

# **GUIDELINE ANSWERS**

## **EXECUTIVE PROGRAMME**

**DECEMBER 2021**

**MODULE 1**



**THE INSTITUTE OF  
Company Secretaries of India**

**भारतीय कम्पनी सचिव संस्थान**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

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The Guideline Answers contain the information based on the Laws/Rules applicable at the time of preparation. However, students are expected to be well versed with the amendments in the Laws/Rules made upto **six** months prior to the date of examination.

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## **EXECUTIVE PROGRAMME EXAMINATION**

DECEMBER 2021

### **COMPANY LAW**

*Time allowed : 3 hours*

*Maximum marks : 100*

**NOTE:** 1. Answer ALL Questions.

2. All references to sections relate to the Companies Act, 2013 unless stated otherwise.

#### **Question 1**

Comment on the following statements :

- (a) Investigation by Serious Fraud Investigation Office under Section 212 of Companies Act, 2013 can be initiated by Central Government.
- (b) Central Government can cancel a Director Identification Number already issued, for any grounds which it deems fit.
- (c) Investments held by a company shall be held only in the name of Company.
- (d) Contracts made before the incorporation of the company cannot bind the company.

*(5 marks each)*

#### **Answer 1(a)**

Yes, it is very rightly mentioned that investigation into the affairs of the company by Serious Fraud Instigation Office (SFIO) can be initiated by Central Government but is not done always on its own, rather on receipt of report/ resolution or request in this context.

Section 212 of the Companies Act, 2013 provides that the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company by the Serious Fraud Investigation Office—

- (a) on receipt of report of the Registrar or Inspector under section 208;
- (b) on intimation of a special resolution passed by a company, that its affairs are required to be investigated;
- (c) in public interest;
- (d) on the request of any Department of Central Government or State Government.

The Central Government may, by order, assign the investigation into the affairs of the said company to the Serious Fraud Investigation Office and its Director, may designate such number of inspectors, as he may consider necessary for the purpose of such investigation. The Investigating Officer shall have the power of the inspector under section 217 of the Companies Act, 2013.

As per sub section (5) of section 212 of the Companies Act, 2013 it shall be responsibility of the company and its officers and employees, who are or have been in employment of the company shall be responsible to provide all information, explanation,

documents and assistance to the Investigating Officer as he may require for conduct of the investigation.

Where the investigation into the affairs of a company has been assigned by the Central Government to Serious Fraud Investigation Office, it shall conduct the investigation in the manner and follow the procedure provided in this Chapter; and submit its report to the Central Government within such period as may be specified in the order.

The Central Government if so directs, the Serious Fraud Investigation Office shall submit an interim report to the Central Government.

#### **Answer 1(b)**

Rule 11 of the Companies (Appointment and Qualifications of Directors) Rules, 2014 provides that the Central Government or Regional Director (Northern Region), Noida or any officer authorised by the Regional Director may, upon being satisfied on verification of particulars or documentary proof attached with the application received along with fee as specified in Companies (Registration Offices and Fees) Rules, 2014 from any person, cancel or deactivate the Director Identification Number (DIN) in case-

- (a) the DIN is found to be duplicated in respect of the same person provided the data related to both the DIN shall be merged with the validly retained number;
- (b) the DIN was obtained in a wrongful manner or by fraudulent means;
- (c) of the death of the concerned individual;
- (d) the concerned individual has been declared as a person of unsound mind by a competent Court;
- (e) if the concerned individual has been adjudicated an insolvent:

However, before cancellation or deactivation of DIN pursuant to clause (b), an opportunity of being heard shall be given to the concerned individual;

- (f) on an application made in Form DIR-5 by the DIN holder to surrender his or her DIN along with declaration that he has never been appointed as director in any company and the said DIN has never been used for filing of any document with any authority, the Central Government may deactivate such DIN:

Further, before deactivation of any DIN in such case, the Central Government shall verify e-records.

The Central Government or Regional Director (Northern Region), or any officer authorized by the Central Government or Regional Director (Northern Region) shall, deactivate the Director Identification Number (DIN), of an individual who does not intimate his particulars in e-form DIR-3-KYC or the web service DIR-3-KYC-WEB as the case may be within stipulated time in accordance with Rule 12A.

#### **Answer 1(c)**

The above statement is not fully true, as the law does provide an exception to this general rule.

Subject to certain exceptions, Section 187 of the Companies Act, 2013 mandates, all investments made or held by a company in any property, security or other asset shall be made and held by it in its own name.

However, there is an exception to this rule company may hold any shares in its subsidiary company in the name of any nominee or nominees of the company, if it is necessary to do so, to ensure that the number of members of the subsidiary company is not reduced below the statutory limit.

Further, if company holds shares in dematerialised form, the name of depository is entered in the register of members as member of the company and the name of the investing company as the beneficial owner of the said shares. Where the shares of a company were registered in the joint names of the company and one of its directors, it was held that the director was a nominee of the company for that purpose and could only act jointly as he had no rights of his own. [*Exchange Travel (Holdings) Ltd. Re, (1991) BCAC 728 (Ch D)*].

Hence, normally investments will be held in companies' name but it is not compulsory. In the above situations it may be held in other names too.

#### **Answer 1(d)**

**The above statement is partially correct.**

Although a contract made before the company's incorporation cannot bind the company, it is not wholly denied of legal effect. It takes effect as a personal contract with the persons who purport to contract on the company's behalf and they are liable to pay damages for failure to perform the promises made in the company's name, even though the contract expressly provides that only the company's paid-up capital shall be answerable for performance.

Preliminary contracts are contracts purported to be made on behalf of a company before its incorporation. Before incorporation, a company is non-existent and has no capacity to contract. Consequently, nobody can contract as agent on its behalf because an act which cannot be done by the principal himself cannot be done by him through an agent. Hence, a contract by a promoter purporting to act on behalf of a company prior to its incorporation never binds the company because at the time the contract was concluded the company was not in existence. Therefore, it has no legal existence. Even if the parties act on the contract it will not bind the company. [*Northumberland Avenue Hotel Co., (1886) 33 Ch.D. 16 (CA)*]. Further even after incorporation such a purported contract cannot be ratified by the company [*Kelner v. Baxter (1866) L.R. 2C.P. 174*]. The persons purporting to act as agents on behalf of the company would be personally liable.

Even if the company takes some benefit from a contract purported to have been made before its formation, the contract is not binding on the company. The promoters alone, therefore, remain personally liable for any contract they purport to make on behalf of the company, unless the company enters into the contract in terms of such agreement after incorporation. A company cannot ratify a pre-incorporation contract, but it is open to it to enter into a new co its incorporation to give effect to a contract made before its formation [*Howard v. Patent Ivory Co. (1888) 38 Ch.D.*]. Since the pre-incorporation contract is a nullity, even the company cannot sue the vendor of property if he fails to carry out such a contract.

In India, however, Sections 15 and 19 of the Specific Relief Act, 1963 have considerably alleviated the difficulty. Section 15(h) provides that where the promoters of a company

have, before its incorporation, entered into a contract for the purposes of the company, and such contract is warranted by the terms of incorporation, the company may, if it has accepted the contract, and has communicated such acceptance to the other party to the contract, obtain specific performance of the contract. Under Section 19(e) under similar circumstances, specific performance may be enforced against the company by the other party to the contract.

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

**Question 2**

*Distinguish between the following :*

- (a) *Company and Hindu undivided family.*
- (b) *Consolidated Financial Statement and Abridged Financial Statement.*
- (c) *Pre-emptive Rights and Preferential Rights.*
- (d) *Nominee Director and Independent Director.*

*(4 marks each)*

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

**Question 2A**

- (i) *Growing Ltd., a start up company with a total member base of 170 is thinking of an alteration in the objects clause to include new businesses holding potential in present times. Directors have convened a general meeting to take shareholders' consent on this matter. In light of the relevant provisions of the Companies Act, help the directors to decide the right course of action.*
- (ii) *A newly appointed Company Secretary of Overseas Ltd. with its headquarter in Kolkata discovered that the Company, four months ago, had created a floating charge on its assets located in Bhutan for raising a new loan and to continue its expansion of business smoothly. There was no filing of form CHG-1 and the officers believe that the charge created related to properties in Bhutan and hence no formalities were needed with ROC in India. Evaluate the stand taken and what are the options available with the Company Secretary now in this regard.*
- (iii) *American Amalgamation is a company incorporated in USA and does not have a place of business in India. It would like to merge with an Indian company. The auditors and secretary of the Indian company are of the opinion that an Indian company cannot merge with a foreign company unless they have a place of business in India. Offer your opinion in this regard.*
- (iv) *Rayan Music Corporation Ltd. is a company which has recently issued shares and completed allotment. Now it is in the process of issuing the share certificates. There arose a doubt as to whether the share certificate has to be signed by all directors. The company has a common seal. Advise the company on the issue of signing and affixing the seal on the share certificate to be issued.*

*(4 marks each)*

**Answer 2(a)**

**Distinguish between:**

**Company and Hindu undivided family.**

<i>Hindu Undivided Family</i>	<i>Company</i>
A Hindu Undivided Family Business consists of homogenous (unvarying) members since it consists of members of the joint family itself.	A company consists of homogenous or heterogeneous (varied or diverse) members.
In a Hindu Undivided Family business, the Karta (manager) has the sole authority to contract debts for the purpose of the business, other coparceners cannot do so.	There is no such system in a company.
A person becomes a member of a Hindu Undivided Family business by virtue of birth.	There is no provision to that effect in the company
No registration is compulsory for carrying on business for gain by a Hindu Undivided Family even if the number of members exceeds twenty. [ <i>Shyamal Roy v. Madhusudan Roy</i> , AIR 1959 Cal. 380 (385)].	Registration of a company is compulsory.

**Answer 2(b)**

**Consolidated Financial Statement**

The Companies Act, 2013 has made preparation of consolidated accounts mandatory for all companies including unlisted companies and private companies having one or more subsidiaries or associates or joint ventures.

According to sub-section 3 of the section 129 of the Companies Act, 2013, where a company has one or more subsidiaries or associates. It shall, in addition to its financial statements for the financial year, prepare a consolidated financial statement of the company and of all the subsidiaries and associates companies in the same form and manner as that of its own and in accordance with applicable accounting standard, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement.

Rule 5 of the Companies (Accounts) Rules, 2014, the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary/ies or associate/s or joint venture/s in Form AOC-1.

The provisions of the Companies Act, 2013 applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, apply to the consolidated financial statements referred to in Section 129 (3).

**Abridged Financial Statement**

In the case of a company whose shares are listed on a recognised stock exchange,

provisions of section 136 shall be deemed to have been complied with, if the copies of the documents are made available for inspection at its registered office, during working hours, for a period of twenty-one days before the date of the meeting and a statement containing the salient features of such documents in the prescribed form Form AOC-3 or copies of the documents, as the company may deem fit, is sent to every member of the company and to every trustee for the holders of any debentures issued by the company not less than twenty-one days before the date of the meeting.

The Companies which are required to comply with Companies (Indian Accounting Standards) Rules, 2015 shall forward their statement in Form AOC-3A.

### **Answer 2(c)**

#### **Pre-emptive Rights**

To preserve the shareholders' proportionate dividend, liquidation and voting rights, pre-emptive rights are often recognised, but their existence and scope can be effected by provisions in the articles.

However, Section 62 of the Companies Act, 2013 secures shareholders' pre-emptive rights with regard to the further issue of share capital by the company. The Section lays down: "(1) Where at any time, a company having a share capital proposes to increase its subscribed capital by the issue of further shares, such shares shall be offered to persons who, at the date of the offer, are holders of equity shares of the company in proportion, as nearly as circumstances admit, to the paid-up share capital on those shares by sending a letter of offer subject to the condition that unless the articles of the company otherwise provide, the offer aforesaid shall be deemed to include a right exercisable by the person concerned to renounce the shares offered to him or any of them in favour of any other person and the notice of offer shall contain a statement of this right [Sub-clause (a)].

#### **Preferential Rights**

As per Explanation (ii) to section 43 of the Companies Act, 2013, the term "preference share capital", with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—

- (a) payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and
- (b) repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company;

A preference share has a preference in regard to payment of fixed amount of dividend or fixed rate of dividend and preferential right of the repayment of capital in the event of winding up of company.

### **Answer 2(d)**

#### **Nominee Director**

A nominee director is an individual nominated by an institution, including banks and

financial institutions, on the board of companies where such institutions have some "interest. The "interest" can either be in form of financial assistance such as loans or investment into shares. Such strategic investment may have a direct bearing on the profitability of a nominator and therefore appointment of nominee director becomes essential to facilitate monitoring of operations and business of the investee company. The main purpose of appointment of such persons is to safeguard the interest of the nominator, without conflicting with his/her fiduciary duty as a director. Such director plays several roles and responsibilities, including adequate disclosure of interest, reporting to the nominator and protection of the interest of company in its entirety. In case of holding the position in specialized entities, the person must act in accordance with the operations of such entities, guided by industry specific statutory requirements in addition to the general roles and responsibilities.

As per explanation to Section 149(7) of the Companies Act, 2013—"nominee director" means a director nominated by any financial institution in pursuance of the provisions of any law for the time being in force, or of any agreement, or appointed by any Government, or any other person to represent its interests.

Under the Companies Act, 2013, the appointment of a nominee director is made in accordance with section 161(3), which provides that: "Subject to the articles of a company, the Board may appoint any person as a director nominated by any institution in pursuance of the provisions of any law for the time being in force or of any agreement or by the Central Government or the State Government by virtue of its shareholding in a Government company." The main objective of appointment of a nominee director is to ensure that Borrower Company complies with all legal requirements under various laws. In other words, nominee directors are watchdogs of the financial institutions to safeguard their investments.

Conventionally, a nominee director is nominated" by a nominator. The nominator has all the rights with respect to appointment, removal, resignation or cessation and the terms and conditions of appointment form part of a long term agreement or a shareholders' agreement entered into with the investee company. Since a nominee director is generally appointed by the nominator at its own terms, his office is liable for retirement by rotation, unless otherwise provided in the shareholder's agreement

A nominee director is not merely a thread to protect the interests of nominator, but / he/she is also capable of giving meaningful insights towards better corporate governance practices and functioning of the company. His/ her specialized knowledge in the field of finance and banking is a utility for the investee company, which can be deployed in taking critical policy and business decisions, benefitting the company as a whole.

### **Independent Director**

Section 149, 150 of Companies Act, 2013 and Schedule IV read with Rule 4, 5 & 6 of the Companies (Appointment and Qualification of Directors) Rules, 2014 deals with Independent Directors. Independent Director is viewed as a solution to various corporate governance problems.

Every listed public company shall have at least one-third of the total number of directors as independent directors. Any fraction contained in such one third numbers shall be rounded off as one.

According to Rule 4 of the Companies (Appointment and Qualification of Directors) Rules, 2014 the classes of companies are required to have at least two directors as independent directors, viz. the Public Companies having paid up share capital of ten crore rupees or more; or the Public Companies having turnover of one hundred crore rupees or more; or the Public Companies which have, in aggregate, outstanding loans, debentures and deposits, exceeding fifty crore rupees.

Section 149(6) of the Act, an independent director in relation to a company, means a director other than a managing director or a whole-time director or a nominee director; is a person of integrity and possesses relevant expertise and experience; who is or was not a promoter of the company or its holding, subsidiary or associate company; who has or had no pecuniary relationship, other than remuneration as such director or having transaction not exceeding ten per cent. of his total income or such amount as may be prescribed, with the company, its holding, subsidiary or associate company, or their promoters, or Directors, during the two immediately preceding financial years or during the current financial year.

None of whose relatives shall be holding security or interest in the company for preceding two financial years; or indebted to the company or has any other pecuniary transaction or relationship with the company amounting to two per cent. or more of its gross turnover or total income singly or in combination with the transactions.

An independent director is required to possess appropriate skills, experience and knowledge in one or more fields of finance, law, management, sales, marketing, administration, research, corporate governance, technical operations or other disciplines related to the company's business.

#### **Answer 2A(i)**

According to section 13(1) of the Companies Act, 2013, a company may, by a special resolution and after complying with the procedure specified in this section, alter the provisions of its memorandum. It means that a company can change its objects by passing a special resolution. As per section 13(9) of the Act, the Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of thirty days from the date of filing of the special resolution in accordance with section 13(6)(a).

#### **STEPS FOR ALTERATION IN OBJECT CLAUSE OF MEMORANDUM OF ASSOCIATION:**

**STEP - I** - Convene a Board Meeting by giving 7 days advance notice as per section 173 and SS-1.

**STEP - II** - Hold the Board Meeting:

- To pass the Board Resolution for approving the proposed amendments to the objects clause of MOA of the company subject to the approval of shareholders in General meeting.
- To fix day, date, time and venue for holding the general meeting of the Company for passing a special resolution as required by section 13 and to approve the draft notice of general meeting along with explanatory statement annexed to the notice as per requirement of the Section 102.

**STEP- III : Issue Notice of General Meeting: (Section 101)**

Send notice of the General meeting proposing the aforementioned special resolution to all the shareholders, directors, auditors and other persons entitled to receive it, by giving not less than clear 21 days' notice or shorter notice.

**STEP-IV : Hold General Meeting: (Section 101)**

Hold a shareholders meeting on the date for the meeting and pass the Special Resolution for altering the object clause of Memorandum of Association by 3/4th majority in accordance with Section 114 (2) of the Act.

After passing special resolution, file a certified copy of special resolution with the Registrar in form MGT- 14 under Section 117 of the Act within 30 days of passing Special Resolution.

The Process of alteration of the Object Clause shall be completed only when the alteration is registered by the ROC and a certificate to that effect is issued by the ROC.

**Answer 2A(ii)**

It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation.

Section 77 of the Companies Act, 2013 dealing with the registration of charge clarifies that any charge created within or outside India needs to be registered. In the given case, charge created by Overseas Ltd should have been registered even if it was on the assets in Bhutan. This clarifies that the stance taken by the officers was completely wrong.

The Company Secretary must work for the registration of the charge which has been provided in the Section 77.

Where charge is created before commencement of the Companies (Amendment) Ordinance, 2019:

- Within a period of 300 days from the date of such creation, without additional fees;
- If not made within the period of 300 days, the charge shall be made within 6 months from the date of commencement of Companies (Amendment) Act, 2019 on payment of additional fees.

Charge has been created after the commencement of the Companies (Amendment) Act, 2019 i.e. on or after 02.11.2018.

- within a period of sixty days of such creation, on payment of such additional fees as may be prescribed:

Provided further that if the registration is not made within the period specified the Registrar may, on an application, allow such registration to be made within a further period of sixty days after payment of such advalorem fees as may be prescribed.

Assuming, the charge in the question is created after the commencement of the Companies (Amendment) Act, 2019. So, 4 months has already passed, thus, Section 77 of Companies Act, 2013 restricts the ability of the company to register charge after expiry of 120 days resulting beyond 120 days the charge cannot be registered. The clause relating to condonation of delay in creation/ modification of charge has been removed from Section 87.

Therefore, if e-form CHG-1 is not filed within the specified period, the company shall not be allowed to file the form thereafter.

#### **Answer 2A(iii)**

American Amalgamation is a company incorporated in USA and does not have a place of business in India. It would like to merge with an Indian company. The auditors and secretary of the Indian company are of the opinion that an Indian company cannot merge with a foreign company unless they have a place of business in India.

#### **Merger or Amalgamation of a Company with a Foreign Company**

Section 234(2) of the Companies Act, 2013 states that subject to the provisions of any other law for the time being in force, a foreign company, may with the prior approval of the Reserve Bank of India, merge into a company registered under this Act or vice versa and the terms and conditions of the scheme of merger may provide, among other things, for the payment of consideration to the shareholders of the merging company in cash, or in Depository Receipts, or partly in cash and partly in Depository Receipts, as the case may be, as per the scheme to be drawn up for the purpose.

For the purposes of sub-section (2), the expression "foreign company" means any company or body corporate incorporated outside India whether having a place of business in India or not.

Section 234(1) states that the provisions of this Chapter unless otherwise provided under any other law for the time being in force, shall apply mutatis mutandis to schemes of mergers and amalgamations between companies registered under this Act and companies incorporated in the jurisdictions of such countries as may be notified from time to time by the Central Government.

The Central Government may make rules, in consultation with the Reserve Bank of India, in connection with mergers and amalgamations provided under this section.

Hence a foreign company not having a business in India can merge with an Indian company as approved by RBI.

#### **Answer 2A(iv)**

Rule 5 of the Companies (Share Capital and Debentures) Rules, 2014, every share certificate shall be issued under the seal, if any, of the company, which shall be affixed in the presence of, and signed by-

- (a) two directors duly authorized by the Board of Directors of the company for the purpose or the committee of the Board, if so authorized by the Board; and
- (b) the secretary or any person authorised by the Board for the purpose:

In case a company does not have a common seal, the share certificate shall be signed by two directors or by a director and the Company Secretary, wherever the company has appointed a Company Secretary.

Further, director or company secretary shall be deemed to have signed the share certificate if his signature is printed thereon as facsimile signature by means of any machine, equipment or other mechanical means such as engraving in metal or lithography or digitally signed, but not by means of rubber stamp, provided that the director or company secretary shall be personally responsible for permitting the affixation of his signature thus and the safe custody of any machine, equipment or other material used for the purpose.

All directors need not sign, however it shall be signed by two directors.

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

**Question 3**

- (a) *Nozama International Ltd has a consistent dividend policy in the past 5 years paying 10% dividend, and although during the current year it sustained a loss but it wanted to keep up its reputation and declared 12% dividend to its shareholders. Referring to the provisions of the Companies Act, 2013, advise the company as to how this can be done.*
- (b) *Nazim, a director of Arabian Foods Ltd filed a complaint of oppression in the Tribunal for relief u/s 241 against the company for alleged acts of excessive expenditure in the books of accounts and disposal of assets of the company at very low prices, etc. His application was rejected by the Tribunal and hence he preferred an appeal to the High Court against such an order? Will he succeed in this case?*
- (c) *Sigma Ltd is an unlisted company with a paid up capital of ₹6 Crore and annual turnover of ₹55 Crore. The company filed its annual return with the ROC within sixty days from the date of AGM duly signed by the Director Finance only. Is there any lapse in compliance with Section 92 of Companies Act, 2013? Comment.*
- (d) *Under what circumstances can a public company pay total managerial remuneration to its directors including managing director, whole time director and manager in excess of 11% of the net profits of the company in a financial year?* (4 marks each)

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

**Question 3A**

- (i) *Board of directors of Gullible Ltd has finalized their CSR policy. Where and how does the company need to disclose this policy?*
- (ii) *Lakshay bought the shares of Blue Ladder Ltd in the public offer relying on claims made in the prospectus which was explained in detail by the Merchant Bankers. The company was involved in a governance scam and posted losses whereby the claims of prospectus proved false and untrue. Runa the sister of Lakshay filed a suit for untrue statements in the prospectus. Decide the admissibility of a suit filed?*

- (iii) *Lajawab Cooperative Society is involved in processing and marketing activities of agricultural produce of its members working in the States of Orissa, Bihar and Jharkhand and is registered under Multi-State Co-operative Societies Act, 2002. Members of Lajawab Cooperative are desirous of forming themselves as a company. Is it possible? How?*
- (iv) *A group of four friends who had applied and were allotted shares in joint names required the company to enter all their names in the register of members. Further, they also required the company to split the total shares held by them into four equal number and requested the Company to enter each of their names as the first name and other three names in the order they specified. The company refused to accept their request stating that the Articles of Association of the Company (AoA) does not have a specific provision for doing so, while the AoA did not provide otherwise too. Comment.*

(4 marks each)

### **Answer 3(a)**

#### **Dividend in case of absence or inadequacy of profits**

Proviso to Section 123(1) of the Companies Act, 2013 states that owing to inadequacy or absence of profits in any financial year, if any company proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the free reserves, then such declaration of dividend shall not be made except in accordance with such rules as prescribed in this behalf.

Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014 provides that in the event of adequacy or absence of profits in any year, a company may declare dividend out of free reserves subject to the fulfilment of the following conditions, namely:-

- (1) The rate of dividend declared shall not exceed the average of the rates at which dividend was declared by it in the three years immediately preceding that year:  
Provided that this sub rule shall not apply to a company which has not declared any dividend in each of preceding 3 financial years.
- (2) The total amount to be drawn from such accumulated profits shall not exceed one-tenth of the sum of its paid-up share capital and free reserves as appearing in the latest audited financial statement.
- (3) The amount so drawn shall first be utilized to set off the losses incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared.
- (4) The balance of reserves after such withdrawal shall not fall below fifteen per cent of its paid up share capital as appearing in the latest audited financial statement.

Further, Fourth Proviso to Section 123(1) provides that, no company shall declare dividend unless carried over previous losses and depreciation not provided in previous year are set off against profit of the company of the current year. However, this proviso is not applicable to Government Company in which entire paid-up share capital is held by the Central Government or by any State Government or Governments or by the Central Government and one or more State Governments.

Accordingly, in the above case among other things to follow as per section 123, as Nozama International Ltd. has incurred loss during the current year, as per Rule 3(1), it cannot declare dividend @ 12% out of its accumulated profits, as its average of the rates at which dividend was declared by it in immediately preceding three years is only 10%, so it cannot pay dividend out of accumulated profits @ more than 10%.

### **Answer 3(b)**

Nazim, a director of Arabian Foods Ltd filed a complaint of oppression in the Tribunal for relief u/s 241 against the company for alleged acts of excessive expenditure in the books of accounts and disposal of company depreciated assets at a very low prices, etc. His application was rejected at the Tribunal and hence he preferred an appeal to the High Court against such an order.

He (the director Nazim) will not succeed in his claim. As the application u/s 241 can be filed only by a member and not director. Secondly minor acts of irregularity will not be considered as the act of oppression.

Minor acts of mismanagement, however, are not to be regarded as oppression. As far as possible, shareholders should try to resolve their differences by mutual readjustment. Moreover, the courts will not allow these special remedies to become a vexatious source of litigation. For example, in Lalita Rajya Lakshmi v. Indian Motor Co. A.I.R. 1962 Cal 127, the petitioner alleged that the Board of directors were guilty of certain acts detrimental to the minority of the shareholders. The allegations were that the income of the company was deliberately shown less by excessive expenditure; that passengers travelling without ticket on the company's buses were not checked; that petrol consumption was not properly checked; that second hand buses of the company had been disposed of at low price, that dividends were being declared at too low a figure. It was held that even if each of these allegations were proved to the satisfaction of the court, there would have been no oppression.

A member can complain of oppression only in his capacity as a member and not in his capacity as director or creditor [*In Re. Bellador Silk Ltd., (1965)*].

### **Answer 3(c)**

Section 92 of the Act requires that every company shall prepare an annual return in the prescribed form containing the particulars as prescribed, as they stood on the close of the financial year and signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice.

Section 92(2) provides that the annual return, filed by a listed company or, by a company having such paid-up capital of rupees ten crore or more or turnover of rupees fifty crores or more or as may be prescribed, shall be certified by a company secretary in practice in the prescribed form (Form No. MGT-8), stating that the annual return discloses the facts correctly and adequately and that the company has complied with all the provisions of this Act.

In the given case, the company Sigma Ltd is an unlisted company with paid up capital of Rupees six crore and turnover of Rupees fifty-five crore. Here, even though, its paid up capital is less than the prescribed amount of Rs. 10 Crores under Section 92(2), but its Turnover of Rs. 55 Crores exceeds the prescribed limit of Rs. 50 Crores under the

provisions of Section 92(2) and accordingly, the necessity of the annual return being certified by the Company Secretary in practice (in Form no. MGT-8) is required for Sigma Ltd., besides the general requirements of Section 92(1) of annual return being signed by a director and the company secretary, or where there is no company secretary, by a company secretary in practice are applicable.

When the company filed its annual return with the ROC within sixty days from the date of AGM duly signed by the Director (Finance) is not in compliance with Section 92(1) as it needs to be additionally signed by the company secretary, or where there is no company secretary, by a company secretary in practice. Further, Sigma Ltd has also failed to get its Annual Return certified by a Company Secretary in Practice ensure Hence there definitely is a non-compliance with Section 92(1) as well as 92(2) of Companies Act, 2013.

### **Answer 3(d)**

As per Section 197 of the Companies Act, 2013, the total managerial remuneration payable by a public company, to its Directors, including managing director and whole-time director, and its manager in respect of any financial year shall not exceed eleven per cent. of the net profits of that company for that financial year computed in the manner laid down in section 198 except that the remuneration of the Directors shall not be deducted from the gross profits.

Provided that the company in general meeting may, authorise the payment of remuneration exceeding eleven per cent. of the net profits of the company, subject to the provisions of Schedule V.

Provided further that, except with the approval of the company in general meeting, by a special resolution—

- (i) the remuneration payable to any one managing director; or whole-time director or manager shall not exceed five per cent. of the net profits of the company and if there is more than one such director remuneration shall not exceed ten per cent. of the net profits to all such Directors and manager taken together;
- (ii) the remuneration payable to Directors who are neither managing Directors nor whole-time Directors shall not exceed,—
  - (A) one per cent. of the net profits of the company, if there is a managing or whole-time director or manager;
  - (B) three per cent. of the net profits in any other case.

Provided also that, where the company has defaulted in payment of dues to any bank or public financial institution or non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining the approval in the general meeting.

Hence a public company can make payment of managerial remuneration to its directors including managing director and whole-time director, and its manager, in excess of 11% of the net profits, by calling a general meeting and obtaining the consent of the shareholders and fulfilling all other obligations as per law .

**Answer 3A(i)**

“CSR Policy” means a statement containing the approach and direction given by the board of a company, taking into account the recommendations of its CSR Committee, and includes guiding principles for selection, implementation and monitoring of activities as well as formulation of the annual action plan.

CSR Policy elaborates the activities to be undertaken by the Company in areas or subject, specified in Schedule VII to the Act.

The Board of every eligible company referred u/s 135(1) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, for public access and ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

The Board's Report of a company covered under these rules pertaining to any financial year shall include an annual report on CSR containing particulars specified in Annexure I or Annexure II of CSR Rules, as applicable.

**Answer 3A(ii)**

Section 35 of the Companies Act, 2013 clarifies that where a person has subscribed for securities of a company acting on any statement included, or the inclusion or omission of any matter, in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person who was responsible as specified shall, without prejudice to any punishment to which any person may be liable under section 36, be liable to pay compensation to every person who has sustained such loss or damage.

Besides civil liability, the promoters, directors and others authorised the issue of prospectus are criminally liable under Section 34 for the issue of prospectus containing untrue or misleading statements in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead.

Section 34 provides that, where a prospectus, issued, circulated or distributed under Chapter III-Part I of the Companies Act, 2013, includes any statement which is untrue or misleading in form or context in which it is included or where any inclusion or omission of any matter is likely to mislead, every person who authorizes the issue of such prospectus shall be liable under section 447 of the Companies Act, 2013 (Fraud).

However, nothing in this section shall apply to a person if he proves that such statement or omission was immaterial or that he had reasonable grounds to believe, and did up to the time of issue of the prospectus believe, that the statement was true or the inclusion or omission was necessary.

As per Section 37, a suit may be filed or any other action may be taken under section 34 or section 35 or section 36 by any person, group of persons or any association of persons affected by any misleading statement or the inclusion or omission of any matter in the prospectus.

Accordingly, in view of the fact that Ms. Runa, is not a shareholder of Blue Ladder

Ltd and is only the sister of its shareholder Lakshya, a suit filed by Ms. Runa for untrue statement in the prospectus for Mr. Lakshya who bought the shares of Blue Ladder Ltd will not be admissible, unless she proves to the satisfaction of the Court that she is also affected by the misleading statements in the prospectus. The claim for rescission is the right of the shareholder who purchased the shares relying on the untrue statement.

**Answer 3A(iii)**

Lajawab Cooperative Society is involved in processing and marketing activities of agricultural produce of its members working in the states of Orissa, Bihar and Jharkhand is a Multi-State Cooperative Society as under Section 3(p) of Multi-State Co-operative Societies Act, 2002.

As per Section 378J of the Companies Act, 2013 provides that, notwithstanding anything contained in sub-section (1) of section 378C, any inter-State co-operative society with objects not confined to one State may make an application to the Registrar for registration as Producer Company under Chapter XXIA of the Companies Act, 2013.

Every application under sub-section (1) shall be accompanied by-

- (a) a copy of the special resolution, of not less than two-thirds of total members of inter-State co-operative society, for its incorporation as a Producer Company under this Act;
- (b) a statement showing-
  - (i) names and addresses or the occupation of the Directors and the Chief Executive, if any, by whatever name called, of such co-operative; and
  - (ii) list of members of such inter-State co-operative society;
- (c) a statement indicating that the inter-State co-operative society is engaged in any one or more of the objects specified in section 378B;
- (d) a declaration by two or more Directors of the inter-State co-operative society certifying that particulars given in clauses (a) to (c) are correct.

A co-operative society formed by producers, by federation or union of co-operative societies of producers or co-operatives of producers, registered under any law for the time being in force which has extended its objects outside the State, either directly or through a union or federation of co-operatives of which it is a constituent, as the case may be, and any federation or unions of such co-operatives, which has so extended any of its objects or activities outside the State, shall be eligible to make an application under section 378J(1) and to obtain registration as a Producer Company under this Chapter.

Hence, members of Lajawab Cooperative can form themselves as a producer company fulfilling the requirements under Section 378J of the Companies Act, 2013.

**Answer 3A(iv)**

If more than one person apply for shares in a company and shares are allotted to them, each one of such applicant becomes a member [*Narandas v. India Mfg. Co., A.I.R. 1953 Bom. 433*]. Unless the Articles of the company otherwise provide, joint members can insist on having their names registered in any order they may require. They may also

have their holding split into several joint holdings with their names in different orders so that all of them may have a right to vote as first named holding in one or the other joint holdings (Burns v. Siemens Brothers Dynamo Works Ltd. (1919) 1 Ch. 225).

In the given case since AoA did not restrict specifically the entering of joint names in the register of members or having a split in shares and entering each of the joint holders name as the first holder, the company is bound to accept their claims and cannot refuse it.

#### **Question 4**

- (a) *Jas Company Private Ltd did not file its annual returns for the past several years. Hence, the Registrar of Companies (RoC) made an application to the Tribunal for winding up of the company stating that the company defaulted in filing annual returns and business of the company is conducted in fraudulent manner. But the company argued that filing of annual return for a private company is not a must and Tribunal does not have jurisdiction on the matters cited by the RoC. Whether RoC would succeed in his attempt?*
- (b) *A Company is desirous of calling an urgent meeting of its board in the next four days. The executive director wants to know from you the process to be followed for convening this meeting?*
- (c) *For the purposes of e-voting, Oriental Ltd has appointed you, a practicing Company Secretary as its scrutinizer. What will be your duties in the process of e-voting and its successful completion?*
- (d) *ABC Ltd is a company where 40% of share capital is held by Central Government, 40% by Uttar Pradesh Government and 10% each by LIC and ONGC. During secretarial audit it was noticed that the company has not maintained a register pertaining to particulars of directors and their shareholding. Directors argued that being a government company, provisions of Section 170 are not applicable and hence no wrong has been committed. Are the directors right ?*

(4 marks each)

#### **Answer 4(a)**

Section 92 of the Companies Act, 2013 prescribes that every company is required to prepare an annual return in the prescribed form containing the particulars as they stood on the close of the financial year.

Further, Section 271 of the Companies Act, 2013 provides that a company may, on a petition under section 272, be wound up by the Tribunal if the company has made a default in filing with the Registrar its financial statements or annual returns for immediately preceding five consecutive financial years.

Hence RoC will succeed in his attempt only if the Jas Company Private Limited has not filed its Annual Return for preceding 5 or more consecutive financial years, as the Act specifically empowers the Tribunal to exercise jurisdiction on these issues.

#### **Answer 4(b)**

Section 173 of the Companies Act, 2013 provides that not less than seven days'

notice in writing shall be given to every director at the registered address as available with the company. The notice can be given by hand delivery or by post or by electronic means.

The SS-1 states that in case the company sends the Notice by speed post or by registered post or by courier, an additional two days shall be added for the service of Notice.

In case the Board meeting is called at shorter notice to transact urgent business, at least one independent director shall be present at the meeting. If he is not present, then decision of the meeting shall be circulated to all directors and it shall be final only after ratification thereof by at least one Independent Director, if any.

As per SS-1, In case the company does not have an Independent Director, the decisions shall be final only on ratification thereof by a majority of the Directors of the company, unless such decisions were approved at the Meeting itself by a majority of Directors of the company.

The fact that the Meeting is being held at a shorter Notice shall be stated in the Notice.

The SS-1 issued by ICSI requires a company to circulate agenda, setting out the business to be transacted at the Meeting, and Notes on Agenda to the Directors at least seven days before the date of the Meeting, unless the Articles prescribe a longer period.

Notes on items of business which are in the nature of Unpublished Price Sensitive Information may be given at a shorter period of time than stated above, with the consent of a majority of the Directors, which shall include at least one Independent Director, if any.

Hence a meeting with a shorter notice can be held, provided the above provisions are followed.

#### **Answer 4(c)**

In general, scrutinizer means an examiner, inspector or an investigator who observe carefully the whole process of voting on behalf of company in an independent manner. He is responsible for monitoring the entire process of e-voting. The provisions of Section 108 of the Companies Act, 2013 read with Rule 20 of the Companies (Management & Administration) Rules, 2014 states the role of Company Secretary as scrutineer in e-voting).

#### **Functions of Scrutinizer:**

1. In case of E-voting
  - (a) He ensures that the person who votes once does not repeat it again at the general meeting. For this, he keeps the following records of the people who are going to vote:
    1. Names
    2. Folios
    3. Number of shares held

4. Other relevant information
- (b) He may take the help of people who have the necessary information (but not in employment).
- (c) He must unblock the votes and make the scrutinizer's report within 3 days of the conclusion of e-voting period (in presence of at least 2 witnesses not in employment).
- (d) He maintains a register mostly electronically to record the following details:
1. The particulars of name
  2. Address
  3. Folio number
  4. The ID number of members
  5. Shares (No.) held by the members casting votes
  6. The nominal value of shares
- (e) He maintains the various records in safe custody until it is signed and authorized by the Chairman. Once the chairman signs it, he hands over the documents to the company.

#### **DUTIES OF SCRUTINIZER**

ALLOW ELIGIBLE MEMBERS TO VOTE	<p>The Scrutinizer should make sure that only members who are eligible to vote as on cut-off date shall cast their vote.</p> <p>'cut-off date' means a date not earlier than seven days before the date of general meeting for determining the eligibility to vote by electronic means or in the general meeting.</p>
ASSIST CHAIRMAN	<p>The scrutinizer shall assist the chairman of the AGM/ GM, to conduct voting by ballot paper/electronically at the AGM/GM.</p>
SECRECY OF VOTES	<p>The assent or dissent of members shall remain secret to the Chairman/ Scrutinizer till the votes are cast at the AGM/GM.</p>
POST VOTING COMPLIANCES	<p>After the conclusion of voting process at the AGM, the Scrutinizer shall:</p> <ul style="list-style-type: none"> <li>• Count the votes cast at the AGM/GM.</li> <li>• Count the votes cast through remote e-voting process, (in the presence of 2 witness who are not in employment of the Company').</li> </ul>

- Make a consolidated Scrutinizer's Report within 3 days and send it to the Chairman for his counter signatures.

**MAINTAINING REGISTERS**

Maintain register manually or electronically regarding the assent or dissent of the members and their:

- Name, Address, Folio no./ client ID, and No. of shares held.

**SAFE CUSTODY**

The Scrutinizer should keep the safe custody of all the registers and papers and return the same to the Company only when the Chairman approves and signs the minutes.

**Answer 4(d)**

Pursuant to the provisions of Exemption Notification No. G.S.R. 463(E) dated 05-Jun-2015 providing exemptions for Government companies, Section 170 and 171 shall not apply to a Government Company in which the entire paid up share capital is held by the Central Government, or by the State Government or Governments or by the Central Government and one or more State Governments. This implies that the requirement relating to maintenance of register of Directors, KMP and their shareholding and the right of members to inspect it has been relaxed for a government company.

In the present case, total of 80% of the ownership is held by Central Government and state government. The remaining 20% held by government owned agencies of LIC and ONGC cannot be counted as government ownership for the purpose of this section. So, the argument of the directors that that being a government company, provisions of Section 170 are not applicable is wrong.

It is clearly specified that the exemption from Section 170 are applicable only to a Government Company in which the entire paid up share capital is held by the Central Government, or by the State Government or Governments or by the Central Government and one or more State Governments. So, compliance to Section 170 by SPIC Ltd is mandatory and maintenance of register of directors and their shareholding cannot be done away with.

**Question 5**

- (a) You are a Company Secretary in practice and your three old architect friends have approached you for setting up their Limited Liability Partnership (LLP). They seek your help in incorporating the LLP as per the provisions of Limited Liability Partnership Act, 2008 and finalizing the incorporation document. Guide them with the requirements for setting up an LLP and inclusion of important clauses to be included in the incorporation document. Make necessary assumptions needed.
- (b) Mention the steps to be taken, formalities to be fulfilled, forms to be filled for incorporation of a company as per the provisions of Companies Act, 2013.  
(8 marks each)

### **Answer 5(a)**

#### **Requirements for setting up of LLP**

The incorporation document shall be filed in eForm FiLLiP (Form for incorporation of Limited Liability Partnership) with the Registrar having jurisdiction over the State in which the registered office of the limited liability partnership is to be situated.

**Procure DSC and DIN :** Any person proposed to become the Designated Partner in a new LLP shall have to make an application through E-form FiLLiP. An application for allotment of DIN up to two Designated Partners, shall be filed in E-form FiLLiP with the Registrar, in case of proposed Designated Partners not having approved DIN.

**Name reservation :** There are two ways of reserving name of the proposed LLP:

- i. File an application under RUN-LLP for ascertaining availability and reservation of the name of an LLP
- ii. Name can be proposed in E-form FiLLiP, an application for incorporation of LLP.

**Incorporate LLP :** After reserving a name under RUN-LLP, applicant should file E-form FiLLiP for incorporating a new LLP. E-form FiLLiP contains the details of LLP proposed to be incorporated, Partners'/ Designated Partners' details and consent of the Partner/ Designated Partners to act as Partners/ Designated Partners. On approval of the form, the RoC will issue the certificate of incorporation.

After incorporation of LLP, the partners should execute LLP Agreement and a copy of executed agreement is required to be filed with the RoC in E-form 3 within 30 (thirty) days from the date of incorporation of LLP.

The value of stamp paper on which the LLP agreement must be printed or stamp duty to be paid on the LLP agreement is dependent on the state of incorporation and amount of capital contribution from the partners.

- LLP agreement defines the roles, responsibilities, rights, and powers of the partners to LLP and to each other. Hence, it creates the foundation for the smooth running of LLP.
- LLP agreement clarifies the managerial, operational as well administrative responsibilities and sets clear methodologies for decision making, adding a new partner and disassociation of existing partner.
- It defines the outlook and gives a clear idea as to decision making, adding a new partner, removal of existing partner, etc.
- Well drafted LLP agreement works like a backbone of the LLP.

Section 2(1)(o) of the Limited Liability Partnership Act, 2008 defines it as under: "LLP Agreements means any written agreement between the partners of the Limited Liability Partnership or between the Limited Liability Partnership and its partners which determines mutual rights and duties of the partners and their rights and duties in relation to that limited liability partnership."

LLP Agreement includes following clauses as given below:

Interpretation / Definitions, Designated Partners, Name Of The LLP And Changes to Its Registered Office of the LLP , Business of the LLP , Capital Contribution , Profit Sharing Ratio, Rights and Duties Of Designated Partners , Admission of Partner,

Retirement Resignation and Expulsion of Partners, Remuneration & Interest to be Paid to Partners, Bank Account, Books of Accounts and Accounting Year , Meetings, Indemnity, Dispute Resolution, Term of LLP /Winding Up, General Provisions.

### **Answer 5(b)**

#### **How to Incorporate a Company**

The Companies (Incorporation) Amendment Rules, 2020 w.e.f 23rd February, 2020 introduced new web form SPICe+ for incorporation of the Companies replacing the old e-form SPICe.

SPICe+ is an integrated Web Form offering 11 services by 3 Central Government Ministries & Departments viz. Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance and three State Government (Maharashtra, Karnataka & West Bengal), thereby saving as many procedures, time and cost for starting a Business in India. SPICe+ is part of various initiatives and commitment of Government of India towards Ease of Doing Business (EODB).

SPICe+ is an integrated Web Form replacing the earlier version of the e-forms, the form is divided in to two parts viz.:

Part A-for Name reservation for new companies; and

Part B-offering a bouquet of services viz. Incorporation, DIN allotment, issuance of PAN+TAN+EPFO & ESIC registration, Professional Tax and Shop & Establishment registration etc.

From 23rd February 2020 onwards, RUN service is applicable only for 'change of name' of an existing company and the new web form facilitate on-screen filing and real time data validation for seamless incorporation of companies. The approved name and related incorporation details as submitted in Part A, would be automatically Pre-filled in all linked forms also viz., AGILE-PRO-S, eMoA, eAoA, URC-1, INC-9 (as applicable).

#### **STEP – I : Apply for Name Approval**

After Login use have to click on the icon SPICe+ in MCA Service. An online form shall be open. Applicants have to fill the information online. Details required to be mentioned in online form Part A of SPICe+ viz. type of company, class, category, main division, description of the company, etc.

*Validity of Reserved Name :* The name may be either approved or rejected, as the case may be, by the Registrar, Central Registration Centre after allowing re-submission of such web form within fifteen days for rectification of the defects, if any. Reserved name shall be valid for 20 days from the date of approval. The Registrar shall have the power to cancel the reserved name in accordance with sub-section (5) of section 4 of the Companies Act. 2013.

#### **STEP – II: Preparation of Documents for Incorporation of Company**

The following documents are required to be enclosed in SPICe+:

Memorandum of Association; Articles of Association; Declaration by the first director(s) and subscriber(s);Proof of office address;Copy of utility bills not older than two months;NOC

for use premises for registered office of proposed Company from owner and person whose name mentioned in utility bill; Copy of certificate of incorporation of foreign body corporate (if any);

A resolution passed by promoter company; the interest of first director(s) in other entities; Proof of identity as well as the residential address of subscribers; Proof of identity as well as residential address of the nominee; Optional attachments(if any).

### **STEP – III: Fill the Information in Form**

Once all the above mentioned documents/ information are available. Applicant has to fill the information in the form “Spice+ Part -B.

Maximum details of 7 subscribers can be filled in SPICe+. In case of more subscribers, physically signed MOA & AOA shall be attached in the Form.

- Maximum details of THREE (3) directors are allowed to be filled in SPICe+.
- Maximum 3 (Three) DIN can be applied through SPICe+ form

### **STEP – IV: Fill details of PAN& TAN**

It is mandatory to mention the details of PAN& TAN in the Incorporation Form INC-32.

### **STEP – V: Fill details of GST, IEC in AGILE-PRO-S**

If Company wants to apply for GST or IEC it has to select YES in the form and fill the information in the form. If Company doesn't want to apply for GST and IEC then it have to select no. If Companies wish to perform Aadhar authentication for GSTIN registration, they can select Yes or No itself in the Agile Pro- S Form.

### **STEP – VI: Preparation of MOA & AOA (Electronic or Physical)**

After proper filing of SPICe+ form, applicant has to file form INC-33 (e-MOA) and INC-34 (e-AOA) from the MCA site.

### **STEP – VII: Submission of INC-32, 33, 34, AGILE-PRO S on MCA**

Once all the 4 forms ready with the applicant, upload all four document as Linked form on MCA website and make the payment of the same.

Following is the sequence of uploading linked forms to SPICE +:

- a) e-MOA [if applicable]
- b) e-AOA [if applicable]
- c) URC-1[if applicable]
- d) AGILE-PRO-S [mandatory in all the cases]
- e) INC-9

Companies getting incorporated through SPICe+ with an Authorized Capital up to

INR 15,00,000 would continue to enjoy 'Zero Filing Fee' concession. Such companies will be levied with only stamp duty fees as may be applicable on state to state basis.

#### **STEP – VIII: Certificate of Incorporation**

The Certificate of Incorporation of company shall be issued by the Registrar in Form No. INC-11 along with CIN, PAN & TAN.

#### **Question 6**

- (a) *Inspiration Limited is a listed company which is sitting on a pile of huge cash flows. With an understanding of the current times, the directors of the company are intending to buyback ₹100 lakh shares (of the total paid up capital of ₹500 lakhs) for better capitalizations and effective fund management. Directors have decided to hold the board meeting in the following week to approve the buyback process and implement the same. Evaluate the course of action to be adopted by directors.* (4 marks)
- (b) *Serious Ltd is a listed company with a turnover of ₹75 crore as per last year's balance sheet. Company was facing investigation under section 210(1) wherein government issued orders requiring the company to deposit security of ₹30,000 towards expenses of investigation. Happy, the compliance officer deposits a sum of ₹10,000 which he feels is the appropriate amount. Is Happy right ?* (4 marks)
- (c) *An individual deceitfully impersonated himself as the transferee and got the shares transferred in his name. He also received the accruals like bonus, dividend etc. on such shares. After sometime this fraud by the individual was noticed and the Secretary argued that Company law did not have provisions to punish the person but under Criminal Law, a case can be filed to punish the individual. The directors accepted this suggestion. Offer your comments as an expert in Company Law.* (4 marks)
- (d) *ARC Finance and Investments Ltd (ARCFIL) registered with the RBI under Section 45-IA of the RBI Act as a non-banking finance company (NBFC), has about ₹100 crore of debenture maturing in the current year which was issued 5 years before as a public offer. What is the debenture redemption reserve (DRR) to be created by such a company ? In case ARCFIL is a listed company and the above amount was obtained by privately placed debentures, what is the DRR to be created now?* (4 marks)

#### **Answer 6(a)**

Inspiration Limited has to ensure that the company is authorized for buyback of shares by its Articles of Association. In the present case, the buyback is 20% of the paid up capital and so it requires a special resolution. As per section 68(2) of the Companies Act, 2013, if the amount of buyback was up to 10% of paid up capital and free reserves, then the board resolution would have been sufficient. If Directors have decided to hold the board meeting next week to approve the buy back and implement the buyback process, they are wrong as they will need to call a meeting of shareholders. So, Special Resolution is to be passed, Notice for the same has to be given to Shareholders at least 21 days before the

date on which passing Special Resolution. Along with Notice an explanatory statement needs to be provided explaining the purpose of Buyback. E-Form MGT-14 should be filed with the Registrar along with fee within 30 days of passing the Special Resolution.

As per Section 68 of the Companies Act 2013 read with Rule 17(2) of the Companies (Share Capital and Debentures) Rules, 2014-The company which has been authorized by a special resolution shall, before the buy-back of shares, file with the Registrar of Companies a letter of offer in Form No. SH.8, along with the fee:

Provided that such letter of offer shall be dated and signed on behalf of the Board of directors of the company by not less than two directors of the company, one of whom shall be the managing director, where there is one.

Where a company proposes to buy-back its own shares or other specified securities under section 68 in pursuance of a special resolution, it shall, before making such buy-back, file with the Registrar and the Securities and Exchange Board, a declaration of solvency signed by at least two Directors of the company, one of whom shall be the managing director, if any, in Form SH-9 and verified by an affidavit to the effect that the Board of Directors of the company has made a full inquiry into the affairs of the company as a result of which they have formed an opinion that it is capable of meeting its liabilities and will not be rendered insolvent within a period of one year from the date of declaration adopted by the Board. The letter of offer shall be dispatched to the shareholders or security holders immediately after filing the same with the Registrar of Companies but not later than twenty days from its filing with the Registrar of Companies.

The offer for buy-back shall remain open for a period of not less than fifteen days and not exceeding thirty days from the date of dispatch of the letter of offer. However, where all members of a company agree, the offer for buy-back may remain open for a period less than fifteen days.

The company shall immediately after the date of closure of the offer, open a separate bank account and deposit therein, such sum, as would make up the entire sum due and payable as consideration for the shares tendered for buy-back in terms of these rules.

Every buy-back shall be completed within a period of one year from the date of passing of the special resolution, or as the case may be, the resolution passed by the Board. The company, shall maintain a register of shares or other securities which have been bought-back in Form No. SH. 10. Company should after the completion of the buy-back file with the Registrar and the Securities and Exchange Board (in case of listed companies) a return Form No. SH.11 along with the 'fee' containing such particulars relating to the buy-back within thirty days of such completion, as may be prescribed.

There shall be annexed to the return filed with the Registrar in Form No. SH-11, a certificate in Form No. SH-15 signed by two directors of the company including the managing director, if any, certifying that the buy-back of securities has been made in compliance with the provisions of the Act and rules made thereunder.

#### **Answer 6(b)**

Section 214 of the Companies Act, 2013 provides that where an investigation is ordered by the Central Government under section 210(1)(b) or pursuant to Tribunal's

order under section 213, then before appointing an Inspector, the Central Government may require the applicants to give a security not exceeding Rs. 25,000 towards the costs and expenses of investigation as per the following criteria -

S. No.	Turnover (Rs.) as per previous year	Amount of security balance sheet (Rs.)
1	Turnover up to Rs. 50 crore	Rs. 10,000
2	Turnover more than Rs. 50 crore and up to 200 crore	Rs. 15,000
3	Turnover more than Rs. 200 crore	Rs. 25,000

The security shall be refunded to the applicant of investigation results in prosecution.

In the present case, the appropriate amount according to the turnover of company which is Rs. 75 crores should be Rs. 15,000. Accordingly the order of the government requiring the company to deposit security of Rs. 30,000 towards expenses of investigation is wrong and even the deposit made by Mr. Happy of Rs. 10,000 is insufficient. Hence, the Company must deposit additional Rs. 5000 for complete compliance to Section 214.

#### **Answer 6(c)**

Section 57 of the Companies Act, 2013 provides that, where any person deceitfully personates as an owner of any security or interest in a company, or of any share warrant or coupon issued in pursuance of the Companies Act, 2013 and:

- (i) thereby obtains or attempts to obtain any such share or interest or any such share warrant or coupon, or
- (ii) receives or attempt to receive any money due to any such owner.

He shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.

Hence, the argument of the company secretary is not correct. The Companies Act 2013 itself provides for punishment for impersonation.

#### **Answer 6(d)**

As per Rule 18 of the Companies (Share Capital and Debentures) Rules, 2014, Debenture Redemption Reserve is not required for debentures issued by NBFCs registered with Reserve Bank of India under section 45- IA of the RBI Act, 1934 for both public as well as privately placed debentures.

The company shall create a Debenture Redemption Reserve for the purpose of redemption of debentures, in accordance with the conditions given below :

- (a) the Debenture Redemption Reserve shall be created out of the profits of the company available for payment of dividend;
- (b) the company shall create Debenture Redemption Reserve (DRR) in accordance with conditions: -
  - (i) No DRR is required for debentures issued by All India Financial Institutions

(AIFIS) regulated by Reserve Bank of India and Banking Companies for both public as well as privately placed debentures. For other Financial Institutions (FIs) within the meaning of clause (72) of section 2 of the Companies Act, 2013, DRR will be as applicable to NBFCs registered with RBI. (earlier to 16.8.2019)

- (ii) For NBFCs registered with the RBI under Section 45-1A of the RBI Act, 1934, and for housing finance companies registered with the national housing bank, the DRR requirement has been dispensed w.e.f 16th Aug 2019.

Accordingly, no Debenture Redemption Reserve is required to be created by ARCFIL in the given case.

The above exemptions also apply to listed companies if the money was generated by privately placed debentures. Hence under both circumstances DRR is not required to be created.

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## **COST AND MANAGEMENT ACCOUNTING - SELECT SERIES**

*Time allowed : 3 hours*

*Maximum marks : 100*

*Total number of Questions : 100*

1. Costs are classified on the basis of time :
  - (A) Fixed Costs; Variable Costs and Semi-variable Costs
  - (B) Product Costs and Period Costs
  - (C) Historical Costs and Pre-determined Costs
  - (D) Direct Costs and Indirect Costs
2. Office rent as cost is an example of :
  - (A) Step Costs
  - (B) Committed Costs
  - (C) Policy and managed costs
  - (D) Discretionary costs
3. A \_\_\_\_\_ is a devise for the purpose of breaking up or separating costs into smaller sub-divisions.
  - (A) Cost centre
  - (B) Cost unit
  - (C) Costing method
  - (D) Costing techniques
4. Which of the following is not a method of costing?
  - (A) Job costing
  - (B) Terminal costing
  - (C) Marginal costing
  - (D) Composite costing
5. .....relate to two or more products from a common production process or element-material, labour and overhead or any combination thereof or so locked together that one cannot be produced without producing the other.
  - (A) Common cost
  - (B) Imputed cost
  - (C) Joint cost
  - (D) Replacement cost

6. Sum of direct labour and manufacturing overhead is termed as :

- (A) Prime cost
- (B) Factory cost
- (C) Cost of production
- (D) Conversion cost

7. Cost Centres are classified as :

- (i) Personal and impersonal cost centres
- (ii) Administrative and non-administrative cost centres
- (iii) Productive, unproductive and mixed cost centres
- (iv) Operation and process cost centres

Select the correct answer from the option given below:

- (A) (i); (ii); (iii) and (iv)
- (B) (ii); (iii) and (iv)
- (C) (i); (iii) and (iv)
- (D) (i) and (iii)

8. Match the following Cost Accounting Standards with Titles :

CAS	Title
(i) CAS-7	(1) Pollution Control Cost
(ii) CAS-14	(2) Interest and Financing Charges
(iii) CAS-21	(3) Employee Cost
(iv) CAS-17	(4) Quality Control

Select the correct answer from the options given below :

- |     |     |      |       |      |
|-----|-----|------|-------|------|
|     | (i) | (ii) | (iii) | (iv) |
| (A) | (4) | (3)  | (1)   | (2)  |
| (B) | (3) | (2)  | (4)   | (1)  |
| (C) | (3) | (1)  | (4)   | (2)  |
| (D) | (2) | (1)  | (3)   | (4)  |

9. Which of the following is not an objective of management accounting ?

- (A) To facilitate coordination of operation
- (B) To formulate planning and policy
- (C) To prepare Balance Sheet
- (D) To provide report

10. Min-Max Plan is a :

- (A) Premium bonus plan
- (B) Technique of inventory control
- (C) Wages plan
- (D) Budgeting technique

11. The following information is given :

Maximum usage : 200 units per day

Minimum usages : 140 units per day

Delivery period : 6 to 10 days

Minimum stock level will be :

- (A) 840 Units
- (B) 1200 Units
- (C) 1360 Units
- (D) 640 Units

12. A factory produces 500 units of a product per week. Consumption of raw material is 8 kg for one (1) unit of the product. Purchase price of raw material is ₹130 per kg. Cost of placing an order is ₹2,250 and the carrying cost is 20 percent per annum. Assuming 52 weeks in a year, the Economic Order Quantity will be:

- (A) 832 Units
- (B) 2121 Units
- (C) 684 Units
- (D) 6000 Units

13. Monthly consumption of a material; Economic order quantity and cost per order are 6000 units; 4000 units and ₹1,500 respectively, then total annual carrying cost will be :

- (A) ₹27,000
- (B) ₹3,000
- (C) ₹3,00,000
- (D) Not possible to compute in this case

14. The following features are given :

- (i) It is a quantity record
- (ii) It is kept inside the stores

- (iii) It is maintained by the store-keeper
- (iv) The postings are done before the transactions

Which of the following has above features:

- (A) Bin card
  - (B) Material requisition note
  - (C) Material transfer note
  - (D) Stores ledger
15. Which of the following method of pricing of material issue is categorized as 'Notional Price Method'?
- (A) Specific price method
  - (B) Moving simple average price method
  - (C) Inflated price method
  - (D) Base stock price method
16. Under which of the following methods, the materials in stock are valued at the price of the latest purchases :
- (A) Base stock method
  - (B) First in first out method
  - (C) Last in first out method
  - (D) Highest in first out method
17. The following information is related to Job No. 503 :
- Raw materials ₹14,000  
 Direct wages (@ ₹110 per hour) ₹7,150  
 Production overhead incurred for all the jobs ₹24,75,000 for 55,000 direct labour hours.
- The factory cost of the Job No. 503 will be:
- (A) ₹21,150
  - (B) ₹29,015
  - (C) ₹24,075
  - (D) ₹26,100
18. If the loss as per cost accounts is ₹13,10,000 and closing stock is overvalued in cost accounts by ₹35,000 and factory overheads are under-absorbed in cost accounts by ₹48,000, the loss as per financial accounts will be :
- (A) ₹12,97,000
  - (B) ₹12,27,000
  - (C) ₹13,23,000
  - (D) ₹13,93,000

19. ....are those materials or components which are so damaged in the manufacturing process that they cannot be repaired or reconditioned.
- Waste
  - Scrap
  - Spoilage
  - Defectives
20. The following information is given for receipts and issues of a material in the month of May, 2021 :

Date	Particulars	Quantity (kg)	Rate (₹)
May, 1	Balance	600	15
May, 4	Receipt	1,000	16
May, 11	Issue	400	-
May, 22	Issue	500	-
May, 28	Receipt	700	17
May, 31	Issue	600	-

What issue price will be for the issue on 31st May, 2021, on the basis of weighted average price method ?

- ₹15.625
  - ₹16.3125
  - ₹16.0435
  - ₹16.00
21. Which of the following methods of pricing of material issues, avoids price fluctuations and reduces the number of calculations and gives an acceptable figure for stock?
- First-in first out method
  - Last-in first out method
  - Simple average method
  - Weighted average method
22. Daily Time Sheets; Weekly Time Sheets; and Job Cards are the methods used for :
- Preparation of pay-roll
  - Time-keeping
  - Time-booking
  - Determining indirect labour cost

23. If the overtime is due to a general pressure of work to increase the output, then the overtime premium may be charged to :
- (A) The specific job directly
  - (B) General overheads
  - (C) Costing profit and loss account
  - (D) Any of the above
24. Which of the following are the methods of measurement of labour turnover?
- (A) Separation rate method and Replacement method
  - (B) Replacement method and Labour flux rate method
  - (C) Separation rate method and Labour flux rate method
  - (D) Separation rate method; Replacement method and Labour flux rate method
25. Priestman Production Bonus Plan is a :
- (A) Differential piece rate plan
  - (B) Premium bonus plan
  - (C) Group bonus plan
  - (D) Bonus scheme for indirect workers
26. The following information is given to you :
- Standard output in 12 hours is 144 units.
- Actual output of a worker in 10 hours is 150 units.
- Time wage rate ₹60 per hour.
- Total earnings of the worker under Emerson's Efficiency Bonus Plan will be :
- (A) 750
  - (B) 745
  - (C) 870
  - (D) 675
27. Most of the firms prefer to treat the learners' wages as \_\_\_\_\_ as learners take more time than a trained worker.
- (A) Direct wages
  - (B) Overheads
  - (C) Abnormal and transferred to costing profit and loss account
  - (D) Incentives

28. If the amount of work certified is 1/2 or more of the contract price :
- (A) 2/3rd of the loss disclosed, as reduced by the percentage of cash received from the contractee, should be transferred to the profit and loss account
  - (B) 1/3rd of the loss disclosed, as reduced by the percentage of cash received from the contractee, should be transferred to the profit and loss account
  - (C) 3/4th of the profit disclosed, as reduced by the percentage of cash received from the contractee, should be transferred to the profit and loss account
  - (D) Total loss should be transferred to the profit and loss account
29. Value of work certified + Cost of work uncertified – Reserve for unrealised profit– Amount received from the contractee = .....
- (A) Contract price
  - (B) Estimated cost of the contract
  - (C) Work-in-progress
  - (D) Amount due from the contractee
30. In an activity based costing system, the allocation basis that are used for applying costs to services or procedures are called :
- (A) Cost objects
  - (B) Cost drivers
  - (C) Cost pools
  - (D) Cost activities
31. Production manager's salary is an example of :
- (A) Unit level activities
  - (B) Batch level activities
  - (C) Product level activities
  - (D) Facility level activities
32. Reconciliation of cost and financial accounts is required, if accounts are maintained as :
- (A) Non-integrated accounting system
  - (B) Integrated accounting system
  - (C) Both integrated accounting system and non-integrated accounting system
  - (D) None of the above

33. Which of the following important accounts are maintained under non-integrated accounting system?
- (i) Stores ledger adjustment account
  - (ii) Wages control account
  - (iii) Depreciation control account
  - (iv) WIP control account
- Select the correct answer from the options given below :
- (A) (i); (ii); (iii) and (iv)
  - (B) (i); (ii) and (iii)
  - (C) (ii); (iii) and (iv)
  - (D) (i); (ii) and (iv)
34. When the production increases the fixed overhead per unit ..... and the variable overhead per unit.....
- (A) Remains constant; should be vary
  - (B) Decreases, remains constant
  - (C) Remains constant; remain constant
  - (D) Should be vary; should be vary
35. Which of the following is not considered as criteria for secondary distribution of overheads ?
- (A) Ability to pay
  - (B) Analysis or survey
  - (C) Number of service departments
  - (D) Efficiency or incentive method
36. Which of the following is not a reciprocal service method of re-distribution of service departments' costs ?
- (A) Simultaneous equation method
  - (B) Repeated distribution method
  - (C) Step method
  - (D) Trial and error method
37. If variable cost ratio is 70% of selling price and profit is 7,20,000, then margin of safety will be :
- (A) 21,60,000
  - (B) 10,28,571
  - (C) 24,00,000
  - (D) 21,20,000

38. If Fixed cost and Break-even sales are ₹78 lakh and ₹23.40 lakh respectively, then profit will be at a sales of ₹95 lakh :
- (A) ₹5,10,000
  - (B) ₹28,50,000
  - (C) ₹6,40,000
  - (D) ₹19,70,000
39. Given :
- Selling price per unit is ₹80; P/V Ratio is 40%; and BEP is 24,000 units.
- If selling price decrease by 10%, then new BEP will be :
- (A) 26400 units
  - (B) 27200 units
  - (C) 32000 units
  - (D) 28800 units
40. Which of the following is not included in cost accounts ?
- (A) Penalties and fines
  - (B) Interest on bank loan
  - (C) Transfer fee
  - (D) All of the above
41. Single or output costing method is most suitable for :
- (A) Oil refinery
  - (B) Advertising
  - (C) Collieries
  - (D) Interior decoration
42. Which of the following costing methods is most suitable for the industries, where the production is not on continuous basis, rather it is only when order from customers is received and that too as per the specifications of the customers ?
- (A) Process costing
  - (B) Job costing
  - (C) Batch costing
  - (D) Operating costing

43. The cost of sub-contracts is :

- (A) A direct charge against the contract for which the work has been done
- (B) An indirect cost to the contract for which the work has been done
- (C) Directly charged to costing profit and loss account
- (D) Apportioned upon all the contracts which have been completed and to be completed

44. The situation of unrealized profit in the closing stock arises in the case of :

- (A) Process losses
- (B) Equivalent production
- (C) By-products and joint products
- (D) Inter process profits

45. .... is adopted where by-products are utilised by the factory itself as input material for some other process.

- (A) Other income method
- (B) Reverse cost method
- (C) Opportunity cost method
- (D) Standard cost method

46. Which of the following is not used as a method for apportioning total joint cost over the Joint Products ?

- (A) Average unit cost method
- (B) Contribution margin method
- (C) Market value method
- (D) Standard cost method

47. Which of the following is not an item of standing charges in transport costing ?

- (A) Garage rent
- (B) Road license and other taxes
- (C) Repairs and maintenance
- (D) Supervisor's salary

48.  $S - ? = F + P$ ; The term for ? will be :

- (A) Contribution (C)
- (B) Variable Cost (V)
- (C) Total Cost (TC)
- (D) BEP

49. A company which has a margin of safety of ₹4,00,000 makes a profit of ₹80,000. If its break-even sales is ₹25,00,000, then fixed cost will be :
- (A) ₹5,00,000  
(B) ₹4,80,000  
(C) ₹4,50,000  
(D) ₹4,40,000
50. When the sales increase from ₹25,00,000 to ₹33,00,000 and cost of sales increases from ₹23,20,000 to ₹28,00,000, the P/V Ratio will be :
- (A) 60%  
(B) 19.2%  
(C) 15.15%  
(D) 40%
51. P/V Ratio and Marginal Safety of a firm are 40% and 30% respectively. If the sales of the firm is ₹65,00,000, then break-even point and profit will be :
- (A) ₹45.5 Lakh and ₹26 Lakh  
(B) ₹19.5 Lakh ₹18.2 Lakh  
(C) ₹45.5 Lakh and ₹7.8 Lakh  
(D) ₹7.8 Lakh and ₹45.5 Lakh
52. Which of the following variance always shows adverse result?
- (A) Material mix variance  
(B) Material yield variance  
(C) Labour idle time variance  
(D) Labour gang variance
53. Given :
- Standard time: 50 hours @ ₹60 per hour  
Actual wages paid : ₹3080 @ 55 per hour  
Actual time worked : 53 hours during the period
- Idle time variance will be :
- (A) ₹165 (F)  
(B) ₹165 (A)  
(C) ₹174.34 (A)  
(D) ₹180 (A)

54. The following information is given :

Standard quantity : 1200 kg. for output of 1080 kg.

Standard price : ₹20 per kg.

Material purchased : 1250 kg. at ₹26,250

Opening and closing

Stock of material : 200 kg. and 350 kg.

Actual output : 1026 kg.

The material cost variance will be:

(A) ₹900 (F)

(B) ₹2,250 (A)

(C) ₹300 (A)

(D) ₹5,400 (A)

55. The following information is given :

Standard quantity : 1200 kg. for output of 1080 kg.

Standard price : ₹20 per kg.

Material purchased : 1250 kg. at ₹26,250

Opening and closing

Stock of material : 200 kg. and 350 kg.

Actual output : 1026 kg.

The Material Usage Variance will be :

(A) ₹2,000 (F)

(B) ₹1,000 (A)

(C) ₹2,000 (A)

(D) ₹800 (F)

56. The following information is given :

Standard quantity : 1200 kg. for output of 1080 kg.

Standard price : ₹20 per kg.

Material purchased : 1250 kg. at ₹26,250

Opening and closing

Stock of material : 200 kg. and 350 kg.

Actual output : 1026 kg.

The Material Price Variance will be

- (A) ₹1400 (A)
- (B) ₹1250 (F)
- (C) ₹1250 (A)
- (D) ₹1100 (A)

57. The following information is relating to variable overheads of a company :

Budgeted production for May, 2021 : 45000 units

Budgeted variable overhead : ₹1,17,000

Standard time for one unit : 2 hours

Actual production for May, 2021 : 37,500 units

Actual hours worked : 67500 hours

Actual variable overhead : ₹1,05,000

The Variable Overhead Expenditure Variance will be :

- (A) ₹17,250 (A)
- (B) ₹9,750 (F)
- (C) ₹7,500 (A)
- (D) ₹17,250 (F)

58. ....is prepared for the estimation of plant capacity to meet the budgeted production during the budgeted period.

- (A) Production planning budget
- (B) Plant layout budget
- (C) Plant utilization budget
- (D) Plant capacity estimation budget

59. Which of the following is not a personal technique of cost audit ?

- (A) Attitude survey
- (B) Training method
- (C) Physical verification
- (D) Profitability and productivity measurement

60. **Statement-1** : Right to access at all times the books of account and vouchers of the company, whether kept at the head office of the company or elsewhere.

**Statement-2** : Entitled to require from the officers of the company such

information and explanations as he may think necessary for the performance of his duties as an auditor.

As per Section 143(1) of Companies Act, 2013, the above statements relating to rights of cost auditor :

- (A) Only statement-1 is true
- (B) Only statement-2 is true
- (C) Both statements are true
- (D) Both statements are false

61. Given :

Month	April, 2020	May, 2020	June, 2020
Total Sales (₹)	35 Lakh	38 Lakh	40 Lakh

20% of the sales are on cash basis and the remaining on credit basis. 2% of credit sales constitute evenly distributed bad debt losses. 50% of accounts receivables are collected in the month of the sales and the rest in the next month, then the collection from accounts receivables in the month of June, 2020 will be :

- (A) ₹29,20,000
- (B) ₹31,20,000
- (C) ₹28,61,600
- (D) ₹30,57,600

62. The cost per unit of a product manufactured in a factory amounts to ₹210 (80% variable) when the production is 15,000 units. If production increases by 20%, the per unit cost of production will be :

- (A) ₹243.60
- (B) ₹203
- (C) ₹201.60
- (D) ₹176.40

63. In ‘make or buy’ decision, it is profitable to buy from outside only when the supplier’s price is below the :

- (A) Firm’s variable cost
- (B) Firm’s total cost
- (C) Firm’s factory cost
- (D) Firm’s cost of production

64. ....are those in which figures reported are converted into percentages to some common base.
- (A) Comparative statements  
(B) Common size financial statements  
(C) Cash flow statements  
(D) Comparative statements as well as Common size financial statements
65. Generally, a liquid ratio of ..... and current ratio of..... are considered as ideal for a concern.
- (A) 2 : 1 and 1 : 1  
(B) 1.1 : 1 and 2 : 1  
(C) 1.5 : 1 and 2 : 1  
(D) 1 : 1 and 2 : 1
66. Net fixed assets plus working capital is equal to :
- (A) Total assets  
(B) Net worth  
(C) Capital employed  
(D) Net worth plus current liabilities
67. ....refers to the treatment of information contained in the financial statement in a way so as to afford a full diagnosis of the profitability and financial position of the firm concerned.
- (A) Preparation of financial statements  
(B) Utilization of financial statements  
(C) Analysis of financial statements  
(D) Interpretation of financial statements
68. The following information is given to you :
- Opening Receivables ₹2,35,000; Closing receivables ₹2,89,160; Average monthly sales ₹3,78,000, out of which 20% cash sales. Assuming 360 days in a year, the receivables collection period will be :
- (A) 20.8 days  
(B) 28.69 days  
(C) 26 days  
(D) 13.85 days

69. The companies covered under the Cost audit category shall within.....days of the commencement of every financial year, appoint a cost auditor at remuneration to be determined in accordance with provisions of section 148(3) of the Companies Act, 2013 and rules made thereunder.
- (A) 60  
 (B) 90  
 (C) 150  
 (D) 180
70. If a company's current assets are ₹28,20,000; Inventory ₹9,30,000 and working capital ₹15,60,000. The liquid ratio will be :
- (A) 3.03 : 1  
 (B) 1.5 : 1  
 (C) 1.81 : 1  
 (D) 2.24 : 1
71. If the current ratio is 3 : 1, Liquid ratio is 1.5 : 1 and working capital is 38,40,000, then current assets will be :
- (A) ₹1,15,20,000  
 (B) ₹57,60,000  
 (C) ₹76,80,000  
 (D) ₹51,20,000
72. Given :
- 8,00,000 Equity shares of ₹10 each fully paid Profit after tax ₹22,80,000 (Corporate tax rate 30%)
- Market price of each equity share ₹40 and equity dividend paid 30%. The dividend yield on equity share will be :
- (A) 21.375%  
 (B) 14.9625%  
 (C) 5.25%  
 (D) 7.50%
73. Given :
- 6,00,000 Equity shares of ₹10 each fully paid.  
 8% 2,00,000 Preference shares of ₹10 each fully paid.  
 Profit after tax ₹22,80,000 (Corporate tax rate 30%).

Market price of each equity share ₹40 and equity dividend paid 30%.

The earnings per equity share will be :

- (A) ₹3.80
- (B) ₹2.39
- (C) ₹2.85
- (D) ₹3.53

74. Given :

6,00,000 Equity shares of ₹10 each fully paid.

8% 2,00,000 Preference shares of ₹10 each fully paid.

Profit after tax ₹22,80,000 (Corporate tax rate 30%)

Market price of each equity share ₹40 and equity dividend paid 30%.

The dividend pay-out ratio will be:

- (A) 78.95%
- (B) 59.49%
- (C) 30%
- (D) 84.99%

75. Pina Ltd's. purchases are ₹1,155 Lakh, Sales ₹1,530 Lakh, Closing stock ₹174 Lakh and opening stock ₹158 Lakh. If the rate of gross profit is 25% on cost, then Inventory Turnover Ratio will be :

- (A) 6.96 times
- (B) 7.37 times
- (C) 7.03 times
- (D) 6.78 times

76. Cash receipts from royalties, fees, commissions and other revenues are examples of :

- (A) Cash flow from operating activities
- (B) Cash flow from investing activities
- (C) Cash flow from financing activities
- (D) Cash flow from either operating or investing activities

77. **Statement-1** : In the case of financial enterprises : Cash flows arising from interest paid and interest and dividends received, should be classified as cash flows from operating activities.

**Statement-2 :** In the case of other enterprises : Cash flows arising from interest paid should be classified as cash flows from financing activities. Cash flows arising from interest and dividends received should be classified as cash flows from investing activities.

- (A) Statement-1 is true only
- (B) Statement-2 is true only
- (C) Both the statements are true
- (D) None of the statements is true

78. Given :

6,00,000 Equity shares of ₹10 each fully paid.  
8% 2,00,000 Preference shares of ₹10 each fully paid.

Profit after tax ₹22,80,000 (Corporate tax rate 30%).

Market price of each equity share ₹40. The price earning ratio will be :

- (A) 11.33 : 1
- (B) 10.53 : 1
- (C) 16.74 : 1
- (D) 14.04 : 1

79. A factor which will limit the activities of an undertaking and which is taken into account in preparing budgets, is termed as :

- (A) Environmental factor
- (B) Governing factor
- (C) Principal budget factor
- (D) All of the above

80. A method of budgeting whereby all activities are re-evaluated each time a budget is set. Discrete levels of each activity are valued and a combination chosen to match funds available, it is termed as :

- (A) Zero-Based Budgeting
- (B) Programme Budgeting
- (C) Performance Budgeting
- (D) Flexible Budget

81. Balance of plant and machinery account on 01/04/2020 and on 31/03/2021 were ₹51,45,000 and ₹61,85,000 respectively. Depreciation charged on the plant and machinery ₹7,71,750. If during the year one old machine costing ₹5,00,000 (WDV ₹2,35,000) was sold for ₹3,15,000, then purchase of plant and machinery during the year would be :

- (A) ₹23,11,750
- (B) ₹12,71,750
- (C) ₹20,46,750
- (D) ₹22,02,750

82. Machinery purchased for ₹18,65,000 and 1,00,000 equity shares of ₹10 each issued to machinery vendor at a premium of ₹5 per share. The funds flow would be :
- (A) ₹18,65,000  
(B) ₹8,65,000  
(C) ₹3,65,000  
(D) ₹15,00,000
83. If standard time is 72 hours, then what would be time saved to getting same bonus under Halsey Plan and Rowan Plan ?
- (A) 24 hours  
(B) 36 hours  
(C) 48 hours  
(D) 18 hours
84. Given :
- Rent of finished goods warehouse ₹75,000  
Drawing office salary ₹72,000  
Legal fees ₹10,000  
Discount allowed ₹5,000  
General Manager's salary ₹1,80,000  
Consumable stores ₹13,500  
Repairs and maintenance of plant ₹8,000
- The amount of administrative overhead will be :
- (A) ₹3,37,000  
(B) ₹3,42,000  
(C) ₹1,90,000  
(D) ₹2,67,000
85. Which of the following is not an avoidable cause of labour turnover ?
- (A) Strained relationship with management, supervisors or fellow workers  
(B) Shortage of raw materials, power, slack market for the product etc.  
(C) Lack of training facilities and promotional avenues  
(D) Lack of recreational and medical facilities

86. Most suitable basis for apportioning canteen expenses would be :
- (A) Floor area
  - (B) Value of machines
  - (C) No. of workers
  - (D) Direct wages
87. If prime cost is ₹17,80,000 and factory cost is ₹22,25,000, then absorption rate of factory overhead on prime cost is :
- (A) 20%
  - (B) 25%
  - (C) 80%
  - (D) 11.11%
88. Operating costing is most suitable for :
- (A) Hospital
  - (B) Boiler house
  - (C) Hotel
  - (D) All of the above
89. Costs are caused by a group of things being made, handled or processed at a single time are referred to as:
- (A) Unit level costs
  - (B) Product level costs
  - (C) Batch level costs
  - (D) Organizational level costs
90. In process costing, if an abnormal gain arises, the process account is generally:
- (A) Debited with the scrap value of the abnormal gain units
  - (B) Debited with the full production cost of the abnormal gain units
  - (C) Debited with the production cost minus scrap value of the abnormal gain units
  - (D) Credited with the full production cost of the abnormal gain units
91. ..... are defined as “any saleable or usable value incidentally produced in addition to the main product.”
- (A) By-products
  - (B) Joint products
  - (C) Common products
  - (D) Secondary products

92. The following information is given to you :

Input of raw material is 25,000 units, output 23,950 units. If the normal loss is 5% of input, then :

- (A) Normal loss of 1050 units
- (B) Abnormal loss of 200 units
- (C) Abnormal gain of 200 units
- (D) Either abnormal loss of 200 units or abnormal gain of 200 units

93. ....refers to the method of costing followed by a business wherein a large variety of articles are produced, each differing from the other both in regard to material required and process of manufacture.

- (A) Operation costing
- (B) Job costing
- (C) Process costing
- (D) Multiple costing

94. A large angle of incidence denotes a :

- (A) Good profit position
- (B) Low profit position
- (C) BEP at lower level of activity
- (D) Low P/V Ratio

95. A best product-mix is determined on the basis of :

- (A) Brand value of products
- (B) Key factor
- (C) Products capacity levels
- (D) Selling price of products

96. Which of the following variance is also known as gang variance ?

- (A) Labour efficiency variance
- (B) Labour rate variance
- (C) Labour mix variance
- (D) Labour yield variance

97. Fixed overhead volume variance–Fixed overhead efficiency variance = ?

- (A) Fixed overhead calendar variance
- (B) Fixed overhead capacity variance
- (C) Fixed overhead expenditure variance
- (D) Fixed overhead idle time variance

98. Methods of cash budget are :

- (A) Receipts and payments method; Adjusted profit loss account method and Balance sheet method
- (B) Receipts and payments method; Adjusted profit and loss account method and cash flow statement method
- (C) Receipts and payments method; Direct method and Indirect method
- (D) Cash from operation method; Adjusted profit and loss account method and Balance sheet method

99. The following details are given to you :

Raw material consumed	?
Direct Labour Cost	?
Factory Overhead	₹1,35,000
	(60% of direct Labour Cost)
Factory Cost	₹6,40,000

The amount of raw material consumed and direct labour cost will be :

- (A) ₹4,24,000 and ₹81,000
- (B) ₹2,80,000 and ₹2,25,000
- (C) ₹2,25,000 and ₹2,80,000
- (D) ₹2,02,000 and ₹3,03,000

100. The following information is given :

Input of raw material @ ₹50 per unit	10,000 units
Direct Material	₹1,50,000
Direct Wages	₹90,000
Production Overhead	₹1,15,500
Actual output transferred to next process	9,800
Normal Loss	5%
Sale of scrap	₹20 per unit

The amount of abnormal gain would be credited to costing profit and loss account:

- (A) ₹19,665
- (B) ₹25,665
- (C) ₹26,700
- (D) ₹20,700

**ANSWER KEY****COST AND MANAGEMENT ACCOUNTING - SELECT SERIES**

<b>Q.No.</b>	<b>Ans</b>	<b>Q.No.</b>	<b>Ans</b>	<b>Q.No.</b>	<b>Ans</b>
1	C	34	B	67	C
2	B	35	C	68	C
3	B	36	C	69	D
4	C	37	C	70	B
5	C	38	*	71	B
6	D	39	C	72	D
7	C	40	D	73	D
8	C	41	C	74	D
9	C	42	B	75	B
10	B	43	A	76	A
11	D	44	D	77	C
12	D	45	C	78	A
13	A	46	D	79	B/C
14	A	47	C	80	A
15	C	48	B	81	C
16	B	49	A	82	C
17	C	50	D	83	B
18	D	51	C	84	C
19	C	52	C	85	B
20	B	53	D	86	C
21	D	54	C	87	B
22	C	55	D	88	D
23	B	56	D	89	C
24	D	57	A	90	B
25	C	58	C	91	A
26	C	59	C	92	C
27	B	60	C	93	D
28	D	61	D	94	A
29	C	62	B	95	B
30	B	63	A	96	C
31	D	64	B	97	B
32	A	65	D	98	A
33	D	66	C	99	B
				100	D

**Notes :**

\*Q. 38 is technically wrong. Therefore, none of the option is correct.

Q. 79, both the options B and C are correct.

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## **ECONOMIC AND COMMERCIAL LAWS**

*Time allowed : 3 hours*

*Maximum marks : 100*

**NOTE :** Answer ALL Questions.

### **PART A**

#### **Question 1**

- (a) *State the sectors in which Foreign Direct Investment (FDI) is prohibited in India.*
- (b) *State the restrictions imposed by the Director General of Foreign Trade (DGFT) on import and export under Foreign Trade Policy and Procedure.*
- (c) *What factors should be considered by Competition Commission of India to ascertain whether an agreement has an appreciable adverse effect on competition under the Competition Act, 2002 ?*
- (d) *What is meant by potential infringement under Patent Act, 1970 ? Explain in brief.*
- (e) *A party may before or during arbitral proceedings or at any time after making of arbitral award but before it is enforced may apply to the court for interim measures. Discuss it under the Arbitration and Conciliation Act, 1996. (5 marks each)*

#### **Answer 1(a)**

Sectors in which Foreign Direct Investment (FDI) is prohibited in India are as under:

1. Lottery business including Government or private lottery, online lotteries, etc.
2. Gambling and betting including casinos, etc.
3. Chit funds
4. Nidhi Company
5. Trading in Transferable Development Rights
6. Real estate business or construction of farm houses

*Explanation :* real estate business shall not include development of townships, construction of residential or commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations, 2014.

7. Manufacturing of cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.

8. Activities or sectors not open to private sector investment e.g. (I) Atomic energy and (II) Railway operations (other than permitted activities)
9. Foreign technology collaborations in any form including licensing for franchise, trademark, brand name, management contract is also prohibited for lottery business and gambling and betting activities.

**Answer 1(b)**

Director General of Foreign Trade (DGFT) may, through a notification, impose following 'restriction' on import and export:

- i. on export of foodstuffs or other essential products for preventing or relieving critical shortages;
- ii. on imports and exports necessary for the application of standards or regulations for the classification, grading or marketing of commodities in international trade;
- iii. on imports of fisheries product, imported in any form, for enforcement of governmental measures to restrict production of the domestic product or for certain other purposes;
- iv. on import to safeguard country's external financial position and to ensure a level of reserves;
- v. on imports to promote establishment of a particular industry;
- vi. for preventing sudden increases in imports from causing serious injury to domestic producers or to relieve producers who have suffered such injury;
- vii. for protection of public morals or to maintain public order;
- viii. for protection of human, animal or plant life or health;
- ix. relating to the importations or exportations of gold or silver;
- x. necessary to secure compliance with laws and regulations including those relating to the protection of patents, trademarks and copyrights, and the prevention of deceptive practices;
- xi. relating to the products of prison labour;
- xii. for the protection of national treasures of artistic, historic or archaeological value;
- xiii. for the conservation of exhaustible natural resources;
- xiv. for ensuring essential quantities for the domestic processing industry.

**Answer 1(c)**

Section 19(3) of the Competition Act, 2002 provides that while determining whether an agreement has appreciable adverse effect on competition, the Competition Commission of India shall give due regard to all or any of the following factors, namely—

- (a) Creation of barriers to new entrants in the market;
- (b) Driving existing competitors out of the market;

- (c) Foreclosure of competition by hindering entry into the market;
- (d) Accrual of benefits to consumers;
- (e) Improvements in production or distribution of goods or provision of services;
- (f) Promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services.

**Answer 1(d)**

Potential infringement is when an invention would infringe an existing patent when put in practice.

Section 19(1) of the Patents Act, 1970 provides that if in consequence of the investigations it appears to the Controller that an invention in respect of which an application for a patent has been made cannot be performed without substantial risk of infringement of a claim of any other patent, he may direct that a reference to that other patent, be inserted in the applicant's complete specification by way of notice to the public within such time as may be prescribed, unless

- (a) the applicant shows to the satisfaction of the Controller that there are reasonable grounds for contesting the validity of the said claim of the other patent; or
- (b) the complete specification is amended to the satisfaction of the Controller.

Under Section 19(2), where, after a reference to another patent has been inserted in a complete specification in pursuance of a direction under sub-section (1)—

- (a) that other patent is revoked or otherwise ceases to be in force; or
- (b) the specification of that other patent is amended by the deletion of the relevant claim; or
- (c) it is found, in proceedings before the court or the Controller, that the relevant claim of that other patent is invalid or is not infringed by any working of the applicant's invention, the Controller may, on the application of the applicant, delete the reference to that other patent.

**Answer 1(e)**

According to Section 17 of the Arbitration and Conciliation Act, 1996, a party may, during the arbitral proceedings, apply to the arbitral tribunal—

- (i) For the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or
- (ii) For an interim measure of protection in respect of any of the following matters, namely:—
  - (a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;
  - (b) securing the amount in dispute in the arbitration;
  - (c) the detention, preservation or inspection of any property or thing which is

the subject matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken, or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

- (d) interim injunction or the appointment of a receiver;
- (e) such other interim measure of protection as may appear to the arbitral tribunal to be just and convenient, and the arbitral tribunal shall have the same power for making orders, as the court has for the purpose of, and in relation to, any proceedings before it.

Subject to any orders passed in an appeal under section 37, any order issued by the arbitral tribunal shall be deemed to be an order of the Court for all purposes and shall be enforceable under the Code of Civil Procedure, 1908 , in the same manner as if it were an order of the Court.

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

**Question 2**

- (a) *Swami transfers to Radha for valuable consideration his reversionary interest in a property. When Swami succeeds to the property, Radha sues him for possession of the same. Decide whether Radha will succeed ?*
- (b) *Whether an insufficiently stamped instrument is a valid document ? Can it be admitted in evidence on payment of penalty ?*
- (c) *A, who is indebted to B, sells his property to C, and C the purchaser of the property, promises to pay off the debt to B. C fails to pay. Decide, whether B can sue C ?*
- (d) *Pinku purchased a tractor from Jahanvi Ltd. for tilling the land but he used it in idle time for transportation of agricultural produce on hire. Some defects were developed in the engine of the tractor. He complained to Jahanvi Ltd., but all in vain. Then he filed a suit in Consumer Disputes Redressal Forum for damages caused by the defects. Jahanvi Ltd. pleaded that Pinku is not a consumer within the definition of section 2 (1)(d) of the Consumer Protection Act, 1986, as he is using tractor for commercial purpose. Whether Pinku will succeed in his case ? Refer to relevant provisions of law and case law in support of your answer.*
- (e) *A transfers his land to B by a document. A by another document transfers B's property to C. B retains the property transferred by A to him but refused to transfer his property to C. In the light of Transfer of Property Act, 1882 decide whether B can do so ?*

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

**Question 2A**

- (i) *State the provisions relating to attachment, seizure and confiscation of property under the Money Laundering Act, 2002.*

- (ii) *Akhil appointed Nikhil as a salesman to sell goods at yearly salary for which Abhishek became guarantor for Nikhil's duly accounting for money received by him as salesman. Later on, without Abhishek's knowledge or consent Akhil and Nikhil agreed that Nikhil should be paid by a commission of the goods sold by him and not by a fixed annual salary. Decide whether Abhishek is liable for subsequent misconduct of Nikhil ?*
- (iii) *What are the absolute grounds for refusal of registration of trade mark under the Trade Marks Act, 1999.* (5 marks each)

**Answer 2(a)**

Section 6 of the Transfer of Property Act, 1882 contains some exceptions to the general rule that property of any kind may be transferred.

Consequently the chance of an heir apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kins man or any other mere possibility of a like nature cannot be transferred.

When a person is the owner of property, the property is in existence and it is in his possession. This he may transfer but if property is neither in existence nor is the person the owner of the property then it cannot be transferred. For example, if a person is intending to buy certain property but, he has no interest in that property, he cannot transfer it unless the property comes to his hands, i.e., unless he becomes the owner of the property after buying it.

In this clause possibilities referred are bare or naked possibilities and not coupled with can interest such as contingent remainders or future interest also known as right of spes succession is which cannot be the subject to transfer.

In this problem Radha will not succeed as the reversionary interest is a spes succession and non-transferable as per Section 6 of the Transfer of Property Act, 1882. So the transfer is void and her suit for possession will fail.

**Answer 2(b)**

Section 35 of the Indian Stamp Act, 1988 stipulates that no instrument chargeable with duty shall be—

- (i) admitted in evidence for any purpose whatsoever by any person authorised by law (such as judges or commissioners) or by the consent of the parties (such as arbitrators) to record evidence; or (ii) shall be acted upon; or (iii) registered; or (iv) authenticated by any such person as aforesaid or by any public officer, unless such instrument is duly stamped.

Provided that any such instrument shall be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of any instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion. Further, an insufficiently stamped instrument is not an invalid document and it can be admitted in evidence on payment of penalty. [See *K. Narasimha Rao v. Sai Vishnu*]

**Answer 2(c)**

A Stranger to a contract cannot, as general rule, sue upon a contract both under English law and under Indian Law, there being no privity of contract between him and the Contracting party. A contract cannot Confer rights or impose obligations on any other persons other than the parties to it.

A stranger to a consideration cannot sue under English Law but he can under the Indian Law, Thus according to Indian Contract Act, 1872, a stranger to a contract cannot sue but stranger to consideration can sue.

Thus, a person who is not a party to a contract cannot sue upon it even though the contract is for his benefit. A, who is indebted to B, sells his property to C, and the purchaser of the property, promises to pay off the debt to B. In case C fails to pay B. B has no right to sue C for there is no privity of contract between B and C because B is not a party to the contract.

**Answer 2(d)**

According to the Consumer Protection Act, Consumer is any person who (a) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose.

In the case of *Bhupendra Jang Bahadur Guna v. Regional Manager and Others (II 1995 CPJ 139)*, the National Commission held that a tractor primarily to till the land of the purchaser and let out on hire during the idle time to till the lands of others would not amount to commercial use.

If the commercial use is by the purchaser himself for the purpose of earning his livelihood by means of self-employment such purchaser of goods would yet be a consumer.

In the light of the above facts and circumstances, Pinku will succeed. He is still a consumer within the definition of the Consumer Protection Act.

**Answer 2(e)**

Section 35 of the Transfer of Property Act, 1882 deals with what is called doctrine of election. Suppose, a property is given to you and in the same deed of gift you are asked to transfer something belonging to you to another person. If you want to take the property you should transfer your property to someone else, otherwise you cannot take the property which is transferred to you by someone. Election may be defined as “the choosing between two rights where there is a clear intention that both were not intended to be enjoyed”.

The foundation of doctrine of election is that a person taking the benefit of an instrument must also bear the burden, and he must not take under and against the same instrument. It is, therefore, a branch of a general rule that no one may approbate and reprobate.

Further, the question of Election arises only when a transfer is made by the same document. If the transferor makes a gift of property by one deed and by another asks the donee to part with his own property then there is no question of election.

Therefore, in this problem since the two transfers do not form part of the same document hence B can retain the property transferred to him by A and he can refuse to transfer his property to C.

#### **Answer 2A(i)**

Section 5 of the Prevention of Money Laundering Act, 2002 provides that where the Director or any other officer not below the rank of Deputy Director authorised by the Director has reason to believe (the reason for such belief to be recorded in writing), on the basis of material in his possession, that—

- (a) any person is in possession of any proceeds of crime; and
- (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime,

he may, by order in writing, provisionally attach such property for a period not exceeding one hundred and eighty days from the date of the order, in prescribed manner.

According to Section 60 of the Prevention of Money Laundering Act, 2002 where the Director has made an order for attachment of any property under section 5 or for freezing under section 17(1A) or where an Adjudicating Authority has made an order relating to a property under section 8 or where a Special Court has made an order of confiscation relating to a property under section 8(5) & (6) and such property is suspected to be in a contracting State, the Special Court, on an application by the Director or the Administrator appointed, as the case may be, may issue a letter of request to a court or an authority in the contracting State for execution of such order.

Where a letter of request is received by the Central Government from a court or an authority in a contracting State requesting attachment, seizure, freezing or confiscation of the property in India, derived or obtained, directly or indirectly, by any person from the commission of an offence under a corresponding law committed in that contracting State, the Central Government may forward such letter of request to the Director, as it thinks fit, for execution in accordance with the provisions of this Act.

Where on closure of the criminal case or conclusion of trial in a criminal court outside India under the corresponding law of any other country, such court finds that the offence of money-laundering under the corresponding law of that country has been committed, the Special Court shall, on receipt of an application from the Director for execution of confiscation, order, after giving notice to the affected persons, that such property involved in money-laundering or which has been used for commission of the offence of money-laundering stand confiscated to the Central Government.

The Director shall, on receipt of a letter of request under section 58 or section 59, direct any authority under this Act to take all steps necessary for tracing and identifying such property.

**Answer 2A(ii)**

Section 133 of the Indian Contract Act, 1872 provides that when the surety has undertaken liability on certain terms. It is expected that they will remain unchanged during the whole period of guarantee. If there is any variance in the terms of the contract between the principal debtor and the creditor, without the consent of the surety, the surety gets discharged as regards transactions subsequent to such a change. The reason for such a discharge is that the surety agreed to be liable for a contract which is no more there, and he is not liable on the altered contract because it is different from the contract made by him, Section 133, which makes a provision in this regard, is as follows:

"Any variance, made without the surety's consent in the terms of the contract between the principal debtor and the creditor discharges the surety as to transactions subsequent to the variance"

The present case asked in the question is also based upon the aforesaid provisions of the Indian Contract Act, 1872. Here there is variance in the original contract between Akhil and Nikhil for which Abhishek does not know and further no information was given to him for such variance. Therefore, Abhishek is not liable for subsequent misconduct of Nikhil.

**Answer 2A(iii)**

Section 9 of the Trade Marks Act, 1999 deals with absolute grounds for refusal of registration.

According to Section 9(1) the trade marks shall not be registered —

- (a) which are devoid of any distinctive character, that is to say, not capable of distinguishing the goods or services of one person from those of another person;
- (b) which consist exclusively of marks or indications which may serve in trade to designate the kind, quality, quantity, intended purpose, values, geographical origin or the time of production of the goods or rendering of the service or other characteristics of the goods or service;
- (c) which consist exclusively of marks or indications which have become customary in the current language or in the bona fide and established practices of the trade,

Section 9(2) provides that a mark shall not be registered as a trade mark if—

- (a) it is of such nature as to deceive the public or cause confusion;
- (b) it contains or comprises of any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India;
- (c) it comprises or contains scandalous or obscene matter;
- (d) its use is prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950.

As per Section 9(3) a mark shall not be registered as a trade mark if it consists exclusively of —

- (a) the shape of goods which results from the nature of the goods themselves; or

- (b) the shape of goods which is necessary to obtain a technical result; or
- (c) the shape which gives substantial value to the goods.

**Question 3**

- (a) *Arjun was admitted in Kerala Law College to complete LL.B. three years course. On completion of the said course he applied to the University of Kerala for its degree. But the University refused to provide LL.B. degree certificate on completion of course on the ground that the qualifying examination on the basis of which Arjun was admitted in LL.B. course in Kerala Law College is not recognized by it. Decide, whether it will be treated as deficiency on the part of University under the Consumer Protection Act, 1986. Whether complainant can get compensation from the University ?* (5 marks)
- (b) *“Special Economic Zones” are engines of growth that can boost manufacturing, augment exports and generate employment. Comment.* (5 marks)
- (c) *A contract for the sale of Beauty Palace has been entered into between Karisma and Keshav. Keshav, the transferee has paid the price entering into possession and is willing to carry out his contractual obligation. As registration of the Beauty Palace has not been effected, Karisma, the transferor seeks to evict Keshav from the Beauty Palace. Can she do so ?* (5 marks)

**Answer 3(a)**

According to the Consumer Protection Act, deficiency means any fault, imperfection shortcoming or inadequacy in the quality, nature and manner of performance which is a required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service. Failure to maintain the quality of performance required by the law or failure to provide services as per warranties given by the provider of the service would amount to deficiency.

The facts of the case asked in the question is based upon the case of *Sreedharan Nair N. v. Registrar, University of Kerala*, the University refused to provide LL.B. degree certificate on completion of course on the ground that the qualifying examination on the basis of which student was admitted in LL.B. course in Kerala law college has not been recognised by it. The National Commission held that this is a clear case of deficiency on part of University and University has to pay compensation for its deficiency in service.

In the light of the legal provision & above facts and circumstances, complainant will get compensation from the University.

**Answer 3(b)**

Special Economic Zones (SEZ) are growth engines that can boost manufacturing, augment exports and generate employment. The SEZs require special fiscal and regulatory regime in order to impart a hassle free operational regime encompassing the state of the art infrastructure and support services.

Special Economic Zone (SEZ) is a specifically delineated duty free enclave and shall be deemed to be foreign territory for the purposes of trade operations and duties

and tariffs. Goods and services going into the SEZ area from Domestic Tariff Area (DTA) are treated as exports and goods coming from the SEZ area into DTA treated as if these are being imported. SEZ units may be set up for manufacture of goods and rendering of services.

The Government of India had announced a Special Economic Zone scheme in the year 2000 with a view to provide an internationally competitive environment for exports. To instil confidence in investors and signal the Government's commitment to a stable SEZ policy regime and with a view to impart stability to the SEZ regime thereby generating greater economic activity and employment through the establishment of SEZs, the Special Economic Zones Act, 2005, was passed by Parliament in 2005.

### **Answer 3(c)**

The problem asked in the Question is related to the doctrine of part performance as given in Section 53 A of the Transfer of Property Act, 1882. The essential conditions to enforce the doctrine of are as follows:

1. There must be a contract to transfer immoveable property.
2. It must be for consideration.
3. The contract should be in writing and signed by the transferor himself or on his behalf.
4. The terms necessary to constitute the transfer must be ascertainable with reasonable certainty from the contract itself.
5. The transferee should have taken the possession of the property in part performance of the contract. In case he is already in possession, he must have continued in possession in part performance of the contract and must have done something in furtherance of the contract.
6. The transferee must have fulfilled or be ready to fulfill his part of the obligation under the contract.

If all the above mentioned conditions are satisfied, then, the transferor and the persons claiming under him are debarred from exercising any right in relation to the property other than the rights expressly provided by the terms of the contract notwithstanding the fact that the instrument of transfer has not been registered or complete in the manner prescribed therefor by the law for time being in force. It should be noted that Section 53A does not confer any positive right on the transferee. It only prohibits exercise of the right of ownership in relation to the property in order to evict the transferee from the property because legal requirements have not been satisfied.

With the facts given in the question, Karisma, transferor, cannot seek to evict Keshav. In this case, a contract of sale of Beauty Palace has been entered into between the parties, Keshav, the transferee has paid the price entering into possession and is willing to carry out his contractual obligations. He cannot be evicted from the property from his possession simply because the formality of registration has not been through pursuant to the provisions of section 53A of this Act. The facts of this problem are related to the case *Delhi Motor Co. vs. Basurkas* as decided by Supreme Court.

**Question 4**

- (a) *What do you mean by “Fast Track Procedure”? Discuss the procedure to be followed by arbitral tribunal to resolve the dispute between the parties under the Arbitration and Conciliation Act, 1996.* (8 marks)
- (b) *Define the term “Money Laundering” and explain the process and impact of money laundering on social fabric of the country.* (7 marks)

**Answer 4(a)**

Fast Track Arbitration procedure is to speed up the arbitration process in India under the Arbitration and Conciliation Act, 1996.

Section 29B(1) of the Arbitration and Conciliation Act, 1996 provides that notwithstanding anything contained in this Act, the parties to an arbitration agreement, may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their dispute resolved by fast track procedure specified in sub-section (3).

Section 29B (2) states that the parties to the arbitration agreement, while agreeing for resolution of dispute by fast track procedure, may agree that the arbitral tribunal shall consist of a sole arbitrator who shall be chosen by the parties.

Section 29B (3) says that the arbitral tribunal shall follow the following procedure while conducting arbitration proceedings under sub-section (1):

- (a) The arbitral tribunal shall decide the dispute on the basis of written pleadings, documents and submissions filed by the parties without any oral hearing;
- (b) The arbitral tribunal shall have power to call for any further information or clarification from the parties in addition to the pleadings and documents filed by them;
- (c) An oral hearing may be held only, if, all the parties make a request or if the arbitral tribunal considers it necessary to have oral hearing for clarifying certain issues;
- (d) The arbitral tribunal may dispense with any technical formalities, if an oral hearing is held, and adopt such procedure as deemed appropriate for expeditious disposal of the case.

Section 29B (4) states that the award under this section shall be made within a period of six months from the date the arbitral tribunal enters upon the reference.

Section 29B(5) provides that if the award is not made within the period specified in sub-section (4), the provisions of sub-sections (3) to (9) of section 29A shall apply to the proceedings.

Section 29B (6) provides that the fees payable to the arbitrator and the manner of payment of the fees shall be such as may be agreed between the arbitrator and the parties.

**Answer 4 (b)**

Money laundering is the processing of criminal proceeds to disguise its illegal origin.

The process of money laundering can be classified into three stages, namely, placement, layering and integration. In the initial or placement stage of money laundering, the launderer introduces his illegal profits into the financial system, by breaking up large amounts of cash into less conspicuous smaller sums that are then deposited directly into a bank account, or by purchasing a series of monetary instruments that are later collected and deposited into accounts at another location.

After the funds are entered into the financial system, the layering takes place. In this stage, the launderer engages in a series of conversions or movements of the funds to distance them from their source. The funds might be channelled through the purchase and sale of investment instruments, or the launderer might simply wire the funds through a series of accounts at various banks across the globe.

After successful processing of criminal profits through the first two phases of the money laundering process, the launderer moves them to integration. In this stage the funds re-enter the legitimate economy. The launderer might choose to invest the funds into real estate, luxury assets, or business ventures.

Most fundamentally, money laundering is inextricably linked to the underlying criminal activity that generates it. In times of decelerating growth, an infusion of hard currency can bolster a country's foreign reserves; ease the hardship associated with budget tightening policies and moderate foreign indebtedness. While these are short-term benefits associated with an inflow of criminal monies, the long-term effects are mostly negative. One difference between official borrowing and laundered funds is that the former can be controlled by Government, whereas the funds owned by criminals escape the government's ability to control and regulate the economy. The possible social, economic and political effects of money laundering, if left unchecked or dealt with ineffectively, are serious. Through the process of money laundering, organised crime can infiltrate financial institutions, acquire control of large sectors of the economy through investment, or offer bribes to public officials and indeed governments. Thus, the economic and political influence of criminal organisations can weaken the social fabric, ethical standards and ultimately the democratic institutions of society.

**PART B****Question 5**

- (a) *What conditions must be satisfied for taking cognizance by the court for any offence punishable under the Essential Commodities Act, 1955 ?*

*(3 marks)*

- (b) *X, a trustee for Y, in execution of trust, sells trust property but for want of due diligence on his part, fails to receive part of the purchase money. Decide whether X is liable to make good the loss under the Indian Trusts Act, 1882 ?*

*(3 marks)*

- (c) *State when a certificate of registration can be issued to an undertaking under the Industries (Development and Regulation) Act, 1951. Under what circumstances such registration is not required ?*

*(3 marks)*

- (d) *Discuss the process of dissolution of society under the Societies Registration Act, 1860.* (3 marks)
- (e) *State the effect of non-registration of documents required to be registered under the Registration of Documents Act, 1908.* (3 marks)

**Answer 5(a)**

Section 10A of the Essential Commodities Act, 1955 declares that notwithstanding anything contained in the Criminal Procedure Code, 1971, every offence punishable under the Act shall be cognizable.

A cognizable offence is one, where, under the Criminal Procedure Code or any other law in force, a police officer may arrest a person without a warrant.

Section 11 lays down that before a Court can take cognizance of any offence punishable under the Act, the following three conditions must be satisfied, viz. (i) there must be a report in writing, (ii) the report must contain the facts constituting such offence (iii) the report must be made by a public servant, as defined in Section 21 of Indian Penal Code, or any aggrieved person or any recognised consumer association, whether such person is a member of that association or not.

**Answer 5(b)**

Section 15 of the Indian Trusts Act, 1882 deals with care required from trustee. A trustee is bound to deal with the trust-property as carefully as a man of ordinary prudence would deal with such property if it were his own; and, in the absence of a contract to the contrary, a trustee so dealing is not responsible for the loss, destruction or deterioration of the trust-property.

Illustration to the section: A, a trustee for B, in execution of his trust, sells the trust-property, but from want of due diligence on his part fails to receive part of the purchase-money. A is bound to make good the loss thereby caused to B,

In this problem X who is a trustee sells trust property but fails to receive part of the purchase money. He has not availed due diligence in the performance his duty is a man of ordinary prudence would deal with such property as if it were his own.

Therefore, X is liable to make good the loss caused to the trust as per the provisions of Indian Trusts Act, 1882.

**Answer 5(c)**

Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, after such investigation as it may consider necessary, grants the applicant a certificate of registration containing, besides other prescribed particulars, the productive capacity of the undertaking. In specifying the productive capacity in the certificate of registration, the Central Government takes into consideration the following matters:

- (i) the productive or installed capacity of the undertaking as specified in the application for registration;
- (ii) level of production immediately before the date on which the application for registration was made;

- (iii) the level of the highest annual production during the preceding three years;
- (iv) the extent to which production during the said period was utilised for export;
- (v) such other factors as the Central Government may consider relevant including the extent of underutilisation of capacity, if any during the relevant period due to any cause.

*Circumstances when Registration is Not Necessary:*

It may be noted that registration of an undertaking will not be necessary if the undertaking (i) is a small scale industrial undertaking or (ii) is otherwise exempt from the licensing/registration provisions of the Act or (iii) where the undertaking concerned is not satisfying the definition of the term ‘factory’ under the Act.

**Answer 5(d)**

Under Section 13 of the Societies Registration Act, 1860, a society can be dissolved. Dissolution of a society becomes necessary where the objects for which it is formed, have been fulfilled or where the purposes for which it is formed, have become irrelevant, invalid or inoperative or by passing of a resolution by 3/5th majority of the members present at a meeting to dissolve the society for utilisation of its assets for some other better uses. A society may be dissolved forthwith or within the agreed time. The following steps are to be taken:

1. Decision of the governing body;
2. Convene a special general meeting of the members by giving a requisite notice for consideration and passing resolution by 3/5th majority of the members present thereat;
3. Decision as to dissolve it forthwith or at a later time agreed upon by them.
4. Decision for the actions to be taken for disposal of properties and settlement of claims and liabilities as per the rules and regulations of the society; and
5. Delegate authority to the person(s) of the governing body to comply with the decisions accordingly.

Whenever any government is a member of, or a contributor to, or otherwise interested in any society, such society shall not be dissolved without the consent of the government.

**Answer 5(e)**

Section 49 of the Registration Act, 1908 provides that no document required by Section 17 or by any provision of the Transfer of Property Act, 1882 to be registered shall:

- (a) affect any immovable property comprised therein; or
- (b) confer any power to adopt; or
- (c) be received as evidence of any transaction affecting such property or conferring such power unless it has been registered.

Section 49 is mandatory, and a document which is required to be registered cannot be received in evidence as affecting immovable property. (*Mulla, pages 223 to 228*)

An unregistered document which comes within Section 17 cannot be used in any legal proceeding to bring out indirectly the effect which it would have if registered.

However, the proviso to Section 49 provides that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882 to be registered may be received as evidence of a contract in a suit for specific performance or as evidence of part performance of a contract for the purposes of Section 53A of the Transfer of Property Act, 1882 or as evidence of any collateral transaction not to be effective by registered instrument. All that the proviso to Section 49 permits is that in a suit for specific performance an unregistered document affecting immovable property may be given in evidence. The purpose is that the document which has not conveyed or passed title may still be used as evidence of the terms.

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

**Question 6**

- (a) *Who is authorized to award relief under the Public Liability Insurance Act, 1991? State the procedure for awarding such relief on the application of claimant.*
- (b) *The industrial policy has to transform country into major partner and player in the global arena. Discuss the objectives of industrial policy of Government of India in this context.*
- (c) *Explain the reasons for refusal to register a document by sub-registrar under the Registration Act, 1908.* (5 marks each)

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

**Question 6A**

- (i) *State the procedure of registration of society under the Societies Registration Act, 1860.*
- (ii) *State the emergency powers which may be exercised by State Board in case of pollution of stream or well under the Water (Prevention and Control of Pollution) Act, 1974.*
- (iii) *Discuss the powers of Legal Meteorology officer regarding inspection and seizures under the Legal Meteorology Act, 2009.* (5 marks each)

**Answer 6(a)**

Section 7 of the Public Liability Insurance Act, 1991 requires the collector, on receipt of application for claim for relief, to hold an inquiry into the claim or each of the claims, after giving notice of application to owner and after giving the parties an opportunity of being heard and make an award determining the amount of relief payable to person or persons.

The Collector shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

The insurers to deposit, within 30 days from the date of announcement of the award, the amount in such manner as specified by the collector.

The collector than arrange to pay from the relief fund to the person or persons such amount in such manner as may be specified in the scheme.

A claim for relief in respect of death of, or injury to, any person or damage to any property shall be disposed of as expeditiously as possible and every endeavour shall be made to dispose of such claim within three months of the receipt of the application for relief.

Where an owner is likely to remove or dispose of his property with the object of evading payment by him of any amount of the award, the Collector may grant a temporary injunction to restrain such act.

#### **Answer 6(b)**

Industrialization is a major objective of developing countries as a means to the attainment of higher levels of economic well-being of the people. Growth of the industrial sector at a higher rate and on a sustained basis is a major determinant of a country overall economic development in this regard the Government of India has issued industrial policies from time to time to facilitate and foster the growth of Indian industry and maintain its productivity and competitiveness in the world market.

Following are the main objectives of Industrial Policy of the Government of India

- To maintain a sustained growth in productivity;
- To enhance gainful employment;
- To achieve optimal utilisation of human resources;
- To attain international competitiveness; and
- To transform India into a major partner and player in the arena

#### **Answer 6(c)**

- I. Every Sub-Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No. 2 and endorse the words "Registration refused", on the document; and, on application made by any person executing or claiming under the document, shall without payment and unnecessary delay, give him a copy of the reasons so recorded.
- II. No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered. (Section 71 of the Registration Act)

#### **Answer 6A(i)**

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 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.

**Answer 6A(ii)**

Section 32 of the Water (Prevention and Control of Pollution) Act, 1974 empowers the State Board to take certain emergency measures. Accordingly where it appears to the State Board that any poisonous, noxious or polluting matter is present in any stream or well or on land by reason of the discharge of such matter in such stream or well or on land, or has entered into that stream or well due to any accident or unforeseen act or event, and the Board is of the opinion that it is necessary or expedient to take immediate action, then it may for reasons to be recorded in writing, carry out such operations as it may consider necessary for all or any of the following purposes, namely:

- (a) removing that matter from stream or well and disposing it of in such manner as the Board considers appropriate;
- (b) remedying or mitigating any pollution caused by its presence in the stream or well;
- (c) issuing orders immediately restraining or prohibiting the person concerned from discharging any poisonous, noxious or polluting matter into the stream or well or on land or from making insanitary use of the stream or well.

**Answer 6A(iii)**

According to Section 15(1) of the Legal Metrology Act, 2009, the Director, Controller or any legal metrology officer may, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any weight or measure or other goods in relation to which any trade and commerce has taken place or is intended to take place and in respect of which an offence punishable under the Act appears to have been, or is likely to be, committed are either kept or concealed in any premises or are in the course of transportation,—

- (a) enter at any reasonable time into any such premises and search for and inspect any weight, measure or other goods in relation to which trade and commerce

has taken place, or is intended to take place and any record, register or other document relating thereto;

- (b) seize any weight, measure or other goods and any record, register or other document or article which he has reason to believe may furnish evidence indicating that an offence punishable under this Act has been, or is likely to be, committed in the course of, or in relation to, any trade and commerce.

The Director, Controller or any legal metrology officer may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person having the custody of such weight or measure shall comply with such requisition.

Where any goods seized under sub-section (1) are subject to speedy or natural decay, the Director, Controller or legal metrology officer may dispose of such goods in such manner as may be prescribed.

Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures.

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## **TAX LAWS AND PRACTICE - SELECT SERIES**

*Time allowed : 3 hours*

*Maximum marks : 100*

*Total number of Questions : 100*

*Note : All questions in Part-A relate to the Income Tax Act, 1961 and Assessment Year 2021-22, unless stated otherwise.*

### **PART A**

1. Decisions pronounced by the High Courts on Income Tax matter become judicial precedent and are binding on :
  - (A) All the High Courts
  - (B) Appellate Tribunal
  - (C) Income Tax Authorities under its jurisdiction
  - (D) All Assessee covered under Income Tax Act, 1961
2. The amount of income tax shall be increased by a surcharge at the rate of 12% of such Income tax in the case of a firm having total income exceeding :
  - (A) ₹40 lacs
  - (B) ₹60 lacs
  - (C) ₹100 lacs
  - (D) ₹200 lacs
3. Section-12AA has been replaced by :
  - (A) Section 12AD
  - (B) Section 11AB
  - (C) Section 12AB
  - (D) Section 10AC
4. The deduction for interest expense under section 57 of the Income tax act from dividend income shall not exceed :
  - (A) 10% of Dividend Income
  - (B) 20% of Dividend Income
  - (C) 30% of Dividend Income
  - (D) 40% of Dividend Income

5. What is the percentage of Income derived from sale of coffee grown and manufactured in India, as per Rule 7B(1) of the Income Tax rules, is not taxable (exempted) from the Income Tax ?
  - (A) 30%
  - (B) 40%
  - (C) 60%
  - (D) 75%
6. Under Clause 10AA of Section 10, the maximum amount of leave salary received which is not chargeable to tax for non-governmental employees is .....
  - (A) ₹2,00,000
  - (B) ₹3,00,000
  - (C) ₹5,00,000
  - (D) ₹1,00,000
7. Which section of Income Tax Act, 1961 provides exemption from compensation received on account of any disaster from Central Government ?
  - (A) Section 10(10B)
  - (B) Section 10(10BB)
  - (C) Section 10(10BC)
  - (D) Section 10(10C)
8. Which among the following is false in case of “Reverse Mortgage” ?
  - (A) Under Reverse mortgage a person who owns a house property have the option to mortgage the property with a scheduled bank or finance company to get a regular income in the form of periodical installments.
  - (B) This scheme is applicable for senior citizens who have a regular income.
  - (C) Under this scheme, the lender will recover the amount paid i.e. principal and interest thereon by selling the property after the death of borrower.
  - (D) The lender will have to give the option to the legal heirs of the borrower to repay the loan amount along with interest for the release of property.
9. If you have established a unit in a Special Economic Zones for manufacture or produce articles or things or provide any service during the previous year 2019-2020, what is the maximum period for which deduction is available under section 10AA ?
  - (A) 5 Assessment years
  - (B) 10 Assessment years
  - (C) 15 Assessment years
  - (D) 20 Assessment years

10. What is the maximum limit prescribed by the Act for cash donation received by the Political Party registered with the Election Commission of India?
  - (A) ₹10,000
  - (B) ₹1,500
  - (C) ₹2,000
  - (D) ₹20,000
11. If you want to file income tax return for the Asst. Year 2021-22 of a Political Party registered with the Election Commission of India, which ITR form will be used for filling of Income Tax Return.
  - (A) ITR Form-4
  - (B) ITR Form-5
  - (C) ITR Form-6
  - (D) ITR Form-7
12. The rate of Income Tax is mentioned in :
  - (A) The Income Tax Act, 1961 only
  - (B) Income Tax Rules, 1962 only
  - (C) The First Schedule to the Annual Finance Act
  - (D) Income Tax Act, 1961 and the First Schedule to the Annual Finance Act.
13. Two Children had separate income of ₹2,000 and ₹1,000 respectively which have to be clubbed to the income of their father Mr. X for the assessment year 2021-22. What amount of Income will be exempted from father's income?
  - (A) ₹1,000
  - (B) ₹2,000
  - (C) ₹3,000
  - (D) ₹2,500
14. Mr. Kumar owns a commercial building in Rajasthan, which is let out on 1st April, 2020 at a monthly rent of ₹30,000. He paid for municipal taxes of ₹15,000 and ₹20,000 for the financial year 2019-20 and 2020-21 on 31st March, 2021 and 1st May 2021 respectively. What is the net income chargeable under income from house property for assessment year 2021-22?
  - (A) ₹2,41,500
  - (B) ₹2,27,500
  - (C) ₹2,38,000
  - (D) ₹2,52,000

15. If an individual opts to be taxed under the new alternative tax regime, which of following deduction will be allowed :
- Leave Travel Concession
  - Tax on Employment
  - HRA
  - Special Allowances exempt u/s 10(14)
16. Mr. A, an individual derived income of ₹1,00,000 from illegal activities related to the business during the financial year 2020-21. He has incurred expenses of ₹50,000 to earn above income. What is the tax treatment of the above transaction for the assessment year 2021-22?
- ₹50,000 chargeable to tax in income from other sources
  - ₹50,000 chargeable to tax in income from business and profession
  - ₹1,00,000 chargeable to tax in income from business and profession
  - It is not chargeable to tax as the person who carried on the illegal activities is punishable under the appropriate law
17. When a car is owned or hired by the employer and its running and maintenance expenses for private use are met by the employee and if the car is used to be partly for official duty and partly for private purposes (where the cubic capacity of the engine exceeds 1.6 lt) then how much perquisite is chargeable to tax in the hand of the employee?
- ₹900 p.m. plus ₹900 p.m. if chauffeur is also provided.
  - Value of the perquisite shall be 10% of the actual cost of car or hire charges if car is taken on hire plus salary of chauffeur, if any, paid or payable by the employer.
  - Value of perquisite shall be ₹600 p.m. plus ₹900 p.m. if chauffeur is provided
  - Value of perquisite shall be actual expenditure incurred by the employer plus normal wear and tear @ 10% or hire charges if car is taken on hire then deduct amount recovered from the employer.
18. Mr. Prakash, a non-Governmental employee has the following salary detail for the assessment year 2021-22 :
- Basic Salary ₹60,000 p.a., D.A. ₹24,000 p.a., Entertainment Allowance 3,600 p.a., LIC Premium Paid by employer ₹3,600, Income Tax paid by employee ₹2,000, and Professional tax paid by employer on behalf of employee ₹2,000. Find his taxable salary for the assessment year 2021-22.
- ₹50,600
  - ₹41,200
  - ₹43,200
  - ₹93,200

19. The value of the perquisite to be included in the salary of employee if interest free loan is to be given to an employee (for the purpose of medical treatment of specified diseases) by the employer :
- (A) ₹10,000  
(B) ₹20,000  
(C) Nil  
(D) ₹50,000
20. TDS u/s 194 N is to be made by a bank from an account holder for cash withdrawal exceeding ₹20 lakhs if the account holder has not furnished the return of income for last :
- (A) 1 assessment year  
(B) 2 assessment year  
(C) 3 assessment year  
(D) None of the above
21. Leave travel concession is given to Mr. Krishna, his wife and three children (one daughter aged 5 and twin sons aged 2). Cost of air tickets (Economy class) reimbursed by the employer ₹10,000 for adults and lump sum of ₹15,000 for three children for the financial year 2020-21. Mr. Krishna is eligible for exemption this year to the extent permissible under the Income Tax Act, 1961. You are required to calculate taxable perquisite for the assessment year 2021-22 :
- (A) Nil  
(B) ₹10,000  
(C) ₹15,000  
(D) ₹25,000
22. Y Ltd. acquired a building on 15th May 2018 for ₹4,00,000. The assessee, as a tenant, earlier used the building for industrial purpose on rent since the past 3 years and even after purchase it is continuously used for industrial purpose. Such building is compulsorily acquired by Government at an agreed value of 6,00,000 as on 15th July, 2020. The compensation was received on 15th March, 2021. The written down value of the building as on 1st April, 2020 is 3,42,000. The company acquired a new building for industrial purpose for 3,00,000 as on 31st March, 2021. Calculate taxable capital gain for the assessment year 2021-22.
- (A) Nil  
(B) 3,42,000  
(C) 2,00,000  
(D) 1,00,000

23. Mr. Lachwani whose business income was ₹4,50,000 received a cash gift of ₹70,000 from a charitable trust registered under section 12AA for meeting his medical expenses during the Previous year 2020-21. What is the taxable income under the head “Income from Other Sources” for the Assessment Year 2021-22?
- (A) ₹20,000  
(B) ₹50,000  
(C) ₹70,000  
(D) Not taxable
24. Family pension received by the family member of a deceased employee from the employer is taxable under the head “Income from Other Sources”. What is the standard deduction allowed under Income Tax Act, 1961 ?
- (A) 1/3rd of such pension or ₹15,000 whichever is lower.  
(B) 1/3rd of such pension or ₹15,000 whichever is higher.  
(C) 2/3rd of such pension or ₹15,000 whichever is lower.  
(D) 2/3rd of such pension or ₹15,000 whichever is higher.
25. As per section 56(2)(viii) Income by way of Interest received on compensation referred to in clause (1) of section 145B shall be chargeable to tax under.
- (A) Income from Salary  
(B) Income from Business and Profession  
(C) Capital gain  
(D) Income from Other Sources
26. Suresh received a gift of ₹75,000 from a cousin of her mother on 31st December, 2020. How much amount is taxable as income from other sources for the assessment year 2021-22?
- (A) ₹25,000  
(B) ₹50,000  
(C) ₹75,000  
(D) Nil
27. What is the rate of depreciation charged on Gas Cylinders for industrial use under Income Tax Act, 1961 ?
- (A) 10%  
(B) 15%  
(C) 30%  
(D) 40%

28. Which of the following statements for applicability of sec. 44AB for mandatory audit of accounts of certain person is false?
- (A) Every person carrying on business whose total sales turnover or gross receipts in business exceeds 1 crore in any previous year
  - (B) Every person carrying on profession whose gross receipts in profession exceeds 1 crore in any previous year
  - (C) Every person carrying on a business, where deemed profits are taxed on presumptive basis under section 44AE or 44B or 44BBB whose income is claimed to be lower than the deemed profits under the respective sections
  - (D) Every person carrying on a profession, where 50% of the gross receipts are deemed to be profits under section 44ADA whose income is claimed to be lower than the deemed profits and such income exceeds the basic exemption limit.
29. ABC Ltd. failed to deduct tax at source on rent payable of ₹2,50,000 to Mr. Ghanshyam, a resident during the financial year 2020-21. Mr. Ghanshyam did not pay tax on such income. What is the amount of disallowance to ABC Ltd. according to Income Tax Act, 1961 for the Assessment Year 2021-22 ?
- (A) Disallowance of 20% of such expenditure
  - (B) Disallowance of 30% of such expenditure
  - (C) Disallowance of 50% of such expenditure
  - (D) Disallowance of 100% of such expenditure
30. Under section 35D, Indian companies, resident in India, would be entitled to amortization of certain preliminary expenses incurred by them subject to the following limits :
- (A) The deduction under section 35D is subject to maximum of ₹5,00,000
  - (B) The deduction under section 35D is maximum 5% of capital employed
  - (C) The deduction under section 35D is maximum 10% of cost of project.
  - (D) The deduction under section 35D is 1/5th of total preliminary expenses
31. Maintenance of accounts and other documents are compulsory as per Income Tax Act, 1961 when every person who is carrying on business or profession whose income from business or profession exceeds ₹.....or total sales, turnover or gross receipts exceeds ₹.....in any one of the three immediately preceding previous year.
- (A) ₹2,50,000 and ₹25,00,000
  - (B) ₹2,50,000 and ₹50,00,000
  - (C) ₹5,00,000 and ₹25,00,000
  - (D) ₹5,00,000 and ₹50,00,000

32. Section 44ADA has been inserted in the Income Tax to provide for estimating the income of an assessee @ .....  
(A) 20% of the Total Gross receipt  
(B) 50% of the Total Gross receipt  
(C) 60% of the Total Gross receipt  
(D) 80% of the Total Gross receipt
33. For the Financial Year 2020-21, the Gross Total Income of Mr. G, who is 70 years old was ₹8,50,000. The Gross Total Income included interest income of ₹12,000 from the savings bank deposit with banks and ₹40,000 interests on fixed deposit with banks. He has invested in PPF ₹1,20,000 and also paid a medical insurance premium of 51,000 paid by cheque. Compute Total Income for the Assessment Year 2021-22 :  
(A) ₹6,30,000  
(B) ₹6,95,000  
(C) ₹6,70,000  
(D) ₹6,40,000
34. Mr. A an individual, aged 52, deposited in PPF ₹1,70,000. He paid medical insurance premium for wife and dependent son of ₹31,000 and he earns an interest on savings bank account of ₹12,000 during the financial year 2020-21. Calculate the amount he is eligible for deduction under chapter VI-A in the Assessment Year 2021-22.  
(A) ₹1,85,000  
(B) ₹2,13,000  
(C) ₹1,90,000  
(D) ₹1,87,00
35. Tax planning based on measures which circumvent the law is known as :  
(A) Permissive tax planning  
(B) Purposive tax planning  
(C) Short range tax planning  
(D) Long range tax planning
36. If new tax regime is adopted, which of the following losses will not be carried forward in the hand of an individual :  
(A) Loss from activity of owning and maintaining race horses  
(B) Loss in speculation business  
(C) Loss on transfer of capital assets  
(D) Loss under the head House property

37. Section 79(b) of Income Tax Act, 1961 deals with :
- (A) Carry forward and set off losses in case of change in constitution of firm
  - (B) Carry forward and set off losses in case of companies in which the public are not substantially interested
  - (C) Carry forward and set off losses in case of eligible start up
  - (D) Carry forward and set off losses in case of succession of business or profession
38. During the previous year 2020-21, Mr. Akhil has the following income and brought forward losses :
- (1) Short-term capital gains on sale of shares of ₹1,00,000
  - (2) Long-term capital loss of A.Y. 2020-21 of ₹60,000
  - (3) Short-term capital loss of A.Y. 2020-21 of ₹35,000
  - (4) Long-term capital gain of ₹40,000.
- What is the capital gain taxable in the hands of Mr. Akhil for the Assessment Year 2021-22?
- (A) ₹1,05,000
  - (B) ₹45,000
  - (C) ₹65,000
  - (D) ₹1,40,000
39. Compute the income from business and profession of Mr. B for the A.Y. 2021-22 from the information given below :
- (1) Income from business (before providing for depreciation) of ₹1,00,000
  - (2) Income from tea business of ₹50,000
  - (3) Current year depreciation of ₹20,000
  - (4) Brought forward business loss (loss incurred six years ago) of ₹10,000.
- (A) ₹1,20,000
  - (B) ₹1,00,000
  - (C) ₹90,000
  - (D) ₹87,500
40. Computation of income on estimated basis under section 44AD is not applicable to businesses carried on by :
- (A) Resident individual
  - (B) Resident HUF
  - (C) Resident Partnership
  - (D) Resident LLP

41. The following persons are not eligible to avail benefit under section 44AD :
  - (A) A person carrying on profession referred to in section 44AA (1)
  - (B) LIC agent
  - (C) A person who is in the business of plying, hiring or leasing goods carriages
  - (D) All of the above
42. Every year, the residential status of an assessee :
  - (A) Will not change
  - (B) Will certainly change
  - (C) May change
  - (D) None of the above
43. Mr. Suyash, an individual received dividend of ₹15,00,000 as dividend income from listed domestic company for the Assessment Year 2021-22. What is the dividend amount chargeable to tax :
  - (A) ₹5,00,000
  - (B) ₹10,00,000
  - (C) ₹15,00,000
  - (D) All dividend amount received by assessee is exempt from tax.
44. What is concessional rate of income tax for income from the transfer of carbon credit ?
  - (A) 3% (+SE+EC+SHEC)
  - (B) 5% (+SE+EC+SHEC)
  - (C) 10% (+SE+EC+SHEC)
  - (D) 20% (+SE+EC+SHEC)
45. What percentage of surcharge is applicable to foreign companies whose total income exceeds ₹10 crore for the Assessment Year 2021-22 ?
  - (A) @ 2%
  - (B) @ 5%
  - (C) @ 7%
  - (D) @ 12%
46. A company who discontinued a business are statutorily required to intimate to the assessing officer within ..... from the discontinuance.
  - (A) 15 days
  - (B) 30 days
  - (C) 45 days
  - (D) 60 days

47. Which of the following is correct statement regarding MAT?
- (A) MAT credit can be carried forward up to 7th Assessment Year immediately succeeding the assessment year in which such credit becomes allowable
  - (B) MAT credit can be carried forward up to 15th Assessment Year immediately succeeding the assessment year in which such credit becomes allowable
  - (C) MAT credit can be carried forward up to 15th Assessment Year immediately preceding the assessment year in which such credit becomes allowable
  - (D) MAT credit can be carried forward up to 7th Assessment Year immediately preceding the assessment year in which such credit becomes allowable
48. Where the assessee obtained a refund out of any tax paid under section 140A, interest on such refund shall be calculated at a rate of ..... from the date of furnishing of return of income or payment of tax, whichever is later, to the date on which refund granted.
- (A)  $\frac{1}{2}\%$  for every month or part of a month comprised in the period
  - (B) 1% for every month or part of a month
  - (C)  $1\frac{1}{2}\%$  for every month or part of a month
  - (D) 2% for every month or part of a month
49. ABC Ltd. pays the following amounts to Mr. J, a resident, during the previous year 2020-21 : ₹16,000 for Professional services and ₹20,000 as royalty. What percentage of TDS is to be deducted by ABC Ltd. for Assessment Year 2021-22 ?
- (A) 10% of ₹36,000
  - (B) 10% of ₹16,000
  - (C) 10% of ₹20,000
  - (D) No TDS is to be deducted
50. Mr. R, an individual responsible for paying ₹20,000 to XYZ Private Limited by way of commission for procuring insurance business. What rate of TDS is required to be deducted by Mr. R ?
- (A) 2%
  - (B) 5%
  - (C) 20%
  - (D) No TDS is required to be deducted
51. The tax to be collected by an authorized dealer u/s 206C(1G) on the amount of remittance exceeding ₹7 lakh from the buyer is:
- (A) 1%
  - (B) 5%
  - (C) 10%
  - (D) 20%

52. Where a return of income is furnished after due date then period for which the interest is payable under section 234 A commences from :
- (A) The date immediately following the due date for filing the return and ending on the date of furnishing of the return
  - (B) First day of relevant Assessment Year to ending on the date of furnishing of the return
  - (C) First day of relevant Assessment Year to due date for filing the return
  - (D) The date immediately following the date of filing the return and ending on the end of relevant Assessment Year.
53. An assessee, who declares his income in accordance with Presumptive taxation regime under Section 44ADA, is required to pay advance tax in :
- (A) One installment
  - (B) Two installments
  - (C) Three installments
  - (D) Four installments
54. For TCS, Collectee shall furnish his PAN to the person responsible for collecting such tax at source. If PAN is not intimated, tax shall be collected at :
- (A) Twice the normal rate or at the rate of 5%, whichever is lower
  - (B) Twice the normal rate or at the rate of 5%, whichever is higher
  - (C) Twice the normal rate or at the rate of 10%, whichever is lower
  - (D) Twice the normal rate or at the rate of 10%, whichever is higher
55. Mr. R whose accounts are not liable to audit u/s 44AB(a)/(b) in preceding financial year is required to deduct TDS u/s 194-IB if he is responsible for paying to a resident rent for land or building in excess of ₹..... per month or part of a month.
- (A) 30,000
  - (B) 40,000
  - (C) 50,000
  - (D) 1,80,000
56. Withdrawal of the accumulated balance lying in a Recognized Provident Fund (RPF) account, is exempt from tax :
- (A) If the employee renders continuous service with the employer for period of 5 years or more
  - (B) If the employee renders continuous service with the employer for period of 10 years or more

- (C) If the employee renders continuous service with the employer for period of 3 years or more
- (D) Withdrawal of the accumulated balance lying in an RPF account is always exempt from tax
57. What is the fee for filing an application for advance ruling?
- (A) ₹10,000
- (B) ₹20,000
- (C) ₹30,000
- (D) ₹50,000
58. SAAR stands for :
- (A) Simple Anti-Avoidance Rule
- (B) Specific Anti-Avoidance Rule
- (C) Source Anti-Avoidance Rule
- (D) Search Anti-Avoidance Rule
59. In case of an assessee being a company, which is required to furnish a report referred to in section 92E, what is the due date?
- (A) 31st July
- (B) 31st October
- (C) 30th November
- (D) 31st March
60. J, an individual failed to keep and maintain information and document in respect of international transaction. What penalty can be imposed by AO or Commissioner (appeals) ?
- (A) 1% of the value of each international transaction
- (B) 2% of the value of each international transaction
- (C) 3% of the value of each international transaction
- (D) 4% of the value of each international transaction
61. What is the minimum penalty u/s 271B in the case of Mr. S, an individual who has failed to get his accounts audited under section 44AB or furnish audit report along with return of income ?
- (A) ½% of the total turnover
- (B) 1/4% of the total turnover
- (C) ½% of the tax payable
- (D) 1/4% of the tax payable

62. Every person who has not been allotted any permanent account number, is obliged to obtain permanent account number, if :
- (A) Any person carrying on business or profession whose total sales turnover or gross receipts are or is likely to exceed ₹3,00,000 in any previous year
  - (B) Any person carrying on business or profession whose total sales turnover or gross receipts are or is likely to exceed ₹5,00,000 in any previous year
  - (C) Any person carrying on business or profession whose total sales turnover or gross receipts are or is likely to exceed ₹10,00,000 in any previous year
  - (D) Any person carrying on business or profession whose total sales turnover or gross receipts are or is likely to exceed ₹20,00,000 in any previous year
63. TCS under sub-section (1H) of section 206(c) is applicable during 2020-21 if turnover during previous year (2019-20) is :
- (A) ₹5 crore
  - (B) More than ₹5 crore
  - (C) ₹10 crore
  - (D) More than ₹10 crore
64. The time limit for passing an order for rectification of mistakes u/s 154 of Income Tax Act, 1961 is a period of ..... from the end of financial year in which the order sought to be amended was passed.
- (A) 1, year
  - (B) 2, years
  - (C) 3, years
  - (D) 4, years
65. What Form number is required to file the memorandum of appeal, statement of facts and the grounds of the appeal in duplicate and accompanied by a copy of the order appealed against and the notice of demand in original ?
- (A) Form 25
  - (B) Form 35
  - (C) Form 40
  - (D) Form 50
66. Which of the following regarding “Dispute Resolution Panel” is false ?
- (A) If the member of the Dispute Resolution Panel differs in opinion on any point, the point shall be decided according to the opinion of the majority of the members
  - (B) Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer

- (C) No direction shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such direction which are prejudicial to the interest of the assessee or the interest of the revenue.
- (D) No direction shall be issued after 12 months from the end of the month in which the draft order is forwarded to the eligible assessee.
67. Deduction under section 80GG is allowed only to :
- (A) HUF
- (B) Firm
- (C) Company
- (D) Individual
68. Section 54F of Income Tax Act, 1961 is applicable to .....
- (A) Individual/HUF
- (B) Firm
- (C) Company
- (D) None of the above
69. What is the applicability of TDS provision for ₹14,000 paid as sitting fees to director of a Company during financial year 2020-21 ?
- (A) 10% TDS
- (B) Threshold limit of ₹30,000 up to which the provision of tax deducted at source are not attracted
- (C) It is of a contract nature so only 1% TDS deduction is required
- (D) None of the above
70. Total income of Mr. K is ₹5,80,000 for the financial year 2020-21 (Including ₹80,000 for salary after standard deduction and ₹5,00,000 for lottery winning-gross). what will be tax liability for the Assessment Year 2021-22 ?
- (A) ₹29,640
- (B) ₹1,02,960
- (C) ₹1,56,000
- (D) None of the above

**PART B**

71. GST is a tax on :
- (A) Consumption
- (B) Enjoyment
- (C) Consumption and enjoyment
- (D) Consumption and destination

72. What is the purpose of The Union Territory Goods and Services Tax Act, 2017 (UTGST Act) which was passed by the Parliament?
- (A) To levy, collect UTGST on Intra-UT supplies and for other matters
  - (B) To levy, collect UTGST on Inter-UT supplies and for other matters
  - (C) To levy, collect UTGST on Intra- & Inter-UT supplies and for other matters
  - (D) To levy, collect SGST on Intra-state supplies and for other matters
73. What is the limit of turnover for mandatory maintenance of the HSN/SAC code of the product or the services on the invoice?
- (A) ₹5 crores
  - (B) ₹10 crores
  - (C) ₹20 crores
  - (D) ₹50 crores
74. What is the full form of HSN?
- (A) Harmonized System Name
  - (B) Harmonized System Number
  - (C) Harmonized System Nomenclature
  - (D) Harmonized Serial Number
75. Exempt Supply of goods and services means:
- (A) Which attracts nil rate of tax
  - (B) Which is wholly exempt from Tax
  - (C) Non-taxable Supply
  - (D) All of them
76. Activities which are neither supply of goods nor supply of services :
- (A) Supply of goods by any unincorporated or body of persons to member thereof for cash, deferred payment or other valuable consideration
  - (B) Actionable claims, other than lottery betting and gambling
  - (C) Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act
  - (D) Temporary transfer or permitting the use or enjoyment of any intellectual property right

77. Form GST CMP-04 is used for :
- (A) Issue notice to registered person by proper officer
  - (B) Intimation for composition levy
  - (C) Intimation of withdrawal from composition levy
  - (D) Intimation of details of stock on date opting for composition levy
78. Where the payment has been received before the change in rate of tax, but the invoice for the same is issued after the change in rate of tax, then what is the time of supply as per section 14 of the CGST Act, 2017?
- (A) The time of supply will be date of receipt of payment or the date of issue of invoice, whichever is earlier
  - (B) Date of issue of invoice
  - (C) Date of receipt of payment
  - (D) None of the above
79. Where government is satisfied that it is necessary in the public interest to do so, it may, on the recommendation of the GST council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable. Now what is the time limit for explanation by the government after exemptions are granted in the public interest?
- (A) Within one year of issue by the Government
  - (B) Within two years of issue by the Government
  - (C) Within three years of issue by the Government
  - (D) Within four years of issue by the Government
80. Interstate supply of services is mentioned in which section?
- (A) Section 8
  - (B) Section 18
  - (C) Section 12
  - (D) Section 14
81. A GST registered manufacturing company furnished the following information for the month of December 2020 :
- (a) Goods and services on which tax has been paid by the supplier under section 10 of ₹10,000
  - (b) Capital goods used for construction of building of ₹5,000
  - (c) Laptop to be used within factory office of ₹25,000

You are required to calculate input tax credit available to it.

- (A) ₹40,000
  - (B) ₹25,000
  - (C) ₹30,000
  - (D) No input tax credit
82. Under which section of the CGST Act, 2017 a registered person is required to maintain proper accounts and records and keep it at his registered principal place of business?
- (A) Section 22
  - (B) Section 35
  - (C) Section 36
  - (D) Section 24
83. As per section 36 of CGST Act, 2017, the time duration for retention of accounts and records is until expiry of from the.....for the year pertaining to such accounts and records.
- (A) 36 months, due date of furnishing of annual return
  - (B) 36 months, due date of actual filling of annual return
  - (C) 72 months, due date of furnishing of annual return
  - (D) 72 months, due date of actual filling of annual return
84. Which of the following is a false statement in relation to condition and procedure for registration as per CGST Act, 2017?
- (A) Application for registration must be made within sixty days from the date on which he becomes liable to registration, in every such state or union territory in which he is so liable.
  - (B) A person seeking registration under this act shall be granted a single registration in a state or union territory.
  - (C) The registration or the unique identity number shall be granted or rejected after due verification in such manner and within such period as may be prescribed.
  - (D) Establishment in such state or union territory of a person shall be treated as establishments of distinct persons for the purpose of the act.
85. Find the correct statement, in case of non-resident persons under section 27 of CGST Act, 2017?
- (A) The certificate of registration issued to non-resident taxable person shall be valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is later

- (B) The proper officer may, on sufficient cause being shown by the said taxable person, extend the said period of ninety days by a further period not exceeding 45 days
- (C) A non-resident taxable person shall, at the time of submission of application for registration under section 25(1) make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person
- (D) All are false statements
86. Determine the time of supply in the following case assuming that GST is payable under reverse charge : (1) Date of receipt of goods 1st July (2) Date of payment by recipient of goods August 20th (3) Date of issue of invoice by supplier of goods June 29th.
- (A) 1st July
- (B) 20th August
- (C) 29th June
- (D) 31st July
87. The proper officer may cancel the registration of a person from such date, including any retrospective date, he may deem fit, where any person who has taken voluntary registration under section 25(3) of CGST Act, 2017 has not commenced business within.....from the date of voluntary registration.
- (A) 3 months
- (B) 6 months
- (C) 1 year
- (D) 2 years
88. Section 63 of CGST Act, 2017 is on.....
- (A) Self-assessment
- (B) Provisional assessment
- (C) Scrutiny assessment
- (D) Assessment for unregistered persons
89. The proper officer is required to pass final assessment order within \_\_\_\_\_ from the date of communication of order as per CGST Act, 2017.
- (A) 3 months
- (B) 6 months
- (C) 1 year
- (D) 2 years

90. If a refund claimed by a Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947, then what is mode of claiming of refund as per CGST Act, 2017?
- (A) Claim such refund by an application within 2 years
  - (B) Claim such refund in the return under section 39
  - (C) By application before the expiry of six months from the last date of the quarter in which such supply was received
  - (D) By application before the expiry of one year from the last date of the quarter in which such supply was received
91. Electronic commerce operator to collect tax not exceeding.....of the net value and to deposit within .. of the expiry.....of the month in which he collects the tax as per section 52 of CGST Act, 2017.
- (A) ½%, 10 days
  - (B) 1%, 10 days
  - (C) 1½%, 15 days
  - (D) 1%, 15 days
92. As per section 50 of the CGST Act, 2017 interest not exceeding.....calculated from the next day of the due date has to be paid for delay of payment. Interest on undue or excess claim of ITC or excess reduction in output tax liability shall not be exceeding .....
- (A) 24%, 18%
  - (B) 18%, 24%
  - (C) 12%, 18%
  - (D) 18%, 12%
93. .....is required to be filed by the non-resident taxable person within .....
- (A) GSTR-4, 18th day of the month succeeding quarter
  - (B) GSTR-5, 20th of the next month
  - (C) GSTR-6, 13th of the next month
  - (D) GSTR-7, 10th of the next month
94. In case of a continuous supply having unascertainable due date then what will be time of issue of invoice under section 31 of the CGST Act, 2017 ?
- (A) On or before the date of completion of that event
  - (B) On or before the due date of payment
  - (C) Before or at the time when the supplier of services receive the payment
  - (D) At the time when the supply ceases as such invoice shall be issued to the extent of the supply made before such cessation

95. Which section of the CGST Act, 2017 prohibits an unregistered person from collecting any tax ?
- (A) Section 31(3)
  - (B) Section 32
  - (C) Section 34
  - (D) Section 35
96. IGST Act, 2017 was passed by Parliament on the basis of .....
- (A) Article 269
  - (B) Article 268
  - (C) Article 268A
  - (D) Article 269A
97. What is the place of supply of services, in case of services by way of admission to a culture, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto under section 12 of the Integrated GST Act, 2017 ?
- (A) Where the event is actually held
  - (B) Location of recipient
  - (C) Location of service provider
  - (D) Any other place
98. Section 9 of the IGST Act, 2017 defines :
- (A) Levy under IGST
  - (B) Interstate supply
  - (C) Intrastate supply
  - (D) Supply in Territorial Waters
99. .....of the total number of members of the GST council shall constitute the quorum at its meetings.
- (A) 1/3rd
  - (B) 1/4th
  - (C) 2/3rd
  - (D) 1/2

100. The time limit for issuance of order of best Judgment Assessment under CGST Act, 2017 is :
- (A) 5 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates
  - (B) 6 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates
  - (C) 7 years from the date specified for furnishing of the annual return for the financial year to which the tax not paid relates
  - (D) None of the above

**ANSWER KEY**  
**TAX LAWS AND PRACTICE - SELECT SERIES**

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Q.No.	Ans	Q.No.	Ans	Q.No.	Ans
<b>PART A</b>					
1	B/C	33	A/C	68	A
2	C	34	A	69	A
3	C	35	B	70	C
4	B	36	D	<b>PART B</b>	
5	D	37	B/C	71	D
6	B	38	C	72	A
7	C	39	A/C	73	A
8	B	40	D	74	C
9	C	41	D	75	D
10	C	42	C	76	B
11	D	43	C	77	C
12	D	44	C	78	B & C
13	D	45	B	79	A
14	A	46	A	80	*
15	D	47	B	81	B
16	B/C	48	A	82	B
17	A	49	D	83	C
18	B/D	50	B	84	A
19	C	51	B	85	C
20	C	52	A	86	A
21	A	53	A	87	B
22	A	54	B	88	D
23	D	55	C	89	B
24	A	56	A	90	C
25	D	57	A	91	B
26	C	58	B	92	B
27	D	59	C	93	B
28	B	60	B	94	C
29	B	61	A	95	B
30	B	62	B	96	D
31	A	63	D	97	A
32	B	64	D	98	D
		65	B	99	D
		66	D	100	A
		67	D		

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**Notes :**

- Q. 1 Option C is Correct. Further, Option B is also correct if Appellate Tribunal is under the same jurisdiction of High Court .
- Q. 16 Option B is correct if expenses would be considered as legal expenses. Option C is correct if expenses would be considered as illegal expenses.
- Q. 18 Option B is correct if Mr. Prakash not opted for Section 115BAC of the Income tax Act, 1961. Option D is correct if Mr. Prakash opted for Section 115BAC of the Income tax Act, 1961.
- Q. 33 The computation of Total Income of Mr. G as follow: Gross Total Income Rs. 850000 Less: Deduction u/s 80C 120000, Deduction u/s 80TTB 50000, Deduction u/s 80D 50000 = 630000. Option A is correct. Further, option C is correct if Mr. G is non-resident.
- Q. 37 Option B as well as Option C both may be considered as correct as section 79 covered both the points.
- Q. 39 Option A is correct if income from tea business is not related to manufacturing. Option C is correct if income from Tea business is related to growing and manufacturing of Tea.
- Q. 78. Option B & C are correct as Question does not mention the date of completion of service.
- Q.80 All options are wrong as Inter-state service is defined u/s 7 of the IGST Act, 2017.

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