

ANSWERSHEET**PAPER – 1 : BUSINESS LAW, ETHICS AND COMMUNICATION****Answer 1:****(A) Invitation to offer**

The offer should be distinguished from an invitation to offer. An offer is the final expression of willingness by the offeror to be bound by his offer should the party chooses to accept it. Where a party, without expressing his final willingness, proposes certain terms on which he is willing to negotiate, he does not make an offer, but invites only the other party to make an offer on those terms. This is the basic distinction between offer and invitation to offer.

The display of articles with a price in it in a self-service shop is merely an invitation to offer. It is in no sense an offer for sale, the acceptance of which constitutes a contract. In this case, Smt. Prakash by selecting some articles and approaching the cashier for payment simply made an offer to buy the articles selected by her. If the cashier does not accept the price, the interested buyer cannot compel him to sell. [Fisher V. Bell (1961) Q.B. 394 Pharmaceutical society of Great Britain V. Boots Cash Chemists].

(B) Section 44 of the Negotiable Instruments Act, 1881 is applicable in this case. According to Section 44 of this Act, B who is a party in immediate relation with the drawer of the cheque is entitled to recover from A only the exact amount due from A and not the amount entered in the cheque. However the right of C, who is a holder for value, is not adversely affected and he can claim the full amount of the cheque from B.

(c) Who is entitled to Bonus: Every employee of an establishment covered under the Act is entitled to bonus from his employer in an accounting year provided he has worked in that establishment for not less than thirty working days in the year and draws a salary of less than Rs. 21,000/- per month. [Section 2(13) read with Section 8].

If an employee is prevented from working and subsequently reinstated in service, employee's statutory right for bonus cannot be said to have been lost. Nor can the employer refuse to pay such bonus. [ONGC(V) Sham Kumar Sahegal (1995) ILLJ].

There are, however, certain disqualifications of an employee to claim bonus in an accounting year. An employee who has been dismissed from service for (a) fraud; or (b) riotous or violent behaviour while on the premises of the establishment; or (c) Theft, misappropriation or sabotage of any property of the establishment is not entitled for bonus. [Section 9]. An employee, under the Payment of Bonus Act, 1965 in the following cases is not entitled to bonus:

1. An apprentice is not entitled to bonus as he is not included in the definition of an employee under the Act as decided in the case [Wheel & RIM Co. v. Govt. of TN. (1971)].
2. An employee who is dismissed from service on the ground of misconduct as mentioned in Section 9, is disqualified for bonus of the accounting year in which he is dismissed (Pandian Roadways Corporation Ltd. v. Presiding Officer (1996) 2 CLR 1175 (Mad)).

[Note: As per the Payment of Bonus (Amendment) Act, 2015, the eligibility limit for payment of bonus to an employee under section 2(13) has been enhanced from Rs. 10, 000 to Rs. 21,000 per mensem]

(D) Contribution to provident Fund under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 : Section 6 of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952 regulates contribution to Provident Fund scheme established under the Act.

The employer's contribution shall be 10% of the basic wages, dearness allowance and retaining allowance, if any payable to each of the employees whether employed by him directly or by through a contractor.

The employee's Contribution shall be equal to the contribution payable by the employer in respect of him.

In case the employee so desires, he may contribute an amount exceeding ten percent of his basic wages, dearness allowance and retaining allowance if any, subject to the condition that the employer shall not be under an obligation to pay any contribution over and above his contribution payable under this section.

Dearness allowance includes cash value of any food concession allowed to the employees. Retaining allowance means the sum paid for retaining the service, when the factory is not working.

The Central Government may be notification make the employer's contribution equal to 12% for certain establishments' class of establishments.

(5x4 = 20 Marks)

Answer 2:

(A) **Computation of gratuity amount:** Section 4 of the Payment of Gratuity Act, 1972 stipulates the manner in which the amount of gratuity payable to an employee will be calculated.

Non Seasonal Establishments -In the case of establishments other than seasonal establishments, the employer shall pay the gratuity to an employee at the rate of 15 days wages based on the rate of wages last drawn by the employee concerned for every completed year of service or part thereof in excess of 6 months.

In the case of piece rated employees, daily wages, shall be computed on the average of the total wages received by him for a period of 3 months immediately preceding the termination of his employment and for this purpose the wages paid for any overtime work shall not be taken into account.

In the case of a monthly rated employee 15 days wages shall be calculated by dividing the monthly rate of wages last drawn, by 26 and by multiplying the quotient by 15.

Seasonal Establishments - In the case of seasonal establishment the employees can be classified into 2 groups.

(i) Those who work throughout the year and

(ii) Those who work only during the season.

The former are entitled to get the gratuity at the rate of 15 days wages for every completed year of service or part thereof in excess of 6 months. The latter are entitled to receive gratuity at the rate of 7 days for each season.

Under section 4(3) the amount of gratuity payable to an employee shall not exceed Rs. Ten lakhs as amended in 2010.

(B) Though the Act creates liability on the part of employer to pay the minimum bonus and confers a right to the workmen, as mentioned in Section 10, the obligation and right is

subject to exemption under Section 36. Under section 36 if the appropriate Government having regard to the financial position and other relevant circumstances of any establishment or class of establishment is of opinion that it will not be in public interest to apply all or any of the provisions of this Act thereto, it may by notification in the Official Gazette, exempt for such period as may be specified therein and subject to such conditions as it may think fit to impose, such establishment or class of establishments from all or any of the provisions of this Act.

There are two preconditions to the granting of exemption under section 36:

- (1) The Government shall consider the financial position and other relevant circumstances of an establishment or class of establishments; AND
- (2) It should be of the opinion that it would not be in the public interest to apply all or any of the provisions of the Act.

The expression 'financial position' includes loss suffered by the establishment during the accounting year. The expression 'other relevant circumstances' will include every consideration as to whether the workmen had principally contributed to the financial loss of the company during that accounting year.

If the bonus liability is negligible compared to the loss suffered, company will not be relieved of the liability of paying the minimum bonus.

If the losses sustained by the employer is not due to any misconduct on the part of employees, the employer is liable to pay statutory minimum bonus. [J.K. Chemicals Ltd. vs. Govt. of Maharashtra (1996) Bombay H.C.].

- (C) **Basic Wages:** As per Section 2(b) of the Employees' Provident Funds and Miscellaneous Provision Act, 1952, "Basic Wages" mean all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include:

- (i) the cash value of any food concessions;
- (ii) any dearness allowance (that is to say all cash payments, by whatever name called, paid to an employee on account of a rise in the cost of living), house rent allowance, overtime allowance, bonus commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment; or
- (iii) any presents made by the employer.

The key characteristics of basic wages are:

- (a) All emoluments (of whatever nature) earned during duty or during paid leave or during paid holidays;
- (b) The above emoluments are in accordance with the terms of employment of the employee;
- (c) The above emoluments are paid or payable in cash.

Therefore, emoluments or benefits of a non cash nature or any payment not in accordance with the terms of employment shall not form part of basic wage. Thus if an employer pays any amount as a reward to the employee out of his own will without being under the obligation to do so under the terms of employment of the employee, such payment shall not be basic wage under this Act. Applying the above provisions of this Act to the given problem, the Basic wages of Vimal will include only piece rate wages but will exclude the Productivity bonus, additional dearness allowance and value of puja gift.

- (D) According to section 9 of the Negotiable Instruments Act, 1881 'holder in due course' means any person who for consideration becomes the possessor of a promissory note, bill of exchange or cheque if payable to bearer or the payee or endorsee thereof, if payable to order, before the amount in it became payable and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived

his title. As 'A' in this case prima facie became a possessor of the bill for value and in good faith before the bill became payable, he can be considered as a holder in due course. But where a signature on the negotiable instrument is forged, it becomes a nullity. The holder of a forged instrument cannot enforce payment thereon. In the event of the holder being able to obtain payment in spite of forgery, he cannot retain the money. The true owner may sue on tort the person who had received. This principle is universal in character, by reason where of even a holder in due course is not exempt from it. A holder in due course is protected when there is defect in the title. But he derives no title when there is entire absence of title as in the case of forgery. Hence 'A' cannot receive the amount on the bill.

(5x4 = 20 Marks)

Answer 3:

(A) **Red-herring Prospectus (Section 32 of the Companies Act, 2013):** A red-herring Prospectus means a prospectus which does not include complete particulars of the price or the quantum of securities offered therein [Explanation to Section 32]. Section 2 (70) of the Companies Act, 2013 defines a prospectus includes a red herring prospectus within its meaning. Hence, a red herring prospectus is a prospectus within the meaning of section 2 (70).

Under section 32 (1) a public company proposing to make an offer of securities may issue a red herring prospectus prior to the issue of a prospectus. Therefore, the issue of a red herring prospectus does not absolve a company from issuing a regular prospectus in accordance with the relevant provisions of the Companies Act 2013. According to section 32 (1) a company proposing to issue a red herring prospectus under subsection (1) shall file it with the Registrar at least three days prior to the opening of the subscription list and the offer. Section 32 (3) states that a red herring prospectus shall carry the same obligations as are applicable to a prospectus and any variation between the red herring prospectus and a prospectus shall be highlighted as variations in the prospectus. Section 32 (4) states that upon the closing of the offer of securities, the prospectus stating therein the total capital raised, whether by way of debt or share capital, and the closing price of the securities and any other details as are not included in the red herring prospectus shall be filed with the Registrar and the Securities and Exchange Board. On the basis of offers received, company will finalise the issue price and issue size and then close the offer. After closure of offer of securities, a final prospectus will be prepared stating the total capital raised whether by way of debts, or share capital and the closing price of securities and any other details as were not complete in red-herring prospectus. The prospectus will be filled with ROC and also with SEBI in case of listed company.

(4 Marks)

(B) Section 4 (1) (c) of the Companies Act 2013 clearly provides for the Memorandum to include the objects for which the company is formed. A company is therefore, formed to carry on activities only in line with its objects as defined in the Memorandum. Any act outside the objects clause is termed "ultra vires" and is considered void. Hence, if a company wishes to start a business which is not provided for in its Memorandum, it must first alter its Memorandum to include that business in its objects clause. This is a simple process defined in section 13 of the Act. It can be done with the approval of the members by a special resolution and the registration of the same with the Registrar.

(4 Marks)

(C) **Meaning of Sweat Equity Shares:** Section 2 (88) of the Companies Act, 2013 defines "sweat equity shares" as those equity shares which are issued by a company to its directors or employees at a discount or for consideration other than cash for providing their know-how or making available right in the nature of intellectual property rights or value additions, by whatever name called.

Conditions to be fulfilled before issue of Sweat Equity Shares: Notwithstanding anything contained in Section 53 (Providing for issue of shares at a discount), a company

may under section 54 of the Companies Act, 2013 issue sweat equity shares if the following conditions are fulfilled:

1. The shares being issued belong to a class of shares which have already been issued.
2. The issue should be authorised by a special resolution passed by the company in general meeting.
3. The resolution should specify number of shares, current market price, consideration, if any and the class or classes of directors or employees to whom such shares are to be issued.
4. Not less than one year has elapsed at the date of such issue, since the date on which the company had commenced business.
5. Where the equity shares of the company are listed on a recognised stock exchange, the sweat equity shares are issued in accordance with the regulations made by the Securities and Exchange Board in this behalf and if they are not so listed, the sweat equity shares are issued in accordance with such rules as may be prescribed. Under section 54 (2) the rights, limitations, restrictions and provisions as are for the time being applicable to equity shares shall be applicable to the sweat equity shares issued under this section and the holders of such shares shall rank paripassu with other equity shareholders.

(8 Marks)

Answer 4:

(A) Jurisdiction of Court, now Tribunal, the Companies Act, 2013: According to Section 56 (4) of the Companies Act, 2013 every company, unless prohibited by any provision of law or of any order of court, Tribunal or other authority, shall deliver the certificates of all shares transferred within a period of one month from the date of receipt by the company of the instrument of transfer. Further under section 56 (6) Where any default is made in complying with the provisions of sub-sections (1) to (5) of section 56 (which deals with transfer and transmission of shares), the company shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees and every officer of the company who is in default shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees The jurisdiction binding on the company is that of the state in which the registered office of the company is situated. Hence, in the given case the Delhi court is not competent to take action in the matter. The facts of the given case are similar to H.V. Jaya Ram Vs. ICICI Ltd., 1998. In this case the Special Court for Economic Offences in the State of Karnataka rejected the appellant's complaint against the respondent company on the ground that since the company had its registered office at Mumbai it is only the court which has territorial jurisdiction over the registered office of the company that can entertain the petition and not the court located in the State of Karnataka where the shareholder is residing. The High Court also upheld the order of the Special Court. On appeal Supreme Court held that cause of action for failure to deliver share certificate arises where the registered office of the company is situated and not in the jurisdiction of the Court located in the place where the complaint resides.

(B) The fundamental principles relating to ethics may be summarized as under:

- 1. The Principle of Integrity:** It calls upon all accounting and finance professionals to adhere to honesty and straightforwardness while discharging their respective professional duties.
- 2. The Principle of Objectivity:** This principle requires accounting and finance professionals to stick to their professional and financial judgment.
- 3. The Principle of Confidentiality:** This principle requires practitioners of accounting and financial management to refrain from disclosing confidential information related to their work.

- 4. The Principle of Professional Competence and due care:** Finance and accounting professionals need to update their professional skills from time to time in order to provide competent professional services to their clients.
- 5. The Principle of Professional Behaviour:** This principle requires accounting and finance professionals to comply with relevant laws and regulations and avoid such actions which may result in discrediting the profession.

- (C) Corporate Governance:** Simply stated, 'Governance' means the process of decision making and the process by which decisions are implemented. The term 'corporate governance' is understood and defined in various ways. Corporate governance can be defined as the formal system of accountability and control for ethical and socially responsible organisational decisions and use of resources and accountability relates to how well the content of workplace decisions is aligned with the organisation's strategic direction. Control involves the process of auditing and improving organisation decisions and actions. Good corporate governance has the following major characteristics:
- (i) Participatory
 - (ii) Consensus oriented
 - (iii) Accountable
 - (iv) Transparent
 - (v) Responsive
 - (vi) Effective and efficient
 - (vii) Equitable and inclusive and
 - (viii) Follows the rule of law.
- (D) Correct:** Business and industry are closely linked with environment and resource utilization. Production process and strategy for eco-friendly technologies throughout the product life cycle and minimization of waste play a major role in the protection of the environment and conservation of resources. Business, industry and multinational corporations have to recognize environmental management as the priority area and a key determinant to sustainable development.

(4x4 = 16 Marks)

Answer 5:

- (A)** According to the National communication Association, ethical communication is fundamental to responsible thinking, decision making and the development of relationship and communities within and across contexts, cultures, channels and media. Ethical communication enhances human worth and dignity by fostering, truthfulness, fairness, responsibility, personal integrity and respect for self and others'. While unethical communication threatens the quality of all communication and consequently the well-being of individuals and the society in which we live. In nutshell ethical communicators have a 'well developed sense of social responsibility'. An ethical communication is one which: includes all relevant information
- is true in every sense and is not deceptive in any way.
 - is accurate and sincere. Avoids language that manipulates, discriminates or exaggerates.
 - does not hide negative information behind an optimistic attitude.
 - does not state opinions as facts.
 - portrays graphic data fairly.
- (B) Guidelines to handle communication ethics dilemmas:**
- (a) Maintain candour: Candour refers to truthfulness, honesty, frankness and one should stick to these elements while communicating with others.
 - (b) Keep message accurate: At the time of relaying information from one source to another, communicate the original message as accurately as possible.

- (c) Secrecy: One has to maintain secrecy and confidence in communication. So one should not divulge such information to others
- (d) Ensure timeliness of communication: The timing of messages can be critical. Delay in sending messages can be assumed unethical.
- (e) Avoid deception: Ethical communicators are always vigilant in their quest to avoid deception, fabrication, intentional distortion or withholding of information in their communication.
- (f) Confront unethical behaviour: One must confront an unethical behaviour in order to ensure a consistent ethical view point.

(C) Quorum means the minimum number of members that must be present in person in order to constitute a meeting and transact business thereat. Thus quorum represents the minimum number of members on whose presence the meeting of a company can commence its business. Under section 103 (2) in case the quorum is not present within half-an-hour from the time appointed for holding a meeting of the company the meeting shall stand adjourned to the same day in the next week at the same time and place, or to such other date and such other time and place as the Board may determine; or the meeting, if called by requisitionists under section 100, shall stand cancelled. Therefore, the quorum is an extremely important element of a validly held meeting. Under the Companies Act, 2013 quorum is never considered immaterial in the holding of a valid meeting. However, under only one situation a meeting will be validly held even if the quorum is not present. If all the members are present, it is immaterial that the quorum required by the Articles is more than the total number of members and in such a case the meeting will be validly held even if the quorum as laid out in the Articles is not present. If for example, the Articles of a private company provide that 4 members personally present shall be a quorum and the number of members is reduced to 3, the meeting of members will be validly held when all the 3 members attend the meeting.

(D) Acts for which special resolutions are required: Some matters may be so important and Outside the ordinary course of the company's business, such as any important constitutional changes, that safeguards should be imposed to ensure that a larger majority than a simple majority of the members approve of them before they are given effect to. The Act requires that the following matters, inter alia, have to be resolved by the company, by a special resolution:

- (1) To alter any provision contained in the memorandum, [Section 13(1)];
- (2) To alter the articles of association [Section 14 (1)];
- (3) Variation in the terms of contract or objects in the prospectus [section 27 (1)];
- (4) Issue of Sweat Equity [Section 54 (1) (a)]
- (5) To purchase its own shares or specified securities [Section 68 (2)];
- (6) To reduce the share capital as per section 100 of the Companies Act, 1956[i.e.,Section66 (1)of the Companies Act,2013, not yet notified];
- (7) To move the registered office of an existing company outside the local limits of any city, town or village where such office is situated at the commencement of this Act [Section 12 (5)(a)]
- (8) To move the registered office of any other company outside the local limits of any city, town or village where such office is first situated [Section 12 (5)(b)]
- (9) Giving of any loan or guarantee or providing any security in excess of specified limits [Section 186 (3)];
- (10) To issue debentures with an option of conversion into shares [Section 71 (1)].

(4x4 = 16 Marks)

Answer 6:

(a) Section 110 of the Companies Act 2013, provides as under:

Sub section (1): Notwithstanding anything contained in this Act, a company—

- (a) shall, in respect of such items of business as the Central Government may, by notification, declare to be transacted only by means of postal ballot; and
- (b) may, in respect of any item of business, other than ordinary business and any business in respect of which directors or auditors have a right to be heard at any meeting, transact by means of postal ballot,

In such manner as may be prescribed, instead of transacting such business at a general meeting.

Sub section (2) states that if a resolution is assented to by the requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been duly passed at a general meeting convened in that behalf.

The procedure as laid down in the Rule 22 of the Companies (Management & Administration) Rules, 2014 read with the provisions of section 110 of the Companies Act is as under:

- (i) Where a company is required to pass any resolution by way of postal ballot, it shall send a notice to all the shareholders, along with a draft resolution explaining the reasons therefore and requesting them to send their assent within a period of 30 days from the date of posting of the letter;
- (ii) The notice shall be sent by registered post or speed post or through electronic means like registered e-mail address or through courier service for facilitating the communication of the assent or dissent of the shareholder to the resolution within the said period of thirty days;
- (iii) The board of directors shall appoint one scrutinizer, who is not in employment of the company, and who, in the opinion of the board can conduct the postal ballot voting process in a fair and transparent manner. The scrutinizer shall be willing to be appointed and be available for the purpose of ascertaining the requisite majority.
- (iv) The scrutinizer shall submit his report as soon as possible after the last date of receipt of postal ballots but not later than seven days thereof.
- (v) If a resolution is passed by the requisite majority of the shareholders by means of postal ballot, it shall be deemed to have been passed at a general meeting convened in that behalf.
- (vi) If a shareholder sends his assent or dissent in writing on a postal ballot and thereafter any person fraudulently defaces or destroys the ballot paper or declaration of the identity of shareholder, such person shall be punishable with imprisonment for a term which may extend to six months or with fine or both;
- (vii) The scrutinizer shall maintain a register either manually or electronically, to record the assent or dissent received, mentioning the particulars of name, address, folio number, number of shares, nominal value of shares, whether the shares have voting, differential voting or non-rights and the scrutinizer shall also maintain record for postal ballot which are received in defaced or mutilated form and forms which are invalid.
- (viii) The postal ballot and all other papers relating to postal ballot will be under the safe custody of the scrutinizer till the Chairman considers, approves and signs the minutes of the meeting. Thereafter, the scrutinizer shall return the ballot papers and other related papers/register to the company so as to preserve such ballot papers and other related papers/registers.

(B) The key elements in the innovation framework are:

- (i) **Accessibility:** The major organizational challenge is to make everyone, particularly the workers as active participants in the work process. The innovative enterprise ensures

everyone is accessible to each other at all levels within the organization.

- (ii) Recognize and reward innovation: One of the more radical steps an organization or manager can take is to make innovation a requirement of the job.
- (iii) Develop company programs that encourage innovation: Some companies allow their employees to take sabbaticals to work in a new environment or teach in a college. By placing employees in different environments, they can meet new people, come across new ideas and hopefully generate their own novel approaches.
- (iv) Foster informal communication: The paperwork involved in proposing or even pursuing a project can be a major roadblock to innovation. Employees often feel stifled when asked to fully justify ideas; they may be working on a hunch.
- (v) Information: The right kind of information is called innoinformation. This type of information is critical to the vitality of the enterprises. Innoinformation consists of the plans, vision, goals and all the new ideas affecting the enterprises. The innovative enterprise is looking forward continuously changing and adapting to the needs of the customer.
- (vi) Framework: The innovative enterprise must constantly adapt, create and innovate. Information and communication are the wind that sails the innovative enterprise towards its destination. Information and communication pose difficult challenges for most businesses. The difficulty lies in balancing the flow of information between providing too much or too little information.

(C) Merits of the grapevine phenomenon:

- (a) Speedy transmission:** It transmits information very speedily. A rumour spreads like wild fire.
- (b) Feedback value:** The managers or top bosses of an organisation get the feedback regarding their policies, decisions, memos etc.
- (c) Support to other channels:** It is a supplementary or parallel channel of communication.
- (d) Psychological satisfaction:** It gives immense psychological satisfaction to the workers and strengthens their solidarity.

Demerits of the grapevine phenomenon:

- (a)** It is less credible. It cannot always be taken seriously.
- (b)** It does not always carry the complete information.
- (c)** It often distorts the picture or often misinforms.

- (D) Grapevine: Applicable to Communication:** Communication may be oral or written for direct contact. It may be informal also. The "Grapevine" is one of the recognized hannels of informal communication. According to human psychology, a person likes to form and move in groups. They interact on serious and non- serious issues and they spread it fast whether the information is correct or not. This process is known as rumour mill. The larger the organization, the more active is the rumour mill. The phenomenon of grapevine is based on generally three factors, namely: (1) formation of favoured group (2) lack of self confidence and, (3) feeling of uncertainty due to lack of directions. Four kinds of the grapevine chains have been identified and they are:

- (a) Single Strand Chain, which is the least accurate in passing on the information or message.
- (b) Gossip Chain, which is often used when information or a message regarding 'not-on-job' nature is being conveyed.
- (c) Probability Chain is used when information is somewhat interesting but not really significant.
- (d) Cluster Chain, which acts as liaison and spreads information with the greatest speed.

(4x4 = 16 Marks)

Answer 7: Attempt any four

(A) Doctrine of Constructive Notice: In consequences of the registration of the memorandum and articles of association of the company with the Registrar of Companies, a person dealing with the company is deemed to have constructive notice of their contents (*T.R. Pratt (Bombay) Ltd. v. E.D. Sassoon & Co. Ltd.*). This is because these documents are construed as 'public documents'. Accordingly if a person deals with a company in a manner incompatible with the provisions of the aforesaid documents or enters into transaction which is ultra vires these documents, he must do so at his peril.

The doctrine of constructive notice is not a positive one but a negative one like that of estoppels of which it forms parts. It operates only against the person who has been dealing with the company but not against the company itself; consequently he is prevented from alleging that he did not know that the constitution of the company rendered a particular act or a particular delegation of authority ultra vires. There is one limitation to the doctrine of constructive notice of the Memorandum and the Articles of a company. The outsiders dealing with the company are on their part entitled to assume that as far as the internal proceedings of the company are concerned, everything has been done properly in accordance with the Memorandum and Articles and the Act. They are only bound to read the registered documents and satisfy themselves that the proposed dealing is not inconsistent therewith, but are not bound to do more; they need not inquire into the regularity of the internal proceedings as required by the Memorandum and the Articles. This limitation of the doctrine of constructive notice is known as the 'doctrine of indoor management' or the rule laid down in the celebrated case of *Royal British Bank v. Turquand*. Thus, whereas the doctrine of constructive notice protects the company against outsiders, the doctrine of indoor management seeks to protect outsiders against the company.

(B) In terms of the Companies Act, 2013 when any person who becomes a nominee or legal representative of a member by virtue of the operation of any law, he may, upon the production of such evidence as may be required by the Board and subject to any other applicable law, either

- (a) get himself registered as holder of the securities; or
- (b) transfer the securities, in favour of a third person who shall be entitled to get the securities registered in his name with the company.

If the person being a nominee, so becoming entitled, elects to be registered as holder of the securities, he shall deliver or send to the company a notice in writing signed by him stating that he so elects and such notice shall be accompanied with the death certificate of the deceased member.

(C) Rate, limit and period of payment of interest:

As per Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952

- (i) the employer shall be liable to pay simple interest at the rate of 12 per cent per annum or at such higher rate as may be specified in the Scheme only if he has delayed in the

payment of any amount due from him under this Act. The interest shall be payable from the due date till the date of payment.

- (ii) although the upper limit of interest rate is not given in the Act, it is clearly mentioned that the higher rate of interest specified in the Scheme cannot exceed the lending rate of interest charged by any scheduled bank.
- (iii) The period for which the employer is liable to pay the interest is from the date on which the amount has become so due till the date of its actual payment.

(D) Under section 16(1) the EPF & MP Act, 1952 does not apply to:

- (a) Any establishment registered under the Co-operative Societies Act, 1912, employing less than 50 persons and working without the aid of power; or
- (b) To any other establishment belonging to or under the control of the Central Government or a State Government and whose employees are entitled to the benefit of contributory provident fund or old age pension in accordance with any scheme or rule framed by the Central Government or the State Government governing such benefits; or
- (c) To any other establishment set up under any Central, Provincial or State Act and whose employees are entitled to the benefits of contributory provident fund or old age pension in accordance with any scheme or rule framed under that Act governing such benefits; or
- (d) Any other class of establishment, which the Central Government has by notification in the Official Gazette, that it is expedient to do so on the basis of the financial position, subject to such conditions and for such period as may be prescribed by the Central Government.

(E) According to Section 202 of the Indian Contract Act, 1872 where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest. In the instant case the doctrine of agency coupled with interest applies. Therefore, A cannot revoke the authority delegated to B.

(4x4 = 16 Marks)
