

**DIVISION A**

**Question No. 1 is compulsory and attempt any four out of remaining five questions.**

**QUESTION NO.1**

A. You are the CFO and in charge of legal compliances of a large multi national company in India. The Board of Directors of the company are broad based and comprise of competent directors who are Indian as well as foreign nationals. Mr. 'X ' , who is a director (Business Development) on the Board is very often on business tour board. He approached you and wants to know from you the regulatory provisions of the Companies Act , 2013 relating to appointment of Alternate Directors. Analyse the following situations and advise suitably, Mr. X referring to the provisions of the Companies Act , 2013.

1. To how many directors can a person be appointed as an alternate director and how many votes does he have in one Board Meeting?
2. If the original director joins the Board Meeting through video conferencing without returning to India, then can the alternate director appointed in his place attend the same board meeting? If yes, whose presence and vote will be counted?
3. In case of a private company, where an alternate director is appointed in place of a non-executive director whose term is indefinite then , what will be the tenure of such alternate director , provided the original director does not return to India for a longer period say 3-4 years?
4. Can an Executive Director/Whole Time Director/Managing Director appoint alternate directors?

**(8 MARKS)**

B. Determine the legal positions in the given situations:

- i. Excel Ltd. committed an offence under the Companies Act, 2013. The offences falls within the jurisdiction of a special court of Bundi district in which the registered office of Excel Ltd was situated. However in that Bundi district, there were two special courts one in X place and other in Y place. Identify the jurisdiction of the special court for trial of an offences committed by Excel Ltd.
- ii. 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?

**(6 MARKS)**

## QUESTION NO.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. **(4 MARKS)**
- B. At the meeting of the members of M/s QRS Limited, a scheme of compromise and arrangement was approved by requisite majority. The National Company Law Tribunal (NCLT) after complying the provisions, issued an order, approving the scheme of compromise and arrangement.

List out the matters to be provided in the order issued by NCLT under Section 230(7) of the Companies Act, 2013?

When shall the order be filed with ROC?

**(4 MARKS)**

- C. 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)**

## QUESTION NO.3

- A. One of the Objects Clauses of the Memorandum of Association of Info Company Limited conferred upon the company power to sell its undertaking to another company with identical objects. Company's Articles also conferred upon the directors whereby power was conferred upon them to sell or otherwise deal with the property of the company. At an Extraordinary General Meeting of the company, members passed an ordinary resolution for the sale of its assets on certain terms and authorized the directors to carry out the sale. Directors refused to comply with the wishes of the members where upon it was contended on behalf of the members that they were the principals and directors being their agents, were bound to give effect to their (members') decisions.

Examining the provisions of the Companies Act, 2013, answer the following:

Whether the contention of members against the non-compliance of members' decision by the directors is tenable?

Whether it is possible for the members usurp the powers which by the Articles are vested in the directors by passing a resolution in the general meeting?

**(8 MARKS)**

- B. Mr. X was found to be guilty of offence of money-laundering by being involved in an activity connected with proceeds of crime. Adjudicating Authority(AA) as per findings confirmed the attachment of the property and ordered for the investigation. The investigation was initiated by the AA on 1<sup>st</sup> February, 2019. The attachment of the property of Mr. X was still to be continued by 31<sup>st</sup> January 2020. Enumerate in the given situation the validity of the attachment period. **(6 MARKS)**

#### **QUESTION NO.4**

- A. 'X' Stock exchange Limited was granted recognition by Securities and Exchange Board of India (SEBI) . The stock brokers of the stock exchange did not pay much heed to the concept of governance and focused on increasing their wealth and snubbed the protection of investors. their activities were against the interest of the trade and general public. **(4 MARKS)**
- i. Examine whether the Central Government/SEBI has the power to withdraw the recognition granted to 'X' Stock Exchange Limited under the provisions of Securities Contracts (Regulations) Act, 1956?
- ii. Whether a person can be a member of an unrecognised stock exchange for the purpose of performing any contracts in Securities?
- B. Securities and Exchange Board of India (SEBI) has undertaken inspection of books of accounts and records of LR Ltd., a listed public company. Specify the measures which may be taken by SEBI under the Securities and Exchange Board of India Act, 1992 to protect the interest of investors and securities market, on completion of such inquiry. **(4 MARKS)**
- C. X, is an association having registration to transfer the Foreign Contribution received by it to another organization? Is the valid act of X? If yes, then what is the process to do so? Is there any restriction on transfer of funds to other organisations? **(6 MARKS)**

#### **QUESTION NO.5**

- A. Draft a Board Resolution of disclosure of interest by Mr. J, director of ABC Ltd. in a proposed contract to be entered into with M/s APL & Co. in which, such director is a partner. **(4 MARKS)**
- B. The Articles of Association of a listed company have fixed payment of sitting fee for each Meeting of Directors subject to a maximum of Rs. 30,000. In view of the increased responsibilities of the independent directors of listed companies, the company proposes to increase the sitting fee to Rs. 45,000 per meeting. Advise the company about the requirement under the Companies Act, 2013 to give effect to this proposal. **(4 MARKS)**
- C. Mr. Mediator was proposed to be appointed as a resolution professional for the corporate insolvency resolution process initiated against BMR Ltd. Mr. R, a relative of director of BMR Ltd. is a partner in the insolvency professional entity in which Mr. Mediator is partner. In the light of the given facts, examine the nature of the proposal of the appointment of Mr. Mediator for the conduct of the CIRP as per the Insolvency and Bankruptcy Code, 2016. **(6 MARKS)**

## QUESTION NO.6

- A. Shareholders of Hide and Seek Ltd. are not satisfied about performance of the company. It is suspected that some activities being run in the name of the company are not in the interest of the company or its members. 101 out of total 500 share holders of the company have made an application to the Central Government to appoint an inspector to carry out investigation and find out the true picture.

With reference to the provisions of the Companies Act, 2013, mention whether the shareholders' application will be accepted? Elaborate. **(4 MARKS)**

- B. Rudraksh Ltd., a public company, was incorporated for supply of solar panels for the emerging project of government for construction of highways. However, the said project did not turn up for two years due to some legal implications. During the said period, no any significant accounting transaction was made and so the company did not file financial statements and annual returns during the last two financial years. In the meantime, the Board proposed for Mr. Ram & Mr. Rahim to be appointed as an Independent Directors for their independent and expertise knowledge and experience for better working and improvement of financial position of the company.

Evaluate in the light of the given facts, the following legal position :

- i. Comment upon the accountability for non – filing of financial statements and annual returns for last two financial years of the Rudraksh Ltd.
- ii. Nature of the proposal for an appointment of Mr. Ram & Mr. Rahim in the Rudraksh Ltd. for improvement of the company.

**(4 MARKS)**

- C. Mr. R, the respondent had placed an order of purchase of various quantities of phosphoric acid from the Mr. P, the petitioner. The purchase order noted that the terms and conditions were to be as per the Fertilizer Association of India (FAI). Terms and Conditions for Sale and Purchase of Phosphoric Acid were as per Clause 15 of the FAI which also provided terms for settlement of disputes by arbitration. Enumerate in the light of the given circumstances as to existence of a valid arbitration agreement between the parties as per the Arbitration and Conciliation Act, 1996.

**(3 MARKS)**

- D. Enumerate the given situations in the light of the term defined as Current Account Transaction under FEMA.

1. An Indian resident imports machinery from a vendor in UK for installing in his factory on a credit period of 3 months.
2. An Indian resident transfers US\$ 1,000 to his NRI brother in New York as "gift". The funds are sent from resident's Indian bank account to the NRI brother's bank account in New York.

**(3 MARKS)**

## DIVISION B

### QUESTION NO.7

M.C.Q NO. 1 to 10 carries 1 mark each

M.C.Q NO. 11 to 20 carries 2 marks each

1. P Ltd. was holding 35% of the paid up equity capital of X Stock Exchange. The company appoints M Ltd. as its proxy who is not a member of the X Stock Exchange, to attend and vote at the meeting of the stock exchange. State the correct statement as to the appointment of M Ltd. as a proxy for P Ltd. and on the voting rights of P Ltd. in the X Stock Exchange:
  - (a) X Stock Exchange can restrict the appointment of M Ltd., as proxy, and voting rights of P Ltd. in the Stock Exchange.
  - (b) Central Government can restrict appointment of proxies and voting rights of P Ltd. in the X Stock Exchange.
  - (c) Both (a) & (b)
  - (d) X Stock Exchange can restrict the appointment of M Ltd. & also voting rights of P Ltd. if rules of the exchange so provides. Otherwise can restrict the voting rights of P Ltd. & appointment of proxies through amendment in rules.
2. State the required majority in the case where a company wants to file an application to the registrar for removal of names of the company from the register of companies for its failure to commence its business within one year of its incorporation-
  - (a) Required consent of fifty one per cent members holding shares in the company
  - (b) Required consent of ninety per cent members holding shares in the company
  - (c) Required consent of seventy-five per cent members present in the meeting approving for filing of an application for removal of names
  - (d) Required consent of seventy-five per cent members in terms of paid-up share capital
3. Adjudicating authority received a complaint against Mr. R for being involved in activities connected to the proceeds of crime due to his unlawful association. On the basis of available evidence, Adjudicating authority called Mr. R to give details of his sources of income, earning or assets etc. The notice period of summoning to Mr. R will be –
  - (a) not less than fifteen days
  - (b) less than thirty days
  - (c) not less than thirty days
  - (d) sixty
4. What is the main purpose of the Arbitration and Conciliation Act, 1996?
  - (a) to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto.
  - (b) to cover enforcement of domestic arbitration
  - (c) to cover international commercial arbitration
  - (d) to cover enforcement of foreign arbitral awards
5. Every asset reconstruction company shall make an application for registration to
  - (a) The Reserve Bank in prescribed format.
  - (b) The Central Government
  - (c) SEBI

(d) A & B both.

6. Mr. X, a director of the company, intimated of his participation in the meeting scheduled on August, 2018. He declared his participation through electronic mode, in April 2017. State whether Mr. X is entitled to participate in the meeting to be conducted in August 2018 –
- (a) Yes, intimation about such participation was made at the beginning of the calendar year
  - (b) No, because intimation was made in previous calendar year
  - (c) Yes, because company was intimated of its participation in the meeting.
  - (d) No, because valid period of declaration (i.e., 1 year) of his participation expired.

### **Integrated Case Scenario/ Multiple Choice Questions**

Lagus Transport Services Limited (LTSL) is operating in logistics and public transport domain. The company has pan-India presence. As per its Articles of Association, the company can appoint a maximum of 15 directors and all of them shall be rotational directors. Presently, the company has a strength of 14 directors, of which 9 are executive directors and the remaining 5 are non-executive directors. As on 31<sup>st</sup> March, 2018, its paid- up share capital was Rs. 8.42 crore; the turnover was Rs. 84 crore; and it had, in the aggregate, outstanding loans, debentures and deposits to the tune of Rs. 42 crore.

In the Annual General Meeting (AGM), held on 20<sup>th</sup> August, 2018, Anil, Badal, Chanchal and Damodar were appointed as directors in place of Mohan, Navin, Om and Prasad by passing a single resolution with simple majority. It is to be noted that earlier, a motion authorising the appointment of Anil, Badal, Chanchal and Damodar by a single resolution was passed in the meeting and not a single vote was cast against such motion.

As on 31<sup>st</sup> March, 2019, the turnover of the company increased to Rs. 120.52 crore but the aggregate of outstanding loans, debentures and deposits reduced to Rs. 40 crore. The paid- up share capital was the same as earlier. Due to the increased turnover there arose the requirement of appointing two independent directors.

Since the company was required to appoint two independent directors, the total strength of the Board with such appointments would go up to 16 directors from the present 14 whereas according to the Articles, the company can have a maximum of 15 directors. Accordingly, the Articles were altered and the total strength was increased to 20 directors.

After altering the Articles, the company proceeded to appoint four independent directors instead of the mandatorily required two since it was felt that such step would strengthen the corporate governance to the maximum extent. The independent directors were - Mrs. Eekam, who is considered 'influencer' on supply chain management and has a lot of expertise in the logistics field; Mrs. Prajna who is a marketing expert; Mrs. Ruchita, who is MBA (Finance and Accounting) from IIM, Ahmedabad; and Mr. Amit, who is skilled in developing customised software. Subsequent to the above developments, the time to hold Annual General Meeting (AGM) approached and it was held on 12<sup>th</sup> August, 2019, at the registered office of the company at Mumbai.

**Answer following MCQ i.e from MCQ No. 7 to 11 on basis on above case scenario**

**Multiple Choice Questions (MCQs)**

7. In this case scenario, Anil, Badal, Chanchal and Damodar were appointed as directors by passing a single resolution at the AGM. Is such appointment valid?
- (a) The appointment of Anil, Badal, Chanchal and Damodar by a single resolution is valid because beforehand, a motion authorising their appointment by a single resolution was passed in the meeting and not a single vote was cast against such motion.
  - (b) The appointment of Anil, Badal, Chanchal and Damodar by a single resolution is not valid because passing of resolution by simple majority indicates that it was not passed unanimously.
  - (c) The appointment of Anil, Badal, Chanchal and Damodar by a single resolution with simple majority is not valid because such resolution is required to be passed as a special resolution.
  - (d) The appointment of Anil, Badal, Chanchal and Damodar by a single resolution is not valid because in no case more than one director can be appointed by passing a single resolution.
8. In the given case scenario, according to the Articles all the directors are rotational. Had this been not the case, how many directors were required to retire at the AGM which was held on 20<sup>th</sup> August, 2018?
- i. Five directors
  - ii. Four directors
  - iii. Three directors
  - iv. Two directors
9. In the given case scenario, if it is presumed that as on 31<sup>st</sup> March, 2019, the turnover of the company is Rs. 87.00 crore and the paid-up share capital is Rs. 12.00 crore, would the company be still mandatorily required to appoint two independent directors?
- i. There is no need to appoint two independent directors since the aggregate of turnover and paid-up share capital has not crossed the threshold of Rs. 100 crore.
  - ii. Instead of appointing two independent directors, the company is required to appoint only one independent director since the aggregate of turnover and paid-up share capital is above Rs. 90 crore but less than Rs. 100 crore.
  - iii. The company is required to appoint minimum two independent directors since the paid-up share capital is Rs. 12 crore.
  - iv. The company is required to appoint only one independent director since the paid-up share capital is below Rs. 15 crore.
10. According to the case scenario, the company altered its Articles of Association so as to increase the total strength of directors up to 20 from the present 15 directors. Which of the following options is applicable in such a case of alteration:
- i. The articles were altered by passing an ordinary resolution.
  - ii. The articles were altered by passing an ordinary resolution followed by approval sought from the jurisdictional Registrar of Companies.

- iii. The articles were altered by passing a Board Resolution with more than seventy- five percent majority.
  - iv. The articles were altered by passing a special resolution.
11. As on 12<sup>th</sup> August, 2019, when the AGM of LTSL was held, the total strength of directors reached to 18 due to the appointment of four independent directors. When all the directors are rotational, how many directors shall get retired at this AGM?
- i. Six directors
  - ii. Five directors
  - iii. Four directors
  - iv. Two directors
12. Drug trafficking is a punishable offence in India. Suppose, Mr. X & Mr. Y, are involved in drug trafficking including imported drugs trafficking. Under which Act, Mr. X & Mr. Y can be prosecuted?
- (a) Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985
  - (b) Prevention of Money Laundering Act, 2002
  - (c) Foreign Exchange Management Act, 1999
  - (d) Offences under the Unlawful Activities (Prevention) Act, 1967
13. Ruby Ltd. filed an application to the NCLT stating that corporate insolvency resolution process against him, cannot be completed within the 90 days under the fast track insolvency resolution process. Considering application and on being satisfied , NCLT ordered to extend the period of such process by 30 days. Later, again Ruby Ltd. initiated an application for further extension of time period of insolvency process by 15 days. Decide in the given situation, whether NCLT, can extend timelines by further 15 days.
- (a) Yes, because extension of duration in toto, is not exceeding 45 days.
  - (b) Yes , depends of the facts , if it is justified , NCLT may extend the timelines.
  - (c) No, extension of the fast track insolvency resolution process shall not granted more than once.
  - (d) (a) & (b)
14. The Board of Directors of ABV Limited is desirous to delegate some of its powers to its committee of directors as they find it difficult to manage everything on their own. The Board of Directors are confused between the various powers of the Board as which power can be delegated or not. Advice the Board amongst the following powers which they can delegate to its committee of directors:
- (a) To authorise buy-back of securities
  - (b) To invest the funds of the company
  - (c) To diversify the business of the company
  - (d) To take over a company or acquire a controlling or substantial stake in another company
15. MNO, a Public Ltd. incorporated on June 11, 2007. It selected Mr. Ajay, Mr. Rohit, Mr. Rajan and Mr. Ravi to be appointed as Director of the company in general meeting on August 15, 2007. All the four directors gave their consent by September 12, 2007. But Mr. Rajan and Mr. Rohit were not having the director identification number. They both applied for the director identification number. By what time they will be able to get their DIN?



- a) 30 days
- b) 1 month
- c) 2 month
- d) 3 month

16. Mr. X took multiple loans for the same home from three different banks. The total amount is greatly in excess of the actual value of the property, which is 2 crores. Out of this amount, he invested 50 lakh in shell companies abroad. He bought one property in his son name at Jaipur worth 30 lakh out of which he took loan of 10 lakh. Mr. X gifted a diamond set to his wife worth 10 lakh. Mr. X bought one house in London for 1 Crore via Mr. Z a hawala broker. Mr. X gave his driver M, 10 lakh to keep it in safe place. Mr. A, a financial manager of Mr. X knew about all the transactions. Who all are liable in these chain of transactions?

- (a) Mr. X and Mr. Z
- (b) Mr. X, his wife and son, Mr. Z and Mr. A
- (c) Mr. X, Mr. Z, Mr. A and Mr. M
- (d) Mr. X, Mr. Z and Mr. M

17. All the three directors of Cygnus Wires Limited generally remain out of India for developing connections and securing business opportunities on behalf of the company. However, the company must strictly follow the legal requirement that at least one of its directors must stay for the specified statutory period in India. To reckon as 'resident director' for the financial year 2018-19, advise the company as to which period spent in India by Jennifer shall count towards statutory period.

- (a) Period spent in India during the previous financial year 2017-18.
- (b) Total of fifty percent each of the period spent in India during the financial year 2016 -17 and 2017- 18.
- (c) Period spent in India during the financial year 2018-19.
- (d) Total of fifty percent each of the period spent in India during the financial year 2017 -18 and 2018- 19.

18. Mr. K, a Manager of XYZ Ltd. retired on 12<sup>th</sup> May 2019. On examination of the final accounts of the company for the year ended on 31<sup>st</sup> March 2019, the Registrar of Companies found some serious irregularities in writing off of the huge amounts of bad debts and no satisfactory explanation was provided for the same from the company. In such a situation the Registrar of Companies wants some explanation from the company and Mr. K. Can the ROC seek explanation from Mr. K ? Advice –

- (a) No, Mr. K can't be called upon, as he does not hold the position or any office in the company any more.
- (b) Mr. K can be called upon within a period of one year from the date of completion of his service.
- (c) Mr. K can be called upon for necessary explanation within a period of 180 days from the date of leaving his office through a written notice served upon him.
- (d) Mr. K can be called upon by the Registrar through a written notice served on him without any time period limit.

19. Vision Ltd., a foreign Company incorporated in Singapore, appointed Mr. X as a representative in India for the management of place of business in India. Due to unsatisfactory services of Mr. X, Vision Ltd. replaced him and appointed Mr. Y. Vision Ltd. is required to comply with which of the following requirement-
- (a) Vision Ltd. shall file return to the Registrar of Company in India, within 30 days of the appointment of Mr. Y
  - (b) Vision Ltd. being a foreign co. in Singapore does not require to give any such intimation of replacement/ change made for management of place of business in India
  - (c) Vision Ltd. shall intimate of such alteration at the place where its registered within 15 days from such alteration.
  - (d) Vision Ltd. shall file return to the Registrar, within 1 month of such alteration as to appointment of Mr. Y
20. Alpha Industries Limited, a Listed Entity with good market image adhered the required corporate governance practices. The Company maintained its Website, in compliance to the provisions of the SEBI (Listing Obligation and Disclosure Requirements) Regulations, 2015. The Company having one material subsidiary company named as Beta Industries Limited. One of the Board Members of the Beta Industries Limited is also Board Member of Alpha industries Limited. Being a consultant of the company, advise time period within which Alpha industries Limited shall submit quarterly and year-to-date standalone financial results to the stock exchange –
- (a) Within 45 days of end of each quarter
  - (b) Within 45 days of end of each month
  - (c) Within 45 days of end of each quarter, other than the last quarter.
  - (d) Within 45 days of end of half year.
21. The Board of directors of Very Well Ltd., wants to contribute Rs. 60,000 to a charitable organization during the financial year 2017-2018. During the financial year 2015-2016, the company suffered losses. The directors are contemplating to contribute the said amount in spite of the losses. In this connection, state whether the directors can do so?
- (a) No, Very Well Ltd. cannot contribute Rs. 60,000 in 2017-2018 as the company suffered losses in 2015-2016.
  - (b) No, the board of directors are not authorized to contribute to bonafide charitable and other funds.
  - (c) No, Permission of the company in general meeting shall be required for contribution to bonafide charitable and other funds
  - (d) Yes, Very Well Ltd. Can contribute Rs. 60,000 to a charitable organization in spite of losses in 2015-2016 provided it is to a bonafide charitable fund.
22. You are a Whole Time Director of Choco-chips Private Limited who wishes to appoint Mr. Vanilla Sequera as its Managing Director who has attained the age of 72 years. However, the Board has got to know about the fact that no company shall appoint or continue the employment of any person as managing director, whole-time director or manager who is below the age of twenty-one years or has attained the age of seventy years. You are requested by the board to evaluate the situation and suggest on whether he can be

appointed as Managing Director?

- a) Yes, he can be appointed as MD by the Board of Directors;
- b) No, he cannot be appointed as MD at all;
- c) Yes, he can be appointed as MD by shareholders through Special Resolution;
- d) Yes, he can be appointed as MD by making an application to the NCLT.