

Roll No.

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 6

Total number of printed pages : 7

NOTE : Answer ALL Questions.

1. (a) A is a minority shareholder who brought an action for damages against the Company and its directors on the ground that they have been negligent in selling a plant owned by the Company for ₹ 25 Lakh. A alleged that the real value of plant was about ₹ 70 Lakh. Evaluate based on decided case law(s), whether action taken by A will be maintainable in the Court.
- (b) “Breach of trust may be held to be a civil wrong but when *mens-rea* is involved, it gives rise to criminal liability also”. Comment on this statement with supporting judicial pronouncements.
- (c) “Person once convicted or acquitted not to be tried for same offence again”. Comment on the statement in the light of decided case law(s).
- (d) The current regulatory scenario demands the Company Secretary to be more vigilant and diligent specifically about the applicability of multiple laws and timely compliances. Briefly comment on the statement.

(5 marks each)

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

2. (a) Super Source Limited has filed Form AOC-4 with Registrar of Companies after 85 days of its Annual General Meeting along with additional fee. State whether the Company can be penalized again under section 403 of the Companies Act, 2013.
- (b) A crime is alleged to have been committed in a particular State. The Central Government has referred the case to Central Bureau of Investigation Agency (CBI) for investigation. Can CBI conduct such investigation on the direction of Central Government ? Would your answer be different if such direction was given by the Supreme court of India ?
- (c) X, a director of PQR Private Limited, is authorised by Board of directors to prepare and file returns, reports or other documents to Registrar of Companies (ROC) on behalf of the Company. He files all the required documents with ROC, despite being aware of material discrepancies in them. Subsequently, it was found that the documents filed with ROC contained materially false details. Explain the penal provisions under the Companies Act, 2013 for this offence.
- (d) Distinguish between General Liability Insurance and Professional Liability Insurance.
- (4 marks each)*

OR (Alternate question to Q. No. 2)

- 2A. (i) ABC & Co., Chartered Accountants, are the Statutory Auditors, as well as the Internal Auditors of Super Sky Limited. Evaluate whether the same is permitted under the Companies Act, 2013. If not, what are the penal provisions under the Companies Act, 2013 ?

(4 marks)

: 3 :

(ii) P is the Managing Director of AMR Limited who committed a fraud against the Company. A judicial proceeding has been initiated against P for fraud committed by him. Now P wants to settle the case through mediation or conciliation. Can P's case be referred to mediation or conciliation ?

(4 marks)

(iii) ABC Exports Limited aggrieved by an order of Adjudication Authority under Foreign Exchange Management Act, 1999, wants to file an appeal against the order in Civil Court. As a Company Secretary, advise ABC Exports Limited whether the civil court has jurisdiction to entertain such a suit ? If not, suggest an alternate remedy.

(4 marks)

(iv) "Directors and Officers (D & O) insurance has become closely associated with broader management liabilities insurance, which covers liabilities of the corporate itself as well as the personal liabilities for the directors and officers of the company". Enumerate the reasons to buy D & O policy.

(4 marks)

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

3. (a) X, a Police Officer comes to know from reliable sources that four persons are staying in a house and are planning to kidnap and murder Mohan. He also has information that they possess automatic weapons. The Police Officer apprehends that they will commit the crime at any moment. He directly goes to that house and without any warrant or order from the Metropolitan Magistrate, arrests all the four persons along with weapons in their possession. Is the arrest of all the four persons valid ?

(4 marks)

: 4 :

- (b) ABC Technologies Limited was incorporated under the Companies Act, 2013 as a closely held Public Company. The paid-up capital of Company is ₹ 15 Crore. The Company *suo-motto* filed a petition for compounding of violation under Section 203 of the Companies Act, 2013 read with Rule 8 of Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014. The Company pleaded that it had tried, but was unable to find and appoint a full time Company Secretary as required under the Act. What would be the consequences for Company, its Directors and KMP in this case ?
- (4 marks)
- (c) PQR Express Limited is aggrieved by an order of National Company Law Appellate Tribunal (NCLAT). As a Company Secretary, advise the Company as to where an appeal can be filed against the order of NCLAT and also comment on limitation period of appeal against the order.
- (4 marks)
- (d) Sundry creditors of MNO Trading Limited filed a complaint with the Registrar of Companies (ROC), Delhi & Haryana alleging that the management of the company is indulging in destruction and falsification of the accounting records of the company. The complainants request the ROC to take immediate steps to seize the books of accounts & records of the company so that the management may not be allowed to tamper with the books of accounts & records. The complaint was received at 11 A.M on 10th January 2019 and the ROC entered the premises at 11.30 A.M., for a search without obtaining an order from the Special Court. Comment on the action of ROC vis-a-vis his powers under the Companies Act, 2013.
- (4 marks)

: 5 :

OR (Alternate question to Q. No. 3)

3. (i) Explain in brief the grounds on which the Central Government may order for investigation into affairs of company.
- (ii) A group of shareholders of ABC Developers Limited consisting of 24 members decided to file a petition before the Tribunal for relief against oppression and mismanagement by the Board of Directors. The company has a total of 250 members and the group of 24 members holds one-tenth of the total paid-up share capital accounting for one-fifteenth of the issued share capital. The main grievance of the group is that due to mismanagement by the Board of directors, the company is incurring losses and the company has not declared any dividends even when profits were available in the past years for declaration of dividend. In the light of the provisions of the Companies Act, 2013, advise the group of shareholders regarding the chances of success for :
- (i) getting the petition admitted
- (ii) obtaining relief from the Tribunal.
- (iii) S is a newly qualified Company Secretary. He wants to know whether there is any dress code approved by the Council of ICSI as professional dress code, for Company Secretaries to appear before judicial/quasi-judicial bodies and Tribunal ? Advise S.
- (iv) Mrs. Geeta is Managing Director of HEL Limited. She has been arrested for an offence covered under Section 447 of the Companies Act, 2013 on a complaint made by the Director, Serious Fraud Investigation Office. Geeta seeks your legal advice to know the conditions under which she can be released on bail. Advise Geeta.

(4 marks each)

4. (a) P is an employee of ABC Limited and he is being investigated under the provisions of Companies Act, 2013. The Company wants to terminate P on the ground that an investigation is going on against him. They have filed the application to Tribunal for approval of termination. Company has not received any reply from the Tribunal within 30 days of filling the application. The Company considers it as a deemed approval and terminates him. Is the contention of Company valid in law ?
- (b) Enumerate the Compounding Authorities under Companies Act, 2013. Write the procedure for compounding in brief.
- (c) Can Registrar of Companies order adjudication proceedings under Section 454 of Companies Act, 2013 ? In what cases can the Central Government appoint him as the Adjudicating Officer ?
- (d) An investigation has been initiated against PR Limited under Section 210 of the Companies Act, 2013. M, the Managing Director of PR Limited, refused to produce books of accounts before the Inspector and disobeyed the direction issued by the Inspector. What would be the penal provisions for such an action under the Companies Act, 2013 ?

(4 marks each)

5. (a) During the Statutory audit of MOP Limited, the auditors found that a fraud has been committed against the Company by its officers amounting to more than ₹ 10 Crore. What are the duties of statutory auditors in the given case under the Companies Act, 2013 ?
- (b) “Crisis Management is not necessarily the same thing as risk management”. What is Crisis Management and how is it different from risk management. Explain in detail guidelines/recommendations for establishing a good crisis management plan.

(8 marks each)

: 7 :

6. (a) POB Limited wants to design and implement an effective Enterprise Risk Management (ERM) system. Evaluate the challenges likely to be faced by the Company during implementation of ERM system.
- (b) G is the General Manager (HR) of XYZ Limited. He wrongfully withholds the flat of the Company and also lets it out on rent to someone. XYZ Limited has filed a complaint against G. What are the penalties for such a conduct under the Companies Act, 2013.
- (c) “Class action suit is a new mechanism in India to claim the loss caused to the specified stakeholders of the Company not only from the Company but also from other entities”. Analyse the statement in brief.
- (d) “The minority shareholders are empowered under the Companies Act, 2013 to bring action with a view to prevent the majority from oppression and mismanagement”. Justify the statement with rights available to minority shareholders under the Act.

(4 marks each)

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