

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 16

NOTE : Answer **ALL** Questions.

PART-I

1. Pysunsmart Fire Protection Limited (PFPL) is a listed company on the Bombay Stock Exchange (BSE). It is engaged in the manufacture of industrial fire extinguishers. The company has seen a steady growth over the past few years and has attained a robust market presence. The company's stock has been gaining attention due to company's strong pipeline of upcoming new products and expansion into new markets. As a result, the stock price of (PFPL) has been steadily rising.

A and B have been close friends and business partners over years. Over time, they have started investing jointly in several listed company, including PFPL.

C is a majority shareholder of a company "C holdings" and has also expressed his interest to purchase more shares in PFPL through C holdings and has been in talks with A, B, and Z about a potential joint acquisition strategy to gain control over the company.

Z a prominent investor has been closely monitoring the performance of PFPL. He believes that PFPL is undervalued relative to its growth prospects. He has identified that if the company's product pipeline succeeds, it could increase the company's market capitalization significantly.

He already holds 20% shares in PFPL and is interested in increasing his stake further.

While all these shareholders have not made any formal agreements with each other but they have had multiple informal meetings where they discussed the possibility of working together.

PFPL had conducted a buy back through an open offer in order to improve its earning per share (EPS) and boost stock prices. Due to this, the total number of shares of PFPL in circulation decreased and as a result the shareholding of one shareholder, Q, increased from 24% to 28%.

PFPL is also considering proposals for merger with Sangam Limited, a manufacturer in same product. PFPL has attained a robust market presence in North India but operating at a much smaller scale in south. Merger with Sangam Limited will open the avenues to increase its market share in South too. The board of directors of PFPL have shown keen interest in doing premerger due diligence as they want to ensure the post-merger success.

Though they have not received any red flag from any other department but HR head who is a part of premerger due diligence team has raised a concern. PFPL has a formal corporate culture, with a hierarchical structure whereas the employees of Sangam Limited are young and thrive in a culture that values innovation and informality. Sangam Limited operates in a flat structure where decision making is quick and decentralized. The HR Department of PFPL wants to draw attention to the problems that might come up regarding the cultural integration and human aspects of combining these companies who are having starkly different cultures. A meeting of Board of Directors has been called to discuss the matter.

Based on the above facts, answer the following questions :

- (a) As an advisor to A, B, C and Z, guide them about the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, which regulate the acquisitions of large stakes in listed companies. What are the typical steps and corresponding timelines for the process advised by you ?

: 3 :

- (b) Q has approached you to seek guidance on whether the increase in his voting rights in PFPL due to the buyback of shares by the company attract the obligations under sub-regulation 3 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 and why ?
- (c) The acquiring companies often use cash deals or stock deals for acquisition. Differentiate between the two, enumerating the advantages of cash deals and stock deals. What are the considerations to be kept in mind while making a choice between the two ?
- (d) The HR Head strongly believes one modification that has great potential to affect the merged entity is a change in the organizational structure. Regardless of whether the change is large or small, planning and an intense analysis are vital to creating a decision-making and communication framework that will support post-merger objectives and help the new business grow. As the member of the HR team, what do you suggest to synchronise these differences in culture and organizational structure of Sangam Limited and PFPL especially during the premerger diligence.

(5 marks each)

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

- 2. (a) To classify a merger, one needs to look at the nature of companies involved and the rationale behind the deal. The main types of mergers are Congeneric Merger, Horizontal Merger, Vertical Merger, Conglomerate Merger, and Reverse Merger. Classify the following mergers into the type of merger giving the justification for such classification :
 - (i) Facebook's acquisition of Instagram.
 - (ii) Combination of a computer system manufacturer with a UPS manufacturer.
 - (iii) Berkshire Hathway acquired Lubrizol.

(5 marks)

: 4 :

- (b) Company X, has acquired Company Y, in a merger transaction. The acquisition is considered to be in nature of purchase. As per the merger agreement, the fair value of identifiable assets and liabilities of the company is 150 lakhs and 50 lakhs respectively.

The purchase consideration is to be paid as follows :

One share of X and ₹ 40/- per share in cash in exchange of one share of Y.

Each share of X is valued at ₹ 80/- per share.

The total number of shares of Y are 1,00,000.

Calculate the following from the above transaction in the books of transferee company X :

- Purchase consideration
- Fair value
- Goodwill/Capital reserve.

(5 marks)

- (c) Briefly explain methodology for arriving at the offer price under Regulation 8(2) of SEBI (SAST) Regulations, 2011.

Calculate the Offer Price in the case of direct acquisition of shares from the following information (where shares are frequently traded on the stock exchange) :

- (i) Negotiated price per share available of the target company are :
₹ 15, ₹ 13, ₹ 14;
- (ii) Volume-weighted average price paid or payable for acquisitions :
₹ 14 (26 week); ₹ 16 (52 week)
- (iii) Price paid or payable for any acquisition :
₹ 17 (26 week); ₹ 15 (52 week)
- (iv) Volume-weighted average market price of such shares :
₹ 18 (30 days), ₹ 15 (60 days).

(5 marks)

: 5 :

- (d) Under a “Scheme of Amalgamation”, “Acme Inc.” (Transferor Company) is being merged with “Beta Corp.” (Transferee Company), where Acme Inc.’s assets and liabilities would be transferred to Beta Corp., resulting in Acme Inc. dissolving, with shareholders receiving a specific exchange ratio of Beta Corp. shares for their Acme Inc. shares, aiming to achieve operational synergies and cost savings by combining operations under one entity.

In this respect, Managing Director of Transferee Company approaches you as a Practising Company Secretary for seeking advice on the list of key documents required to be filed in this scheme of amalgamation. Advise in the matter.

(5 marks)

OR (Alternate question to Q. No. 2)

- 2A. (i) As per the scheme of arrangement, ‘Software Undertaking’ of S India is proposed to be transferred to S Software under Sections 391 to 394 of the Companies Act, 1956. One of the conditions of the scheme was that any excess in the value of net assets of software undertaking transferred to the resulting company shall be applicable for distribution to the shareholders of the resulting company.

Regional Director of Northern Region, Ministry of Corporate Affairs (MCA) has raised objection in his affidavit filed with the High Court stating that excess, if any, in the value of the net assets of the software undertaking should be adjusted to the capital reserve as prescribed in AS-14 and not to the general reserve as proposed in the scheme of arrangement.

Decide the matter with reference to a decided case law.

(5 marks)

- (ii) Apka Bank, one of the largest private sector bank, is willing to merge with Hamara Bank, a small regional bank. Apka Bank wants to expand its footprint in rural sectors where Hamara Bank has a strong presence. Merging with Apka Bank will provide better technology and financial boost to Hamara Bank.

Here the amalgamation is to take place between two banking companies.

The Reserve Bank has discretionary powers to approve the voluntary amalgamation of two Banking companies under the provisions of Section 44A of the Banking Regulation Act, 1949.

You are required to enumerate the provisions of Section 44A of the Banking Regulation Act, 1949 in a joint meeting of representatives of both the banks.

(5 marks)

- (iii) Subodh Consumer Products Limited (SCPL) decided to demerge its food and beverages business into a separate entity, Subodh Foods Limited (SFL). The demerger allowed SCPL to concentrate on its core products line while its food and beverages business could be more effectively managed by SFL. The demerger took place within the meaning of Section 2(19 AA) of the Income-tax Act, 1961. N who was holding 100 shares in SCPL was allotted 100 shares in Subodh Foods Limited along with the shares in resulting company as per the swap ratio.

N seeks your advice to calculate the following as he intends to transfer some of his shares after demerger :

- (a) Cost of acquisition of shares in the resulting company.
- (b) Cost of acquisition of shares in the demerged company.
- (c) Period of holding of shares of the resulting company.

(5 marks)

: 7 :

- (iv) ABC Ltd., a company registered under the Companies Act, 2013, providing Information Technology & allied services, wants to merge with its USA based wholly owned holding company, Silicon Valley Inc. Managing Director of ABC Ltd. seeks your advice on the matter citing the recent amendments etc. if any.

(5 marks)

PART-II

3. (a) Newrotechnologies Limited is a tech company that needs to find out its valuation for next round of funding. To estimate its fair value, it is planning to use Market Comparable Approach, which involves comparing it with companies which are similar in size, industry and financial characteristics.

The chief financial officer has gathered the following information for this purpose :
Comparable Companies in the market :

Company A : P/E Ratio = 18

Company B : P/E Ratio = 20

Company C : P/E Ratio = 22

Company D : P/E Ratio = 21

The financials of Newrotechnologies Limited for the year ending 31st March, 2024 are as follows :

Net income is ₹ 20,00,000.

Total number of shares is 50,000

Using the above information, calculate the estimated price per share and estimated value of Newrotechnologies Limited.

(5 marks)

- (b) (i) Ram purchased 100 shares of M/s. T Ltd, a listed company, @ ₹ 750/- per share on May 2, 2024. M/s T Ltd. declared 40% & 50% dividend on September 15, 2024 and on March 15, 2025 respectively. Market value of share of T Ltd. on May 2, 2025 is 1000/- per share.

Calculate the return of equity investment in T Ltd. (face value per share is ₹ 10/-)

- (ii) “In order to ensure authenticity and to have a unique reference number of the valuation reports, it has been decided to provide a Valuation Report Identification Number (VRIN) for each valuation conducted under the code.”

Comment on the statement on the basis of recent IBBI circular.

(5 marks)

4. (a) PQR Ltd. is in the process of getting its securities listed on the stock exchange. The company needs to get the valuations done as per the requirements of SEBI. The Board of Directors have proposed the name of M/s Sunidhi and Associates, a partnership firm, to be appointed as the valuers for the above mentioned purpose. In the light of the provisions of Rule 3 of The Companies (Registered Valuers and Valuation) Rules, 2017, a partnership firm becomes ineligible to be appointed as registered valuer in circumstances stated in the above mentioned rule.
- As the Company Secretary of PQR Ltd., state such circumstances to confirm that M/s Sunidhi and Associates do not fall under any of the ineligibility criterion.

(5 marks)

: 9 :

- (b) Company X owns many businesses and it also operates a manufacturing division that manufactures and sells electronic devices.

Company Y is interested in acquiring the entire manufacturing division of company X that sells electronic devices as a going concern.

In the sale agreement, Company X transfers its entire manufacturing division of electronic devices, including all its assets and liabilities, to company Y.

No values are assigned to respective assets or liabilities of the manufacturing division.

The lump sum consideration for the sale is agreed upon between Company X and Company Y.

In the background of the case, discuss the category of transaction between Company X and Company Y and also discuss rationale behind such transaction by Company X in general and process involved in such transfer.

(5 marks)

PART-III

5. (a) XYZ Limited, was undergoing a Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC), 2016. While the company was in CIRP, the Bombay Stock Exchange (BSE) sought to take a legal action against the company for non-compliance with the listing regulations. BSE wanted to recover the penalty amount from the Company failing which, the BSE warned the company of potential delisting and also suspending the trading of shares of XYZ Limited.
- As the Resolution Professional (RP) of the XYZ limited (the Corporate Debtor), discuss, citing a relevant case law and provisions of the Insolvency and Bankruptcy Code (IBC), 2016, whether the BSE, as a stock exchange, could exercise its regulatory powers against a company undergoing insolvency proceedings ? How can the Bombay Stock Exchange recover the amount of penalty from XYZ Limited ?

(5 marks)

- (b) An application filed by an operational creditor under Section 9 of the Insolvency and Bankruptcy Code (IBC), 2016, was admitted by National Company Law Tribunal (NCLT) and Mr. Goel has been appointed as the Interim Resolution Professional (IRP). Section 20 of the Code mandates Mr. Goel (IRP) to run management of operations of corporate debtor as a going concern. In the light of provisions of the Insolvency and Bankruptcy Code (IBC), 2016, mention the authorities available to IRP to run the business as a going concern in the above matter.

(5 marks)

- (c) SPM bank extended credit facilities to Anuj Constructions (The Principal Borrower), a proprietary firm, in 2023. Gita Steel Limited (The Guarantor) provided guarantee for credit facilities provided to Anuj Constructions by the SPM bank. Anuj Constructions (The Principal Borrower), defaulted in the repayment of credit facilities and hence the facilities were declared as Non-Performing Assets. Anuj Constructions repeatedly assured the bank to repay the outstanding amount of ₹ 11,45,23,535, but failed and SPM bank issued notice to Anuj Constructions.

SPM bank also issued notice to Gita Steel Limited (The Guarantor) under Section 4(1) of the Insolvency and Bankruptcy Code (IBC), 2016, demanding the outstanding amount.

Failing to receive any positive response from either of the parties, the bank proceeded to file an application before NCLT under Section 7 of the Code for initiating CIRP proceedings against Gita Steel Limited.

The Board of Directors of Gita Steel Limited argued that under Section 7 of the Insolvency and Bankruptcy Code (IBC), 2016, an application can be filed by financial creditor only against the Corporate person.

Section 7 of the Code cannot be legitimately invoked by the bank against Gita Steel Limited (being a Corporate Debtor) concerning guarantee offered by it in respect of a credit facility of Anuj Constructions (The Principal Borrower), who had committed default and is not a corporate person within the meaning of the Code.

In the background of the matter, discuss “Corporate Person” and “Corporate Debtor” under the provisions of IBC and referring to the relevant case law, discuss the tenability of arguments put forward by the Board of Directors of Gita Steel Limited.

(5 marks)

- (d) The Committee of Creditors (CoC) of Golconda Industries approved a resolution plan by voting share of 100% in voting held on 17.1.2024. Thereafter, X (the Resolution Professional) submitted the application for the approval of resolution plan before the Adjudicating Authority (AA). During the pendency of the application for approval of resolution plan before the AA, ex-promoter of Golconda industries submitted revised settlement proposal under Section 12 A of the Code and filed an application to NCLT seeking to keep the resolution in abeyance. The application filed by the ex-promoter was rejected by the NCLT. Hence, he filed an appeal before NCLAT against the NCLT order.

In the light of the provisions of the Insolvency and Bankruptcy Code, 2016, whether an application under section 12A of the Insolvency and Bankruptcy Code (IBC), 2016, can be entertained by NCLT after the approval of resolution plan by CoC and filing of application before NCLT for approval of resolution plan by the Resolution Professional ? Citing the relevant case law, discuss as to what will be the merit of appeal filed by the ex-promoter of Golconda Industries against the order of NCLT.

(5 marks)

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

6. (a) A director of a company in CIRP had moved the Hon'ble NCLT, Mumbai Bench, seeking the right to participate in the meetings of the CoC and access all the documents and/or information including the resolutions plans being discussed in the meetings of the CoC, for effective participation in the meetings.

The Hon'ble NCLT on August 1, 2018 held that the directors have the right to attend the CoC meetings as per Section 24 of the Code, however, the directors could not receive information that is considered confidential by the resolution professional or the CoC, including the resolution plans.

Thereafter, the Directors filed appeal before NCLAT for treating the papers as confidential by the RP. In the appeal, the decision of the NCLT was upheld by the NCLAT on August 9, 2018.

The director then moved the Supreme Court, challenging the decision of the appellate tribunal.

Decide the matter with reference to relevant case law.

(5 marks)

- (b) “While the Insolvency professionals assist in the insolvency resolution proceedings envisaged in the Code, the Information Utility, on the other hand, collect, collate, authenticate and disseminate financial information.” Enumerate the obligations of information utility as per provision of section 214 of IBC.

(5 marks)

: 13 :

- (c) Agastu Industries Limited, a medium sized company had been facing financial difficulties for the past few years due to poor management and an inability to cope with its increasing operational costs. Also the company's funds were being used for personal expenses of the directors like purchase of high end vehicles and other non-business related expenditures. These actions led to a significant depletion of company's cash reserves. The company had to finally face a liquidation order from NCLT.

The NCLT appointed Mr. Jayant Nanda as liquidator to wind up the company and liquidate its assets.

However, it came to the light that Mr. Jayant Nanda had prior business relationship with one of the major creditors PQR Corporation and he is giving preferential treatment to PQR Corporation by prioritizing its claims over those of other creditors and possibly negotiating assets sales at lower prices to benefit PQR Corporation.

A group of creditors filed a petition in the Hon'ble Delhi High Court for removal of Mr. Jayant Nanda as the liquidator accusing him of conflict of interest. Discuss the validity of the petition in the light of the provisions of the Companies Act, 2013.

(5 marks)

- (d) Bhawna Clothing Limited (The Corporate debtor) was placed under Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC), 2016 in Jan., 2024.

Mr. N was appointed as the Interim Resolution Professional (IRP) and the committee of creditors was also formed.

: 14 :

During the CIRP process, the IRP was required to send notices to the members of CoC, members of the suspended Board of Directors and other participants entitled to attend the meetings.

In April, 2024, Mr. Goswami, a participant other than member of CoC, raised an issue in the meeting of creditors that he had not received any prior notices of the CIRP meetings and questioned the legitimacy of decisions taken in the meetings he had missed.

Highlighting the provisions of Regulation 20 of the Corporate Insolvency Resolution Process Regulations relating to service of notice by electronic means, decide about the legitimacy of decisions taken in the meetings Mr. Goswami had missed. Is there any obligation on the part of IRP for updation of e-mail ID while serving notice by electronic means ?

(5 marks)

OR (Alternate question to Q. No. 6)

- 6A.** (i) “To alleviate the compliance burden for Insolvency Professionals (IPs), a set of forms on an electronic platform has been created by the IBBI to capture the details of the voluntary liquidation process. These forms are vital for the voluntary liquidation procedure under the Insolvency and Bankruptcy Code (IBC), as they enable systematic and transparent record keeping and seamless reporting”. Highlight the advantages and the documentation with timelines in view of the recent amendment via IBBI Circular dated 28th June, 2024.

(5 marks)

: 15 :

- (ii) A company ABC Ltd. is undergoing a prepackaged insolvency resolution process under IBC, 2016. The company has appointed an Interim Resolution Professional (IRP) to oversee the insolvency process. The management of Corporate Debtor is concerned about their role and vesting of the management with IRP during the insolvency process. Discuss the provisions of Vesting management of corporate debtor with resolution professional, if any.

(5 marks)

- (iii) Sujan Technologies Pvt. Ltd. faced serious allegations of financial mismanagement, excessive debts and non-compliance of statutory filings. The non-compliance issues led to an inspection and investigation being ordered by the Registrar of Companies (ROC). The inspection of the company by Registrar of Companies (ROC) was completed and investigation report was submitted. Severe irregularities relating to falsification of accounts was reported and hence prosecution under the Companies Act was initiated in the court of law against the directors. As the investigation of the Company is already complete, the Board of Directors of Sujan Technologies Pvt. Ltd filed an application for removal of name of the company from the Register of Companies (ROC). The company has not continued with any of its business or operation for a period of two immediately preceding financial years. The ROC rejected the application citing the provisions of Section 248 of the Companies Act, 2013. Referring to the relevant provisions, discuss the tenability of the application filed with ROC for removal of name.

(5 marks)

- (iv) Mr. X was appointed as a Liquidator in the liquidation process of ABC Limited. In the process, he is required to prepare a preliminary Report as per Regulation 9 of the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) Regulations, 2017. Discuss contents of such Preliminary Report as well as timelines prescribed for the same.

(5 marks)

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