

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.*

1. Comment on the following statements :

- (a) Nirja is a newly appointed company secretarial staff in the office of the Company Secretary of a listed company. She has suggested that an existing floating charge on the fixed assets of the company can be converted into fixed charge by passing only a board resolution and no steps are required in this regard by the lenders.
- (b) Only a Company Secretary, being officer responsible for ensuring compliances under the Companies Act, 2013, shall be treated as officer in default in case of violations committed by the company.
- (c) Buy-back of shares is more advantageous to the promoters than a hefty dividend payment.
- (d) It is mandatory to have atleast three directors on the CSR committee of every company.

(5 marks each)

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

2. Distinguish between the following :

- (a) Subsidiary company *Vs.* Associate company.
- (b) Doctrine of indoor management *Vs.* Doctrine of Alter Ego.
- (c) Shelf prospectus *Vs.* Red herring prospectus.
- (d) Casual vacancy of director *Vs.* Retirement of director by rotation.

(4 marks each)

OR (Alternate question to Q. No. 2)

- 2A. (i) Charlie obtained travel advance amounting to ₹ 1,80,000 in ₹ 1,000 denomination on 7th November, 2016 based on the signature of the Managing Director of the company on the travel advance voucher. During the period of demonetization, he deposited the entire amount into his wife's savings bank account. On 1st December, 2018, he again requested for a travel advance from the company. In response to his request, he was asked to submit a report, along with supporting vouchers, on how he utilized his previous travel advance. He submitted a report stating that since the travel advance was in ₹ 1,000 denomination, he could not use the same after demonetization and scrapped the notes as the notes were not in circulation any more. Examine the implications under the Companies Act, 2013.

(4 marks)

- (ii) Discuss the provisions applicable to signing of Memorandum of Association of a company where the subscriber is :
- (a) illiterate;
- (b) a Limited Liability Partnership.

(4 marks)

- (iii) Spacekid Private Ltd. reported a paid-up share capital of ₹ 10 crore and bank borrowings of ₹ 60 crore as at 31st March, 2019. Smithson & Co., the statutory auditors of the Company, have been auditing the Company from the financial year ended 31st March, 2015. The Company has been quite comfortable with the auditor and Smithson & Co. also do not have any objection to continue. Are they required to change the auditor now ?

(4 marks)

: 3 :

- (iv) Comment if the following transactions entered into by Solace Ltd. attract compliance with provisions relating to acceptance of deposit :
- (i) A sum of ₹ 5 lakh paid by Jeevan towards subscription to equity shares on 1st April, 2019 was adjusted towards sales invoices for goods supplied to him on 31st August, 2019.
 - (ii) Anirudh, a director of the Company, arranged for ₹ 10 lakh to meet an emergency requirement, by taking a personal loan from Indian Bank.
 - (iii) Bhima, a customer who has bought a machinery from the Company has paid a sum of ₹ 3 lakh towards life-time warranty for the machinery.
 - (iv) A sum of ₹ 1 lakh collected from every employee in April, 2019 towards contribution to a Housing Society which will be formed in January, 2020.

(4 marks)

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

3. (a) National Wind Power Ltd. is a company registered in the State of Maharashtra, in which the equity capital is held by Central Government — 40%, LIC — 20%, State Bank of India — 20% and the balance 20% by public shareholders. The Company has an approval from the Central Government to convene the next annual general meeting of the Company at Darjeeling. Comment on the feasibility.
- (4 marks)
- (b) Comment whether the following loan transactions fall under section 185 of the Act requiring a special resolution :
- (i) A Ltd. extends a loan of ₹ 5 crore to Maxima LLP in which Krishna, a director of the Company, is a partner.

: 4 :

- (ii) X Ltd. who has a scheme of housing loan to cover all its employees, extended a loan of ₹ 1 crore to Aditya, who is a part-time director of the Company.
- (iii) R Ltd. extended a loan of ₹ 5 crore to S Ltd. in which they hold 55% equity.
- (iv) V Ltd. extended a housing loan of ₹ 50 lakh to Shyam when he was a General Manager of the Company but subsequently, he became a director of the Company.

(4 marks)

- (c) The Workers' Union of Brave Ltd. went on a strike demanding increased wages and welfare measures and during the course of the strike, publicized the news through videos captured covering the ongoing agitation against the Company. Brave Ltd. filed a suit for defamation against the Workers' Union seeking injunction against such publicity. Can the Company succeed ?

(4 marks)

- (d) Akilesh, as a member of a Producer Company, wants to understand his rights and voting power. Advise.

(4 marks)

OR (Alternate question to Q. No. 3)

- 3A.** (i) Board of Directors of ABC Ltd. is evaluating merger of ABC Ltd. into its holding company MNP Ltd. which is registered in British Virgin Islands. Chief Financial Officer of ABC Ltd. has highlighted that under the provisions of the Companies Act, 2013, only a foreign company can amalgamate into an Indian company; therefore, an Indian company cannot amalgamate into a foreign company. Advise the Board of directors in light of the provisions of the Companies Act, 2013 and Rules framed thereunder.

(4 marks)

: 5 :

- (ii) Advise which of the following companies need to file its financial statements in XBRL format :

Amount in ₹ crore

Name of the Company	Turnover for the year ended on 31st March, 2019	Nature of business	Paid up capital as on 31st March, 2019
Lamba Ltd. (unlisted)	89	Garment manufacturing	5
Simba Pvt. Ltd.	105	Steel manufacturing	26
Toytru Ltd. (listed)	520	Power sector	85

(4 marks)

- (iii) Random Ltd. with 500 members, needs a quorum of 10 members physically present for a general meeting as stipulated by its Articles of Association. At a general meeting convened to consider appointment of managing director, the following were present :

- (i) Ram, representing the Governor of Tamil Nadu (State of Tamil Nadu holds 15% equity)
- (ii) Five preference shareholders
- (iii) Two debentureholders
- (iv) Six deposit holders
- (v) Shyam representing Alpha Ltd., Beta Ltd. and Gamma Ltd., who hold equity in the Company duly authorized by the respective company through a proper resolution.
- (vi) Ten proxies, representing equity shareholders.
- (vii) Five individual equity shareholders.

Evaluate if the Company can proceed with the business at the meeting.

(4 marks)

- (iv) Deepak promoted and incorporated Clever Ltd. in January, 2019. He sold 25 acres of land in the State of Punjab, which he had acquired in his name in January, 2017 to Clever Ltd. in March, 2019. He made a profit of ₹ 2 crore on the above transaction. Is the transaction legal ? Will your answer be different, if Deepak acquired the said property in his name during February, 2019 ?

(4 marks)

4. (a) Decide whether S will fall under the definition of Significant Beneficial Owner with respect to A Ltd. in the following circumstances :

- (i) S holds directly 10% of equity in A Ltd. and he holds 55% of equity in H Ltd. which holds 1% equity in A Ltd.
- (ii) S holds 8% of equity while M holds 7% of equity in A Ltd. and they are deemed to act together.
- (iii) S holds 8% of equity in A Ltd. directly. S is also the Karta of a HUF that holds 7% equity in A Ltd.
- (iv) S holds 8% of equity in A Ltd. directly. S is also the trustee of a discretionary trust that holds 3% equity in A Ltd.

(4 marks)

- (b) The statutory auditors of Diplomat Ltd. reported a fraud committed by the employees of the Company involving an amount of ₹ 25 lakh. Further, the secretarial auditor of the Company made a remark about non-filing of satisfaction of charges with the Registrar of Companies. Advise the Company on the disclosures to be made in the report of the Board of Directors to be presented to the shareholders.

(4 marks)

: 7 :

- (c) FYZ Ltd., an unlisted public company, has six directors on the Board with a quorum of 3 directors physically present for any board meeting. The Company convened a board meeting to approve the annual financial statements in which two out of the six directors participated through video conferencing. The financial statements were approved with the consent of the four directors physically present. Can the financial statements be taken to be validly approved ?

(4 marks)

- (d) Evaluate if in the following cases, the person will be disqualified for appointment as a director of Race Ltd. :

(i) Takur, who holds a directorship in Turf Ltd., a company which did not file the financial statements with the Registrar of Companies for the financial years 2015-16, 2016-17 and 2017-18. However, the Company has filed the financial statements during August, 2019 to rectify the lapse.

(ii) Umesh was convicted of an offence not involving moral turpitude for a period of eight years and he has gone on appeal to a higher court, where the decision is pending.

(4 marks)

5. (a) (i) Draft specimen of a board resolution recommending payment of dividend on equity shares out of current profits of JAK Ltd., a company which is in existence for more than ten years. Assume facts and figures.

(4 marks)

(ii) The Board of Directors of Prince Ltd. passed a resolution at its 50th meeting for recommending declaration of dividend out of reserves. Prepare specimen extracts of minutes containing the board resolution. Assume facts and figures.

(4 marks)

- (b) RAN Ltd., an unlisted company, proposes to issue equity shares of the Company to certain investors numbering to a total of 30. Advise the Company if it is feasible, and if so, narrate the conditions to be complied with.

(8 marks)

6. (a) True False LLP is engaged in the business of providing logistics solutions to shipping companies. Average net profit for the last 3 years is ₹ 14 crore. Accordingly, it is not mandatory for True False LLP to maintain books of account. Comment.
- (b) Zigzag Ltd. is a fast growing start-up company and has issued ESOPs to Rinku, Rina and Reshma during FY 2017-18. Due to a major accident in the premises of the company last month, Rinku died on the spot, Rina suffered major injuries which led to permanent incapacity to work and Reshma resigned due to personal reasons. Lawyers of Rinku, Rina and Reshma had sent legal notices to the company stating that ESOPs granted to their client have vested automatically. Advise the company in light of the provisions of the Companies Act, 2013.
- (c) Lala Ltd. is engaged in manufacturing stainless steel products. The Company also has a 120 MW captive power plant within its premises. Share capital and free reserves of Lala Ltd. as on 31st March, 2019 stood at ₹ 580 crore and investment made in power plant is ₹ 150 crore. Board of Directors proposes to sell power plant to another steel company and thereby intend to raise ₹ 200 crore for funding the installation of a new furnace. Other outside bank liabilities of the company is ₹ 680 crore. Examine the requirement to pass special resolution in the present case.
- (d) Anand who was a shareholder of PQR Ltd. died in a road accident in August, 2019. His son Niraj has sent an intimation to PQR Ltd. regarding his death. In light of the applicable Secretarial Standard, explain to whom notice of the ensuing general meeting shall be sent by PQR Ltd.

(4 marks each)