# 435

***Roll No.* ....................................**

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

***Total number of questions : 6*** | ***Total number of printed pages : 8***

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

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

**PART–I**

**1.** (*a*) The essence of amalgamation is to make an arrangement thereby uniting the undertakings of two or more companies so that they become vested in, or under the control of one company which may or may not be the original of the two or more of such uniting companies. Comment and explain the reasons for Amalgamation.

(*5 marks*)

(*b*) According to Section 68(l) of the Companies Act, 20l3, a company whether public or private, may purchase its own shares or other specified securities. Explain the following under the provisions of Rule 17 of the Companies (Share Capital and Debentures) Rules, 2014 :

(*i*) Filing Declaration of Solvency with SEBI/ROC.

(*ii*) Dispatch of letter of Offer.

(*5 marks*)

(*c*) Where a foreign company holds some shares in an Indian company and transfers the same, in case of a demerger, to another resulting foreign company, such transaction will be regarded as transfer for the purpose of capital gain under section 45 of the Income Tax Act, 196l ? Explain.

(*5 marks*)

(*d*) What constitutes transactions defrauding creditors as per provision of section 49 of IBC 2016 ?

(*5 marks*)

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

**2.** (*a*) Briefly explain the ''Merger or Amalgamation of a Foreign Company with Company and vice versa''.

(*5 marks*)

(*b*) Discuss the tax aspects on :

(*i*) Slump Sale

(*ii*) Demerger.

(*5 marks*)

(*c*) SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 have provided multiple ways of discharging the consideration. Comment.

(*5 marks*)

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

**2A.** (*i*) ''Slump sale is one of the methods that are widely used in India for corporate restructuring where the company sells its undertaking.''

Explain the term ''Slump Sale'' as pcr section 2(42C) of the Income Tax Act., 1961.

What are the main reasons of slump sale ?

Does an individual asset or liability be included in the term 'Undertaking ?'

(*5 marks*)

(*ii*) ''Companies can also restructure their capital through derivatives and options as the means of raising funds''.

Explain the term ''option''.

What are the different types of options ?

Define the term ''derivative'' as provided under section 2(ac) in Securities Contracts (Regulation) Act, 1956.

(*5 marks*)

(*iii*) Enumerate the provisions of Buy-back of physical shares or other specified securities as per regulation l9 of the SEBI (Buy-Back of Securities) Regulations, 2018.

(*5 marks*)

**3.** (*a*) ''In case of Demerger, the resulting company shall be eligible for tax concessions only if two conditions are satisfied''. What are the two conditions ?

What are provisions relating to tax concession in case of demerger in the following circumstances :

(*i*) Expenditure for obtaining licence to operate telecommunication services [Section 35ABB]

(*ii*) Expenditure for obtaining Spectrum to operate telecommunication services [Section 35ABA].

(*3 marks*)

(*b*) Merger or Amalgamation is undertaken for acquiring cash resources, eliminating competition, saving on taxes or influencing the economies of large-scale operations. List out some of the factors, which require consideration before initiating a merger or amalgamation exercise from the economic, commercial and legal perspective.

(*3 marks*)

(*c*) What is a "Takeover bid" in term of The SEBI (Substantial Acquisition of Shares and Takeovers) Regulations 2011. When a takeover bid is required to be made by way of a public announcement issued to the stock exchanges, followed by a Detailed Public Statement in the newspapers ?

(*3 marks*)

(*d*) The Competition (Criteria of Combination) Rules, 2024 vide MCA Notification no. G.S.R. 548 (E) dated 9th September, 2024 provides criteria for entities involved in combinations (such as mergers or acquisitions) to file notices under Section 6(4) of the Act. Comment on the statement.

(*3 marks*)

(*e*) From the following information, calculate the value of goodwill of a firm assuming that goodwill is to be taken at 5 years' purchase of super profit :

(*i*) Average Capital Employed in the business ₹ 10,00,000

(*ii*) Net profit for the past four years : ₹ 1,19,500; ₹ 1,17,000; ₹ 1,22,000 & ₹ 1,23,500

(*iii*) Fair annual remuneration of partner ₹ 8,000

(*iv*) Expected rate of return 10%

(*3 marks*)

**PART-II**

**4.** (*a*) The following information is available of a concern. Calculate Economic Value Added (EVA).

10% Debt ₹ 2,000 crores

Equity capital ₹ 500 crores

Reserves and Surplus ₹ 7,500 crores

Risk-free rate 6%

Beta factor 1.05

Market rate of return 16% Equity (market) risk premium 10%

Operating profit after tax ₹ 1,800 crores. Tax rate = 30%.

(*5 marks*)

(*b*) An order of a Court, sanctioning a scheme of amalgamation or demerger is a "conveyance" and liable to be levied stamp duty. Give your opinion citing relevant case laws.

(*5 marks*)

(*c*) A corporate debtor in respect of whom a liquidation order has been made is ineligible to initiate a corporate insolvency resolution process. Do you agree ?

List out the persons who are not eligible to make an application for insolvency resolution process under the Insolvency and Bankruptcy Code.

(*5 marks*)

(*d*) Explain the provision relating to Directions for compliances of restrictions as per provisions of section 90 of the IBC. When a Resolution Professional may submit an application to the adjudicating authority seeking revocation of its order made under Section 84 ?

(*5 marks*)

**5.** (*a*) Regulation 31A of the IBBI (Liquidation Process) Regulations, 2016 mandates constitution of Stakeholders' Consultation Committee by the Liquidator, comprising of all creditors of the corporate debtor. List the matters it advices.

(*3 marks*)

(*b*) ''Recovery Officer acts in an arbitrary manner. Analyze the statement in the light of the provisions of Recovery of Debts and Bankruptcy Act, 1993 citing judicial pronouncements, if any.

(*3 marks*)

(*c*) Explain the provisions relating to Ex-parte Hearing and disposal under rule 49 of the National Company Law Tribunal Rules, 2016.

(*3 marks*)

(*d*) Explain the right of borrower to rcceive compensation and costs as per provision of the section 19 of Securitisation and Reconstruction of Financial Assets and Reinforcement of Security Interest (SARFAESI) Act., 2002.

(*3 marks*)

(*e*) ''Section 38 of the IBC 2016 prescribes a time period for the collection of claims by the liquidator. It also specifies the methods by which different categories of creditors can submit and prove their claims.'' Elucidate.

(*3 marks*)

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

**6.** (*a*) ''Any modification suggested by creditors need consent of the debtor in respect of Repayment plan in case of individual or firm solvency.'' Comment briefly on the statement narrating the provisions in respect of conducting meetings and rights of secured creditors to attend.

(*5 marks*)

(*b*) ''The Ministry of Corporate Affairs has constituted the Insolvency Law Committee (ILC) to recommend amendments to the Insolvency and Bankruptcy Code of India, 2016.'' Discuss the importance of such committee & its recommendation.

(*5 marks*)

(*c*) Explain the provision on actions to avoid acts detrimental to creditors as per provision of the Article 23 of the UNCITRAL Model Law.

(*5 marks*)

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

**6A.** (*i*) A resolution plan shall provide for the measures, as may be necessary, for insolvency resolution of the corporate debtor for maximization of value of its assets. Explain.

(*5 marks*)

(*ii*) Comment on Professional Assistance to Company Liquidator as per provision of section 291 of the Companies Act, 2013. A creditor wants to inspect books, through an agent. Advice as per provision of section 293 of the Act.

(*5 marks*)

(*iii*) Mr. P is unable to pay his debt and wants to apply under the Insolvency and Bankruptcy Code 2016 for a fresh start process. Advise him about his eligibility to apply for the fresh start the process in respect of his qualifying debt.

(*5 marks*)

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