

PAPER – 6F: MULTIDISCIPLINARY CASE STUDY

SUGGESTED ANSWERS / HINTS

Case Study 6

A. Multiple Choice Questions

Answer 1

(c)

Answer 2

(d)

Answer 3.

(d)

Answer 4.

(d)

Answer 5.

(a)

Answer 6.

(a)

Answer 7.

(c)

Answer 8.

(c)

Answer 9.

(d)

Answer 10.

(a)

B. Descriptive/Numerical

- 11 (i) Under section 149(1) of the Companies Act, 2013, every company shall have a Board of Directors consisting of individuals as directors and shall have a minimum number of 3 directors in the case of a public company, 2 directors in the case of a private company, and one director in the case of a One Person Company. The maximum number of directors shall be 15.

The proviso to section 149(1) states that a company may appoint more than 15 directors after passing a special resolution.

From the provisions of section 149 (1) as above, though the minimum number of directors may vary depending on whether the company is a public company, private or a one person company, the maximum number of directors is the same for all types at 15 directors.

Hence, in the question above, the maximum permissible limit is 15 directors. Thus, the Board of Directors can increase the number by simply appointing the additional 6 directors at the general meetings of the company after following the prescribed procedure and conditions. However, if the number of directors was proposed to have been increased beyond 15 directors, such authority must be obtained from the members through a special resolution and only after that approval, new directors could be appointed.

- (ii) According to Section 161(2) of the Companies Act, 2013, the Board of Directors of a company may, if so authorised by its articles or by a resolution passed by the company in general meeting, appoint a person, not being a person holding any alternate directorship for any other director in the company, to act as an alternate director for a director during his absence for a period of not less than three months from India.

According to section 173(3), a meeting of the Board may be called by giving at least a 7 days' notice in writing to every director to his registered address with the company and such notice shall be sent by hand delivery or by post or by electronic means.

There is no legal precedence whether the notice of the meeting is to be sent to the original director or the alternate director. But as a matter of prudence the notice of the meeting may be served to both the alternate director as well as the original director who is for the time being outside India.

12. (a) Josch is an ambitious person and wishes to diversify into an related area of content creation. To some extent the experience of the organization in creating designed contents precludes the printing work and a diversification into printing can be a natural extension. Moreover, the existing customer base can be developed as customer of new business. Thus the organization can make synergistical gains by entering into printing work.

At the same time the company is taking significant risk as the printing press would be a different kind of work that would require different skill sets. The company needs to make huge capital expenditure. As there is significant competition, the alternative of testing waters by outsourcing printing work could have been a viable alternative at least during the initial years. This way risk could have been reduced. Moreover, a new team with different skillsets would be required to manage the new business. There can be manpower challenges as the organization has no experience in the work related to printing press.

- (b) The categories of costs would be as follows:

- ◆ Environmental Prevention Costs– Those costs associated with preventing adverse environmental impacts. Examples include
 - Evaluating and picking pollution control equipment
 - Site and feasibility studies
 - Investment in protective equipment
- ◆ Environmental Appraisal Costs– The cost of activities executed to determine whether products, process and activities are in compliance with environmental standards, policies and laws. Examples include
 - Regulatory compliances
 - Performing contamination tests
- ◆ Environmental Internal Failure Costs – Costs incurred from activities that have been produced but not discharged into the environment. Examples include

- Recycling scrap
- Disposing toxic material i.e. printing ink

◆ Environmental External Failure Costs – Costs incurred on activities performed after discharging waste into the environment. These costs have adverse impact on the organisation's reputation. Examples include

- Cleaning up
- Restoration

13. The customs duties/taxes payable on imported goods is computed in accordance with the provisions prescribed under Customs Act, 1962 read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Accordingly, the applicable customs duties/taxes are computed as under:

Computation of total custom duty/tax payable

Particulars	Amount (€)
CIF value (negotiated price) [Note-1]	3,80,000
Less: Air freight	5,000
Less: Insurance	<u>1,900</u>
FOB value	3,73,100
Add: Vendor inspection charges [Note-2]	Nil
Freight [Note-3]	5,000
Insurance [Note-4]	<u>1,900</u>
	3,80,000
Exchange rate is Rs. 102 per € [Note-5]	
	Rs.
Value in rupees	3,87,60,000
Add: Commission payable to local agent [1% of FOB value] [Note-6] = (€3,73,100 × Rs. 102) × 1%	3,80,562
Total (Assessable Value)	3,91,40,562
Add: Basic custom duty @ 10% (rounded off) [Note-7] [A]	39,14,056
EC and SHEC (3% of Rs. 39,14,056) [rounded off] [B]	1,17,422
Value for levying integrated tax	4,31,72,040
Integrated tax leviable under section 3(7) of Customs Tariff Act, 1975 @ 18% (rounded off) [Note 8] [C]	77,70,967
Total customs duty/tax payable [A]+[B]+[C]	1,18,02,445

Notes:

1. As per section 14 of the Customs Act, 1962, the value of the imported goods is the transaction value, which means the price actually paid or payable for the goods. In this case, since the contract was re-negotiated and the importer paid the re-negotiated price, the transaction value would be such re-negotiated price and not the contract price.
2. Only the payments actually made as a condition of sale of the imported goods by the buyer to the seller are includible in the assessable value under rule 10(1)(e) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 [Customs Valuation Rules]. Charges of

vendor inspection on the goods carried out by foreign supplier on his own and not required for making the goods ready for shipment, are not includible in the assessable value of the imported goods [Bombay Dyeing & Mfg. v. CC 1997 (90) ELT 276 (SC)].

3. Actual amount incurred towards freight will be considered since air freight is not more than 20% of customs FOB value [Fifth proviso to rule 10(2) of the Customs Valuation Rules].
4. Actual insurance charges paid are includible in the assessable value as per rule 10(2)(b) of the Customs Valuation Rules.
5. Rate of exchange notified by CBEC on the date of filing of bill of entry will be considered as per third proviso to section 14 of the Customs Act, 1962.
6. Commission paid to local agent of the exporter (since it is not buying commission) is includible in the assessable value [Rule 10(1)(a)(i) of the Customs Valuation Rules].
7. As per proviso to section 15 of the Customs Act, 1962, rate of duty will be the rate in force on the date of presentation of bill of entry or on the date of arrival of the aircraft, whichever is later.
8. Integrated tax leviable under section 3(7) of the Customs Tariff Act, 1975 is levied on the sum total of the assessable value of the imported goods, customs duties and applicable education cess and secondary and higher education cess.

Input tax credit of import duties/taxes paid on import of goods

Goods and Service Tax (GST) Laws enable a supplier to avail credit of input tax charged on supply of goods and services used in the course or furtherance of business to be set off against the GST leviable on output supplies. Basic customs duty and education cesses leviable thereon do not fall within the scope of input tax as defined under section 2(62) of CGST Act. However, integrated tax charged on import of goods is input tax in terms of sub-clause (a) of section 2(62). Therefore, integrated tax amounting to Rs. 1,55,41,934 paid on import of the machinery will be available as input tax credit to the company.

The company cannot avail credit of basic customs duty and education cesses leviable thereon.

Tax optimization on second machinery

Since Quality e-Contents India (P) Ltd intends to export the designed and printed material to its foreign clients, it can avail the benefits extended to exporters under Foreign Trade Policy (FTP). Exports are promoted through various promotional schemes offered under FTP. The principle is that goods and services should be exported and not taxes. Hence, the taxes on exports are either exempted or adjusted or refunded on both outputs and inputs, through schemes of Duty Exemption, Duty Refund (Drawbacks and Rebates).

Capital goods can be imported at NIL duty for the purpose of exports under Exports Promotion Capital Goods Scheme (EPCG). EPCG permits exporters to import capital goods for pre-production, production and post-production at zero customs duty or procure them indigenously without paying duty in the prescribed manner. In return, exporter is under an obligation to fulfill the export obligation (EO).

Import under EPCG scheme shall be subject to an export obligation equivalent to 6 times of duty saved on capital goods to be fulfilled in 6 years reckoned from the date of issue of authorization. Import of capital goods shall be subject to 'Actual User' condition till export obligation is completed. After export obligation is completed, capital goods can be sold or transferred.

There is one more scheme under FTP through which import duty on capital goods can be neutralised namely, Post Export EPCG Duty Credit Scrip(s). Under this scheme, capital goods can be imported on full payment of applicable duties in cash. Later, basic customs duty paid on Capital Goods is remitted in the form of freely transferable duty credit scrip(s). Duty remission shall be in proportion to the EO

fulfilled. These Duty Credit Scrip(s) can be utilized in the similar manner as the scrips issued under reward schemes can be utilised.

Thus, Quality e-Contents India (P) Ltd can import the second machinery under EPCG scheme or Post Export EPCG Duty Credit Scrip scheme to neutralise the import duties.