

(GCF-9, 11, 12, 13 & VCF-VDCF-SCF-3)

DATE: 05.04.2022

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) APPLICATION FOR REGISTRATION (SECTION 58):

- | | | |
|-----|--|-----------------|
| (1) | The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating- | {1 M} |
| | (a) The firm's name
(b) The place or principal place of business of the firm,
(c) The names of any other places where the firm carries on business,
(d) the date when each partner joined the firm,
(e) the names in full and permanent addresses of the partners, and
(f) the duration of the firm. | {1/2 M
Each} |
| | The statement shall be signed by all the partners, or by their agents specially authorised in this behalf. | |
| (2) | Each person signing the statement shall also verify it in the manner prescribed. | |
| (3) | A firm name shall not contain any of the following words, namely:-
'Crown', 'Emperor', 'Empress', 'Empire', 'Imperial', 'King', 'Queen', 'Royal', or words expressing or implying the sanction, approval or patronage of Government except when the State Government signifies its consent to the use of such words as part of the firm-name by order in writing. | {1 M
Each} |

Answer:

- (b) **Doctrine of ultra vires:** The meaning of the term ultra vires is simply "beyond (their) powers". The legal phrase "ultra vires" is applicable only to acts done in excess of the legal powers of the doers. This presupposes that the powers are in their nature limited. To an ordinary citizen, the law permits whatever does the law not expressly forbid. {1 M}
- It is a fundamental rule of Company Law that the objects of a company as stated in its memorandum can be departed from only to the extent permitted by the Act - thus far and no further **[Ashbury Railway Company Ltd. vs. Riche]**. In consequence, any act done or a contract made by the company which travels beyond the powers not only of the directors but also of the company is wholly void and inoperative in law and is therefore not binding on the company. On this account, a company can be restrained from employing its fund for purposes other than those sanctioned by the memorandum. Likewise, it can be restrained from carrying on a trade different from the one it is authorised to carry on. {2 M}
- The impact of the doctrine of ultra vires is that a company can neither be sued on an ultra vires transaction, nor can it sue on it. Since the memorandum is a "public document", it is open to public inspection. Therefore, when one deals with a company one is deemed to know about the powers of the company. If in spite of this you enter into a transaction which is ultra vires the company, you cannot enforce it against the company. For example, if you have supplied goods or performed service {2 M}

on such a contract or lent money, you cannot obtain payment or recover the money lent. But if the money advanced to the company has not been expended, the lender may stop the company from parting with it by means of an injunction; this is because the company does not become the owner of the money, which is ultra vires the company. As the lender remains the owner, he can take back the property in specie. If the ultra vires loan has been utilised in meeting lawful debt of the company then the lender steps into the shoes of the debtor paid off and consequently he would be entitled to recover his loan to that extent from the company.

An act which is ultra vires the company being void, cannot be ratified by the shareholders of the company. Sometimes, act which is ultra vires can be regularised by ratifying it subsequently. For instance, if the act is ultra vires the power of the directors, the shareholders can ratify it; if it is ultra vires the articles of the company, the company can alter the articles; if the act is within the power of the company but is done irregularly, shareholder can validate it.

{1 M}

Answer 2:

(a) An agreement comes into existence when one party makes a proposal or offer to the other party and that other party gives his acceptance to it. A contract is an agreement enforceable by law. It means that to become a contract an agreement must give rise to a legal obligation i.e. duty enforceable by law. If an agreement is incapable of creating a duty enforceable by law, it is not a contract. There can be agreements which are not enforceable by law, such as social, moral or religious agreements. The agreement is a wider term than the contract. All agreements need not necessarily become contracts but all contracts shall always be agreements.

{3 M}

All agreements are not contracts: When there is an agreement between the parties and they do not intend to create a legal relationship, it is not a contract.

All contracts are agreements: For a contract there must be two things (a) an agreement and (b) enforceability by law. Thus, existence of an agreement is a pre-requisite existence of a contract. Therefore, it is true to say that all contracts are agreements.

{2 M}

Thus, we can say that there can be an agreement without it becoming a contract, but we can't have a contract without an agreement.

{1 M}

Answer:

(b) Problem as asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in section 2(d) and on the principle 'privity of consideration'. Consideration is one of the essential elements to make a contract valid and it can flow from the promisee or any other person. In view of the clear language used in definition of 'consideration' in Section 2(d), it is not necessary that consideration should be furnished by the promisee only. A promise is enforceable if there is some consideration for it and it is quite immaterial whether it moves from the promisee or any other person.

{3 M}

The leading authority in the decision of the **Chinnaya Vs. Ramayya**, held that the consideration can legitimately move from a third party and it is an accepted principle of law in India.

In the given problem, Mr. Sohanlal has entered into a contract with Mr. Mohanlal, but Mr. Chotelal has not given any consideration to Mr. Mohanlal but the consideration did flow from Mr. Sohanlal to Mr. Mohanlal on the behalf of Mr. Chotelal and such consideration from third party is sufficient to enforce the promise of Mr. Mohanlal to allow Mr. Chotelal to use 1 acre of land. Further the deed of sale and the promise made by Mr. Mohanlal to Mr. Chotelal to allow the use of 1 acre of land were executed simultaneously and therefore they should be regarded as one transaction and there was sufficient consideration for it.

{2 M}

Moreover, it is provided in the law that "in case covenant running with the land, where a person purchases land with notice that the owner of the land is bound by certain duties affecting land, the covenant affecting the land may be enforced by the successor of the seller."

{1 M}

In such a case, third party to a contract can file the suit although it has not moved the consideration. Hence, Mr. Chotelal is entitled to file a petition against Mr. Mohanlal for execution of contract.

Answer 3:

- (a) (a) The contract is void because of its initial impossibility of performance. (b) Time is essence of this contract. As by the time apples reached B they were already rotten. The contract is discharged due to destruction of subject matter of contract. (c) Such contract is of personal nature and hence cannot be performed due to occurrence of an event resulting in impossibility of performance of contract. (d) Such contract is discharged without performance because of subsequent illegality nature of the contract.

{3 M}

{3 M}

Answer:

- (b) As per the provisions of Sub-Section (2) of Section 17 of the Sale of Goods Act, 1930, in a contract of sale by sample, there is an implied condition that:
- (a) the bulk shall correspond with the sample in quality;
- (b) the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
- (i) In the instant case, in the light of the provisions of Sub-Clause (b) of Sub-Section (2) of Section 17 of the Act, Mrs. Geeta will not be successful as she casually examined the sample of rice (which exactly corresponded to the entire lot) without noticing the fact that even though the sample was that of Basmati Rice but it contained a mix of long and short grains.
- (ii) In the instant case, the buyer does not have any option available to her for grievance redressal.
- (iii) In case Mrs. Geeta specified her exact requirement as to length of rice, then there is an implied condition that the goods shall correspond with the description. If it is not so, the seller will be held liable.

{1 M}

{2 M}

{3 M}

Answer 4:

- (a) **Dissolution of Firm:** The Dissolution of Firm means the discontinuation of the jural relation existing between all the partners of the Firm. But when only one of the partners retires or becomes incapacitated from acting as a partner due to death, insolvency or insanity, the partnership, i.e., the relationship between such a partner and other is dissolved, but the rest may decide to continue. In such cases, there is in practice, no dissolution of the firm. The particular partner goes out, but the remaining partners carry on the business of the Firm. In the case of dissolution of the firm, on the other hand, the whole firm is dissolved. The partnership terminates as between each and every partner of the firm.

{3 M}

Dissolution of a Firm may take place (Section 39 - 44)

- (a) as a result of any agreement between all the partners (i.e., dissolution by agreement);
- (b) by the adjudication of all the partners, or of all the partners but one, as insolvent (i.e., compulsory dissolution);
- (c) by the business of the Firm becoming unlawful (i.e., compulsory dissolution);

- | | |
|--|---------------------------------------|
| <p>(d) subject to agreement between the parties, on the happening of certain contingencies, such as: (i) effluence of time; (ii) completion of the venture for which it was entered into; (iii) death of a partner; (iv) insolvency of a partner.</p> <p>(e) by a partner giving notice of his intention to dissolve the firm, in case of partnership at will and the firm being dissolved as from the date mentioned in the notice, or if no date is mentioned, as from the date of the communication of the notice; and</p> <p>(f) by intervention of court in case of: (i) a partner becoming the unsound mind; (ii) permanent incapacity of a partner to perform his duties as such; (iii) Misconduct of a partner affecting the business; (iv) willful or persistent breach of agreement by a partner; (v) transfer or sale of the whole interest of a partner; (vi) improbability of the business being carried on save at a loss; (vii) the court being satisfied on other equitable grounds that the firm should be dissolved.</p> | <p>{1/2
M
Each
Point}</p> |
|--|---------------------------------------|

Answer:

(b) Doctrine of Indoor Management

- | | |
|---|--------------|
| <p>According to this doctrine, persons dealing with the company need not inquire whether internal proceedings relating to the contract are followed correctly, once they are satisfied that the transaction is in accordance with the memorandum and articles of association.</p> | <p>{1 M}</p> |
| <p>Stakeholders need not enquire whether the necessary meeting was convened and held properly or whether necessary resolution was passed properly. They are entitled to take it for granted that the company had gone through all these proceedings in a regular manner.</p> | <p>{2 M}</p> |
| <p>The doctrine helps protect external members from the company and states that the people are entitled to presume that internal proceedings are as per documents submitted with the Registrar of Companies.</p> | <p>{1 M}</p> |
| Thus, | |
| <p>1. What happens internal to a company is not a matter of public knowledge. An outsider can only presume the intentions of a company, but do not know the information he/she is not privy to.</p> | <p>{2 M}</p> |
| <p>2. If not for the doctrine, the company could escape creditors by denying the authority of officials to act on its behalf.</p> | <p>{2 M}</p> |
| <p>In the given question, Easy Finance Ltd. being external to the company, need not enquire whether the necessary resolution was passed properly. Even if the company claim that no resolution authorizing the loan was passed, the company is bound to pay the loan to Easy Finance Ltd.</p> | <p>{1 M}</p> |

Answer 5:

- | | |
|--|--------------|
| <p>(a) As per the provisions of Section 19 of the Indian Contract Act, 1872, when consent to an agreement is caused by coercion, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.</p> | <p>{1 M}</p> |
| <p>A party to contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.</p> | <p>{3 M}</p> |
| <p>Exception: If such consent was caused by misrepresentation or by silence, fraudulent within the meaning of section 17, the contract, nevertheless, is not voidable if the party whose consent was so caused had the means of discovering the truth with ordinary diligence.</p> | <p>{3 M}</p> |
| <p>In the situation given in the question, both the fuel meter and the speed meter of the car were working perfectly, Mr. CHHOTU had the means of discovering the truth with ordinary diligence. Therefore, the contract is not voidable. Hence, Mr. CHHOTU cannot rescind the contract in the above ground.</p> | <p>{2 M}</p> |

Answer:

- (b) (i) A wholesaler of cotton has 100 bales in his godown. So, the goods are existing goods. He agrees to sell 50 bales and these bales were selected and set aside. On selection, the goods becomes ascertained. In this case, the contract is for the sale of ascertained goods, as the cotton bales to be sold are identified and agreed after the formation of the contract. { 2 M }
- (ii) If A agrees to sell to B one packet of sugar out of the lot of one hundred packets lying in his shop, it is a sale of existing but unascertained goods because it is not known which packet is to be delivered. { 2 M }
- (iii) T agrees to sell to S all the apples which will be produced in his garden this year. It is contract of sale of future goods, amounting to 'an agreement to sell.' { 2 M }

Answer 6:

- (a) Ms. Lucy while drafting partnership deed must take care of following important points:

- No particular formalities are required for an agreement of partnership.
 - Partnership deed may be in writing or formed verbally. The document in writing containing the various terms and conditions as to the relationship of the partners to each other is called the 'partnership deed'.
 - Partnership deed should be drafted with care and be stamped according to the provisions of the Stamp Act, 1899.
 - If partnership comprises immovable property, the instrument of partnership must be in writing, stamped and registered under the Registration Act.
- { 3 M }

List of information included in Partnership Deed while drafting Partnership Deed by Ms. Lucy:

- Name of the partnership firm.
 - Names of all the partners.
 - Nature and place of the business of the firm.
 - Date of commencement of partnership.
 - Duration of the partnership firm.
 - Capital contribution of each partner.
 - Profit Sharing ratio of the partners.
 - Admission and Retirement of a partner.
 - Rates of interest on Capital, Drawings and loans.
 - Provisions for settlement of accounts in the case of dissolution of the firm.
 - Provisions for Salaries or commissions, payable to the partners, if any.
 - Provisions for expulsion of a partner in case of gross breach of duty or fraud.
- { 1/4 M Each Point }

Note: Ms. Lucy may add or delete any provision according to the needs of the partnership firm.

Answer:

- (b) **LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership**
- Limited Liability:** Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section 26 of the LLP Act, 2008). The liability of the partners will be limited to their agreed contribution in the LLP, while the LLP itself will be liable for the full extent of its assets. { 3 M }
- Flexibility of a partnership:** The LLP allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital. { 3 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) (i) Marie did not like the fact that University in Warsaw was closed for women. } {1 M}
- (ii) Marie left Poland in 1891 and joined Sorbonne University, France, where she completed her doctorate in Physics. } {1 M}
- (iii) She got over her desolation when she became the first woman to join as a professor of Physics at the world renowned University of Sorbonne, France. } {1 M}
- (iv) **Summary:**
- Marie, daughter of a physics professor was born in 1867 in Warsaw, Poland. Disappointed at not being allowed to join University in Warsaw, she left Poland in 1891 to enter the University of Sorbonne, France and completed her doctorate in Physics. } {1 M}
- In 1895, Marie married Pierre Curie a great scientist at Sorbonne. Having spent many years together in research, shortly after they discovered Radium, Pierre Curie was killed in 1906.
- She got over her desolation when she became the first woman to join as a professor of Physics at the world-renowned University of Sorbonne. In 1911, she received the Nobel Prize in Physics for isolating Radium. Being overexposed to radium, she developed a fatal illness. She dedicated herself to the cause of science. } {1 M}

Answer:

- (b) (i) **Human Nature**
1. Hmn Ntr
 - 1.1 Expctns
 - 1.1.1 hurt when not met
 - 1.2 Cnfrntns
 - 1.2.1 are avoided by hmns
 - 1.2.2 are unplsnt
 - 1.2.3 dmgrlstnsp
 - 1.2.4 Styles of cnfrntns:
 - 1.2.4.1 Chrctrbsd
 - 1.2.4.1.1 Help vent anger
 - 1.2.4.1.2 Cse angry shwdns
 - 1.2.4.1.3 Halt dscssns
 - 1.2.4.1.4 Dtrmntl to slf-img
 - 1.2.4.2 Issue bsd
 - 1.2.4.2.1 Lead to rtnldlg
 - 1.2.4.2.2 Help anls:
 - 1.2.4.2.2.1 Prblm
 - 1.2.4.2.2.2 Cses
 - 1.2.4.2.2.3 Chngrqd in othrprsn
- } {1 M}
- 1.3 Slf-img
 - 1.3.1 Is how we prcv ourselves
 - 1.3.2 How othrsprcv us
 - 1.3.3 We try avdngdmg
 - 1.3.4 Seek aprvlfrmothrs
 - 1.3.5 Bldschrctr
- } {1 M}

Key:

Hmn: Human/s
 Ntr: Nature
 Expctns: Expectations
 cnfrntns: confrontations
 unplsnt: unpleasant
 dmg: damage
 rlstnsps: relationships
 chrctr: character
 bsd: based
 cse: cause
 shwdns: showdowns
 dscsns: discussions
 dtrmntl: detrimental
 slf-img: self-image
 rtnl: rational
 dlg: dialogue
 anls: analyse
 prblm: problem
 chng: change
 rqd: required
 othr: other
 prsn: person
 prcv: perceive
 othr: other/s
 avdng: avoiding
 aprvl: approval
 blds: builds

{1 M}

(ii) Summary

We feel hurt when our expectations from others are not met. We avoid confrontations, as they are displeasing and can affect relations. More often, it is the style of confrontation that causes problems rather than the underlying issue. We generally indulge in character-based confrontations, letting out our anger. Our image is important as it builds our character. Therefore, we must indulge in issue-based confrontations where we analyze our disagreements and identify the actions in others that bother us and to resolve the issue.

{1 M}

Candidates who have given abbreviations as below or any other suitable abbreviations, should also be given due credit. For Example:

Confrontation - Confront
 Expectation - Expat
 Self-Image - Selfina
 Problem - Probe

{1 M}

Answer 8:

(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) (i) (3) Pertinent {1 M}
 (ii) (3) Not Embarrassed {1 M}
 (iii) He asked if everyone would come for the meeting. {1 M}

Answer:

- (c) **Flood situation grim in Western, Southern Indian states:** With heavy downpours, up to 330 mm, the flood situation continues to worsen particularly in the western and southern states of Maharashtra, Gujarat, Karnataka and Kerala. Over 500 people have died in landslide, deluge related incidents, thousands have gone missing, as many as 40 lakh people have been displaced and over 8 lakh people have been moved to relief camps in these states. Almost half a metre of rain fell in Vadodara alone in the last 24 hours, disrupting railways and air routes. Major rivers viz. Krishna and Tungabhadra are flowing at record high levels creating severe to extreme flood situation in the states. Red alert has been issued in most of these areas. The recent floods have damaged crops over 10 lakh hectares of land in Maharashtra, Karnataka and Kerala making survival even more difficult. According to the meteorological department, the situation is likely to improve in the days to come with meager or intermittent rains. {3 M}
- Union Home Minister has carried out an aerial survey of the worst affected areas and the Prime Minister has declared immediate monetary relief to these states. Campaigns are being carried out to appeal to masses in other states to contribute to the mass relief operations. Several NGOs and non profit agencies have join hands with the army in carrying out immediate relief operations in worst hit areas. Their volunteers are propagating the message through social media to collect clothes, food and funds for those stranded after deluge. To contribute to the Prime Minister's Disaster Relief Fund you may directly transfer funds through {2 M}
- NEFT details are as under:
 Favour of: PM's Relief Fund
 Account No.:
 IFSC code :
 Source: Press Trust of India.

Answer 10:

- (a) 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. {1 M}
- 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 avoiding conflict resulting in successful completion of the communication process. {1 M}

Answer:

- (b) (i) The Prime Minister's speech was cheered loudly by the audience. {1 M}
 (ii) A cruel boy killed the bird. {1 M}
 (iii) He told that his mother was writing letters. {1 M}

Answer:

- (c) **Article: The Importance of Water Conservation** } {1 M}
 -By (Writer's name)

Water is one of the three basic resources for the survival of human kind besides air and food. More than 90 percent of human body is composed of water. Though water is abundantly available on our planet, with 2/3rd of earth covered by water, still fresh, clean water is a limited resource. Rivers, fresh water lakes, waterfalls, natural springs, ground water and rain are the natural resources of fresh water. {1 M}

With indiscriminate rise in human population worldwide, the pressure on these natural resources has increased manifold. In many developing countries, due to incessant industrialization leading to exponential rise in migration to big cities/townships, contamination of ground water and rivers has not only led to scarcity of pure drinking water but also emerged as a serious health hazard.

Over reliance on ground water and rivers for construction/infrastructure development projects in urban areas and little or no awareness about water conservation has led to fast depletion of these natural resources. It is about time we realized the importance of clean water as water tables are fast declining, rivers and lakes are drying or being polluted/contaminated especially in thickly populated urban areas such as New Delhi, Hyderabad and Bangalore. According to a study these urban areas will have little or no ground water left that will lead to a drought like situation in a few years time. {1 M}

As progressive citizens, we must take immediate measures to not only restrict our water consumption but also devise innovative conservation methods to provide sustainable sources of clean drinking water. While Rain water harvesting and reducing water consumption are effective methods of water conservation in urban areas, construct ion of small dams to provide huge water reservoirs holds the key to effective water conservation in rural areas. {2 M}

Answer 11:

- (a) Barriers in communication:
- Physical Barriers
 - Cultural Barriers
 - Language Barriers
 - Technology Barriers
 - Emotional Barriers
- {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 (b):

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

Answer (b):

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

Answer:

- (c) Digital Payments: The Flip side (Title) } {1 M}

Although digital payments like Paytm and Google pay took on a fast flight after demonetization, their presence is not yet complete. Reasons could be many- unaware customers, unwilling merchants, unreliable infrastructure, lack of interoperability etc. According to data reports, cash still rules the market with digital payments holding only 10% of share. **{2 M}**

Also, recommendations from PCI have not played a major role. Moreover, government regulations like KYC mandates bring down the implementation and usage of digital payments, thus discouraging a digitized Indian economy. **{2 M}**

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