

Secretarial Practice relating to Economic Laws and Drafting & Conveyancing

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 5

P A R T – A

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

1. Attempt **any four** of the following :

- (i) A private limited company incorporated in India, has two shareholders each holding 50 equity shares of Rs.1,000 each. One of the shareholders is a non-resident Indian. A Canadian registered corporate body wants to acquire the Indian company by investing Rs.8 lakh by way of equity participation. The authorised share capital of the Indian company is Rs.10 lakh. The two existing shareholders are interested in transferring their shares to the Canadian corporate body, thus making it a 100% subsidiary of a foreign company. State the procedure to be followed under the Foreign Exchange Management Act, 1999 and the regulations issued by the Reserve Bank of India.
- (ii) The appellant bank is the depository participant with National Securities Depository Ltd. (NSDL), and the respondents were the investors. The respondents filed a complaint before the State Commission against the appellants alleging delay in dematerialising their shares. It was contended that share certificates of Brilliant Ltd., which they had sent to the appellant bank for dematerialisation, were dematerialised after undue delay. It was contended that dematerialisation would normally take about 15 days time which could be extended upto 30 days in the event of very large number of shares submitted for dematerialisation. It was alleged that for no fault of the complainants, the conversion of the shares was considerably delayed for one reason or the other. The State Commission, after considering the contentions, allowed the complaint and awarded compensation. Against the order of the State Commission, the appellants appealed to the National Commission. Whether depository and depository participant are liable for negligence? Discuss in the light of decided case.
- (iii) Ancient Exporters Ltd. took fidelity guarantee policy from an insurance company which provided for indemnification cover upto Rs.10 lakh arising out of the acts of fraud or dishonesty of the employees of the insured. One of the conditions in the insurance policy was that the employer shall give information and furnish evidence to the authorities concerned of any act insured in consequence of which a claim may be made and the insurance company paying all expenses of prosecution of the employee, in the event of conviction.

The commercial manager of the insured company along with drivers of the van of the company conspired and pilfered materials transported for various destinations. Pursuant to the claim referred by the insured company, the loss was assessed by the surveyors. As the guilt of the drivers was found established on the basis of confessions made by them, the liability of the insurance company was assessed at Rs.2.20 lakh but their further liability of Rs.8.80 lakh was made payable only on the conviction of the commercial manager. On this ground, the insurance company did not settle the claim for a long time. The insured company filed a complaint before the State Consumer Disputes Redressal Commission. Decide with reference to case law.

- (iv) Even after tubectomy/sterilisation, a lady conceived and gave birth to a child. The lady and her husband filed a suit against the surgeon and the State. It was deposed by the State that medical science recognised 0.3% to 3% failure in case of sterilisation operations and the pregnant woman could have gone in for an abortion. The trial court decreed the suit on the ground that the lady was allured into undergoing sterilisation in pursuance of family planning scheme of State and that the State was liable to compensate her for consequences of the unsuccessful operation. The State prefers an appeal. Decide.

- (v) State the manner of receipt of foreign exchange in an export contract.

(5 marks each)

2. (a) Industries (Development and Regulation) Act, 1951 provides for severe penalties including imprisonment for contravention, attempt to contravene or abetment thereof to provisions of the Act. State atleast five such contraventions made punishable under the Act.

(5 marks)

- (b) State how environmental clearances are regulated by government while issuing letters of intent to hazardous industries.

(4 marks)

- (c) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :

- (i) National Highways Authority of India (NHAI) has been constituted for the development, _____ and _____ of national highways.
- (ii) One of the functions of the Central Electricity Authority is collecting and recording the data concerning the generation, _____ and _____ of power.
- (iii) The New Telecom Policy, 1999 aimed to create a modern and efficient _____ infrastructure by bringing about greater _____ environment.

(2 marks each)

3. (a) What are the rules relating to opening and maintaining a resident foreign currency (domestic) account ?
(4 marks)
- (b) Prepare a check-list of procedure for enquiry into restrictive trade practices.
(4 marks)
- (c) State, with reasons in brief, whether the following statements are correct or incorrect :
- (i) An undertaking to be regarded as a small scale industry, the investment in fixed assets in plant and machinery shall not exceed Rs.3 crore.
 - (ii) A small scale unit is not permitted to have more than 30% equity participation in its paid-up capital from any industrial undertaking either foreign or domestic.
 - (iii) The amount representing the full export value of goods or software exported is required to be realised and repatriated to India within 9 months from the date of export.
 - (iv) An appeal to the Special Director (Appeals) may be preferred against the orders of the Assistant Director or Deputy Director of Enforcement under the Foreign Exchange Management Act, 1999 within 45 days from the date on which the copy of the order made by the adjudicating authority is received by the aggrieved party.
 - (v) The pecuniary jurisdiction of the three levels for redressal of consumer disputes and grievances for claiming compensation shall be Rs.20 lakh and above for the District Forum and exceeding Rs.30 lakh and upto Rs.1 crore for the State Commission and exceeding Rs.1 crore for the National Commission.
- (1 mark each)
- (d) Briefly state the purpose for which the Public Liability Insurance Act, 1991 was enacted.
(2 marks)
4. (a) The Government of India has notified certain industries as highly polluting. Name any five industries which fall in this category.
(5 marks)
- (b) What are the reforms/measures initiated by government for attracting investments in roads/highways ?
(4 marks)
- (c) State the objectives of the amendments made in the Major Port Trusts Act, 1963.
(4 marks)
- (d) Briefly state the provisions relating to failure to comply with orders of the tribunal under the National Environment Tribunal Act, 1995.
(2 marks)

P A R T – B

(Answer Question No.5 which is compulsory and any two of the rest from this part.)

5. (a) Priya Ltd. is a company in which Anup Ltd. and Bidur Ltd. are shareholders. There exists a shareholders' agreement between Anup Ltd. and Bidur Ltd. in respect of the management of affairs of Priya Ltd. Anup Ltd. holding 15% of the issued and paid-up capital has filed a petition under sections 397 and 398 of the Companies Act, 1956 alleging mismanagement and oppressive behaviour by Bidur Ltd. holding 60% of the issued and paid-up share capital of Priya Ltd. Anup Ltd. has also alleged breach of certain terms of shareholders' agreement executed by and between Anup Ltd. and Bidur Ltd. This agreement provides for settlement of disputes by arbitration. Can Company Law Board entertain the petition? Decide and give legal position.
- (5 marks)*
- (b) Anubhav entrusted to Bhupesh the work of construction of a building on his plot of land. The agreement provided *inter alia* for appointment of a common arbitrator in the event of disputes arising out of the agreement or otherwise to two arbitrators and the arbitration to be governed by the provisions of the Arbitration and Conciliation Act, 1996. Draft an agreement of reference to the common arbitrator as may be agreed to by the parties.
- (5 marks)*
- (c) Draft a power of attorney to present a deed of conveyance and receipt of sales consideration.
- (5 marks)*
- (d) What are important matters which should be kept in view while drafting a memorandum of appeal for filing before an appellate authority/superior court?
- (5 marks)*
6. (a) Draft important clauses of loan agreement of a public financial institution to give loans to a power project.
- (6 marks)*
- (b) Mention the different types of writs filed in a High Court/Supreme Court.
- (5 marks)*
- (c) What is meant by consortium of financial assistance?
- (2 marks)*
- (d) What is the normal defence available to a company in case of a winding-up petition is being filed against it by a creditor?
- (2 marks)*

7. (a) Draft an appointment order for the post of Company Secretary in a company.
(5 marks)
- (b) Draft the following clauses in a foreign collaboration agreement :
(i) consideration for transfer of technical know-how;
(ii) transfer of technical know-how; and
(iii) royalty.
(2 marks each)
- (c) What are the main characteristics of a mortgage by deposit of title deeds ?
(4 marks)
8. (a) Draft a clause of 'events of default' in a lease deed.
(5 marks)
- (b) "Different situations require different form of deeds of exchanges." Elaborate.
(4 marks)
- (c) State two type of hire-purchase agreements.
(3 marks)
- (d) State the circumstances in which a licence cannot be revoked.
(3 marks)

-- o --