

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 8

NOTE : Answer **ALL** Questions.

PART — A

Attempt all parts of either Q. No. 1 or Q. No. 1A

1. (a) Commercial International Ltd., a listed company, secures an accommodation for the residence of one of its directors by entering into a lease agreement under which the company has to deposit ₹ 10 lakh with the landlord to secure compliance with the terms of the lease agreement. Comment in the light of provisions of the Companies Act, 2013 whether it is to be considered as a loan to the director ?

(5 marks)

- (b) XYZ Ltd., an unlisted company, issued partly convertible debentures to the tune of ₹ 500 crore out of which convertible (into equity shares) portion is ₹ 300 crore. Pursuant to Rule 18(7) of the Companies (Share Capital and Debentures) Rules, 2014, it created a Debenture Redemption Reserve (DRR) to the tune of ₹ 125 crore soon after the issue.

As the Secretarial Auditor of the Company how will you ensure the compliances relevant to the creation of DRR by XYZ Ltd. and the sufficiency of the amount of DRR ?

(5 marks)

: 2 :

- (c) As per the Foreign Direct Investment (FDI) policy in India, the foreign investor either does not require any approval or should obtain prior approval of the Government of India for the investment.
- (1) Are there any exceptions to the above provision ? Enumerate.
- (2) A Non-Resident Indian X in USA wants to invest in a Central Public Sector Enterprise in India producing uranium. Whether X can do so ?
- (5 marks)
- (d) The base record for providing corporate benefits to the shareholders of a company is its Register of Members, a Statutory Register. Provide a check list for the verification of the same during the course of Secretarial Audit.
- (5 marks)
- (e) The Board of directors of Pace Power Corporation Ltd. has asked you as a Company Secretary of the company to prepare the agenda item for related party transactions as per provisions of the Companies Act, 2013 for the upcoming Board meeting at which the resolution to it is to be moved. List out the details to be included in this agenda item.
- (5 marks)

OR (Alternate Question to Q. No. 1)

- 1A. (i) XYZ Ltd. attracted by the provisions of Section 135 of the Companies Act, 2013 does not want to spend 2% of its average net profit on CSR activities in pursuance of its CSR policy. You are the Secretarial Auditor of XYZ Ltd. and it needs your advice on the instance of attracting any penalty for not spending on CSR activities. CSR stands for corporate social responsibility.
- (5 marks)

: 3 :

- (ii) Sippy Ltd. engaged in setting up of infrastructure projects, proposes to issue secured debentures for a period of 12 years. Referring to the provisions of the Companies Act, 2013, state whether it is permissible for the company to issue the secured debentures ? The company also needs your advice about the various documents which may be checked by the secretarial auditor in the above case for compliance under the Companies Act, 2013.

(5 marks)

- (iii) Sohan is conducting the Secretarial audit of Geo Ltd. The company could not produce records of minutes/resolutions/registers pertaining to the charges etc. as they were in possession of other government authorities for which the company has acknowledgement given by the authorities. As a consequence, Sohan is not able to conclude on his reporting.

- (a) Advise Sohan about the course of action, he is required to take, citing the relevant provisions of the Companies Act, 2013.
- (b) State the limit for issuing of secretarial audit reports by the Secretarial Auditor for the financial year 2018-19.

(3+2=5 marks)

- (iv) The provision of the corporate benefit of Capitalization of profits for issue of bonus shares to the shareholders is a process inviting rigorous vouching by the Secretarial Auditor of the company. Provide a checklist for vouching of bonus issue.

(5 marks)

- (v) The financial statements of XYZ Ltd., an unlisted company, could not be adopted in its scheduled Annual General Meeting (AGM) for want of some clarifications by the shareholders and hence, the agenda was proposed to be carried to the adjourned AGM. Advise the company as to the filing requirements relevant to the financial statements with the Registrar of Companies (ROC).

Also advise on the filing requirements of the financial statements with ROC, if AGM itself has not been held.

(5 marks)

PART — B

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

2. (a) Aero Ltd. proposes to shift its cement manufacturing unit from location X to another location Y in the same State in the country. As a Company Secretary in Practice, suggest the basic factors for Environmental Impact Assessment that should be addressed with regard to the existing pollution levels at location X vis-à-vis pollutants from the proposed location at Y.
- (b) Jain Motors Ltd. wishes to raise US \$ 400 million through Foreign Currency Convertible Bonds (FCCBs) via public issue from international market in the financial year 2019-20. Advise the company in accordance with the relevant provisions of the law on the following issues :
- (i) Whether the raising of fund of US \$ 400 million is permissible ?
 - (ii) If the company wants to raise the fund via private placement, who can be a party to private placement ?
 - (iii) The estimated issue related expenses are US \$ 35 million, whether it is within the limit to incur ?
 - (iv) The company wants to mature the FCCBs in 4 years. Is it allowed ?
 - (v) What is the requirement relating to furnishing the reports to RBI ?
- (c) Det Ltd. has made a final call of ₹ 5 on the shares of ₹ 10 each on the total allotment of 2,50,000 shares made on 30th June, 2018. Out of this, 2,15,000 shares have been paid fully by the allottees and the balance call amount on the remaining shares is still pending. As a Company Secretary explain the time limit for receiving the call money with reference to the provisions under the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) [SEBI (ICDR)] Regulations, 2018.

(5 mark each)

: 5 :

OR (Alternate Question to Q. No. 2)

- 2A.** (i) Sherman Ltd. approached a financial institution for a loan. The financial institution asked you as a Company Secretary in Practice to submit a search report giving the relevant details as per provisions of the Companies Act, 2013 for assessment of the company. Elaborate the points to be included in the preparation and compilation of search report.
- (ii) One of the areas of coverage by the Diligence Report to be obtained by banks is the foreign currency exposure of their borrowers. X Bank Ltd. has appointed you, a Practicing Company Secretary, to provide a Diligence Report on one of its proposed borrowers who is in export/import business. Provide a check list of items of foreign currency exposure of the borrower, you would verify and the sources of their verification, to complete your Diligence Report.
- (iii) Brief about the following prescriptions of ISO 14001 Standard relevant to pollution control to the industries :
- (a) Recovery-Reuse of waste products
 - (b) Vegetal Cover
 - (c) Disaster planning
 - (d) Human Settlements
 - (e) House-keeping.
- (5 marks each)*
- 3.** (a) (i) X Ltd. is an unlisted and ₹ 200 crore networth company having paid up share capital of ₹ 4 crore and turnover of ₹ 90 crore as on 31st March, 2019. Its networth increased to ₹ 300 crore in April 2019. The company seeks your advice on filing its financials of FY 2018-19 in Extensible Business Reporting Language (XBRL mode) with the Registrar of Companies. Advise the company quoting relevant legal provisions.

: 6 :

- (ii) Will your advice differ if X Ltd. is a listed company and other things in point (i) above remain constant ?
- (iii) What will be your advice if the increase in the networth was to ₹ 300 crore in March 2019, other things remain same as per point (i) above ?
- (iv) Can you indicate any difference in the advice for point (ii) and point (iii) above ?

(8 marks)

- (b) Zen Systems Plc. incorporated in Australia wants to raise funds from India through issue of Indian Depository Receipts (IDRs). As a Finance Consultant of the company in India, comment upon each of the following with reference to the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) [SEBI (ICDR)] Regulations, 2018.

- (i) Issue size is ₹ 40 crore;
- (ii) Minimum application amount is ₹ ten thousand;
- (iii) At least sixty per cent of the IDRs shall be allotted to the qualified institutional buyers;
- (iv) At any given time there shall be two denominations of IDR of the issuing company;
- (v) The issuing company is prohibited to issue securities by the regulatory body in Australia;
- (vi) The issuing company is not listed in its home country; and
- (vii) If the issuing company fails to refund the entire subscription amount within the stipulated period, it is liable to pay the amount with interest @ eighteen per cent per annum for the period of delay to the subscribers.

(7 marks)

: 7 :

4. (a) Under Section 230(1) of the Companies Act, 2013, relevant to Compromises, Arrangements and Amalgamations, National Company Law Tribunal (NCLT) has ordered a meeting of creditors of X Ltd. (unlisted), on an application by the company. The total debts of the company towards the cited creditors were ₹ 100 crore. All the creditors (14 in number) attended the meeting. As a practicing Company Secretary, throw light on the validity of the approval for compromising decisions taken at the meeting under the following circumstances, if :
- (i) 6 creditors of the value of ₹ 75 crore voted in favour of the proposed compromise ?
 - (ii) 9 creditors of the value of ₹ 70 crore voted in favour of the proposed compromise ?
 - (iii) 9 creditors of the value of ₹ 76 crore voted in favour of the proposed compromise ?
- (b) You are the Company Secretary of Peeka Ltd., a Small and Medium Enterprise (SME). The Managing Director of your company has asked you to give advice and submit a report on the benefits and exemptions available for securities of your company, if listed at SME Exchange. Advise and submit the report.
- (c) Gippy Ltd. has requested you as a Company Secretary in Practice to ascertain financial position of the company as per Para no. 13 of the Diligence Report to be submitted to the bank in accordance with the RBI notification dated 21st January, 2009; 10th February, 2009 and 12th February, 2009. Prepare the check list.

(5 marks each)

5. (a) Write short notes on the following :
- (i) Two-way fungibility of global depository receipts
 - (ii) Documents to be covered during the legal due diligence of Material Contracts.
 - (iii) Relevant Market under the Competition Act, 2002.
- (3 marks each)*
- (b) Distinguish between the following :
- (i) 'Bid rigging' and 'Resale Price Maintenance'
 - (ii) 'Operational Due Diligence' and 'Financial Due Diligence'.
- (3 marks each)*
6. (a) Explain the process of Corporate Compliance Reporting.
- (b) Enumerate the important things that one should take cognizance for Pre-diligence and during Due Diligence process from the corporate viewpoint.
- (c) ZM Communication Ltd. and Tele Developer Ltd. are of the view that Zetka Communication Ltd. is abusing its dominant position in the telecom industry. They want to lodge a complaint against Zetka Communication Ltd. before the Competition Commission of India. Explain the factors that will be considered by the Commission to ascertain whether Zetka Communication Ltd. is enjoying dominant position in the industry in the first instance.
- (5 marks each)*