

Roll No. ....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 7

NOTE : 1. Answer ALL Questions.

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

**PART-I**

1. (a) Mango Communications Ltd. is a new company that is willing to take over Telecommunications licenses to operate in 20 telecom circles and get itself listed on stock exchange but present Government Policy does not permit issuing new licences. There is another telecom company by name Tango Telecom Limited having listed with BSE and NSE holding licenses for 22 telecom circles. Latter Company is looking for some external reconstruction through merger or acquisition due to its operational ineffectiveness. As a Company Secretary, you are asked to find out the way through which a merger deal can happen so that the Mango Communications Ltd. could resolve the issues relating to listing and licenses.

(5 marks)

(b) It is said that 'corporate restructuring' always has motives. Elaborate on the 'financial motives' that are prevalent ?

(5 marks)

(c) John Ltd. is in the process of taking over Tony Ltd. Turnover of Tony Ltd as per latest financial statements is ₹ 800 Crore and assets value is ₹ 280 Crore. There are no material changes in the value of assets and projected turnover for the current financial year. The Board of Directors seek your opinion for obtaining approvals in terms of Competition Act, 2002.

(5 marks)

: 2 :

- (d) The Paid up Equity Share Capital of Zumba Ltd. is 1,00,000 shares of ₹ 10 each as on 1<sup>st</sup> April 2019. The promoters hold 37000 shares as on 1<sup>st</sup> April 2018, which is 37% of the paid up capital. The promoters are three shareholders, Ram holding 21000 (21%), Shyam holding 12000 shares (12%) and Mohan holding 4000 shares (4%).

The Company makes a preferential allotment to its directors as follows :

Ram 7000 shares and Mohan 1000 shares.

Define creeping acquisition and evaluate the requirement of public announcement in above case as per Securities and Exchange Board of India (Substantial Acquisition of Securities and Takeover) Regulations, 2011.

(5 marks)

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

2. (a) Payment of stamp duty under Indian Stamp Act, 1899 is required even in cases of orders made by National Company Law Tribunal (NCLT) in terms of Section 230 to 240 of the Companies Act, 2013. Are there any exceptions or exemptions ?
- (b) 'Buy-back strategy' is nowadays being adopted by leading corporate bodies. Mention one case that has happened recently specifying the benefits of buy-back ?
- (c) "Competition Commission of India takes into consideration various factors while assessing the adverse effect on competition."—Analyse briefly.

(5 marks each)

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

- 2A.** (i) Ram Ltd. is considering Merger with Shyam Ltd. Ram Ltd. shares are currently traded at ₹ 20. It has 1,70,000 shares and its Profit After Taxes (PAT) amounts to ₹ 8,50,000. Shyam Ltd. has 40,000 shares having market price of ₹ 15 and its PAT is ₹ 3,00,000.
- (a) If the merger goes through by exchange of equity shares and the exchange ratio is based on the current market price, what would be the new earning per share of Ram Ltd. ?
- (b) Shyam Ltd. wants to ensure earnings available to its shareholders are not reduced due to proposed merger. What would be the exchange ratio in such a case ?
- (ii) A meeting of members of Jwala International Ltd. was held as per the Orders of the Tribunal for considering a scheme of compromise and arrangement in which 300 members holding 10,00,000 shares were present. 130 members holding 6,00,000 shares voted in favor, 120 members holding 1,00,000 shares voted against and remaining 50 members with 3,00,000 shares abstained. Examine with reference to provisions of the Companies Act, 2013 as to whether the scheme is approved ?
- (iii) Woodland Telecommunications Ltd., listed with National Stock Exchange, is willing to acquire the business of Iron Finance Ltd., a Non-banking Financial Company listed with BSE through a scheme of arrangement in terms of Companies Act, 2013. Woodland Telecommunications Ltd. has an outstanding loan of ₹ 2,000 crore from ICICI Bank. Combined assets post merger would be ₹ 10,000 crore. Suggest the list of approvals required for getting the scheme of merger considered by the Tribunal.

(5 marks each)

3. (a) Between outbound merger and inbound merger, which one appears more beneficial to Corporate India ?
- (b) Is External Reconstruction superior to Internal Reconstruction ?
- (c) Suggest the regulations to be referred to in respect of Combinations under the Competition Act, 2002.
- (d) “It would be almost impossible to use the Packman Defence in India.” Comment.
- (e) “There are certain practicalities which should be kept in mind while entering into a cross border merger.” Briefly comment.

(3 marks each)

#### PART-II

4. (a) Corporate Insolvency Resolution Process (CIRP) against A Ltd. was initiated on application by its financial Creditors but the process was not completed within the time limit prescribed in terms of Section 12(1) of the Insolvency and Bankruptcy Code, 2016 (IBC). Before completion of CIRP timeline, Committee of Creditors in its meeting voted at 70 per cent voting share in favour of a proposal to seek extension for a period of 60 days. Can the Resolution Professional file application seeking extension of CIRP on the basis of voting results so obtained ?
- (b) Laxmi Bank Ltd. acquired 10 per cent convertible debentures in Bhaskar Ltd. In terms of the issue in the year 2012 these debentures were converted into the equity shares in Bhaskar Ltd. Consequent to conversion Laxmi Bank Ltd. became the owner of 5 per cent equity holding in Bhaskar Ltd. Further Laxmi Bank Ltd. provided a loan of ₹ 10 Crore to Bhaskar Ltd. that became due in the year 2018. Bhaskar

(5 marks)

: 5 :

Ltd. became defaulter in repayment of loans not only to Laxmi Bank Ltd. but also some other Banks. On the application by ICID Bank, the Adjudicating Authority initiated Corporate Insolvency Resolution Process (CIRP) and appointed an Interim Resolution Professional (IRP). Committee of Creditors constituted by IRP include Laxmi Bank Ltd. ICID Bank objected on the ground that Laxmi Bank Ltd. is a related party that should not have any right of representation, participation or voting. Examine the issue and offer your views.

*(5 marks)*

- (c) Deepak was appointed as Interim Resolution Professional (IRP) by Adjudicating Authority on 1<sup>st</sup> July 2019 in respect of Corporate Debtor Bingo Ltd. Bingo Ltd. failed to file returns regarding Tax Deducted at Source for Quarter 1 for the Financial Year 2019-20. Suspended Directors argued that they are not managing the affairs of the Company and hence the responsibility of compliance lies with IRP. Offer your views referring to provisions of Section 17(2) of Insolvency and Bankruptcy Code, 2016 and clarify whether the contention of the suspended directors is justified.

*(5 marks)*

- (d) Omega Ltd. is a securitisation and reconstruction Company in terms of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI). The certificate thus issued was cancelled by the competent authority. However, Omega Ltd. is holding certain investments of Qualified Institutional Buyers (QIB) at the time of cancellation. Offer your views regarding the authority that cancels the registration and the rights of Omega Ltd. against such cancellation.

*(5 marks)*

5. (a) A bank took over the management of a Company in terms of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and appointed 5 directors consequently removing Suresh, an executive director. Suresh demanded compensation for loss of office as well as his unpaid salary for the last 2 months. Will he be entitled for compensation for loss of office and unpaid salary ?
- (b) How could the rights of dissenting shareholders to a scheme of merger be resolved ?
- (c) What are the powers and obligations of a Liquidator regarding ‘uncalled capital’ or ‘unpaid capital contribution’ ?
- (d) Are there any grounds to appeal against the approval of Resolution Plan by the Adjudicating Authority in terms of Insolvency and Bankruptcy Code, 2016 ?
- (e) “The procedure for application to initiate Insolvency Resolution Process against a Corporate Debtor by operational creditor differs with application by financial creditors.” Explain briefly.

(3 marks each)

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

6. (a) United Nations Commission on International Trade (UNCITRAL) demonstrated as Guiding Role in respect of Insolvency Laws in Member Nations—Comment.
- (b) Ganga Infrastructure Ltd. is an Indian Company with its Registered office at New Delhi. Michle Inc is an incorporated company in New York. Ganga Infrastructure Ltd. proposes to merge the business of Michle Inc with its business in India—Brief your opinion with reference to merger and amalgamations with a foreign entity under Companies Act, 2013.

(5 marks)

(5 marks)

: 7 :

- (c) “Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI)” is a legislation for fast recovery of debt by the secured creditors but there are certain exceptions”—briefly elucidate with at least 5 circumstances, where the legislation cannot be applied.

(5 marks)

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

- 6A.** (i) Elucidate briefly the process of Notification to Foreign Creditors as per United Nations Commission on International Trade (UNCITRAL) Model Law.
- (ii) As an Interim Resolution Professional (IRP) how could you constitute the Committee of Creditors of a Corporate Debtor (CD) having only operational creditors or all financial creditors, who submitted their claims, are found to be related parties of the CD ?
- (iii) Briefly comment on the rights of Secured Creditors in a Repayment Plan under Section 105 of the Insolvency and Bankruptcy Code, 2016.

(5 marks each)

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