

GUIDELINE ANSWERS

EXECUTIVE PROGRAMME

DECEMBER 2017

MODULE 1



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

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These answers have been written by competent persons and the Institute hopes that the **GUIDELINE ANSWERS** will assist the students in preparing for the Institute's examinations. It is, however, to be noted that the answers are to be treated as model answers and not as exhaustive and the Institute is not in any way responsible for the correctness or otherwise of the answers compiled and published herein.

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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(i)

NOTE: Guideline Answers of the last Sessions may require updation in the light of changes and references given below:

EXECUTIVE PROGRAMME

UPDATING SLIP

COMPANY LAW

MODULE – 1 – PAPER 1

<i>Examination Session</i>	<i>Question No.</i>	<i>Updations required in the answers</i>
(1)	(2)	(3)
All Previous Sessions	—	All answers are based on the notified provisions of Companies Act, 2013 and the provisions of Companies Act, 1956 which are still in force. Answers pertaining to Corporate Governance to be updated according to SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

(ii)

UPDATING SLIP

ECONOMIC AND COMMERCIAL LAWS

MODULE – 1 – PAPER 3

<i>Examination Session</i>	<i>Question No.</i>	<i>Updatons required in the answers</i>
<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
All Previous Sessions	—	Foreign Trade Policy 2015-20. Foreign Direct Investment Policy 2017.

(iii)

UPDATING SLIP

TAX LAWS AND PRACTICE

MODULE – 1 – PAPER 4

<i>Examination Session</i>	<i>Question No.</i>	<i>Updations required in the answers</i>
(1)	(2)	(3)
All Previous Sessions	—	<p>For December 2017, examination</p> <ul style="list-style-type: none">(i) For Direct taxes, Finance Act, 2016 is applicable.(ii) Applicable Assessment year is 2017-18 (previous year 2016-17).(iii) Wealth Tax Act, 1957 has been abolished w.e.f. 1st April, 2016. The questions from the same will not be asked in examination from December 2015 session onwards.(iv) For Indirect taxes, with the implementation of Goods & Services Tax w.e.f July 1,2017, the students of Executive Programme are hereby notified that Part B (30 marks) of the syllabus of Tax Laws and Practice Paper (Module 1 Paper 4) of Executive Programme has been replaced with Goods and Services Tax (GST) for December, 2017 examinations. Students are advise to refer the notification available at the following weblink https://www.icsi.edu/WebModules/Notification_GST_CS_Executive_Programme.pdf for detailed syllabus applicable for December 2017 examination.(v) Students are also required to update themselves on all the relevant Circulars, Clarifications, Notifications, issued by CBDT / CBEC/ Central Government etc. which became effective, on or before six months prior to the date of the respective examination. <p>The questions based on case laws, in conflict with the latest law be treated as of academic interest only.</p>

EXECUTIVE PROGRAMME EXAMINATION

DECEMBER 2017

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 :

- (a) *Members of a company incorporated under the Companies Act, 2013 are the agents of the company. Therefore, the company can be held liable for their acts.*
- (b) *A private company incorporated under the Companies Act, 2013 may issue debentures to any number of persons and can accept deposits from the public.*
- (c) *Only a naturally born person, who is an Indian citizen and resident in India, can form a One Person Company.*
- (d) *Three companies incorporated with the same set of shareholders are treated as same companies under the Companies Act, 2013. (5 marks each)*

Answer 1(a)

Members (Shareholders) of a company are not the agents of the company and so they cannot bind the company by their acts. The company does not hold its property as an agent or trustee for its members and they cannot sue to enforce its rights, nor can they be sued in respect of its liabilities. Thus, to clarify, since members of the company are not agents of the company, the company cannot be held liable for their (members) acts.

ALTERNATE ANSWER

The Companies Act, 2013 do not create any agent–principal relation between the company and its members. Thus, the company cannot be held liable for their (members') acts.

This is to clarify that the company under Section 9 has power to contract and therefore may appoint any person, whether member or not, as its agent, where required. Where the company enters into any such contract, it may be liable under that contractual obligation.

Answer 1(b)

According to the definition of private company under Section 2(68), a private limited company may not make an invitation to the public to subscribe for any securities of the company. However, under Section 42 read with Section 2(68), it may issue such security to any person (number of persons not exceeding 200).

In terms of provisions of Section 73(2) read with Exemption Notification dated 5th June, 2015, a private company may accept from its members monies not exceeding one hundred per cent of aggregate of the paid-up share capital and free reserves, subject to the passing of a resolution in general meeting and subject to such rules as may be prescribed in consultation with the Reserve Bank of India, accept deposits from its members on such terms and conditions, as may be agreed upon between the company and its members, subject to the fulfilment of certain conditions, as provided under the Act.

Answer 1(c)

According to sub-rule 1 of Rule 3 of Companies (Incorporation) Rules, 2014, only a natural born person who is an Indian citizen and also resident in India shall be eligible to incorporate a One Person Company and shall be a nominee for the sole member of a One Person Company. For the purposes of this Rule, the term 'resident in India' means a person who has stayed in India for a period of not less than 182 days during the immediately preceding one calendar year.

Further, a natural born person shall not be a member of more than a single One Person Company (OPC) at any point of time and the said person shall not be a nominee of more than one OPC.

Where a natural person, being member in OPC in accordance with this rule becomes a member in another such company by virtue of his being a nominee in that OPC, such person shall meet the eligibility criteria specified in sub-rule (2) within a period of 182 days.

Answer 1(d)

On incorporation, a company becomes a separate legal person in the eyes of law. The company is vested with a corporate personality quite distinct from the members who form it. Being a separate legal entity, it bears its own name and acts under a corporate name. Further, its assets are separate and distinct from those of its members. Since a company is a different person from the members who compose it, as such it is capable of owning property, incurring debts, borrowing money, having a bank account, entering into contracts and suing or being sued in the same manner as an individual.

According to Section 9, from the date of incorporation mentioned in the certificate of incorporation, such subscribers to the memorandum and all other persons, as may, from time to time, become members of the company, shall be a body corporate by the name contained in the memorandum, capable of exercising all the functions of an incorporated company under this Act and having perpetual succession with power to acquire, hold and dispose of property, both movable and immovable, tangible and intangible, to contract and to sue and be sued, by the said name.

As such three companies which are incorporated with the same set of shareholders are nevertheless distinct and separate entities.

Reg: [*Patinson v. Bindya Deb*] and [*Theory of corporate veil; Saloman v. Saloman & Co. Ltd.*]

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

Question 2

Distinguish between the following :

- (a) 'Red-Herring Prospectus' and 'Abridged Prospectus'.
- (b) 'Free Reserves' and 'Net Worth' under the provisions of Companies Act, 2013.
- (c) 'Related Party' and 'Relative' as defined and applied under the Companies Act, 2013.
- (d) 'Inspection' and 'Investigation' of companies in India. (4 marks each)

OR (Alternate question to Q. No. 2)

Question 2A

- (i) A company has taken a term loan from a financial institution and is regularly paying the loan installments and interest. The financial institution proposes to convert 20% of the loan into equity shares of the company as per terms of the agreement. Advise the company, whether the financial institution can enforce such a convertibility clause ? Also examine the validity of such a clause. (4 marks)
- (ii) A company has 120 members. It sends notice of general meeting to all of them. 20 members did not attend the meeting. Out of remaining 100 members who were present, 20 members abstained from voting. Advise the company, how many members should vote in favour of a resolution, if it has to be passed as a special resolution ? (4 marks)
- (iii) American Trading Ltd. to whom Rs. 2,00,000 were due and payable by ABC Pvt. Ltd. against their supply of material in the year 2015 was shocked to find that the name of ABC Pvt. Ltd. has been struck off by the Registrar of Companies under Section 248 of the Companies Act, 2013. Advise American Trading Ltd. as to how it should proceed for recovering its dues as an unpaid creditor. (4 marks)
- (iv) A company wants to include a provision in its Articles of Association by altering them to limit the company's share capital to a fixed amount. Can it do so ? Will your answer be different if 100% shareholders agree for such alteration ? (4 marks)

Answer 2(a)

According to explanation to Section 32, the expression "red herring prospectus" means a prospectus which does not include complete particulars of the quantum or price of the securities included therein.

According to Section 2(1), abridged prospectus" means a memorandum containing such salient features of a prospectus as may be specified by the Securities and Exchange Board by making regulations in this behalf.

Red-Herring Prospectus is issued prior to the issue of a prospectus by a company

proposing to make an offer of securities. It is required to be filed with the Registrar of Companies at least 3 days prior to the opening of the subscription list and the offer. It carries same obligations as are applicable to a prospectus and any variation between such prospectus and the prospectus shall be highlighted as variations in the prospectus. Upon closing of the offer of securities, the prospectus stating therein the total capital raised, whether by way of debt or share capital and closing price of the securities and any other details as are not included in such prospectus shall be filed with the Registrar and the SEBI. This is issued during book building process and contains either the floor price of securities offered or a price band along with the range within which bids can move. [Sec.32].

Whereas, Abridged Prospectus means a memorandum containing such salient features of a prospectus as may be specified by the SEBI by making regulations in this behalf. No form of application for purchase of any securities of a company issued without attaching an abridged prospectus. However, this is not applicable (a) where the offer is made in connection with the *bona fide* invitation to a person to enter into an underwriting agreement with respect to such securities; (b) where the securities are not offered to the public; (c) where the offer is made only to the existing members or debenture holders of the company with or without a right to renounce; and (d) where the shares or debentures offered are in respect uniform with the shares or debentures already issued and quoted on a recognized stock exchange. [Sec.33].

Answer 2(b)

'Free Reserves' mean such reserves which, as per the latest audited Balance Sheet of a company, are available for distribution as dividend. Provided that (a) any amount representing unrealized gains, notional gains or revaluation of assets whether as a reserve or otherwise, or (ii) any change in carrying amount of an asset or a liability recognized in equity, including profit and loss account on measurement of the asset or the liability at fair value, shall not be treated as free reserves. [Sec. 2(43)].

Whereas, 'net worth' means the aggregate value of the paid up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited Balance Sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation. [Sec. 2(57)].

Answer 2(c)

According to Section 2(76) "related party", with reference to a company, means—

- (i) a director or his relative;
- (ii) a key managerial personnel or his relative;
- (iii) a firm, in which a director, manager or his relative is a partner;
- (iv) a private company in which a director or manager or his relative is a member or director;
- (v) a public company in which a director and manager is a director and hold along with his relatives, more than two per cent of its paid-up share capital;

- (vi) any body corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager;
- (vii) any person on whose advice, directions or instructions a director or manager is accustomed to act:
 Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;
- (viii) any company which is—
 - (A) a holding, subsidiary or an associate company of such company; or
 - (B) a subsidiary of a holding company to which it is also a subsidiary;
- (ix) such other person as may be prescribed.

Rule 3 of the Companies (Specification of Definitions Details) Rules, 2014 prescribes, a director other than an independent director or key managerial personnel of the holding company or his relative with reference to a company, shall be deemed to be a related party.

According to Section 2(77), 'relative' with reference to any person means anyone who is related to another, if: (i) they are members of a HUF; (ii) they are husband and wife; or (iii) one person is related to the other in such manner as may be prescribed.

According to Rule 4 of the Companies (Specification of Definitions Details) Rules, 2014, a person shall be deemed to be the relative of another, if he or she is related to another in the following manner, namely:-

- (1) Father: Provided that the term "Father" includes step-father.
- (2) Mother: Provided that the term "Mother" includes the step-mother.
- (3) Son: Provided that the term "Son" includes the step-son.
- (4) Son's wife.
- (5) Daughter.
- (6) Daughter's husband.
- (7) Brother: Provided that the term "Brother" includes the step-brother;
- (8) Sister: Provided that the term "Sister" includes the step-sister.

Answer 2(d)

The inspection is prescribed under Section 206(2) while Section 207 deals with conduct of the inspection.

According to Section 206(2) read with sub-section (1), where the Registrar of Companies require information or explanation or any documents relating to the company and no information or explanation is furnished to the Registrar within the time specified under sub-section (1) or if the Registrar on an examination of the documents furnished is of the opinion that the information or explanation furnished is inadequate or if the Registrar

is satisfied on a scrutiny of the documents furnished that an unsatisfactory state of affairs exists in the company and does not disclose a full and fair statement of the information required, he may, by another written notice, call on the company to produce for his inspection such further books of account, books, papers and explanations as he may require at such place and at such time as he may specify in the notice.

Whereas, in case of 'investigation', where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company: (a) on receipt of a report of the Registrar or Inspector under Section 208, (b) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or (c) in public interest, may order an investigation into the affairs of the company. [Sec. 210(1)].

Further, where an order is passed by a court or the Tribunal in any proceedings before it that the affairs of a company ought to be investigated, the Central Government shall order an investigation into the affairs of the company [Section 210(2)]. The Central Government may appoint one or more persons as inspector to investigate into the affairs of the company and to report thereon in such manner as the Central Government may direct [Sec. 210(3)].

Answer 2A(i)

Section 62(3) states the provisions of Section 62 shall not apply to the increase of the subscribed capital of the company caused by the exercise of an option as a term attached to the debentures issued or loan raised by the companies to convert such debentures/loan into the shares in the company. Further, the terms of issue of such debentures or loan containing such an option should have been approved before the issue of such debentures or raising of loan by a special resolution passed by the company in General Meeting.

Thus, in the given case, if raising of loan is already approved by the shareholders by special resolution, then the financial institution can enforce the convertibility.

Answer 2A(ii)

Section 114(2) relates to passing of special resolution. For passing of special resolution, the requirement is that the votes cast in favour of the resolution are atleast 3 times the votes cast against, if any. Here, 100 members are present. Out of which 20 members have abstained from voting, 80 members voted. $\frac{3}{4}$ th of 80 is 60. Hence, 60 members should vote in favour of a resolution; if it is to be passed as a special resolution which is 3 times the number of votes cast against the resolution.

Answer 2A(iii)

According to Section 248(7), the striking-off the name of a company does not materially affect the creditors of the company because such creditors may enforce their claims against every director or other officer of the company and against every member of the company as if the name of the company had not been struck-off.

In the present case, American Trading Ltd. is in the position of an unpaid creditor. As such they can enforce their claim for payment of their dues against every director, manager, officer and also against every member of the company, as if the name of the

company had not been struck-off. Since the goods were supplied only in 2015, the debt is not barred by the Law of Limitation.

If they fail to recover the dues in the above manner, they may approach the Court/Tribunal to seek winding up of the company under Section 248(8).

Answer 2A(iv)

According to Section 5(3), the articles may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if conditions or procedures as that are more restrictive than those applicable in the case of a special resolution, are met or complied with.

However, the provisions for entrenchment referred to in sub-section (3) shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company. [Section 5(4)].

Furthermore, where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in such form and manner as may be prescribed. [Section 5(5)]

Conclusively, the company can limit the share capital to a fixed amount but only with the approval of 100% of the shareholders.

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

Question 3

- (a) *The minutes of 24th Annual General Meeting of Poly Bank Ltd. are to be signed by the Chairman. However, the Chairman of Poly Bank Ltd. met with an accident 2 days after the AGM was held. Minutes of AGM are, therefore, pending for signatures. Advise the Company Secretary of Poly Bank Ltd. about the procedure for signing of minutes in such a case as if the Chairman has become permanently incapable of signing. Will your answer be different if Chairman suffers only minor injury and gets back to his office in one week ?* (4 marks)
- (b) *ABC Ltd. holds 75% equity share capital of DEF Ltd. and controls composition of Board of Directors of DEF Ltd. ABC Ltd. goes for public issue for raising further share capital. Board of Directors of ABC Ltd. allot 10% of the issue to DEF Ltd. Referring to the provisions of the Companies Act, 2013, examine the validity of Board's decision to allot 10% of issue to DEF Ltd. DEF Ltd. holds certain number of shares as a legal representative of a deceased member of ABC Ltd. and has a right to vote at a general meeting of ABC Ltd. in respect of such shareholding, will this right be affected by issue of 10% to DEF Ltd. by ABC Ltd. ?* (4 marks)
- (c) *One of the subscribers to Memorandum of Association of a company under process of incorporation is a foreign national residing outside India. State the provisions of Companies Act, 2013 regarding authentication of his signature and address. Will the requirement of business visa be applicable to his case if he is a person of Indian origin or overseas citizen of India ?* (4 marks)

- (d) XYZ Ltd. has 6 directors on its Board of Directors. Out of 6 directors, 5 are foreigners and they reside in America. The company wants to convene its Board meeting in Mumbai but all the 5 directors are pre-occupied and are not in a position to travel to India. Advise the company regarding conduct of such a Board meeting as per provisions of the Companies Act, 2013 and relevant Rules. Will the same Rules or provisions be applicable in case the company wants to approve annual financial statements in the Board meeting? (4 marks)

OR (Alternate question to Q. No. 3)

Question 3A

- (i) ABC Ltd. has altered its name from BCD Ltd. to ABC Ltd. However, the fact of alteration of name of the company was not brought to the notice of NCLT. Please advise the company ABC Ltd. whether it has a right to execute a decree in its new name after the change of name. (4 marks)
- (ii) KAJ Ltd., a company incorporated under the Companies Act, 2013 wants to go for issue of secured debentures. Referring to relevant provisions and Rules, state the conditions to be satisfied before the company goes for such issue of debentures. Will your answer be different in case such issue of debentures is by a Government company where the Central Government has given a guarantee? (4 marks)
- (iii) Robert, a member of MLM Ltd. submitted his proxy to the company before the scheduled time of the Annual General Meeting. The Articles of the company provided that proxy can be submitted to the company 70 hours before the scheduled time of the meeting. The Chairman of the company rejects the proxy on the ground that it is in violation of the Articles. Referring to the provisions of the Companies Act, examine the validity of the Chairman's decision to reject the proxy. (4 marks)
- (iv) The Board of Directors of American Express Ltd. declared interim dividend third time during the financial year 2015-16. After declaration, the Board of Directors decided to revoke third interim dividend as they noticed that company's financial position did not permit payment of such interim dividend. The Board of Directors seek your advice in this matter. Please advise the Board as a Company Secretary. Will your advice be different in case it was a regular dividend instead of interim dividend? (4 marks)

Answer 3(a)

As per Section 118 read with Rule 25 of the Companies (Management and Administration) Rules, 2014 and Secretarial Standard on General Meetings, every company shall cause minutes of the proceedings of every general meeting to be prepared and signed as may be prescribed under the provisions of law. Minutes shall be recorded in books maintained for that purpose. The pages of the Minutes Books shall be consecutively numbered. This shall be followed irrespective of a break in the Book arising out of periodical binding in case the Minutes are maintained in physical form. Such minutes shall be kept within thirty days of the conclusion of every such meeting. Each page of every such book shall be initialled or signed and the last page of the record of proceedings of each meeting or each report in such books shall be dated and signed, by the Chairman of the same meeting within the aforesaid period of thirty days or in the

event of the death or inability of that Chairman within that period, by a director duly authorised by the Board for the purpose.

Therefore, in this case, convene a Board meeting and authorize one of the remaining directors to sign the minutes of AGM.

Where Chairman is suffered with minor injury and get back to office in one week, the Chairman should sign the minutes.

Answer 3(b)

In accordance with the provisions of the Companies Act, 2013, as contained in Section 19(1), a subsidiary company shall not either by itself or through its nominees hold shares in its holding company and no holding company shall allot or transfer its shares to any of its subsidiary companies and any such allotment or transfer of shares of a company to its subsidiary company shall be *void*.

Therefore, ABC Limited cannot allot 10% shares of public issue to DEF Limited, in view of the above provisions. Allotment of shares to DEF Limited shall be *void*.

Further, in the following circumstances, where a subsidiary can hold the shares of its holding company:

1. Where the subsidiary company holds such shares as the legal representative of a deceased member of the holding company; or
2. Where the subsidiary company holds such shares as a trustee; or
3. Where the subsidiary company is a shareholder even before it became a subsidiary company of its holding company.

The subsidiary company, however, as referred above shall have a right to vote at a meeting of the holding company only in respect of the shares held by it as a legal representative or as a trustee.

Answer 3(c)

Where a subscriber to memorandum is a foreign national residing outside India:

- (a) in a country in any part of the Commonwealth, his signatures and address on the memorandum and articles of association and proof of identity shall be notarized by a Notary (Public) in that part of the Commonwealth.
- (b) in a country which is a party to the Hague Apostille Convention, 1961, his signatures and address on the memorandum and articles of association and proof of identity shall be notarized before the Notary (Public) of the country of his origin and be duly apostilled in accordance with the said Hague Convention.
- (c) in a country outside the Commonwealth and which is not a party to the Hague Apostille Convention, 1961, his signatures and address on the memorandum and articles of association and proof of identity, shall be notarized before the Notary (Public) of such country and the certificate of the Notary (Public) shall be authenticated by a Diplomatic or Consular Officer empowered in this behalf under Section 3 of the Diplomatic and Consular Officers (Oaths and Fees) Act,

1948 (40 of 1948) or, where there is no such officer by any of the officials mentioned in Section 6 of the Commissioners of Oaths Act, 1889 (52 and 53 Vic.C.10), or in any Act amending the same;

- (d) visited in India and intended to incorporate a company, in such case the incorporation shall be allowed if, he/she is having a valid Business Visa. However, in case of Person is of Indian Origin or Overseas Citizen of India, requirement of business Visa shall not applicable.

Answer 3(d)

The directors of the company may participate in a meeting of Board/Committee of directors under the Companies Act, 2013 through video conferencing or other audio visual mean. "Video conferencing or other audio visual means" means audio-visual electronic communication facility employed which enables all the persons participating in a meeting to communicate concurrently with each other without an intermediary and to participate effectively in the meeting.

A director participating in a meeting through use of video conferencing shall be counted for the purpose of quorum. The minutes shall also disclose the particulars of the directors who attend the meeting through electronic mode. Therefore, to convene Board meeting, the director present in India shall act as Chairman and shall be physically present in Mumbai.

According to Rule 4 of the following matters shall not be dealt with in any meeting held through video conferencing or other audio visual means.-

- (i) the approval of the annual financial statements;
- (ii) the approval of the Board's report;
- (iii) the approval of the prospectus;
- (iv) the Audit Committee Meetings for 2 consideration of financial statement including consolidated financial statement if any, to be approved by the board under sub-section (1) of Section 134 of the Act; and
- (v) the approval of the matter relating to amalgamation, merger, demerger, acquisition and takeover.

Therefore, Annual financial statements cannot be approved in a meeting conducted through video conferencing.

Answer 3A(i)

The fact that alteration in the name was not brought to the notice of the Court/Tribunal would not in any manner render defective or irregular proceedings initiated by a company in its former name. The change of name does not affect the rights of the company. It does not necessary that the new name should have been entered in the decree. [*Abdul Qayum (FS) v. Manindra Land & Building Corporation Ltd.*]

Answer 3A(ii)

In accordance with Rule 18(1) of Companies (Share Capital and Debentures) Rules,

2014, a company shall not issue secured debentures unless it complies with the following conditions:

1. an issue of secured debentures may be made, provided the date of its redemption shall not exceed ten years from the date of issue. A company engaged in the setting up of infrastructure projects may issue secured debentures for a period exceeding ten years but not exceeding thirty years;
2. such an issue of debentures shall be secured by the creation of a charge, on the properties or assets of the company, having a value which is sufficient for the due repayment of the amount of debentures and interest thereon;
3. the company shall appoint a debenture trustee before the issue of prospectus or letter of offer for subscription of its debentures and not later than sixty days after the allotment of the debentures, execute a debenture trust deed to protect the interest of the debenture holders ; and
4. the security for the debentures by way of a charge or mortgage shall be treated in favour of the debenture trustee on-
 - (i) any specific movable property of the company (not being in the nature of pledge); or
 - (ii) any specific immovable property wherever situate, or any interest therein.

In case of a non-banking financial company, the charge or mortgage may be created on any movable property.

Further in case of any issue of debentures by a Government company which is fully secured by the guarantee given by the Central Government or one or more State Governments or by both, there is no requirement for creation of charge under this sub-rule.

Answer 3A(iii)

In accordance with the provisions of the Companies Act, 2013, as contained in Section 105(4), any provision contained in the articles of a company which specifies or requires a longer period than forty-eight hours before a meeting of the company, for depositing with the company or any other person any instrument appointing a proxy or any other document necessary to show the validity or otherwise relating to the appointment of a proxy in order that the appointment may be effective at such meeting, shall have effect as if a period of forty-eight hours had been specified in or required by such provision for such deposit.

Therefore, a Chairman's decision to reject the proxy is not valid and contention of the member shall prevail. Provision in the Articles for a longer period than 48 hours is *void*.

Answer 3A(iv)

The Board of Directors may declare interim dividend and the amount of dividend including interim dividend shall be deposited in a separate bank account within 5 days from the date of declaration of such dividend. A dividend when declared becomes debt

and a shareholder is entitled to sue for recovery of the same after expiry of the 30 days prescribed under Section 127.

Section 2(35) defines 'Dividend' to include interim dividend.

Therefore, the interim dividend once declared cannot be revoked except with the consent of the shareholders.

Based on aforesaid facts, Board of directors of American Express Limited cannot revoke the interim dividend and should pay the same.

No, Regular dividend also cannot be revoked even by the shareholders. It's a statutory debt against the company once it is declared.

Question 4

- (a) *Ram is a chartered accountant in practice. His proprietary concern has been appointed as the statutory auditor of a private limited company. Subsequently, it came to light that Mrs. Ram has been holding less than 1% shares of that private limited company. Examine the legal validity of the appointment of statutory auditor. (4 marks)*
- (b) *The Board of Directors of Goodwill (India) Ltd. wish to appoint an alternate director on the Company's Board in the absence of Mr. Prince, a director, who proceeded on leave. Referring to the provisions of the Companies Act, 2013, state the conditions to be satisfied before Board appoints such a director. What shall be the tenure of such alternate director in case Mr. Prince incurs a disqualification and ceases to be a director? (4 marks)*
- (c) *Bright Pvt. Ltd. is a private company. Its Board of Directors want to convert the company into an One Person Company. Can it be converted into an One Person Company? Please advise the company about the conditions and procedure for such a conversion. (4 marks)*
- (d) *XYZ Ltd., a company, has a paid-up share capital of Rs. 60 crores and free reserves of Rs. 25 crores. It desires to make a loan of Rs. 20 crores to M Ltd. The company XYZ Ltd. has already made investments in many other companies including loans to the extent of Rs. 35 crores. Can the company go ahead with loan to M Ltd.? Please advise the company about the procedure to be followed by it. (4 marks)*

Answer 4(a)

Pursuant to Section 141, a person who himself, or his relative or partner is holding any security of or interest in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company is not eligible for appointment of auditor of the company.

Provided that the relative may hold security or interest in the company of face value not exceeding one thousand rupees or such sum as may be prescribed under the Companies (Audit and Auditors) Rules, 2014.

As per Rule 10 of the Companies (Audit and Auditors) Rules, 2014, a relative of an auditor may hold securities in the company of face value not exceeding rupees one Lakh.

In accordance with the provisions stated above, Mrs. Ram may hold shares of the value not exceeding one lakh rupees to render Mr. Ram eligible for appointment as the auditor.

Since the question is silent on the value of the 1% shares of the company, the conclusion regarding the appointment of Ram may be drawn as under:

If the holdings of Mrs. Ram **exceed one lakh rupees**; based on aforesaid provision of law Mr. Ram cannot be appointed as auditor.

However, if Mrs. Ram holding is **less than one lakh rupees**; Mr. Ram can be appointed as auditor.

Answer 4(b)

Conditions for Appointment of an Alternate Director

- (i) The Board of Directors of a company must be authorised by its articles or by a resolution passed by the company in general meeting for appointment of the alternate director.
- (ii) The person in whose place the Alternate Director is being appointed should be absent for a period of not less than 3 months from India.
- (iii) The person to be appointed as the Alternate Director shall be the person other than the person holding any alternate directorship for any other Director in the company.
- (iv) If it is proposed to appoint an Alternate Director to an Independent Director, it must be ensured that the proposed appointee also satisfies the criteria of Independence as per Section 149(6).

Tenure

- (a) *Not exceeding the term permissible to original director* : An alternate director shall not hold office for a period longer than that permissible to the director in whose place he has been appointed. If the original director ceases to be a director by reason of death or vacation of office under Section 167, the alternate director shall immediately cease to hold his office.
- (b) *On the return of original director* : The alternate director shall vacate his office when the original director in whose place he has been appointed returns to India.

On disqualification of original director, alternate director will also cease to be a director.

Answer 4(c)

According to Rule 7(1) of Companies (Incorporation) Rules, 2014, a private company having paid up share capital of fifty lakh rupees or less and average annual turnover during the relevant period two crore rupees or less may convert itself into one person company by passing a special resolution in the general meeting.

Following steps can be followed for conversion of Bright Pvt. Ltd. into a One Person Company:

1. A special resolution is to be passed in the General meeting the company.

2. Before passing such resolution, the company shall obtain No objection in writing from members and creditors.
3. Such resolution shall be filed with Registrar of Companies within 30 days from the date of passing such resolution in Form No. MGT. 14.
4. The company shall file an application in Form No. INC-6 for its conversion into One Person Company along with fees as provided in in the Companies (Registration offices and fees) Rules, 2014, by attaching the following documents, namely:-
 - a. The directors of the company shall give a declaration by way of affidavit duly sworn in confirming that all members and creditors of the company have given their consent for conversion, the paid up share capital company is fifty lakhs rupees or less or average annual turnover is less than two crores rupees, as the case may be;
 - b. The list of members and list of creditors;
 - c. The latest Audited Balance Sheet and the Profit and Loss Account; and
 - d. The copy of No Objection letter of secured creditors.
 - e. On being satisfied and complied with requirements stated herein the Registrar shall issue the Certificate.

Answer 4(d)

No company shall, directly or indirectly give any loan to any person or other body corporate exceeding 60% of its paid-up share capital, free reserves and securities premium account or 100% of its free reserves and securities premium account, whichever is more unless the same is previously authorised by a special resolution passed in a general meeting.

In the given case, XYZ Ltd. cannot grant loan above 100% of Rs. 25 crore, *i.e.*, Rs. 25 crore or 60% of Rs. (60+25) crore *i.e.*, Rs. 51 crore, whichever is more.

Since the company has already made investment and given loans to the extent of Rs. 35 crore therefore a further loan of Rs. 20 crore shall require the approval of shareholders.

Question 5

- (a) *Directors of ABC Ltd. want to incorporate a producer company. ABC Ltd. itself is in the production and harvesting business. You are the Company Secretary of ABC Ltd. You are requested to advise the Board of ABC Ltd. about incorporation of such a producer company and set out its objectives as per relevant provisions of the Companies Act. (8 marks)*
- (b) *SUP Ltd. is a public company incorporated in India. It wants to propose a scheme of arrangement (merger) with another company in the same line of business in India. Help the company in preparing such a scheme of arrangement firstly. Secondly, help the company in taking approval of NCLT. Advise how company should approach NCLT for its approval to the scheme and discuss grounds on the basis of which NCLT will accord its approval. (8 marks)*

Answer 5(a)**Producer Companies**

Provisions of producer Companies as given in Companies Act, 1956 would continue to apply till a special Act is enacted for producer company.

Accordingly, in terms of Section 581B of Companies Act, 1956 the object of the Producer Company shall relate to all or any of the following matters *viz.*

- (a) Production, harvesting, procurement, grading, pooling, handling, marketing, selling, export of primary produce of the members or import of goods or services for their benefit.
- (b) Processing including preserving, drying, distilling, brewing, vinting, canning and packaging of the produce of its members.
- (c) Manufacturing, sale or supply of machinery, equipment or consumables mainly to its members.
- (d) Providing education on the mutual assistance principles to its members and others.
- (e) Rendering technical services, consultancy services, training, research and development and all other activities for the promotion of the interests of its members.
- (f) Generation, transmission and distribution of power, revitalisation of land and water resources, their use, conservation and communications relatable to primary produce.
- (g) Insurance of producers or their primary produce.
- (h) Promoting techniques of mutuality and mutual assistance.
- (i) Welfare measures or facilities for the benefit of the members as may be decided by the Board.
- (j) Any other activity, ancillary or incidental to any of the activities referred to in clauses (a) to (i) above or other activities which may promote the principles of mutuality and mutual assistance amongst the members in any other manner.
- (k) Financing of procurement, processing, marketing or other activities specified in clauses (a) to (j) above, which include extending of credit facilities or any other financial services to its members.

Every producer company shall deal primarily with the produce of its active members for carrying out any of its specified objects.

The following provisions set out in Section 581C of the Companies Act, 1956 pertaining to the Formation of Producer Company and its Registration may be looked upon for the incorporation of a Producer Company:

- (1) Any ten or more individuals, each of them being a producer or any two or more Producer institutions, or a combination of ten or more individuals and Producer

institutions, desirous of forming a Producer Company having its objects specified in Section 581B and otherwise complying with the requirements of this Part and the provisions of this Act in respect of registration, may form an incorporated Company as a Producer Company under this Act.

- (2) If the Registrar is satisfied that all the requirements of this Act have been complied with in respect of registration and matters precedent and incidental thereto, he shall, within thirty days of the receipt of the documents required for registration, register the memorandum, the articles and other documents, if any, and issue a certificate of incorporation under this Act.
- (3) A Producer Company so formed shall have the liability of its Members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them and be termed a company limited by shares.
- (4) The Producer Company may reimburse to its promoters all other direct costs associated with the promotion and registration of the company including registration, legal fees, printing of a memorandum and articles and the payment thereof shall be subject to the approval at its first general meeting of the Members.
- (5) On registration under sub-section (1), the Producer Company shall become a body corporate as if it is a private limited company to which the provisions contained in this Part apply, without, however, any limit to the number of Members thereof, and the Producer Company shall not, under any circumstance, whatsoever, become or be deemed to become a public limited company under this Act.

Answer 5(b)

Preparation of Scheme of Amalgamation

The scheme of amalgamation to be prepared by the company should contain *inter-alia* the following information:

1. Brief details of transferor and transferee companies.
2. Appointed date.
3. Main terms of transfer of assets and liabilities from transferor to transferee.
4. Effective date of the scheme.
5. The terms of carrying on the business activities by transferor between 'appointed date' and 'effective date'.
6. Details of share capital of transferor and Transferee Company.

No compromise or arrangement shall be sanctioned by the Tribunal unless a certificate by the company's auditor has been filed with the Tribunal to the effect that the accounting treatment, if any, proposed in the scheme of compromise or arrangement is in conformity with the accounting standards prescribed under Section 133.

Approach the Tribunal

In terms of provisions of Section 232(1), an application is required to be made to the Tribunal for sanctioning a scheme of an arrangement (merger) proposed between a company and another company.

On receiving the application, the Tribunal may order a meeting of the creditors or class of creditors or the members or class of members, as the case may be, to be called, held and conducted in such manner as the Tribunal may direct and the provisions of sub-sections (3) to (6) of Section 230 shall apply *mutatis mutandis*.

The company, after receiving such order must circulate the required documents for members'/creditors' meeting as stated under the provisions of Section 232(2).

Question 6

- (a) Explain the significance and meaning of 'officer in default' as per provisions of Companies Act, 2013. (4 marks)
- (b) What do you understand by 'class action suit' as introduced by the Companies Act, 2013 ? Explain the objective behind introducing this provision in the Companies Act and the persons who can initiate such class action suit. (4 marks)
- (c) An investigation was ordered into affairs of RST Ltd. by the Central Government under Section 210 of the Companies Act, 2013. After carrying out investigation, a report was submitted by the inspector under Section 223 of the Companies Act, 2013. In such a case, what should be done by the Board of Directors of the Company ? Please also inform the Board why such investigation might have been ordered. (4 marks)
- (d) A group of Indian citizens hold 60% of the paid-up share capital of a foreign company. This group of shareholders claim that since the company was incorporated outside the country, the company is not bound to comply with the provisions of the Companies Act, 2013 in relation to its business in India. Examine the validity of such a claim by the group. (4 marks)

Answer 6(a)

As per Section 2(60), "officer who is in default", for the purpose of any provision in this Act which enacts that an officer of the company who is in default shall be liable to any penalty or punishment by way of imprisonment, fine or otherwise, means any of the following officers of a company, namely:—

- (i) whole-time director;
- (ii) key managerial personnel;
- (iii) where there is no key managerial personnel, such director or directors as specified by the Board in this behalf and who has or have given his or their consent in writing to the Board to such specification, or all the directors, if no director is so specified;
- (iv) any person who, under the immediate authority of the Board or any key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorizes, actively participates in, knowingly permits, or knowingly fails to take active steps to prevent, any default;
- (v) any person in accordance with whose advice, directions or instructions the

Board of Directors of the company is accustomed to act, other than a person who gives advice to the Board in a professional capacity;

- (vi.) every director, in respect of a contravention of any of the provisions of this Act, who is aware of such contravention by virtue of the receipt by him of any proceedings of the Board or participation in such proceedings without objecting to the same, or where such contravention had taken place with his consent or connivance;
- (vii) in respect of the issue or transfer of any shares of a company, the share transfer agents, registrars and merchant bankers to the issue or transfer.

Answer 6(b)

Class Action Suit

A class action suit is a lawsuit where a group of people representing a common interest may approach the Tribunal to sue or be sued. It is a procedural instrument that enables one or more plaintiffs to file and prosecute litigation on behalf of a larger group or class having common rights and grievances.

Objective

The objective behind the suits is to safeguard the interests of the minority shareholders. So, class action suits are expected to play an important role to address numerous prejudicial and abusive acts committed by the Board of Directors and other managerial personnel as it has been statutorily recognized under the Companies Act, 2013.

Person to initiate Class Action Suit

Members

According to Section 245(3)(i), the requisite number of members provided in sub-section (1) shall be as under:—

- (a) in the case of a company having a share capital, not less than one hundred members of the company or not less than such percentage of the total number of its members as may be prescribed, whichever is less, or any member or members holding not less than such percentage of the issued share capital of the company as may be prescribed, subject to the condition that the applicant or applicants has or have paid all calls and other sums due on his or their shares;
- (b) in the case of a company not having a share capital, not less than one-fifth of the total number of its members.

Depositors

According to Section 245(3)(ii), the requisite number of depositors provided in Section 245(1) shall not be less than one hundred depositors or not less than such percentage of the total number of depositors as may be prescribed, whichever is less, or any depositor or depositors to whom the company owes such percentage of total deposits of the company as may be prescribed.

Answer 6(c)

Section 224 deals with actions to be taken in pursuance of inspector's report:

If, from an inspector's report, made under Section 223, it appears to the Central Government that any person is guilty of any offence for which he is criminally liable, the Central Government may prosecute such person for the offence and it shall be the duty of all officers and other employees of the company or body corporate to give the Central Government the necessary assistance in connection with the prosecution.

Action also includes winding up, misfeasance, recovery proceedings, *etc.* if stated in the investigation report.

Where investigation report states that that fraud has taken place in a company and due to such fraud any director, key managerial personnel, other officer of the company or any other person or entity, has taken undue advantage or benefit, whether in the form of any asset, property or cash or in any other manner, the Central Government may file an application before the Tribunal for appropriate orders with regard to disgorgement of such asset, property, or cash, as the case may be, and also for holding such director, key managerial personnel, officer or other person liable personally without any limitation of liability.

In light of above provision, the Board of directors should keep ready point wise reply of all the matters raised by the inspector.

Investigation

The investigation may be ordered under Section 210, 212 and 213:

210.(1) Where the Central Government is of the opinion, that it is necessary to investigate into the affairs of a company,—

- (a) on the receipt of a report of the Registrar or inspector under Section 208;
- (b) on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated; or
- (c) in public interest, it may order an investigation into the affairs of the company.

212. (1) Without prejudice to the provisions of Section 210, where 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 a 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 the public interest; or
- (d) on request from any Department of the Central Government or a 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.

213. The Tribunal may,—

- (a) on an application made by—
 - (i) not less than one hundred members or members holding not less than one-tenth of the total voting power, in the case of a company having a share capital; or
 - (ii) not less than one-fifth of the persons on the company's register of members, in the case of a company having no share capital, and supported by such evidence as may be necessary for the purpose of showing that the applicants have good reasons for seeking an order for conducting an investigation into the affairs of the company; or
- (b) on an application made to it by any other person or otherwise, if it is satisfied that there are circumstances suggesting that—
 - (i) the business of the company is being conducted with intent to defraud its creditors, members or any other person or otherwise for a fraudulent or unlawful purpose, or in a manner oppressive to any of its members or that the company was formed for any fraudulent or unlawful purpose;
 - (ii) persons concerned in the formation of the company or the management of its affairs have in connection therewith been guilty of fraud, misfeasance or other misconduct towards the company or towards any of its members; or
 - (iii) the members of the company have not been given all the information with respect to its affairs which they might reasonably expect, including information relating to the calculation of the commission payable to a managing or other director, or the manager, of the company, order, after giving a reasonable opportunity of being heard to the parties concerned, that the affairs of the company ought to be investigated by an inspector or inspectors appointed by the Central Government and where such an order is passed, the Central Government shall appoint one or more competent persons as inspectors to investigate into the affairs of the company in respect of such matters and to report thereupon to it in such manner as the Central Government may direct.

Answer 6(d)

Section 379 provides that where not less than 50% of the paid-up share capital, whether equity or preference or partly equity and partly preference of a foreign company is held by one or more citizens of India or by one or more bodies corporate incorporated in India, whether singly or in the aggregate, such company shall comply with such of the provisions of this Act, as may be prescribed by the Central Government with regard to the business carried on by it in India, as if it were a company incorporated in India.

Therefore, the company is bound to comply with the provisions of Companies Act, 2013. As such the shareholders' claim is not valid in the given case.

COST AND MANAGEMENT ACCOUNTING - SELECT SERIES

Time allowed : 3 hours

Maximum marks : 100

Total number of Questions : 100

1. In cost accounting interest on internally generated funds is classified as
 - (A) Committed Cost
 - (B) Imputed Cost
 - (C) Policy and Managed Cost
 - (D) Discretionary Cost

2. Match the following Cost Accounting Standards with the titles :

CAS	Title
(a) CAS 2	(1) Material Cost
(b) CAS 6	(2) Direct Expenses
(c) CAS 10	(3) Pollution Control Cost
(d) CAS 14	(4) Capacity Determination

Codes :

(a)	(b)	(c)	(d)
(A) (2)	(3)	(1)	(4)
(B) (1)	(3)	(4)	(2)
(C) (4)	(2)	(3)	(1)
(D) (4)	(1)	(2)	(3)

3. Practical difficulty in the installation of a costing system is :
 - (A) Lack of support from top management
 - (B) Shortage of trained staff
 - (C) Resistance from existing staff
 - (D) All of the above

4. Where the nature of the product is complex and the costs cannot be charged directly, the most suitable method of costing to compute cost is :
 - (A) Output costing
 - (B) Multiple costing
 - (C) Terminal costing
 - (D) Process costing

5. Management Accounting and Cost Accounting are to each other.
 - (A) Complementary
 - (B) Supplementary

- (C) Opposite
 - (D) Independent
6. Management Accounting works on the output of :
- (A) Financial Accounting
 - (B) Cost Accounting
 - (C) Statistics
 - (D) All of the above
7. In Management Accounting, Analysis of accounting data are carried out with the help of :
- (A) Tools and Techniques
 - (B) Statutory Forms
 - (C) Auditors
 - (D) Legal provisions
8. In most of the organizations material control is generally made as the specific responsibility of :
- (A) Production Manager
 - (B) Purchase Manager
 - (C) Financial Manager
 - (D) Sales Manager
9. Which of the following differences in material stock adjusted by considering as part of material cost ?
- (A) Apparent differences
 - (B) Differences due to abnormal causes
 - (C) Differences due to avoidable causes
 - (D) Differences due to unavoidable causes
10. This type of loss is connected with both inputs and output :
- (A) Waste
 - (B) Scrap
 - (C) Defectives
 - (D) All of the above
11. Decision regarding centralized purchase of materials has to be taken on the basis of :
- (A) Geographical Separation of plants
 - (B) Homogeneity of products
 - (C) Type of materials to purchased
 - (D) All of the above

12. The rate per kg. of materials P, Q, R and S are respectively ₹12, ₹15, ₹18 and ₹21. The input-Output Ratio of the materials are respectively 140%, 130%, 120% and 110%. If so, the most economical material for production is :
- (A) P
 - (B) Q
 - (C) R
 - (D) S
13. During the time of inflation, the method of pricing material issues which leads to a lower material costs for a job is :
- (A) FIFO
 - (B) LIFO
 - (C) HIFO
 - (D) Standard Pricing Method
14. ABC Ltd. manufactures a product and the following particulars are collected as below :
- | | |
|-------------------------------|-----|
| Normal Usage (unit per week) | 50 |
| Minimum Usage (unit per week) | 25 |
| Maximum Usage (unit per week) | 75 |
| Re-order period (weeks) | 4—6 |
- You are required to calculate re-order level :
- (A) 100 units
 - (B) 200 units
 - (C) 150 units
 - (D) 450 units
15. If the annual carrying cost of material Z is ₹4 per unit and its total carrying cost is ₹12,000 p.a., the economic order quantity of the material is :
- (A) 3,000 units
 - (B) 4,000 units
 - (C) 5,000 units
 - (D) 6,000 units
16. The most suitable inventory control technique for spare parts is :
- (A) ABC analysis
 - (B) VED analysis
 - (C) JIT analysis
 - (D) Control ratios
17. Under LIFO method, the purchases and issues are as follows :
- March 1 Purchased 300 units @ ₹3 each
- March 5 Purchased 600 units @ ₹4 each

March 6 Issued 500 units
 March 12 Purchased 700 units @ ₹5 each
 March 16 Issued 800 units
 The value of closing stock shall be :

- (A) ₹900
 (B) ₹1,200
 (C) ₹1,500
 (D) ₹2,100
18. Wages and salaries paid to are indirect labour costs.
 (A) Foremen
 (B) Clerks
 (C) Supervisors
 (D) All of the above
19. Match the following :
- List I
- (a) Time-booking
 (b) Overtime
 (c) Idle time
 (d) Labour turnover
- List II
- (1) Power cut
 (2) Lack of training
 (3) Working due to seasonal rush
 (4) Apportionment of overhead
- Codes :
- | | (a) | (b) | (c) | (d) |
|-----|-----|-----|-----|-----|
| (A) | (3) | (1) | (4) | (2) |
| (B) | (4) | (3) | (1) | (2) |
| (C) | (3) | (4) | (1) | (2) |
| (D) | (3) | (2) | (4) | (1) |
20. should be a principle for an ideal wage payment system.
 (A) Fair and equitable remuneration
 (B) Effective control on labour cost
 (C) Equal pay for equal work
 (D) Attract qualified and efficient workers

21. Which of the following incentive methods of wage payment shall be used for indirect workers ?
- (A) Gantt's Task and Bonus Plan
 - (B) Rowan Plan
 - (C) Bedaux Plan
 - (D) None of the above
22. Piece rate system of wage payment is more suitable in which of the following circumstances ?
- (A) There is an uninterrupted flow of work
 - (B) Where the work can be closely supervised
 - (C) As there is no hurry to finish the work
 - (D) Where the output of a worker is not in his control
23. When the time saved by a worker while doing a work is less than 50% of the standard time fixed for the work then from worker's earnings point of view :
- (A) Rowan Plan is better
 - (B) Halsey Plan is better
 - (C) Both are equal
 - (D) Both are independent, not have any such relationship
24. In group bonus plan, in addition to eligible wages, half of the savings in labour cost is paid to workers and supervisors as bonus.
- (A) Priestman
 - (B) Rucker
 - (C) Scanion
 - (D) Towne
25. Assertion (A) : Excessive labour turnover is not advantageous to organizations.
Reason (R) : Labour turnover allows injection of fresh blood into the organizations.
- Codes :*
- (A) (A) is true, but (R) is false
 - (B) (A) is false, but (R) is true
 - (C) Both (A) and (R) are true and (R) is the correct explanation of (A)
 - (D) Both (A) and (R) are true but (R) is not the correct explanation of (A)
26. Under Hasley-Wier plan, the time allowed for a job is 49 hours and time taken by a workers is 40 hours. The rate of wages per hour is ₹30. The earnings of the worker is :
- (A) ₹1,200
 - (B) ₹1,470
 - (C) ₹1,335
 - (D) ₹1,290

27. For a period of 10 hours, standard output fixed as 260 units and actual output achieved by a worker is 299 units. If so, the rate of bonus under Emerson Efficiency plan is :
- (A) 15%
 - (B) 20%
 - (C) 22%
 - (D) 35%
28. During the third week of March, Mr. R. produced 420 units. The standard time allowed to produce one unit is 10 minutes. If he received wages for a guaranteed 48 hours per week at the rate of ₹5 per hour and bonus according to Hasley Plan, the total earning was :
- (A) ₹295
 - (B) ₹350
 - (C) ₹240
 - (D) ₹276.67
29. To produce 1,000 units of a product JK Ltd., spend ₹50,000 on direct material and ₹40,000 on direct labour. Factory overhead was charged at the rate of 10% on prime cost amounted to ₹12,000. The amount of direct expenses was :
- (A) ₹9,000
 - (B) ₹24,000
 - (C) ₹30,000
 - (D) ₹36,000
30. The criteria used for secondary distribution of overheads which is considered as inequitable is :
- (A) Use method
 - (B) Incentive method
 - (C) Ability to pay method
 - (D) Survey method
31. Overhead expenses of stores keeping department often apportioned on the basis of :
- (A) Number of material requisitions
 - (B) Quantity of materials supplied
 - (C) Value of materials supplied
 - (D) Any of the above
32. The amount of under/over absorbed overhead at the end of the year is carried forward to next year for adjustment when :
- (A) The normal business cycle is more than one year
 - (B) The project is an old one
 - (C) The output is high in the initial years
 - (D) The overhead control system is lacking in the current year

33. In a manufacturing concern there are three production departments namely A, B and C. Their direct wages for a period are respectively ₹75,000, ₹20,000 and ₹30,000. During the same period the overheads of the departments are ₹60,000, ₹30,000 and ₹15,000 respectively. For this concern, the Blanket Overhead Rate shall be :
- (A) 80%
 - (B) 84%
 - (C) 150%
 - (D) 200%
34. The most logical basis for absorption of selling and distribution overheads is :
- (A) Sales value
 - (B) Cost of goods sold
 - (C) Number of orders
 - (D) Gross profit on sales
35. In traditional absorption costing, costs are first traced to :
- (A) Activities
 - (B) Organizational Unit
 - (C) Products
 - (D) Cost Centres
36. The main reason for the usage of Activity Based Costing, by replacing the traditional costing system is that :
- (A) The overhead recovery rates used in traditional costing system are inappropriate for decision-making
 - (B) The companies deal with more number of products at present
 - (C) No scope for cause and effect relationship in traditional costing
 - (D) The new manufacturing technology needs information for feedback of performance even the product is in progress
37. In Activity Based Costing, inspection of products is a level activity.
- (A) Unit
 - (B) Batch
 - (C) Product
 - (D) Facility
38. **Assertion (A)** : Implementing an ABC system requires substantial resources which are costly to maintain.
Reason (R) : Activity Based Costing is a two-stage product costing.
Select the correct answer from the options given below :
- (A) Both (A) and (R) are true and (R) is the correct explanation of (A)
 - (B) Both (A) and (R) are true but (R) is not the correct explanation of (A)
 - (C) (A) is true but (R) is false
 - (D) (A) is false but (R) is true

39. Match the following :

List I

- (a) Unit level activity
- (b) Batch level activity
- (c) Product level activity
- (d) Facility level activity

List II

- (1) Material ordering
- (2) Plant security
- (3) Use of indirect materials
- (4) Parts management

Codes :

- | | (a) | (b) | (c) | (d) |
|-----|-----|-----|-----|-----|
| (A) | (3) | (1) | (4) | (2) |
| (B) | (3) | (2) | (4) | (1) |
| (C) | (1) | (3) | (2) | (4) |
| (D) | (2) | (4) | (1) | (3) |

40. Fast Ltd., manufactures three types of products A, B and C following ABC system. During a period the company incurred ₹73,000 as inspection cost and it was worked for 10, 20 and 9 production runs respectively for producing products A, B and C. The inspection hours required per production run was 3, 4 and 4 respectively. The total inspection costs for product B under ABC system was :

- (A) ₹15,000
- (B) ₹40,000
- (C) ₹18,000
- (D) ₹24,000

41. Accounts have direct relevance in ascertaining the cost of products.

- (A) Real
- (B) Nominal
- (C) Personal
- (D) Real and Nominal

42. The items of accounts excluded from non-integrated accounting system and represented by cost ledger control account are :

- (A) Purchases
- (B) Expenses
- (C) Balance-sheet items
- (D) All of the above

43. Non-Integrated Account System followed in an organization enables it to achieve:
- (A) High level of efficiency
 - (B) Greater control over the organization
 - (C) No delay in getting data
 - (D) All of the above
44. When finished goods are sold at total sales value, the account to be debited is:
- (A) General Ledger Adjustment Account
 - (B) Cost of Sales Account
 - (C) Stores Ledger Control Account
 - (D) Finished Goods Stock Ledger Control Account
45. If the loss as per cost books are to be ₹16,000 and closing stock is overvalued in cost books by ₹4,000 and opening stock is undervalued in cost books by ₹7,000, the loss as per financial accounts is :
- (A) ₹12,000
 - (B) ₹5,000
 - (C) ₹27,000
 - (D) ₹9,000
46. Which of the following items is added to profit as per cost accounts to arrive at financial profit ?
- (A) Under absorbed overheads
 - (B) Over absorbed overhead
 - (C) Over valuation of closing stock
 - (D) Goodwill written off
47. In a firm the cost and financial transactions are integrated. Under this situation the firm paid wages amounted to ₹1,20,000 in which 25% is indirect in nature. Then the journal to be passed to account the indirect wages is :
- (A)

Wages Control A/c	Dr. 30,000
To Bank A/c	30,000
 - (B)

Factory overheads Control A/c	Dr. 30,000
To Wages Control A/c	30,000
 - (C)

Factory overhead Control A/c	Dr. 30,000
To Bank A/c	30,000
 - (D) No need of separate entry

48. The work-in-progress Control Account of JK Ltd., shows a total of ₹9,30,000. The Stores Ledger Control Account ₹1,44,000 and the closing balance of ₹72,000 are in the credit side. Then the balance ₹7,14,000 being the balancing figure transferred to :
- (A) Stores Ledger Control Account
 - (B) Cost Ledger Control Account
 - (C) Costing Profit and Loss Account
 - (D) Finished Goods Account
49. Materials consumed ₹6,000
Wages paid ₹9,000
Works on cost 50% on wages
Office on cost 20% on works cost
Selling on cost 10% on works cost
Profit 20% on cost
If so, the selling price is :
- (A) ₹30,420
 - (B) ₹30,300
 - (C) ₹32,640
 - (D) ₹31,220
50. Which of the following is *not* a features of job costing ?
- (i) Outputs are identical.
 - (ii) Production is undertaken against customer's order.
 - (iii) Each job is a cost unit.
 - (iv) Production is continuous.
- Codes :
- (A) (i) only
 - (B) (i) and (iv) only
 - (C) (ii) and (iv) only
 - (D) (ii) and (iii) only
51. The following are the data relating to Job No. 767 :
- Raw materials ₹3,400
Direct wages for 80 hours @ ₹3
Variable overhead incurred for all jobs ₹6,000 for 4,000 hours.
If 20% profit on selling price is expected, the selling price is :
- (A) ₹4,512

- (B) ₹3,760
(C) ₹4,700
(D) ₹4,320
52. In batch costing, at the level of production of economical lot size :
- (A) Carrying cost is minimum
(B) Setup cost is minimum
(C) Total cost of product is minimum
(D) Computation of cost of production is easy
53. In Batch Costing, with increase in batch size :
- (A) There is an increase in carrying cost and set-up cost per unit
(B) There is a decrease in carrying cost and set-up cost per unit
(C) There is an increase in carrying cost and set-up cost per unit is reduced
(D) There is a decrease in carrying cost but the set-up cost per unit is increased
54. The annual demand for a component is 2,000 units. The set-up cost per batch and the carrying cost per unit per annum are respectively ₹100 and ₹10. The Economic Batch Quantity is :
- (A) 200 units
(B) 300 units
(C) 400 units
(D) 166.67 units
55. A contract is completed to the extent of two-thirds. The contract account shows a loss of ₹15,000 at the end of the accounting period. If so, the amount to be transferred to profit and loss account is :
- (A) ₹15,000
(B) ₹10,000
(C) $\frac{2}{3}$ rd of ₹15,000 as reduced by the percentage of cash received
(D) ₹15,000 + anticipated future loss
56. In contract agreements, escalation clause is incorporated to safeguard the contractor against any :
- (A) Increase in material price
(B) Increase in labour rate
(C) Increase in quantity of material and labour utilized for contract
(D) All of the above
57. The following details are relating to a contract :
- Contract Price ₹15,00,000
Notional Profit ₹1,98,000
Cash received ₹6,00,000
Work certified ₹7,50,000

Work uncertified ₹1,50,000

Amount of profit to be transferred to profit and loss account :

- (A) ₹1,98,000
- (B) ₹1,05,600
- (C) ₹1,32,000
- (D) ₹1,58,400

58. The following are the information taken from the cost records of a contract which was 90% completed :

	₹
Total expenditure to date	20,50,000
Contract Price	32,00,000
Work certified	27,00,000
Work uncertified	1,80,000
Cash received	22,50,000
Estimated future expenditure to complete the contract	1,50,000

The estimated profit is :

- (A) ₹2,00,000
 - (B) ₹10,00,000
 - (C) ₹11,50,000
 - (D) ₹50,000
59. When the total cost of a process is ₹1,61,000, sales value of scrap is ₹8,000, normal loss is 150 units, actual input is 1,000 units and actual output is 830 units, the value of abnormal loss is:
- (A) ₹3,686.75
 - (B) ₹3,879.52
 - (C) ₹3,788.24
 - (D) ₹3,600
60. In a company adopting process costing, the output of a process is transferred to next process by adding 25% profit on transfer price. In a particular period the total cost and profit of the process amounted to ₹70,500 and ₹9,500 respectively. The total value of closing stock was ₹6,000. Then the value of unrealized profit in closing stock of the process is :
- (A) ₹712
 - (B) ₹768
 - (C) ₹816
 - (D) None of the above
61. The output quantities of remain in linear relationship among them.
- (A) By-products

- (B) Joint products
 (C) Co-products
 (D) All of the above
62. A manufacturing concern produced two joint products A and B whose sales values were ₹1,52,000 and ₹1,68,000 respectively and selling expenses were ₹20,000 and ₹80,000 respectively. The joint cost was ₹1,67,600. If the joint cost was apportioned on cost of sales basis, it is :
- (A) ₹33,520 and ₹1,34,080
 (B) ₹79,610 and ₹87,990
 (C) ₹1,00,560 and ₹67,040
 (D) ₹83,800 and ₹83,800
63. In the reverse cost method, manufacturing cost applicable to the by-product ending inventories should be reported in the :
- (A) Income statement
 (B) Balance sheet
 (C) Both (A) and (B)
 (D) None of the above
64. Match the following :
- List I
- (a) Retention Money
 (b) Process Costing
 (c) Service Costing
 (d) Joint Products
- List II
- (1) Standing Charges
 (2) Contract Costing
 (3) Survey Method
 (4) Abnormal Gain
- Codes :
- | | | | | |
|-----|-----|-----|-----|-----|
| | (a) | (b) | (c) | (d) |
| (A) | (1) | (4) | (2) | (3) |
| (B) | (2) | (4) | (1) | (3) |
| (C) | (3) | (2) | (1) | (4) |
| (D) | (2) | (3) | (1) | (4) |
65. Marginal Costing in America is called as :
- (A) Differential costing
 (B) Out-of-pocket costing
 (C) Direct costing
 (D) Variable costing

66. Statement—I :
Break-even analysis has gradually become a popular service tool for modern financial management.
Statement—II :
No concrete limitations have been raised anywhere against the utility of break-even analysis.
Select the *correct* answer from the option given below :
- (A) Both statements are correct
(B) Both statements are wrong
(C) Statement I is correct but statement II is not correct
(D) Statement I is not correct but statement II is not correct
67. When fixed costs are ₹90,000, ratio of variable cost to sales is 75% and the break-even point occurs at 60% of the capacity sales, the capacity sales is :
- (A) ₹4,50,000
(B) ₹5,60,000
(C) ₹6,00,000
(D) ₹7,50,000
68. The P/V ratio of a company is 40%. If the company reduces its selling price by 20%, the required percentage of increase in sales value to maintain the same profit is :
- (A) 20%
(B) 40%
(C) 60%
(D) 75%
69. Mr. R's sales and profit in 2015 were respectively ₹1,20,000 and ₹8,000. His sales and profit in 2016 were ₹1,40,000 and ₹13,000 respectively. In this case his margin of safety in 2016 was :
- (A) ₹32,000
(B) ₹52,000
(C) ₹88,000
(D) ₹1,36,000
70. Z Ltd., has a margin of safety of 4,000 units and break-even sales at 1,000 units. If its margin of safety sales is ₹2,00,000, total sales shall be :
- (A) ₹8,00,000
(B) ₹6,00,000
(C) ₹4,00,000
(D) ₹2,50,000

71. R.V. Ltd., made a sale for ₹4,50,000 in the first half and for ₹5,00,000 in the second half of 2016. In this year the total cost for the first and the second half of the year were respectively ₹4,00,000 and ₹4,30,000. If there is no change in selling price and variable cost and that the fixed expenses are incurred equally, the break-even sales for the whole year is :
- (A) ₹6,50,000
 (B) ₹6,00,000
 (C) ₹5,00,000
 (D) ₹4,50,000
72. The following are the particulars relating to products P and Q :
- | | P | Q |
|-------------------------------|-----|-----|
| Selling Price p.u. (₹) | 100 | 120 |
| Marginal cost p.u. (₹) | 60 | 60 |
| Material required p.u. (Kgs.) | 5 | 5 |
| Labour hours p.u. (Hrs.) | 4 | 8 |
- Which product is more profitable when :
- (a) Material is the key factor.
 (b) Labour hour is the key factor.
 (c) Sales potential in units is the key factors.
 (d) Sales potential in rupees is the key factors.
- Codes :
- | | (a) | (b) | (c) | (d) |
|-----|-----|-----|-----|-----|
| (A) | (Q) | (Q) | (P) | (Q) |
| (B) | (Q) | (P) | (Q) | (Q) |
| (C) | (Q) | (Q) | (P) | (P) |
| (D) | (P) | (Q) | (P) | (Q) |
73. Standard Costing is basically a technique.
- (A) Cost computation
 (B) Cost control
 (C) Cost reduction
 (D) Performance evaluation
74. Material Yield Variance is a sub-variance of :
- (A) Material Cost Variance
 (B) Material Usage Variance
 (C) Material Price Variance
 (D) Material Volume Variance
75. In a manufacturing firm normal capacity is 5,000 hours. Its budgeted fixed overhead rate is ₹10 per standard hour. The actual level of activity is 4,400

- standard hours and the actual fixed overhead is ₹52,000. The firm's fixed overhead volume variance is :
- (A) ₹6,000 A
 - (B) ₹6,000 F
 - (C) ₹2,000 A
 - (D) ₹8,000 A
76. In an analysis of labour cost variance it was ascertained that the labour rate variance was ₹750 A, actual time was 1,500 hours and standard rate per hour is ₹1.50. The actual rate per hour was :
- (A) ₹1.00
 - (B) ₹2.00
 - (C) ₹2.5
 - (D) None of the above
77. The selection of a method for disposition of variances depends on :
- (A) Type of variances
 - (B) Size of variances
 - (C) Causes for variances
 - (D) All of the above
78. A short-term budget, broken down into a quarterly or monthly period and reviewed and modified in the light of changing conditions is :
- (A) Current Budget
 - (B) Flexible Budget
 - (C) Rolling Budget
 - (D) Zero Base Budget
79. While preparing a flexible budget indirect wages was considered as a semi-variable expense. At 50% level of production it was estimated as ₹1,50,000. If it has a tendency to increase by 10% between 60% and 75% capacity and further will increase by another 5% when production crosses 75%, the amount of indirect wages at 90% level of production is :
- (A) ₹1,65,000
 - (B) ₹1,72,500
 - (C) ₹1,73,250
 - (D) None of the above
80. At 60% level of production the amount of factory overhead is ₹40,000 (40% fixed). At 100% level of production it amounts to :
- (A) ₹16,000
 - (B) ₹24,000
 - (C) ₹40,000
 - (D) ₹56,000

81. The units to be sold for different months are as follows :
- | Jan. | Feb. | Mar. | Apr. | May | Jun. |
|-------|-------|-------|-------|-------|-------|
| 1,200 | 1,300 | 1,600 | 2,000 | 2,400 | 3,000 |
- There will be no work-in-progress at the end of any month. Finished units equal to half the sales for the next month will be in stock at the end of each month. The required production for April will be :
- (A) 2,800 units
 - (B) 2,200 units
 - (C) 2,400 units
 - (D) 3,200 units
82. In budgeting there was a shift from financial classification to objective classification in respect of functions, activities etc.
- (A) Programme
 - (B) Performance
 - (C) Zero base
 - (D) None of the above
83. The Central Government by an order can direct a company to include in its books of accounts, particulars relating to utilization of :
- (A) Materials
 - (B) Labour
 - (C) Other items used for production of goods or for providing services
 - (D) All of the above
84. The audit of cost accounting records, according to section 148 (2) of the Companies Act, 2013, shall be conducted by a practicing :
- (A) Chartered Accountant
 - (B) Cost Accountant
 - (C) Company Secretary
 - (D) Any of them
85. A PSU company shall within 30 days from the date of receipt of the report of the cost auditor furnish explanation on every reservation or qualification contained therein to :
- (A) The Registrar
 - (B) Central Government
 - (C) The Shareholders
 - (D) The Parliament
86. The social purpose of cost audit is :
- (A) Detection of errors and frauds
 - (B) Facilitating the fixation of prices of goods and services

- (C) Promoting corporate governance
 - (D) Inculcation of cost consciousness
87. Every PSU company, within a period of 30 days from the date of receipt of cost audit report, furnish to the central government with such report full explanation on every reservation or qualification contained in the report in :
- (A) Form CRA 3
 - (B) Form CRA 4
 - (C) Form CRA 5
 - (D) Form CRA 6
88. Section 148 of the Companies Act, 2013 gives :
- (A) No powers to the cost auditor as the financial auditor has U/S 143 of Companies Act, 2013
 - (B) Same powers to the cost auditor as the financial auditor has U/S 143 of Companies Act, 2013
 - (C) More powers to the cost auditor than the financial auditor has U/S 143 of Companies Act, 2013
 - (D) Lesser powers to the cost auditor than the financial auditor has U/S 143 of Companies Act, 2013
89. Profitability and productivity measurement technique used by cost auditor while doing cost audit is categorized under :
- (A) Economic Techniques
 - (B) Statistical Techniques
 - (C) Personnel Techniques
 - (D) General Techniques
90. Non-compliance of which attribute of financial statements makes a company, besides invoking penalties, impairs the confidence of the public investors :
- (A) Authenticity
 - (B) Compliance with Law
 - (C) Freedom from Bias
 - (D) All of the above
91. is a primary ratio.
- (A) Current Ratio
 - (B) Gross Profit Ratio
 - (C) Return on Investment Ratio
 - (D) Debt-Equity Ratio
92. If Current Ratio is 2.5, Acid Test Ratio is 1.5 and Current Liabilities are ₹50,000, the value of inventory is :
- (A) ₹50,000
 - (B) ₹75,000

- (C) ₹1,25,000
(D) ₹1,50,000
93. RK Ltd., supplies the following information for the year ended on 31st March, 2017.
Credit sales ₹1,50,000; Cash sales ₹2,50,000; Return inward ₹25,000; Opening Stock ₹20,000; Closing Stock ₹30,000 and the Gross Profit Ratio is 20%. The Inventory Turnover Ratio of RK Ltd. is :
- (A) 8 times
(B) 10 times
(C) 12 times
(D) 15 times
94. The balances of some of the assets and liabilities as on 31-3-2017 are :
Cash ₹10,000; plant ₹2,00,000; Bills Receivable ₹5,000; Goodwill ₹90,000; Debtors ₹25,000; Stock ₹20,000; Creditors ₹20,000; Bills Payable ₹10,000 and Cost of Sales ₹1,80,000. In this case, the Working Capital Turnover Ratio is :
- (A) 4 times
(B) 5 times
(C) 6 times
(D) 10 times
95. If the number of equity shares 3,000; Net profit ₹22,000; Dividend per equity share Re. 0.30; Provision for taxation ₹12,000 and preference dividend paid ₹4,000, the Pay-out ratio is :
- (A) 15%
(B) 10%
(C) 5%
(D) 18%
96. In case of financial enterprises, cash flows arising from are classified as cash flows from operating activities.
- (A) Interest Paid
(B) Interest Received
(C) Dividend Received
(D) All of the above
97. Some of the account balances of KK Ltd. are as follows in its balance sheet :
- | | 2016 | 2017 |
|---------------|----------|----------|
| | (₹) | (₹) |
| Share Capital | 2,50,000 | 4,50,000 |
| 10% Debenture | 2,00,000 | 1,50,000 |
| Share Premium | 25,000 | 50,000 |

- If the interest paid on debentures was ₹20,000, the net cash flows from financing activities were :
- (A) ₹1,75,000
 - (B) ₹1,55,000
 - (C) ₹2,05,000
 - (D) ₹2,25,000
98. Both cash flow statement and fund flow statement are :
- (A) Prepared on cash basis
 - (B) Prepared on the basis of working capital
 - (C) Useful for long-term analysis
 - (D) None of the above
99. In fund flow statement, flow of fund will occur when a transaction is happened between :
- (A) Current Assets and Current Liabilities
 - (B) Non-current Assets and Non-current Liabilities
 - (C) Current Assets and Non-current Assets
 - (D) All of the above
100. While analyzing the opening and closing balance sheet of a company the following are observed :
- Total increase in current assets ₹20,000
 - Total increase in current liabilities ₹80,000
 - Total decrease in current assets ₹1,30,000
 - Total decrease in current liabilities ₹30,000
- The net change in working capital is :
- (A) No change in working capital
 - (B) Net increase in working capital ₹1,60,000
 - (C) Net decrease in working capital ₹60,000
 - (D) None of the above

ANSWER KEY
COST AND MANAGEMENT ACCOUNTING - SELECT SERIES

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

ECONOMIC AND COMMERCIAL LAWS

Time allowed : 3 hours

Maximum marks : 100

NOTE : *Answer ALL Questions.*

PART A

Question 1

- (a) *What is current account transaction under Foreign Exchange Management Act, 1999.*
- (b) *State the legal provisions regarding infringement of copyright stated in the Copyright Act, 1957.*
- (c) *Is the offence committed under Prevention of Money Laundering Act, 2002 is cognizable and bailable ? State the law and procedure relating to it.*
- (d) *What is meant by "Geographical indications" under intellectual property rights ?*
- (e) *What is meant by 'Service Export from India Scheme' (SEIS). Which services shall be eligible under service export from India scheme. (5 marks each)*

Answer 1(a)

The term current account transaction has been defined under Section 2(j) of the Foreign Exchange Management Act, 1999, to mean a transaction other than a capital account transaction and includes payments due in connection with foreign trade, other current business, services and short term banking and credit facilities in the ordinary course of business; payments due as interest on loan and as net income from investments; remittances for living expenses of parents, spouse and children residing abroad and expenses in connection with foreign travel, education and medical care of parents, spouse and children, are all considered as part of current account transaction.

Under the Foreign Exchange Management Act, 1999 freedom has been granted for selling and drawing of foreign exchange to or from an authorized person for undertaking current account transactions. However, the Central Government has been vested with powers in consultation with Reserve Bank to impose reasonable restrictions on current account transactions. The Central Government has framed Foreign Exchange Management (Current Account Transactions) Rules, 2000 dealing with various aspects of current account transactions.

Answer 1(b)

Copyright protection gives exclusive rights to the owners of the work to reproduce the work enabling them to derive financial benefits by exercising such rights. If any

person without authorisation from the owner exercises these rights in respect of the work which has copyright protection it constitutes an infringement of the copyright. If the reproduction of the work is carried out after the expiry of the copyright term it will not amount to an infringement.

Section 51 of the Copyright Act, 1957 contemplates situation in which a copyright shall be deemed to be infringed. This Section says that a copyright is infringed when any person without a licence granted by the owner of the copyright or the Registrar of Copyright or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority does:

- (1) anything for which the exclusive right is conferred upon the owner of the copyright,
or
- (2) permits for profit any place to be used for the communication of the work to public where such a communication constitutes an infringement of the copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication would be an infringement of copyright.
- (3) when any person (i) makes for sale or hire or lets for hire or by way of trade display or offers for sale or hire, or (ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or (iii) by way of trade, exhibits in public, or (iv) imports into India any infringing copies of the work.

However, import of one copy of any work is allowed for private and domestic use of the importer. Explanation to Section 51 clarifies that the reproduction of literary, dramatic musical or artistic work in the form of cinematograph film shall be deemed to be an infringing copy. Certain exceptions to infringement have been stipulated by the Copyright Act.

Answer 1(c)

Section 45 of the Prevention of Money Laundering Act, 2002 declares every offence punishable under this Act to be cognizable and non-bailable. It provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, a person accused of an offence punishable for a term of imprisonment of more than three years under Part A of the Schedule shall not be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity to oppose the application for such release; and where the Public Prosecutor opposes the application, unless the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while in bail.

The Special Court in this respect shall not take cognizance of any offence punishable under Section 4, except upon a complaint in writing made by (i) the Director or (ii) any officer of the Central Government or State Government authorised in writing in this behalf by the Central Government by a general or special order made by that Government.

Answer 1(d)

Geographical indication in relation to goods means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating,

or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case maybe.

It may be noted that any name which is not the name of a country, region or locality of that country shall also be considered as the geographical indication if it relates to a specific geographical area and is used upon or in relation to particular goods originating from that country, region or locality, as the case may be.

India enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999. This Act seeks to provide for the registration and better protection of geographical indications relating to goods in India. Examples of Indian Geographical Indications are Darjeeling Tea, Kanchipuram Silk Saree, Alphanso Mango, Nagpur Orange, Kolhapuri Chappal etc.,.

Answer 1(e)

Service Exports from India Scheme (SEIS) is a Scheme for Export under Foreign Trade Policy 2015-20. The objective of Service Exports from India Scheme (SEIS) is to encourage export of notified Services from India.

Services Eligible under SEIS:

- (a) Service Providers of notified services, located in India, shall be rewarded under SEIS, subject to conditions as may be notified. The notified services and rates of rewards are listed in FTP 2015-2020. Following Services shall be eligible:
 - (i) Supply of a 'service' from India to any other country; (Mode1- Cross border trade)
 - (ii) Supply of a 'service' from India to service consumer(s) of any other country; (Mode 2- Consumption abroad).
- (b) Such service provider should have minimum net free foreign exchange earnings of US\$15,000 in preceding financial year to be eligible for Duty Credit Scrip. For Individual Service Providers and sole proprietorship, such minimum net free foreign exchange earnings criteria would be US\$10,000 in preceding financial year.
- (c) Payment in Indian Rupees for service charges earned on specified services, shall be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India. The list of such services is indicated in FTP 2015-2020.
- (d) Net Foreign exchange earnings for the scheme are defined as under:

Net Foreign Exchange = Gross Earnings of Foreign Exchange minus Total expenses/payment/ remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year.
- (e) If the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses/payment/remittances shall be taken into account for service sector only.

- (f) In order to claim reward under the scheme, Service provider shall have to have an active IEC at the time of rendering such services for which rewards are claimed.

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

Question 2

- (a) Pankaj booked a flat in Sagar Housing Board colony. Housing Board registered it and agreed to give possession within two years. After receiving the price of the flat Housing Board failed to give possession to Pankaj within the agreed period. Is it a deficiency in service under Consumer Protection Act, 1986 ?
- (b) When the Board of Approval is empowered to suspend the letter of approval granted to the developer under Special Economic Zone (SEZ) Act, 2005.
- (c) Explain the meaning of 'Usufructuary Mortgage' as given under the Transfer of Property Act, 1882.
- (d) A agreed to supply B certain goods to be produced from Indonesia. The goods could not be produced due to riots and civil disturbances in Indonesia. Decide, whether the non-performance of the contract may be excused ?
- (e) Describe the duties and powers of Director General under Competition Act, 2002. (3 marks each)

OR (Alternate question to Q. No. 2)

Question 2A

- (i) State the provisions of Indian Stamp Act, 1899 regarding the payment of stamp duty for renewing debentures. (5 marks)
- (ii) What information is required to be preserved by Banks under Prevention of Money laundering Act, 2002. Discuss also the process of maintenance and preservation of records by Banks. (5 marks)
- (iii) Explain the provisions regarding the appointment of Conciliator under Arbitration and Conciliation Act, 1996. State the role of the Conciliator to settle the dispute. (5 marks)

Answer 2(a)

The problem asked in the question is related to the deficiency in the services under Consumer Protection Act, 1986. Section 2(1)(g) of this Act lays down that deficiency means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is 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'.

Failure of a Housing Board to give Possession of the flat after receiving the price

and after registering it in favour of the allottee will be treated as deficiency in service. Therefore, Sagar Housing Board Colony shall be liable.

Answer 2(b)

Section 10 of the Special Economic Zone (SEZ) Act, 2005 empowers the Board of Approval to suspend the letter of approval granted to the Developer for a whole or part of his area established as Special Economic Zone for a period not exceeding one year. The suspension may be ordered by the Board, if in its opinion following circumstances exist:

- (i) the developer is unable to discharge the functions or perform the duties imposed on him; or
- (ii) the developer has persistently defaulted in complying with the directions of the Board; or
- (iii) the developer has violated the terms and conditions of the letter; or
- (iv) the financial position of the developer is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by the letter of approval.

Answer 2(c)

Section 58(d) of the Transfer of Property Act, 1882 defines a "usufructuary mortgage" as "where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage money, and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest, or in payment of the mortgage money, or partly in lieu of interest or partly in payment of the mortgage money, the transaction is called an usufructuary mortgage. It is also called a mortgage with possession.

Answer 2(d)

The problem is related to the discharge of contract due to supervening impossibility. Ordinarily when a person undertakes to do something, he must do it unless its performance becomes absolutely impossible due to any of the circumstances given under section 56 of the Indian Contract Act, 1872.

A Contract is not discharged by the mere fact that it has become more difficult of performance due to some unanticipated events or delays, strikes, lock outs and civil disturbances like riots do not terminate contracts, unless there is a clause especially in the contract providing non-performance in such cases. The instance problem is related to events of strikes, lock out and civil disturbances which do not discharge a contract because the parties to the contract have not specifically agreed in this regard at the time of formation of the contract. As per the agreement the goods could not be produced due to riots and civil disturbances in Indonesia. Hence there is no excuse for non-performance of the contract.

Answer 2(e)

According to Competition Act, 2002, the Director General when so directed by the Competition Commission of India, is to assist the Commission in investigation into any

contravention of the provisions of this Act. The Director General is bound to comply with such a direction to render requisite assistance to the Commission.

The Director General, in order to effectively discharge his functions, has been given the same powers as are conferred upon the Commission under section 36(2) of the Competition Act, 2002. Under section 36(2) the Commission is having same powers as are vested in Civil Court under the Code of Civil Procedure (1908) while trying a suit, in respect of the following matters, namely;

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) subject to the provisions of Sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

Answer 2A(i)

Section 55 of Indian Stamp Act, 1899 is intended to relieve companies renewing debentures issued by them from the liability to pay stamp duty on both the original and the renewed debenture. As per this section, when any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Collector shall, upon application made within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture whichever shall be less:

Provided that the original debenture is produced before the Collector and cancelled by him in such manner as the State Government may direct.

A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes:

- (a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same;
- (b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same;
- (c) the substitution of the name of the holder at the time of renewal for the name of the original holder; and
- (d) the alteration of the rate of interest of the date of payment thereof.

Answer 2A(ii)

According to the Prevention of Money Laundering Act, 2002, Banks are required to maintain all necessary information in respect of transactions to permit reconstruction of individual transaction, including the following information:

- (a) the nature of the transactions;

- (b) the amount of the transaction and the currency in which it was denominated;
- (c) the date on which the transaction was conducted; and
- (d) the parties to the transaction.

Further, Banks are required to maintain the records containing information of all transactions. Banks should take appropriate steps to evolve a system for proper maintenance and preservation of account information in a manner that allows data to be retrieved easily and quickly whenever required or when requested by the competent authorities.

Banks should ensure that records pertaining to the identification of the customer and his address (e.g. copies of documents like passports, identity cards, driving licenses, PAN card, utility bills etc.) obtained while opening the account and during the course of business relationship, are properly preserved.

Banks have been advised to pay special attention to all complex, unusual large transactions and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. It is further clarified that the background including all documents/ office records/memorandums pertaining to such transactions and purpose thereof should, as far as possible, be examined and the findings at branch as well as Principal Officer Level should be properly recorded.

Answer 2A(iii)

Section 64 of the Arbitration and Conciliation Act, 1996 dealing with appointment of conciliator. Section 64(1) of Arbitration and Conciliation Act, 1996 provides that subject to sub-section (2),-

- (a) in conciliation proceedings with one conciliator, the parties may agree on the name of a sole conciliator;
- (b) in conciliation proceedings with two conciliators, each party may appoint one conciliator;
- (c) in conciliation proceedings with three conciliators, each party may appoint one conciliator and the parties may agree on the name of the third conciliator who shall act as the presiding conciliator.

Further Section 64(2) provides that parties may enlist the assistance of a suitable institution or person in connection with the appointment of conciliators, and in particular,-

- (a) a party may respect such an institution or person to recommend the names of suitable individuals to act as conciliator, or
- (b) the parties may agree that the appointment of one or more conciliators be made directly by such an institution or person:

Provided that in recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to a sole or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

Role of conciliator

Section 67 dealing with role of conciliator. Section 67(1) provides that the conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

Further, Section 67 (2) provides that the conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.

As per Section 67 (3) the conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute.

Section 67 (4) states that the conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

Question 3

- (a) *Mr. X in consideration that Mr. Y will employ Mr. Z in collecting the rent of Zamindari, promises to Mr. B to be responsible to the amount of ₹ 10,000 for the due collection and payment by Mr. Z of these rents.*

Decide, whether it is a contract of guarantee ? Which type of guarantee it is ? When such guarantee may be revoked. (5 marks)

- (b) *Discuss the process of filing an appeal by an aggrieved person under the Consumer Protection Act, 1986. (5 marks)*

- (c) *Mr. Ronu an Indian national, failed to realize and repatriate foreign exchange amounting to ₹ 1 crore. Subsequently, Mr. Ronu realized that he has committed a contravention of the Foreign Exchange Management Act, 1999. He desires to compound the said offence. State, whether Mr. Ronu can do so ? (5 marks)*

Answer 3(a)

The problem is related to the contract of guarantee. A contract of guarantee is a contract to perform the promise, or discharge the liability of a third person in case of his default. The person who gives the guarantee is called the Surety, the person for whom the guarantee is given is called the Principal Debtor, and the person to whom the guarantee is given is called the Creditor. A guarantee may be either oral or written, although in the English law, it must be in writing.

Section 129 of the Indian Contract Act, 1872 lays down the meaning of continuing guarantee. A continuing guarantee is one which extends to a series of transactions. The liability of surety in case of a continuing guarantee extends to all the transactions contemplated until the revocation of the guarantee. Therefore the instant problem is related to continuing guarantee.

A Continuing guarantee is revoked in the following cases:-

- (a) By notice of revocation by the surety (Section 130): The notice operates to revoke the surety's liability as regards future transactions. He continues to be liable for transactions entered into prior to the notice.
- (b) By the death of the surety: The death of the surety operates, in the absence of contract as a revocation of a continuing guarantee, so far as regards future transactions (Section 131). But for all the transactions made before his death, the surety's estate will be liable.

Answer 3(b)

Section 15 of Consumer Protection Act, 1986 entitles a person aggrieved by an order of the District Forum to prefer an appeal to the State Commission. Similarly any person aggrieved by any original order of the State Commission may prefer an appeal to the National Commission under Section 19. Likewise, any person aggrieved by any original order of the National Commission may prefer an appeal to the Supreme Court, under Section 23.

All such appeals are to be made within thirty days from the date of the order. However, the concerned Appellate authority may entertain an appeal after the said period of thirty days if it is satisfied that there was sufficient cause for not filling it within the prescribed period. The period of 30 days would be computed from the date of receipt of the order by the appellant.

It may be noted that no appeal by a person, who is required to pay any amount in terms of an order of the District Forum/State Commission, shall be entertained by the State Commission/National Commission respectively unless the appellant has deposited in the prescribed manner fifty percent of that amount or twenty five thousand rupees/ thirty-five thousand respectively, whichever is less.

Answer 3(c)

Compounding refers to the process of voluntarily admitting the contravention, pleading guilty and seeking redressal.

This problem is related to section 15 of the Foreign Exchange Management Act, 1999. Mr. Ronu has failed to realise and repatriate foreign exchange and contravened the provisions of section 8 of FEMA and he is liable to the penalties leviable under section 13 of the Foreign Exchange Management Act, 1999 followed by adjudication proceedings.

Section 15 of the Foreign Exchange Management Act, 1999 permits the offending party to compound the contravention within 180 days from the date of receipt of application by the Directorate of Enforcement or such other offices of the Directorate of Enforcement and officers of RBI as may be authorised by Central Government in such manner as may be prescribed. No Contravention shall be compounded unless the amount involved in such contravention is quantifiable. Where a contravention has been compounded, no proceeding can continue or be initiated against the person in respect of the contravention so compounded.

Question 4

- (a) "Competition spurs efficiency and improves consumer welfare. There is a close relationship between competition and economic efficiency". How far do you agree with this statement ? Elucidate. (8 marks)
- (b) What is meant by the doctrine of "*Lis-Pendens*" under Transfer of Property Act, 1882. Discuss its essential elements. (7 marks)

Answer 4(a)

There is a growing recognition that a flexible, dynamic and competitive private sector is essential to fostering sustained economic development. Promoting effective competition spurs firms to focus on efficiency and improves consumer welfare by offering greater choice of higher-quality products and services at lower prices. It also promotes greater accountability and transparency in government-business relations and decision making, helps reduce corruption, lobbying, and rent seeking. In addition, it provides opportunities for broadly based participation in the economy and for sharing in the benefits of economic growth.

The idea of competition has had, for two centuries or more, a powerful influence on the way we think about our society, the way we organise things and the way we conduct our own economic and personal lives. The competition being an essential element in the efficient working of markets encourages enterprise and efficiency and widens choice. By encouraging efficiency in industry, competition in the domestic market whether between domestic companies alone or between those and overseas companies also contribute to international competitiveness. The full benefits of competition are, however, felt in markets that are open to trade and investment.

Economic theory suggests that prices and quantities in a competitive market equilibrate to levels that generate efficient outcomes at a given point of time. Competition is therefore, beneficial as it provides to consumers wider choice and provides sellers with stronger incentives to minimize costs, so eliminating waste. Competition increases the likelihood that cost savings resulting from efficiency gains will be passed on to a firm's customers, who may be either final consumers or intermediary customers (in which case costs of those firms are also lowered). Ample empirical evidence supports these arguments. The importance of competition for achieving a higher rate of innovation and adoption of new technologies over time is critical for sustaining rapid growth. Yet it is not automatic, and is not the same as *laissez faire*.

A number of empirical studies found a positive relationship between competition and innovation, productivity and economic growth. Competition also reduces slack by providing more incentives for managers and workers to increase efforts and improve efficiency. Therefore, the product market competition disciplines firms into efficient operation. Competition creates greater opportunities for comparing performance and ultimately it reduces the cost of production which may be helpful in reducing the prices of the products.

Answer 4(b)

Lis means dispute, *Lis pendens* means a 'pending suit', action, petition or the like. Section 52 of the Transfer of Property Act, 1882 incorporates the doctrine of *Lis pendens*.

It states that during the pendency of a suit in a Court of Law, property which is subject to a litigation cannot be transferred. When we say that property cannot be transferred what we mean in this context is that property may be transferred but this transfer is subject to the rights that are created by a Court's decree.

Section 52 lays down the Indian rule of *Lis pendens being the legislative expression of the Maxim- "ut lite pendente nihil innovetur"* 'During litigation nothing new should be introduced'.

Essential elements

In order to constitute a Lis pendens, the following elements must be present:

1. There must be a suit or proceeding in a Court of competent jurisdiction.
2. The suit or proceeding must not be collusive.
3. The litigation must be one in which right to immoveable property is directly and specifically in question.
4. There must be transfer of or otherwise dealing with the property in dispute by any party to the litigation.
5. Such transfer must effect the rights of the other party that may ultimately accrue under the terms of the decree or order.

The rule is based on the doctrine of expediency i.e., the necessity for final adjudication. A plea of lis pendens will be allowed to be raised even though the point is not taken in the pleadings or raised as an issue.

When an application to sue in forma pauperis is admitted, the suit is pending from the time of presentation of the application to the Court but not if it is rejected. A suit in foreign Court cannot operate as lis pendens.

PART-B

Question 5

- (a) "Every non-standard weight and measure used in the course of trade is liable to be forfeited". Comment. (3 marks)
- (b) Explain the objectives behind the establishment of the Water (Prevention and Control of Pollution) Cess Act, 1977. (3 marks)
- (c) State the composition of Advisory Committee for the matters relating to Micro, Small and Medium Enterprises (MSME) Development Act, 2006. (3 marks)
- (d) Who can create a trust and who may be a trustee ? (3 marks)
- (e) State the procedure to take samples under Environmental Protection Act, 1986. (3 marks)

Answer 5(a)

As per Section 16 of the Legal metrology Act, 2009, every non-standard or unverified weight or measure, and every package made in contravention of section 18 of the Legal

Metrology Act, 2009, used in the course of, or in relation to, any trade and commerce and seized under section 15 of the Legal Metrology Act, 2009, shall be liable to be forfeited to the State Government.

However, such unverified weight or measure shall not be forfeited to the State Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may prescribed.

Every weight, measure or other goods seized under section 15 but not forfeited shall be disposed of by such authority and in such manner as may be prescribed.

Answer 5(b)

With a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution, the Water (Prevention and Control of Pollution) Cess Act, 1977 has been brought on the statute book. This Act authorises the levy and collection of a cess on water consumed by person carrying on certain industries and by local authorities.

The object of the Cess Act is to ensure that the State or Central Boards are able to raise sufficient finance other than the funds that are being contributed by the Central Government and States and also by way of gifts and donations, in the effective discharge of functions contemplated under the Pollution Control Laws.

Answer 5(c)

Section 7(2) of the Micro, Small and Medium Enterprises (MSME) Development Act, 2006 empowers the Central Government to constitute an Advisory Committee consisting of the following members, namely:

- (a) the Secretary of the Ministry or Department of the Central Government having administrative control of the small and medium enterprises as the Chairperson, ex officio;
- (b) not more than five officers of the Central Government possessing necessary expertise in matters relating to micro, small and medium enterprises as members, ex officio;
- (c) not more than three representatives of the State Governments, as members, ex officio; and
- (d) one representative each of the associations of micro, small and medium enterprises, as member, ex officio.

The Member-Secretary of the Board shall also be the ex officio Member-Secretary of the Advisory Committee.

Answer 5(d)

A trust may be created (i) by every person competent to contract, and (ii) with the permission of a Principal Civil Court of original jurisdiction, by or on behalf of a minor . Thus, generally any person competent to contract and competent to deal with the property can create a trust.

Every person capable of holding property may be a trustee. But if the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.

No one is bound to accept a trust. Acceptance of the trust by a trustee may be express or implied.

Answer 5(e)

The Law provides for powers of entry and inspection under Section 10 of the Environment Protection Act, 1986. Accordingly any person empowered by the Central Government in this behalf has been authorised to enter at all reasonable times, any place for the purpose of performing any of the functions entrusted to him. The Central Government or any officer empowered in this behalf, is authorised under Section 11 of the Environmental Protection Act, 1986 to take, for the purpose of analysis, sample of air, water, soil or other substances from any factory, premises or other place in such manner as may be prescribed. However, the power of the person collecting samples is subject to fulfilment of following requirement:

- (i) a notice of the intention to have the sample so analysed is served on the occupier or his agent or the person in charge of place;
- (ii) the sample is collected in the presence of the occupier or his agent or the person in charge;
- (iii) the container(s) in which the sample has been placed is marked and sealed and signed both by the person taking the sample and the occupier or his agent or the person in charge;
- (iv) the samples are sent to the environmental laboratories without any delay .

The procedure for taking samples, service of notice to the occupier, his agent or the person in charge, submission of samples for analysis, and the form of the laboratory report are provided for in the Environment (Protection) Rules, 1986.

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

Question 6

- (a) *"Industrial Policy, 1991 makes a definite break with the past". Do you agree with this view ? Explain with reference to Industrial Policy, 1991. (5 marks)*
- (b) *What is carbon credit ? Explain. (5 marks)*
- (c) *Who is empowered to appoint Authorized Controller ? State the functions and liabilities of such Authorized Controller under Essential Commodities Act, 1955. (5 marks)*

OR (Alternate question to Q. No. 6)

Question 6A

- (i) *Discuss the procedure of amendment or alteration of the objects of society under Societies Registration Act, 1860. (5 marks)*
- (ii) *State the documents whose registration is compulsory under Registration Act, 1908. (5 marks)*
- (iii) *Critically examine the powers of Central Government under Environmental*

Protection Act, 1986 for the protection and improvement of environmental conditions. (5 marks)

Answer 6(a)

The New Industrial Policy was tabled in the Parliament on 24th July, 1991, at the time when the Government of India faced severest foreign exchange resource crunch. This document admitted candidly the policy distortions of the past and expressed the Government's earnestness to achieve a breakthrough in its policy formulations. The statement on New Industrial Policy states that the major objectives of the new Industrial Policy package will be to build on the gains already made, correct the distortions or weaknesses that may have crept in, maintain a sustained growth in productivity and gainful employment and attain international competition.

Pursuant to this, the Government initiated a series of measures in the areas of Industrial licensing, foreign investment, foreign technology agreements, public sector policy and the MRTP Act. The Industrial Policy Resolution of 1956 and the statement on new Industrial Policy of 1991 provide the basic framework for overall industrial policy of the Government. Over the years, adjustments have been made in the policy to accelerate the pace of industrial growth by providing greater freedom in investment decisions keeping in view the objectives of efficiency and competitiveness, technological upgradation, maximisation of capacity utilisation and increased growth.

The thrust of the New Industrial Policy of 1991 has, therefore, been to inject new dosage of competition in order to induce greater industrial efficiency and international competitiveness. The domestic competition has been induced by delicensing of industries and liberalising the policy related to foreign direct investment. Since July 1991, the Indian industry has undergone a sea change in terms of the basic parameters governing its structure and functioning. The major reforms include large scale reduction in the scope of industrial licensing, simplification of procedural rules and regulations, reduction of areas reserved exclusively for the public sector, disinvestment of equity in selected public sector undertakings, enhancing the limits of foreign equity participation in domestic industrial undertakings, liberalisation of trade and exchange rate policies, rationalisation and reduction of customs and excise duties and personal and corporate tax. With a view to ensure efficient allocation of resources, banking and capital markets also came in for major economic reforms.

Answer 6(b)

Carbon credits are a key component of national and international attempts to mitigate the growth in concentration of Green House Gases (GHGs). One Carbon credit is equal to one ton of carbon. Carbon trading is an application of an emissions trading approach. Green House Gas emissions are capped and then markets are used to allocate the emissions among the group of regulated sources. The idea is to allow market mechanisms to drive industrial and commercial processes in the direction of low emissions or less "carbon intensive" approaches than are used when there is no cost to emitting carbon dioxide and other GHGs into the atmosphere. Since GHG mitigation projects generate credits, this approach can be used to finance carbon reduction schemes between trading partners and around the world. They are a part of international emission trading norms. They incentivise companies or countries that emit less carbon. There are two distinct types of Carbon Credits: Carbon Offset Credits (COCs) and Carbon Reduction Credits (CRCs).

Carbon Offset Credits consist of clean forms of energy production, wind, solar, hydro and biofuels. Carbon Reduction Credits consists of the collection and storage of Carbon from our atmosphere through reforestation, forestation, ocean and soil collection and storage efforts. Both approaches are recognized as effective ways to reduce the Global Carbon Emissions crisis.

The concept of carbon credits came into existence as a result of increasing awareness of the need for controlling emissions. The IPCC (Intergovernmental Panel on Climate Change) has observed that Policies that provide a real or implicit price of carbon could create incentives for producers and consumers to significantly invest in low-GHG products, technologies and processes. Such policies could include economic instruments, government funding and regulation. India is one of the countries that have 'credits' for emitting less carbon. India and China have surplus credit to offer to countries that have a deficit. Waste disposal units, plantation companies, chemical plants and municipal corporations can sell the carbon credits and make money.

Answer 6(c)

Under section 3(4) of the Essential Commodities Act, 1955 the Central Government is empowered to appoint 'Authorised Controller' when it considered necessary for maintaining or increasing the production and supply of essential commodities. The authorised controller shall exercise such powers and functions of control as may be provided in the order with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity.

The authorised controlled shall exercise his functions in accordance with any instructions given to him by the Central Government. He shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the person in charge of the management of the undertaking except in so far as may be specifically provided by the order. The undertaking shall be carried on in accordance with any directions, given by the authorised controller under the provisions of the order. The person who is responsible to function as a manager of the undertaking or part of it shall comply with such directions.

Answer 6A(i)

The objects of a society are its constitution and the society has to act within the framework of its objects. Any act done by the society beyond the objects clause shall be ultra vires. Under Section 12 of the Societies Registration Act, 1860, the following steps are required for alteration, extension or abridgment of the objects of a society –

1. Submission of the proposal by the governing body to the members of the society;
2. Ten days' notice to members about holding of a special general meeting;
3. Convening a special meeting for consideration and passing of the proposal by 3/5th of the members;
4. Convening second special general meeting after a month; and
5. Confirmation to the proposal by 3/5th of the members present at the second special meeting.

Answer 6A(ii)

- (a) Instruments of gift of immovable property.
- (b) Other non-testamentary instruments (other than instruments of gift of immovable property) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title of interest whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property situated in a district in which this Act is in force.
- (c) Non-testamentary instruments which acknowledge the receipt or payment of any consideration on account of the creation, declaration, assignment, limitation, or extinction of any such right, title or interest.
- (d) leases of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent;
- (e) non-testamentary instruments transferring or assigning any decree or order of a court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in immovable property.

Answer 6A(iii)

The Central Government has been granted general powers under Section 3 of Environment Protection Act, 1986 to take all such measures as it deems necessary, for protecting and improving the quality of the environment and for preventing, controlling and abating environmental pollution. Such measure include with respect to all or any of the following matters: (i) coordinating the actions of various State Governments, officers and authorities under this Act or rules made thereunder or under any other law concerning environmental pollution; (ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution; (iii) laying down standards for the quality of environment; (iv) laying down standards for emission or discharge of environmental pollutants (different standards may be laid down for different sources of emission or discharge of environmental pollutants); (v) restricting the carrying on of industries, operations or processes in certain areas or permitting them to be carried out subject to certain safeguards; (vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents; (vii) laying down procedures and safeguards for the handling of hazardous substances; (viii) examining manufacturing processes, materials and substances as are likely to cause environmental pollution; (ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution; (x) inspecting any premises, plant, equipment, machinery, manufacturing process, materials, etc. and issuing directions to any person officer or authority etc. to take steps for the prevention, control and abatement of environmental pollution; (xi) establishing or recognising environmental laboratories; (xii) collecting and disseminating information relating to environmental pollution; (xiii) preparing manuals, codes, guides etc. to prevent control and abate environmental pollution; (xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of the Act.

The Central Government is also empowered under Section 3(3) to constitute by order one or more authorities for exercising and performing such powers and functions of the Central Government as may be specified in the order.

TAX LAWS AND PRACTICE - SELECT SERIES

Time allowed : 3 hours

Maximum marks : 100

Total number of Questions : 100

Note : All references to sections mentioned in Part-A of the question paper relate to the Income-Tax Act, 1961 and relevant Assessment Year 2017 - 18 unless stated otherwise.

PART A

1. A municipal committee legally entitled to manage and control a municipal fund is chargeable to income-tax in the status of :
 - (A) individual
 - (B) association of persons
 - (C) local authority
 - (D) artificial juridical person
2. Ram received Rs. 80,000 by way of gift from friends upon retirement from service in a private company. The amount of gift chargeable to income-tax would be :
 - (A) Nil
 - (B) Rs. 30,000
 - (C) Rs. 70,000
 - (D) Rs. 80,000
3. A domestic company has total income of Rs. 120 lakhs. The rate of surcharge is applicable on income-tax would be :
 - (A) 2%
 - (B) 5%
 - (C) 7%
 - (D) 12%
4. Mr. Alok Chatterjee born and brought up in India since 1970, left for Singapore on 10-10-2016 for the purpose of employment. His residential status would be :
 - (A) resident
 - (B) not ordinarily resident
 - (C) non-resident
 - (D) none of the above

5. In the case of an individual being not ordinarily resident the following income is chargeable to tax :
- (A) business income accruing outside India
 - (B) property income accruing outside India
 - (C) income accruing outside India if it is derived from a business controlled in India
 - (D) interest income accruing outside India
6. Mr. Ajay (age 40) resident of India earned agricultural income of Rs.1 lakh from land situated in Sri Lanka. His total income in India amounts to Rs.7 lakhs. The tax liability would be :
- (A) Rs. 77,250
 - (B) Rs. 87,550
 - (C) Rs. 36,050
 - (D) Rs. 56,650
7. Mr. Menon having tea estate in Munnar (Kerala) earned Rs. 5 lakh by way of growing tea leaves and manufacturing tea. The income chargeable to tax would be :
- (A) Rs. 2,00,000
 - (B) Rs. 1,75,000
 - (C) Rs. 1,25,000
 - (D) Rs. 3,00,000
8. Mr. Vijay employed in ABC Ltd opted for voluntary retirement and received Rs. 12 lakhs by way of gratuity. The Payment of Gratuity Act, 1972 is applicable in his case. The monetary limit for exemption under Section 10(10) is :
- (A) Rs. 3,50,000
 - (B) Rs. 5,00,000
 - (C) Rs. 10,00,000
 - (D) Rs. 3,00,000
9. The maximum amount eligible for exemption in respect of encashment of earned leave on retirement is :
- (A) Rs. 3,00,000
 - (B) Rs.10,00,000
 - (C) Rs. 50,000
 - (D) Rs. 5,00,000

10. Mr. Murthy is employed in ABC Management Institute, Pune. He is eligible for Rs. 24,000 as allowance for the year towards academic and research work. The amount of academic and research allowance chargeable to tax is :
- (A) Rs. 10,000
 - (B) Rs. 24,000
 - (C) Nil
 - (D) Rs. 9,000
11. Ms. Laxmi received Rs. 60,000 by way of family pension from State Government. The amount of family pension eligible for exemption under section 10(19) is :
- (A) Rs. 60,000
 - (B) Rs. 40,000
 - (C) Rs. 20,000
 - (D) Rs. 15,000
12. Mr. Amit employed in X Co Ltd, Salem received Rs. 10,000 per month as house rent allowance in the year 2016-17. His total salary is Rs. 4 lakhs consisting of Basic pay+DA. He paid rent of Rs. 8,000 per month. How much of HRA is exempt from tax ?
- (A) Rs. 40,000
 - (B) Rs. 56,000
 - (C) Rs. 1,20,000
 - (D) Rs. 1,60,000
13. A registered trade union earned income by way of interest on fixed deposit held with State Bank of India of Rs. 5,60,000. The interest income chargeable to tax in the hands of trade union would be :
- (A) Rs. 5,60,000
 - (B) Nil
 - (C) Rs. 2,60,000
 - (D) Rs. 3,10,000
14. Baby Meena (age 12) a child artist acted in feature films and earned Rs. 3,50,000. The total income of her father is Rs. 5,20,000 and mother is Rs. 4,80,000. The minor's income would be :
- (A) chargeable to tax in the hands of father
 - (B) chargeable to tax in the hands of mother
 - (C) chargeable to tax in her own hands
 - (D) fully exempt from tax

15. Ms. Pinky (age 61) pledged her residential building with State Bank of India and received Rs. 10,000 every month under reverse mortgage scheme during the financial year 2016-17. The amount liable to income-tax in respect of such receipt would be :
- (A) Rs. 1,20,000 (fully taxable)
 - (B) Rs. 84,000 (after deducting 30%)
 - (C) Rs. 60,000 (after deducting 50%)
 - (D) Nil (as it is exempted from tax)
16. Registered political parties have to maintain a record of the contributions and names and address of the persons who have made such contribution where each contribution exceeds :
- (A) Rs. 1,000
 - (B) Rs. 5,000
 - (C) Rs. 10,000
 - (D) Rs. 20,000
17. An electoral trust receiving voluntary contributions for the purpose of distributing to political parties registered under Section 29A of the Representation of the People Act, 1951 must distribute % of such contributions.
- (A) 100
 - (B) 95
 - (C) 75
 - (D) 50
18. Mr. Balan is employed in SS Ltd at Madurai. He is provided with a rent free accommodation owned by the employer. The percentage of salary to be adopted for the purpose of valuation of perquisite would be :
- (A) 15%
 - (B) 10%
 - (C) 7.5%
 - (D) 20%
19. Mr. Ravi employed in Cotton India Ltd as accounts manager. The employer paid Rs. 1,60,000 as contribution to approved superannuation fund to benefit the employee Ravi. The amount of such contribution liable to tax as perquisite in the hands of Mr. Ravi is :
- (A) Nil
 - (B) Rs. 10,000
 - (C) Rs. 1,60,000
 - (D) Rs. 60,000

20. Mr. Bobby employed in PQR Ltd was permitted to admit his only son in the school run by the employer. No fee was charged on such education provided to the son of Mr. Bobby. The cost of such education for other children is Rs. 1,800 per month. The perquisite value of free education in the hands of Mr. Bobby would be :
- (A) Rs. 21,600
 - (B) Rs. 12,000
 - (C) Rs. 36,000
 - (D) Rs. 9,600
21. When interest on employee's own contribution from unrecognized provident fund is received, it is :
- (A) taxable as income from other sources
 - (B) taxable as income from salary
 - (C) exempt from tax
 - (D) taxable if the interest exceeds Rs. 10,000
22. DPM Ltd constructed staff quarters and let out the same during the financial year 2016-17. Its rent received Rs. 7,50,000 by way of rent from employees during the year. The rental receipt is taxable as :
- (A) income from house property
 - (B) income from business
 - (C) perquisite in the hands of employees
 - (D) income from 'other sources'
23. When a house property is let out for a monthly rent of Rs. 25,000 during the financial year 2016-17 and maintenance expenses by way of salary to sweeper and watchman is Rs. 6,000 per month, the income from house property would be :
- (A) Rs. 2,28,000
 - (B) Rs. 2,10,000
 - (C) Rs. 3,00,000
 - (D) Rs. 2,50,000
24. When an assessee has loss from house property, it is eligible for carry forward for the subsequent assessment years.
- (A) 2
 - (B) 4
 - (C) 6
 - (D) 8

25. Vikram Mfg Co Ltd located in a backward area in the State of Andhra Pradesh acquired some machinery for Rs. 20 lakhs on 10-08-2016. It was put to use from 01-09-2016. The applicable rate of depreciation is 15%. How much would be the eligible additional depreciation for the assessment year 2017-18 in respect of the said machinery ?
- (A) Rs. 3,00,000
 - (B) Rs. 4,00,000
 - (C) Rs. 7,00,000
 - (D) Rs. 20,00,000
26. Donation to university for research in Social Science is eligible for deduction at:
- (A) 100%
 - (B) 125%
 - (C) 150%
 - (D) 175%
27. When ABC Ltd incurred Rs. 10 lakhs in F.Y. 2016-17 as capital expenditure for the purpose of family planning amongst the employees, the expenditure allowable for the assessment year 2017-18 would be :
- (A) Nil
 - (B) Rs. 2,00,000
 - (C) Rs. 10,00,000
 - (D) Rs. 5,00,000
28. Alpha & Co is a proprietary concern owned by Vimala. The total turnover for the year 2016-17 is Rs. 52 lakhs which includes proceeds realized through banking channel before 31st July, 2017 was Rs. 12 lakhs. The presumptive income under Section 44AD would be :
- (A) Rs. 4,16,000
 - (B) Rs. 2,60,000
 - (C) Rs. 3,92,000
 - (D) Rs. 5,20,000
29. Which of the following is *not* a capital asset for Mr. Rao who is employed in a public sector bank ?
- (A) Urban land
 - (B) Agricultural land within 2 kms from local limits of municipality
 - (C) Deposit certificate issued under Gold Monetisation Scheme, 2015
 - (D) Jewellery

30. Dr. Ravi practising medicine has gross receipt of Rs. 18,40,000 for the financial year 2016-17. His presumptive income under Section 44ADA would be :
- (A) Rs. 1,47,200 @ 8%
 - (B) Rs. 92,000 @ 5%
 - (C) Rs. 9,20,000 @ 50%
 - (D) Rs. 4,60,000 @ 25%
31. Rahim had 5 goods carriage vehicles on 01-04-2016. He acquired and used 3 vehicles from 01-09-2016. What is the presumptive income under Section 44AE?
- (A) Rs. 8,10,000
 - (B) Rs. 3,64,500
 - (C) Rs. 2,02,500
 - (D) Rs. 6,07,500
32. Books of account of an individual is liable for tax audit under section 44AB on mandatory basis, if the annual turnover exceeds :
- (A) Rs. 40 lakhs
 - (B) Rs. 60 lakhs
 - (C) Rs. 100 lakhs
 - (D) Rs. 200 lakhs
33. Padmaja Traders a partnership firm with turnover of Rs. 140 lakhs omitted to get the books of account audited under section 44AB. The amount of penalty leviable for failure to get the accounts audited under section 44AB is :
- (A) Rs. 10,000
 - (B) Rs. 70,000
 - (C) Rs. 1,50,000
 - (D) Rs. 20,000
34. On 01-06-2017 Kamlesh transferred his vacant land to Rajesh for Rs. 12 lakhs. The land was acquired on 01-09-2014 for Rs. 3 lakhs. If indexation is applied, the indexed cost of acquisition would be Rs. 3.30 lakhs. The taxable capital gain would be :
- (A) long term capital gain Rs. 8.70 lakhs
 - (B) short-term capital gain Rs. 9 lakhs
 - (C) long-term capital gain Rs. 9 lakhs
 - (D) short term capital gain Rs. 8.70 lakhs

35. Ranga & Co had as on 01-04-2016 plant and machinery whose written down value was Rs. 12,00,000. It acquired 2 plants on 03-11-2016 for Rs. 6 lakhs. The applicable depreciation rate is 15%. The eligible depreciation for the assessment year 2017-18 would be :
- (A) Rs. 2,70,000
 - (B) Rs. 2,55,000
 - (C) Rs. 2,17,500
 - (D) Rs. 2,25,000
36. Dr. Sam sold a vacant land to Mr. Roy for Rs. 36 lakhs. For stamp duty purpose, the value of land was Rs. 41 lakhs. The indexed cost of acquisition of land was computed at Rs. 20 lakhs. The taxable long-term capital gain would be :
- (A) Rs. 21 lakhs
 - (B) Rs. 16 lakhs
 - (C) Rs. 5 lakhs
 - (D) Rs. 20 lakhs
37. Ms. Anshu received dividend of Rs. 80,000 for her equity shareholding in MNO Ltd. (a listed company). She paid interest of Rs. 12,500 for the amounts borrowed for investment in those shares. The taxable dividend income would be :
- (A) Rs. 80,000
 - (B) Rs. Nil
 - (C) Rs. 67,500
 - (D) Rs. 92,500
38. Lokesh (age 62) received following gifts on the occasion of his birthday : (i) cash gift from elder brother Rs. 30,000; (ii) Gold chain from younger sister market value on the date of gift Rs. 38,000; (iii) cash gifts from friends (non-relatives) Rs. 45,000; (iv) purchased shares from younger brother for Rs. 1 lakh when the market value of the shares was Rs. 1,35,000. Amount of income chargeable to tax in respect to the above transactions would be :
- (A) Rs. 1,48,000
 - (B) Rs. 1,18,000
 - (C) Rs. 80,000
 - (D) Nil

39. Suresh (age 65) won a prize on lottery ticket on 30-09-2016. The prize amount was Rs. 5,50,000. He had bought lottery tickets for Rs. 75,000 during the year. Assuming that he had no other income chargeable to tax for the year, his income tax liability (including cess @ 3%) would be :
- (A) Rs. 1,69,950
 - (B) Rs. 30,900
 - (C) Rs.36,050
 - (D) Rs.10,300
40. Mr. Siddharth is employed in a company. His income under various heads are (i) salary Rs. 5,60,000; (ii) loss from let out property Rs. 65,000; (iii) loss from business Rs. 1,10,000 and (iv) loss under the head other sources Rs. 30,000. His total income after set off of losses would be :
- (A) Rs. 3,55,000
 - (B) Rs. 4,65,000
 - (C) Rs. 4,20,000
 - (D) Rs. 5,30,000
41. A company has the following : (i) current scientific research expenditure; (ii) current depreciation; (iii) unabsorbed depreciation; (iv) brought forward business loss. The order /sequence of set off is :
- (A) (i), (ii), (iii), (iv)
 - (B) (iv), (iii), (i), (ii)
 - (C) (i), (ii), (iv), (iii)
 - (D) (iv), (ii), (i), (iii)
42. Rohan engaged in multifarious activities reports the following : (i) loss from business Rs. 80,000; (ii) loss from house property Rs. 1,20,000; (iii) long term capital loss Rs. 70,000; He filed his return beyond the 'due date' specified in section 139(1). Which of the above loss(es) cannot be carried forward to subsequent assessment year ?
- (A) Loss from Business
 - (B) Loss from house property
 - (C) Long term capital loss
 - (D) None of the above

43. Mr. Mithun acquired a house property for Rs. 8 lakhs and paid stamp duty and registration fee of Rs. 80,000. He borrowed housing loan and repaid principal of Rs. 60,000 and interest of Rs. 20,000. The amount eligible for deduction under Section 80C would be :
- (A) Rs. 80,000
 - (B) Rs. 60,000
 - (C) Rs. 1,00,000
 - (D) Rs. 1,40,000
44. Mr. Uday is a resident individual having patent registered on 01-07-2012 under the Patents Act, 1970. He received Rs. 5 lakhs by way of royalty from ABC Ltd during the financial year 2016-17. The quantum of royalty eligible for deduction would be :
- (A) Rs. 5 lakhs
 - (B) Rs. 3 lakhs
 - (C) Rs. 1 lakh
 - (D) Rs. 2 lakhs
45. Mr. Veer earns monthly rental income of Rs. 60,000 from a house property. He suffers from severe disability and has obtained certificate from the prescribed medical authority. He has not incurred any expenditure towards treatment of severe disability. His total income chargeable to tax after deduction under Section 80U would be :
- (A) Rs. 3,79,000
 - (B) Rs. 4,29,000
 - (C) Rs. 5,04,000
 - (D) Rs. 7,20,000
46. Mr. Bala transferred his let out residential property to his wife by way of gift settlement. During the financial year 2016-17, she earned rental income of Rs. 30,000 per month. She made fixed deposit in a bank out of such rental income and earned interest income during the year of Rs. 21,000. The total amount of income liable for clubbing in the hands of Mr. Bala for the assessment year 2017-18 is :
- (A) Nil
 - (B) Rs. 21,000
 - (C) Rs. 2,52,000
 - (D) Rs. 2,73,000

47. Speculation loss can be carried forward for subsequent assessment years.
- (A) 8
 - (B) Nil
 - (C) 4
 - (D) 6
48. Mr. Baskar a person with disability referred to in Section 80U is employed in a bank. He paid Rs. 50,000 as premium on life insurance policy taken on himself and whose sum assured is Rs. 4 lakhs. The amount of premium eligible for deduction under Section 80C would be :
- (A) Rs. 40,000 (10% of sum assured)
 - (B) Rs. 50,000
 - (C) Nil (since it exceeded 10%)
 - (D) None of the above
49. Mr. Anand engaged in business wants to deposit in pension fund of Life Insurance Corporation of India. The maximum amount of contribution eligible for deduction from total income is :
- (A) Rs. 10,000
 - (B) Rs. 50,000
 - (C) Rs. 1,00,000
 - (D) Rs. 1,50,000
50. Sudhan Ltd incorporated in April 2016 commenced commercial production from 01-06-2016. It deployed 100 employees who were employed for 260 days during the year and recruited 50 casual workmen who were employed for 100 days during the financial year 2016-17. The salary paid to 100 employees was Rs. 25 lakhs and salary paid to casual workmen was Rs. 6 lakhs. The quantum of deduction under section 80JJAA is :
- (A) Rs. 7.50 lakhs
 - (B) Rs. 9.30 lakhs
 - (C) Rs. 25 lakhs
 - (D) Rs. 6 lakhs
51. Mr. Rath borrowed loan of Rs. 10 lakhs for higher education in India in the year 2005-06. He completed the course study in 2008-09. He started repayment of the loan from April 2010. He paid interest of Rs. 41,000 and principal of Rs. 1,20,000 during the financial year 2016-17. The amount eligible for deduction under section 80E would be :
- (A) Rs. 1,20,000
 - (B) Rs. 1,61,000
 - (C) Rs. 41,000
 - (D) Rs. 1,00,000 (monetary limit)

52. Mr. Ganesh gave donation by way of cheque of Rs. 40,000 and by cash Rs. 5,000 to an approved charitable trust having recognition under section 80G. His gross total income for the assessment year 2017-18 is Rs. 5 lakhs. The quantum of deduction under section 80G would be :
- (A) Rs. 45,000
 - (B) Rs. 5,000
 - (C) Rs. 40,000
 - (D) Rs. 20,000
53. Murali & Co a partnership firm consisting of 3 partners is engaged in textile trade. It's Net Profit before allowing interest on capital and working partner salary to partners was Rs. 9 lakhs. The partnership deed does not provide for interest on capital. It provides for working partner salary at Rs. 25,000 per month for all the 3 partners. The income of the firm after allowance of working partner salary would be :
- (A) Rs. 90,000
 - (B) Rs. 2,70,000
 - (C) Nil
 - (D) Rs. 3,60,000
54. When Mr. X retired from X & Co a partnership firm on 01-01-2017, he was paid Rs. 5 lakhs for not doing a competing business for the next 5 years. The amount so received chargeable to tax in the hands of Mr. X is :
- (A) Nil
 - (B) Rs. 5,00,000
 - (C) Rs. 1,00,000
 - (D) Rs. 2,50,000
55. The provisions of Alternate Minimum Tax (AMT) will apply only when the adjusted total income computed under section 115JC exceeds :
- (A) Rs. 5 lakhs
 - (B) Rs. 20 lakhs
 - (C) Rs. 50 lakhs
 - (D) Rs. 100 lakhs

56. Mr. Ganapathy a resident individual received Rs. 12 lakhs during the financial year 2016-17 by way of dividend from domestic companies. The companies have paid dividend distribution tax under section 115-O on the dividend declared. The applicable rate of tax on such dividend income would be :
- (A) 10.3%
 - (B) 30.9%
 - (C) Nil
 - (D) 15.45%
57. The tax rate applicable for a non-resident engaged in shipping business in India shall be :
- (A) 5%
 - (B) 7.5%
 - (C) 10%
 - (D) 20%
58. The amount specified in notice of demand must be paid within days otherwise the assessee would be treated as assessee in default.
- (A) 10
 - (B) 15
 - (C) 30
 - (D) 60
59. A Co Ltd made payments to B Co Ltd. towards contracts executed during the financial year 2016-17. They are (i) contract
- 1 Rs. 15,000 on 15-06-2016; (ii) contract
 - 2 Rs. 22,000 on 29-09-2016; (iii) contract
 - 3 Rs. 27,000 on 30-12-2016; and (iv) contract
 - 4 Rs. 29,000 on 13-03-2017.
- The tax deductible at source would be :
- (A) Rs. 1,560 @ 2% on Rs. 78,000
 - (B) Rs. 1,860 @ 2% on Rs. 93,000
 - (C) Rs. 780 @ 1% on Rs. 78,000
 - (D) Nil

60. P & Co a partnership firm whose turnover was Rs. 42,60,000 in the previous year 2015-16 and Rs. 1,01,30,000 in the previous year 2016-17 paid brokerage of Rs. 21,000 to Mr. Ashwin during the financial year 2016-17. Mr. Ashwin furnished his PAN to the firm. The amount of tax deductible at source on such brokerage payment would be :
- (A) Rs. 2,100 @ 10%
 - (B) Rs. 1,050 @ 5%
 - (C) Nil
 - (D) Rs. 4,200 @ 20%
61. Mr. Rajan (a trader in furniture items) acquired a motor car for Rs. 11 lakhs by availing loan from a nationalized bank. The amount was paid by demand draft. The amount of tax collectible at source by the car dealer who sold the car is :
- (A) Nil
 - (B) Rs. 22,000 @ 2%
 - (C) Rs. 11,000 @ 1%
 - (D) Rs. 1,10,000 @ 10%
62. Mandatory filing of return of income by individuals will apply when the total income before deduction under the following section exceeds the basic limit chargeable to tax.
- (A) Deduction under chapter VI-A
 - (B) Deduction under section 35
 - (C) Deduction under section 86
 - (D) Deduction under section 37
63. Mr. Bimal received assessment order passed by the Assessing Officer on 10-01-2016. What is the time limit within which the appeal has to be filed to CIT (Appeals) in case the assessee wants to challenge the order of the Assessing Officer ?
- (A) 10 days after the receipt of order
 - (B) 15 days after the receipt of order
 - (C) 30 days after the date of passing of order
 - (D) 30 days after the date of receipt of order
64. When the international transaction involves transfer of unique intangibles, the method to be applied for the purpose of determining arm's length price would be:
- (A) Comparable uncontrolled price method
 - (B) Resale price method
 - (C) Profit split method
 - (D) Cost plus method

65. Mr. Sridhar employed in KL Ltd took voluntary retirement in December 2016 and received Rs. 2,00,000 from National Pension System Trust. The amount so received chargeable to income-tax is:
- (A) Nil as 100% is exempt
 - (B) Rs. 1,20,000 as 40% is exempt
 - (C) Rs. 1,00,000 as 50% is exempt
 - (D) Rs. 80,000 as 60% is exempt
66. A domestic company whose turnover for the previous year 2014-15 Rs. 4.20 crore; for previous year 2015-16 Rs. 8 crore and for previous year Rs. 2016-17 Rs. 12 crore. Its total income (computed) for the assessment year 2017-18 is Rs. 3 crores. The rate of income tax applicable for such company (without cess) would be :
- (A) 30%
 - (B) 40%
 - (C) 29%
 - (D) 25%
67. In the case of non-resident Indian having income by way of long term capital gains, the rate of tax on such income would be :
- (A) 5%
 - (B) 10%
 - (C) 15%
 - (D) 20%
68. Quoting of Permanent Account Number (PAN) mandatory when the cash deposit in a bank account exceeds :
- (A) Rs. 9,999
 - (B) Rs. 19,999
 - (C) Rs. 49,999
 - (D) Rs. 99,999
69. The provisions of specified domestic transactions will apply where the aggregate of transactions covered by criteria as given in section 92BA exceeds :
- (A) Rs. 1 crore in a year
 - (B) Rs. 3 crores in a year
 - (C) Rs. 5 crores in a year
 - (D) Rs. 20 crores in a year

70. The advance pricing agreement is valid for not more than consecutive previous years.
- (A) 3
 - (B) 5
 - (C) 7
 - (D) 9

PART B

71. Which of the following countries was the first to introduce GST ?
- (A) United States
 - (B) Britain
 - (C) Canada
 - (D) France
72. All decisions of GST Council must have majority in order to implement the same.
- (A) One-half
 - (B) Three-fourth
 - (C) 60%
 - (D) 90%
73. A service would be called as “continuous supply of service”, if the service under a contract is provided continuously or on recurrent basis exceeding :
- (A) one year
 - (B) 6 months
 - (C) 3 months
 - (D) 1 month
74. Which law will govern the inter-state supply of goods or services ?
- (A) CGST
 - (B) SGST
 - (C) UTGST
 - (D) IGST
75. Which of the following has been kept out of the GST levy ?
- (A) Generator
 - (B) Computer
 - (C) Jewellery
 - (D) Electricity

76. Threshold limit of turnover for levy of GST in the case of a person carrying on business in Gujarat is :
- (A) Rs. 10 lakhs
 - (B) Rs. 20 lakhs
 - (C) Rs. 30 lakhs
 - (D) Rs. 40 lakhs
77. Abhijit Sen is engaged in running a textile showroom at Gangtok (Sikkim). In order to avail composition scheme under GST law, his "aggregate turnover" in the preceding financial year should not have exceeded :
- (A) Rs. 10 lakhs
 - (B) Rs. 20 lakhs
 - (C) Rs. 50 lakhs
 - (D) Rs. 75 lakhs
78. When employer gifts goods to his employees, it will not be considered as taxable supply for the purpose of GST if the value of supply to an employee does not exceed :
- (A) Rs. 5,000
 - (B) Rs. 20,000
 - (C) Rs. 50,000
 - (D) Rs. 1,00,000
79. Which of the following incomes / activities is liable for GST ?
- (A) Salary
 - (B) Salary and allowances of MPs
 - (C) Services by court
 - (D) Sale of jewellery
80. Which of the following represents composite supply ?
- (A) Doctor's service with medicines
 - (B) Package with fruits and chocolates
 - (C) Coaching centre with monthly excursions on trekking
 - (D) Supply of computer printer and laptop

81. In the case of a manufacturer who opts for composition scheme the rate of GST (including CGST and IGST) is :
- (A) 1%
 - (B) 2%
 - (C) 3%
 - (D) 5%
82. Who among the following is eligible for availing composition scheme under GST?
- (A) Supply through e-commerce operators
 - (B) Service supply like company secretary
 - (C) Goods not taxable under CGST/SGST/UTGST/IGST
 - (D) Restaurants
83. Mr. Ram supplied goods to Mr. Laxman. The invoice is dated 30-07-2017. Payment was received for the supply on 30-10-2017. The goods were dispatched on 05-08-2017. What is time of supply under GGST Act ?
- (A) 05-08-2017
 - (B) 30-07-2017
 - (C) 30-10-2017
 - (D) None of the above.
84. Mani gave goods for processing by Murali. While Mani is registered in GST, Murali is not registered in GST. Both are at Chennai. The processing is liable for GST @ 5%. The goods were received after processing on 11-07-2017. Entries in the books were made by Mr. Mani on 12-07-2017. The delivery challan was also received on 11-07-2017. Job work charges amount to Rs. 1,00,000 (without GST). When and how much is the GST liability ? And who must pay ?
- (A) 11-07-2017; Rs. 5,000 and Murali must pay
 - (B) 12-07-2017; Rs. 1,050; and Murali must pay
 - (C) 11-07-2017; Rs. 5,000 and Mani must pay
 - (D) 12-07-2017; Rs. 2,500 and Mani must pay
85. Which of the following though shown in Bill will not be included in determining the value of supply for the purpose of GST ?
- (A) Packing
 - (B) Discount
 - (C) Interest for late payment
 - (D) Installation charges

86. Which of the following expenditure is eligible for input tax credit ?
- (A) Membership fee of a club
 - (B) Home travel concession extended to employees
 - (C) Goods given as free gifts
 - (D) Caterer using the service of another caterer
87. XYZ Co Ltd registered under GST has to maintain accounts and records until the expiry of months from the due date of furnishing the annual return for the year.
- (A) 36 months
 - (B) 84 months
 - (C) 72 months
 - (D) 60 months
88. Debit note is issued by the supplier of goods when :
- (A) tax charged in the invoice is excessive
 - (B) when the goods are returned by recipient
 - (C) tax charged is less than the tax payable
 - (D) when the goods supplied are deficient
89. Madhan is located in Chennai. He has a branch office in Cochin. He wants transfer goods. His turnover was always below Rs. 10 lakhs. His registration under GST is :
- (A) voluntary
 - (B) compulsory
 - (C) compulsory only when turnover exceeds 20 lakhs
 - (D) as and when deemed by the Revenue
90. A taxable person whose registration has been cancelled or surrendered must file the final return of GST within :
- (A) 6 months of the cancellation
 - (B) 6 months after the end of the financial year
 - (C) 3 months after the end of the financial year
 - (D) 3 months after the date of cancellation
91. Who must perform the function of Tax Collection at Source (TCS) under GST ?
- (A) E-commerce operator
 - (B) Transport operator
 - (C) Job workers
 - (D) Input service distributor

92. When a person liable to pay tax under GST claims excess input tax credit or excess reduction in output tax liability, he shall pay interest not exceeding :
- (A) 12%
 - (B) 15%
 - (C) 24%
 - (D) 21%
93. When a special audit is directed under GST with the prior approval of Commissioner the audit report signed and certified must be submitted within days.
- (A) 15
 - (B) 45
 - (C) 90
 - (D) 150
94. When a person evades GST or avails input tax credit exceeding Rs. 500 lakhs he is liable for the following punishment :
- (A) Imprisonment for 5 years and with fine
 - (B) Imprisonment for 3 years and with fine
 - (C) Imprisonment for 3 years
 - (D) Imprisonment for 5 years
95. Online information and database access or retrieval service does include the following :
- (A) Online gaming
 - (B) Cloud services
 - (C) Advertising on the internet
 - (D) Physical delivery of goods
96. Refreshments were supplied on board in an aircraft proceeding from Chennai to Delhi. It had a stop at Hyderabad. The refreshments were taken on board at Hyderabad. The place of supply is :
- (A) Delhi
 - (B) Chennai
 - (C) Hyderabad
 - (D) None of the above

97. For the purpose of calculating the compensation payable to the States under the Goods and Service Tax (Compensation to States) Act, 2017 the base year for reckoning the Revenue is :
- (A) 31-03-2014
 - (B) 31-03-2015
 - (C) 31-03-2016
 - (D) 31-03-2017
98. Which of the following GST model is adopted in India ?
- (A) Australian model
 - (B) Bagchi-Poddar model
 - (C) Dual model
 - (D) American model
99. For the purpose of deciding 'aggregate turnover' in order to determine the GST payable under composition scheme, which of the following is to be excluded ?
- (A) Exemption supply
 - (B) Export of goods
 - (C) Inter-state branch transfer
 - (D) CGST
100. Export of service does *not* include :
- (A) the supplier of service located outside India
 - (B) the recipient of service located outside India
 - (C) the place of supply of service is outside India
 - (D) the supplier of service is located in India

ANSWER KEY
TAX LAWS AND PRACTICE - SELECT SERIES

PART A		Qno	Ans	Qno	Ans
Qno	Ans	Q34	*	Q68	C
Q1	C	Q35	D	Q69	D
Q2	D	Q36	A	Q70	B
Q3	C	Q37	B	PART B	
Q4	A	Q38	D	Q71	D
Q5	C	Q39	A	Q72	B
Q6	B	Q40	B	Q73	C
Q7	A	Q41	C	Q74	D
Q8	C	Q42	*A&C	Q75	D
Q9	A	Q43	D	Q76	B
Q10	*A/B/C/D	Q44	B	Q77	C
Q11	*	Q45	A	Q78	C
Q12	B	Q46	C	Q79	D
Q13	B	Q47	C	Q80	A
Q14	C	Q48	B	Q81	B
Q15	D	Q49	D	Q82	D
Q16	D	Q50	A	Q83	B
Q17	B	Q51	C	Q84	C
Q18	*	Q52	D	Q85	B
Q19	B	Q53	B	Q86	D
Q20	A	Q54	B	Q87	C
Q21	A	Q55	B	Q88	C
Q22	B	Q56	A	Q89	B
Q23	B	Q57	*	Q90	D
Q24	D	Q58	C	Q91	A
Q25	C	Q59	D	Q92	C
Q26	B	Q60	B	Q93	C
Q27	B	Q61	C	Q94	A
Q28	*A / C	Q62	A	Q95	*A,B&C
Q29	C	Q63	D	Q96	C
Q30	C	Q64	C	Q97	C
Q31	D	Q65	B	Q98	C
Q32	D	Q66	C	Q99	D
Q33	B	Q67	B	Q100	A

Note

- Q 10 As per rule 2BB framed under Section 10 (14), any allowance granted for encouraging the academic, research and training pursuits in educational and research institutions is 'exempt' to the extent of actual expenses. Since, the question is silent about the actual expenses incurred. Hence, there may be various possible correct answers. Therefore, candidates attempting any option i.e. A/B/C/D is valid.
- Q 11 Under section 10 (19) family pension received by the widow or children or nominated heirs, as the case may be, of a member of the armed forces (including paramilitary forces) of the Union, where the death of such member has occurred in the course of operational duties, in such circumstances and subject to such conditions, as may be prescribed, is exempt. However, the exemption is only for family pension received from the Union and not State Government; hence, exemption under Section 10 (19) = NIL." Hence, None of the option found to be correct.
- Q 18 The rate of prerequisites value on rent free accomodation is vary based on the population of the city. Since the question is silent about the actual population of city of Madurai. Hence, candidates marking option A/B/C are valid.
- Q 28 As per law as amended by the Finance Act, 2016, 8% of 52 lakh = 4,16,000. However, As per law as amended by the Finance Act, 2017 = 8% of 40 lakh + 6% of 12 lakh (banking channel) = 3,92,000. Further the amendment made by Finance Act, 2017 applied retrospectively for FY 2016-17 also. Hence, candidates marking option A/C are valid.
- Q 34 Date of transfer of property is 01.06.2017 and related to FY 2017-18 and not cover by Finance Act 2016.
- Q 42 As per section 80, return of loss is required for business as well as the capital gains head. Hence, business as well as capital losses cannot be carried forward. House property loss can be carried forward. Hence, candidates marking option A and C are valid.
- Q 57 The question says 'tax rate' and tax rate is either slab rate (30%) or foreign company rate (40%). 7.5% is the rate at which income is deemed. Hence, deemed income is 7.5% of receipts; but, tax rate on such deemed income is 30% or 40%. Hence, none of the options are found to be correct.
- Q 95 "Online information and database access or retrieval service does include (A) online gaming, (B) Cloud Services, (c) Advertising on the internet. Hence, candidates marking option A, B and C are valid.