

Intermediate Course: Group - I
DATE: 17.08.2024

MAXIMUM MARKS: 100

(Mock Test Paper - 2)
TIMING: 3¼ Hours

CORPORATE AND OTHER LAW

1. The question paper comprises two parts, Part I and Part II.
2. Part I comprises Case Scenario based Multiple Choice Questions (MCQs).
3. Part II comprises questions which require descriptive type answers.

PART I – CASE SCENARIO BASED MCQs (30 MARKS)

PART - I IS COMPULSORY

Q. 1 to Q. 4

CASE SCENARIO

Shree Tyres Ltd. is an unlisted public limited company. The company's accounts for the financial year ending on 31st March, 2022 were finalised and audited by the Statutory Auditor. The meeting of the Board of Directors was convened and approved the financial accounts of the company and proposed to convene the Annual General Meeting of the shareholders on Thursday, the 25th August, 2022 at 10 am.

The total number of members is 3500. The Article of the company provides that the quorum for the general meeting of the shareholders shall be at least fifty members. On the day of the meeting only 10 members were physically present. Even after waiting of 30 minutes, the quorum was not present. Accordingly, the meeting was adjourned. According to the provisions of the Companies Act, 2013, the meeting shall adjourn to the same day in the next week at the same time and place.

However, on the same day in the next week i.e., on Thursday, the 1st September, 2022, the same venue (which is a Hotel's Conference Hall) was available from 3 pm only. The Board agreed to conduct the meeting from 3 pm and the all the members were informed individually via mail and also published it in the newspapers (one in English and another in vernacular language)

The adjourned meeting started at 3 pm on 1st September, 2022, the quorum required as per the Articles was 50, however 75 members were present. Out of the 75 members attending the meeting 25 persons were having the residence near the venue of Annual General Meeting and rest of the members were staying far away. Due to heavy rainfall and scarce availability of public transportation, 40 persons left the meeting so that they can reach home on time. By that time only the ordinary business resolutions were approved and two special business agendas were pending for approval by the members.

Based on the above facts, answer the following MCQs:

1. In the light of the given facts, the General Meeting of the shareholders was decided to be scheduled . Determine by which date the notices to the shareholder should have been given to the members:
 - (a) 1st August, 2022
 - (b) 2nd August, 2022
 - (c) 3rd August, 2022
 - (d) 4th August, 2022
2. Whether adjournment of the general meeting of shareholders of Shree Tyres Ltd. for want of quorum, was justified as per the requirement of the Companies Act, 2013:
 - (a) Yes, it was justified, since the quorum was not present within 30 minutes from the time appointed for holding the meeting
 - (b) No, it was not justified since the waiting time for the arrival of the requisite quorum is 30 minutes as per the provisions of the Companies Act, 2013,

- whereas the decision of the adjournment of the meeting was just taken after 15 minutes.
- (c) Yes, if the quorum is not present at the given time (sharp) of meeting, the meeting stands to be adjourned, and there is no requirement of waiting time.
 - (d) Yes, it was justified, since the quorum was not present within 45 minutes (as per statutory requirement) from the time appointed for holding the meeting.
3. What shall be the quorum for the General Meeting of the Shareholders, where the number of members is 3500:
- (a) Five
 - (b) Fifteen
 - (c) Thirty
 - (d) Fifty
4. As some members left the meeting, the quorum was not present all the time during the Annual General Meeting. The agendas for special business transactions remained un-approved. What is your opinion:
- (a) The quorum once present in the beginning of the meeting is enough.
 - (b) The quorum should be present all the time when the meeting is in progress. Any items which could not approved by members for want of quorum, shall be treated as NIL.
 - (c) When the quorum is present in the beginning of the meeting, it may be assumed that all the resolutions have been approved, until and unless objected later on by the members present therein.
 - (d) The Board may seek special written consent from the all the members later on.

MCQ [4 MCQ of 2 Marks Each : Total 8 Marks]

Q. 5 to Q. 7

CASE SCENARIO

Tech Inspiration Private Limited was incorporated on 30.06.2018. The main object of the company was to provide guidance classes for engineering aspirants. For this purpose, they opened a coaching center at Freedom Plaza, Near Bhagwan Talkies, Bye Pass Road, Agra. The premise was owned by the company. The company also made a "Employee Appointment Committee" for the systematic selection and appointment of employees including faculties for teaching. In the first slab, committee appointed nine teachers, 3 clerical staff and one peon. For the purpose of expansion of business, company decided to open a branch of the company at nearby city of Agra. After the due research, the company decided to open its branch at city "Bharatpur" which was just 50 kilometers far from Agra. The company approached Mr. Raghuram Meena owner of land at Bharatpur suitable for company. Mr. Raghuram Meena leased his land for ten years to Tech Inspiration Private Limited. The land had a small temple of lord Ganpati at its centre. The company constructed the classrooms on the land and many students joined the coaching classes. Besides it, the temple generated some income in the form of

"Chadhava" (donation). Mr. Raghuram Meena claimed the income of temple with the contention that he had leased only the land and not the temple.

Further one more problem arose in the company. "Employee Appointment Committee" found that one of the faculties, Mr. Nitesh Gupta was not performing well. He was not justifying his duties. Therefore, "Employee Appointment Committee" decided to terminate him with effect from 31.01.2024 and send him notice of termination by properly addressing and by registered post to Mr. Nitesh Gupta. Mr. Nitesh Gupta refused to accept the notice and returned back it to the postman. After two months, on 01.04.2024, Mr. Nitesh Gupta filed a suit against the company for claiming the salary for the period from 01.01.2024 to

MITTAL COMMERCE CLASSES

31.03.2024 with the view that his appointment cannot be terminated because of two reasons:

- (i) "Employee Appointment Committee" was established just to appoint the employees. They are not authorised for their termination.
- (ii) Mr. Nitesh Gupta's refused to accept the notice of termination with the contention that it was not properly served to him.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following MCQs (11-13) given herein under: -

5. Whether Mr. Raghuram Meena is correct in his claim? Whether he may claim the income of temple:
 - (a) Yes, Mr. Raghuram Meena was correct in his views as he leased only land not the temple, situated on such land.
 - (b) Yes, as temple is a constructed building, not land.
 - (c) No. 'Immovable Property' in terms of the General Clauses Act, 1897 includes land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth. So, benefits attached to land and income from temple will be of Tech Inspiration Private Limited.
 - (d) No. It is the right of Tech Inspiration Private Limited to decide that who will claim the income of temple.
6. Whether "Employee Appointment Committee" may terminate Mr. Nitesh Gupta even the authority letter given to "Employee Appointment Committee" has no specific clause authorizing it for termination of employees?
 - (a) No, as "Employee Appointment Committee" was authorised only for appointment and not for termination of employees.
 - (b) Yes, because section 16 of the General Clauses Act, 1897, provides that unless a different intention appears, power to appoint to include power to suspend or dismiss.
 - (c) No, because section 16 of the General Clauses Act, 1897, provides that power to appoint does not include power to suspend or dismiss.
 - (d) No, It's only board of directors of Tech Inspiration Private Limited who has the right to terminate its employees in board meeting.
7. Whether the refusal to accept the notice sent by post, by Mr. Nitesh Gupta would be termed as not serving of notice of termination?
 - (a) Yes, as Mr. Nitesh Gupta had not accepted the notice.
 - (b) Yes, refusal to accept the post will always be considered as not served.
 - (c) No, because as per section 27 of the General Clauses Act, 1897 the service by post shall be deemed to be effected by properly addressing, pre-paying, and posting by registered post.
 - (d) No, Mr. Nitesh Gupta had the information of sending of notice.

MCQ [3 MCQ of 2 Marks Each : Total 6 Marks]

Q. 8 to Q. 10 CASE SCENARIO

The aggregate value of the paid-up share capital of Shiva Limited, a listed company, was Rs. 200 crore divided into 20 crore equity shares of Rs. 10/- each at the end of the financial year 2021-22 having its registered office at Pune. This company had been registered with an authorised share capital of Rs. 300 crore divided into 30 crore equity shares of Rs. 10/- each. The company has very good reputation in compliance of all legal requirements on

time. The company produces health related products such as ayurvedic medicines, medical instruments, sanitizers, masks, medical soaps etc. The extract of Balance Sheet of the company as on 31st March, 2022 showed the following figures–

Particulars	Amount (Rs. in crore)
Free reserves created out of profits	200
Securities Premium account	80
Credit balance of Profit & Loss account	50
Reserves created out of revaluation of assets	25
Miscellaneous expenditure not written off	10

Turnover of the company during the financial year 2021-22 was Rs. 700 crore and the net profit calculated in accordance with section 198 of the Companies Act, 2013 with other adjustments as per CSR Rules was Rs.4 crore only.

The Board of Directors of the company constituted of the following persons as directors- a Chartered Accountant 'Shiva' as the Managing Director, 'Roshan' and 'Prachita' as independent directors, 'Hari Om', 'Bindu', 'Reddy' and 'Komal'. Prakash, Chief compliance officer of the company informed the Board on 20th April, 2022 that the company attracts the provisions of section 135 of the Companies Act, 2013 and all the formalities have to be complied with accordingly. Thereafter, on 30th April, 2022 a CSR committee was formed to act and comply the provisions of Corporate Social Responsibility.

The company proposed a list of activities to spend 4% of the average net profits of the company made during the three immediately preceding financial years in pursuance of its CSR Policy as under–

1. The CSR projects for the benefit of employees of the company and their families only.
2. A contribution of Rs. 10,000/- to a political party under section 182 of the Companies Act, 2013.
3. A contribution to the PM CARES Fund during Covid pandemic.
4. Local activities like promotion of child and women education.
5. Activities carried out for fulfilment of any other statutory obligations under any law in force in India.

CSR projects undertaken through a Section 8 company.

On the basis of above facts and by applying applicable provisions of Companies Act, 2013 and the applicable Rules therein, choose the correct answer.

8. Prakash, Chief compliance officer of the company informed the Board on 20th April, 2022 that the company attracts the provisions of section 135 of the Companies Act, 2013. On what basis of the following he arrived at this conclusion -
 - (a) On the basis of turnover of the company.
 - (b) On the basis of turnover and net profit of the company taken together.
 - (c) On the basis of net worth of the company.
 - (d) On the basis of net worth and turnover of the company taken together.
9. For the purpose of section 135 of the Companies Act, 2013, the net worth has to be calculated as defined under section 2(57) of the Act. In this context, which of the following statements is correct with reference to the above case –
 - (a) The net worth of Shiva Limited during the financial year 2021-22 was Rs. 520 crore.
 - (b) The net worth of Shiva Limited during the financial year 2021-22 was Rs. 530 crore.
 - (c) The net worth of Shiva Limited during the financial year 2021-22 was Rs. 555 crore.
 - (d) The net worth of Shiva Limited during the financial year 2021-22 was Rs. 620 crore.

MITTAL COMMERCE CLASSES

10. Shiva Limited constituted a Corporate Social Responsibility Committee as per the provisions of the Act and Companies (Corporate Social Responsibility Policy) Rules, 2014, therein consisting of-
- Shiva, Hari Om, Bindu and Reddy
 - Hari Om, Bindu, Reddy and Prakash
 - Shiva, Hari Om, Bindu and Prakash
 - Shiva, Hari Om, Bindu and Roshan

MCQ [3 MCQ of 2 Marks Each : Total 6 Marks]

11. Mr. Amar (a resident individual) want to remit US\$ 60,000 to his son in the USA after winning a big lottery. Considering the provisions of the Foreign Exchange Management Act, 1999, choose the correct action which Mr. Amar would take to remit the said amount to his son in the USA.
- Visit a local bank and request a direct transfer to his son's US bank account.
 - Cannot remit the said amount as remittance out of lottery winnings is prohibited.
 - Travel to the USA personally with the cash winnings, to give it to his son.
 - Convert the US Dollar winnings into a different currency before sending it to his son.

(2 Marks)

12. Mr. Prakhar, an Indian Resident individual, wishes to obtain Foreign Exchange for a gift remittance totaling US\$ 50,000. Which of the following statements accurately reflects the regulatory requirement under the Foreign Exchange Management Act, 1999 (FEMA)?
- Mr. Prakhar can freely remit US\$ 50,000 for the gift as it is a current account transaction and the amount of gift remittance is less than US\$ 2,50,000.
 - Mr. Prakhar must seek prior approval from the RBI for the remittance exceeding US\$ 50,000.
 - Mr. Prakhar must seek prior approval from the RBI for any gift remittance, regardless of the amount.
 - Mr. Prakhar does not need to comply with any FEMA requirements as gift remittance does not fall under the purview of the FEMA 1999.

(2 Marks)

13. Goals Limited, a listed company has authorised share capital of Rs. 25,00,000 (issued, subscribed and paid up capital of Rs. 20,00,000). The company has planned to buy back shares worth Rs. 10,00,000. What is the maximum amount of equity shares that the company is allowed to buy back based on the total amount of equity shares?
- Rs. 2,00,000
 - Rs. 5,00,000
 - Rs. 6,25,000
 - Rs. 8,00,000

(2 Marks)

14. During the half year ended September 2022, the board of directors (BOD) of Gold Leaf Limited has made an application to the Tribunal for revision in the accounts of the company for the financial year ending on March 2020. Further during the year ended March 2023, the BOD has again made an application to the Tribunal for revision in the board's report pertaining to the year ended March 2022. You are required to state the validity of the acts of the Board of directors.
- The act of the BOD is valid only to the extent of application made for revisions in accounts as board's report are not eligible for revision.

MITTAL COMMERCE CLASSES

- (b) The act of the BOD is valid as application made for revision in the accounts and board's report pertains to two different financial year.
- (c) The act of the BOD is invalid as the law provides for only one time application to be made in a financial year for revision of accounts and boards report.
- (d) The act of the BOD is invalid as to the application made for revision in accounts pertains to a period beyond 2 years immediately preceding the year 2023. The application made for revision in the Board report is however valid in law.

(2 Marks)

15. Statutory interpretation is a practice through which the courts break down the words of a legislation and give true intent to it. While the legislature makes the laws, the judiciary performs the art of interpretation to give meaning to the words of the law maker. It is correctly said that "The purpose of Interpretation of Statutes is to help the Judge to ascertain the intention of the Legislature – not to control that intention or to confine it within the limits, which the Judge may deem reasonable or expedient". For interpretation of statutes various tools are used, you are required to pick the option depicting correct sequence of tools in order their application.

- (a) Internal Aids to Construction, External Aids to Constructions, and Literal Construction
- (b) Literal Construction, Internal Aids to Construction, and External Aids to Constructions
- (c) Internal Aids to Construction, Literal Construction, and External Aids to Constructions
- (d) External Aids to Constructions, Internal Aids to Construction, and Literal Construction

(2 Mark)

PART II - DESCRIPTIVE QUESTIONS (70 MARKS)

QUESTIONS NO. 1 IS COMPULSORY. CANDIDATES ARE REQUIRED TO ANSWER ANY FOUR QUESTIONS FROM THE REMAINING FIVE QUESTIONS
Wherever necessary, suitable assumptions may be made and disclosed by way of a note. Working Notes should form part of the answer.

Question 1:

- (a) Kanik, Priyansh, Abhinav and Bhawna were partners in Singh Jain & Associates LLP. Abhinav resigned from the firm w.e.f. 01.11.2022 but this was not informed to ROC by LLP or Abhinav. Whether Abhinav will still be liable for the loss of firm of the transactions entered after 01.11.2022?

(4 Marks)

- (b) What is a Shelf-Prospectus? State the important provisions relating to the issuance of Shelf-Prospectus under the provisions of the Companies Act, 2013 and the Companies (Prospectus and Allotment of securities) Rules, 2014.

(5 Marks)

- (c) Altroz Limited was incorporated in 1990 in the town of Alwar. Its main business is manufacturing high quality bangles. It is in the process of appointing statutory auditors for the financial year 2021 - 22. Advise whether the following persons are qualified to be appointed as statutory auditor of the Altroz Limited:

- (1) Priyansh, a qualified chartered accountant, is an employee of Altroz Limited.

- (2) Vinod is a practicing Chartered Accountant indebted to Altroz Limited for rupees 2 lakh.

(5 Marks)

Question 2:

- (a) In the light of the provisions of the Companies Act, 2013, examine whether the following Companies can be considered as a 'Foreign Company':

- (i) Red Stone Limited is a Company registered in Singapore. The Board of Directors meets and executes business decisions at their Board Meeting held in India.
- (ii) Xen Limited Liability Company registered in Dubai has installed its main server in Dubai for maintaining office automation software by Cloud Computing for its client in India.

(5 Marks)

- (b) Flora Fauna Limited was registered as a public company. There are 230 members in the company as noted below:

(a)	Directors and their relatives	50
(b)	Employees	15
(c)	Ex-Employees (Shares were allotted when they were employees)	10
(d)	5 couples holding shares jointly in the name of husband and wife (5*2)	10
(e)	Others	145

The Board of Directors of the company propose to convert it into a private company. Also advise whether reduction in the number of members is necessary.

(5 Marks)

- (c) State which kind of approval is required for the following transactions under the Foreign Exchange Management Act, 1999:

- (i) X, a Film Star, wants to perform along with associates in New York on the occasion of Diwali for Indians residing at New York. Foreign Exchange drawal to the extent of US dollars 20,000 is required for this purpose.
- (ii) R wants to get his heart surgery done at United Kingdom. Up to what limit Foreign Exchange can be drawn by him and what are the approvals required?

(4 Marks)

Question 3:

- (a) Discuss the following situations in the light of 'Deposit provisions' as contained in the Companies Act, 2013 and the Companies (Acceptance of Deposits) Rules, 2014, as amended from time to time.

- (i) Rameshwar, one of the Directors of Moon Technology Private Limited, a start-up company, requested his close friend Praveen to lend to the company Rs. 20.00 lacs in a single tranche by way of a convertible note repayable within a period of six years from the date of its issue. Advise whether it is a deposit or not.
- (ii) Shyam Readymade Garments Limited wants to accept deposits of Rs. 50.00 lacs from its member for tenure, which is less than six months. Is there any possibility to do so?
- (iii) The turnover of Y Ltd. is Rs. 400 crore as per last audited financial statement and net worth is Rs. 50 crores. Can Y Ltd. accept deposits from the public as per section 73 of the Companies Act, 2013?

(5 Marks)

MITTAL COMMERCE CLASSES

- (b) Mr. Rohan, an Indian Resident individual desires to obtain Foreign Exchange for the following purposes:
- (A) US\$ 120,000 for studies abroad on the basis of estimates given by the foreign university.
 - (B) Gift Remittance amounting US\$ 10,000.

Advise him whether he can get Foreign Exchange and if so, under what condition(s)?

(5 Marks)

- (c) Alex limited is facing loss in business during the financial year 2018-2019. In the immediate preceding three financial years, the company had declared dividend at the rate of 7%, 11% and 12% respectively. The Board of Directors has decided to declare 12% interim dividend for the current financial year atleast to be in par with the immediate preceding year. Is the act of the Board of Directors valid?

(4 Marks)

Question 4:

- (a) Vivek (Private) Limited on 7th May 2022 obtained Rs. 25 lakhs working capital loan by offering its Stock and Accounts Receivables as security and Rs. 5 Lakhs adhoc overdraft on the personal guarantee of a Director of Vivek (Private) Limited, from a financial institution. Is the company required to create charge for working capital loan and adhoc overdraft in accordance with the provisions of the Companies Act, 2013?

(5 Marks)

- (b) In what way are the following terms considered as external aid in the interpretation of statutes:
- (i) Historical Setting
 - (ii) Use of Foreign Decisions

(4 Marks)

- (c) The persons (not being members) dealing with the company are always protected by the doctrine of indoor management. Explain.

(5 Marks)

Question 5:

- (a) Rohan and Rahul are college friends and intend to do trading in musical instruments. They have met Mr. John and Ms. Kate who are non-resident Indian and they all have decided to form a Limited Liability Partnership (LLP) under the name and style of Rohan John LLP with an initial capital contribution of Rs. 1,00,000 each. The LLP was incorporated on October 15, 2020. The LLP intends to appoint Mr. John and Ms. Kate as designated partners and consults same with its Company Secretary. You as the Company Secretary advise the LLP on the appointment of Mr. John and Ms. Kate as the only designated partners of the LLP.

(5 Marks)

- (b) At a General meeting of a company, a matter was to be passed by a special resolution. Out of 40 members present, 20 voted in favour of the resolution, 5 voted against it and 5 votes were found invalid. The remaining 10 members abstained from voting. The Chairman of the meeting declared the resolution as passed. With reference to the provisions of the Companies Act, 2013, examine the validity of the Chairman's declaration.

(5 Marks)

MITTAL COMMERCE CLASSES

- (c) A confusion, regarding the meaning of 'financial year' arose among the financial executive and accountant of a company. Both were having different arguments regarding the meaning of financial year & calendar year. What is the correct meaning of financial year under the provision of the General Clauses Act, 1897? How it is different from calendar year?

(4 Marks)

Question 6:

- (a) Enumerate when does the rule of Ejusdem Generis apply.

(5 Marks)

OR

- (a) Following is the extract of the Balance sheet XYZ Ltd. as on 31st March, 2022:

Particulars		Amount (Rs.)
Equity & Liabilities		
(1) Shareholder's Fund		
(a) Share Capital:		
Authorized Capital:		
10,000, 12% Preference Shares of Rs. 10 each	1,00,000	
1,00,000 equity shares of Rs. 10 each	10,00,000	<u>11,00,000</u>
Issued & Subscribed Capital:		
8000, 12% Preference Shares of Rs. 10 each fully paid up		80,000
90,000 equity shares of Rs. 10 each, Rs. 8 paid up		7,20,000
(b) Reserve and Surplus		
General Reserve	1,20,000	
Capital Reserve	75,000	
Securities Premium	25,000	
Surplus in statement of P&L	<u>2,00,000</u>	<u>4,20,000</u>
(2) Non-Current Liabilities:		
Long-term borrowings:		
Secured Loan: 12% partly convertible		
Debenture @ Rs. 100 each		5,00,000

On 1st April, 2022 the company has made final call at Rs. 2 each on 90,000 Equity Shares. The call money was received by 25th April, 2022. Thereafter, the company decided to capitalize its reserves by way of bonus @ 1 share for every 4 shares to existing shareholders.

Answer the following questions according to the Companies Act, 2013, in above case:

- (A) Which of the above-mentioned sources can be used by company to issue bonus shares?
- (B) Calculate the amount to be capitalized from free reserves to issue bonus shares?

(5 Marks)

- (b) Ajay, a member of Sachin Electricals Ltd. gave in writing to the company that the notice for any general meeting be sent to him only by registered post at his residential address at Kanpur for which he deposited sufficient money. The company sent notice to him by ordinary mail under certificate of posting. Ajay did not receive this notice and could not attend the meeting and contended that the notice was improper.

Decide:

- (i) Whether the contention of Ajay is valid.
- (ii) Will your answer be the same if Ajay remains in London for two months during the notice of the meeting and the meeting held?

(5 Marks)

- (c)** Examine the validity of the following statements with reference to the General Clauses Act, 1897:

- (i) Insurance Policies covering immovable property have been held to be immovable property.
- (ii) The word "bullocks" could be interpreted to include "cows".

(2 Marks)

- (d)** G Medical Instruments Limited is a manufacturing company & has proposed a dividend @ 10% for the year 2021-2022 out of the profits of current year. The company has earned a profit of Rs. 910 crores during 2021-2022. The company does not intend to transfer any amount to the general reserves out of the profits. Is G Medical Instruments Limited allowed to do so, as per the provisions of the Companies Act, 2013?

(2 Marks)

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