the theft of cash or other assets from the company. For example:

1. *Cash theft* – the stealing of physical cash, for example, petty cash, from the premises of a company.
2. *Fraudulent disbursements* – company funds being used to make fraudulent payments. Common examples include billing schemes, where payments are made to a fictitious supplier, and payroll schemes, where payments are made to fictitious employees (often known as 'ghost employees').
3. *Inventory frauds* – the theft of inventory from the company.
4. *Misuse of assets* – employees using company assets for their own personal interest.

**Financial Statement Fraud**: This is also known as fraudulent financial reporting, and is a type of fraud that causes a material misstatement in the financial statements. It can include deliberate falsification of accounting records; omission of transactions, balances or disclosures from the financial statements; or the misapplication of financial reporting standards. This is often carried out with the intention of presenting the financial statements with a particular bias, for example concealing liabilities in order to improve any analysis of liquidity and gearing.

**Answer 5(d)**

Audit techniques and procedures are used to identify and to gather evidence to prove, for example, how long have fraudulent activities existed and carried out in the organization, and

how it was conducted and concealed by the perpetrators. The investigators can use the following techniques to gather evidence:

1. Testing controls to gather evidence which identifies the weaknesses, which allowed the fraud to be perpetrated.
2. Using analytical procedures to compare trends over time or to provide comparatives between different segments of the business.
3. Applying computer-assisted audit techniques, for example, to identify the timing and location of relevant details being altered in the computer system.
4. Discussions and interviews with employees.
5. Substantive techniques such as reconciliations, cash counts and reviews of documentation.

***(Attempt all parts of either Q. No. 6 or Q. No. 6A)***

**Question 6**

*(a) M Ltd. appointed S & Co., Chartered Accountants, as statutory auditors for the financial year 2025-26. During the audit, the statutory auditors noticed fake and duplicate expenses reimbursement of ₹ 1.10 crore to the directors of the company.*

*In this situation, explain the procedure to be adopted by the auditors for reporting fraud.*

*(5 marks)*

*(b) What is cyber fraud ? What is the difference between Phishing and Vishing ?*

*(5 marks)*

*(c) A reckless waste of firm's assets by speculating on the stock market and incompetence/ negligence in managing business of Swastik Ltd., apart from omission, or perversion of truth and failure to file information and report were noticed. The management of Swastik Ltd. was in a dilemma whether to treat this as fraud or non-compliance.*

*You are required to provide a note to the management of Swastik Ltd. as a practising Company Secretary regarding how to differentiate between Fraud and Non-Compliance.*

*(5 marks)*

*(d) Garvit Pvt. Ltd. is an e-commerce company that has recently started using blockchain technology to record customer payments made through cryptocurrency and to execute smart contracts with suppliers. The system is connected to the company's existing accounting software through Application Programming Interfaces (APIs).*

*Management believes that blockchain is fully secure because transactions cannot be altered once recorded. However, the auditor is concerned about issues such as loss of private keys, inability to reverse incorrect transactions, cyber-attacks on network nodes, data privacy compliance and changing legal regulations relating to cryptocurrency.*

*Based on the above details, answer the following :*

*(i) What are the common risks associated with the use of blockchain technology ?*

(ii) *Also discuss the probable audit implications when an organization uses blockchain technology*

*(2+3=5 marks)*

***OR (Alternative to Q. No. 6)***

**Question 6A**

(i) *Companies Act 2013, goes beyond professional liability for fraud and extends to personal liability if a company continues.*

*In the context, you are required to examine and answer Yes or No whether following are frauds in terms of Companies Act or not, attracting penalty under section 447 of the Companies Act 2013. If yes, name the designation of the responsible officer.*

(a) *Furnishing false information or suppressing any material information of which he or she is aware.*

(b) *Inducing persons to invest money.*

(c) *Acceptance of deposit with intent to defraud depositors or for any fraudulent purpose.*

(d) *Furnishing false statement or mutilation or destruction of documents.*

(e) *Making a false statement in any return, report, certificate or financial statement.*

*(5 marks)*

(ii) *The Bhartiya Sakshya Adhiniyam play an important role in determining the admissibility and weight of evidence in case involving forensic audit. By understanding the rules and principles of evidence law, forensic auditors can ensure that their findings are presented in a manner that is admissible and persuasive in court.*

*Under Bhartiya Sakshya Adhiniyam 2023, what are the basic rules to be kept in mind to have evidence of value in the eyes of courts of law and be relied upon reading the decision? Explain in brief.*

*(5 marks)*

(iii) *The development of digital technologies has led to the growth of the internet, social media, and other digital platforms that have become essential components of modern life. Criminal have found new ways to exploit vulnerabilities in these technologies. The rise of digital technologies has increased the crime rate which becomes a major concern for Governments, Business Industry, Corporates and Individuals around the world. Criminals are gaining access to sensitive information, financial data, or intellectual property.*

(a) *You are required to explain the difference between traditional white-collar crime and cybercrime ?*

(b) *Explain roles and responsibilities of the Board of Directors and Company Secretaries in protection from cybercrimes.*

*(2+3=5 marks)*

*(iv) As per Association of Certified Fraud Examiners (ACFE) 2022 report 85% of all fraudsters displayed at least one behavioural red flag.*

*Briefly explain any such five behavioural red flags as early warning indicator of fraud.*

*(5 marks)*

**Answer 6(a)**

As per section 143 (12) read with rule 13 to the Companies (Audit and Auditors) Rules, 2014, if an auditor of a company, in the course of the performance of his duties as statutory auditor, has reason to believe that an offence of fraud, which involves or is expected to involve individually an amount of rupees one crore or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Central Government as per the procedure given below:

1. *Report to Board & Audit Committee:* The Auditor shall report the matter to the Board of directors or the audit committee as the case maybe, immediately but not later than 2 days of his knowledge of the fraud, seeking their reply or observations within 45 days.
2. *Report to Central Government on receipt of reply*: On receipt of reply or observations, the auditor shall forward his report and the reply or observations of the board or the audit committee along with his comments (on such reply or observations of the board or the audit committee) to the Central Government within 15 fifteen days from the date of receipt of such reply or observations.
3. *Report to Central Government if no reply received*: In case the auditor fails to get any reply or observations from the board or the audit committee within the stipulated period of 45 days, he shall forward his report to the Central Government along with a note containing the details of his report that was earlier forwarded to the board or the audit committee for which he has not received any reply or observations.
4. The report shall be filed electronically in form ADT-4.

**Answer 6(b)**

Cyber fraud is a crime committed either on or with a computer and the internet to steal personal identity, gaining unauthorised access to computer systems, sell contraband online or stalk victims online or disrupt operations with malevolent programs. In the present technological era, cyber fraud is most common type of fraud. Individuals and organisations need to be more vigilant and protect their information from fraudsters.

Both Phishing and Vishing are forms of cybercrime to obtain sensitive personal information of individuals such as passwords, banking details, OTPs, or personal data. The major differences between Phishing and Vishing as given as under:

1. Phishing obtains sensitive information through emails, websites, text messages, or online communications whereas Vishing is doing the same act using voice calls or voice messages.

2. Through phishing the victim is directed to click a malicious link, open an attachment, or enter information on a fake website, whereas in case of vishing the caller impersonates a trusted entity such as bank officials, tax officers, police officer, etc. and persuades the victim to disclose confidential information over the phone.
3. The major objective of phishing is to steal login credentials, financial information, or install malware. However, vishing is done with the objective of obtaining passwords, OTPs, PINs, banking details, or persuade victims to transfer funds.
4. Phishing is detected by identifying suspicious links, poor grammar, unfamiliar sender addresses, fake websites. Vishing is suspected through urgent requests, caller pressure tactics, spoofed phone numbers, requests for confidential information.

**Answer 6(c)**

Fraud is always intentional; however, non-compliance may be intentional or unintentional. The term fraud can be defined as act or course of deception, an intentional concealment, omission, or perversion of truth, to—

1. gain unlawful or unfair advantage;
2. induce another to part with some valuable item or surrender a legal right; or
3. inflict injury in some manner.

Willful fraud is a criminal offense which calls for severe penalties, and its prosecution and punishment. However, incompetence or negligence in managing a business or even a reckless waste of firm's assets (for example, by speculating on the stock market) does not normally constitute fraud.

*Non-Compliance*: The term non-compliance refers to failure to comply with the laws, rules, regulations standards, policies, contractual obligations, or internal procedures. The term non-compliance is commonly used in regard to a failure to meet the compliance requirements or failure to do compliance, be it the failure in following procedures, filing of information, eligibility conditions, reporting etc.

The relationship between Fraud and non-compliance can be constructed as the non-compliance in the company may lead to a fraud, however it may also be noted that the fraud can also be made in the compliant company.

**Answer 6(d)(i)**

Blockchain is a digital ledger technology that is used to store data in a secure and decentralised manner. Once data is recorded on the blockchain, it cannot be altered or deleted without the consensus of the network participants, which ensures that the data is trustworthy and tamper-proof. However, there are certain common risks associated with the blockchain technology.

1. The inability to reverse transactions and to access data without the required keys make the system secure, but also mean that organizations need specific protocols and management processes to ensure that they are not locked out and have clear contingency plans.

2. Operating through network nodes could also expose the organization to cyber-attacks and data hacks.
3. Auditors should also ensure that the organization has the necessary data management processes which comply with regulations. The regulatory landscape is still evolving for blockchain, so audit teams should check that compliance managers are following developments constantly and adapting processes accordingly.
4. The technology also carries Operational risks such as dependence on technology infrastructure and network availability, System failures, software bugs, or implementation errors.
5. The reliance on blockchain service providers, exchanges, wallet providers, or cloud infrastructure and service disruptions or security failures at third parties may impact operations.

**Answer 6(d)(ii)**

Auditors should consider the appropriate governance and security around the transactions. Although blockchain's core security premise rests on cryptography, there are risk factors associated with it. As blockchain interacts with legacy systems and business partners, concerns related to insecure application programming interfaces (APIs), data confidentiality and privacy cannot be ignored. Weak blockchain application development protocols are something auditors cannot overlook. Similarly, data privacy laws and regulations may be an area of concern as data are communicated across geographic boundaries. Auditors must be able to determine whether the data put on blockchain will expose the enterprise for noncompliance with applicable laws and regulations.

In the given situation, Garvit Pvt. Ltd. uses blockchain for cryptocurrency payments and smart contracts integrated with its accounting system. Though management considers it fully secure due to immutability, risks such as private key loss, irreversible errors, API weaknesses, cyber threats, and regulatory uncertainty remain. Hence, the auditor must assess IT controls, legal compliance, and reconciliation processes, as blockchain improves integrity but does not eliminate audit risk.

**Answer 6A(i)**

(a) Yes, furnishing false information or suppressing any material information of which he or she is aware is fraud in terms of Companies Act, 2013 and therefore, the person required to provide information shall be responsible officer.

(b) Yes, inducing persons to invest money is fraud in terms of Companies Act, 2013 and therefore, the person inducing investment is responsible.

(c) Yes, acceptance of deposit with intent to defraud depositors or for any fraudulent purpose is fraud in terms of Companies Act, 2013 and therefore, every officer of the company who accepted the deposits is the responsible officer.

(d) Yes, furnishing false statement or mutilation or destruction of documents is fraud in terms of Companies Act, 2013 and therefore, the Person required to provide an

explanation or make a statement during the course of inspection, inquiry or investigation, or the officer or other employees, as required, is the responsible officer.

(e) Yes, making a false statement in any return, report, certificate or financial statement is fraud in terms of Companies Act, 2013 and therefore, the person making such a statement etc. is the responsible officer.

**Answer 6A(ii)**

For evidence to have any value in the eyes of court of law and be relied upon on reaching the decision, the rules to be kept in mind include Relevancy; Admissibility; and Weight.

1. *Relevancy* : There should be material connection (or relation to fact in issue or another fact.). The fact in issue and the fact to be produced must have some sort of connection or they should be related to each other. The state of one thing affects the formulation of another and thus the material connection defines that relation, effect, cause or reasoning. Further, the relevant fact must have Probative value i.e. the capacity to prove something. A relevant fact must 'prove' or 'render probable' the existence or non-existence of fact in issue or other fact. It implies that either something is proved beyond doubt or the probability that something exists has grown higher by producing the evidence.

2. *Admissibility and weight*: The court after deciding whether the fact is relevant or not decides upon the matter of admissibility. By admissibility it means capability to be accepted. A fact may be highly relevant but to the disappointment of lawyer, court may refuse to admit the evidence because it is non-admissible for several reasons. Thus, if evidence is legally relevant and does not prejudice the trial, then only it will be admissible in the court of law. Whether evidence outweighs costs of admission depends on the discretion of the court. Thus, if admission has an adverse effect on the course of fair proceeding, the court will not admit it. If admission of evidence misleads a jury or causes undue delay in the proceedings or proves an already established fact then such evidence will be rejected. Normally a trial judge would first determine the logical relevance of evidence and then weighs its potential probative value against the possible costs of admissions.

**Answer 6A(iii)(a)**

Traditional white collar crimes include Bribery, Corruption, Embezzlement or theft Forgery, Money laundering, Financial statements fraud, Identity theft, Procurement and contract fraud, Siphoning of funds and so on. Whereas Cybercrime is any illegal activity committed either on or with a computer and the internet to steal personal identity, gaining unauthorised access to computer systems, sell contraband online or stalk victims online or disrupt operations with malevolent programs.

The main difference lies in the modus operandi since in the case of cybercrime physical presence at the venue of the crime is not required, it can be committed remotely across national borders. A traditional white collar crime usually involves abuse of trust, authority, or professional position whereas cybercrime involves exploitation of technological vulnerabilities and digital systems.

**Answer 6A(iii)(b)**

Key roles and responsibilities of the Board of Directors include: Cybersecurity Risk Oversight, allocating sufficient manpower and financial resources, Prioritizing the material cyber risks, formulating risk mitigation plans. Board members have to take responsibility for the breaches and failures of the company's cyber security systems.

The Company Secretary is responsible for supporting the board and the Governance process, providing advice and guidance to the board on Information Technology Act and the appropriate regulations, company's own cyber security policies and ensuring best practice in Cybersecurity risk oversight.

**Answer 6A(iv)**

Following are the early warning indicators of fraud:

1. *Unusual Financial Activity*: This may include unexplained transactions, changes in account balances, or unexpected cash flow patterns, unexplained losses, increased expenses and/or decreased revenues.
2. *Poor Accounting or inconsistent or Missing Documentation*: If financial records are incomplete, missing, or do not match up with other records, any accounting or record-keeping irregularities, such as missing documents, unexplained balances, or unrecorded transactions this could be a red flag for fraud.
3. *Unusual behaviours or Changes in behaviours or lifestyle by Employees*: This could include employees who suddenly start working unusual hours, show signs of financial stress, or exhibit other unusual behaviours. Keep an eye or understand from interviewing with key persons if they observed any sudden changes in behaviour or lifestyle of employees or stakeholders. For example, if an employee suddenly starts buying expensive items, it could be a red flag.
4. *Unexplained Inventory or Movable Assets Shortages*: If inventory levels or movable assets are lower than expected or if there is a discrepancy between inventory levels, movable assets and its records, this could be a sign of fraud. Stealing of inventory happens in industry in trading and manufacturing of consumer goods like high value mobile phones, tablets, laptops etc.
5. *Employee Turnover*: High employee turnover, particularly in key financial roles, could be a sign of fraudulent activity which needs to be carefully probed.
6. *Weak or lack of Internal Controls*: If an organisation has weak internal controls, this could make it easier for fraud to occur. Be aware of any instances where there is a lack of internal controls or segregation of duties, which could make it easier for fraud to occur.
7. *Complaints or Tip*: If employees, customers, or vendors report suspicious activity, this should be taken seriously and investigated since majority of frauds are detected based on Complaints or tip and not by an internal audit or external audit.

8. *Weaknesses in IT Security*: Any weaknesses in IT security that could allow unauthorised access to sensitive data or transactions. Many entities in addition to financial audit also do audit of their systems and network with the help of Vulnerability assessment and Penetration testing (VAPT).

9. *Suspicious Emails or Messages*: If employees receive emails or messages that appear to be from a legitimate company or organisation, but are asked to click on a link or provide additional information, it could be a phishing scam designed to steal entity's information.

By monitoring these early warning indicators and implementing strong internal controls, organisations can help prevent fraud and minimize its impact if it does occur.

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# INTELLECTUAL PROPERTY RIGHT – LAW & PRACTICE

## GROUP 1 ELECTIVE PAPER 4.3

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 4**

**NOTE :** *Answer ALL Questions.*

### Question 1

*Star Health filed a patent application titled "system and Method for Automated Content Creation and Distribution Using Machine Learning-Based Template." The invention claimed an AI-driven platform capable of automatically selecting design templates, adjusting layouts, analysing user engagement data and redistributing optimized content through a cloud-based infrastructure. The objective was to enhance digital marketing efficiency in the pharmaceutical sector in the wake of the recent pandemic. The invention aimed to deal with future global threats to human life through coordination and by using machine learning algorithms and customise promotional materials to facilitate faster and equitable access to health products.*

*During examination, the Indian Patent Office (IPO) raised objections under Section 3(k) of the Patents Act, 1970, which excludes "a mathematical or business method or a computer programme per se or algorithms" from patentability. The Controller observed that although the invention was framed as a "system and method", its core contribution lay in a computer programme executing algorithms for template selection and optimization. The claimed invention did not disclose any novel hardware component, nor did it demonstrate an improvement in the functioning of a computer system. It was implemented on general-purpose computers and servers without any technical modification to hardware architecture. The IPO concluded that the invention merely automated a business or marketing process using software and machine learning techniques. The advancement claimed was commercial or administrative in nature rather than technical. Consequently, the application was refused under Section 3(k) of the Patent Act, 1970 as being a computer programme per se.*

*Based upon the facts of the case, answer the following questions :*

*(a) "Patent law is applicable to inventions in any field of technology without discrimination.*

*In that sense, Patent law is technology neutral and apply to computer software." Explain.*

*(b) Explain the significance of patent claim. What are the key considerations while drafting a patent claim ? Support your answer with case laws.*

*(c) What is TRIZ methodology ? What are the uses of TRIZ methodology in the field of patent?*

*(d) Explain the importance of the concept of patent pooling and cross licensing. Discuss the effect of patent pooling on Competition.*

*(e) What are the various modes and grounds of revocation of a patent ?*

*(5 marks each)*

**Answer 1(a)**

Business Method Patents have been discussed internationally and are a part of the WIPO accord. According to the WIPO's International Patent Classification (IPC) System related to Business Methods, Patentable inventions are categorised into a variety of classes, the definitive subclass dedicated to Information & Communication Technology (ICT) being the G06Q class. The TRIPS Agreement does not expressly provide for the exclusion of computer programs or business methods in general from patentability. Moreover, neither the term "invention" nor the term "technology" is defined under the TRIPS Agreement. In effect, in certain countries, patents have been granted to inventions concerning financial services, electronic sales and advertising methods and business methods, including business methods performed on the Internet. In the United States of America, a business method for managing an investment portfolio was found patentable subject matter in *State Street Bank & Trust v. Signature Financial Group 149 F. 3d 1368 (Fed. Cir. 1998)*.

Further, patents are also granted to the inventions such as a system called "virtual sales personnel" and a method of gripping a golf putter. In Europe, in the SOHEI case T769/92, OJ 1995, 525, the Boards of Appeal of the European Patent Office (EPO) decided that a computer system involving a number of independent management tasks, including financial and inventory management and a system operation method, was patentable subject matter. In countries where patentable inventions have a technical character due to the inventions being executed by a computer system, drawing a line between inventions that belong to a field of technology and non-inventions is not an easy task.

In some countries, claims defining a computer program itself or a computer program embodied on a machine readable medium (such as diskettes and CD-ROMs) are accepted. This is due to the fact that software products are often marketed in the form of computer readable media or directly over the Internet, separately from the computer hardware. In order to prevent unauthorized commercialization of such software products, it is felt necessary to claim the software itself or a machine-readable medium storing the software that performs the claimed functions. In general, patent law is applicable to inventions in any field of technology without discrimination. In that sense, patent law is technology neutral. In most countries, the question is not whether software and business methods in general are patentable or not. Rather, the inquiry is what software-related inventions and business method-related inventions are and if they merit patent protection under national/regional patent laws.

**Answer 1(b)**

*Significance of Patent Claim:*

The patent claims define the scope of exclusive patent protection in terms of the technical features of the invention. They establish what the inventor has the exclusive right to make, use or sell and what constitutes infringement. The claims are the legally operative part of a patent application and whether or not an invention meets the patentability requirements of novelty, inventive step and industrial applicability is determined on the basis of the claims.

Any mistake in drafting patent claims could result in either a denial of the patent or the grant of an utterly useless patent. Only the patent claims define the scope of protection granted by a patent. The rest of the patent specification only helps explain the invention in detail. Claims, thus define the contours of legal rights when the patent is granted. Section 10 (4) (c) of the Patents Act, 1970 states that every complete specification must end with a patent claim or claims.

*Key Considerations while drafting a patent claim:*

There is no rigid or straight jacket formula for drafting a patent claim. Drafting patent claims requires translating a technical invention into a precise legal framework. It depends on what sort of protection the Applicant seeks to claim on that invention. Depending on the protection sought by the applicant the claim may be constructed in a broad or narrow manner in reference to existing prior art. However, care must be taken to ensure that the patent claims are neither too broad (it cannot include what the applicant has not invented) nor too narrow (where the applicant may lose out on a necessary protection). Claims should focus on structure and function and not results. They also need to be reviewed against prior art. Given the difficult nature of drafting patent claims, it is clear that drafting expertise is required to draft proper patent claims. It is always better to engage professional services to draft a patent specification.

*Case Laws*

In *Patent Application No. 7795/DELNP/2007, order dated May 9, 2019* it was stated that reason for patent rejection was the lack of clarity and conciseness. It was decided that the claims were unclear since different meanings of the invention were provided in separate claims. Determining the invention's breadth was challenging due to the presence of numerous distinct claims. Moreover, the preamble of the claims made no mention of the function or object of the claimed device. Several statements listing various methods were unclear in terms of their structural characteristics. Regarding the assertions, there was no support in the description. The claims were ambiguous because certain structural elements were missing.

In the case of *Press Metal Corporation Limited V. Noshir Sorabji Pochkhanawalla (1982 PTC 259 (Bom))*, It was held that – "It is the duty of a patentee to state clearly and distinctly the nature and limits of what he claims. If the language used by the patentee is obscure and ambiguous, no patent can be granted, and it is immaterial whether the obscurity in the

language is due to design or carelessness or want of skill. It is undoubtedly true that the language used in describing an invention would depend upon the class of person versed in the art and who intend to act upon the specifications. In the present case, the invention is described in an obscure and ambiguous language, and on this ground, the patent is liable to be refused".

**Answer 1(c)**

Patent information provides a source of technological information that can be used by researchers and inventors to find new solutions to technical problems. A specific methodology developed on the basis of patent information is the TRIZ methodology (*Russian acronym for 'Teorya Resheniya Izobreatatelskikh Zadatch*', Theory of the Solution of Inventive Problems). TRIZ is a toolkit built upon the systematic analysis of millions of global patents. Based on the study and analysis of a set of worldwide patent documents, Genrich Altshuller and his colleagues developed the TRIZ methodology. Starting in 1946, TRIZ began with hypothesis that there are universal principles of invention that are the basis for creative innovations which advance technology, and that if these principles could be identified and codified, they could be taught to people to create or enhance their inventive capabilities. The TRIZ research has proceeded in several stages and more than 2 million patent documents have been examined, classified by level of inventiveness and analyzed to look for principles of innovation.

TRIZ is currently being applied internationally to create and to improve products, services and systems. Large and small companies, including many Fortune 500 companies are using TRIZ on many levels to solve real and practical problems and to develop strategies for the future of technology. Based on one of the conclusions of the theory, that inventiveness and creativity can be learned, universities worldwide have introduced undergraduate courses related to the TRIZ methodology to enhance creativity and inventive thinking abilities of students. Patent information, therefore, provides an extremely useful source of information for learning and developing creative problem solving and innovation strategies.

**Answer 1(d)**

**Importance of the concept of patent pooling and cross licensing**

Patent pool is an arrangement between two or more patent owners to cross licence their patents relating to a particular technology or standard either among themselves or to a third party on predetermined licencing conditions. Cross licensing agreement is a contract where two or more parties grant each other mutual rights to use their respective IP. In other words, they trade access to their innovations. Patent pooling serves as a method for gaining patent rights jointly. A patent pool's goal is to encourage innovation by making patent licences simple to obtain. Patent pools and multilateral cross-licensing agreements can be distinguished by the fact that in the former, a third party who is unable to contribute any innovation can still benefit from the pool simply by being a member, whereas in the latter, only the party to the agreement can benefit as per the agreement.

*Advantages of Cross-licensing:*

- Ensures mutual technology exchange to enhance products.
- Reduces the price of product development.
- Boosts growth by establishing IP sharing networks.
- Lowers transactional expenses.
- Provides protection from upcoming patentable inventions.
- Assists in avoiding time-consuming legal battles over infringement allegations.

*Disadvantages of Cross-licensing:*

- It may enable competitor to imitate patented product.
- Dependency on others for growth.
- Creates barriers for new and upcoming entrants.
- It may lead to unhealthy growth of competition in marketplace

*Effect of patent pooling on competition*

Patent Pooling can have both pro and anti-competitive effects. Making patented technology open to licensees often has pro-competitive advantages. However, when patent pools are utilised to protect invalid patents or when they contain patents that are not complimentary and would compete with one another, they can have a significant anti-competitive effect on the market. The per se rule applies to patent pools in the majority of nations, including the United States, Canada, Japan, Germany, etc.

*Pro-competitive effects:*

- Efficiency - Patent pools represent a common instrument to deal with that kind of inefficiencies allowing complementary IP assets to be organized under a single contract (the pool) to be not only cross-licensed among the patent pool members, but also licensed to interested third parties thereby increasing efficiency.
- Reduced or Eliminated Litigation Costs - Patent pools can reduce or eliminate the need for litigation over patent rights because such disputes can either be easily settled or avoided through the creation of a patent pool.
- Reduced Transaction Costs - Patent pools facilitate licensing for technologies that are jointly owned by many firms. Therefore, patent pools can reduce transaction costs as licensees only need to enter into a single licensing agreement with one patent pool.
- Clear Blocking Patents - In situations when patents are mutually blocking or one patent infringes the other, a patent pool may be an efficient solution to clear blocking patents. Clearing blocking patents may, in turn, lead to a faster development of a given technology.

*Anti-competitive effects and concerns-*

- Distortion of Competition - Some competitive concerns relate directly to the creation of patent pools. As mentioned above, patent pools that consist of substitute patents have a negative effect on competition because it is likely that competition between two substitute patents will be eliminated if these patents are pooled.
- Anti-competitive Licensing Practice and Grant-Back Provisions - Patent pools with liberal licensing policies are less problematic from a competition point of view. If, however, members of the patent pool are not allowed to license the patents covered by the pool independently, the pool may charge a price above the competitive rate. Thus, patent pools that restrict licensing will generally cause competitive concerns. Accordingly in grant-backs, pool members may be required to share improved technologies with the members of the pool at no fee if these technologies are deemed relevant to the pool which may lead to reduction or even elimination of the incentive to hide development in progress.
- Potential forum for malpractices- In addition, patent pools – like any other kind of cooperation amongst competitors – may encourage potential collusion, for example by creating a forum to share competitively sensitive information, such as pricing, marketing strategies, or R&D information among its members.

**Answer 1(e)**

The Patents Act, 1970 provides various grounds for and modes of revocation of a Patent. They may be classified as under:

(a) Revocation in the public interest by the Central Government suo motu (Section 66).

(b) Revocation of Patents relating to atomic energy by the Controller (Section 65).

(c) Revocation by Controller for non-working of the Patent (Section 85).

(d) Revocation by the High Court on petition for failure to comply with the request of the Central Government to use the invention [Section 64(4) and (5)].

(e) Revocation by a person interested or of the Central Government or on a counter claim in a suit for infringement of Patent by the High Court on any of the grounds stated under section 64(1).

(i) *Revocation of Patent in Public Interest (Section 66*) : Where the Patent or the mode in which it is exercised is mischievous to the State or generally prejudicial to the public, it may be revoked under the provisions of Section 66.

(ii) *Revocation of Patents Relating to Atomic Energy is governed by Section 65 of the Patents Act*: Section 20(1) of the Atomic Energy Act, 1962 provides that no Patent shall be granted for inventions which in the opinion of the Central Government are useful for or relate to the production, control or disposal of atomic energy or which relate to the production or use of any radioactive

substance. The machinery for enforcement of this provision is contained in section 65 of the Patents Act, 1970. Where an application for a patent is for an invention relating to atomic energy, the Central Government may direct the Controller to refuse to proceed further with the application, and where a Patent has been granted, to revoke the Patent.

(iii) *Revocation by Controller For Non-Working of the Patent (Section 85)* : The conditions necessary for revocation of Patent are the following: (a) A compulsory licence has been granted in respect of the Patent; (b) Two years have passed since the date of ordering the first compulsory licence; (c) In spite of the compulsory licence or licenses being granted, the Patented invention has not been worked in India or that reasonable requirement of the public in respect of the patented invention has not been satisfied, or that the patented invention is not available to the public at a reasonably affordable price. If the above conditions are satisfied, the Central Government, or any interested person may make an application to the Controller for an order to revoke the Patent. The Controller, if satisfied that the grounds for revocation have been established, may make an order revoking the Patent and publish the fact. Every application for revocation shall ordinarily be decided within one year of its being presented to the Controller.

(iv) *Revocation by the High Court on Petition* : For Failure to comply with the Request of the Central Government to use the Invention [Section 64(4) and (5)]-If the High Court is satisfied that the Patentee has without reasonable cause failed to comply with the request of the Central Government to use the invention in question, it may order revocation of the Patent.

(v) *Revocation by the High Court Under Section 64(1) of the Patents Act, 1970* : A Patent may be revoked on a Petition of any person interested or of the Central Government on a counter-claim in a suit for infringement of the patent by the High Court on any of the 17 grounds enumerated under section 64(1) of the Patents Act.

**Question 2**

*In 2025, the Asocia de Pisco, an Association representing traditional grape spirit producers in Peru. filed an application before the Indian Geographical Indications Registry seeking registration of "Pisco" as a Geographical Indication (GI) under the Geographical Indications of Goods (Registration and Protection) Act, 1999. The association claimed that Pisco is a historically recognized distilled grape spirit originating from the coastal valleys of Peru, where unique grape varieties are cultivated and the beverage is produced using 400-year-old traditional distillation methods. Their grape spirit has reputation and distinctive characteristics due to the climatic conditions, soil composition and traditional practices of the region. The association further argued that authentic Pisco enjoys a global recognition and is exported to numerous countries, including India.*

*Upon publication of the GI application in the GI Journal, several objections were filed.*

*The first opposition came from Indian whisky manufacturers Association who argued that the term "Pisco" had been used in India for decades in the hospitality and beverage industry, particularly in cocktails such as Pisco Sour and granting exclusive rights over the term "Pisco" could disrupt long-standing commercial practices and lead to confusion among consumers in the Indian market. A second opposition was filed by the Chilean Pisco Producers Council, representing producers from Chile. They argued that Pisco is also produced in certain regions of Chile and that the term historically refers to a broader geographical and cultural heritage shared by both countries. They claimed that exclusive GI registration by the Peruvian association could unfairly restrict Chilean producers from marketing their products in India under the same name.*

*In addition, the Registrar also received representations from GreenTech Solutions, an Indian importers and exporter Company expressing its concern about the strict enforcement of the GI that it will affect their supply chains of restaurants and bars that had been serving cocktails labelled as "Pisco Sour" for many years. They further claimed to be the exporter of a special variety of grapes grown in Bangalore and exported to Italy for the preparation of grapes spirit. Under Corporate Social Responsibility, their research laboratory regularly analyses the genetic information of the seeds used to grow this special variety of grapes and developed through traditional knowledge contributed by local communities of breeders of the region to identify the genes responsible for crop resilience and adaptation.*

*Based upon the facts of the case, answer the following questions :*

(a) *What is the difference between the Geneva Act and Lisbon Agreement ? What is the relevance of the Geneva Act of the Lisbon Agreement for the GI framework ?*

*(5 marks)*

(b) *State the registrable varieties as per the protection of plant varieties. In which category a new variety bred by a farmer is registered under Protection of Plant Varieties and Farmers Right Act, 2001.*

*(5 marks)*

(c) *What is People's Biodiversity Register (PBR) and describe its main purpose as per the Biological Diversity Act, 2002.*

*(5 marks)*

(d) *What is the significance of Traditional Knowledge ? When is the approval required to undertake biodiversity related activities as per the Biological Diversity Act, 2002 ?*

*(5 marks)*

(e) *"Determining the value of one's intellectual property is a challenging job." In the light of the statement explain the methods of valuation of IPR.*

*(5 marks)*

## Answer 2(a)

### Difference between the Geneva Act and the Lisbon Agreement

The Geneva Act updates and enhances the existing international registration system protecting names that identify the geographic origin of products: the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of 1958.

The Lisbon Agreement applies only to appellations of origin – a special kind of geographical indication for products that have a particularly strong link with their place of origin. The Geneva Act extends that protection to geographical indications alongside appellations of origin, to better take into account existing national or regional systems for the protection of distinctive designations in respect of origin-based quality products. It also allows certain intergovernmental organizations to join, making the international system of protection more inclusive.

### Relevance of the Geneva Act of the Lisbon Agreement for the GI framework

The Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications ("the Geneva Act") was adopted in 2015 to modernize the Lisbon System. The Geneva Act extends protection to the broader category of Geographical Indications (GIs) in addition to Appellations of Origin (AOs), thus allowing more products (i.e. those not qualifying under the more stringent category of AOs) to benefit from the international protection mechanism offered by the Lisbon System. Furthermore, the Geneva Act opens the Lisbon System to the accession of certain intergovernmental organizations (such as the European Union or the African Intellectual Property Organization. Owing to this additional flexibility, Lisbon users from different geographical areas are now able to ensure protection to their AOs/GIs in new important markets. Such protection is granted under the Geneva Act

The Geneva Act requires contracting parties to provide the legal means to prevent:

(1) Use of the registered AO/GI on goods of the same kind when the goods do not originate in the area of origin or do not comply with other requirements for using the AO/GI;
(2) Use of the registered AO/GI on goods of different kinds or services only under certain conditions;
(3) Any imitation of the AO/GI, even if the true origin of the goods is indicated or when the AO/GI is translated or used with terms such as "type", "style", "kind", etc.
(4) Any other misleading practice as to the true origin, provenance or nature of the goods.

Contracting Parties to the Geneva Act must provide legal means to prevent the use of an internationally registered appellation of origin or geographical indication in respect of goods of the same kind, or goods that are not of the same kind, or services, under certain conditions. They must also provide legal means to prevent any use amounting to the imitation of an appellation of origin or geographical indication.

Countries and regional groups of countries protect appellations of origin and geographical indications in different ways – through sui generis laws (special laws that apply specifically or exclusively to geographical indications and/or appellations of origin), trademark laws, administrative provisions, or other legal means. The Geneva Act takes this diversity into account. Contracting Parties can use any type of legislation to protect products registered under the Lisbon System, provided that the legislation in question meets the requirements of the Act.

**Answer 2(b)**

Under the Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001 registrable plant varieties are broadly classified into three categories. (i) New varieties (ii) Extant varieties and (iii) Farmer's varieties. All varieties seeking registration must meet the Distinctiveness, Uniformity and Stability criteria and belong to a crop species officially notified by the Government.

Section 15 of the Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001 states that, a new variety shall be registered under this Act if it conforms to the criteria of novelty, distinctiveness, uniformity and stability. Novelty means that the propagating or harvested material of the variety must not have been sold or commercially exploited in India earlier than one year or outside India, earlier than four years (six years for trees and vines) before the date of filing of the application. Distinctiveness signifies that it must be clearly distinguishable by at least one essential characteristic from any other variety of common knowledge. Uniformity signifies that subject to the variation that may be expected from the particular features of its propagation it is sufficiently uniform in its essential characteristics. A variety is stable, if its essential characteristics remain unchanged after repeated propagation or, in the case a particular cycle of propagation, at the end of each such cycle.

Extant varieties are those which are already available and in common use. An extant variety shall be registered under this Act within a specified period if it conforms to such criteria of distinctiveness, uniformity and stability as shall be specified under the regulations.

Farmer's varieties are those that have been traditionally cultivated and evolved by farmers in their fields. It may also be a wild relative of a variety about which farmers possess common knowledge. The Act uniquely protects traditional knowledge and rights of Indian farmers.

A variety developed or bred as a new variety by following breeding procedures by creating variability using other varieties or genetic stocks to be disclosed as being utilized as parents of the breeding material or for variability through other means for selection, shall be categorised as any other new variety bred by a breeder, under this Act. That means for all purposes and processes, such a variety will be treated in the same manner as any other breeder's variety and will also be registered eventually as a Farmer's variety as the case may be following DUS testing procedures and formalities as required. Here, the farmer will be considered as a breeder without separating him from other breeders.

**Answer 2(c)**

People's Biodiversity Registers (PBR) document folk knowledge of status, uses, history, ongoing changes and forces driving changes in biodiversity resources, gainers and losers in these processes and people's perceptions of how these resources should be managed. The documents bring together important locality specific information on biodiversity resources and ecological processes affecting them. The People's Biodiversity Register serves as a comprehensive record of various aspects of biodiversity, including the conservation of habitats, preservation of land races, folk varieties and cultivars, domesticated stocks and breeds of animals, micro-organisms, and the accumulation of knowledge related to the area's biological diversity.

Rule 22(7) of Biological Diversity Rules states that other functions of the BMC are to advise on any matter referred to it by the State Biodiversity Board or Authority for granting approval, to maintain data about the local vaids and practitioners using the biological resources. The Register shall contain comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use or any other traditional knowledge associated with them.

Biodiversity Management Committees (BMC) have been constituted by local bodies in States and UTs to prepare, maintain and validate the Biodiversity Register. The Committee shall also maintain a Register giving information about the details of the access to biological resources and traditional knowledge granted, details of the collection fee imposed and details of the benefits derived and the mode of their sharing. All this information is critical for conservation, sustainably monitoring of biological resources at local level. A PBR also helps in identification of a beneficiary with whom benefits can be shared when an ABS agreement becomes operational. It contains comprehensive information on locally available Bio-resources including landscape and demography of a particular area or village.

**Answer 2(d)**

Traditional knowledge encompasses the wisdom, customs, and beliefs transmitted orally from one generation to another within specific communities. Typically associated with indigenous groups, it holds intrinsic value as a cornerstone of cultural identity. Several key facets underline its importance:

(a) *Cultural Heritage Preservation* : Traditional knowledge forms an integral part of a community's cultural legacy, fostering a sense of identity and continuity. Its preservation ensures the safeguarding of cultural traditions for future generations.

(b) *Sustainable Resource Management* : Embedded within traditional knowledge are practices and beliefs promoting the sustainable utilization of natural resources. Integrating such wisdom into contemporary resource management strategies can help ensure responsible resource use.

(c) *Scientific Contributions* : Traditional knowledge has significantly enriched various scientific disciplines, including medicine, agriculture, and ecology. Many modern advancements in these fields draw upon traditional practices and insights.

(d) *Diversity and Inclusivity Promotion* : Acknowledging the diverse contributions of different communities and cultures, traditional knowledge advocates for inclusivity. By honouring and embracing traditional wisdom, greater mutual understanding and respect among cultures can be fostered. By recognizing the multifaceted significance of traditional knowledge and integrating it into contemporary practices, societies can cultivate a more sustainable, inclusive, and culturally enriched future. Traditional knowledge plays an important role in the conservation of biodiversity and its traditional uses:

Section 3 of the Biological Diversity Act states that no person referred to in sub-section (2) shall, without previous approval of the National Biodiversity Authority, obtain any biological resource occurring in India or knowledge associated thereto for research or for commercial utilisation or for bio-survey and bio-utilisation.

The persons who shall be required to take the approval of the National Biodiversity Authority under sub-section (1) are the following, namely: --

a. a person who is not a citizen of India;

b. a citizen of India, who is a non-resident as defined in clause (30) of section 2 of the Income-tax Act, 1961;

c. a body corporate, association or organisation-- i. not incorporated or registered in India; or ii. incorporated or registered in India under any law for the time being in force, which is controlled by a foreigner within the meaning of clause (27) of section 2 of the Companies Act, 2013.

It may be noted that- "commercial utilisation" means end uses of biological resources for commercial utilisation such as drugs, industrial enzymes, food flavours, fragrance, cosmetics, emulsifiers, oleoresins, colours, extracts and genes used for improving crops and livestock through genetic intervention, but does not include conventional breeding or traditional practices in use in any agriculture, horticulture, poultry, dairy farming, animal husbandry or bee keeping.

**Answer 2(e)**

One of the most crucial and distinguishing features of the legal protection granted by the Intellectual Property law is that it turns intangible assets into exclusive property rights, albeit for a limited period of time. In other words, IP protection makes intangible assets "a bit more tangible" by turning them into valuable exclusive assets which are taken into account in all negotiations that happen around any merger or acquisition transactions that take place between the businesses. If the innovative ideas, creative designs and powerful brands are not legally protected through conferment of IP rights, then the same can be freely and legally put to use by any other enterprise (including the competitor) without any limitation.

However, being protected by IP rights, they acquire a substantial concrete value for the enterprise as they entail property rights which cannot be commercialized or otherwise put

to use without the owner's authorization. The investors, stock market brokers and the financial advisors are now becoming cognizant of this reality and have begun to value IP assets as well. Enterprises worldwide are also increasingly acknowledging value of their IP assets, and, on occasions, have included them in their balance sheet as well. The enterprises (including some SMEs) have started undertaking regular technology and IP audits as well. Intellectual property audit and valuation helps one to analyse and determine the true value of one's business and capitalize on assets that one may not be cognizant of being possessed with.

It can however be very challenging for any organisation to arrive at a precise valuation of its intellectual property. The precise monetary worth of intellectual property can be very challenging to determine, as there are a number of factors that determine the value of the intangible assets under consideration. At times, the process of valuation of an enterprise's Intellectual Property itself requires registration of such property as a precondition which enables the process of monetizing one's intangible assets.

An intellectual property can be valued on various parameters, but the overarching principle guiding the valuation process is, how much of a competitive advantage does one's intellectual property provides over others in the industry. While evaluating the worth of intellectual property, the following two methods of valuation have traditionally been used:

**Quantitative Valuation**: This is the process of measuring the potential benefit and risk that can be generated by an IP under assessment. This method relies on measurable data or numerical information to produce an estimate of the value of one's intangible assets. It attempts to answer the question by providing a monetary value on contribution that the intellectual property provides. There are various methodologies associated with it. Prominent amongst them are:

(i) *Cost Method*: This technique values IP based on the financial resources required to recreate or replace the asset with one of equal utility. It may be the cost to create an exact replica of the IP at current prices or the cost to create a functionally equivalent IP asset using current technologies. This method is best suited for early-stage patents or assets where future cash flows cannot be reliably estimated.

(ii) *Market Method*: This method relies on the principle of substitution by looking at the broader market. It analyses prices paid for the transfer, sale or licensing of similar, comparable IP assets in same or similar industries. Given that it is based on market comparision, this strategy is straightforward. It is frequently used to estimate tax and royalty rates.

(iii) *Income Method*: This is the most commonly and widely accepted approach of appraisal. It values IP based on the present value of the future economic income it is expected to generate over its useful life. It uses the technique of Discounted Cash Flows wherein projected future cash flows specifically attributable to the IP are discounted back to their present value using a risk adjusted rate. For assets with a positive cash flow, this approach is thought to be the simplest to use.

**Qualitative Valuation:** It is based on a defined criteria related to technical, IP and market requirements in order to determine if the research result is valuable for further investment and IP commercialisation and is usually done in pre commercialisation phase..

These two kinds of valuation methods should however not be presumed to be contradictory or mutually exclusive; depending on the needs of one's business, one may employ a variation of method that fall into both the categories. It will not be wrong to suggest that the two valuation methods are perhaps the two sides of the same coin. Quantitative and qualitative attempts to tackle the question of firm value from different viewpoints, which may both come in useful depending on the audience in question and the reason for valuation. In conclusion it can be said that determining value of one's Intellectual property can be a very challenging task and an exhausting process. But obtaining a valuation can result in significant benefits to one's business and thus the need for valuation can neither be underestimated nor be undermined. Following the valuation models described above to break down the process into simple steps and establishing a clear purpose and audience for the valuation, can make valuation manageable

**Question 3**

*Beyond Reality Drama Pvt. Ltd., a production company, conceptualised a television show titled "Jadu Ki Nagri" with strong animation content. The foundational idea was formally documented in a concept note and registered with the Film Writers' Association. Over an extended period, the plaintiffs expanded this preliminary idea into a comprehensive blueprint for a television serial, incorporating detailed story, character delineations, familial structures, thematic tracks, set aesthetics, costumes, jewellery designs, VFX animation effects and other production elements. According to them, these iterations constituted original literary creations entitled to copyright protection.*

*The Beyond Reality Drama contended that in anticipation of formal commissioning arrangement, founded upon trust and commercial confidence, they exchanged the concept notes and creative materials to JEEVA Entertainment Pvt. Ltd., a broadcasting company. A Letter of Intent was executed, reinforcing the expectation of collaboration. However, complications arose and Beyond Reality Drama declined this proposal and eventually withdrew their materials from JEEVA Entertainment Pvt. Ltd. Correspondence between the parties revealed a mutual understanding that developed narrative framework, characters and creative architecture would not be utilized by JEEVA Entertainment Pvt. Ltd without authorization. Despite these communications, JEEVA Entertainment Pvt. Ltd. aired a new serial titled "Jaduee Shahar" which, according to Beyond Reality Drama, bore substantial similarity to their developed concept and embodied the core elements previously shared in confidence.*

*Furthermore, a famous Bollywood actor Sumant Shroff who has a three movies exclusive contract with Beyond Reality Drama Pvt. Ltd., found that without his consent, the first episode of the serial "Jaduee Shahar" included his morphed images and voice-cloned audio clips manipulating the viewers into believing that he has in fact played that character and landed his voice to the content, thereby harming his reputation. The serial generated significant*

*viewers engagement, earning approximately ₹ l.5 crore through advertising revenue from over five million views.*

*Based upon the facts of the case, answer the following questions :*

(a) *Explain how Personality Rights are protected through Copyright Act, l957. Support you answer with help of a recent decision by the Delhi High Court.*

*(5 marks)*

(b) *Briefly explain how the First Sale Doctrine limits the distribution rights of copyright holders in India. Support your answer with help of a recent decision by the Delhi High Court.*

*(5 marks)*

(c) *Examine the justification for including computer programmes in "literary work". Also explain the infringements pertaining to copyright vested in software.*

*(5 marks)*

(d) *How do businesses prevent misuse of confidential information under the trade secret ? What essential elements must be established to secure protection for confidential information in contractual negotiations ?*

*(5 marks)*

(e) *Explain any five Intellectual property issues involved in the sale of business.*

*(5 marks)*

**Answer 3(a)**

A recent decision on Protection of personality right under Copyright Act by Delhi High Court is *Aishwarya Rai Bachchan (Plaintiff) Versus Aishwaryaworld.Com & Ors (Defendants) Delhi High Court CS(COMM) 956/2025 judgement dated September 09, 2025* on Unauthorized Exploitation of the Attributes of An Individual's Personality, Which in Turn Leads to Undermining Right to Live with Dignity.

Hon'ble Delhi High Court inter alia referred to the case of *Anil Kapoor* v. *Simply Life India, 2023 SCC OnLine Del 6914*, wherein Delhi High Court observed that a celebrity's right of endorsement acts as a major source of livelihood for the celebrity and any attribution of their persona without their consent is impermissible in law. The Court held as under:

"Fame can come with its own disadvantages. There can be no doubt that free speech in respect of a well-known person is protected in the form of right to information, news, satire, parody that is authentic, and also genuine criticism. However, when the same crosses a line, and results in tarnishment, blackening or jeopardises the individual's personality, or attributes associated with the said individual, it would be illegal.

There can be no justification for any unauthorised website or platform to mislead consumers into believing that they are permitted to collect fee by incorrectly portraying that they can bring the Plaintiff as a motivational speaker. Using a person's name, voice,

dialogues, images in an illegal manner, that too for commercial purposes, cannot be permitted.

The celebrity's right of endorsement would in fact be a major source of livelihood for the celebrity, which cannot be destroyed completely by permitting unlawful dissemination and sale of merchandise such as t-shirts, magnets, key chains, cups, stickers, masks, etc. bearing the face or attributes of their persona on it without their lawful authorisation."

Personality Rights of individuals, simply put, entail the right to control and protect the exploitation of one's image, name, likeness or other attributes of the individuals' personality, in addition to the commercial gains that can be derived from the same. Personality Rights can be located in the individuals' autonomy to permit or deny the exploitation of the likeness of other attributes of their personality.

When the identity of a famous personality is used without their consent or authorization, it may not only lead to commercial detriment to the concerned individual but also impact their right to live with dignity. In other words, the unauthorized exploitation of the attributes of an individual's personality may have two facets – first, violation of their right to protect their personality attributes from being commercially exploited; and second, violation of their right to privacy, which in turn leads to undermining their right to live with dignity. The Courts in such cases of unauthorized exploitation of one's Personality Rights, cannot turn a blind-eye to the same and shall protect the aggrieved parties so as to avert any harm to them resulting from the said unauthorized exploitation.

The relevant provisions of the Copyright Act, 1957 that Courts usually rely on to safeguard Personality Rights of celebrities are Section 38, 38A and 57. Sec 38 establishes that any performer who engages in a performance holds a special legal claim known as the Performer's Right which prevents others from making sound or visual recording of a live performance without his/her explicit consent. Added by the 2012 Copyright Amendment Act, Section 38A itemises specific and exclusive economic rights the performer holds regarding the performances. Performers also have a right to royalties when their performances are exploited for commercial purposes. Section 57 guarantees Moral Rights independent of the author's copyright and it includes Right to Paternity, Right to Integrity of the work and Right to Divulgation.

**Answer 3(b)**

The First Sale Doctrine is recognized as the Doctrine of Exhaustion under the Copyright Act, 1957. It limits the Copyright holder's distribution right to First Sale. Once he legally sells or authorizes the first sale of a specific physical copy of the work his control over the subsequent distribution of that particular copy is exhausted.

The statutory backing for the Doctrine can be traced to Section 14 (a) (ii) which expressly provides that in case of a literary, dramatic or musical work not being a computer programme, Copyright means the exclusive right to issue or authorize issuing of copies of the work to the public not being copies already in circulation. Therefore, though the right to

bring the work to the public for the first-time vests with the author, he has no further rights in connection with the subsequent sale of the copyrighted work.

The case that explains the concept and application of the First Sale Doctrine in India is:

*John Wiley and Sons Inc. and Ors. vs. Prabhat Chander Kumar Jain and Ors. (17.05.2010 - DELHC): (2010) ILR 5 Delhi 510*

*Issue before the Court is Whether the circulation of books in the USA after their first sale in India, without the permission of author, is infringement of copyright?*

Held: The Court noted that the publishers in India were not the Copyright holders but the exclusive licensees to publish and sell the books in India. It gave the legal proposition that the Rights of the Owner is broader than the rights of the exclusive Licensee though the latter has an independent right to sue for infringement. The Court also noted that the Plaintiffs were worldwide owners of the books and their Copyright. Though the acts of the Defendants to legally purchase the books in India are legitimate in nature and do not infringe the Copyright, once he offers or puts them for sale in territories beyond the ones for which permission has been granted by the owners, the acts prima facie tantamount to putting into circulation or issuance of copies not being in circulation in other territories where the right to do so vests with the owner and hence it violates the rights of the owner under section 14 read with section 51 of the Act. Moreover, the licensee who is a permissive rights holder can assign only the right which he possesses and nothing beyond. The only exception would be a bonafide purchaser without having notice of the transaction. Once the Defendants purchase LPE of the books from the exclusive licensee they are conscious of the fact that the said editions are subject to be sold within the territorial restrictions. The notice on the book itself gives knowlegdge to the purchaser of the restrictions. The arguments of the Defendants that the First Sale Doctrine will exhaust the rights of the Plaintiffs internationally is incongruous and will lead to absurd results as the Defendants have purchased the books with notice from the licensees and not from the actual owners of the Copyright. Hence Defendeant cannot claim application of Principle of Exhaustion or extinguishment of rights to defeat the rights of the owner. Thus, the Delhi High Court harmoniously interpreted the Doctrine of First Sale in the instant case.

**Answer 3(c)**

The definition of 'Literary wok' under section 2(o) of the Copyright Act, 1957 includes computer programmes, tables and compilations including computer "literary data bases. Computer programme as stated above was included within the definition of "literary work" in 1994. Computer programmes (also known as "software") originated with the invention of the computer itself. However, it was only with the advent of Personal Computers (PCs) in the 1980s that software became widely available and the need for protecting software under Copyright law became an issue.

At this stage, it is apposite to refer to TRIPS which by virtue of Article 10(1) which states "Computer Programmes, whether in source or object code, shall be protected as literary works under the Berne Convention."

The philosophical justification for including computer programmes within the definition of ''literary work'' has been that computer programmes are also products of intellectual skill like any other literary work. Developing a computer programme is an activity which is comparable to the writing of a novel or other literary work excepting that the "language" used as well as its uses are of a very different kind. Though a software can be written by individual programmer, most of the major softwares are the outcome of group efforts, where medium to large sized teams spend months or even years to write a programme. Like the unauthorised copying of literary works, unauthorised copying of computer programmes also attracts the same legal consequences under the Copyright law.

Another justification for including Computer Programmes in the definition of literary work is also due to the fact that the cost of developing it is far greater than the cost of its duplication. Consequently, the creator can only benefit if the costs can be disseminated by sprading it through multiple copies of the work with some form of protection against unauthorised duplication of the work. Since the facility of copying a computer software and its duplication is within the easy reach of a potential pirate and since copies of software are indistinguishable from the original, publishers/owners of software are also confronted with daunting problems for safeguarding their interests under the Copyright law when large scale software piracy takes place. Software piracy has assumed enormous proportions in certain countries and has become a friction point in international trade negotiations. Within domestic jurisdictions also software piracy has thrown up serious challenges to enforcement authorities. The Copyright (Amendment) Act, 1994 has tried to address these questions and has incorporated internationally recognized standards and procedures for enforcement of copyright in the field of computer programmes.

Infringements relating to Copyright vested in Software

1. *Software Piracy* - Software piracy is the act of using, sharing, or reproducing a software product without the express consent of its creator. Software piracy is theft, the taking of another person's original concept and work.
2. *Software Counterfeiting* - The unlicensed and unauthorized copying and sale of software in a configuration that is almost identical to the original product.
3. *End User Piracy* - End users (including residential and business users) who are running unlicensed software on their computers or who have installed more copies of the programme than what is allowed by their licence agreements, such as a business with one licence who has five PCs running the software. Under-licensing is a type of end user piracy that the Business Software Alliance takes very seriously
4. *Pirated Hard Disk* - Before selling a PC, computer sellers pre-install illicit copies of software. Some vendors install a single lawfully obtained copy on numerous machines. Normally, these computers are offered for sale without any kind of licence information or discs.

5. *Internet Piracy* - Software is made available for download on the Internet by third parties, either for free or at a cost. Pirates frequently utilise the Internet for advertising purposes to entice customers.

**Answer 3(d)**

Trade secrets are intellectual property (IP) rights on confidential information which may be sold or licensed. In general, to qualify as a trade secret, the information must be: commercially valuable, because it is secret, be known only to a limited group of persons, and be subject to reasonable steps taken by the rightful holder of the information to keep it secret, including the use of confidentiality agreements for business partners and employees.

The unauthorized acquisition, use or disclosure of such secret information in a manner contrary to honest commercial practices by others is regarded as an unfair practice and a violation of the trade secret protection. If a trade secret is well protected, there is no term of protection. Trade secret protection can, in principle, extend indefinitely and in this respect offers an advantage over patent protection, which lasts only for a specified period. It is equally possible that a company may decide not to patent as for instance formula for Coca-Cola which is considered to be one of the best well protected trade secrets. Companies often try to discover one another's trade secrets through lawful methods of reverse engineering on one hand and less lawful methods of industrial espionage on the other. Acts of industrial espionage are generally illegal in their own right under the relevant governing laws.

Businesses prevent misuse of confidential information by adopting practical safeguards such as non-disclosure agreements, confidentiality clauses, employee invention-assignment agreements, need-to-know access, password-protected databases, restricted data rooms during negotiations, marking documents as confidential, return/destruction obligations and post-termination confidentiality covenants.

It must be noted that trade secrets are not protected by law in the same manner as trademark or patents. They are not registered like other forms of IP and are not creatures of Statute. Instead the judicial system determines the requirements for obtaining trade secrets protection. The TRIPS Agreement under Article 39 protects Trade Secrets in the form of undisclosed information and provides a uniform mechanism for their international protection. TRIPS requires member countries to provide effective remedies for Trade Secret misappropriation in the form of Injunctive relief, damages and provisional relief to prevent infringement and preserve evidence. If a trade secret is acquired by improper means (a somewhat wider concept than "illegal means" but inclusive of such means), the secret is generally deemed to have been misappropriated. Thus, if a trade secret has been acquired via industrial espionage, its acquirer will probably be subject to legal liability for acquiring it improperly.

The test for a cause of action for breach of confidence in the common law world is set out in the case of *Coco* v. *A.N. Clark (Engineers) Ltd., (1969) R.P.C. 41:* the information itself must have the necessary quality of confidence about it; that information must have been imparted in circumstances imparting an obligation of confidence; there must be an unauthorized use

of that information to the detriment of the party communicating it. The "quality of confidence" highlights the fact that trade secrets are a legal concept. With sufficient effort or through illegal acts (such as break and enter), competitors can usually obtain trade secrets. However, so long as the owner of the trade secret demonstrates that reasonable efforts have been made to keep the information confidential, the information remains a trade secret and is legally protected as such. Conversely, trade secret owners who do not demonstrate reasonable effort at protecting confidential information, risk losing the trade secret even if the information is obtained by competitors illegally.

In order for the information to be protected as a Trade Secret, the Information must be i) Secret ii) have Commercial Value and iii) Subject to Safe keeping. Non-Disclosure Agreements (NDA) and Confidentiality Agreements (CA) are basic agreements for protection of Trade Secrets under the Indian Contract Act, 1872 and the Bharatiya Nyaya Sanhita, 2023. Confidentiality Clauses in agreements between business entities or between the business entity and the stakeholder are also inserted to protect Trade Secrets. Indian Courts have upheld Trade Secret protection under Contract law, Copyright law, principles of equity and common law action of Breach of Confidence.

A pertinent case law wherein the Bombay High Court highlighted the importance for protection of Trade Secrets and Confidential information was the landmark case of *Zee Telefilms Ltd.* v*. Sundial Communications Pvt. Ltd. 2003 (5) BomCR 404*, wherein the Court outlined the contours of what constitutes confidential information and its subsequent breach. It noted: (i) The information must be such that the owner believes that its release would be injurious to him and advantageous to his competitors (ii) Owner must believe that the information is of confidential nature and is not already in public domain (iii) Owner's belief of the two aforesaid heads must be reasonable (iv) Information must be judged in the light of the usages and practices of the trade concerned. Court ruled in favour of the Plaintiff as it was unmistakably a breach of confidence.

**Answer 3(e)**

The seller is frequently required to transfer ownership of any IP that is a component of the firm being sold in a buy/sell transaction. These may contain any trade secrets that are essential to the business's operations as well as any patents, trademarks, and copyrights that are utilised by the enterprise. Both the buyer and the seller run some risks when ownership is transferred. The buyer would often want to confirm that they are purchasing all the intellectual property (IP) related to the business and that there are no open questions or legal challenges over who owns or has the right to use the IP.

Additionally, the buyer may wish to confirm that the IP is legitimately registered, protected, and that no other parties are making claims to the IP. Protection of IP assets builds value for sellers. Before going to market, astute sellers build the quality and level of legal protection of IP assets to at least a minimum or base level of best practice. Ideally this work should be done at least 6 to 12 months before a sale. Best practice includes use of up-to-date IP registrations and documentation. This affects copyright, trade marks, trade secrets, industrial design and patent assets. Lower levels of protection may lead the buyer and its

advisers to discount the price sought by the seller. The effective solution for a seller involves preparation of an intellectual capital register, business documentation and IP registration or codification.

The buy/sell agreement should have clauses that outline the IP being transferred, the conditions of the transfer, and any relevant warranties or indemnities in order to handle these difficulties. Any ongoing commitments or limitations on the use of the IP after the sale should also be covered.

*Key issues are*

1. *Issues regarding documentation of intellectual property* : The seller must have compiled for the acquirer's review a thorough list of all IP (and related documentation) that is crucial to the seller's business, including but not limited to Confidentiality and Invention Assignment Agreements with employees and consultants, Patents and patent applications (including patent numbers, jurisdictions covered, filing, registration, and issue dates), Trademarks and service marks, Key trade secrets, and Proprietary Know-How etc.
2. *Issues regarding Development and IP Acquisition*: An acquirer will want to make sure that the value it places on the selling company is supported by the extent to which the company owns (or has the right to use) all of the IP that is essential to its current and anticipated business. This is especially true if the selling company is a technology company.
3. *Issues regarding open Software*: These agreements may also limit the transfer of the IP, mandate sharing or ownership of the IP with third parties, or demand payment in connection with the acquisition if the seller's IP was created jointly with another party, with the aid of government, academic, or military resources. The buyer will be looking for representations and warranties from the seller that no open source or comparable software has been incorporated into any of its software or products in a way that would require the seller to reveal to anyone the source code of proprietary software or intellectual property in its products, and that no open-source licencing agreements have been violated or infringed.
4. *Issues regarding Declarations and Warranties relating to Intellectual Property Ownership*: Among the most important IP representations and warranties are those made by the seller regarding its ownership of IP. The acquirer wants assurance that the seller is the sole and exclusive owner of each piece of intellectual property that the seller claims to be in possession of and that such property is free from any encumbrances or restrictions that would unreasonably limit the seller's ability to exploit the property or grant third parties rights to the property that are inappropriate or would materially reduce its value.
5. *Issues regarding disclosure of IP Infringement Representations and Warranties*: Often, the buyer wants the selling business to guarantee the following: No other parties' intellectual property rights are violated, infringed upon, or violated in any way by

the selling company's conduct of its business. No other party is misusing, stealing, or abusing the selling company's intellectual property rights. None of the aforementioned are the subject of any pending litigation or threatened claims. The extent and exclusions of these representations and warranties are frequently subject to extensive negotiation.

6. *Issues regarding Concerns in IP-Related Agreements*: The significant difficulties relating to the IP-related agreements of the selling company may come up in the context of an acquisition of a privately owned company. The provisions in the IP-related agreements needing approval for an "assignment" should be carefully examined by the acquirer.

7. *Issues regarding IP-Related Conflicts*: An acquirer will thoroughly investigate the seller's participation in any ongoing or previous IP lawsuits or other problems. Discovering the seller's vulnerability to IP claims and the rigour with which it has attempted to protect its rights can be part of this evaluation. The buying corporation and its advisors should demand a particular indemnification clause in the acquisition agreement as compensation for purchasing a business where there is either active litigation or a potential for future IP-related disputes.

8. *Issues regarding Websites and social media*: A business websites and social media presence is of utmost importance in this digital reliant world. Main concerns regarding social media that a business should be concerned about are: Are all the important merchant domain names showing the merchant as the registered owner of a legitimate domain name registration? Do the terms of service and privacy statement effectively safeguard the business? Does the seller abide by the privacy statement?

9. *Issues regarding Data Protection and Privacy*: The buyer will want to make that the seller has put in place and is continuing to maintain the necessary procedures, security, and privacy policies. One should be diligent with respect to the following points while engaging in such business. They are: Review of any computer intrusions or attacks on the seller's systems. Users' personal information is collected by the seller in accordance with its privacy policy. Review of third-party agreements to confirm that they are properly subject to confidentiality obligations. Review of any allegations or grievances involving data or privacy violations.

10. *Issues regarding the Scope, exposure, limit of Seller's Indemnity for IP Problems*: An acquirer will request that the seller and/or its stockholders indemnify him from any and all known claims (including those that are the subject of litigation) and, frequently, future claims relating to the seller's intellectual property (IP).

11. *Issues regarding Disclaimers made by the Seller*: The accusation that a seller has committed fraud is among the most significant ones that a dissatisfied receiver might make to a seller. The buyer may claim that the records in the database are untrue or deceptive, or that the information given to him or her throughout the course of their interactions with management was false or deceptive. A statement indicating the

representations made by the seller and his awareness and knowledge of making such representations and warranties should be included in the acquisition agreement.

12. *Issues regarding the problems with Assignment or Change of Control*: IP licencing and other agreements involving IP frequently have clauses stipulating that the other party must agree before the selling firm can change its control or assign the arrangement. The structure of the acquisition deal typically determines the extent to which such permission is necessary.

13. *Issues regarding the key IP Disclosure Schedule Problems*: A disclosure schedule is a document that goes along with the acquisition agreement and outlines the necessary disclosures from the seller on any open contracts, intellectual property, employee information, on-going legal matters, and much more. Since the disclosure schedule "qualifies" the seller's claims and warranties made in the acquisition agreement, it is essential to ensure that the disclosure schedule is well-written.

**Question 4**

*Riddhi Glass Works Ltd., a company engaged in manufacturing decorative glass sheets applied for registration of a particular ornamental pattern used on its glass products under the Designs Act, 2000. The company claimed that the pattern applied to the glass sheets was prepared using a special digital device with semiconductor integrated circuit. The distinctive visual feature on the glass sheet qualified for protection as a registered design and after obtaining registration, the company began manufacturing and selling the glass sheets with this design and marketed it under the name "Falcitab". Sometime later, Siddhi Glass Works Ltd., a company also engaged in manufacturing decorative glass sheets started manufacturing glass sheets with a similar appearance under the Trademark "Falcigo".*

*Riddhi Glass Works alleged that its registered design had been copied and demanded that Siddhi Glass Works must stop manufacturing and selling the alleged infringing products. It also instituted a suit seeking a permanent injunction, contending that Siddhi Glass Works marketing their glass sheet under the name "Falcitab" bore a deceptively similar resemblance to its glass sheet under the trademark "Falcigo". It was asserted that the phonetic and structural similarity between the two marks created a substantial likelihood of confusion, thereby facilitating the possibility of passing off its product.*

*Siddhi Glass Works Ltd., however, disputed the claim and filed a petition before the appropriate authority seeking cancellation of the design registration. It contended that the design in question was not new or original at the time it was registered because similar designs had already been published in a foreign catalogues and documents before the date of registration in India. They argued that these publications were accessible to the public and therefore amounted to prior disclosure of the design.*

*Based upon the facts of the case, answer the following questions :*

*(a) Examine the legal principles governing deceptive similarity. Support your answer with case law.*

*(b) "Initial interest confusion test proceeds on the principle that confusion in the minds of consumers may arise at the preliminary stage, prior to the actual purchase being completed." Explain this statement with support of a recent decided case.*

*(c) State the grounds and procedure for cancellation of design under the Designs Act, 2000.*

*(d) Examine the legal distinction between functionality and aesthetic originality in design infringement. Support your answer with case law.*

*(e) Explain the infringement of layout-design and its exceptions under the Semiconductor Integrated Circuits Layout-Design Act, 2000.*

*(5 marks each)*

**Answer 4(a)**

The Trademarks Act, 1999 lays down absolute and relative grounds for refusal of registration of Trade Marks under the Act. Barring a few exceptions, absolute grounds refuse the registration absolutely whereas relative grounds are applicable only when there already exists a trademark in comparison to which a new Trademark is not registerable. Hence when dealing with the question of deceptive similarity, we need to review the relative grounds of refusal as has been enunciated in Section 11 of the Act.

Section 11 states that a mark is not registered if because of (i) its identity with an earlier trademark and similarity of goods and services covered by that trademark or (ii) its similarity to an earlier trademark and its identity or similarity of goods and services covered by the trademark, there exists a likelihood of confusion on the part of the public which includes the likelihood of association with the earlier trademark.

Deceptive similarity is defined under Section 2(1)(h) of the Trade Marks Act, 1999, as a mark that so nearly resembles another mark that it is likely to deceive or cause confusion.

The core legal principles are:

- *Comparison of Marks as a Whole*: It is incorrect to take a part of one word and compare it with a part of another; the overall structural and phonetic similarity must be evaluated. The marks must be compared as a whole, as the overall impression on an ordinary purchaser is what matters.
- *Standard of Average Consumer*: The similarity must be judged from the perspective of a purchaser of average intelligence and imperfect recollection. The test is what an ordinary person of average intelligence and imperfect recollection would perceive, not what a careful analyst would detect.
- *Ocular Comparison*: The test is often "what appeals to the eye" or the "look and feel" of the marks. In the case of word marks, phonetic similarity is equally important.
- *Nature of Goods*: The degree of care exercised by consumers varies depending on the product. For medicinal products, even a slight similarity can be dangerous as it may lead to life-threatening consequences. A stricter standard is applied in such cases.

In *Amritdhara Pharmacy v, Satya Deo Gupta AIR 1963 SC 449*, the word 'Lakhmandhara' for a medicinal preparation was refused registeration as a trade mark on the ground that it could cause confusion in the minds o f the general public, being deceptively similar to a registered Trademark ' Amritdhara'. The Court noted that a critical comparison of the two names might disclose some points of difference but an 'unwary purchaser of average intelligence and imperfect recollection' would be deceived by the overall similarity of the two names having regard to the nature of the medicine he was looking for with a somewhat vague recollection that he had purchased a similar medicine on a previous occasion with a similar name. The Court noted that ot was not right to compare one part of the word with a part of another word. Indeed, the two words should be compared as a whole.

In *National Sewing Thread Co Ltd. v.James Chadwick and Bros. Ltd, AIR 1953 SC 357*, the Supreme Court held that the real question was to see how a purchaser who must be an average man of ordinary intelligence would react to a particular Trademark, what association he would form and in what respect he would connect it with the goods he was purchasing.

In *Parle Products v. J.P. 7 Co. AIR 1972 SC 1359*, the Apex Court observed that the Packets of the two products were practically of the same size, the colour scheme of the wrappers was almost the same, the design on both though not identical, bore a striking resemblance so much so that one could be easily mistaken for the other. The brand names were similar and there was a good deal of similarity between the two writings.The Defendants wrapper was held to be deceptively similar to the registered Trademark.

In *Cadila Healthcare Ltd. v. Cadila Pharmaceuticals Ltd. (2001) 5 SCC 73* was a landmark case wherein the Apex Court set out tests for deciding the question of deceptive similarity between the drug named Falcitab and Falcigo. The following factors were to be considered:

(i) The nature of the marks; whether they were word marks or label marks or composite marks

(ii) The degree of resemblance between the marks; phonetic similarity

(iii) The nature of the goods in respect of which they were used

(iv) The similarity, nature and the performance of the goods of rival traders

(v) The class of purchasers who were likely to buy the good, their education, intelligence and the degree of care they were likely to exercise in buying the goods

(vi) The mode of purchasing the goods

(vii) Any other surrounding circumstances

The aforesaid case laws have thus laid down comprehensive legal principles governing deceptive similarity.

**Answer 4(b)**

The Initial Interest Confusion Test is Trademark doctrine used to prevent infringement when a consumer is momentarily misled by a similar mark even though the confusion is

cleared up before the actual purchase is made. It seeks to protect a brand's goodwill and online visibility. The test owes its genesis to the landmark US case Brookfield Communications v. West Coast Entertainment where the Defendant had put up a deceptive billboard of the Plaintiff's brand at a highway exit. The customer having been lured by the brand exit the highway. Though he realised his mistake, he still bought from the competitor. The Court held that even though there was no confusion at the cash register, the Defendant had unfairly captured the consumer's initial attention. To establish the Initial Interest test, Courts typically look at the following factors: (i) Strength of the Plaintiff's original trademark (ii) Similarity of the two marks (iii) Proximity of the goods and services (iv) Intent of the Defendant

Initial Interest has become a cornerstone doctrine in internet related Trademark disputes. Courts frequently utilize it to cases involving (i) Search engine Optimization (Using a rival trademark in one's website code to attract searchers to one's own site) (ii) Keyword Bidding (Bidding on a competitor's brand as a search keyword so that the rival's ad appears first when the user searches for the competitor's brand) (iii) Misleading Domain names and URLs (Creating websites with similar names and lookalike sites to mislead consumers). The reasoning is that wrongful attention unfairly competes with attention from consumers, something in ecommerce spaces is a scarce asset.

The most notable case is *HOTELS.COM, LP(Plaintiff) Versus BARATH M L and Anr (Defendants) Delhi High Court CS(COMM) 1133/2024* wherein the Delhi High Court judgement dated September 26, 2025 had the occasion to consider and adopt this doctrine.

*Judgement*

In view of the overall similarity between the Plaintiff's Mark and the Impugned Marks, the Defendants' infringing activities are bound to cause confusion in the minds of the consumers, who will assume the Defendants' products and services to have originated from the business or house of the Plaintiff. High Court referred to the case of *Armour Inc v. Anish Agarwal 2025 SCC OnLine Del 3784*, wherein it was held that the initial interest confusion Test proceeds on the principle that confusion in the minds of consumers may arise at the preliminary stage, prior to the actual purchase being completed. At the point of finalising the transaction, the consumer may no longer be in doubt as to the true origin of the goods or services. Nonetheless, even such transient confusion at the initial stage is sufficient to meet the requirement of deceptive similarity under Section 29 of the Trade Marks Act, 1999. The infringer's objective may be served merely by diverting the consumer's initial attention. The consumer may, thereafter, consciously opt for the infringer's product on account of its own characteristics, with complete knowledge that it is unconnected with the registered Trade Mark. The Defendants' use of the Impugned Marks is with the purpose of causing confusion in the mind of the customers to generate traffic to the Impugned Marks riding upon the goodwill of the Plaintiff's Mark. The Defendant cannot be allowed to take advantage of the Plaintiff's goodwill and use a Mark that is deceptively similar to the Plaintiff's Mark in order to generate traffic to the Impugned Website.

**Answer 4(c)**

**Cancellation of Registration of a Design**

Under Section 19 of the Designs Act, 2000, any person interested or the registered proprietor can file a petition to cancel a registered design. The procedure involves submitting a formal petition, leading evidence and attending the hearing before the Controller of Designs. The registration of a design may be cancelled at any time after the registration of the design on a petition for cancellation in Form 8, under Rule 9 along with the prescribed fee.

(c) The petition for cancellation of registration of a design may be filed on any of the following grounds: (i) Prior registration the design has been previously registered in India, international registration is not a ground for cancellation;(ii) Prior Publication it has been published in India or in any other country prior to the date of registration;(iii) Lack of novelty or originality the design is not a new or original;(iv) Statutory violation the design is not registrable under this Designs Act;(v) Non Registrable it is not a design as defined under Section2(d).

*Procedure for Cancellation of Design*

(a) The petition for cancellation shall be accompanied by a statement and evidence setting out the facts based upon which the petition is filed. The statement shall also state the nature of applicant 's interest so as to determine, whether the petitioner is a person interested.

(b) The fact of filing of a petition for cancellation of registration of a design is published in the Official Journal.

(c) On receipt of a petition for cancellation, the Controller shall send a copy of the petition along with statement and evidence to the registered proprietor at the earliest.

(d) If the registered proprietor desires to oppose the petition, he shall file at Patent Office, Kolkata, a counter statement and evidence, if any, setting out fully the grounds upon which he intends to oppose the petition, within one month from the date of intimation by the Controller, and deliver a copy to the Petitioner, simultaneously. This period of one month is extendable by a maximum of three months, by filing a petition for extension with the required fee.

(e) After receipt of counter statement and evidence, if any, from the registered proprietor, the Petitioner may file his reply statement and evidence, by way of affidavits, within one month from the date of delivery of the registered proprietor 's counter statement and evidence. Reply evidence of the petitioner shall be strictly confined to matters in the evidence of the registered proprietor. This period of one month is extendable by a maximum of three months, by filing a petition for extension with the required fee. The petitioner shall deliver a copy of his reply statement and evidence to the registered proprietor, simultaneously.

(f) No further evidence shall be delivered by either party, except with the leave or direction of Controller.

(g) Where a document is in a language other than English and is referred to in any statement or evidence, an attested translation thereof in duplicate in English should be furnished.

(h) After completion of the filing of statement and evidence by the Petitioner and Registered Proprietor, the Controller shall give at least ten days' notice for hearing.

(i) On receipt of the notice of hearing, if either party desires to be heard, a notice of intention to attend the hearing shall be filed in Form 20.

(j) The Controller may refuse to hear any party which has not given such notice and fee.

(k) If either party intends to rely on any publication at the hearing, not already mentioned in the petition for cancellation, statement or evidence, he shall give to the other party and to the Controller a notice of his intention to do so, together with details of such publication. Such notice shall be given at least five days in advance.

(l) After hearing the parties, or if neither party desires to be heard, then without a hearing, the Controller shall decide the petition and issue a speaking order. The decision of Controller shall be notified to the parties and shall be published in the Official Journal.

(m) Subsequent entries, if necessary, shall be made in the Register of Designs. [Section 19, Rule 29].

**Answer 4(d)**

In the Design Act, 2000, the core distinction lies in how the law treats a products utility vis a vis its visual appearance.

Functionality refers as to how a product works and solves technical problems. It is covered by Patent law which novel inventions, mechanical devices or new solutions to problems. Functionality ensures that the product does what it is supposed to do effectively, reliably and intuitively. It impacts user satisfaction with performance. Functional features cannot be generally protected by registered designs.

Aesthetic originality refers solely to the visual and ornamental appeal of the product. Designs Act protects features of shape, configuration, pattern or ornamentation applied to an article that appeal to and are judged solely by the eye. It shapes how the user feels when interacting with the object. It creates distinct brand recognition and influences consumer choice by adding artistic or decorative value. The protection is typically granted only if these visual choices are not strictly necessary to achieve the product's function.

In practice, designs often overlap function and aesthetics. A design that appeals to the eye will be excluded from registration only if its every feature is dictated solely by function. This is the case where there are limited ways to achieve a function. Consider a textured knife handle that improves grip. This may still qualify for protection if other visualy distinct patterns could serve the dame purpose. The law thus envisages a middle path to navigated

on the basis of the facts. Where the functional features create different visual effect, such a design is eligible for protection.

Let us look at the following case law.

In the case of *Relaxo Footwears Limited vs. Aqualite Industries Pvt. Limited (08.10.2021 - DELHC): CS (COMM) 190/2021* wherein Court stated that it is true that in case of footwear for novelty, footwear manufacturers have very little flexibility in creating new designs. But, it cannot be said that the Designs Act, 2000 does not apply to footwear. The defendant has relied upon the design to claim prior user of the plaintiff's design. A closer visual look shows that prima facie the nature of the design is not quite different when compared to that of the plaintiff. The claims of the defendant that the designs of the plaintiff lack originality or there being existence of prior art are issues which would require better examination and would be considered after evidence has been led. At this stage, the said pleas of the defendant prima facie cannot be accepted. The plaintiff has made out a prima facie case. Balance of convenience is in favour of the plaintiff and against the defendant. The defendant, its directors, etc. are restrained from using the said registered designs of the plaintiff or any other design that is deceptively similar to the designs of the plaintiff.

**Answer 4(e)**

The Semiconductor Integrated Circuits Layout Designs Act, 2000 confers certain statutory rights on registration. It states that subject to the other provisions of this Act, the registration of a layout-design shall, if valid, give to the registered proprietor of layout-design the exclusive right to the use of the layout-design and to obtain relief in respect of infringement in the manner provided by this Act.

Section 18 Semiconductor Integrated Circuits Layout Designs Act, 2000 provides for infringement. Infringement of a layout design occurs when someone unlawfully reproduces, imports, sells or commercially distributes a semiconductor layout (or an integrated circuit incorporating it) without the owner's authorisation.

A registered layout design is infringed when a person who is not the registered owner (Proprietor) or an authorised registered user does the following acts:

(i) Unauthorised reproduction [ Section 18(1)(a)]

Reproduces the registered layout design either by incorporating it into a semiconductor integrated circuit or by other means whether the whole design or a substantial part of it is copied.

*Exception:*

There is no infringement if the copied part is not original as described in Section 7(2) of the Semiconductor Integrated Circuits Layout Designs Act, 2000

(ii) Unauthorised Commercial Dealings [Section 18(1)(b)

Imports, sells or commercially distributes:

(a) the registered layout design itself

(b) a semiconductor integrated circuit containing that layout design

(c) an article containing such an integrated circuit

Without having the right to do so under the Act

However, the statute carves out certain exceptions that shall not constitute infringement of layout- design. The legally exempt actions include:

(i) Reverse Engineering for evaluation, analysis, research and teaching.

(ii) Independent Creation: When a person using his independent intellect has created an identical layout design through his own creative effort, there is no infringement.

(iii) Innocent Purchaser: Individuals who acquire an infringing semiconductor chip without actual or constructive knowledge and has no reasonable grounds to know that it contained an infringing layout design are exempt from liability for importing it before receiving notice the layout design is registered.

(iv) Private / Non-commercial use: Reproducing the design strictly for private and non-commercial use is exempt.

(v) Consent of Owner: When any person performs any reproduction or commercial exploitation with the written consent of the registered proprietor of the registered layout design, there is no infringement.

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# ARTIFICIAL INTELLIGENCE, DATA ANALYTICS AND CYBER SECURITY - LAWS & PRACTICE

## GROUP 1 ELECTIVE PAPER 4.4

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 4**

**NOTE :** *Answer ALL Questions.*

### Question 1

*In recent years, India has witnessed an unprecedented transformation in its financial services sector. The widespread adoption of smartphones and various government initiatives such as Digital India have accelerated the shift toward digital payments and online financial services. One of the key organizations at the center of this transformation in PaySure FinTech Solutions Pvt. Ltd., a rapidly growing financial technology company headquartered in Bengaluru.*

*PaySure specializes in providing digital payment infrastructure for banks, e-commerce platforms and small businesses across India. Its services include real-time payment processing, fraud detection analytics, cross-border remittance platforms and blockchain-based smart contract systems for automated financial settlements.*

*The company processes millions of financial transactions every day through mobile wallets, digital banking APIs and merchant payment gateways. Because it handles large volumes of sensitive financial data—including customer identities, transaction histories, biometric authentication records and merchant settlement information—PaySure plays a critical role in India's digital financial ecosystem.*

*However, as digital transactions increased dramatically, so did the complexity of cybersecurity threats facing the organization. Cybercriminal networks began targeting payment systems with increasingly sophisticated attacks, including phishing campaigns, malware-based account takeovers, distributed denial-of-service attacks and automated fraud schemes.*

*To address these threats, PaySure's Chief Technology Officer proposed the integration of Artificial Intelligence (AI) based fraud detection systems combined with blockchain technology to create a more transparent and secure payment infrastructure. The idea was to use AI algorithms to detect suspicious transaction patterns while using blockchain's distributed ledger to ensure tamper-resistant transaction records.*

*At the same time, the company deployed a machine learning fraud detection system designed to analyze massive datasets of financial transactions. The system monitored behavioural patterns such as transaction timing, device usage, geographic locations and spending patterns to identify potential fraud attempts.*

*The company's legal advisors reminded management that although blockchain systems can automate financial processes, organizations must still comply with existing regulatory*

*frameworks such as the Information Technology Act, 2000 and financial guidelines issued by the Reserve Bank of India.*

*Under the IT Act, unauthorized access to computer systems and data manipulation are criminal offenses. In addition, organizations handling digital financial information must implement reasonable security practices to protect customer data. The company also needed to comply with provisions of the Digital Personal Data Protection Act, 2023, which imposes strict requirements regarding the collection, processing and storage of personal data.*

*While the legal and compliance teams were still analyzing the implications of blockchain technology, PaySure faced another major security incident.*

*The company's cybersecurity monitoring system detected unusual traffic patterns originating from one of its internal analytics servers. Investigators discovered that an employee from the data science team had accessed confidential datasets containing millions of anonymized transaction records used to train the AI fraud detection system.*

*During the investigation, analysts discovered that the suspect had attempted to delete several log files and temporary records to conceal the unauthorized data transfer. However, forensic experts were able to recover fragments of the deleted files using specialized digital forensic software tools.*

*Despite recovering the data, investigators encountered serious procedural challenges. Some of the evidence had been collected after the suspect's computer had already been shut down, which resulted in the loss of volatile memory data such as encryption keys and active process information.*

*Furthermore, the company's legal department raised concerns regarding the chain of custody documentation associated with the digital evidence. In Indian courts, electronic evidence must comply with strict legal standards under Section 65B of the Indian Evidence Act, which requires proper certification regarding how electronic records were collected and preserved.*

*Some customers also expressed concerns about how their financial data was being used to train AI models. Even though the data used by PaySure had been anonymized, critics argued that large-scale data analytics could still pose risks to individual privacy.*

*The company's Board of Directors realized that adopting emerging technologies like AI and blockchain required not only technical expertise but also a robust governance framework capable of addressing legal, ethical and cybersecurity challenges.*

*To address these concerns, PaySure established a Technology Governance and Ethics Committee responsible for overseeing AI development, data protection policies, vendor contracts and cybersecurity risk management.*

*The PaySure case illustrates the complex challenges faced by organizations operating at the intersection of financial technology, artificial intelligence, blockchain innovation and cybersecurity governance.*

*While advanced technologies can significantly improve operational efficiency and fraud detection capabilities, they also introduce new risks involving data privacy, legal compliance, cybercrime investigations and public trust.*

*In view of the above, answer the following :*

*(a) AI's advent has had a big effect on modern society. Like PaySure FinTech Solutions Pvt. Ltd., the usage of AI in various sectors is increasing rapidly. Explain the Future of AI in India.*

*(b) The Ministry of Electronics and Information Technology (MeitY), Government of India launched the 'Digital India' programme with the vision to transform India into a digitally empowered society and knowledge-based economy be ensuring digital access, digital inclusion, digital empowerment and bridging the digital divide. Discuss the major initiatives taken by the Government related to public service delivery for the companies.*

*(c) As the analysts of PaySure FinTech Solutions Pvt. Ltd. discovered that anyone attempted to delete several log files and temporary records to conceal the unauthorized data transfer. What are the various ways to recover deleted temp files ?*

*(d) The PaySure FinTech Solutions Pvt. Ltd. needed to comply with provisions of the Digital Personal Data Protection Act, 2023. How the company can establish Data Protection Board and how it may work as per the key provisions of the DPDP Act, 2023 ?*

*(e) Preservation of the digital and physical evidence should be done by trained and skilled staff members that possess the required techniques and the knowledge of using appropriate tools. Explain various methods for preserving the digital evidence by forensic investigator for PaySure FinTech Solutions Pvt. Ltd.*

*(5 marks each)*

**Answer 1(a)**

An International Data Corporation (IDC) report projected India's AI market to reach $7.8 billion by 2025, growing at a Compound Annual Growth Rate (CAGR) of 20.2 percent. Organizations will invest in Artificial Intelligence (AI) solutions across functions like customer service, Human Resources (HR), Information Technology (IT) automation, security, etc. As the companies are leveraging machine learning algorithms to process millions of financial transactions daily and monitor real-time behavioral patterns for fraud detection.

India has already built an edge in AI talent. The latest National Association of Software and Service Companies (NASSCOM) report ranks India first in terms of AI skill penetration and also in AI talent concentration globally. The rich and massive digital talent pool is rapidly upskilling for AI and catering to the talent demand in India and overseas. Despite the government's ongoing skilling initiatives and development of the infrastructural framework, the NASSCOM AI Adoption Index 2022 positions India in the middle of the maturity scale, revealing the need for enterprises to scale up their AI initiatives significantly.

Organizations should embed their AI strategy with the broader corporate strategy and invest more in developing data standards and building dedicated AI teams. The emergence of platform-agnostic AI solutions delivered on-demand over the cloud is helping organizations reduce deployment and maintenance costs, scale AI projects, and witness sustaining business outcomes. Implementing regulatory policies that ensure data protection, continuous government support, and a high concentration of qualified talent puts India in a unique position to expand its AI ecosystem and become the global leader.

In future, Artificial Intelligence is expected to transform key sectors such as healthcare, agriculture, education, banking, governance, manufacturing and transportation. Government initiatives like IndiaAI Mission, Digital India, Smart Cities Mission and National Strategy for Artificial Intelligence are expected to accelerate AI adoption. India's strong digital infrastructure, availability of skilled manpower and rapidly growing startup ecosystem provide a favourable environment for AI innovation. However, issues relating to data privacy, algorithmic bias, ethical governance and regulatory compliance must be addressed to ensure responsible and sustainable AI growth.

**Answer 1(b)**

The Digital India Programme was launched on 1 July 2015 with the vision of transforming India into a digitally empowered society and knowledge economy. The programme rests upon three core vision areas namely: (i) Digital Infrastructure as a Utility to Every Citizen; (ii) Governance and Services on Demand; and (iii) Digital Empowerment of Citizens.

Some of the major initiatives related to public service delivery are as follows:

i. *Common Services Centres* : CSCs are offering government and business services in digital mode in rural areas through Village Level Entrepreneurs (VLEs).

ii. *Unified Mobile Application for New-age Governance (UMANG)* : Providing government services to citizen through mobile. It provides a single platform for citizens to access thousands of central, state, and local e-government services, including bill payments, Aadhaar, pension, and passport services.

iii. *e-District Mission Mode Project (MMP)* : e-District project has been implemented at district and sub-district levels of all States/UTs, benefitting all citizens by delivering various e-Services such as Certificates (Birth, Caste, Death, Income and Local Resident), Pension (Old Age, Disability and Widow), Electoral, Consumer Court, Revenue Court, Land Record and services of various departments such as Commercial Tax, Agriculture, Labour, Employment Training & Skill Development etc.

iv. *DigiLocker* : It is facilitating paperless availability of public documents. Further, the government's flagship EntityLocker platform serves as a dedicated digital wallet for organizations. Through API integration via API Setu, tech companies can instantly access and verify corporate identities, merchant GSTIN records, and enterprise certifications, streamlining fully digital Know Your Business (KYB) checks.

v. Unified Payment Interface (UPI) is the leading digital payment platform. It serves as a core open-banking API network that fintech companies integrate to build real-time payment processing architectures, mobile wallets, and merchant payment gateways.

vi. *CO-WIN* : It is an open platform for management of registration, appointment scheduling & managing vaccination certificates for Covid-19.

vii. *MyGov* : It is a citizen engagement platform that is developed to facilitate participatory governance. For companies and fintech startups, MyGov serves as a critical public delivery channel for government-backed tech challenges, sandbox testing, and collaborative policy drafting, allowing private innovators to align their products directly with national digital initiatives.

viii. *MeriPehchaan* : National Single Sign-on platform called MeriPehchaan has been launched in July 2022 to facilitate / provide citizens ease of access to government portals. For companies, it reduces corporate friction by allowing compliance teams to securely navigate multiple regulatory and financial filing portals using a singular, unified digital identity.

ix. *MyScheme* : This platform has been launched in July 2022 to facilitate citizens to avail eligibility-based services.

x. *Direct Benefit Transfers* : Scheme across Ministries are offering Aadhaar enabled direct benefit transfer to citizens. Welfare delivery system that transfers government subsidies and financial benefits directly into the intended recipients' bank or postal accounts.

xi. *Diksha* : Diksha is a national level educational platform that helps students and teachers to participate, contribute and leverage a common platform to achieve learning goals at scale for the country.

**Answer 1(c)**

Any manual way to recover deleted Temp files, then if these are deleted using the simple delete process, the recovery is possible by restoring files through the Recycle Bin. But if it is cleared from the Recycle Bin or Shift+Del action is taken to delete the Temp files, the manual recovery of files using native Windows features is not possible. From a digital forensics' perspective, the data content still resides in the drive's unallocated clusters until overwritten.

To mitigate the risk of permanent data loss, it is highly recommended to implement the proactive measures detailed below.

- Create regular backups of Windows drive, creating a fresh restore point on its storage
- Never save the backup of the Temp files on the same drive/folder
- Avoid using a corrupted hard drive on which the files are lost
- Select a reliable, professional Windows Data Recovery tool for Temp file recovery

- Deploy Digital Forensic Experts to inspect the storage sectors of the machine. Forensic experts can bypass the broken operating system paths and use professional data recovery utilities to trace and reconstruct the deleted temporary log fragments.
- Utilize System Restore Points and Shadow Copies or automated volume shadow snapshots.

**Answer 1(d)**

Chapter V of the Digital Personal Data Protection (DPDP) Act empowered the Central Government to establish Data Protection Board. The Data Protection Board will function as an impartial adjudicatory body responsible for resolving privacy-related grievances and disputes between relevant parties. As an independent regulator, it will possess the authority to ascertain instances of non-compliance with the Act's provisions and impose penalties accordingly. The appointment of the chief executive and board members of the Data Protection Board will be carried out by the central government, ensuring a fair and transparent selection process. To provide an avenue for customers to challenge decisions made by the Data Protection Board, the government will establish an appellate body. This appellate body may be assigned to the Telecom Disputes Settlement and Appellate Tribunal (TDSAT), which will be responsible for adjudicating disputes related to data protection and hearing appeals against the decisions made by the Data Protection Board.

Chapter VI of the DPDP Act provides the provision relating to powers, functions and procedure to be followed by Board. Data Protection Board has the authority to accept a voluntary commitment related to compliance with the DPDP Act, 2023 provisions from any data fiduciary at any stage of complaint proceedings. This voluntary undertaking may entail specific actions to be taken or refrained from by the concerned party. Furthermore, the terms of the voluntary undertaking can be modified by the Board if necessary. The voluntary undertaking serves as a legal barrier to proceedings concerning the subject matter of the commitment, unless the data fiduciary fails to adhere to its terms. In the event of non-compliance, such a breach is considered a violation of the DPDP Act, and the Board is authorized to impose penalties for this infringement. Additionally, the Board has the discretion to require the undertaking to be made public.

**Answer 1(e)**

Following methods need to be considered for preserving the digital evidence by forensic investigator:

- *Drive Imaging* : Imaging the drives can help to keep the evidence side and use the images for the analysis. To perform this imagining, professional make a duplicate of the drive with completing the evidence sector by sector.
- *Making copies of the Evidence* : Copies of the evidence could also help to retain the evidence. Copies should be encrypted with hash values in the label of the copies so can distinguish from Original. Along with that, critical information like name of the personnel, the date and time and place would be added with. This helps to verify the

authenticity and helps to protect the integrity. These hash values are mandatorily to be submitted in the Court as per the Section 65(b) of the BSA, 2023.

- *Chain of custody* : When investigator extracts the media from the business and transfer the media if required, then the investigator should document all the transfer on a form called Chain of Custody (CoC).

This stage is crucial because once if the evidence not being preserved properly, this might be invalid in court case. From global perspective, it is to be noted that non-preservation of data and evidences may attract fines under GDPR.

**Question 2**

*Mr. R, a chemical engineer, started a business to manufacture perfumes in the year 2015 on a very small scale. The company was using coventional manual methods of records keeping under which information was stored manually in different files. These files used to be stored in filing cabinets. Retrieving information from these files was a very tedious job. In the year 2020, the company introduced a new perfume for women which met with unexpected success. Mr. R was not able to cope up with the growing volume of business using manual legacy systems. The company employed more employees to ensure that the growing demand of the new perfume is met better and faster. But with the increase in number of monthly transactions to 25000, the manual processes which were being followed by the company, were holding it back. The managers were facing difficulties in decision-making due to non-availability of timely, relevant and reliable information due to the usage of manual and conventional filing system. The difficulties faced by managers in decision-making many-a-times resulted in loss of opportunities to the company. Moreover, the success of the new perfume encouraged Mr. R to enter into B2C e-commerce to enhance the reputation of his company. He feels that with e-commerce, more and more consumers would buy his products online from any corner of the world and his company would touch new heights. Management information systems can also help the decision maker to make valid decisions by providing accurate and up-to-date information and performing analytic functions. Mr. R approached a management consultant to suggest him on these issues urgently because he knew that the competition will emerge in the market sooner or later and his company will loose the competitive edge. After holding several discussions with Mr. R to understand the problems being faced by him, the consultant suggested that database is a crucial tool for successfully and efficiently handling massive amounts of data. The company should install computers to store data as computers can store large volume of data for future reference which can be accessed effectively and even from remote locations, for the following reasons :*

- *To implement different information systems in the company which would assist the managers in their decision-making process.*
- *To develop a website with which customers of the company can directly purchase from the company online instead of buying it from the open market.*
- *To employ Artificial Intelligence (AI) to provide the best possible customer services to its existing as well as potential customers by analyzing customer browsing behavior, purchase history and even the time spent looking at specific items. He also suggested*

*that the AI system can assist in analyzing huge amounts of network data and in understanding the variations in network traffic that is different from normal or usual network traffic.*

*The consultant cautioned Mr. R that the suggestions made by him would involve the following issues :*

- *Installation of computers in the company would definitely lead to fast and accurate processing of data, but computers lack in common sense and IQ.*
- *Computers work on the principle of Garbage-In-Garbage-Out (GIGO). The incorrect data fed into the system and incorrect program would produce incorrect results.*
- *Usage of these technologies will lead to new types of risks in the company's business as data handling through computers is prone to the loss of information and being tampered.*

*For indulging into B2C e-commerce, the company will have to host its website. When people access the web, they often entrust vital personal information such as their name, address, phone number, credit card number, etc. to the website they accessed. This personal information may fall into wrong hands and may be used for illegitimate purposes. In case the company is unable to protect the personal information collected on its website, it would be responsible to pay damages to the person affected.*

*The consultant also cautioned Mr. R that due to the use of Artificial Intelligence (AI) and Machine Learning (ML), the company would be facing an exponential increase in the amount of data produced through these technologies. The conventional database tools would not be having the processing power to analyze this increase in the amount of data produced through AI and ML. They would have to use other advanced techniques such as Data Mining to analyze the data.*

*In view of the above, answer the following questions :*

*(a) As the consultant suggested to implement the new Information system to assist the managers in their decision-making process. Explain the main reasons why the information system may be useful for the company ?*

*(b) After the suggestion of consultant, Mr. R uses common softwares for his company.*

*What types of softwares, he may use in his office for efficient working and operation ?*

*(c) Explain how Management Information System (MIS) can help the Mr. R's company in decision-making ?*

*(d) Explain how the database management system can be structured as per various levels to handle massive amounts of data of the company ?*

*(e) Explain some of the challenges that may be faced by the company after indulging into B2C e-commerce to protect their user privacy for his perfume business.*

*(5 marks each)*

**Answer 2(a)**

Following are the main reasons, why information system is useful for business:

a. *Efficient functioning*: In order to achieve higher profitability for your business, it is essential to improve the efficiency of business operations continually. This is possible to do by continuously storing the correct amount of stock so that you can always give your consumers what they want.

b. *New products, services, and business models* : For businesses to make new products and services, information systems play a crucial role. Information System also help create new business models, and these can describe how a company produce, design, and sell their products.

c. *Behavioural changes* : The information system can also help to communicate better between the employers and the employee. It works better as it stores information systematically, including the documents and files in folders that can be easily accessed and shared by the employees. This way, it oversees the flow of information between the management and the lower-level employees.

d. *Better decision making* : Information systems assist managers in creating informed decisions with the help of real-time data. Continuously making informed decision improves decision power and avoid wastage of time looking for information.

e. *Store and Analyse Information* : Most information systems function as delivery vehicles for data stored in databases. Databases support the operations and management aspects of a business. With a database, the collected data is stored and organised. Examples of databases include employee records and product catalogues. When it comes to analysing collections of stored data, data warehouses are built by information systems from several data sources to analyse the data. These archival data are mined for relevant information to develop and launch new products, reach out to potential customers as well as to serve the existing customers with accuracy and efficiency.

f. *Simplify Business Processes* : The integration of information systems in a business enables easier management of certain business processes to save on time and labour. For instance, buyers can have a seamless shopping experience at an online retailer as they can select a particular product display based on best-selling items, price range and customer ratings. With the help of information systems, these products are neatly organised which enhances the shopping experience. Besides that, business managers can utilise information systems for inventory management. That way, they can determine the inventory needed, reorder with their suppliers in addition to track and receive shipments in a timely and systematic manner.

g. *New Products and Services* : Any company looking to improve and secure the future must establish a broader perspective with the use of a well-designed and coordinated information system. The Information System makes it easier to analyze

independent processes such as information to produce valuable products or services and organized work activities. Therefore, an Information System can give a company the competitive advantage by analyzing how a company creates, produce, and sell their products or services. This means that the focus will be put on the main goal ahead.

**Answer 2(b)**

After the suggestion of consultant, Mr. R uses common softwares to automate his office operations and manage his growing perfume business. Among the various categories of software, the most common types include the following:

i. *Application software*: The most common type of software, application software is a computer software package that performs a specific function for a user, or in some cases, for another application. An application can be self-contained, or it can be a group of programs that run the application for the user. Examples of modern applications include office suites, graphics software, databases and database management programs, web browsers, word processors, software development tools, image editors and communication platforms.

ii. *System software*: These software programs are designed to run a computer's application programs and hardware. System software coordinates the activities and functions of the hardware and software. In addition, it controls the operations of the computer hardware and provides an environment or platform for all the other types of software to work in. The OS is the best example of system software; it manages all the other computer programs. Other examples of system software include the firmware, computer language translators and system utilities.

iii. *Driver software*: Also known as device drivers, this software is often considered a type of system software. Device drivers control the devices and peripherals connected to a computer, enabling them to perform their specific tasks. Every device that is connected to a computer needs at least one device driver to function. Examples include software that comes with any nonstandard hardware, including special game controllers, as well as the software that enables standard hardware, such as Universal Serial Bus (USB) storage devices, keyboards, headphones and printers.

iv. *Middleware*: The term middleware describes software that mediates between application and system software or between two different kinds of application software. For example, middleware enables Microsoft Windows to talk to Excel and Word. It is also used to send a remote work request from an application in a computer that has one kind of Operating System (OS), to an application in a computer with a different OS. It also enables newer applications to work with legacy ones.

v. *Programming software*: Computer programmers use programming software to write code. Programming software and programming tools enable developers to develop, write, test and debug other software programs. Examples of programming software include assemblers, compilers, debuggers and interpreters.

**Answer 2(c)**

Following points highlights that the Management Information System (MIS) assists the organizations in decision-making:

1. *Information from Company operations*: When the base of decisions is on data available from MISs, it reflects information that comes from the operations of the company. MISs take data generated by the working level and organize it into useful formats. MISs typically contain sales figures, expenses, investments, and workforce data. If one needs to know how much profit the company has made each year for the past five years to decide, MISs can provide accurate reports giving you that information.

2. *Capability to run Scenarios*: The capability to run scenarios is a key decision-making tool. Some MISs have this feature built in, while others can provide the information required for running scenarios on other applications, such as spreadsheets. The decision is influenced by what happens if decision-maker decides a certain way. What-if scenarios show you how different variables change when one plans.

   The manager can enter reduced staff levels or increased promotion budgets and see what happens to revenue, expenses, and profits for different levels of cuts or increases. MISs play a critical role in making realistic scenarios possible.

3. *Projections to Assist in Decision-Making*: Any decision a decision maker makes results in changes in the projected company results and may require modifications in the business strategy and overall goals. MISs have either trend analysis built in or can provide information that lets managers carry out such an analysis. Typical business strategies include projections for all fundamental operating results. A trend analysis allows the managers to show what these results would be in the current situation and how they will change once you have implemented the decisions decision maker have taken. The new values form the basis of your strategic approach going forward.

4. *Implementation and evaluation*: While decisions made with specific goals in mind and have the documentation from MISs and trend analysis to support your expectations, the managers must track company results to make sure they develop as planned. MISs gives the data the managers need to determine whether the decisions have had the desired effect, or whether decision maker must take corrective action to reach organization's goals. If specific results are not on track, managers can use MISs to evaluate the situation and decide to take additional measures if necessary.

5. *Exception Reporting*: MIS provides exception reports highlighting unusual trends, deviations and operational problems requiring managerial attention. This enables timely corrective action and efficient resource allocation.

**Answer 2(d)**

A Database Management System (DBMS) is a piece of software that controls how data is stored, organized, and retrieved from databases. It is a crucial tool for successfully and efficiently handling massive amounts of data.

There are three levels of a DBMS structure:

1. *External Level*: It specifies the actions that may be carried out on the data as well as how the data is displayed to the user. The application software that accesses the database is of interest at the external level.
2. *Conceptual Level*: The database is logically represented at the conceptual level. It describes the connections between the various data pieces as well as the general structure of the database. The conceptual level is unrelated to how the data is physically stored.
3. *Internal Level*: The database's physical representation is at the internal level. It specifies how information is kept and retrieved on the actual storage hardware.

**Answer 2(e)**

Following are some of the challenges that are faced by the users when protecting their user privacy:

- Communication: Organizations sometimes struggle to communicate clearly to their users what personal data they are collecting and how they use it. When Mr. R hosts his new perfume website, he must explicitly communicate to consumers how their financial data is handled.
- *Cybercrime*: Attackers target both individual users and organizations that collect and store data about those users. In addition, as more aspects of a business become Internet-connected, the attack surface increases.
- *Data breaches*: A data breach can lead to a massive violation of user privacy if personal details are leaked, and attackers continue to refine the techniques they use to cause these breaches.
- *Insider threats*: Internal employees or contractors might inappropriately access data if it is not adequately protected.

**Question 3**

*LV Manufacturing Company, one of India's leading automotive component manufacturers, had embarked on an ambitious digital transformation program by late 2024. They moved from legacy systems to SAP ERP tightly integrated with Oracle Database 19c, deployed AWS S3 for backups, and adopted a Hyperledger-based blockchain to track raw material sourcing and shipment verification. LV Manufacturing Company also rolled out IoT-based factory sensors connected through a 5G private network to feed real-time production data into their Decision Support System (DSS).*

*One of LV's largest trading partners was Mr. RK, a high-profile Mumbai-based stockbroker and commodities trader. Mr. RK was specialized in predictive investment strategies for manufacturing and logistics sectors, relying heavily on real-time operational data feeds from suppliers like LV. LV Manufacturing Company granted Mr. RK, API-based access to certain DSS metrics, secured through their corporate firewall and an API gateway.*

*In early 2025, LV Manufacturing Company entered a large export contract with European automotive clients that required blockchain-verified shipping updates. Mr. RK's analytics platform consumed this blockchain data along with ERP metrics to predict LV's share performance.*

*Mr. RK's analytics models flagged abrupt drops in LV's production output and delayed shipment logs. Blockchain ledger entries mismatched ERP shipment records. Firewall logs showed traffic spikes from unrecognized IP ranges—many geolocated outside India.*

*Within days, Mr. RK's AWS-based data lake suffered corruption of historical performance datasets, causing predictive models to produce flawed investment signals. Forensics hinted at API credential compromise, likely through phishing of a LV admin user, coupled with firewall misconfiguration allowing API traffic from unvetted IP addresses. On Mr. RK's side, object versioning was disabled in S3, allowing corrupted data to overwrite originals without rollback. Investigators determined :*

*(1) Compromised API tokens were used to pull legitimate LV's data and inject falsified metrics.*

*(2) Attackers modified Oracle DB query responses in-transit before they hit the blockchain validation layer.*

*(3) Mr. RK's network security appliance was only in monitoring mode, so malicious packets were not blocked in real time. The attack impacted not only LV's credibility but also Mr. RK's financial standing, as some investments were made on the basis of tampered analytics. International clients demanded an independent blockchain audit, while both LV Manufacturing Company and Mr. RK had to halt operations temporarily for data restoration.*

*Based on the above case answer the following :*

*(a) While designing a joint security architecture for LV Manufacturing Company and Mr. RK to secure the API data exchange, covering both network and application layers, how TCP/IP Protocol suite will work ? Explain the functions of each layer.*

*(b) How IaaS storage can be beneficial for LV Manufacturing Company ? What are main drawbacks of using these services ?*

*(c) As LV Manufacturing Company want to move towards SAP ERP tightly integrated with Oracle Database, how the database files may be structured into a variety of forms to speed up access times and maximize storages space ?*

*(d) The Company authorised Mr. RK to access the data secured through their corporate firewall. Explain various types of Firewalls.*

*(e) Is LV Manufacturing Company can use blockchain startups for the payment gateways for cryptocurrencies ? Explain various examples of payment gateways.*

*(5 marks each)*

**Answer 3(a)**

The Transmission Control Protocol/Internet Protocol (TCP/IP) model is a set of protocols that make up the network layer of the internet. TCP/IP model is an inter-networking solution which was initially developed for communication within a limited network but later on turned out to be the standard protocol for unsecured communication over the internet.

1. **Application Layer**: This is the top most layer that acts as an interface through which applications and programs communicate with the user. Commonly used protocols in this layer have been discussed below:
   - *HTTP*: The Hyper Text Transfer Protocol (HTTP) is the foundation of data exchange over the World Wide Web as it makes easily accessible to the user through hyperlinks. HTTP further specifies how data requests by the user will be processed by sending it to the appropriate server, which in turn will send respond to such request.
   - *SMTP*: Simple Mail Transfer Protocol (SMTP) is entrusted with the task of sending and receiving electronic mails.
   - *FTP*: File Transfer Protocol (FTP) is concerned with transfer of files over a network.
2. **Transport Layer**: This layer is concerned with packaging of data into smaller packets and segments so that they can be transmitted over the network. This layer also creates a communication channel between the sender and receiver device for an error-free transmission of data without any hindrance.

   Some of the protocols used in transport layer are:
   - *TCP*: Transmission Control Protocol (TCP) is the protocol which establishes a connection between the source and destination system and further ensures proper movement of segments over communication channel.
   - *UDP*: User Diagram Protocol (UDP) is mainly responsible for detection of errors during transmission of data over the network.
   - *UDP* (User Datagram Protocol) is a connectionless protocol that provides fast transmission with low overhead and is commonly used in streaming, online gaming and real-time communication applications.
3. **Internet Layer**: This layer is responsible for routing the data during transmission by pointing out the path which the data packets will use for transmission. This layer also helps in identification of data over the network by providing IP addresses to the system. The protocols used in this layer are discussed below:

- *IP*: Internet Protocol (IP) is the most important protocol in internet layer, as it is responsible for sending data packets across a network from the source to destination.
- *ARP*: Address Resolution Protocol (ARP) uses the IP address to locate the physical address of the host.
- *IGMP*: Internet Group Management Protocol (IGMP) is used for data transmission to a group of networks.

4. **Network Access/Interface Laye**r: This layer is concerned with physical aspect of data transmission in raw form, i.e., binary format, through physical communication modes over a network24. This layer makes use of protocols like ethernet cables, fiber links and token rings.

**Answer 3(b)**

Infrastructure as a Service (IaaS) enables end users to increase and reduce resources as needed, lowering the need for expensive, upfront capital expenditures or needless "owned" infrastructure. IaaS offers the most fundamental level of control over cloud resources in contrast to Platform as a Service (PaaS) and Software as a Service (SaaS) (even more modern computing paradigms like containers and serverless).

Companies can use storage services to store data on the storage equipment of third-party providers. Customers can access cloud storage online, which is displayed to them as a collection of storage pools or buckets, utilizing sophisticated interfaces like command-line tools, web interfaces, or programming Application Programming Interface (API). Clients are unaware of the intricacy of the cloud storage architecture, although it is very sophisticated on the back end and often consists of distributed storage devices that are controlled by centralized software. Algorithms are used by sophisticated storage management software to manage data scattered across numerous storage devices.

Network slowness, reliance on internet accessibility, security issues, and restricted control are all potential drawbacks. Due to the cloud provider's data center's distinct geographic location, network latency is greater than with internal storage. If a customer doesn't have a local copy of their data and instead saves it all in a public cloud, they are entirely dependent on internet connectivity. To prevent information loss or compromise, a cloud provider should provide high-level security, and data transit must be encrypted.

**Answer 3(c)**

**Organization of Database Files**

To speed up access times and maximize storage space, database files are structured into a variety of forms. These are the most typical database file organization structures:

- *Sequential Files*: Records are kept in a sequential file in a certain order. Data are appended to the file's end and accessed one at a time starting at the starting.
- *Indexed Files*: An index is made in an indexed file that associates each entry with a different identifier. This makes it possible to quickly retrieve particular files' records.

- *Hashed Files*: Datasets are assigned to specific positions in a hashed file according to a hashing algorithm. This enables quick access to particular records using a search key. Implementing hashed files for the live Application Programming Interface (API) data exchange ensures that database records can be retrieved instantly, while also providing a mechanism to verify that the query keys have not been tampered with or altered in-transit by unauthorized external traffic.

**Answer 3(d)**

The various types of Firewalls have been enlisted below:

- *Packet Filtering*: A small amount of data is analyzed and distributed according to the filter's standards.
- *Proxy Service*: Network security system that protects while filtering messages at the application layer.
- *Stateful Inspection*: Dynamic packet filtering that monitors active connections to determine which network packets to allow through the Firewall.
- *Next Generation Firewall*: Deep packet inspection Firewall with application-level inspection
- *Web Application Firewall (WAF):* Protects web applications by filtering and monitoring Hypertext Transfer Protocol (HTTP)/ Hypertext Transfer Protocol Secure (HTTPS) traffic and preventing attacks such as Structured Query Language (SQL) Injection and Cross-Site Scripting (XSS).

**Answer 3(e)**

Yes, LV Manufacturing Company can use blockchain start-ups for the payment gateways for cryptocurrencies.

Merchants can gain access to payment gateway systems through merchant acquiring bank partnerships, or else they can select their own payment gateway system. Large banks such as Bank of America (BAC) and JPMorgan Chase (JPM) have sophisticated payment gateway systems that they offer to customers along with their own merchant acquiring bank services. Ultimately, merchants can choose a variety of payment gateway technologies as long as they are compatible with the merchant acquiring bank that is being used for payment processing.

One recent example of a payment gateway is Square (SQ), which emphasizes flexible mobile payments for retail businesses. The company's Square Reader technology allows customers to easily accept payments at ad-hoc locations such as conventions or farmer's markets, or through roaming storefronts such as food trucks. With the Square Reader payment gateway technology, a merchant can attach a small piece of hardware to their mobile phone which allows the customer to swipe their payment card for processing through the mobile phone's electronic connection. The Square Reader sends the payment information to a merchant's acquiring bank which then processes the information for the merchant momentarily.

It is likely that new products will continue to increase the versatility and speed of payment gateways. In recent years, blockchain startups have even introduced payment gateways for cryptocurrencies.

**Question 4**

*Cyb-D Solutions Pvt. Ltd. is a Chennai based Cyber security firm. This firm was hired by AB Bank after regulators flagged compliance gaps. During the audit, the bank faced insider fraud, were manipulation of online banking records was detected. Cyb-D collected logs and e-mails, but in court, the defence challenged the forensic preservation methods. Regulator also objected to AB bank's merged IT and cyber security policy. According to this policy, RBI mandates a separate cyber security framework. Cyb-D drafted a new cyber security policy covering incident response. VAPT, encryption and data protection, while keeping IT operations distinct.*

*Later, AB Bank's lawyers wanted to use legal analytics tool to predict the outcome of customer disputes. While these tools gave useful insights, concerns about privacy and admissibility in court were raised.*

*Cyb-D solved this by anonymizing data, taking consent and following the IT and data protection bill.*

*In another fraud case, Cyb-D did forensic imaging of employee laptops but the defence argued that missing hash values and time stamps weakened the chain of custody. Cyb-D responded by maintaining proper custody logs and using standard forensic methods.*

*Finally, Cyb-D VAPT testing found serious weaknesses in the bank's mobile app. Manager delayed fixing them and hackers later exploited these flaws causing a customer data breach. The bank was sued for negligence. To prevent this in future, Cyb-D setup a risk escalation system, having strict timelines for fixing issues and a high-level committee.*

*In the light of the above case scenario, answer the following questions :*

*(a) As Cyb-D drafted a new cyber security policy that covers the data protection also. Illustrate the Indian Laws for Data Protection, that must be taken into consideration.*

*(b) Regulator said that AB Bank should not mix its IT and cyber security policies. How should Cyb-D create a distinct cyber security policy from the broader IT policy ?*

*(c) Today, many advanced level analytics tools are available. How do these legal analytics tool assist AB Bank lawyers in making risk-based litigation decision ?*

*(d) In the fraud case with employee laptops, the defence said missing hash values and timestamps weakened the chain of custody. What critical procedural steps must be taken to effectively establish and authenticate the chain of custody in digital forensics?*

*(e) AB Bank Managers delayed fixing issues found in VAPT, which led to a data breach and lawsuits. How did Cyb-D leverage the VPAT to provide crucial and timely oversight of cybersecurity risks for portfolio managers, thereby safeguarding against such damaging outcomes.*

*(5 marks each)*

**Answer 4(a)**

**Indian Laws for Data Protection**

Individual's data like name, telephone numbers, profession, family, choices, pan card number, credit card details, social security number etc. are disclosed in the electronic transactions and then are available on various websites. Though the authorized collection and the storage of data may only create probability of the loss of information privacy but the unauthorized access, collection, use, misuse, relocation and transmission of the information to the third party essentially result in the intrusion of information privacy of the individuals. Hence, improper control on transmission of information can be the root cause for privacy challenges in electronic transactions. Law will not only determine, what privacy entails, how it is to be valued, and to what extent it should be endowed with legal protection, but also ensures authorized protection to the circumstances under which individuals can value their privacy and protect it from the violation of unauthorized intrusion by others. Vice-Chancellor Knight Bruce, presiding over the High Court of Chancery (Chancery Division) in Prince Albert v Strange (1849) upheld that a third-party intrusion into one's privacy results in grave violation of right to privacy and hence, implies need of legal protection to right to privacy and confidential information.

To counter the challenges of information and communication technology, the Indian Legislature has enacted Information Technology Act, 2000, Information Technology (Amendment) Act, 2008 and other legislations too, but challenges of information privacy and data privacy are not addressed in an exclusive and specific manner. India is not having a comprehensive legislative framework to deal specifically with privacy issues in electronic transactions. The Information Technology Act, 2000 was enacted chiefly to facilitate e-commerce; hence privacy is not the primary concern of the Act.

To systematically bridge this legislative gap and move away from fragmented electronic transaction rules, the Indian Parliament enacted the Digital Personal Data Protection (DPDP) Act, 2023.

This modern statute provides with its first comprehensive, dedicated, and independent legislative framework specifically designed to enforce data fiduciary accountability, protect digital citizen privacy, and penalize unauthorized processing or data breaches within the digital ecosystem.

**Answer 4(b)**

**Cyber Security Policy to be distinct from the broader IT policy / IS Security Policy of a bank**

In order to address the need for the entire bank to contribute to a cyber-safe environment, the Cyber Security Policy should be distinct and separate from the broader IT policy / IS Security policy so that it can highlight the risks from cyber threats and the measures to address / mitigate these risks.

A separate cyber security policy ensures focused governance, clear accountability, continuous monitoring of cyber risks, incident response preparedness and regulatory

compliance. It also helps Boards and senior management address evolving cyber threats distinctly from general IT operational risks

The size, systems, technological complexity, digital products, stakeholders and threat perception vary from bank to bank and hence it is important to identify the inherent risks and the controls in place to adopt appropriate cyber-security framework. While identifying and assessing the inherent risks, banks are required to reckon the technologies adopted, alignment with business and regulatory requirements, connections established, delivery channels, online / mobile products, technology services, organizational culture and internal & external threats. Depending on the level of inherent risks, the banks are required to identify their riskiness as low, moderate, high and very high or adopt any other similar categorization.

Riskiness of the business component also may be factored into while assessing the inherent risks. While evaluating the controls, Board oversight, policies, processes, cyber risk management architecture including experienced and qualified resources, training and culture, threat intelligence gathering arrangements, monitoring and analyzing the threat intelligence received vis-à-vis the situation obtaining in banks, information sharing arrangements (among peer banks, with Institute for Development and Research in Banking Technology (IDRBT)/ Reserve Bank of India (RBI)/ Computer Emergency Response Team (CERT-In), preventive, detective and corrective cyber security controls, vendor management and incident management & response are to be outlined.

**Answer 4(c)**

**Making Informed, Risk-based Litigation Decisions**

Clients are in the pesky habit of asking their lawyers to predict the future, but few lawyers are naïve enough to make the attempt. Predictive legal analytics tools, however, give lawyers the next best thing: a way to accurately predict the specific characteristics of a case based on real case data. For example, modern analytics tools can predict the likelihood of winning a case, the probable length of litigation, and the number of hours that the firm should allocate to working on it, all based on past data. This insight is invaluable for saving time and money because it lets the counsel know which battles are worth fighting and which should be promptly settled (and for how much). The best part is that these predictions are personalized based on the specific jurisdiction, judge, and even opposing counsel in question.

**Answer 4(d)**

**Procedure to establish the Chain of Custody**

In order to assure the authenticity of the chain of custody, a series of steps must be followed. It is important to note that the more information forensic expert obtains concerning the evidence, the more authentic is the created chain of custody. Following procedure is trailed according to the chain of custody for electronic devices:

- Save the original material.
- Take photos of the physical evidence.

- Take screenshots of the digital evidence.
- Document date, time, and any other information on the receipt of the evidence.
- Inject a bit-for-bit clone of digital evidence content into forensic computers.
- Perform a hash test analysis to authenticate the working clone

**Documentation/Authentication of Chain of Custody:**

During the process of examination, it is important to document all such information that is beyond the scope of current legal authority and later brought to the attention of the case agent. A comprehensive report must contain following sections:

- Identity of the reporting agency.
- Case identifier.
- Case investigator.
- Identity of the submitter.
- Date of receipt.
- Date of report
- Descriptive list of items submitted for examination: This includes the serial number, make, and model.
- Identity and signature of the examiner.
- Brief description of steps taken during the examination: For example- string searches, graphics image searches, and recovering erased files.
- Results and Cryptographic Verification Logs: A dedicated annex displaying matching acquisition and verification hash values, helps in proving to the court that the electronic records have remained unaltered throughout the investigation.

**Answer 4(e)**

**Vulnerability Assessment and Penetration Testing (VAPT)**

1. Portfolio Managers shall carry out periodic VAPT, inter-alia, including critical assets and infrastructure components like servers, networking systems, security devices, load balancers, other IT systems pertaining to the activities done as Portfolio Manager, etc., in order to detect security vulnerabilities in the IT environment and in-depth evaluation of the security posture of the system through simulations of actual attacks on its systems and networks.
2. VAPT assists organizations by proactively identifying vulnerabilities before attackers exploit them. It strengthens cyber resilience, assists regulatory compliance, supports risk management, protects sensitive customer information and reduces the likelihood of financial and reputational losses arising from cyber incidents.

3. Portfolio Managers shall conduct VAPT at least once in a financial year. However, for the Portfolio Managers, whose systems have been identified as "protected system" by National Critical Information Infrastructure Protection Centre (NCIIPC) under the Information Technology (IT) Act, 2000, VAPT shall be conducted at least twice in a financial year.
4. Further, all Portfolio Managers shall engage only Indian Computer Emergency Response Team (CERT In) empaneled organizations for conducting VAPT.
5. The final report on said VAPT shall be submitted to SEBI after approval from Technology Committee of respective Portfolio Manager, within 1 month of completion of VAPT activity.
6. Any gaps or vulnerabilities detected shall be remedied on immediate basis and compliance of closure of findings identified during VAPT shall be submitted to SEBI within 3 months post the submission of final VAPT report.
7. In addition, Portfolio Managers shall perform vulnerability scanning and conduct penetration testing prior to the commissioning of a new system which is a critical system or part of an existing critical system.

***

# ADVANCED DIRECT TAX LAWS & PRACTICE

## GROUP 1 ELECTIVE PAPER 4.5

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

***NOTE :*** *(1) Answer **ALL** Questions.*

*(2) All the references to the Question Paper relate to the Income-Tax Act, 1961 and relevant Assessment Year 2026-27 unless stated otherwise.*

*(3) Wherever necessary, suitable assumptions can be made by the candidate and stated clearly in the answer.*

*(4) Working notes should form part of your answer.*

### *Question 1*

*The Statement of Profit & Loss of Kamal Private Ltd., a domestic company engaged in manufacturing, shows net profit of ₹ 1,07,00,000 for the financial year ended on 31st March, 2026, after considering following items :*

*(A) Credited to the Statement of Profit and Loss :*

*(i) Rent received from vacant land ₹ 2,50,000*

*(ii) Rent received (gross) from a commercial property owned by the company ₹5,00,000 (Tax deducted by tenant @ 10%)*

*(iii) Profit on sale of plot ₹ 5,00,000*

*(iv) Dividend from Pink Inc., USA, a wholly owned subsidiary in February, 2026 ₹5,00,000*

*(B) Debited to the Statement of Profit and Loss :*

*(i) Donation of ₹85,000 paid to Swachh Bharat Kosh.*

*(ii) Actual contribution to the pension scheme of employees : ₹1,80,000.*

*(iii) Bonus to employees ₹4,50,000. However, payment was made on 20th December, 2026.*

*(iv) Provision made for income-tax ₹ 4,20,000 (including interest of ₹70,000 thereon)*

*(v) Contribution of ₹ 1,00,000 to a University approved and notified under section 35(1)(ii).*

*(vi) Interest of ₹1,50,000 on loan borrowed for acquiring shares in Pink Inc., USA.*

*Additional Information :*

*(1) Provision for audit fee ₹ 50,000 was made in the books for the year ended on 31st March, 2025 without deducting tax at source. Such fee was paid to auditors in October 2025, after deducting tax at source under Section 194J and tax so deducted was deposited on 15th December, 2025.*

*(2) During the FY 2024-25, the company made a provision for an outstanding bill of ₹80,000 for purchase of raw material. Out of such outstanding amount, the company paid ₹ 40,000 in cash on 20th August, 2025.*

*(3) During the year, the company has issued 1,00,000 equity shares of face value of ₹ 10 each at premium of ₹ 90 each. The fair market value is ₹ 60 per share at the time of issue of shares.*

*(4) Plot was sold in March, 2026 for ₹ 50,00,000 was acquired by the company in January, 2024 for ₹ 45,00,000 (ignore Indexation).*

*(5) The eligible salary and dearness allowance for the pension scheme referred to under section 80CCD is ₹ 10,00,000.*

*(6) The company declared interim dividend @10% of share capital being ₹ 6,00,000 in September, 2025.*

*On the basis of the above information, you are required to compute the following for Kamal Private Limited :*

*(a) Income from house property and income from business and profession as per section 115BAA for AY 2026-27 stating reasons for treatment of each item.*

*(15 marks)*

*(b) Income from capital gain, income from other sources and gross total income as per section 115BAA for the AY 2026-27 stating reasons for treatment of each item.*

*(5 marks)*

*(c) Total income and net tax liability as per section 115BAA for the AY 2026-27.*

*(5 marks)*

**Answer 1(a)**

**Computation of Income from House Property and Income from Business & Profession of Kamal Private Limited as per section 115BAA for the Assessment Year 2026-27**

| *Particulars* | | *Amount in Rs.* | *Amount in Rs.* | *Amount in Rs.* |
|---|---|---|---|---|
| I | Income from house property [Rental income from commercial property] | | | |
| | Gross Annual Value / Net Annual Value<br>Rent received has been taken as the Gross Annual Value (GAV) in the absence of information relating to Municipal Value, Fair Rent and Standard rent. | | 5,00,000 | |
| | Less: Deduction under section 24(a)<br>30% of Net Annual Value | | (1,50,000) | |
| | | | | 3,50,000 |
| II | Profits and Gains from Business and Profession | | | |
| | Net Profit | | 1,07,00,000 | |
| | Add: Items debited but to be considered separately or to be disallowed | | | |
| | B(i) Donation paid to Swachh Bharat Kosh [Not an expenditure incurred wholly and exclusively for the manufacturing business. Hence, not allowable under section 37] | 85,000 | | |
| | B(ii) Contribution towards pension scheme of employees [Contribution towards pension scheme, referred to in section 80CCD, of employees is allowed only to the extent of 14% of salary of the employee in the P.Y. i.e., Rs. 1,40,000 being 14% of Rs. 10,00,000. Therefore, the excess | 40,000 | | |

| | | | | |
|---|---|---|---|---|
| | contribution of Rs. 40,000 [i.e., Rs. 1,80,000 – Rs. 1,40,000] is disallowed u/s 36(1)(iva) | | | |
| | B(iii) Bonus to employees<br>[Since the payment is made after the due date of filing return of income, disallowance under section 43B is attracted] | 4,50,000 | | |
| | B(iv) Provision for income-tax (including interest of Rs. 70,000 thereon)<br>[Not allowable as deduction. Disallowance under section 40(a)(ii) is attracted] | 4,20,000 | | |
| | B(v) Contribution to a University approved and notified u/s 35(1)(ii)<br>No deduction is allowed u/s 115BAA in respect of contribution to a university approved and notified u/s 35(1)(ii) | 1,00,000 | | |
| | B(vi) Interest on loan borrowed for investing in shares of Pink Inc.<br>[Allowability or otherwise of interest expenditure on earning dividend has to be considered separately under the head "Income from Other Sources"] | 1,50,000 | 12,45,000 | |
| | | | 1,19,45,000 | |
| | Add: Cash Payment for purchase of raw material deemed as income<br>Add. Info. (2) [Since the provision for outstanding bill for purchase of raw material has been allowed as deduction during the P.Y.2024-25, cash payment in excess of Rs. 10,000 against such bill in the P.Y. 2025-26 would be deemed as income of P.Y.2025-26 as per section 40A(3A)] | | 40,000 | |
| | | | 1,19,85,000 | |
| | Less: Expenditure to be allowed | | | |

| | | | | |
|---|---|---|---|---|
| | (1) Audit Fees relating to P.Y.2024-25 [Rs. 15,000, being 30% of audit fees of Rs. 50,000 provided for in the books of account of F.Y.2024-25 would have been disallowed due to non-deduction of tax at source. Since tax has been deducted in October, 2025 and paid on 15.12.2025, the amount of Rs. 15,000 is deductible while computing business income of P.Y.2025-26]. | | (15,000) | |
| | | | 1,19,70,000 | |
| | Less: Items credited to statement of profit and loss, but not includible in business income | | | |
| | A(i) Rent received from vacant land<br>[Chargeable to tax under the head "Income from other sources"] | 2,50,000 | | |
| | A(ii) Rent received from commercial property owned by the company<br>[Chargeable to tax under the head "Income from house property"] | 5,00,000 | | |
| | A(iii) Profit on sale of plot [Chargeable to tax under the head "Capital Gains"] | 5,00,000 | | |
| | A(iv) Dividend from Pink Inc. USA<br>[Dividend received from foreign company is taxable under the head "Income from Other Sources"] | 5,00,000 | (17,50,000) | |
| | | | 1,02,20,000 | |
| | Profits and gains from Business and Profession | | | 1,02,20,000 |

**Answer 1(b)**

**Computation of Capital Gain, Income from Other Sources and Gross Total Income of Kamal Private Limited as per section 115BAA for the Assessment Year 2026-27**

| *Particulars* | | *Amount in Rs.* | *Amount in Rs.* | *Amount in Rs.* |
|---|---|---|---|---|
| III | Capital Gains | | | |
| | Capital Gain on sale of plot | | | |
| | Sale consideration | | 50,00,000 | |
| | Less: Cost of Acquisition (ignore Indexation) | | (45,00,000) | |
| | Long-term Capital Gain | | | 5,00,000 |
| IV | Income from Other Sources | | | |
| | Rent received from vacant land | | 2,50,000 | |
| | Excess of issue price of shares over the fair market value of shares is not taxable w.e.f. A.Y. 2025-26 | | - | |
| | Dividend from Pink Inc., a foreign company | 5,00,000 | | |
| | Less: Interest expenditure of Rs. 1,50,000 allowed deductions up to 20% of dividend | (1,00,000) | 4,00,000 | |
| | | | | 6,50,000 |
| | Income from House Property (as computed) | | | 3,50,000 |
| | Income from PGBP (as computed) | | | 1,02,20,000 |
| | Gross Total Income | | | 1,17,20,000 |

**Answer 1(c)**

**Computation of Total Income and Net Tax Liability of Kamal Private Limited as per section 115BAA for the Assessment Year 2026-27**.

| *Particulars* | *Amount in Rs.* |
|---|---|
| Gross Total Income | 1,17,20,000 |
| Less: Deductions under Chapter VI-A | |
| Deduction under section 80G (Not allowable u/s 115BAA) | - |
| Deduction under section 80M<br>Deduction in respect of inter-corporate dividend to the extent of Rs. 6,00,000, being dividend distributed by it one month prior to the due date specified u/s 139(1) or Rs. 4,00,000 dividends received to the extent includible in the gross total income, whichever is lower | (4,00,000) |
| Total Income | 1,13,20,000 |
| Computation of Tax Liability | |
| Tax on long-term capital gains @ 12.5% on Rs. 5,00,000 | 62,500 |
| Tax on other income @22% on Rs. 1,08,20,000 | 23,80,400 |
| Total | 24,42,900 |
| Add: Surcharge @10% | 2,44,290 |
| Total | 26,87,190 |
| Add: Health and Education Cess @ 4% | 1,07,488 |
| Tax Liability | 27,94,678 |
| Less: - TDS deducted on Rent | 50,000 |
| Net Tax Liability | 27,44,678 |
| Tax Liability (rounded off) | 27,44,680 |

## Question 2

*During an Income Tax Assessment of Mr. Mukesh, the assessing officer needed to determine the Fair Market Value of an Investment declared by Mr. Mukesh. AO referred to the valuation officer, to properly estimate the Fair Market Value (FMV) of the investment. The Valuation officer upon receiving the reference from the AO proceeded to estimate the value of Mr. Mukesh's investment. But during the valuation process, the behaviour of Mr. Mukesh is uncooperative with the valuation officer as he thinks that the AO was satisfied with the valuation of Investment and hence, he cannot further make a reference to the valuation officer. In this background, you are required to answer the following :*

*(a) What is the primary purpose for which an assessing officer would make a reference to a valuation officer ?*

*(b) Is Mr. Mukesh right in claiming that, as the AO is satisfied with the valuation of the Investment shown, he cannot make a reference to the valuation officer. Explain your answer.*

*(c) What recourse does a valuation officer have if the assessee is uncooperative during the valuation process ?*

*(d) To whom the valuation officer submits the valuation report upon completion and under what time frame ?*

*(e) What procedural safeguard is in place for the assessee after the AO receives the valuation report but before it is considered in the assessment ?*

*(3 marks each)*

## Answer 2

(a) As per the provision of Section 142A of the Income Tax Ac, 1961, the primary purpose of referring a case to a Valuation Officer is to obtain an expert estimate of the value of an asset, property, or investment when the Assessing Officer deems it necessary for accurate assessment or reassessment.

(b) The Assessing Officer does not need to be dissatisfied with the assessee's accounts to make a reference to the Valuation Officer. The reference can be made regardless of the Assessing Officer's satisfaction with the correctness or completeness of accounts.

Hence Mr. Mukesh is not right in claiming that as the AO is satisfied with the valuation of the Investment shown and therefore, he cannot make a reference to the valuation officer.

(c) The Valuation Officer may estimate the value of the asset, property or investment to the best of his judgment, if the assessee does not co-operate or comply with his directions.

(d) The Valuation Officer shall send a copy of the valuation report of the estimate to the Assessing Officer and the assessee, within a period of six months from the end of the month in which a reference is made.

(e) Before the Assessing Officer considers the valuation report in the assessment, the assessee must be provided with an opportunity to be heard regarding the content and implications of the valuation report.

**Question 3**

*(a) Compute the total income of Global Co-operative Society for the PY 2025-26 (AY 2026-27) with the information given below assuming the assessee has not opted for Section 115BAD :*

| *S.No.* | *Receipts* | *Amount (₹)* |
|---|---|---|
| *1.* | *Marketing of agricultural produce of its members* | *20,000* |
| *2.* | *Interest from members on delayed payment of the price of goods purchased* | *2,000* |
| *3.* | *Processing (without aid of power) of agricultural produce of its members* | *16,000* |
| *4.* | *Supplying milk to the Government (raised by its members)* | *30,000* |
| *5.* | *Agency business* | *50,000* |
| *6.* | *Dividends from other Co-operative Societies* | *30,000* |
| *7.* | *Income from letting of godowns (Net)* | *40,000* |
| *8.* | *Income from House Property (Net)* | *60,000* |

*(5 marks)*

*(b) Santosh Parsad, aged 30 years, a high school passed boy, by filing its return of income, u/s 44AD of the Income Tax Act shows its income @ 8% on receipts of ₹ 28,30,800 from the business of running a stationery shop and online small services like stamp paper printing, Aadhar updating, passport related services etc.*

*The amount of ₹ 28,30,800 included the receipt of ₹ 3,15,800 on which TDS was deducted under section 194J of the Act (fees for professional and technical services) and*

*therefore the assessing officer added the income @ 50% under section 44 ADA of the Act.*

*Aggrieved with the action of assessing officer, Santosh Parsad seeks your opinion whether the action of the assessing officer is valid or not.*

*(5 marks)*

*(c) Vinod Enterprises proposes to purchase for his business, certain raw materials from Mr. Chetan. In view of the scarcity of the products, Chetan insists on cash payments for the purchases, to which Vinod enterprises agrees.*

*The cash purchases by the buyer Vinod Enterprises for different raw materials for ₹1,40,000 and ₹ 1,70,000 on 13th March, 2026 and 25th March, 2026 respectively through the cash invoices.*

*In respect of the above transactions, will there be any unfavourable effect in the hands of Vinod Enterprises and Chetan under the provisions of the Income Tax Act, 1961 ? Explain briefly.*

*(5 marks)*

**Answer 3(a)**

**Computation of Total Income of Global Co-operative Society for the AY 2026-27**

| *Particulars* | *Amount (₹)* | *Amount (₹)* |
|---|---|---|
| Income from House Property: | | |
| • Letting of house property | 60,000 | |
| • Letting of Godowns | 40,000 | 1,00,000 |
| Income from Business: | | |
| • Marketing of agricultural produce of its members | 20,000 | |
| • Processing (without the aid of power) of agricultural produce of its members | 16,000 | |
| • Supplying of milk to the government (raised by its members) | 30,000 | |
| • Agency Business | 50,000 | 1,16,000 |
| Income from Other Sources: | | |
| • Interest from members | 2,000 | |
| Interest from members ₹ 2000 is not deductible as it is not from the credit facilities provided to the member and for this purpose society cannot be said to be a credit society. | | |

| | | |
|---|---|---|
| • Dividends from other co-operative societies | 30,000 | 32,000 |
| Gross Total Income | | 2,48,000 |
| Deduction's u/s 80P | | |
| • Letting of Godowns | 40,000 | |
| • Marketing of agricultural product grown by its members | 20,000 | |
| • Processing of agri. goods (without the aid of power) of its members | 16,000 | |
| • Supplying milk to the Government | 30,000 | |
| • Agency business | 50,000 | |
| • Dividends from other co-operative societies | 30,000 | (1,86,000) |
| Total Income | | 62,000 |

*Notes*: The gross total income of the society exceeds ₹ 20,000, hence deduction regarding income from house property is not available.

**Answer 3(b)**

The matter was decided in the similar case of ITAT Mumbai bench vide case "ITA No. 1570/Mum/2023 (Assessment Year: 2017-18) Shri Vishnu Dattatraya Ponkshe Vs. Central Processing Centre Bengaluru". The Assessee being aggrieved, challenged the said addition before the learned Commissioner, who by taking into consideration that all the deductor's are big corporates and deducted tax under section 194J of the Act, construed that the receipts of said amount related to professional and technical services and is covered under section 44ADA of the Act and therefore taxable @50%. The Ld. Commissioner ultimately computed the total income of the Assessee @ 50% on which TDS has been deducted u/s 194J and 8 % on the remaining amount.

The Assessee being aggrieved and filed the appeal before ITAT Mumbai, the bench heard the parties and perusing the material available on record and giving thoughtful consideration to the peculiar facts and circumstances of the case, observe that the amount on which TDS was deducted under section 194J of the Act, in fact is part of the total receipt on which the Assessee has declared income @8% under section 44AD. However, both the authorities applied the provisions of section 44ADA of the Act, which in fact deals with persons carrying on legal, medical, engineering or architectural profession or profession of accountancy, technical consultancy or interior decoration or any other profession as is notified by the Board in the official gazette.

Admittedly the Assessee is just a 10$^{th}$ / matriculation passed and do not have any qualification to act as a legal, medical, engineering or architectural professional or professional accountancy or technical consultancy of interior decoration or any other

profession as is notified by the Board in the official gazette, as prescribed under section 44AA of the Act.

As the Assessee's case does not fall under the provisions of section 44ADA of the Act and therefore the addition sustained by the learned Commissioner is liable to be deleted.

In this case, Mr. Santosh Prasad, a high school boy, show 8% on receipt of Rs. 28,30,800 from business of running a stationary shop and online small service like stamp paper printing, Aadhar updating, passport related services etc.

The amount of Rs. 28,30,800 included the receipt of Rs. 3,15,800 on which TDS u/s 194J (fees for professional services). The assessing officer added the receipt of Rs. 3,15,800 @ 50% as income u/s 44ADA. The facts are similar to the facts of the above decided case.

Accordingly, the action of AO may not be valid.

**Answer 3(c)**

Where purchases are effected through cash invoice of ₹ 1,40,000 and ₹ 1,70,000

(i) In the hands of Vinod Enterprises

Since Vinod enterprises is making cash payment of ₹ 1,40,000 and ₹ 1,70,000 for purchase of raw materials from Mr. Chetan for his business, disallowance under section 40A(3) would be attracted, since the payment otherwise than by way of account payee cheque or bank draft or use of ECS through a bank account or through other prescribed electronic modes to a person in a day exceeds ₹10,000. Accordingly, ₹3,10,000 (₹ 1,40,000 + ₹ 1,70,000) would not be allowable as deduction while computing his business income.

Cash payment of ₹ 1,40,000 and ₹ 1,70,000 are made by Vinod enterprises on two different dates for different raw materials, disallowance under section 40A(3) would be attracted, since the payment made in cash in a day to Mr. Chetan exceeds ₹ 10,000.

(ii) In the hands of Mr. Chetan

Section 269ST prohibits, inter alia, receipt of an amount of ₹ 2 lakh or more in aggregate from a person in a day otherwise than by way of account payee cheque or account payee bank draft or use of ECS through a bank account or through other prescribed electronic modes. If any person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay penalty under section 271DA of a sum equal to the amount of such receipt.

Here, Mr. Chetan receives cash of ₹ 1,40,000 and ₹ 1,70,000 on two different dates, for purchase of different raw materials, there would be no violation of section 269ST since receipt on a day is less than ₹ 2 lakh and the receipts are not in respect of the same transaction but for purchase of different raw materials. Hence, provision of section 271DA shall not be attracted.

***Attempt all parts of either Q. No. 4 or Q. No. 4A***

**Question 4**

*(a) Neha Ltd. (A domestic Company) provides you the information related to A. Y. 2026-27.*

(1) *Dividend received from Sneha Ltd. (A domestic Company) ₹ 12,20,000 (dividend collection charges paid would be ₹ 17,000 and Interest paid for borrowed money for investment in ABC Ltd. ₹3,00,000.*

(2) *Income from Mutual Fund ₹2,50,000 (Interest paid for borrowed money for investment in MF ₹16,000 and other charges paid would be ₹8,000).*

*Neha Ltd. has distributed the dividend to shareholders :*

| *Particulars* | *F.Y.* | *Date of Payment* | *Amount (₹)* |
|---|---|---|---|
| *Interim Dividend* | *2025-26* | *13th July, 2025* | *1,25,000* |
| *Interim Dividend* | *2025-26* | *29th October, 2026* | *45,000* |

*You are required to compute the following for Neha Ltd. for the AY 2026-27 :*

*(i) Total income from other sources and*

*(ii) Deduction under section 80M of the Income Tax Act, 1961.*

*(5 marks)*

*(b) Bina (P) Ltd. has not filed the return for the FY 2024-25. The Assessing Officer issued a notice under section 142(1) on the assessee on 25th February, 2026 calling upon him to file return of income for AY 2025-26. In response to the said notice, the assessee furnished a return of loss and claimed carry forward of business loss and unabsorbed depreciation.*

*Discuss with the relevant provisions of the Income Tax Act, 1961 whether the assessee would be entitled to carry forward as claimed in the return ?*

*(5 marks)*

*(c) Mr. Arnav, an individual retired employee of the Aman Ltd. aged 64 years, is a well-known singer deriving income of ₹ 1,40,000 from stage shows abroad. Tax of ₹ 14,000 was deducted in the country where the shows were performed. India does not have any Double Tax Avoidance Agreement with that country. His income in India amounted to ₹ 6,40,000.*

*In view of Tax planning, he has deposited ₹ 1,45,000 in PPF and paid contribution to approved pension fund of LIC ₹ 22,000. He also contributed ₹ 28,000 to Central government health scheme during the previous year and gave payment of medical insurance premium of ₹ 28,000 to insure the health of her mother, a non-resident aged 84 years who is not dependent on him.*

*Compute the tax liability of Mr. Arnav for the A.Y. 2026-27 assuming that he has opted out of the default tax regime under section 115BAC.*

*(5 marks)*

***OR (Alternate Question to Q. No. 4)***

**Question 4A**

*(i) Goyal Associates is a partnership firm having annual Turnover of ₹ 3.5 crores as firm fails to get its accounts audited under section 44AB. The Assessing Officer levied penalty under section 271B of the Income Tax Act, 1961 for failure to submit the Tax Audit Report. The firm is of the contention that the penalty should not be levied as the main partner Mr. A was ill and Mr. Vijay, the accountant of the firm unexpectedly leaves the job and therefore the Tax Audit could not be complied.*

*What is the maximum amount of penalty under the Income Tax Act, 1961 which the AO can levy for non-auditing of books of accounts ? Is the action of AO is justified? Give reasons.*

*(5 marks)*

*(ii) Communication Ltd, a telecome service provider, had filed income tax returns for various assessment years claiming refund of income tax. Returns were filed within the time framed prescribed as per Section 139(1). The Income Tax department did not process the refund on the ground of technical difficulties and pending verification of the assessee's tax liability.*

*The Assessing Officer is of the view income had escaped assessment and reopening of the assessment of the assessee under section 147 of the Income Tax Act, 1961 is to be made.*

*Is the view of AO being valid ? Explain.*

*(5 marks)*

*(iii) During the search proceedings of Mr. Meet, the AO find out that the income of Mr. Meet for the AY 2020-21 has escaped assessment to the tune of ₹ 50 Lakhs. The AO send the notice u/s 148 to the Mr. Meet on 14th June 2026. The Mr. Meet is of the opinion that the Notice is time barred and is not in accordance with the approval of specified authority.*
*Is the contention of Mr. Meet being correct ? Explain with reasons.*

*(5 marks)*

**Answer 4 (a)**

(i) Computation of Income from other sources of Neha Ltd (Domestic company)

| *Particulars* | *Amount (₹)* |
|---|---|
| Dividend received from Sneha Ltd: | 12,20,000 |
| Less: Deduction u/s 57 in terms of interest (Note 2) | |

| | | |
|---|---|---|
| a) Actual payment | 3,00,000 | |
| b) 20% of Income (i.e., 20% of 12,20,000) a or b whichever is lower | 2,44,000 | (2,44,000) |
| Dividend Income received | | 9,76,000 |
| Income from Mutual Fund | | 2,50,000 |
| Less; Deduction u/s 57 in terms of interest | | |
| a) Actual payment | 16,000 | |
| b) 20% of Income (i.e., 20% of 2,50,000) | 50,000 | |
| a or b whichever is lower | | (16,000) |
| Mutual fund Income Received | | 2,34,000 |
| Income from other sources | | 12,10,000 |

(ii) Computation of Deduction u/s 80M

| | |
|---|---|
| Due date of Filing of Return | 30.10.2026 |
| a) Amount of dividend received from domestic companies | 9,76,000 |
| b) Amount of dividend distributed 1 month prior to the due date of filing return (i.e., 30.09.2026) | 1,25,000 |
| Amount of Deduction u/s 80M = a or b whichever is lower | 1,25,000 |

*Note:*

1. Dividend collection charges and other charges are not allowed as a deduction.
2. It is assumed that the interest is paid for borrowed money for investment in Sneha Ltd.

**Alternate Answer 4(a)**

(i) Computation of Income from other sources of Neha Ltd (Domestic company)

| *Particulars* | *Amount (₹)* |
|---|---|
| Dividend received from Sneha Ltd: | 12,20,000 |
| Less: Deduction u/s 57 in terms of interest (Note 2) | Nil |
| Dividend Income received | 12,20,000 |

| | | |
|---|---|---|
| Income from Mutual Fund | | 2,50,000 |
| Less: Deduction u/s 57 in terms of interest | | |
| (a) Actual payment | 16,000 | |
| (b) 20% of Income (i.e., 20% of 2,50,000) | 50,000 | |
| a or b whichever is lower | | (16,000) |
| Mutual fund Income Received | | 2,34,000 |
| Income from other sources | | 14,54,000 |

(ii) Computation of Deduction u/s 80M

| | |
|---|---|
| Due date of Filing of Return | 30.10.2026 |
| (a) Amount of dividend received from domestic companies | 12,20,000 |
| (b) Amount of dividend distributed 1 month prior to the due date of filing return (i.e., 30.09.2026) | 1,25,000 |
| Amount of Deduction u/s 80M = a or b whichever is lower | 1,25,000 |

*Note:*

1. Dividend collection charges and other charges are not allowed as a deduction.
2. It is specifically mentioned that the interest is paid for borrowed money for investment in ABC Ltd. and not in Sneha Ltd. and therefore deduction under section 57 is not allowed.

**Answer 4(b)**

As per the provisions of section 139(3), any person who has sustained loss under the head 'Profit and gains of business or profession' is allowed to carry forward such a loss under section 72(1) or section 73(2), only if he has filed the return of loss within the time allowed under section 139(1).

Also, the provisions of section 80 specify that a loss which has not been determined as per the return filed under section 139(3) shall not be allowed to be carried forward and set-off under, inter alia, section 72(1) (relating to business loss) or section 73(2) (losses in speculation business) or section 74(1) (loss under the head "Capital gains") or section 74A(3) (loss from the activity or owning and maintaining race horses) or section 73A (loss relating to a "specified business").

However, there is no such condition for carry forward of loss from house property under section 71B or unabsorbed depreciation under section 32.

In the given case, the assessee has filed its return of loss in response to notice under section 142(1). As per the provisions stated above, assessee furnished return in response to notice under section 142(1) after the due date specified under section 139 (1) and therefore, the benefit of carry forward of business loss under section 72(1) or section 73(2) or section 73A shall not be available.

The assessee shall, however, be entitled to carry forward the unabsorbed depreciation as per provisions of section 32(2).

**Answer 4 (c)**

**Computation of Tax Liability of Mr. Arnav for the A.Y. 2026-27 under normal provisions of the Act**

| *Particulars* | *Amt in ₹* | *Amt in ₹* |
|---|---|---|
| Indian Income | 6,40,000 | |
| Foreign Income from stage show abroad | 1,40,000 | |
| Gross Total Income | | 7,80,000 |
| Less: Deductions under chapter VI-A | | |
| • Deposit in PPF (Section 80C) | 1,45,000 | |
| • Contribution to approved Pension Fund of LIC (Section 80CCC) | 22,000 | |
| • Aggregate deduction u/s 80C and 80CCC restricted to 1,50,000 (Section 80CCE) | | (1,50,000) |
| Contribution to CGHS (Section 80D) | 28,000 | |
| Medical insurance premium on health of mother (age 84 years), non-Resident 28,000 (restricted to Rs. 25,000) | 25,000 | (53000) |
| Total Income | | 5,77,000 |

**Calculation of Tax Payable**

| *Particulars* | *Amt in ₹* |
|---|---|
| Income Tax as per Slab rates for AY 2026-27 | 25,400 |
| Add: HEC @ 4% | 1,016 |
| Total Tax | 26,416 |
| Average Rate of Tax in India (26,416 x 100 / 5,77,000) | 4.578% |
| Average Rate of Tax in Foreign country (14,000 x 100 / 1,40,000) | 10.00% |

| | |
|---|---|
| Relief u/s 91 on 1,40,000 @ 4.578%<br>(Lower of Avg Indian Tax rate or Avg Foreign Tax rate) | 6,409 |
| Tax Payable in India (26,416 – 6,409) | 20,007 |
| Tax Payable (Rounded off) | 20,010 |

***OR (Alternate Question to Q. No. 4)***

**Answer 4A(i)**

According to section 271B, if any person who is required to comply with section 44AB fails to get his accounts audited in respect of any year or years as required under section 44AB or fails to furnish such report as required under section 44AB, the Assessing Officer may impose a penalty. The penalty shall be lower of the following amounts:

- 0.5% of the total sales, turnover or gross receipts, as the case may be, in business, or of the gross receipts in profession, in such year or years. Or
- Rs. 1,50,000.

According to section 273B, no penalty shall be imposed if reasonable cause for such failure is proved.

The word 'reasonable cause' has not been defined under the Income-tax Act. The initial burden is on the assessee to show that reasonable cause existed for the failure referred to in the concerned provision. Thereafter, the officer dealing with the matter has to consider whether the explanation offered by the assessee was on account of reasonable cause.

Reasonable cause can be reasonably said to be a cause which prevents a man of average intelligence and ordinary prudence from acting under normal circumstances, without negligence or inaction or want of bona fides.

As per the decision held by ITAT in Shrishaila Mallikarjun vs. Income Tax officer, where due to sudden illness of main partner and unexpected departure of accountant who was responsible for maintaining accounts of firm, assessee could not get accounts audited as per provisions of section 44AB and file audit report within time, assessee had demonstrated that there was a reasonable cause for failure to submit audit report on or before extended due date, therefore, penalty levied under section 271B was to be cancelled.

Accordingly, the action of AO of levying the penalty on Goyal associates is not correct.

**Answer 4A(ii)**

As per the provision of section 148A of the Income Tax Act, 1961, the information with the Assessing Officer which suggests that the income chargeable to tax has escaped assessment means:

i. any information in the case of the assessee for the relevant assessment year in accordance with the risk management strategy formulated by the Board from time to time; or

ii. any audit objection to the effect that the assessment in the case of the assessee for the relevant assessment year has not been made in accordance with the provisions of this Act; or

iii. any information received under an agreement referred to in section 90 or section 90A of the Act; or

iv. any information made available to the Assessing Officer under the scheme notified under section 135A; or

v. any information which requires action in consequence of the order of a Tribunal or a Court; or

vi. any information in the case of the assessee emanating from survey conducted under section 133A, other than under sub-section (2A) of the said section, on or after the 1st day of September, 2024.

If the AO is having such information which suggest that the income chargeable to tax has escaped assessment, then the assessing officer may issue notice for re-opening of assessment subject to fulfilment of certain condition.

Assessing Officer has power to re-open, provided there is "tangible material" to come to the conclusion that there is escapement of income from assessment. Reasons must have a live link with the formation of the belief. (CIT Delhi vs M/S. Kelvinator of India Ltd)

In this case, an assessee, a telecom service provider, had filed income tax returns for various assessment years claiming refund of tax. The Revenue did not process the refund on the ground of technical difficulties and pending verification of the assessee's tax liability.

The Supreme Court in CIT v. Gujarat Electricity Board (2003) held that where a return is filed and acknowledgment is issued, it cannot be said that income has escaped assessment merely because the return was not processed under Section 143(1).

The above situation does not seem to fall in any of the above points which suggests that the income chargeable to tax has escaped assessment.

Hence, the action of AO is not tenable, and reopening of the assessment of the assessee under section 147 of the Act may not be valid.

**Answer 4A(iii)**

As per the provision of section 149 of the Income tax Act, 1961, the time limit for issue of notice u/s 148 for the amount involved equal to or more than 50 lakh is up to 5 years and 3 months from the end of the relevant assessment year.

Further the specified authority for the purposes of section 148 and 148A shall be the Additional Commissioner or the Additional Director or the Joint Commissioner or the Joint Director, as the case may be w.e.f. 01.09.2024.

In the given case, as the amount involved is equal to Rs. 50 Lakh, the notice can be issued till 30.06.2026 i.e., up to 5 years and 3 months from the end of the relevant assessment year. As

the Notice is issued on 14th June 2026, the Notice is not time barred and accordingly contention of Mr. Meet is not correct.

However, the notice is issued by the AO himself, who is not the specified authority under the Act. Therefore, the contention of Mr. Meet is correct with regard to non-approval of competent authority.

**Question 5**

*Ms. Shilpi, aged 28 years, furnishes the following information for the Financial Year 2025-26 :*

| *Particulars* | *Amount in ₹* |
|---|---|
| *Loss from speculation Business-X* | *85,000* |
| *Profit from Speculation Business-Y* | *45,000* |
| *Interest on borrowings in respect of self-occupied house Property* | *3,18,000* |
| *Income from Let out property (Net)* | *1,20,000* |
| *Presumptive Income from trading and manufacturing business u/s 44AD* | *1,00,000* |
| *Salary from ABC (P) Ltd.* | *5,25,000* |
| *Interest on PPF* | *65,000* |
| *Long term capital gain on sale of vacant site* | *1,25,000* |
| *Short term capital loss on sale of Jewelry* | *65,000* |
| *Contribution in PPF* | *60,000* |
| *Brought forward loss of business of assessment year 2020-21* | *1,00,000* |
| *Donation to charitable trust approved u/s 80G* | *90,000* |

| | |
|---|---|
| *Received gift of Jewellery from her fiancée (Fair market value on 17th May, 2025)* | *3,00,000* |
| *Received gift from her employer* | *26,000* |
| *She has purchased an immovable property from B who is not his relative. The stamp duty value of the property is ₹ 26,00,000* | *24,50,000* |

*Compute the total income and net tax liability of Ms. Shilpi for the assessement year 2026-27. Also show the loss, eligible to be carried forward if any. Assume she has exercised the option to shift out of the default tax regime u/s 115BAC.*

*(15 marks)*

**Answer 5**

**Computation of Total Income of Ms. Shilpi for A.Y. 2026-27**

| *Particulars* | *Amt in Rs.* | *Amt in Rs.* |
|---|---|---|
| Salary from ABC (P) Ltd. | 5,25,000 | |
| Received Gift from Employer | 26,000 | |
| Less Standard Deduction u/s 16 | (50,000) | |
| Taxable Salary | 5,01,000 | |
| Less: Loss from House Property of Rs. 80,000 to be set off against salary income as it is beneficial to set off against salary as compared to LTCG as LTCG taxable @ 12.5% | (80,000) | 4,21,000 |
| Income from House Property<br><br>Income from Let out property (Net)<br><br>Less: Loss from self-occupied house property to the extent of Rs. 2 Lakh allowable as deduction u/s 24(b) in respect of interest on borrowings. Balance of Rs. 80,000 to be set off against salary income | <br><br>1,20,000<br><br>(1,20,000) | <br><br><br><br>Nil |

| | | |
|---|---|---|
| Profits and Gains from Business or Profession | | |
| Profits from speculation Business Y | 45,000 | |
| Less: Loss of Rs. 85,000 from Speculation business X set off against profit from speculation business Y to the extent of such profit | (45,000) | Nil |
| Presumptive Income from trading and manufacturing Business | 1,00,000 | |
| Less: Brought forward business loss of AY 2020-21 set off since the period of 8 years has not expired | 1,00,000 | Nil |
| Capital Gains | | |
| Long term capital gain on sale of vacant site taxable @12.5% u/s 112 | 1,25,000 | |
| Less: Short term capital loss on sale of jewellery | (65,000) | 60,000 |
| Income from Other Sources | | |
| Interest on PPF Deposit | 65,000 | |
| Less: Exempt | (65,000) | |
| Received Gift of Jewellery | 3,00,000 | |
| Immovable property acquired for inadequate consideration- difference between stamp duty value and purchase price [Since the difference between the Stamp duty value and consideration actually received i.e. Rs. 1,50,000 is not more than higher of the following:<br>• Rs. 50,000<br>• 10% of the consideration i.e. (24,50,000 x 10% = 2,45,000) | Nil | 3,00,000 |
| Gross Total Income | | 7,81,000 |

| | | |
|---|---|---|
| Less: Deductions under Chapter VI-A | | |
| 80C: Contribution in PPF | 60,000 | |
| 80G: Donation to recognized and approved charitable trust (Donation of Rs. 90,000 to be first restricted to Rs. 66,100 being 10% of adjusted total income of Rs. 6,61,000 (Rs. 7,81,000 – Rs. 60,000 – Rs. 60,000). Thereafter deduction would be computed at 50% of Rs. 66,100 | 33,050 | (93,050) |
| Total Income | | 6,87,950 |
| Tax Payable | | 45,590 |
| LTCG of 60,000 @12.5% : 7,500 | | |
| Balance Rs. 6,27,950 @ slab rate : 38,090 | | |
| Add: Health & Education Cess @4% | | 1,824 |
| Total Tax Liability (Round off) | | 47,410 |

**Losses to be carried forward to AY 2027-28**

| *Particulars* | *Amt in ₹* |
|---|---|
| Loss from speculation Business X (Rs. 85,000 – Rs. 45,000) | |
| (Loss from speculation business can be set off only against profits of any other speculation business. If loss cannot be so set off, the same has to be carried forward to the subsequent year for set off against income from speculation business, if any in that year) | 40,000 |

***Attempt all parts of either Q. No. 6 or Q. No. 6A***

**Question 6**

*(a) State the consequences that would follow if the Assessing Officer makes adjustment to the arm's length price in international transactions of the assessee resulting in increase in taxable income.*

*What are the remedies available to the assessee to dispute such adjustment ?*

*(5 marks)*

*(b) Vimal (P) Ltd. is a resident Indian company having registered office in Kota. On 1st April, 2024 it borrowed a sum of ₹ 22 crores from a company ZEENA Ltd. incorporated in UK, which is the holding company of Vimal (P) Ltd. at an interest rate of 9.5% per annum. There were no other borrowings made by Vimal (P) Ltd. The net profit reported by Vimal (P) Ltd. was ₹ 300 lakhs after debiting interest on borrowed*

*funds, depreciation of ₹ 70 Lakhs, provision for income-tax ₹ 80 lakhs and amortization of expenses ₹ 30 lakhs.*

*You are required to calculate the amount of interest eligible for deduction. Also explain the legal provisions to support your conclusion.*

*(5 marks)*

*(c) Explain in brief whether in the following independent cases, will GAAR provisions apply.*

*(i) If arrangement is sanctioned by an authority such as Court, NCLT or is in accordance with judicial precedents etc. ?*

*(ii) A fund claims treaty benefits in respect of gains from derivatives in one year and in another year set-off losses from derivatives transactions against gains from shares under the Act.*

*(iii) Aman Ltd. is an Indian Company. It sets up a unit in a SEZ for manufacturing of Cement. It claims 100% deductions of profits earned from that unit during the financial year and subsequent years as per sec 10AA of the Act.*

*(iv) BDX Ltd. has 2 manufacturing units, one which produces certain goods in a non SEZ area and one in a SEZ area. It diverts produce from the non SEZ factory and shows the same as being manufactured in the SEZ factory, whilst it is only packaging the goods therein.*

*(v) Foreign Portfolio Investors (FPIs) is based in a tax friendly jurisdiction for non-tax commercial reasons.*

*(5 marks)*

***OR (Alternate Question to Q. No. 6)***

**Question 6A**

*(i) As per Rule 10 C of the Indian Income Tax Rules 1962, what factors shall be taken into account while selecting the most appropriate Transfer Pricing Method ?*

*(5 marks)*

*(ii) Canada Ltd., a Canadian company has a subsidiary, Maharana Ltd. in India. Canada Ltd. sells computer monitors to Maharana Ltd. for resale in India. It also sells computer monitors to MCl Ltd., another computer reseller. It sells 40,000 computer monitors to Maharana Ltd. at ₹ 10,000 per unit. The price fixed for MCl Ltd. is ₹ 9,000 per unit. The warranty in case of sale of monitors by Maharana Ltd. is handled by Maharana Ltd. However, for sale of monitors by MCI Ltd., Canada Ltd. is responsible for the warranty for 3 months. Both Canada Ltd. and Maharana Ltd. offer extended warranty at a standard rate of ₹ 1,000 per annum.*

*On these facts, how will A.O. assess Maharana Ltd.'s income, support your answer with workings.*

*(5 marks)*

*(iii) Ashok aged 54 years, is a salaried employee with TMS Limited. He has furnished the following details for the PY 2025-26 :*

| ***S.No.*** | ***Particulars*** | ***Amount in ₹*** |
|---|---|---|
| *1.* | *Gross Salary* | *18,00,000* |
| *2.* | *Business Loss from a new part time business of trading in Mobiles* | *(3,50,000)* |
| *3.* | *Short Term Capital Loss on sale of Property (computed)* | *(2,60,000)* |
| *4.* | *He purchased 1000 Bibcoins, a virtual digital currency on 01.04.2025 for ₹ 1,000 per coin, which he sold on 15.02.2026 for ₹ 1,300 per coin. Commission for transfer of Bibcoins is 2% of the sale value.* | |

*You are required to compute the total income of Mr. Ashok, assuming that he has opted out from section 115 BAC.*

*(5 marks)*

**Answer 6(a)**

In case the Assessing Officer makes adjustment to Arm's Length Price in an international transaction which result in increase in taxable income of the assessee, the following consequences shall follow:

1. No deduction under section 10AA or Chapter VI-A shall be allowed from the income so increased.
2. No corresponding adjustment would be made to the total income of the other associated enterprise (in respect of payment made by the assessee from whom tax has been deducted or is deductible at source) on account of increase in the total income of the assessee on the basis of the arm's length price so recomputed.

The remedies available to the assessee to dispute such an adjustment are:

1. In case the assessee is an eligible assessee under 144C, he can file his objections to the variation made in the income within 30 days [of the receipt of draft order by him] to the Dispute Resolution Panel and Assessing Officer. Appeal against the order of the Dispute Resolution Panel can be made to the Income-tax Appellate Tribunal.

2. In any other case, he can file an appeal under section 246A to the commissioner (Appeals) against the order of the Assessing Officer within 30 days of the date of service of notice of demand.
3. The assessee can opt to file an application to the Commissioner of Income-tax for revision under section 264 of the order of the Assessing Officer.

**Answer 6(b)**

**Computation of interest to be allowed as per section 94B for M/s Vimal (P) Ltd.**

| *Particulars* | *Rs. in lakhs* | *Rs. in lakhs* |
|---|---|---|
| Net Profit - as reported | | 300.00 |
| Add: Expenses already debited | | |
| Interest (Rs. 2200 lacs @9.5%) | 209.00 | |
| Depreciation | 70.00 | |
| Provision for income tax | 80.00 | |
| Amortization expenses | 30.00 | 389.00 |
| EBITDA | | 689.00 |
| Lower of the following shall be disallowed | | |
| Interest paid or payable by Vimal (P) Ltd to AE | 209.00 | |
| Total interest paid or payable in excess of 30% of EBITDA [Rs. 209.00 – Rs. 206.70 (Rs. 689.00 x @ 30%)] | 2.30 | |
| | | 2.30 |
| Interest allowable as deduction | | 206.70 |
| Amount of interest liable for disallowance | | 2.30 |

*Working note*

1. Where an Indian company pays interest in respect of any debt issued by a non-resident being an associated enterprise or from third party and such borrowing is guaranteed by an associated enterprise, and where such interest expenditure exceeds Rs. 1 crore, then the interest paid or payable by such company in excess of 30% of its EBITDA is liable for disallowance.

2. Disallowed interests of Rs. 2.30 lakhs are eligible for carry forward to the subsequent 8 assessment years and will be allowed as deduction while computing Profits and gains of business or profession, to the extent it is allowable under section 94B.

**Answer 6(c)(i)**

Where the Court has explicitly and adequately considered the tax implications while sanctioning the arrangement, GAAR will not apply to such arrangement.

**Answer 6(c)(ii)**

GAAR provisions are applicable to an impermissible avoidance arrangement u/s 96. In so far as the admissibility of claim under treaty or domestic law in different year is concerned, it is not a matter to be decided through GAAR provisions.

**Answer 6(c)(iii)**

There is an arrangement of setting up a unit in SEZ which results in tax benefits. However, this is clearly a case of Tax mitigation wherein the assessee is taking advantage of a benefit offered to him vide adherence to the conditions so imposed, and the consequences that emanate from it, that is setting up a business in a SEZ area. Hence, Revenue would not ideally invoke GAAR in this situation.

**Answer 6(c)(iv)**

This is a clear case of misrepresentation of facts by showing production of non SEZ units as within the SEZ unit, and hence falls in the bracket of tax evasion and not tax avoidance. Hence, GAAR may not be invoked in this case as GAAR intends to tackle only tax avoidance and not tax evasion. So normal provisions of income tax act like denying the deduction, levy of penalties etc. will apply.

**Alternate Answer 6(c)(iv)**

As per the provision of section 95 of the Income Tax Act, GAAR shall apply if an arrangement entered into by an assessee may be declared to be an impermissible avoidance arrangement. Further, as per section 96, an impermissible avoidance arrangement means an arrangement, the main purpose of which is to obtain a tax benefit, and it:

a) creates rights, or obligations, which are not ordinarily created between persons dealing at arm's length;

b) results, directly or indirectly, in the misuse, or abuse, of the provisions of this Act;

c) lacks commercial substance or is deemed to lack commercial substance under section 97, in whole or in part; or

d) is entered into, or carried out, by means, or in a manner, which are not ordinarily employed for bona fide purposes.

Accordingly, if such arrangements cover under the impermissible avoidance arrangement, then GAAR provision may be invoked.

**Answer 6(c)(v)**

The case will be examined based on the twin tests of tax benefit and tainted element tests as specified in section 96 of the Act. If there are non-tax commercial reasons and tax benefit is not the main purpose, GAAR may not apply. Thus again, one needs to satisfy the commercial purpose test of any arrangement.

***OR (Alternate to Q. No. 6)***

**Answer 6A(i)**

Rule 10C of the Income Tax Rules, 1962 states that in selecting a most appropriate method of Transfer Pricing, the following factors shall be taken into account namely,

a) The nature and class of the international transaction or specified domestic transaction.

b) The class or classes of Associated Enterprises entering into the transaction and the functions performed by them taking into account assets employed or to be employed and risks assumed by such enterprises.

c) The availability, coverage and reliability of data necessary for application of the method.

d) The degree of comparability existing between the international transaction or specified domestic transaction and the uncontrolled transaction and between the enterprises entering into such transactions.

e) The extent to which reliable and accurate adjustments can be made to account for differences, if any, between the international transaction or specified domestic transaction and the comparable uncontrolled transactions or between the enterprises entering into such transactions.

f) The nature, extent and reliability of assumptions required to be made in the application of a method.

**Answer 6A(ii)**

Canada Ltd., the foreign company and Maharana Ltd., the Indian company are associated enterprises. Since Canada Ltd. is the holding company of Maharana Ltd. Canada Ltd. sells computer monitors to Maharana Ltd. for resale in India. Canada Ltd. also sells identical computer monitors to MCI Ltd., which is not an associated enterprise. The price charged by Canada Ltd. for a similar product transferred in comparable uncontrolled transaction is, therefore, identifiable.

Therefore, Comparable Uncontrolled Price (CUP) method for determining arm's length price can be applied. While applying CUP method, the price in comparable uncontrolled transaction needs to be adjusted to account for difference, if any, between the international

transaction (i.e., transaction between Canada Ltd. and Maharana Ltd.) and uncontrolled transaction (i.e., transaction between Canada Ltd. and MCI Ltd.) and the price so adjusted shall be the arm's length price for the international transaction.

For sale of monitors by MCI Ltd., Canada Ltd. is responsible for warranty for 3 months. The price charged by Canada Ltd. to MCI Ltd. includes the charge for warranty for 3 months. Hence arm's length price for computer monitors being sold by Canada Ltd. to Maharana Ltd. would be:

| *Particulars* | *Amount in Rs.* |
|---|---|
| Sale price charged by Canada Ltd. to MCI Ltd. | 9,000 |
| Less: Cost of warranty included in the price charged to MCI Ltd. (1,000 x 3/12) | (250) |
| Arm's length price | 8,750 |
| Actual price paid by Maharana Ltd. to Canada Ltd. | 10,000 |
| Difference per unit | 1,250 |
| No. of units supplied by Canada Ltd. to Maharana Ltd. | 40,000 units |
| Addition required to be made in the computation of total income of Maharana Ltd. (Rs. 1,250 per unit * 40,000 unit) | 5,00,00,000 |

*Note*: No deduction under chapter VI-A would be allowable in respect of the enhanced income of Rs. 5.00 crores.

**Answer 6A (iii)**

**Computation of Total Income of Mr. Ashok for A.Y. 2026-27**

| | *Particulars* | *Amount in Rs.* | *Amount in Rs.* |
|---|---|---|---|
| I | Salaries | | |
| | Gross Salary | 18,00,000 | |
| | Less: Standard deduction u/s 16(ia) | (50,000) | 17,50,000 |
| II | Profit and gains from business or profession Business loss from part time business | (3,50,000) | |

| | | | |
|---|---|---|---|
| | [Loss from business cannot be set off against salary income. Further, no set off of business loss is allowed against any capital gain from virtual digital assets. Therefore, Business loss of Rs. 3,50,000 to be carried forward to A.Y. 2027-28.] | | |
| III | Capital Gains | (2,60,000) | |
| | Short term capital loss on sale of property | | |
| | [STCL cannot be set off against any income other than Capital gains. Therefore, short term capital loss of Rs. 2,60,000 to be carried forward to A.Y. 2027-28]. | | |
| | Note: It is not eligible for set off against capital gain arising from transfer of virtual digital asset. | | |
| | Capital Gains | | |
| | Income from transfer of virtual digital assets (₹1,300 - Rs. 1,000) x 1,000 bib coins) | | 3,00,000 |
| | [No deduction in respect of any expenditure other than cost of acquisition is allowed) | | |
| | Total Income | | 20,50,000 |

***

# IFSCA - REGULATIONS, LISTING AND COMPLIANCES

## GROUP 1 ELECTIVE PAPER 4.6

**Time allowed : 3 hours** **Maximum marks : 100**

**Total number of questions : 6**

***NOTE :*** *Answer* ***ALL*** *Questions.*

### Question 1

*GIFT City, nestled on the banks of the Sabarmati river in Gujarat, has steadily emerged as India's most ambitious experiment in creating a world-class international financial hub. It is against this backdrop that Skybridge Capital IFSC Ltd ('Skybridge') was incorporated under the Companies Act, 2013 and duly licensed by the International Financial Services Centres Authority ('IFSCA') to operate within the GIFT City IFSC, a designated Special Economic Zone under the SEZ Act, 2005. Skybridge's Memorandum and Articles of Association expressly recorded its status as an IFSC entity engaged in financial services and allied activities. The company formally commenced business operations on April 1, 2023, with considerable optimism and an ambitious growth roadmap. However, as Skybridge began translating its plans into action, a series of regulatory questions some subtle, some significant began to surface across its various business verticals, each demanding careful legal and compliance scrutiny. The Board of Directors, comprising five members including two independent directors, held its first Board meeting on June l5, 2023, seventy-two days after the Company commenced business. At this meeting, the Board, driven by a genuine sense of corporate responsibility and perhaps an excess of caution, resolved to constitute a CSR Committee, earmark two percent of average net profits toward CSR activities and roll out a formal CSR policy with immediate effect. The directors believed, in good faith, that CSR compliance was a mandatory obligation applicable to Skybridge from the very first year of operations.*

*Around the same time, one of the independent directors, Raghav, a respected financial services professional, tendered his resignation on July 20, 2023, citing personal commitments. The Company Secretary, Nambiar, an Associate member of the Institute of Company Secretaries of India, acting on what she understood to be standard statutory practice, promptly filed the resignation with the Registrar of Companies, treating it as a mandatory compliance obligation. In parallel, Skybridge had promoted a wholly-owned subsidiary, Skybridge Fund Management IFSC Private Ltd ('SFML'), to carry out fund management activities within the IFSC framework. SFML applied to IFSCA for registration as a Registered FME (Non-Retail), a category it believed was best suited to its intended investor base and product strategy. At the time of application, SFML disclosed a net worth of USD 3,80,000. The senior management of SFML was firmly of the view that this figure comfortably exceeded the applicable threshold, having internally benchmarked the net worth requirement for a Non-Retail FME under the regulations.*

*Once registration was anticipated, SFML set its sights on launching an Infrastructure Investment Trust ('InvIT') within the IFSC, structured as an unlisted vehicle, with no intention of listing its units on any recognised stock exchange. The fundraising strategy was built around approaching sixty-five investors, each committing a minimum of USD 2,50,000, whom the management loosely described as 'sophisticated and well-informed market participants'.*

*In its eagerness to move quickly, SFML submitted the draft placement memorandum to IFSCA just three working days before the proposed opening of the issue, a timeline that the compliance team internally flagged but did not escalate. Further compounding the situation, the management planned to open the issue four months after receiving IFSCA's communication acknowledging that the placement memorandum had been taken on record. To close the loop, the final placement memorandum was earmarked to be filed with IFSCA within fifteen working days from the date of allotment, a timeline the team considered reasonable, though regulatory requirements may suggest otherwise.*

*Skybridge's licensed banking arm, Skybridge Banking Unit IFSC ('SBU'), operating under the applicable IFSCA regulations, received a proposal from Flience Air Group, a prominent overseas airline conglomerate, seeking a structured, multi-layered financing solution. Drawing upon its product capabilities and the broad mandate available to IFSC banking units, SBU's structuring desk proposed a comprehensive arrangement-equipment leasing of three wide-body aircraft to Flience's operating subsidiary, issuance of offshore derivative instruments ('ODIs') to foreign institutional investors seeking synthetic exposure to Flience's revenue streams, extension of post-shipment export credit in foreign currency to Flience's cargo and logistics arm and participation as a Foreign Portfolio Investor in Flience Air Group's listed debt securities on an overseas exchange.*

*When the term sheet was shared with Flience's overseas legal counsel, they raised concerns about whether the proposed activities fell within SBU's permissible regulatory mandate or certain elements risked overstepping the boundaries prescribed for IFSC banking units.*

*Based on the above facts, answer the following questions :*

*(a) Explain the specific governance-related relaxations available to IFSC companies that the Board and Nambiar appear to have overlooked.*

*(b) Applying the IFSCA (Fund Management) Regulations, 2025, examine whether SFML's net worth meets the prescribed requirement and outline the procedural compliances not covered in the InvIT's proposed private placement process.*

*(c) Evaluate whether SFML's net worth meets the Registered FME (Non-Retail) requirement.*

*(d) As a Company Secretary, advise SBU and critically evaluate the proposed Flience Air Group financing arrangement as per the applicable IFSCA regulations and recommend the appropriate course of action.*

*(5 marks each)*

**Answer 1(a)**

To facilitate ease of doing business and attract international players, the Ministry of Corporate Affairs (MCA) has extended several exemptions and relaxations under the

Companies Act, 2013 and related rules for companies established in International Financial Services Centres (IFSCs), such as GIFT IFSC. These relaxations are applicable to both IFSC Private Companies and IFSC Public Companies that are licensed by the International Financial Services Centres Authority (IFSCA) and located within an approved IFSC in an SEZ under the SEZ Act, 2005.

The exemptions apply only to companies that:

- Are licensed by IFSCA to operate in an IFSC;
- Are located in an SEZ, such as GIFT City;
- Are engaged in financial services, fintech, or allied activities as permitted by IFSCA.

The company must disclose in its Memorandum and Articles of Association that it operates as an IFSC entity.

In the given case, the following governance related relaxations are applicable to IFSC companies under Companies Act, 2013:

| | |
|---|---|
| Section 173(1) | First Board meeting within 60 days; thereafter minimum one meeting in each half of calendar year. |
| Section 135 | CSR provisions not applicable for first five years from commencement of business. |
| Section 168(1) | Director resignation filing is optional, not mandatory. |

Skybridge Capital IFSC Ltd. and Nambiar acted with excessive caution. As per relaxations to IFSC companies under Companies Act, 2013, the first Board Meeting could have been held within 60 days (not in 30 days), CSR was also not required for first 5 years from the commencement of business, and filing the director's resignation (DIR-11) was optional for the director, not a mandatory compliance.

**Answer 1(b)**

**Private Placement without listing**

The fund raising by an Infrastructure Investment Trust (InvIT) by way of private placement, whose units are not proposed to be listed on the recognised stock exchange(s), must be subject to compliance with the following:

1) The InvIT must file a draft placement memorandum with the IFSCA in the manner as specified by the IFSCA, along with the applicable fee, at least five working days prior to opening of the issue.

   Such opening of the issue must not be at a date later than three months from the date of communication from the IFSCA that the placement memorandum has been taken on record.

2) The InvIT must raise funds from investors investing at least USD 250,000 or accredited investors.

3) The InvIT must raise funds from not more than fifty investors.

4) The InvIT must file the final placement memorandum with the IFSCA within a period of ten working days from the date of allotment of the units to the investors.

In the given case, the disclosed net worth of SFML is USD 380,000 which falls short of the USD 500,000, required for a Registered FME (Non-Retail). Additionally, the InvIT proposal fails on the following three parameters:

1. Draft Placement memorandum was filed three working days prior to opening of the issue instead of five working days;
2. The issue was planned to open four months after receiving the IFSCA's communication instead of the three months limit; and
3. The target of sixty-five investors for raising of funds which exceeds the limit of fifty investors in case of private placement.

**Answer 1(c)**

A Fund Management Entity (FME) is an entity registered with the IFSCA under one of the prescribed categories, namely Authorised FME, Registered FME (Non-Retail), or Registered FME (Retail), for the purpose of carrying out the business of fund management in an International Financial Services Centre (IFSC). FME is governed as per IFSCA (Fund Management) Regulations, 2025.

An entity seeking registration as a FME must at all times comply with the net worth requirements as given below:

| S. No. | Category | Net Worth |
|---|---|---|
| 1 | Authorised FME | USD 75,000 |
| 2 | Registered FME (Non-retail) | USD 5,00,000 |
| 3 | Registered FME (Retail) | USD 1,000,000 |

Skybridge Fund Management IFSC Pvt. Ltd. (SFML), as a non-retail FME, is non-compliant. Under the IFSCA (Fund Management) Regulations, 2025, a Registered FME (Non-Retail) requires a minimum net worth of USD 500,000. SFML's disclosed a net worth of USD 380,000 which falls short by USD 120,000, rendering their application ineligible in its current state.

**Answer 1(d)**

The broad categories of permitted financial activities as per IFSCA (Banking) Regulations, 2020 are as under:

- Lend in the form of loans, trade finances and acceptances, commitments and guarantees, carry out credit enhancement, credit insurance, and sale and purchase of portfolios;
- Undertake inter-bank borrowings and lending;

- Undertake investments, transferring securities or such other instruments, as principal or agent;
- Extend Post-Shipment Export Credit in foreign currency, or engage in factoring and forfaiting of export receivables, subject to the guidelines specified by the IFSCA;
- Undertake equipment leasing, including aircraft leasing;
- Participate in derivative transactions;
- Operate as a Foreign Portfolio Investor;
- Issuance of Offshore Derivatives Instruments (ODI).

All four limbs of the arrangement i.e Aircraft Leasing, ODI issuance, post-shipment credit, and FPI participation are legally permissible under IFSCA (Banking) Regulations, 2020. However, SBU must ensure specific "fit and proper" criteria for ODI subscribers and comply with exposure limits.

**Recommendation:** It is recommended to proceed with the term sheet, provided that the synthetic exposure (ODIs) is backed by underlying permissible assets as per IFSCA Regulatory Framework.

**Question 2**

(a) *Aurex Bullion Exchange IFSC Ltd ('Aurex'), a recognised bullion exchange at GIFT City IFSC, was incorporated as an independent entity and is neither a subsidiary nor a joint venture of any Market Infrastructure Institution. During a Board meeting, deliberations arose regarding the necessity of appointing a Chief Legal Officer, with cost considerations being a significant factor weighing on the Board's thinking. Venkat, a non-executive director, firmly asserted that Aurex had no regulatory obligation to appoint a Chief Legal Officer and that foregoing such an appointment was both legally defensible and commercially justified. Subsequently, Aurex submitted proposed amendments to its bye-laws directly to IFSCA without any internal legal review, prompting IFSCA to raise formal concerns about the adequacy of Aurex's legal governance framework. In light of Aurex's structural independence and IFSCA's concerns, comment if Venkat's contention is correct.*

*(5 marks)*

(b) *Meridian Capital Markets IFSC Ltd ('Meridian'), a registered Capital Market Intermediary ('CMI') operating at GIFT City IFSC, engaged Pillai, a practising advocate with over two decades of securities law experience, to conduct its annual compliance audit for the financial year 2024-25. Meridian's management believed his expertise in capital markets regulation made him eminently suitable for the assignment. Pillai submitted the audit report to IFSCA on October 15, 2025. Meridian, also being a trading member of a recognised stock exchange, did not separately file the audit report with the exchange, considering the IFSCA filing as sufficient discharge of its obligations. IFSCA, upon review, flagged multiple concerns regarding Meridian's compliance audit.*

*Assess Meridian's compliance lapses in respect of its annual compliance audit for FY 2024-25, under the applicable IFSCA regulations.*

*(5 marks)*

(c) *Trident Ancillary Services IFSC Ltd ('Trident'), an Ancillary Service Provider at GIFT City IFSC, had been providing Business, Accounting, Tax and Financial ('BATF') services since the commencement of the BATF Regulations, 2024. Rather than obtaining a fresh certificate of registration, Trident communicated its willingness to operate under the new regulations to IFSCA on the seventy fifth day from the date of commencement of the regulations. To quickly build its client base, Trident onboarded several clients by formally transferring existing service contracts from its parent entity, Trident Advisory LLP, a firm already operating in India, to its IFSC unit. IFSCA, during a routine review, raised concerns about both the timing of Trident's communication and the way it had commenced its BATF operations.*

*Examine whether Trident's client onboarding arrangement are compliant with the BATF Regulations, 2024.*

*(5 marks)*

**Answer 2(a)**

As per Regulation 33 of IFSCA (Bullion Market) Regulations, 2025, a bullion exchange or bullion clearing corporation, which is not a subsidiary of a market infrastructure institution (MII) or a joint venture of market infrastructure institutions, shall be required to appoint a Chief Legal Officer.

**Responsibilities of the Chief Legal Officer**

The Chief Legal Officer is responsible for managing all legal risks and must carry out tasks such as:

- Drafting and vetting of the bye-laws, and checking any amendments before submission of documents to the Authority for approval. Vetting of legal documents related to cross-border arrangements proposed to be entered into by a bullion exchange or bullion clearing corporation.
- Performing such other functions specified by the governing board of a bullion exchange or bullion clearing corporation or the IFSCA.

In the given case, Venkat's contention is legally incorrect as per IFSCA (Bullion Market) Regulations, 2025. Since Aurex Bullion Exchange IFSC Ltd. is an independent entity and is neither a subsidiary nor a joint venture of any MII, the appointment of a Chief Legal Officer is a mandatory regulatory requirement. Moreover, the failure to have bye-laws vetted by a Chief Legal Officer before submission to IFSCA prompting IFSCA to raise formal concerns and questioned the legal governance framework of Aurex Bullion Exchange.

**Answer 2(b)**

**Annual Compliance Audit**

As per Regulation 25 of IFSCA (Capital Market Intermediaries) Regulations, 2021, a Capital Market Intermediary (CMI) must have an annual audit conducted in respect of compliance

with the regulations by a member of the Institute of Chartered Accountants of India or a member of the Institute of Company Secretaries of India or a member of the Institute of Cost Accountants of India or any person authorised to conduct audit in a Foreign Jurisdiction.

A copy of such compliance audit report for a financial year must be furnished to the IFSCA by the 30th of September of such year. However, a trading member, a clearing member and a depository participant also file a copy of such report to the recognised stock exchange, recognised clearing corporation and depository, as the case may be.

A CMI must have additional audits and submit such reports as may be specified by the IFSCA from time to time.

In view of the above, Meridian Capital Markets IFSC Ltd. has committed three distinct compliance lapses:

- **Ineligible Appointment:** Appointing a practicing advocate i.e. Pillai instead of a CA, CS, or CMA violates the prescribed compliance auditor categories under Regulation 25.
- **Delayed Filing:** Pillai submitted the audit report to IFSCA on October 15, 2025 which was beyond the statutory deadline of 30th September.
- **Filing Omission:** Being a trading member, a copy of compliance audit is to be filed with the recognised stock exchange, which is not filed by Meridian.

**Answer 2(c)**

As per Regulation 4 of IFSCA (Book-keeping, Accounting, Taxation and Financial Crime Compliance Services) Regulations, 2024, no person, except an Ancillary Service Provider, shall provide BATF Services in IFSC without obtaining certificate of registration from the IFSCA.

An Ancillary Service Provider intending to provide BATF Services shall, within a period of sixty days from the date of commencement of BATF regulations, communicate its willingness to operate to the Authority in such form and manner as specified.

The Ancillary Service Provider communicating its willingness shall ensure compliance with the following regulations, from the date of commencement of these regulations until it receives a letter of continuation from the Authority:

i) The applicant shall ensure that their business in IFSC is not set up either by
   - splitting up of business already in existence in India; or
   - reconstructing of business already in existence in India; or
   - reorganising of a business already in existence in India.

ii) The BATF Service Provider shall not offer BATF Services by way of transferring or receiving of existing contracts or work arrangements from their Group Entities in India.

In the given case, Trident's onboarding arrangements are non-compliant with the IFSCA (BATF) Regulations, 2024 considering the following:

1. The communication to IFSCA was submitted on the 75th day, exceeding the 60-day statutory limit for existing providers.
2. The formal transfer of service contracts from its parent entity (Trident Advisory LLP) directly violates Regulation 9, which prohibits the transferring or receiving of existing contracts from group entities in India. Consequently, Trident is operating without a valid 'Letter of Continuation' and is in breach of the anti-reconstruction norms.

**Question 3**

*The year 2024 marked a period of rapid expansion for the GIFT City IFSC ecosystem, with several ambitious new entrants seeking to leverage its internationally competitive regulatory environment. Among them was Vantage Trade Finance IFSC Ltd ('Vantage'), a registered ITFS operator and finance company under the IFSCA framework, quietly building what its founders envisioned as a full-spectrum trade finance platform.*

*Vantage had developed a sophisticated digital platform to facilitate invoice-based trade finance transactions for exporters and importers spanning multiple jurisdictions. Given the volume and cross-border sensitivity of transactions flowing through the platform, the integrity of its technology infrastructure was a regulatory obligation. Yet, by the close of the financial year ending March 31, 2026, the annual IT/IS audit, due within thirty days of year-end, had not been initiated. More troublingly, in February 2026, Vantage had quietly rolled out a significant upgrade to its core transaction-matching engine. No audit was commissioned before or after this upgrade. The concerns did not stop there. Vantage's disaster recovery site had gone untested for over eighteen months and the Business Continuity Plan remained frozen in time. Furthermore, transaction data was being archived in a proprietary format readable only through discontinued third-party software, raising questions about data retrievability.*

*As part of its 2026 growth strategy, Vantage's Board explored diversifying into the issuance and management of 'Transition Bonds' to support 'hard-to-abate' sectors like steel and cement. However, during a strategy session, the Board noted a lack of enthusiasm from institutional investors. A preliminary market study commissioned by Vantage highlighted that while the potential for transition finance was high, the absence of a finalized Climate Finance Taxonomy in India and the lack of sector-specific decarbonization roadmaps were creating significant regulatory uncertainty and heightening risk perception among global funds.*

*On the business expansion front, Vantage's Board approved the launch of two non-core activities, foreign exchange advisory and investment advisory services. Rather than establishing separately identifiable departments for each, both activities were folded into a single shared team with no firewalls or conflict-of-interest protocols. Mehta, the CFO, reassured the Board that a unified desk was perfectly reasonable for advisory functions. Meanwhile, a cluster of investor complaints had accumulated, with exporters alleging mis-selling of products. These complaints had been pending for over sixty days without acknowledgment. Compounding the problem, Vantage had never formulated a Board-approved grievance redressal or customer compensation policy.*

*It was Ragini, the newly appointed Company Secretary, who first connected the dots. Her comprehensive compliance review note made one thing unmistakably clear, Vantage's growth ambitions had quietly outpaced its compliance foundations.*

*Based on the above facts, answer the following questions :*

*(a) Outline the IT/IS audit timelines and auditor eligibility for an ITFS operator, highlighting Vantage's specific failures regarding platform upgrades.*

*(b) Explain the core elements of the IFSCA's investor protection framework and the time-bound grievance redressal mechanism applicable to regulated entities.*

*(c) Identify the primary barriers hindering the utilization of the IFSCA's Transition Bond framework, specifically regarding taxonomy and risk perception.*

*(d) Examine the structural requirements for a finance company undertaking non-core activities, specifically regarding depatment separation and conflict-of-interest firewalls.*

*(5 marks each)*

**Answer 3(a)**

The International Trade Finance Services (ITFS) operator must have and maintain robust technology infrastructure with a high degree of reliability, availability, scalability and security in respect of its systems, data and network, appropriate to support its operations and manage the associated risks.

The ITFS operator must have in place a suitable Business Continuity Plan (BCP) including contingency and disaster recovery arrangements that are appropriate to the nature, scale, and complexity of its business to ensure continuity and availability of its operation.

**Audit Timelines:** An ITFS operator must get an IT/IS Audit of the ITFS platform done:

- every year within 30 days from close of financial year, and;
- prior to major technical changes/updates being made to the ITFS platform.

**Auditor Eligibility:** The audit may be undertaken by:

- a CERT-In empanelled auditor,
- an auditor possessing the following certifications:
    a) Certified Information System Auditor (CISA) or
    b) Certified Information Security Manager (CISM) or
    c) GIAC Systems and Network Auditor (GSNA) or
    d) Certified Information Systems Security Professional (CISSP)
- All data related to transactions generated on ITFS shall be maintained in easily retrievable form.

Vantage Trade Finance IFSC Ltd. is in material breach of ITFS Guidelines- failure to conduct an audit within 30 days from the close of financial year. Upgradation of its core transaction - matching engine in the month of February, 2026 and the archival of transaction data in a proprietary format through discontinued third- party software highlights a high-risk regulatory lapse. Vantage must immediately appoint a CISA/CISSP/CISM/GSNA certified auditor to regularize these omissions and ensure data is easily retrievable.

**Answer 3(b)**

**IFSCA's Investor Protection Framework**

IFSCA has framed comprehensive regulations to protect investors, drawing from global best practices. Key elements include:

- Disclosure norms for issuers and intermediaries
- Fit and proper criteria for market participants
- Corporate governance standards
- Risk management and compliance requirements
- Code of conduct for financial institutions and intermediaries

These measures promote transparency and ethical conduct.

**Grievance Redressal Mechanism in IFSCs**

IFSCA has established a structured and time-bound grievance redressal system. Key features include:

- Investors can file complaints against regulated entities in IFSCs
- Complaints relate to issues such as mis-selling, non-disclosure, delays, or unfair practices
- Regulated entities are required to address grievances within prescribed timelines
- IFSCA monitors the resolution process to ensure fairness and efficiency

This mechanism ensures accountability of financial institutions.

The 60-day pendency of investor complaints without acknowledgment is a violation of the time-bound redressal mandate. Vantage must implement a Board-approved policy immediately, as the lack of transparency in handling 'mis-selling of products' allegations could lead to IFSCA enforcement actions or a "Fit and Proper" status review of the management.

**Answer 3(c)**

In spite of lot of potential for transition finance, the full utilization of the IFSCA's "Framework for Transition Bonds" is facing following barriers.

a) **Lack of Climate Finance taxonomy:** India's draft Climate Finance Taxonomy (released May 2025) acknowledges the need to address *"transition, in line with country*

*circumstances, in hard-to-abate sectors"* with iron, steel, and cement prioritized. However, taxonomy remains in draft form as of June 2026, creating regulatory uncertainty.

**b)** **Sector Specific Transition Roadmap:** The Asia Investor Group on Climate Change's consultation response to India's taxonomy highlights that *"the government could consider issuing guidance for corporate transition plans, aligned with national targets and sectoral roadmaps to help standardize disclosures and improve investor confidence in transition-aligned activities".* The absence of clearly defined transition pathways, technical screening criteria for intermediate decarbonization steps, and prescribed sunset dates creates hesitation among institutional investors accustomed to binary green/ non-green classifications.

**c)** **Risk Perception:** Hard-to-abate sectors face multiple risk layers such as technology risk (CCS, Green hydrogen), asset stranding risk and long payback period, discourage the investor from finance transition activities.

The primary obstacles to the Transition Bond framework in the IFSC are regulatory ambiguity (due to the draft status of the Climate Finance Taxonomy) and investor hesitation caused by the lack of clear sectoral transition roadmaps. Until definitions and classifications of 'green' and 'transition' activities become more standardized, many institutional investors are likely to remain cautious about allocating capital to 'hard-to-abate' sectors, due to concerns about regulatory uncertainty, reputational risk, and inconsistent sustainability metrics.

It may also be noted that green bonds dominate the sustainable finance market, accounting for over 60% of ESG-labelled bond sales. In contrast, transition bonds represent a tiny, albeit growing, fraction of global debt issuances.

**Answer 3(d)**

A Finance Company or a Finance Unit registered for carrying out one or more non-core activities only, may be permitted to undertake investment activities for the purpose of liquidity and balance sheet management as part of its normal business operations and such investment activity shall not be treated as a core activity for the purpose of Finance Company Regulations, 2021.

A Finance Company or a Finance Unit intending to undertake either a single or a combination of non-core activities shall fulfil the following conditions:

a) It carries out each such activity through a separately identifiable department (SID)

b) It ensures a firewall between various non-core activities so that no conflict-of-interest situation arises

c) It formulates Board-approved grievance redressal and customer compensation policy to deal with such complaints

A Finance Company or a Finance Unit intending to undertake any of the non-core activities subject to the provisions of the respective framework as specified by the IFSCA for that particular activity.

Unified desk arrangement by Mehta, the CFO is a clear violation of Finance Company Regulations. Non-core activities like Foreign Exchange advisory and Investment Advisory must be managed through SIDs with physical and operational firewalls. The current structure creates an unmitigated conflict-of-interest environment that fails the structural separation test required for finance entities in the IFSC.

***Attempt all parts of either Q. No. 4 or Q. No. 4A***

**Question 4**

*(a) Kurentis Jewels Private Ltd, a Mumbai-based manufacturer and exporter of gold jewellery with ITC(HS) code 7113 products forming the core of its operations, sought registration as a Bullion Trading Member on the India International Bullion Exchange (IIBX) at GIFT City IFSC. The Company's latest audited balance sheet as at March 31, 2025 reflected paid-up share capital of ` 8 crore, general reserves of ` 9 crore, securities premium of ` 2 crore and a revaluation reserve of ` 3 crore created upon upward revision of its factory premises. The profit and loss account showed a debit balance of ` 1.50 crore on account of accumulated losses. Additionally, deferred expenditure not yet written off stood at ` 0.50 crore. Kurentis engaged Mehul Shah, a Practising Company Secretary, to certify its net worth for submission to IIBX. Mehul Shah sought clarification about the components to be included under the applicable regulatory definition before issuing the certificate.*

*Compute the net worth as per the applicable IFSCA regulatory definition and assess whether the Company meets the prescribed eligibility threshold for registration as a Bullion Trading Member.*

*(5 marks)*

*(b) Peridian Securities IFSC Ltd., a GIFT City-based stock broker registered with IFSCA, onboarded a new client, Chandrakar, on March 14, 2025 after completing his KYC process in full. The physical KYC documents were retained at Peridian's compliance vault and scanned images were prepared for upload. However, due to an internal system migration, Peridian uploaded Chandrakar's KYC data onto the KRA's system only on March 22, 2025, eight working days after KYC completion. Subsequently, Chandrakar approached Polaris Clearing Corporation IFSC Ltd, another regulated entity at GIFT City, to open a clearing account. Polaris downloaded his KYC details from the KRA system and proceeded with onboarding. Separately, it emerged that Peridian had shared Chandrakar's KYC data with its associate company, Peridian Wealth Advisors, for cross-selling purposes, without his explicit knowledge. IFSCA's inspection unit flagged both irregularities during a routine compliance audit.*

*Examine the conduct of Peridian Securities against the KYC obligations under the IFSCA framework and analyse the specific violations arising from the facts, indicating the consequential compliance exposure.*

*(5 marks)*

*(c) Zulfik Fintech Solutions Ltd ('Zulfik'), incorporated in Singapore, is listed on the NSE IFSC Exchange at GIFT City. Following a rapid expansion phase, Zulfik's board appointed Das,*

*a senior finance professional holding a Chartered Financial Analyst degree, as its compliance Officer in January 2025, on the grounds that no qualified Company Secretary was available within its GIFT City office at a short notice. Das began discharging compliance functions, including filing periodic disclosures with NSE IFSC and coordinating with the depository. In March 2025, IFSCA's surveillance division noticed material discrepancies in Zulfik's shareholding pattern filings, documents that had been certified and submitted under Das's authorisation. The controlling shareholder, Zulfik Holdings Pvt. Ltd., had also failed to report a creeping acquisition, a matter that Das had been informed about internally, but had not escalated to the exchange. IFSCA initiated a show-cause proceeding against Zulfik, questioning both the validity of the appointment and the adequacy of compliance oversight exercised.*

*In light of IFSCA's listed entity regulations, evaluate the validity of Zulfik's compliance officer appointment and outline the specific regulatory obligations* that were breached.

*(5 marks)*

***OR (Alternate Question to Q. No. 4)***

**Question 4A**

*(i) Viksol Re IFSC Ltd., a reinsurance start-up promoted by a Singapore-based insurance group, commenced underwriting operations at GIFT City in November 2024 without obtaining registration from IFSCA, relying on its parent company's international standing as sufficient authorisation. Concurrently, Apex MGA Services IFSC, a Managing General Agent operating at GIFT City, entered into a binding authority arrangement with Hartwell Re, a foreign reinsurer based in Bermuda, enabling Hartwell Re to underwrite IFSC risks through Apex's platform. Neither Apex nor Hartwell Re had sought to determine whether their specific operational structure attracted any distinct registration obligation under the applicable IFSCA framework. When IFSCA's regulatory oversight division conducted a market inspection in January 2025, it flagged Viksol Re's unauthorised commencement of business and simultaneously questioned whether Apex MGA's arrangement with Hartwell Re had been structured and registered in compliance with the schedule governing such relationships. Both entities reached out to you, as you are a practising Company Secretary specialising in IFSC regulatory matters.*

*In this backdrop, advise Viksol Re and Apex-Hartwell on the applicable registration obligations.*

*(5 marks)*

*(ii) Crestline Financial Group, a banking and asset management conglomerate regulated in the United Kingdom, an FATF-compliant jurisdiction, resolved to establish a support services hub at GIFT City to provide technology, risk analytics and compliance support exclusively to its non-resident group entities spread across Europe and Southeast Asia. Crestline incorporated Crestline IFSC Services Ltd at GIFT City as a wholly-owned subsidiary and applied for registration as a GIC Unit under the IFSCA framework, proposing to operate under a Captive Centre model. During the application review,*

*IFSCA's registration desk raised a query noting that Crestline IFSC Services Ltd, in its business plan, had included a proposal to also extend certain data processing services to Pinnacle Fintech India Private Ltd, a domestic Indian resident entity that was an associate, but not a group entity of Crestline Financial Group. IFSCA sought Crestline's written response on whether such inclusion was consistent with the eligibility conditions and operating scope applicable to a registered GIC Unit, before proceeding with the grant of registration.*

*Applying the IFSCA's eligibility framework for GIC Units, advise Crestline IFSC Services Ltd.*

*(5 marks)*

*(iii) Goldstream International DMCC, a Dubai-based precious metals supplier with nine years of continuous operations in the global bullion market, applied to the India International Bullion Exchange (IIBX) at GIFT City for registration as a Qualified Supplier-Limited Purpose Trading Members (QS-LPTM). Goldstream's latest audited financial statements reflected a net worth of USD 8.2 million. The entity held active membership of the Dubai Multi Commodities Centre (DMCC) for the preceding six consecutive years and submitted its common application form along with supporting documents to IIBX, as prescribed. As part of the onboarding process, India International Depository IFSC Ltd (IIDIL) initiated due diligence for opening a Bullion Depository Receipt (BDR) account in respect of bullion proposed to be vaulted with an IFSCA-registered Vault Manager linked with IIDIL. During review, IIBX flagged that Goldstream had not furnished evidence of maintaining the prescribed minimum interest-free security deposit and sought clarification on whether all eligibility conditions had been cumulatively satisfied before proceeding further.*

*Examining each eligibility condition applicable to* a QS-LPTM and assess whether Goldstream International DMCC satisfies the prescribed requirements for onboarding on IIBX.

(*5 marks*)

**Answer 4(a)**

Any entity which is actively involved in dealing with goods that fall under specific ITC(HS) codes i.e.7108, 7113, 7114 and 7118 shall be eligible to apply for 'Qualified Jeweller(s)'. These codes relate to products under Chapter 71 of ITC(HS), which includes:

- Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form
- Articles of jewellery and of precious metal or of metal clad with precious metal
- Articles of goldsmiths' or silversmiths' wares and of precious metal or of metal clad with precious metal
- Coin (other than gold coin) and other similar items

The business must primarily deal in gold, gold jewellery, or other precious metal products. Only businesses already operating in the precious metals sector are eligible.

**Minimum Net Worth Requirement**

- The entity must have a minimum net worth of ₹ 15 crore, based on its latest audited financial statements.

  The business must be financially strong, with assets that clearly show a net worth of at least ₹15 crore. This requirement ensures that only reputable and stable companies participate in the bullion market, given the high-value nature of gold and precious metals.

  "Net Worth" means the aggregate value of the paid-up share capital (or capital contribution) and all reserves created out of the profits, securities premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

- The entity shall provide the net worth certificate from a practising company secretary or practising chartered accountant or a practising cost accountant.

- The entity must maintain the net worth specified above at all times and the same shall be reviewed by IIBX on a half-yearly basis.

The computation of Net Worth according to latest audited balance sheet as at March 31, 2025 is as under: -

| | |
|---|---|
| Paid-up Share Capital | ₹8 crore |
| General Reserves | ₹9 crore |
| Securities Premium | ₹2 crore |
| Revaluation reserve of ₹3 crore created upon upward revision of its factory premises<br>***(It is not created out of the profits, so ignored)*** | Nil |
| **Less:** Profit and loss account showing debit balance on account of accumulated losses | ₹1.50 crore |
| **Less:** Deferred expenditure not yet written off | ₹0.50 crore |
| **Net Worth** | **₹17.00 crore** |

The net worth of Kurentis Jewels Private Ltd is ₹17.00 crore, which exceeds the mandatory threshold of ₹15.00 crore. Therefore, Kurentis Jewels Private Ltd is eligible for registration as a Bullion Trading Member. Furthermore, since the company deals in ITC(HS) code 7113 (Gold Jewellery), it satisfies the sectoral activity requirement. Mehul Shah, Practising Company Secretary, may proceed with issuing the certificate based on this valuation.

**Answer 4(b)**

The IFSCA (KYC Registration Agency) Regulations, 2025 aim to strengthen trust in the IFSC ecosystem by establishing a unified, secure, interoperable, and regulated KYC framework. By clearly defining operational responsibilities and compliance standards for KRAs and financial institutions, the regulations ensure smooth functioning of capital market activities while safeguarding client information.

The Regulated Entity shall have the following functions and obligations –

a) The Regulated Entity must perform the initial KYC/due diligence of the Client, upload the KYC information with proper authentication on the system of the KRA, furnish the scanned images of the KYC documents to the KRA, and retain the physical KYC documents.

b) The Regulated Entity must upload the KYC information on the system of KRA within 3 working days from the date of completion of KYC process or any other timeline as specified by the IFSCA from time to time.

c) When the Client approaches another Regulated Entity subsequently, the Regulated Entity must verify and download the Client's details from the system of KRA. Upon receipt of information on change in KYC details and status of the Clients by the Regulated Entity or when it comes to the knowledge of the Regulated Entity, at any stage, the Regulated Entity shall be responsible for uploading the updated information on the system of KRA and retaining the physical documents.

d) A Regulated Entity must not use the KYC data of a client obtained from the KRA for purposes other than it is meant for; nor must it make any commercial gain by sharing the same with any third party including its affiliates or Associates.

e) A Regulated Entity must have the ultimate responsibility for the KYC of its Clients, by undertaking enhanced KYC measures commensurate with the risk profile of its clients.

f) The Regulated Entity must integrate its systems with the KRA to facilitate seamless movement of KYC documents to and from the Regulated Entity to the KRA. The IFSCA may, after taking into consideration the relevant factors, exempt certain classes of Regulated Entities from the applicability of these regulations.

In the given case, Peridian Securities IFSC Ltd. has committed following two major regulatory breaches.

1. **The delay in uploading KYC data** (8 days vs. the permitted 3 days) violates the operational standards of the KRA framework. Internal "system migration" is generally not accepted as a valid excuse for statutory delays.
2. **Sharing Chandrakar's data with an associate company** without explicit consent for commercial gain (cross-selling) is a severe breach of data confidentiality and violation of point (d) mentioned above.

**Answer 4(c)**

As per IFSCA (Listing) Regulations, 2024, the Listed Entity must ensure that key managerial personnel, directors, promoters, controlling shareholders or any other person dealing with it comply with responsibilities or obligations as assigned to them.

**Compliance Officer and Obligations**

1) A Listed Entity must appoint a qualified company secretary as the compliance officer. However, where the entity is incorporated outside India, a company secretary or equivalent must be appointed as compliance officer.

2) The compliance officer of the Listed Entity must be responsible for
   a) ensuring conformity with the applicable regulatory obligations under IFSCA Listing regulations, in letter and spirit;
   b) co-ordination with and reporting to the IFSCA, recognised stock exchange(s) and depositories with respect to compliance with rules, regulations and other directives of these authorities in such manner as may be specified;
   c) ensuring that the correct procedures are followed to ensure the correctness, authenticity and comprehensiveness of the information, statements and reports filed.

In the given case, the appointment of Das as the Compliance Officer is legally invalid under the IFSCA(Listing) Regulations, 2024. While a CFA is a prestigious finance designation, it does not satisfy the statutory requirement of being a "qualified company secretary or equivalent" for a listed entity.

Furthermore, Zulfik has breached specific regulatory obligations by submitting inaccurate shareholding data and failing to disclose the creeping acquisition by Zulfik Holdings Pvt. Ltd. to the exchange.

**Answer 4A(i)**

To ensure that only qualified and properly supervised entities operate within the IFSC, the IFSCA requires all insurance and reinsurance providers to obtain formal registration before commencing business.

**Requirement of Registration for Setting up of a IFSC Insurance Office as per Regulation 4 of the IFSCA (Registration of Insurance Business) Regulations, 2021**

No person or entity may commence the business of insurance or reinsurance in the IFSC unless they have obtained registration from the IFSCA in accordance with the provisions of the IFSCA (Registration of Insurance Business) Regulations, 2021. This ensures that all participants meet minimum standards of financial soundness, governance, and operational capability.

**Application for Registration**

An applicant including Lloyd's seeking registration must make an application in the forms as specified by the IFSCA. These forms outline the information, documents, and declarations required for assessment by the IFSCA.

**Explanation:**

i. All regulatory provisions concerning: Lloyd's; Lloyd's IFSC; Registration of a Service Company of Lloyd's IFSC are specified in the Second Schedule of IFSCA (Registration of Insurance Business) Regulations, 2021. This includes eligibility criteria, operational requirements, reporting obligations, and governance standards specific to the Lloyd's market structure.

ii. Provisions Related to Managing General Agents (MGAs), relevant Foreign Insurers or Re-insurer and its registration are specified in Third Schedule of IFSCA (Registration of Insurance Business) Regulations, 2021. These provisions govern the conditions under which such entities may operate through MGAs within the IFSC framework.

Both entities i.e Viksol Re and Apex MGA Services IFSC, are in regulatory default. Viksol Re must immediately cease operations and apply for a fresh registration; their "unauthorized commencement" may lead to heavy penalties and blacklisting of the promoters. Regarding the Apex-Hartwell arrangement, the binding authority is invalid until both the MGA (Apex) and the Foreign Reinsurer (Hartwell) are registered under the Third Schedule. Being a Practicing Company Secretary, it is advised to suspend the arrangement and file the prescribed forms to IFSCA to regularize their status before further risks are underwritten.

**Answer 4A(ii)**

**"Global-In-House Centre Unit (GIC Unit)"** means a unit set up in International Financial Services Centre by an entity of a Financial Institution Group, either directly or through a third-party service provider, and registered under these regulations for undertaking the activities of Global In-House Centres under any of the operating models, viz Captive Centre, Build-Operate-Transfer, Joint Venture, Hybrid or any other model as may be permitted by the IFSCA.

**Eligibility Framework for GIC Units**

Any entity that:

- Belongs to a financial services group regulated in a jurisdiction compliant with the Financial Action Task Force (FATF);
- Intends to offer support services related to financial services in respect of financial product;
- Plans to serve only non-resident entities;
- Complies with the SEZ rules and obtains required approvals.

The above eligibility criteria ensures that only serious, well-regulated groups operate within IFSC, maintaining a high standard of governance.

Crestline IFSC Services Ltd.'s proposal to extend services to Pinnacle Fintech India Private Ltd. is inconsistent with the GIC framework. Under the IFSCA GIC Regulations, a GIC Unit must be registered under any of the mentioned operating model including a "Captive" model meant to serve only non-resident entities within the same Financial Institution Group. Serving a domestic Indian resident or an entity outside the immediate "Group" definition (like an

associate) violates the core mandate of a GIC. Therefore, Crestline IFSC Services Ltd. must amend its business plan to remove the domestic service component to qualify for registration.

**Answer 4A(iii)**

An applicant entity wishing to participate as a Qualified Supplier- Limited Purpose Trading Members [QS-LPTM] (now called as Special Category Client (SCC) on IIBX shall have to satisfy the following conditions:

- The entity must be engaged in the business of supplying precious metals for at least five years.
- The entity must have a minimum net worth equivalent to US$ 10 Million or equivalent amount as per the latest audited statement.
- The entity must be a member of at least one of the below-mentioned associations / exchanges, for a cumulative and contiguous period of five years:
    a) London Bullion Market Association (LBMA)
    b) CME Group (COMEX)
    c) Shanghai Gold Exchange International (SGEI)
    d) Dubai Multi Commodities Centre (DMCC)
    e) Borsa Istanbul (BIST)
    f) Or any other association / exchange as may be specified by the Authority from time to time.
- QS-LPTM must maintain a minimum interest-free security deposit as may be specified by IIBX for the purpose.
- IIDIL and / or IIBX may seek additional documents wherever considered necessary, including clarifications from the applicant entity.

**Process for onboarding of QS-LPTM on IIBX**

- An entity seeking to become a Qualified Supplier -LPTM on IIBX shall submit duly filled common application form prescribed by IIBX and India International Depository IFSC Limited (IIDIL), along with the supporting documents and applicable fees, if any, to IIBX.
- IIBX, in coordination with IIDIL, will prescribe the Standard Operating Procedures (SOP) for the process of onboarding of the applicants for QS-LPTM status.
- IIDIL, in coordination with IIBX, carry out the due diligence on the applicant for opening an account for maintaining BDRs, in respect of the bullion to be brought in one of the IFSCA registered Vault Managers that are linked with IIDIL.
- The KYC/AML/CFT guidelines specified by the IFSCA from time to time shall be applicable on Qualified Supplier-LPTM.

Goldstream International DMCC does not satisfy the prescribed requirements for onboarding as a QS-LPTM on the IIBX. Although the entity meets the experience and membership criteria, it is not eligible on following two grounds:

(1) its net worth of USD 8.2 million is below the mandatory USD 10 million threshold, and

(2) it has failed to provide evidence of maintaining the minimum interest-free security deposit.

Consequently, IIBX and IIDIL cannot proceed with the Bullion Depository Receipt (BDR) account opening or registration until these deficiencies are rectified.

**Question 5**

*(a) Bharat Precision Engineering Ltd., a public unlisted Indian company engaged in high-precision manufacturing, resolved at its board meeting in February 2025 to list its equity shares on NSE IFSC, a permitted international exchange at GIFT City, under the direct listing scheme. During due diligence, the following material facts emerged, the Company had outstanding fixed deposits accepted from the public amounting to ₹4.2 crore, still within their maturity period. One of its promoters, Sikandar, was also a promoter of Trident Alloys Ltd, which is currently under a capital market debarment order issued by SEBI. The Company had cleared a loan default with Punjab National Bank eighteen months prior to the application date, with no subsequent default occurring and its net worth was positive, all regulatory filings were current and no winding-up proceedings were pending. Bharat Precision's legal counsel, Priya, was tasked with assessing whether the Company met all eligibility conditions for proceeding with the direct listing.*

*Advise Priya, with structured legal analysis.*

*(5 marks)*

*(b) NewPay IFSC Ltd, a payment solutions FinTech registered at GIFT City under the IFSCA framework, developed a cross-border remittance product designed to serve retail customers across India and the United Kingdom. Seeking to pilot the product within the UK's regulatory perimeter, NewPay's Chief Executive, Brar, approached IFSCA requesting a formal referral to the Financial Conduct Authority (FCA) of the United Kingdom, relying on her understanding that a FinTech Bridge existed between IFSCA and the FCA. Simultaneously, a Singapore-based FinTech, PaySphere Pte Ltd., was referred to IFSCA by the Monetary Authority of Singapore (MAS) under an overseas regulatory referral mechanism, seeking GIFT City access for its digital lending solution. NewPay's legal team raised an internal query regarding whether the rights, obligations and testing conditions applicable to NewPay's outbound referral to the FCA would mirror those governing PaySphere's inbound referral from MAS or whether each engagement operated on independently negotiated terms.*

*Analyse the legal basis governing NewPay's outbound referral to the FCA and PaySphere's inbound referral from MAS.*

*(5 marks)*

*(c) Clearwater Audit Associates IFSC LLP, a professional services firm registered at GIFT City, was engaged by Kuwai Capital Fund IFSC, an IFSCA-regulated fund, to provide a suite of financial services. The engagement letter, signed in January 2025, covered various assignments including, expressing an opinion on whether Kuwai's financial statements presented a true and fair view as at March 31 2025, reviewing Kuwai's interim financial statements for the quarter ended December 2025, with a scope expressly stated to be narrower than a full audit, compiling Kuwai's annual financial statements from client-supplied data, bundled with the preparation of its business tax return for a single consolidated fee and also, classifying and recording Kuwai's daily fund transactions in its books of account on an ongoing basis. Nalini Desai, an independent director on Kuwai's board, expressed concern at a board meeting that certain assignments may not be in line with the ancillary services under the IFSCA framework and may warrant specific regulatory scrutiny before payments were released to Clearwater.*

*In light of Nalini Desai's concern, classify each assignment undertaken by Clearwater Audit Associates under the IFSCA ancillary services framework and assess whether her regulatory apprehension regarding the bundled arrangement is legally founded.*

*(5 marks)*

**Answer 5(a)**

Under the Direct Listing Scheme, only public Indian companies, listed or unlisted, are allowed to issue and list their shares on an international exchange in the IFSC. Para 3 of the Direct Listing Scheme provides that a public Indian company shall be eligible to issue equity shares in permissible jurisdiction, if-

a) the public Indian company, any of its promoters, promoter group or directors or selling shareholders are not debarred from accessing the capital market by the appropriate regulator;

b) none of the promoters or directors of the public Indian company is a promoter or director of any other Indian company which is debarred from accessing the capital market by the appropriate regulator;

c) the public Indian company or any of its promoters or directors is not a wilful defaulter;

d) the public Indian company is not under inspection or investigation under the provisions of the Companies Act, 2013;

e) none of its promoters or directors is a fugitive economic offender.

Additional eligibility conditions may be specified by the permitted international exchanges under their regulations.

Further, Rule 5 of Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024 provide that a company shall not be eligible for issuing its equity shares for listing in accordance with these rules, in case it —

(a) has been registered under section 8 or declared as Nidhi under section 406 of the Companies Act, 2013;

(b) is a company limited by guarantee and also having share capital;

(c) has any outstanding deposits accepted from the public as per Chapter V of the Companies Act, 2013 and rules made thereunder;

(d) has a negative net worth;

(e) has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holder or any other secured creditor, provided that this clause shall not apply if the company had made good the default and a period of two years had lapsed since the date of making good the default;

(f) has made any application for winding-up under the Act or for resolution or winding-up under the Insolvency and Bankruptcy Code, 2016 and in case any proceedings against the company for winding-up under the Act or for resolution or winding-up under the Insolvency and Bankruptcy Code, 2016 is pending;

(g) has defaulted in filing of an annual return under section 92 or financial statement under section 137 of the Act within the specified period.

Bharat Precision Engineering Ltd is currently not eligible to proceed with the direct listing on NSE IFSC on the following distinct statutory grounds:

1. It has outstanding public deposits, which must be fully repaid/extinguished before applying.
2. It violates the "anti-contagion" rule because its promoter, Sikandar Rao, is also a promoter of Trident Alloys Ltd. which is currently under a capital market debarment order issued by SEBI.
3. Although the loan default was cleared, the mandatory two-year "cooling-off" period has not yet lapsed as company cleared a loan default with Punjab National Bank 18 months prior to the application date.

Priya, the legal counsel, must advise the Board to defer the listing plan until the debarment order expires, the deposits are settled, and the 24-month window following the loan rectification is complete.

**Answer 5(b)**

To support global collaboration and cross-border innovation, the IFSCA operates FinTech Bridges and Overseas Regulatory Referral Mechanisms. These frameworks help FinTech firms smoothly interact with foreign regulators when they wish to expand internationally or test cross-border financial solutions.

A FinTech Bridge is a formal partnership between IFSCA and an overseas financial sector regulator. It allows FinTech firms in both jurisdictions to:

- Access to each other's regulatory ecosystems
- Share knowledge and best practices
- Explore opportunities for cross-border testing or expansion

- Receive regulatory support during international entry

The Overseas Regulatory Referral Mechanism is a structured process through which IFSCA can refer an Indian/ IFSC-based FinTech to a foreign regulator or receive referrals from abroad for smoother regulatory engagement.

Any applicant seeking to use these cross-border mechanisms will be governed strictly by the terms of the Memorandum of Understanding (MoU), or any collaboration, and Special arrangement that exists between IFSCA and the corresponding overseas Financial Sector Regulator(s). This means that each FinTech Bridge has its own rules, conditions, obligations, and benefits, depending on what was mutually agreed between the authorities.

NewPay's legal team is correct in its suspicion: the rights and obligations of the two referrals will not mirror each other. Under the IFSCA framework, each FinTech Bridge is governed strictly by the independently negotiated terms of the specific MoU signed between IFSCA and the respective overseas regulator. Therefore, NewPay's outbound testing conditions in the UK will be dictated by the IFSCA-Financial Conduct Authority (FCA), UK arrangement, while PaySphere's inbound access to GIFT City will be governed by the IFSCA- Monetary Authority of Singapore (MAS) arrangement. There is no universal set of rules for FinTech Bridges; they are bespoke bilateral agreements.

**Answer 5(c)**

Considering the importance of professional and other service providers for the development of financial products, financial services and financial institutions in IFSC, a framework for enabling ancillary services has been provided by IFSCA.

Ancillary services shall mean those services which directly or indirectly aid, help, assist or strengthen or are attendant upon or connected with the services.

**Accounting and Auditing services**

- **Financial auditing services:** Examination of the accounting records and other supporting evidence of an organization for the purpose of expressing an opinion as to whether financial statements of the organisation present its financial and operational position fairly on a given date, in accordance with generally accepted accounting principles.
- **Accounting review services:** Reviewing services of annual and interim financial statements and other accounting information. The scope of a review is less than that of an audit and therefore, the level of assurance provided is lower.
- **Compilation of financial statements services:** This includes compilation of financial statements from information provided by the client. No assurances regarding the accuracy of the resulting statements are provided. This service shall also include the preparation services of business tax returns, when provided as a bundle with the preparation of financial statements for a single fee.
- **Other accounting services:** Other accounting services such as attestations, valuations, preparation services of pro forma statements, etc.

**Bookkeeping services, except tax returns:**

Bookkeeping services consisting of classifying and recording business transactions in terms of money or some unit of measurement in the books of account.

In the given case, Nalini Desai's regulatory apprehension regarding the bundled arrangement is not legally founded. Under the IFSCA framework for Ancillary Services, the "Compilation of Financial Statements" specifically includes the preparation of business tax returns when provided as a bundle for a single fee. Furthermore, all four assignments undertaken by Clearwater i.e Auditing, Reviewing, Compilation, and Bookkeeping fall squarely within the permissible scope of "Accounting and Auditing" or "Bookkeeping" services. The engagement is fully compliant with the regulatory framework.

***Attempt all parts of either Q. No. 6 or Q. No. 6A***

**Question 6**

*In 2023, an Internationally reputed Australian university, Deakin University established an International Branch Campus (IBC) in Gujarat International Finance Tee-City after receiving approval from the International Financial Services Centres Authority under the IFSCA (Setting up and Operation of International Branch Campuses) Regulations, 2022.*

*The campus was initially permitted to offer the following postgraduate programs :*

- *Master of Business Analytics*
- *Master of Cyber Security*
- *Master of Financial Technology.*

*The University promoted the campus as a global education hub integrated with the financial services ecosystem of GIFT City. Within three years of operations, several regulatory and legal issues emerged.*

*In 2026, the university launched a Bachelor of Arts in Sociology and Media Studies without prior approval from the International Financial Services Centres Authority. The university justified this decision by arguing that Global Universities require academic autonomy and interdisciplinary programs to enhance student learning.*

*However, several stakeholders argued that such programs were not related to financial services, fintech, or technology, which are the primary focus of educational activities within GIFT City.*

*The university also charged tuition fees in US dollars, arguing that International Branch Campuses operate within a Global Financial Ecosystem Some Indian students complained that currency fluctuations significantly increased the cost of their education.*

*They filed a complaint before the International Financial Services Centres Authority claiming the fee structure was unfair.*

*Students enrolled in the Master of Financial Technology program claimed that the curriculum taught at the GIFT City campus differed significantly from the program offered at the university's main campus in Australia.*

*Students alleged that :*

- *fewer research modules were offered*
- *certain advanced courses were omitted*
- *faculty expertise was limited.*

*The university also recruited several professors from Europe and the United States to teach specialized courses. During a compliance inspection, it was discovered that some faculty members were working on short-term business visas instead of employment visas.*

*In view of the above scenario, answer the following questions.*

*(a) Discuss the concept of International Branch Campus (IBC) indicating eligibility requirement. Whether the introduction of unrelated programs violates the regulatory framework governing foreign universities in GIFT City.*

*(b) Charging fees in foreign currency is legally permissible or not. Whether the university has violated academic equivalence requirements.*

*(c) Whether the practice of university violates Indian immigration and employment regulations. Can a university do promotion of foreign courses of its parent entity in IFSC ?*

*(5 marks each)*

**OR (Alternate Question to Q. No. 6)**

**Question 6A**

*XYZ International Ltd., a Global Financial Services Company headquartered in Singapore, plans to establish a full-fledged banking unit (IFSC Banking Unit-IBU) in the Gujarat International Finance Tec-City. XYZ International Ltd. submits an application to IFSCA for approval to set up a banking unit.*

*The company plans to offer multi-currency accounts and trade finance services to overseas corporates. The company has proposed to use a digital onboarding system for KYC verification of clients, integrating a KYC Registration Agency. During pre-approval consultation, IFSCA identifies potential regulatory compliance requirements related to the following :*

- *Minimum capital requirements*
- *Governance and board composition*
- *AML/CFT obligations*
- *Risk management systems*
- *Customer protection and disclosures.*

*XYZ also wants to onboard clients from multiple jurisdictions, including high risk countries. which could increase regulatory scrutiny.*

*In view of the above scenario, the following issues are identified :*

- *Regulatory Approval;*

- *Capital and Governance Compliance;*
- *AML/CFT Compliance;*
- *KYC and Client Onboarding;*
- *Cross-Border Transactions.*

*Accordingly, you are engaged by XYZ. International Ltd. to deal with the following :*

*(i) What steps must XYZ complete to legally establish a banking unit in IFSC ?*

*(ii) What minimum capital and governance standards must be met ?*

*(iii) How can the company ensure compliance with anti-money laundering and counter-terrorism financing regulations ?*

*(iv) How should XYZ integrate KYC Registration Agencies into its onboarding process?*

*(v) What restrictions or reporting obligations exist for foreign currency operations ?*

*(3 marks each)*

**Answer 6(a)**

The IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022 provide a framework for foreign universities and foreign educational institutions to establish International Branch Campuses (IBCs) or Offshore Education Centres (OECs) in India's GIFT IFSC, offering globally recognized degree and research programmes in areas such as Financial Management, FinTech, and Science, Technology, Engineering and Mathematics (STEM).

**"International Branch Campus"** or **"IBC"** shall mean a campus set up as a branch by a Foreign University on stand-alone basis, or in such other form as may be permitted by the IFSCA in the GIFT IFSC for the purpose of delivering courses including research programmes in the permissible subject areas, that are duly accredited under the relevant framework in their respective home jurisdiction, and is registered with the IFSCA.

**Eligibility Requirement**

(1) In case the Applicant is a Foreign University, it must have secured a position within Top 500 in global overall ranking and / or subject ranking in the latest QS World Universities ranking.

(2) In the case of Foreign Educational Institution, the Applicant must be a reputed Institution in its home jurisdiction.

(3) The Applicant must satisfy the IFSCA about its financial capability to establish and ensure the continuity of the proposed activities in GIFT IFSC.

(4) The Applicant must undertake to put in place suitable infrastructure and facilities to conduct the courses, including research programmes in the permissible subject areas.

Since the Courses including research programmes in Financial Management, FinTech, Science, Technology, Engineering and Mathematics are only permitted in GIFT IFSC,

introducing programs unrelated to the IFSC ecosystem without prior authorization may therefore constitute **regulatory non-compliance.** IFSCA may require the university to seek retrospective approval, or discontinue the program if it does not align with the objectives of the IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022.

**Answer 6(b)**

As per IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022, all transactions undertaken by the International Branch Campuses (IBC) and Offshore Education Centres (OEC) shall be in freely convertible foreign currency only. However, Institutions must ensure **full transparency and prior disclosure** of all financial obligations to students. Charging fees in foreign currency is legally permissible provided the university **clearly communicates fee policies to students before admission.**

Further, the IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022 provides that any course or programme conducted by a registered entity in the GIFT IFSC shall be identical in all respects with the course or programme conducted by the Parent Entity in its home jurisdiction and identical degree, diploma or certificate shall be conferred upon the students of the IBC or OEC directly by the Parent Entity in the same manner as it confers to its students for the same course or programme in its home jurisdiction.

In the given case, the students alleged that the curriculum of Master of Financial Technology is differed significantly from the program offered at the main campus in Australia. In this context, if substantial differences are found then the university may be required to revise the curriculum to ensure parity with the curriculum of main parent campus and a quality assurance audit may be conducted by the IFSCA.

**Answer 6(c)**

Although universities enjoy operational autonomy under the IFSC Regulatory Framework, they must comply with **national immigration laws governing foreign workers.** Teaching on inappropriate visa categories may lead to **non-compliance with immigration regulations.** The university must regularize the employment status of foreign faculty members and ensure compliance with visa requirements.

Regulation 9 of the IFSCA (Setting up and Operation of International Branch Campuses and Offshore Education Centres) Regulations, 2022 provides that an "International Branch Campus" (IBC) or "Offshore Education Centre" (OEC) must not act as a representative office of the Parent Entity for the purposes of undertaking promotional activities for their programmes in their home jurisdiction or any other jurisdiction outside GIFT IFSC. Accordingly, a university cannot do promotion of foreign courses of its parent entity in IFSC.

**Answer 6A(i)**

Setting up a banking unit in an IFSC like GIFT City involves **multi-layered regulatory compliances,** including licensing, capital adequacy, governance, AML/CFT compliance, KYC

procedures, and ongoing reporting. **KYC Registration Agencies,** robust transaction monitoring systems, and strong governance are critical to ensuring regulatory compliance and protecting the IFSC ecosystem's credibility. With proper planning and adherence to IFSCA and RBI guidelines, XYZ International Ltd. can establish a fully compliant and operational banking unit serving international clients efficiently. The steps to be followed by XYZ International Ltd. to legally establish a banking unit in IFSC are as under:

i. **Regulatory Approval:** XYZ International Ltd. must satisfy the conditions related to Minimum Capital Requirement; No Objection Letter from Home Regulator and Undertaking from Parent Bank.

ii. **Submit an application** detailing Company profile and financials; Business plan and operational model; Capital adequacy and risk management systems; Governance structure and key management personnel.

iii. **IFSCA reviews** considering the alignment with IFSC objectives; Operational readiness and Compliance with capital and risk standards.

iv. **Comply with the applicable Legal Framework** such as IFSCA Regulations on Banking Units (IFSC Banking Units–IBUs); RBI Guidelines on Capital Adequacy, Foreign Exchange transactions, and risk management; Prevention of Money Laundering Act (PMLA), 2002: and Customer Due Diligence and KYC Guidelines by IFSCA.

**Answer 6A(ii)**

**Capital Requirement and Governance Compliance**

- IFSCA (Banking) Regulations, 2020, provides that the Parent Bank shall provide necessary capital for the IBU, subject to minimum of USD 20 million or such other level of capital that may be specified by the IFSCA.
- Governance standards mean the IBU's organizational structures, policies, procedures and systems and controls as they relate to the IBU's business objectives and the means of achieving them and also includes:
    - Risk management framework
    - Internal control and assurance functions i.e compliance oversight and internal audit functions
    - Appointment of the Governing Body
    - Appointment of Chief Compliance Officer and AML Officer

Non-compliance with the Capital Requirement and Governance Compliance may result in delayed licensing or restrictions on permitted banking activities.

**Answer 6A(iii)**

As per IFSCA (Anti-Money Laundering, Counter-Terrorist Financing and Know Your Customer) Guidelines, 2022, XYZ must implement the following:

- A Regulated Entity must adopt Risk-Based Approach (RBA) to identify and assess the Money Laundering (ML) and Terrorist Financing (TF) risk to which the Regulated

Entity is exposed, depending upon its nature of business and exposure to or involvement with certain types of clients, countries or geographic areas, products, services, transactions, or delivery channels, etc. and document the same.

- Integration with **KYC Registration Agencies (KRAs)** enables centralized customer identification and verification.
- A Regulated Entity after assigning risk rating for each Customer proportionate to their AML/CFT risks, shall undertake the Customer Due Diligence. High-risk clients require **enhanced due diligence**, ongoing monitoring, and periodic reporting of suspicious transactions.

Many international banks operating in IFSC use **KRAs like CAMS KRA or CVL KRA** to streamline compliance while maintaining regulatory oversight.

**Answer 6A(iv)**

**KYC and Client Onboarding -** XYZ can leverage KRAs to:

i. Obtain customer consent to access KYC information.

ii. Access records through KRA/Central KYC Registry.

iii. Maintain a compliant digital record of customer onboarding.

iv. Risk Categorization by classifying customers based on Geography, Business activity, Ownership structure and Transaction profile.

v. Continuous KYC Updation, Trigger-based reviews and Re-verification for high-risk customers.

vi. For cross-border clients, additional verification may be required to comply with FATF and domestic AML standards**.**

**Answer 6A(v)**

Since the IBU proposes to offer multi-currency accounts and trade finance services to overseas corporates, foreign currency transactions are subject to IFSCA prudential requirements, AML/CFT requirements and applicable FEMA provisions. Transactions involving customers from high-risk jurisdictions require enhanced scrutiny.

The IBU must maintain records of foreign currency transactions, submit periodic regulatory returns and disclosures to IFSCA, report suspicious or unusual cross border transactions to FIU-IND, maintain records of cross-border wire transfers and preserve KYC and transaction data for prescribed periods.

Many IFSC banks use transaction monitoring tools integrated with global compliance databases to ensure adherence.

***

## Motto

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"To be a global leader in promoting good corporate governance"

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"To develop high calibre professionals facilitating good corporate governance"


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