

**(GCF-2, GCF-3, VCF-1, VDCF-1, SCF-1)**

**DATE: 26.08.2021**

**MAXIMUM MARKS: 100**

**TIMING: 3 Hours**

**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) Section 69 of the Indian Contract Act, 1872 provides that "A person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other". {1 M}
- In the given problem W has made the payment of lawful dues of Z in which W had an interest. Therefore, W is entitled to get the reimbursement from Z. {1 M}

**Answer:**

- (b) Section 5 (1) of the Companies Act, 2013 states that the Articles of a company contain the regulations for the management of a company. Further section 5 (2) provides that the Articles of a company shall contain all matters that are prescribed under the Act and also such additional matters as may be considered necessary for the management of the company. {1 M}
- Removal of Law Officer:** The Memorandum and Articles of Association of a company are binding upon company and its members and they are bound to observe all the provisions of memorandum and articles as if they have signed the same [Section 10(1)]. {1 M}
- However, the company and members are not bound to outsiders in respect of anything contained in memorandum/articles by which such outsiders have been given any rights. This is based on the general rule of law that a stranger to a contract cannot acquire any right under the contract. {1 M}
- In this case, Articles conferred a right on 'X', the law officer that he shall not be removed except on the ground of proved misconduct. In view of the legal position explained above, 'X' cannot enforce the right conferred on him by the articles against the company. Hence the action taken by the company (i.e. removal of 'X' even though he was not guilty of misconduct) is valid. {2 M}

**(Eley V Positive Govt. Security Life Assurance Co.)**

**Answer:**

- (c) **Right of stoppage of goods in transit:** The problem is based on section 50 of the Sale of Goods Act, 1930 dealing with the right of stoppage of the goods in transit available to an unpaid seller. The section states that the right is exercisable by the seller only if the following conditions are fulfilled. {1 M for each correct 4 points}
- (i) The seller must be unpaid
  - (ii) He must have parted with the possession of goods
  - (iii) The goods must be in transit
  - (iv) The buyer must have become insolvent
  - (v) The right is subject to the provisions of the Act.
- Applying the provisions to the given case, Ram being still unpaid, can stop the 100 bales of cloth sent by railway as these goods are still in transit. {1 M}

**Answer 2:**

**(a) MINOR'S POSITION IN PARTNERSHIP (Section 30)**

A minor cannot become a partner in partnership firm but he can be admitted for the benefits of the firm with the consent of all the partners. {1 M}

**Rights:**

- A minor has a right to claim his agreed share of the profits in firm.
  - Minor can access and inspect and can take copy of the accounts of the firm.
  - He can sue the partners for accounts or for payment of his share but only when severing his connection with the firm, and not otherwise.
  - On attaining majority, minor has a right to decide within 6 months to become a partner or not to become a partner and if he decide to become a partner in partnership firm then his share in profits and loss will remain same.
- {1/2 M Each}

**Liabilities:**

- The liability of minor is limited upto the extent of his share in profits of the firm.
  - Minor has no personal liability for the debts of the firm incurred during his minority.
  - Minor cannot be declared insolvent, but if the firm is declared insolvent his share in the firm vests in the Official Receiver/Assignee.
  - Minor has to decide within 6 months on attaining the majority that whether he wants to become a partner in a firm or not and if he does not decide then he automatically becomes the partner in the firm.
  - If a minor becomes partner in a firm then he shall be personally liable to third parties for all acts of the firm done **since he was admitted to the benefits of partnership**
  - If a minor decides not to become a partner then his rights and liabilities continue to be those of a minor up to the date of giving public notice. His share shall not be liable for any acts of the firm done after the date of the notice.
- {1/2 M for each correct point}

**Answer:**

- (b) Agreement in Restraint of Trade:** Section 27 of the Indian Contract Act, 1872 deals with agreements in restraint of trade. According to the said section, every agreement by which any person is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void. However, in the case of the service agreements restraint of trade is valid. In an agreement of service by which a person binds himself during the term of agreement not to take service with anyone else directly or indirectly to promote any business in direct competition with that of his employer is not in restraint of trade, so it is a valid contract. {2 M}
- In the instant case, agreement entered by 'X' with 'Y' is reasonable, and do not amount to restraint of trade and hence enforceable.
- Therefore, 'X' can be restrained by an injunction from practicing on his own account in within the said area of 20 Kms for another one year. {1 M}

**Answer:**

- (c)** As per sec. 39 of Indian Contract Act, 1872 when a party to contract refuses to perform the promise or disable himself from performing before due date it is called anticipatory breach of contract. {1 M}
- In the given problem Dubious Textiles has indicated its unwillingness to supply the cotton shirts on 1st November 2004 itself when it has time upto 31st December 2004 for performance of the contract of supply of goods. It is therefore called anticipatory breach of contract. {1 M}

Thus Retail Garments show room can claim damages from Dubious Textiles immediately after 1st November, 2004, without waiting upto 31st December 2004. The damages will be calculated at the rate of Rs. 50 per shirt i.e. the difference between Rs. 350/- (the price prevailing on 1st November) and Rs. 300/- the contracted price. } {1 M}

**Answer 3:**

- (a) As per **Section 41** of the Indian Contract Act, 1872, when a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor. That is, performance by a stranger, accepted by the promisee, produces the result of discharging the promisor, although the latter has neither authorised nor ratified the act of the third party. } {3 M}
- Therefore B can sue A only for Rs. 4000. } {1 M}

**Answer:**

- (b) Yes, a contract need not be performed when the parties to it agree to substitute a new contract for it or to rescind or alter it. (**Section 62**, Indian Contract Act, 1872). Here, in the given problem, novation has taken place as one of the parties has been replaced with a third party. } {2 M}
- Therefore, N can claim the money from O. } {1 M}

**Answer:**

- (c) The House of Lords in **Salomon Vs Salomon & Co. Ltd.** laid down that a company is a person distinct and separate from its members, and therefore, has an independent separate legal existence from its members who have constituted the company. But under certain circumstances the separate entity of the company may be ignored by the courts. When that happens, the courts ignore the corporate entity of the company and look behind the corporate façade and hold the persons in control of the management of its affairs liable for the acts of the company. Where a company is incorporated and formed by certain persons only for the purpose of evading taxes, the courts have discretion to disregard the corporate entity and tax the income in the hands of the appropriate assessee. } {2 M}
1. The problem asked in the question is based upon the aforesaid facts. The three companies were formed by the assessee purely and simply as a means of avoiding tax and the companies were nothing more than the façade of the assessee himself. Therefore, the whole idea of Mr. F was simply to split his income into three parts with a view to evade tax. No other business was done by the company. } {1 1/2 M}
  2. The legal personality of the three private companies may be disregarded because the companies were formed only to avoid tax liability. It carried on no other business, but was created simply as a legal entity to ostensibly receive the dividend and interest and to hand them over to the assessee as pretended loans. The same was upheld in **Re Sir Dinshaw Maneckji Petit** and Juggilal vs. Commissioner of Income Tax. } {1 1/2 M}

**Answer 4:**

- (a) Winding up and dissolution (Section 63): The winding up of a LLP may be either voluntary or by the Tribunal and LLP, so wound up may be dissolved. } {1/2 M}

Circumstances 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 5  
points}

Rules for winding up and dissolution (Section 65): The Central Government may make rules for the provisions in relation to winding up and dissolution of LLP.

{1/2 M}

**Answer:**

**(b) Meaning of Guarantee Company:** Where it is proposed to register a company with limited liability, the choice before its promoters is either to limit their liability by the value of shares purchased by them or by limiting their liability by the amount of guarantees given by them. Section 2 (21) of the Companies Act, 2013 defines a Company Limited by Guarantee as a company having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up.

{1 M}

Thus, the liability of the members of a guarantee company is limited to a stipulated amount in terms of individual guarantees given by members and mentioned in the memorandum. The members cannot be called upon to contribute more than such stipulated amount for which each member has given a guarantee in the memorandum of association. The articles of association of such company shall state the number of members with which the company is to be registered.

**Similarities and dis-similarities between the Guarantee Company and the Company having share capital:** The common features between a "guarantee company" and the "company having share capital" are legal entity and limited liability. In case of a company limited by shares, the liability of its members is limited to the amount remaining unpaid on the shares held by them. Both these type of companies have to state this fact in their memorandum that the members' liability is limited.

{1 M}

However, the dissimilarities between a 'guarantee company' and 'company limited by shares' is that in the former case the members will be called upon to discharge their liability only after commencement of the winding up of the company and only to the extent of amounts guaranteed by them respectively; whereas in the case of a company limited by shares, the members may be called upon to discharge their liability at any time, either during the life of the company or during the course of its winding up and the amount payable by the members will be limited to the unpaid amount on shares held by them respectively.

{2 M}

Further to note, the Supreme Court in Narendra Kumar Agarwal vs. Saroj Maloo (1995) 6 SC C 114 has laid down that the right of a guarantee company to refuse to accept the transfer by a member of his interest in the company is on a different footing than that of a company limited by shares. The membership of a guarantee company may carry privileges much different from those of ordinary shareholders in companies limited by shares.

{1 M}

It is also clear from the definition of the guarantee company that it does not raise its initial working funds from its members. Therefore, such a company may be useful only where no working funds are needed or where these funds can be had from other sources like endowment, fees, charges, donations etc. {1 M}

**Answer 5:**

- (a) As regards the question whether in the case of a registered firm (whose business was carried on after its dissolution by death of one of the partners), a suit can be led by the remaining partners in respect of any subsequent dealings or transactions without notifying to the Registrar of Firms, the changes in the constitution of the firm, it was decided that the remaining partners should sue in respect of such subsequent dealings or transactions even though the firm was not registered again after such dissolution and no notice of the partner was given to the Registrar. {2 M}
- The test applied in these cases was whether the plaintiff satisfied the only two requirements of Section 69 (2) of the Act namely,
- (i) the suit must be instituted by or on behalf of the firm which had been registered; {2 M}
  - (ii) the person suing had been shown as partner in the register of firms. In view of this position of law, the suit is in the case by B and C against X in the name and on behalf of A & Co. is maintainable.
- Where a new partner is introduced, the fact is to be notified to Registrar who shall make a record of the notice in the entry relating to the firm in the Register of firms. Therefore, the firm cannot sue as D's (new partner's) name has not been entered in the register of firms. It was pointed out that in the second requirement, the phrase "person suing" means persons in the sense of individuals whose names appear in the register as partners and who must be all partners in the firm at the date of the suit. {2 M}

**Answer:**

- (b) **Section 13** specifies cases where a breach of condition be treated as a breach of warranty. As a result of which the buyer loses his right to rescind the contract and can claim for damages only. {1 M for each 4 points}
- In the following cases, a contract is not avoided even on account of a breach of a condition:
- (i) Where the buyer altogether **waives** the performance of the condition. A party may for his own benefit, waive a stipulation.
  - (ii) Where the buyer **elects** to treat the breach of the conditions, as one of a warranty. That is to say, he may claim only damages instead of repudiating the contract.  
**Example:** A agrees to supply B 10 bags of First quality sugar @ Rs. 625 per bag but supplies only second quality sugar, the price of which is Rs. 600 per bag. There is a breach of condition and the buyer can reject the goods. But if the buyer so elects, he may treat it as a breach of warranty, accept the second quality sugar and claim damages @ Rs. 25 per bag.
  - (iii) Where the contract is **non-severable** and the buyer has accepted either the whole goods or any part thereof. Acceptance means acceptance as envisaged in Section 72 of the Indian Contract Act, 1872.
  - (iv) Where the fulfillment of any condition or warranty is **excused by law** by reason of impossibility or otherwise.

**Answer:**

- (c) In this case there comes into existence a valid contract as soon as J puts three one rupee coins in the slot of the ticket vending machine. This amounts to acceptance on the part of J, of an implied offer by the owner of the ticket vending machine. **(Tacit Contract)** {2 M}

**Answer 6:**

- (a) As per the provisions of Sub-Rule (7) of Rule 3 of the Companies (Incorporation) Rules, 2014, an OPC cannot convert voluntarily into any kind of company unless two years have expired from the date of its incorporation, except threshold limit (paid up share capital) is increased beyond fifty lakh rupees or its average annual turnover during the relevant period exceeds two crore rupees. {2 M}
- In the instant case, Mr. Anil formed an OPC on 16<sup>th</sup> April, 2018 and its turnover for the financial year ended 31<sup>st</sup> March, 2019 was Rs. 2.25 Crores. Even though two years have not expired from the date of its incorporation, since its average annual turnover during the period starting from 16<sup>th</sup> April, 2018 to 31<sup>st</sup> March, 2019 has exceeded Rs. 2 Crores, Mr. Anil can convert the OPC into a private limited company along with Sunil. {2 M}

**Answer:**

- (b) 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. {2 M}

**Answer:**

- (c) **Dissolution of Firm Vs. Dissolution of Partnership**

S.No.	Basis of Difference	Dissolution of Firm	Dissolution of Partnership
1.	Continuation of business	It involves discontinuation of business in partnership.	It does not affect continuation of business. It involves only reconstitution of the firm.
2.	Winding up	It involves winding up of the firm and requires realization of assets and settlement of liabilities.	It involves only reconstitution and requires only revaluation of assets and liabilities of the firm.
3.	Order of court	A firm may be dissolved by the order of the court.	Dissolution of partnership is not ordered by the court.
4.	Scope	It necessarily involves dissolution of partnership.	It may or may not involve dissolution of firm.
5.	Final closure of books	It involves final closure of books of the firm.	It does not involve final closure of the books.

{1 M  
for  
each 4  
points}



**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 | } {Each 1 Mark} |
| (2) Option b |                 |
| (3) Option a |                 |
| (4) Option d |                 |
| (5) Option b |                 |

**Answer:**

- (b) Passage -1
- Ministry's Decision Revoked (Heading) } {1 M}
- |   |                   |
|---|-------------------|
| (I) S. Korean steel maker Posco under attack          | } {1/2 Mark Each} |
| (II) Prpsl for steel plant in Odisha rcnsdrd          |                   |
| (III) Need to rethink the descn                       |                   |
| (a) Not based on solid grounds                        |                   |
| (b) FDI's   |                   |
| (c) Land aqstn from natives nt easy                   |                   |
| (d) Protests frm land holders                         |                   |
| (IV) No concrete result                               |                   |
| (a) 8 years past; standstill                          |                   |
| (b) Neither prpnt nor govt. able to justify its moves |                   |
| (c) Leaves the matter open ended.                     |                   |
- Key Used:
- |                                      |         |
|--------------------------------------|---------|
| (1) S= south                         | } {2 M} |
| (2) Prpsl= proposal                  |         |
| (3) Rcnsdrd=reconsidered             |         |
| (4) Descn= decision                  |         |
| (5) Aqstn- acquisition               |         |
| (6) Nt= not                          |         |
| (7) Frm= from                        |         |
| (8) Prpnt=proponent                  |         |
| (9) Govt= government.                |         |
| (10) FDI= foreign direct investment. |         |

**Answer 8:**

- (a) Barriers in communication:
- |  |         |
|--|---------|
| <ul style="list-style-type: none"> <li>• Physical Barriers</li> <li>• Cultural Barriers</li> <li>• Language Barriers</li> <li>• Technology Barriers</li> <li>• Emotional Barriers</li> </ul> | } {1 M} |
|--|---------|
- Technology Barriers: Being a technology driven world, all communication is dependent on good and extensive use of technology. However, there might arise technical issues, like server crash, overload of information etc which lead to miscommunication or no communication at all. } {1 M}

Language Barriers: It's a cosmopolitan set up, where people of different nationalities move from their home to other countries for work. As a result, it is difficult to have a common language for communication. Hence, diversity gives rise to many languages and it acts as a barrier at times. }{1 M}

**Answer 8 (b):**

- (i) Direct to Indirect Speech:  
The athlete said that he could break all records }{(1 Mark)}

**Answer:**

- (ii) Synonyms  
Option c }{(1 Mark)}

**Answer:**

- (c) Television: Bane or Boon (Title) }{1 M}  
 Television affects our lives in several ways. We should choose the shows carefully. }{2 M}  
 Television increases our knowledge It helps us to understand many fields of study. }{2 M}  
 It benefits and people and patients. There are some disadvantages too some people devote a long time to it. Students leave their studies and it distracts their attention.

**Answer 9:**

- (a) Vertical Network and Wheel & Spoke Network.
- | Vertical Network   | Wheel and Spoke Network   |
|--|---|
| 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.   |
- }{1 M}
- }{1 M}

**Answer 9(b):**

- (i) Idioms  
Option c }{(1 Mark)}

**Answer:**

- (ii) Passive to Active:  
The school authorities declared the results }{(1 Mark)}

**Answer:**

- (iii) Antonyms  
Option d }{(1 Mark)}

**Answer :**

- (c)
- |                    |                                |              |
|--------------------|--------------------------------|--------------|
| Circular No. XXXIV | CIRCULAR<br><br>NEW YEAR PARTY | Dec 31, 2018 |
|--------------------|--------------------------------|--------------|
- }{1 M}
- For all employees  
 Wishing All a very Happy, prosperous and productive New Year 2019. A New Year party is being organized in the office premises on the coming weekend (Jan 5, 2019) at 7 PM. Everyone is cordially invited with their families. }{2 M}



The events would be as follows:

- Live performance by the pop band 'ASD'
- Couple Dance competition
- Stand up Comedy
- Surprise Gifts for kids
- Lucky Draw
- Buffet Dinner with special buffet for the kids Looking forward to an active participation.

{2 M}

Romi Mistry Manager, HR

**Answer 10:**

- (a) 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. {1 M}

**Answer:**

- (b) Fill in the blanks:
- |       |          |                 |
|-------|----------|-----------------|
| (i)   | Option c | } {1 Mark Each} |
| (ii)  | Option b |                 |
| (iii) | Option a |                 |

**Answer:**

- (c) Seema Solanki  
Format for a Resume showing years of experience

- Name and contact details
- Objective Summary:
- Career Summary
- Experience
- Company 1 Job title
  - Responsibilities/Achievements
- Company 2 Job title
  - Responsibilities/Achievements
- Educational Details
- Hobbies and Interests
- Signature
- References with their phone numbers

Each  
Point  
1/2  
Mark

**Objective Summary:** seeking leadership roles and making a meaningful impact on the growth of the organization.

**Career Summary:** Have been associated with firms with an employee size of around 1200. I have a rich experience in costing and finance operations. My expertise lies in handling cash flow and pay rolls process.

Company Name 1 Job title: Analyst

Job Responsibilities:

- Handling finance operations and determining major financial objectives.
- Supervising monthly financials

- Deducing cost feasibility of cost based projects Company Name 2
- Job title: Manager/Sr. Consultant Job Responsibilities:
- Designing and implementing cost effective techniques, policies and procedures to enhance financial growth.
  - Managing pay rolls: computations of salaries, TDS, PPF
  - Heading a six member team, handling daily basis output and ACR's.
- Educational details**  
 (Pointers as follows)  
 School, class Xth and XIIth marks/grades  
 College/University: B.Com  
 ICAI, Mumbai : CA

**Answer 11:**

- (a) **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 }

**Answer:**

- (b) Active to Passive:
- (i) Many battles were fought by Rana Pratap
  - (ii) Football matches are watched by people late night. { 1 Mark Each }

**Answer:**

- (c) Date: Jan 2, 2019  
 Venue: Conference Hall, 3<sup>rd</sup> Floor  
 Meeting started at 11 : 00 AM.  
 In attendance : Mr. BNM Managing Director, Mr. ASD Head , Sales and Marketing, Mr. FGH, Product Head, Mr. JKL Plant Head, two Senior Consultants from QWE Consulting and Market Research, three members of the Sales team  
 Mr. FGH, Product Head
- Introduced the agenda
  - Demonstrated the prototype of the new product
  - Explained the utility and target customers
  - Existing Variants in the market vs variants to be introduced by the company in 6 months time
- Mr. JKL, Plant Head
- Discussed preparedness for mass manufacturing of the new product
  - Discussed potential vendors to manufacture the variants
- Mr. VBN Senior Consultant, QWE Consulting and Market Research
- Discussed marketing strategy for product launch
  - Discussed media advertising for product promotion
- Mr. ASD Head, Sales and Marketing, Mr. RTY Executive, Sales Team
- Presented the estimated demand and sales figures for first quarter (initial 3 months after launch)
  - Discussed feedback received from the sample customers
- Each Point 1/2 Mark**

All the participants consented to submit their observations and reports to Mr. BNM Managing Director, Mr. ASD Head, Sales and Marketing,  
The Head of Sales and Marketing proposed a vote of thanks and declared the next meeting to discuss reports to be held on Feb 4, 2019.  
ATR to be submitted by Jan 25, 2019 to the Head of Sales and Marketing.

\_\_ \*\* \_\_

Mittal Commerce Classes