

BUSINESS LAW & BUSINESS CORRESPONDENCE & REPORTING

Question No. 1 is Compulsory. Answer any four question from the remaining five questions.

Wherever necessary, suitable assumptions should be made and disclosed by way of note forming part of the answer.

Working Notes should form part of the answer.

Answer 1:

- (a) N's suit will not be valid because the performance of a promise is contingent upon the mere will and pleasure of the promisor; hence, there is no contract. {1 M}
- As per section 29 of the Indian Contract Act, 1872 – agreements, the meaning of which is not certain, or capable of being made certain, are void". {1 M}

Answer:

- (b) As per the Section 8 of the Companies Act, 2013, the Central Government may by order revoke the licence of the company where the company contravenes any of the requirements or the conditions of this sections subject to which a licence is issued or where the affairs of the company are conducted fraudulently, or violative of the objects of the company or prejudicial to public interest. {1 M}
- Where a licence is revoked, the Central Government may, by order, if it is satisfied that it is essential in the public interest, direct that the company be wound up under this Act or amalgamated with another company registered under this section. {1 M}
- Where a licence is revoked and where the Central Government is satisfied that it is essential in the public interest that the company registered under this section should be amalgamated with another company registered under this section and having similar objects, then, the Central Government may, by order, provide for such amalgamation to form a single company with such constitution, properties, powers, rights, interest, authorities and privileges and with such liabilities, duties and obligations as may be specified in the order. {1 M}
- According to the given situation, on revocation of licence, the Central Government ordered for the amalgamation of the company with the separate entity registered under the section 8 of the Companies Act, 2013. However, an object for which both the Companies formed were promoting different objects. Accordingly, the order passed by the Central Government after the revocation of license, is not in compliance of the Section 8 of the Companies Act, 2013. {2 M}

Answer:

- (c) According to Section 64 of Sale of Goods Act, 1930, the legal position is follows:-
- Case (a): C's bid was an offer to buy and he was entitled to withdraw his bid before the sale is completed as per express provision of Section 64(2). Such a condition in an auction sale was inoperative because it was against the provisions of the law.
- Case (b): C's bid was an offer to buy which may or may not be accepted by the auctioneer. Hence, P could refuse to accept the highest bid. {1 M for each correct 5 points}
- Case (c): It amounts to fraud and sale is voidable at the option of the buyer because the seller could appoint only one person to bid on his behalf. Here intention of the seller was not to protect his interest but to raise the price.
- Case (d): Z had a good title because the property passed to C on the fall of the hammer. The ownership of specific goods in a deliverable state passes on the completion of contract of sale.

- Case (e): The sale was not valid and C was not entitled to goods. It was held that the auctioneer could not effectively accept such a bid (which was lower than reserve price) because he could not make a contract so as to bind his principal to accept less than the reserve price.

Answer 2:

- (a) Circumstance in which LLP may be wound up by Tribunal (Section 64):** A LLP may be wound up by the Tribunal:
- (a) if the LLP decides that LLP be wound up by the Tribunal;
 - (b) if, for a period of more than six months, the number of partners of the LLP is reduced below two;
 - (c) if the LLP is unable to pay its debts;
 - (d) if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State or public order;
 - (e) if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any five consecutive financial years; or
 - (f) if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.
- {1 M for each correct 6 points}

Answer:

- (b) 1.** According to section 44 of the Sales of Goods Act, 1932, when the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods.
- The property in the goods or beneficial right in the goods passes to the buyer at appoint of time depending upon ascertainment, appropriation and delivery of goods. Risk of loss of goods prima facie follows the passing of property in goods. Goods remain at the seller's risk unless the property therein is transferred to the buyer, but after transfer of property therein to the buyer the goods are at the buyer's risk whether delivery has been made or not.
- In the given case, since Mr. G has already intimated Mr. H, that he wanted to store some other goods and thus Mr. H should take the delivery of goods kept in the godown of Mr. G, the loss of goods damaged should be borne by Mr. H.
- {1 M}
- 2.** If the price of the goods would not have settled in cash and some amount would have been pending then Mr. G will be treated as an unpaid seller and he can enforce the following rights against the goods as well as against the buyer personally:
- (a) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods. [Section 55(1) of the Sales of Goods Act, 1930]
 - (b) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract [Section 55(2) of the Sales of Goods Act, 1930].
- {1.5 M}
- {1.5 M}

Answer 3:

- (a) A retiring partner continues to be liable to third party for acts of the firm after his retirement until public notice of his retirement has been given either by himself or by any other partner. But the retired partner will not be liable to any third party if the latter deals with the firm without knowing that the former was partner. } {1 M}
- Also, if the partnership is at will, the partner by giving notice in writing to all the other partners of his intention to retire will be deemed to be relieved as a partner without giving a public notice to this effect. }
- Also, as per section 28 of the Indian Partnership Act, 1932, where a man holds himself out as a partner, or allows others to do it, he is then stopped from denying the character he has assumed and upon the faith of which creditors may be presumed to have acted. } {2 M}
- In the light of the provisions of the Act and facts of the case, Mr. P is also liable to Mr. X. } {1 M}

Answer:

- (b) **Partnership Liability:** The problem in question is based on the provisions of the Indian Partnership Act, 1932 contained in Section 35. The Section provides that where under a contract between the partners the firm is not dissolved by the death of a partner, the estate of a deceased partner is not liable for any act of the firm done after his death. Therefore, considering the above provisions, the problem may be answered as follows: }
- Ram's estate in this case will not be liable for the price of the Machinery purchased. } {1 M}
- The creditors in this case can have only a personal decree against the surviving partners and decree against the partnership assets in the hands of those partners. However, since the surviving partners are already insolvent, no suit for recovery of the debt would lie against them. A suit for goods sold and delivered would not lie against the representative of the deceased partner. } {2 M}
- This is because there was not debt due in respect of the goods in Ram's life. }

Answer:

- (c) Section 37 of the Indian Partnership Act, 1932 provides that where a partner dies or otherwise ceases to be a partner and there is no final settlement of account between the legal representatives of the deceased partner or the firms with the property of the firm, then, in the absence of a contract to the contrary, the legal representatives of the deceased partner or the retired partner are entitled to claim either. } {2 M}
- (1) Such shares of the profits earned after the death or retirement of the partner which is attributable to the use of his share in the property of the firm; or
- (2) Interest at the rate of 6 per cent annum on the amount of his share in the property. }
- Based on the aforesaid provisions of Section 37 of the Indian Partnership Act, 1932, in the given problem, A's Legal representatives shall be entitled, at their option to: }
- (a) the 20% shares of profits (as per the partnership deed); or
- (b) interest at the rate of 6 per cent per annum on the amount of A's share in the property. } {1 M}

Answer 4:

- (a) A lien is a right to retain possession of goods until the payment of the price. It is available to the unpaid seller of the goods who is in possession of them where- } {0.5 M for each correct 4 points}
- (i) the goods have been sold without any stipulation as to credit;
- (ii) the goods have been sold on credit, but the term of credit has expired;
- (iii) the buyer becomes insolvent.
- (iv) Seller should have possession of goods. }

The unpaid seller can exercise 'his right of lien even if the property in goods has passed on to the buyer. {1 M}

Termination of lien: An unpaid seller loses his right of lien thereon-

1. When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
 2. When the buyer or his agent lawfully obtains possession of the goods;
 3. By waiver
 4. By estoppel
- {0.5 M for each correct 4 points}

He can exercise right of lien even if he has obtained decree of court for price of goods. {1 M}

Answer:

(b) ACTS BEYOND IMPLIED AUTHORITY (SECTION 19)

Following are the acts beyond implied authority of a partner:

- Submit a dispute relating to the business of the firm to arbitration when it is not the ordinary business of partnership firm to submit a dispute to an arbitration.
 - Open a bank account on behalf of the firm in his own name.
 - Compromise or relinquish any claim or portion of a claim by the firm against a third party (i.e., an outsider).
 - Withdraw a suit or proceedings filed on behalf of the firm.
 - Admit any liability in a suit or proceedings against the firm.
 - Acquire immovable property on behalf of the firm.
 - Transfer immovable property belonging to the firm, and
 - Enter into partnership on behalf of the firm.
- {1 M for each correct 6 points}

Answer 5:

- (a)** According to section 17 of the Indian Contract Act, 1872, mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech. Hence, in the instant case, {1.5 M}
- (a)** This contract is valid since as per section 17 mere silence as to the facts likely to affect the willingness of a person to enter into a contract is not fraud. Here, it is not the duty of the seller to disclose defects. {1.5 M}
- (b)** This contract is not valid since as per section 17 it becomes P's duty to tell Q about the unsoundness of the horse because a fiduciary relationship exists between P and his daughter Q. Here, P's silence is equivalent to speech and hence amounts to fraud. {1.5 M}
- (c)** This contract is not valid since as per section 17, P's silence is equivalent to speech and hence amounts to fraud. {1.5 M}

Answer:

- (b)** In terms of section 4(1)(c) of the Companies Act, 2013, the powers of the company are limited to:
- (i) Powers expressly given in the "Objects Clause" of the Memorandum (which is popularly known as 'express' power), or conferred by the Companies Act, or by any other statute and
 - (ii) powers reasonably incidental or necessary to the company's main objects (termed as "Implied" powers).
- The Act further provides that the acts beyond the powers of a company are ultra vires and void and cannot be ratified even though every member of the company may give his consent **[Ashbury Railway Carriage Company VsRichee]** {1 M}

The objects clause enables the shareholders, creditors or others to know what its powers are and what is the range of its activities. The objects clause therefore is of fundamental importance to the shareholders, creditors and every other person who deals with the company in any manner what so ever. A company being an artificial legal person can act only within the ambit of the powers conferred upon it by the Memorandum through the "Objects Clause". {1 M}

Every person who enters into a contractual relationship with a company on any matter is presumed to be aware of its objects and is supposed to have examined the Memorandum of Articles of the company to ensure proper contractual agreement. If a person fails to do so, it is entirely at his own peril. {1 M}

M/s LSR Pvt. Ltd is authorised to trade directly on fruits and vegetables. It has no power to enter into a partnership for Iron and steel with Mr. J. Such act cannot be treated as being within either the 'express' or 'implied' powers of the company. Mr J who entered into partnership is deemed to be aware of the lack of powers of M/s LSR (Pvt) Ltd. In the light of the above, Mr, J cannot enforce the agreement or liability against M/s LSR Pvt. Ltd under the Companies Act. Mr. J should be advised accordingly. {2 M}

Answer 6:

- (a) (i) As per Section 20 of the Indian Contract Act, 1872, an agreement under by mistake of fact are void. {1 M}
- In this case, there is mistake of fact as to the existence of the subject-matter, i.e., with respect to the selling of horse which was dead at the time of the agreement. It is unknown to both the parties. Therefore, it is a void agreement. {1 M}
- (ii) As per Section 27 of the Indian Contract Act, 1872, an agreement in restraint of trade is void. {1 M}
- However, a buyer can put such a condition on the seller of goodwill, not to carry on same business, provided that the conditions must be reasonable regarding the duration and place of the business. Since in the given case, restraint to carry on business was forever and anywhere in India, so the agreement in question is void. {1 M}
- (iii) As per section 2(j) of the Contract Act, "A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable". {1 M}
- In the present case, Mr. X agrees to write a book with a publisher. After few days, X dies in an accident. Here the contract becomes void due to the impossibility of performance of the contract. {1 M}

Answer:

- (b) In terms of section 2 (87) of the Companies Act 2013 "subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company— {2 M}
- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies:
- Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.
- Explanation.—For the purposes of this clause,— {1 M}
- (a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

- (b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors. } {1 M}

In the present case, Jeevan Pvt. Ltd. and Sudhir Pvt. Ltd. together hold less than one half of the total share capital. Hence, Piyush Private Ltd. (holding of Jeevan Pvt. Ltd. and Sudhir Pvt) will not be a holding company of Saras Pvt. Ltd. } {1 M}

However, if Piyush Pvt. Ltd. has 8 out of 9 Directors on the Board of Saras Pvt. Ltd. i.e. controls the composition of the Board of Directors; it (Piyush Pvt. Ltd.) will be treated as the holding company of Saras Pvt. Ltd. } {1 M}

PAPER : BUSINESS CORRESPONDENCE & REPORTING

The Question Paper comprises of 5 questions of 10 marks each.
Question No. 7 is compulsory. Out of questions 8 to 11, attempt any three.

SECTION-B : BUSINESS CORRESPONDENCE & REPORTING (40 MARKS)**Answer 7:****(a) Passage -2**

- (1) Option c
 - (2) Option b
 - (3) Option a
 - (4) Option d
 - (5) Option b
- {Each 1 M}

- (b)** Communication is a process of exchanging information, ideas, thoughts, feelings and emotions through speech, signals, writing, or behavior. {1 M}
- Communication is relevant in daily life as we experience it in all walks of life. While talking to friends, family and office colleagues, while passing on a piece of information, while starting a campaign or a protest march; at every step we want to communicate a message. The audience differs and the purpose differs; yet communication happens. {2 M}

(c) Antonyms

- (1) Option a
 - (2) Option b
- {Each 1 M}

Answer 8:**(a) Hints:**

- Causes of health issues: a crisp list
 - Office work
 - Lifestyle
 - Eating habits
 - Growing economy
 - Money splurge
 - Effects: direct effects
 - Diseases
 - Physical health issues
 - Strain on eyes
 - Young deaths
- (Any tens
Each 1/2 M)

- (b)** Based on Communication channels, there are three kinds of categories:
- **Verbal:** Verbal communication involves the use of words and language in delivering the intended message {1 M}
 - **Non Verbal:** Nonverbal communication is the process of communicating by sending and receiving wordless messages. These messages can aid verbal communication, convey thoughts and feelings contrary to the spoken words or express ideas and emotions on their own. {1 M}

- **Visual:** Visual communication through visual aids such as signs, typography, drawing, graphic design, illustration, colour and other electronic resources usually reinforces written communication. Visuals like graphs, pie charts and other diagrammatic presentations convey clearly and concisely a great deal of information. They are an essential part of official presentations these days. } {1 M}

(c) Fill in the blanks:

- (1) Option c }
 (2) Option b } {Each 1 M}

Answer 9:

- (a)** Date: July 09, 2019
 Venue: Conference Hall, 2nd Floor, } {1 M}
 Meeting Started at 02:00 PM
 In attendance: Mr. Ram Swaminathan, Head, Sales and Marketing, Mr. Prabhu Das, Product Head, Product lead, four members of the sales team. } {1 M}
 Mr. Ram Swaminathan, Head of Sales and Marketing informed the agenda of the meeting i.e., the sales decline in the product.
 Ms. Reena Mathur, Sales lead gave a detailed analysis of the sales figures for the one year. } {1 M}
 Her team including Mr. A. Mr. B, Ms. C, Ms. D elaborated on the market trend target customers and their needs. } {1 M}
 Mr. Prabhu Das, Product Head expressed concern over the matter, discussed a few changes in the sales strategy. } {1 M}
 All the participants contented to the concerns raised and decided to submit their reports. } {1 M}
 The Head of Sales and Marketing proposed a vote of thanks and declared the next meeting to discuss reports to be held on August 02, 2019.
 ATR to be submitted by July 26, 2019 to the Head Sales and Marketing. } {1 M}
- (b)** Chain of Command: The communication pattern that follows the chain of command from the senior to the junior is called the chain network. Communication starts at the top, like from a CEO, and works its way down to the different levels of employees. It involves a lot of organizational hierarchy. } {2 M}
 Drawbacks: The chain network often takes up time, and communication may not be clear. It creates a lot of miscommunication as the message travels a long path. } {1 M}
- (c) Synonyms**
 (1) Option b }
 (2) Option e } {Each 1 M}

Answer 10:

- (a)** XYZ Electronics New Delhi.
 Date: 20th Dec, 2018
 Manager, Customer Care XYZ Electronics
 New Delhi. } {1 M}
 Dear Sir/Ma'am
 Sub: Complaint regarding the printer model CanXR 0987, Invoice No: Prin/CanXR/6 -
 12- 2018 }

This is regarding the printer that I bought on Dec 6, 2018. After installation, it worked fine for a few days. But lately every time a print command is given, it paper gets stuck and the scanning/photocopying option is not working at all. Please send your executive to examine the problem and rectify it at the earliest or get it replaced. I had bought the equipment to take print-outs at home for an urgent project work submission. {2 M}

I request you to look into the problem urgently and send the expert tomorrow evening by 7PM. You can send the name and mobile number of the executive at my number XXXXXXXXXX. Looking forward to a prompt response. {2 M}

(Signed) } {1 M}
ABC }

(b) Vertical Network and Wheel & Spoke Network

{1 ^{1/2} M}	Vertical Network	Wheel and Spoke Network	{1 ^{1/2} M}
	A formal network. It is usually between a higher ranking employee and a subordinate.	A network with a single controlling authority who gives instructions and orders to all employees working under him/her.	
	A two way communication happens	Two way communication happens but useful only in small organizations.	

{1½ M}

(c) Passive to Active

- (1) The school authorities declared the results }
(2) You must complete the test in one hour. } {Each 1 M}

Answer 11:

- (a) Language endangerment is an alarming situation worldwide. Language teachers should be well trained linguistically and language documentation should be encouraged by state authorities. Similarly, linguists, language activists, and language policy makers have a long-term task to compile and disseminate the most effective and viable mechanisms for sustaining and revitalizing the endangered languages. {3 M}
{2 M}

(b) The Characteristics of Effective Communication:

Communication for humans is akin to breathing. From the first cry of the baby to the last breath of a person, communication is an essential part of life. However, good communication is an art that has been developed and honed. Effective communicators practice every aspect of the skill frequently.

It is a fact that our everyday communication is often marred by confusion, misunderstandings, misconceptions, partial understanding and obscurity. Thus, several aspects must be kept in mind while interacting with others for our communication to convey the intended message.

1. **Clear:** Any spoken or written communication should state the purpose of message clearly. The language should be simple. Sentences ought to be short as the core message is lost in long, convoluted sentences. Each idea or point must be explained in a separate bulleted point or paragraphs. Make it easy for the reader to grasp the intent of the communiqué. }
2. **Concise:** Brevity is the essence of business communication. No one has the time to read long drawn out essays. Besides, the core content is lost in elaborate details. Avoid using too many irrelevant words or adjectives, for example, 'you see', 'I mean to say', etc. Ensure that there are no repetitions }

3. **Concrete:** The content of your communiqué should be tangible. Base it on facts and figures. Abstract ideas and thoughts are liable to misinterpretation. Make sure that there is just sufficient detail to support your case/ argument and bring focus to the main message
4. **Coherent:** Coherence in writing and speech refers to the logical bridge between words, sentences, and paragraphs. Main ideas and meaning can be difficult for the reader to follow if the writer jumps from one idea to another and uses contradictory words to express himself. The key to coherence is sequentially organized and logically presented information which is easily understood. All content under the topic should be relevant, interconnected and present information in a flow.
5. **Complete:** A complete communication conveys all facts and information required by the recipient. It keeps in mind the receiver's intellect and attitude and conveys the message accordingly. A complete communication helps in building the company's reputation, aids in better decision making as all relevant and required information is available with the receiver.
6. **Courteous:** Courtesy implies that the sender is polite, considerate, respectful, open and honest with the receiver. The sender of the message takes into consideration the viewpoints and feelings of the receiver of the message. Make sure nothing offensive or with hidden negative tone is included.
7. **Listening for Understanding:** We are bombarded by noise and sound in all our waking hours. We 'hear' conversations, news, gossip and many other forms of speech all the time. However, most of it is not listened to carefully and therefore, not understood, partially understood or misunderstood. A good listener does not only listen to the spoken words, but observes carefully the nonverbal cues to understand the complete message. He absorbs the given information, processes it, understands its context and meaning and to form an accurate, reasoned, intelligent response.
The listener has to be objective, practical and in control of his emotions. Often the understanding of a listener is coloured by his own emotions, judgments, opinions, and reactions to what is being said. While listening for understanding, we focus on the individual and his agenda. A perceptive listener is able to satisfy a customer and suggest solutions as per the needs of the client
8. **Focus and Attention:** Everyday work environment has multiple activities going on simultaneously. The ringing of the phone, an incoming email, or a number of tasks requiring your attention, anxiety related to work, emotional distress etc. can distract you. Such distractions are detrimental to the communication process with an individual or a group of people. You may overlook or completely miss important points or cues in the interaction. Thus, keeping your focus and attention during the communiqué is imperative for effective communication.
9. **Emotional Awareness and Control:** "Human behavior is not under the sole control of emotion or deliberation but results from the interaction of these two processes," Loewenstein said.

(Any 3
point
Each
1 M)

However, emotions play a major role in our interactions with other people. They are a powerful force that affect our perception of reality regardless of how hard we try to be unbiased. In fact, intense emotions can undermine a person's capacity for rational decision-making, even when the individual is aware of the need to make careful decisions.

Consequently, emotional awareness is a necessary element of good communication. While interacting with another person or a group, it is important to understand the emotions you and he/ she/ they are bringing to the discussion. Managing your own and others emotions and communicating keeping in mind the emotional state of others helps in smooth interaction and breakdown of the communication process.

(c) Direct to Indirect Speech.

1. He said that he had passed the examination
 2. The judge commanded them to call the second witness
- } {Each 1 M}
