

MOCK TEST PAPER – 2
FINAL (NEW) COURSE GROUP I
PAPER 4: CORPORATE AND ECONOMIC LAWS

Question no. 1 is compulsory.

*Attempt any **four** questions out of the remaining **Five** questions*

Maximum Marks-100 Marks

Time Allowed: 3 Hours

QUESTIONS

1. (a) Excel limited is a listed company with a turnover of Rs. 60 crore in the FY 2016-2017. The company appoints Ms. R as the women director on 1st March 2017. Ms. R is already a director in twelve companies including ten public companies. Also, Ms. R is chartered accountant in practice.
- Further, also, Ms. R, is a director in Supreme Ltd. where she is acting in a professional capacity. Since lots of proposal for the holding of directorship in various companies are lined up before the Ms. R, so in order to retain her, Remuneration and nomination committee proposed to enhance the remuneration of Ms. R from 4 Lac per month to 6 Lac per month. However, Supreme Limited was running in losses for last 2 years.
- Evaluate in the light of the given facts, the following situations with reference to the provisions of the Companies Act, 2013-
- (i) The validity of an appointment of Ms. R in Excel Limited.
- (ii) Analyse the proposition of enhancement of the remuneration of Ms. R in Supreme Ltd.
- (8 Marks)**
- (b) Cliche Clicks LLP is a member of the Delhi Stock Exchange. It has proposed to buy and sell shares of Nikonn Limited on its own account and on the behalf of investors. They have approached you. Decide in the light of the provisions of Securities Contract (Regulation) Act, 1956. **(6 Marks)**
- (c) (i) "Jan hit" a charitable organization, opened a current account with DENA Bank on 1st July, 2012. This account was closed on 30th June, 2016. Referring to the obligations of banking companies under the Prevention of Money Laundering Act, 2002, examine the period upto which the said bank has to maintain records relating to the account of "Jan hit". **(4 Marks)**
- (ii) Z, a known smuggler was caught in transfer of funds illegally exporting narcotic drugs from India to some countries in Africa. State the maximum punishment that can be awarded to him under Prevention of Money Laundering Act, 2002. **(2 Marks)**
2. (a) The issued and paid up capital of MNC Limited is Rs. 5 crores consisting of 5,00,000 equity shares of Rs. 100 each. The said company has 500 members. A petition was submitted before the Tribunal signed by 80 members holding 10,000 equity shares of the company for the purpose of relief against oppression and mismanagement by the majority shareholders. Examining the provisions of the Companies Act, 2013, decide whether the said petition is maintainable. Also explain the impact on the maintainability of the above petition, if subsequently 40 members, who had signed the petition, withdrew their consent. **(7 Marks)**
- (b) Origin paper Ltd. has been incurring business losses for past couple of years. The company therefore, passes a special resolution for voluntary winding up. Meanwhile, complaints were made

to the tribunal and to the Central Government about foul play of the directors of the company, which adversely affected the interests of shareholders of the company as well as public.

In this situation advise whether investigation may be initiated against the company under the provision of the Companies Act, 2013. Further state whether application can be made to Tribunal for Relief in the above affairs of the company once the investigation is initiated against the company. **(5 Marks)**

(c) What are the powers of the Central Government under the Companies Act, 2013 regarding Appeal against acquittal? **(2 Marks)**

(d) In 2016, Company Amar, food processor manufacturing unit entered into a joint venture agreement with Company USHA, the largest manufacturer of Food processors for supply of parts of mixer & grinder for manufacturing its latest model. Both the companies are registered under the Companies Act, 2013. Agreement carries the term that all disputes shall be arbitrated in Mumbai. State the type of arbitration agreement made between them.

What will happen if the agreement does not have any clause relating to arbitration and the Disputes arose between them concerning quality of material supplied in 2017. **(6 Marks)**

3. (a) Global Limited, a foreign company proposed to Desi Limited, an Indian company for merger of companies. State the requirement for merger as per the Companies Act, 2013. **(3 Marks)**

(b) (i) As per provisions of the Companies Act, 2013, what is the status of XYZ Ltd., a Company incorporated in London, U.K., which has a share transfer office at Mumbai?

(ii) ABC Ltd., a foreign company having its Indian principal place of business at Kolkata, West Bengal is required to deliver various documents to Registrar of Companies under the provisions of the Companies Act, 2013. You are required to state, where the said company should deliver such documents. **(8 Marks)**

(c) A group of investors are upset with the functioning of two leading stock brokers of Kolkata Stock Exchange and want to make a complaint to SEBI for intervention and redressal of their grievances. Explain briefly the purpose of establishing SEBI and what type of defaults by the stock brokers come within the purview of SEBI Act, 1992. **(3 Marks)**

(d) Apex Limited failed to repay the amount borrowed from the bankers, ACE Bank Limited, which is holding a charge on all the assets of the company. The Bank took over management of the company in accordance with the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by appointing four persons as directors. The company is managed by a Managing Director, Mr. X. Referring to the provisions of the said Act, examine whether Mr. X is entitled to compensation for loss of office and also explain the effect of such takeover on certain rights of the shareholders of the company. **(6 Marks)**

4. (a) The Articles of Association of XBL Limited provided of maximum number of Directors 12. Presently, the company is having 10 directors. Since XBL Limited was expanding its business, so it's Board of directors was desiring to increase the number of directors to 16.

During the time, out of the 10 directors in its board, two of the directors have retired by rotation at an Annual General Meeting. The place of retiring directors was not so filled up and the meeting has also not expressly resolved 'not to fill the vacancy'. Due to some reasons, the AGM was adjourned to a later date. At this adjourned meeting also, the place of retiring directors could not be filled up, and the meeting has also not expressly resolved 'not to fill the vacancy'.

Referring to the provisions of the Companies Act, 2013, decide:

(i) Whether the Board of Directors can increase the number of directors to 16 though specified maximum to 12, in the Article of Association.

- (ii) What will be the consequences if at the adjourned meeting also, the place of retiring directors could not be filled up, and the meeting has also not expressly resolved 'not to fill the vacancy'.
- (iii) What if, at the adjourned meeting, a Retiring director has given a notice in writing addressed to the company and the Board of Directors expressing his desire not to be re-elected.

(8 Marks)

(b) SEBI received complaints from some investors alleging that ABC Ltd. and some brokers are indulging in price manipulation in the shares of ABC Ltd. Explain the powers that can be exercised by SEBI under the Securities and Exchange Board of India Act, 1992 in case the allegations are found to be correct.

(6 Marks)

(c) Mr. Rajat is a software engineer of Amar Ltd. The company sent him to China to develop a software programme there on deputation for 2 years. He earned a sum of US \$ 3,000 as a honorarium there. On his return to India he wants to hold this foreign currency with him. Decide whether Mr. Rajat will be allowed to keep the foreign currency with him under the Foreign Exchange Management Act, 1999.

(3 Marks)

(d) Mr. Madhyam, was appointed as an Interim resolution professional during the Corporate Insolvency Resolution Process. What are the duties to be performed by Mr. Madhyam in the given capacity?

(3 Marks)

5. (a) Out of the powers exercisable by the Board under section 179, the board wants to delegate to the Managing Director of the company the power to borrow monies otherwise than on debentures. Advise whether such a delegation is possible? Would your answer be different, if the delegation is given to the manager or any other principal officer including a branch officer of the company?

(8 Marks)

(b) Winding up proceedings has been commenced by the tribunal against DEF Limited, a government company (Central Government is a member). Even after completion of one year from the date of commencement of winding up proceedings, it has not possible to conclude the same. The liquidator is of the opinion that the statement shall be filed with tribunal and registrar only.

(i) Examine the opinion made by the liquidator and penalty can be imposed on the liquidator for contravention of the provision as per Companies Act, 2013.

(ii) State your answer if the DEF Limited is a non-government company?

(6 Marks)

(c) Mr. X, a Resolution professional in a liquidation process, on an examination of sale of property of Corporate debtor finds that a transaction was made by the corporate debtor to his relative within 6 months preceding the Insolvency Commencement date, was undervalued.

Give the following answers in reference to the above situation-

- State the validity of the conduct of such transaction by corporate debtor to his relative.
- What will be the consequences when resolution professional determines such transactions undervalue and fails to report that same to NCLT?
- What order NCLT shall pass when Corporate Debtor entered into an undervalued transaction?

(6 Marks)

6. (a) XYZ Limited is an unlisted public company having a paid-up capital of twenty crore rupees as on 31st March, 2017 and a turnover of one hundred fifty crore rupees during the year ended 31st March, 2017. The total number of directors is thirteen. State the minimum number of directors appointed as Independent Director in XYZ Limited. What, if XYZ Ltd. is a dormant company.

(4 Marks)

- (b) It is apprehended by the Directors of a Public Company that they are likely to be prosecuted for an offence under the Companies Act, 2013 which is not compoundable. Explain the provisions of the Companies Act, 2013 under which the Directors can seek relief from the liability for offence.

(2 Marks)

- (c) Mr. Joseph, a member of Armaments Ltd., is aggrieved due to failure of the company to make payment of dividend declared in the AGM held in August, 2015. He makes a complaint, in writing, before the court of competent jurisdiction within the prescribed period of limitation, but the court refused to take cognizance of the alleged offence. Explain the legal position in this regard under the Companies Act, 2013.

(8 Marks)

- (d) Mrs. Chandra, a resident outside India, is likely to inherit from her father some immovable property in India. Are there any restrictions under the provisions of the Foreign Exchange Management Act, 1999 in acquiring or holding such property?

(3 Marks)

- (e) In the light of the Foreign Contribution Regulation Act, 2010, state whether foreign contribution be received in and utilised from multiple Bank Accounts?

(3 Marks)