

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, 1956 unless stated otherwise.**PART — A***(Answer Question No.1 which is compulsory and any three of the rest from this part.)*

1. (a) Big Ltd. prepared a scheme of amalgamation and arrangement with Small Ltd. and Little Ltd. and the scheme has gone through the required formalities and court approved the scheme, in which the swap ratio was provided as under :
- The transferor Company No.1 — Small Ltd. : The shareholders of Small Ltd. will get one equity share of ₹10 each of Big Ltd. for every 2 shares fully paid-up of Small Ltd.
 - The transferor Company No.2 — Little Ltd. : The shareholders of Little Ltd. will get one equity share of ₹10 each fully paid-up for every 5 equity shares fully paid-up of Little Ltd.

There were no other types of shares in the companies on the record date fixed for swap ratio.

The capital structure of the transferee company (amalgamated company) and the transferor companies (amalgamating companies) was as under on appointed date, and there was no change in this regard upto date as aforesaid :

| <i>Particulars</i> | <i>Big Ltd.</i> | <i>Small Ltd.</i> | <i>Little Ltd.</i> |
|---|-----------------|-------------------|--------------------|
| Equity share capital (Nos.) | 10,00,000 | 8,00,000 | 7,00,000 |
| Fully paid-up equity share @ ₹10 each (₹) | 1,00,00,000 | 80,00,000 | 70,00,000 |
| Reserves and surplus (₹) | 50,00,000 | 70,00,000 | 50,00,000 |
| Total (₹) | 1,50,00,000 | 1,50,00,000 | 1,20,00,000 |

Investments of Big Ltd. :

Equity shares of Small Ltd. of ₹10 each fully paid-up in Small Ltd. —

| | |
|----------------------|-----------|
| Equity shares (Nos.) | 3,00,000 |
| Nominal value (₹) | 30,00,000 |
| Paid-up value (₹) | 30,00,000 |

Equity shares of Little Ltd. of ₹10 each fully paid-up in Little Ltd. —

| | |
|----------------------|-----------|
| Equity shares (Nos.) | 2,00,000 |
| Nominal value (₹) | 20,00,000 |
| Paid-up value (₹) | 20,00,000 |

As a Company Secretary and CFO of Big Ltd. (the transferee company), how would you deal with —

(i) the issues for effecting the allotment of equity shares of Big Ltd. for which shareholders' approval was received under section 81(1A). (3 marks)

(ii) the number of equity shares of Big Ltd. of ₹10 each fully paid-up to be issued to the shareholders of Small Ltd. and Little Ltd. (6 marks)

And also state that the total number of issued equity shares of Big Ltd. after such allotment. (1 mark)

- (b) State whether the following statements are true or false citing briefly relevant provisions of the law :
- (i) A company seeking amalgamation with another company, passed a resolution under section 391(2), as per direction of the court and did not file the same with the Registrar of Companies under section 192, on the plea that it is neither an ordinary nor a special resolution but an extra-ordinary resolution.
 - (ii) A company called a meeting of members of the company under direction of the court for amalgamation with another company and excluded the proxies for the purpose of counting quorum.
 - (iii) The date of agreement made by the merchant banker with the acquirer is treated as 'deemed date of offer' for the purpose of acquisition of shares and/or control in the target company.
 - (iv) The order sanctioning the scheme of amalgamation made by the court should be filed with the Registrar of Companies. If the order is not filed with the Registrar of Companies, it will not have any effect.
 - (v) Every notice of any meeting called as per orders of court under section 391 shall not include explanatory statement.

(2 marks each)

(c) Explain the circumstances where reduction of share capital is done without confirmation by the court.

(5 marks)

: 3 :

2. (a) What is the difference between 'compromise' and 'arrangement' ?
(5 marks)
- (b) Explain briefly the procedure for making application to court under section 391 for directions to hold meetings of shareholders/creditors.
(5 marks)
- (c) What factors will you consider for valuation of shares in merger/amalgamation ?
(5 marks)
3. (a) Sharad who is a promoter of Grow Good Ltd. holds 20% of paid-up share capital of the company. The shares of the company are listed on National Stock Exchange Ltd., Mumbai. Sharad would like to pledge his shares for obtaining loan. State the requirements for disclosure of pledged shares under the SEBI (Substantial Acquisition of Shares and Takeovers) (Amendment) Regulations, 2009.
(8 marks)
- (b) Explain the provisions relating to 'escrow account' under the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997.
(7 marks)
4. (a) Explain funding through swaps or stock to stock merger.
(5 marks)
- (b) Draft a suitable Board resolution with respect to takeover for the following :
(i) offer by offeror company; and
(ii) authorisation to invest in the shares of investee company.
(4 marks each)
- (c) Sanction to the scheme of amalgamation can be refused by the court on the ground that the transferee company does not have sufficient authorised share capital on the appointed date. Do you agree ? Give reasons.
(2 marks)
5. (a) A company has passed a special resolution for 'reduction of capital' and effected the same and applied before the Registrar of Companies (ROC) for issuance of certificate confirming the reduction. The ROC issued certificate confirming the reduction. Subsequently, it was found that :
(i) the company had no authority under its articles to reduce capital; and
(ii) the special resolution was invalid one.
State with brief reasons separately in both the above circumstances, whether the reduction of capital would be allowed.
(4 marks)
- (b) It is a well known fact that to maximise the shareholders value, a company having surplus funds often induced to buy-back its own shares. What are common reasons which usually induces a company to resort to buy-back ?
(5 marks)
- (c) A listed company had drafted a special resolution to be passed through postal ballot to buy-back 25% of its paid-up equity share capital. As a Company Secretary, you are required to draft the explanatory statement to the proposed resolution. What factors will you consider to prepare the explanatory statement ?
(3 marks)

- (d) A company whether listed or not is required to make a 'declaration of solvency' and has to submit to the appropriate authorities before making a buy-back of shares. In view of the statement, you are required to answer where the declaration of solvency is to be submitted in case of —
- (i) A listed company.
 - (ii) An unlisted company.
 - (iii) A private limited company.

(1 mark each)

PART – B

(Answer ANY TWO questions from this part.)

6. (a) Immunity from certain litigations to 'sick company' is the purpose of the Sick Industrial Companies (Special Provisions) Act, 1985. Discuss with reference to the legal provisions of the Act. (7 marks)
- (b) Explain the composition of debt recovery tribunals and explain the procedure for appeal to Appellate Tribunal. (8 marks)
7. (a) In a voluntary winding-up, all is left to the company, the contributories and the creditors to settle their affairs 'without intervention of the court as far as possible'. Can the court pierce the process, and what is its vested power to pierce the process, and when and where it is being exercised ? Briefly discuss all relevant aspects. (5 marks)
- (b) In consequence of winding-up of a limited company, a person becomes both contributory and a creditor almost for the same amount. The person made an application to the liquidator that the amount to be payable as 'contributory' may be set-off against his 'receivable' amount from the company. Shall the person get such relief ? If not, why and on what grounds ? (5 marks)
- (c) What is 'non performing asset' (NPA) under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ? (5 marks)
8. (a) What is the procedural requirement for recognition of 'foreign proceedings' under the UNCITRAL Model Law ? (9 marks)
- (b) Write short notes on the following :
- (i) Lok Adalat
 - (ii) Committee of inspection
 - (iii) Corporate insolvency.

(2 marks each)