

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 11

NOTE : 1. Answer **ALL** Questions.

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

1. (a) Rigid Limited during an Internal Audit in March 2019 noticed the following :

(a) A charge for the mortgage of company's lands in Chennai created on 1st October 2018 in favour of the company's Bankers against a term loan of ₹ 20 crore, has not been registered till date.

(b) The company has failed to register the charge on its Administrative Buildings to cover a loan of ₹ 25 Crore created on 5th November 2018 in favour of LIC.

Advise the Board of the Company on the remedial action.

(5 marks)

(b) Dynamic Limited, a Company registered in India, has a wholly owned subsidiary M Inc registered in USA. M Inc has further layers of wholly owned subsidiaries N Inc and P Inc, all registered in USA.

Advise the Company on the following :

(a) N Inc wants to exit their holdings in P Inc and take over Q Inc as a wholly owned subsidiary.

(b) Dynamic Ltd. wants to mirror image a similar set up in France. Advise the feasibility of creating such layers of subsidiaries in France.

(5 marks)

: 2 :

- (c) Comment, if in the following cases, the person concerned will be disqualified to be appointed as a director of a public limited company :
- (a) Ram has an application pending for adjudication as an insolvent and the application is not yet decided by the authority.
 - (b) Govind was convicted for an offence, not involving any moral turpitude, and sentenced to imprisonment for a term of 8 years, but a period of more than 5 years has elapsed from the expiry of the sentence.
 - (c) Raja has not paid the final call on 10,000 equity shares held by him in the Company so far. The company had fixed 31st May, 2019 as the last date for the payment of the call money.
 - (d) Keshav, who was a director in another company previously, had contravened the provisions relating to related party transactions and was convicted during 2017.
 - (e) Prakash holds directorship in a total of 15 companies as on date comprising of 9 public companies, 2 private companies which are subsidiaries of a public company and 4 private companies.

(5 marks)

- (d) Elegant Ltd., engaged in the retailing of petroleum products sourced from the national oil companies, sells petrol and diesel, in addition to other outside customers, to the companies in which the directors of the Company hold directorship. The total value of supplies made to such companies during the year 2018-19 amounted to ₹ 125 Crore. This forms 12% of the annual turnover of Elegant Ltd.

Explain the compliance requirements for Elegant Limited assuming : (i) The products are sold by Elegant Limited to those companies at the market price announced by the oil marketing companies and (ii) Elegant Ltd. provides a discount of 10% on such market price on its sale to only those companies and not to others.

(5 marks)

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

2. (a) Alpha Ltd, during the regular audit, ascertained the following contraventions during the financial year 2018-19, which have not been rectified till date :
- (a) The annual returns and financial statements for the year ended March 2018 have not been filed with the Registrar.
 - (b) Cumulative debentures amounting to ₹ 5 crore which became due for redemption during March 2019 were not redeemed.
 - (c) Charge created on the factory premises in June 2018 was not registered with the Registrar.

The Company proposes to change its name from Alpha Ltd. to Gama Limited. Advise on the feasibility.

(4 marks)

- (b) Tarun deposited ₹ 1,00,000 in April 2018 with F Ltd., an unlisted public company carrying on manufacturing operations for a term of 3 years. Tarun seeks your advice on the following :
- (a) Tarun has an emergency in November 2018 at home for which he needs the above funds immediately. Can he get back the money without any deductions ?
 - (b) During December 2018, F Ltd. was issued a notice by the Reserve Bank of India declaring the deposit scheme invalid as F Ltd. had paid brokerage in excess of the limits prescribed by RBI. Can Tarun be paid back the whole amount of deposit with accrued interest without any deduction ?

(4 marks)

: 4 :

- (c) Crown Limited during the course of statutory audit, found that Dinesh, their whole time director whose managerial remuneration was approved at ₹ 100 lakh per annum has drawn remuneration amounting to ₹ 125 lakh during the financial year 2018-19. Dinesh does not want to refund the excess remuneration drawn by him and the company is also keen to waive the recovery of the sum refundable by Dinesh. The company has defaulted in all the instalments of term loan recoverable by them during the year amounting to ₹ 50 lakh. Advise the company on the course of action.

(4 marks)

- (d) Examine whether the following companies can be considered as Foreign Companies under the Companies Act, 2013 :

- (i) A Company which is incorporated outside India employs agents in India but has no place of business in India.
- (ii) A Company incorporated in India but all the shares are held by foreigners.

(4 marks)

OR (Alternate question to Q. No. 2)

- 2A. (i) Pluto Limited has a paid-up equity share capital of ₹ 10 crore comprised of :

- (a) 80 lakh equity shares of ₹ 10 each fully paid up
- (b) 40 lakh equity shares of ₹ 10 each on which only ₹ 5 per share is paid up.

The company wants to pay dividend in proportion to the amount paid up, even though the articles of the company is silent on this, Is it tenable ?

(4 marks)

: 5 :

(ii) Narrate the eligibility conditions for appointment of auditors under the Hong Kong Companies Ordinance.

(4 marks)

(iii) Decide, quoting the relevant provisions, if the following shareholders of Minimum Ltd. fall under the definition of Significant Beneficial Owner :

(a) Lakshman holds 12 % of the equity share capital in Minimum Limited, as a sole shareholder;

(b) C Ltd. holds 20% of the equity share capital of Minimum Limited. Krishna holds 75% of the equity share capital in C Limited while Guha holds the balance 25% equity in C Ltd.

(c) Ashok is the trustee of a Charitable Trust , which holds 20% of equity share capital in Minimum Limited.

(4 marks)

(iv) Fresh Limited wants to extend a loan of ₹ 2 crore to High Private Limited. Harihar, a director of Fresh Limited is also a director in High Private Limited. Is it feasible ?

(4 marks)

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

3. (a) The Board of Directors of Fast Limited decided at their first Board meeting that every year, the board meeting shall be scheduled on the four dates, viz. 10th April, 10th July, 10th September and 10th January, with a view to enable the directors to plan their other activities. This was unanimously agreed to by all the directors and was recorded in the minutes of the meeting.
- (i) Rahul, the Company Secretary of the Company took a position that no notice for the Board Meeting is required to be issued in view of the above arrangement agreed in the first board meeting. Is it tenable ?
- (ii) An item business not included in the agenda item was taken up by one of the directors. Can Rahul refuse to take it up for discussion ?
- (b) You are appointed by Crook Limited to conduct Secretarial Audit for the year ended March, 2019. During the course of the audit, you encounter certain transactions that make you believe that an offence of fraud involving an amount of ₹ 2 crore has been committed in the company by its officers and employees. Explain the action required from your side to comply with the Act.
- (c) Growth Limited has designed an Employee Stock Option Scheme and has formed a trust for the purpose of executing the scheme. The Company seeks your advice on the conditions to be complied for providing necessary funds to the trust for purchasing the shares in the Company. Advise.
- (d) Modest Limited, a listed company with more than 5000 shareholders, wants to send the notice of the ensuing Annual General Meeting to all its shareholders by e-mail. Advise the Company on the compliance points to be addressed in this regard.

(4 marks each)

: 7 :

OR (Alternate question to Q. No. 3)

3A. Write short notes on the following :

- (i) Bonus debentures
- (ii) NFRA's role to enhance quality of audit profession
- (iii) Omnibus approval of RPT
- (iv) Public Vs. Private Trusts.

(4 marks each)

4. (a) An investigation has been ordered in respect of Liberty Limited and consequently, the Central Government has directed the company to preserve the books of accounts of the company for the past 12 years. Subsequently, based on an application form, the Central Government, NCLT has ordered that the books of accounts relating to past 12 years should be reopened to rectify certain anomalies. The Company contends that the reopening cannot be ordered in respect of years earlier than 8 years from the current financial year. Is it tenable ?

(4 marks)

(b) Lakshman has been appointed as the managing director of Lucky Limited (which does not have any other whole time directors) on the following terms and conditions :

- (i) Remuneration amounting to 5% of the net profits of the company.

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- (ii) A fee of ₹ 5,00,000 per annum towards actuarial services, even though Lakshman does not hold any professional qualification in actuarial science.
- (iii) Company has paid a premium of ₹ 7,00,000 towards Directors and Officers Liability policy to protect the Company against any negligence on the part of Lakshman.
- (iv) Sitting fee of ₹ 25,000 for every meeting of the board or the Committee thereof attended by Lakshman.

The Company has defaulted in the repayment of interest and principal on term loans borrowed from banks, which default is still subsisting.

Suggest if the above package of remuneration contravenes any provision of the Act and the remedial action required from the company.

(4 marks)

- (c) Young Limited, an unlisted public company was incorporated on 1st September 2018 with an authorized share capital of ₹ 1 crore. The Company has A and B as subscribers to the Memorandum of Association wherein each of them have undertaken to subscribe to 50,000 equity shares of the Company having a face value of ₹ 10 each. Now, it is found that no action has been taken by the Company to collect the share subscription amount from A and B. Advise the Company on the contravention, if any, committed by them and the consequences.

(4 marks)

(d) National Bank Limited advanced certain loans to Silver Limited while the memorandum of the borrower company did not provide for such borrowing. What are the consequences ? Does it make any difference if the memorandum contained a provision for taking mortgage loans, but the directors who exercised the borrowing power did not have any specific authority to mortgage company's property ?

(4 marks)

5. (a) Rich Limited was just incorporated last week. The incorporation documents indicated that the Registered office would be located in their office premises in Chennai City.

(i) Narrate the compliance requirements related to verification of registered office;

(ii) Due to operational reasons, Rich Ltd. operates entirely from their factory premises on the outskirts of Chennai, without any presence at the registered office premises.

Does it involve any contravention of the provisions of the Act ?

(4 marks)

(b) Efficient Ltd, an unlisted public company, having a paid up share capital of ₹ 50 crore held by 150 shareholders in physical form, proposes to issue secured debentures for an amount of ₹ 25 crore. The Company needs an advice as to whether the issue of secured debentures has to be in a dematerialized format and further if the existing equity shares of the company also needs to be dematerialized.

(4 marks)

(c) Beta Limited, a listed company, had built its bank borrowings to over ₹ 25 Crore over the past 5 years and there have been multiple defaults in payment of interest and principal amount. The Company has accumulated significant amount of losses. The consortium of bankers, on 1st April 2019, have therefore mooted a debt restructuring plan in accordance with the guidelines issued by the Reserve Bank of India, which requires a conversion of the total debt into equity shares of the Company to be made at a discount of 10% on the face value of the equity shares. However, the company argues that Section 53 of the Act prohibits any issue of shares at a discount. Can Beta Ltd succeed in its argument ?

(4 marks)

(d) X & Co. was incorporated in March 2018 as a One Person Company. During the financial year ending March 2019, the Company achieved a turnover of ₹ 5 Crore. Advise the Company as to whether there is any contravention of the provisions of the Act and if so, the remedial action required.

(4 marks)

6. (a) Draft a resolution seeking members' approval for the acceptance of deposits from members and public, assuming necessary data as may be relevant.

(8 marks)

(b) Mahesh holds 75% of the equity share capital in Maximum Ltd. Infra Limited is an unlisted company in which Maximum Ltd. holds 15% equity stake. Explain the compliance requirements, if any, under the Companies (Significant Beneficial Owners) Rules 2018.

(4 marks)

- (c) Rocking Infra Limited, a company engaged in the business of BOOT contracts of national highways is looking at raising funds for future projects by issue of redeemable preference shares. The Contract bid by the company generally yield flow back of funds over a period of 25 to 30 years and hence is looking at extended maturity period of 30 years. Is it feasible ? Further, the company, keeping in mind the funds generation in long-term infra projects, also wants to ensure that there are alternative solutions like roll-over, in case the company is forced to face a default in redeeming such preference shares. Advise.

(4 marks)