

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 4

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

PART – A

*(Answer Question No.1 which is compulsory
and any three of the rest from this part.)*

1. (a) State with reasons in brief, whether the following statements are true or false citing relevant provisions of the law/case law :
- (i) The court can modify 'transfer date' proposed in a scheme of amalgamation.
 - (ii) Secured creditors should be clubbed together with unsecured creditors in supporting a scheme of amalgamation.
 - (iii) A company cannot be amalgamated with a newly incorporated company which has no assets and business.
 - (iv) A scheme of arrangement is to be passed at a meeting with the support of majority in number and three-fourths in value of those present and voting. The creditors or members who are present at the meeting but remain neutral or abstain from voting will be counted in ascertaining the majority in number or value.
 - (v) Registration fee is required to be paid to the Registrar of Companies by transferee company again when authorised share capital of transferor company is combined with that of the transferee company resulting in an increase in the authorised share capital of the transferee company.
- (2 marks each)*
- (b) "There are a number of situations in which a business or shares or any other property may be required to be valued. Predominant objective in carrying out a valuation is to put parties to a transaction in a comfortable position so that no one feels aggrieved." Comment on the statement highlighting some of the usual circumstances where valuation of shares or enterprise becomes essential.
- (8 marks)*
- (c) Distinguish between 'demerger' and 'slump sale'.
- (3 marks)*

- (d) Distinguish between 'voluntary offer made by a person holding less than 25% of shares/ voting rights in a target company' *vis-à-vis* 'voluntary offer made by a person holding more than 25% of shares/voting rights of the target company'.

(4 marks)

2. (a) Comment on the following, in brief :

- (i) Share premium account can be utilised for reducing share capital.
- (ii) Appeal against order of single judge allowing reduction of share capital, by a sole public shareholder, be allowed, where there is no fault in reasoning of single judge.
- (iii) Court cannot order otherwise when the scheme of acquisition is approved by not less than 90% of the shareholders as required.
- (iv) There is no bar to more than two companies being amalgamated under one scheme of amalgamation.
- (v) In case of slump sale, resulting company has to continue the business of transferred undertaking.

(1 mark each)

- (b) "Valuation is an art, not a science." Explain this statement with relevance to arriving at the fair value of shares.

(5 marks)

- (c) "Good corporate governance calls for maximising the stakeholders' value." Comment on this statement highlighting how does buy-back of shares achieve it.

(5 marks)

3. (a) "On receipt of notice under section 6(2) of the Competition Act, 2002 from a person or an enterprise proposing to enter into a combination, it is mandatory for the Commission to inquire whether the combination referred to in that notice, has caused or is likely to cause an appreciable adverse effect on competition in India." In view of the statement, highlight the factors which the Commission shall have due regard for the purpose of determining whether the combination would have or is likely to have an appreciable adverse effect on competition in relevant market.

(7 marks)

- (b) Write notes on the following :

- (i) The 'packman' defence
- (ii) Golden parachutes.

(4 marks each)

: 3 :

4. (a) There are certain acquisitions pursuant to a scheme which are exempted under Regulation 10 (automatic acquisition) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 from the obligation to make an open offer under Regulation 3 and 4 of the said Regulations. Explain. (7 marks)
- (b) What is meant by 'goodwill on amalgamation' ? State the factors to be taken into account in estimating useful life of goodwill. (4 marks)
- (c) "Certain aspects should be ensured while granting approval of amalgamation of an NBFC with a banking company." Discuss. (4 marks)
5. (a) "As neither governments nor consumers allow companies to insulate themselves through cartels, they have been taking merger and acquisition route to achieve earnings, growth and competitiveness. Companies are going for international acquisitions for a number of strategic or tactical reasons." Comment on this statement highlighting the motivations behind cross border acquisitions. (5 marks)
- (b) Explain the concept of escrow arrangement under the SEBI Takeover Code. (4 marks)
- (c) A Ltd. wishes to merge with B Ltd. and both the companies have fixed the appointed date for the merger as 1st April, 2015. The financial year for both these companies ended on 30th June, 2015. Share exchange ratio is to be arrived at on the basis of financial position of both these companies as on 30th June, 2015. In the given circumstances, offer your comment with supporting case law. (3 marks)
- (d) State the difference between 'offer period' and 'tendering period'. (3 marks)

PART — B

(Answer ANY TWO questions from this part.)

6. (a) How can a creditor enforce his security interest under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in case of default ? (6 marks)

(b) What precautions should be taken in settling claims of banks before *Lok Adalat* ?
(6 marks)

(c) What are the measures an operating agency has to provide for while preparing and submitting schedule of revival in respect of a company referred to BIFR ?
(3 marks)

7. (a) (i) Opinion of BIFR is not binding on the High Court and the later can verify correctness of the opinion so submitted by BIFR. Comment on the statement with the help of decided case law.
- (ii) Briefly explain the main objective leading to enactment of the Sick Industrial Companies (Special Provisions) Act, 1985 with the help of decided case law.
- (iii) Explain the term 'wilful default' by borrower in respect of the amount due by him with reference to change in or takeover of management of the business of the borrower.

(3 marks each)

(b) "Debt Recovery Tribunal (DRT) and the Appellate Tribunal (AT) shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (CPC), but shall have same power as are vested in civil courts under CPC while trying a suit." Discuss.
(6 marks)

8. (a) Explain with reference to cross border insolvency :

(i) Purpose of Model Law

(ii) Meaning of 'State'.

(4 marks)

(b) List out the salient features of desired code of ethics for insolvency practitioners under the US Bankruptcy Code.

(5 marks)

(c) A debentureholder is not a shareholder/member of a company. He files an application for winding-up of the company. Discuss the sustainability of his application with reference to decided case law.

(6 marks)