



CA INTERMEDIATE N'19

SUBJECT- LAW

Test Code – PIN 5065

(Date :)

(Marks - 100)

QUESTION NO. 1 AND 2 are compulsory and attempt any three out of remaining four questions.

QUESTION NO.1

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

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

1. Rukmani, a fresh science graduate, wants to make available the farmers good quality seeds and manure. For her business she is contemplating to form a company and is weighing various options. Sometimes before, she came to know that a 'one person company' has minimum one member and one director whereas a private company has minimum two members and two directors. As regards a public company, she has vague idea that there should be minimum three directors but she does not know about the minimum members required in this case. Advise.

- (a) When there is requirement of minimum three directors, the public company can be formed by minimum three persons.
- (b) There should be minimum five persons for formation of a public company though requirement of minimum directors shall remain three.
- (c) There should be minimum seven persons for formation of a public company though requirement of minimum directors shall remain three.
- (d) There should be minimum nine persons for formation of a public company though requirement of minimum directors shall remain three.

2. The Annual General meeting of Tirupati Limited was scheduled for 28th December, 2017. Mr. Ananat, shareholder of Tirupati Limited has desired to inspect inspection of proxies lodged with the company. The notice for inspection should be given at least before the meeting:

- (a) 24 hours
- (b) 1 day
- (c) 2 days
- (d) 3 days

3. Prince delivers his car to Manoj, a garage owner for repair. Who is the bailor in this case?

- (a) Manoj
- (b) Prince
- (c) None of the above

(d) Both Manoj and Prince

4. A had to travel to a different town for 5 days. He left his cow in the custody of B so that she can be taken care of. After two days the cow delivers a calf. Now, B has to return to A:

- (a) Only the cow
- (b) Only the calf
- (c) Both the cow and the calf
- (d) Either the cow or the calf

5. An internal aid that may be added to include something within the section or to exclude something from it, is—

- (a) Proviso
- (b) Explanation
- (c) Schedule
- (d) Illustrations

6. S and P go into a shop. S says to the shopkeeper, C, "Let P have the goods, and if he does not pay you, I will." This is a

- (a) Contract of Guarantee
- (b) Contract of Indemnity
- (c) Wagering agreement
- (d) Quasi-contract

7. JX Limited, an unlisted public Company has its registered office in Mumbai. Due to a shortage of storage space, the Board of Directors of JX Limited has decided not to preserve the books of accounts and other related records of accounts. The Board has approached you, to seek an advice on this matter. Give suitable advice to the Board of JX Limited:

- (a) The Company is not mandatorily required to maintain the Statutory Registers and Records at the Registered Office.
- (b) The Company can make space by destroying all Statutory Registers and Records which are older than 8 years.
- (c) Company can shift the Statutory Registers and Records at JX Limited's branch office situated at Pune, where more than one-tenth of the total number of members entered in the register of members reside.
- (d) Company can digitize all the Statutory Registers and Records.

8. ABC Ltd. wants to issue redeemable preference shares for a period of 35 years. Advise whether it can do so.

- (a) Yes, ABC Ltd. can issue redeemable preference shares
- (b) Yes, ABC Ltd. can issue redeemable preference shares but for only 30 years
- (c) Instead of issuing of shares for 35 years, ABC Ltd. should issue irredeemable preference shares.
- (d) Yes, ABC Ltd. can issue redeemable preference shares for a period not extending 20 years.

9. XP Ltd declared 12% dividend to its Equity Shareholders. However Company missed to transfer unpaid dividend to bank account even after 40 days from declaration of Dividend. In such case how much interest will be payable?

- (a) 8% p.a.
- (b) 16% p.a.
- (c) 10% p.a.
- (d) 12% p.a.

10. A draws a cheque in favour of M, a minor. M endorses the same in favour of X. The cheque is dishonoured by the bank on grounds of inadequate funds. As per the provisions of Negotiable Instruments Act, 1881:

- (a) M is liable to X
- (b) X can proceed against A
- (c) No one is liable in this case
- (d) M can proceed against A

11. H Ltd. is the holding company of S Pvt. Ltd. As per the last profit and loss account for the year ending 31st March, 2018 of S Ltd. its turnover was to the extent of Rs. 1.50 crores; and paid up share capital was Rs. 40 lacs. Since S Pvt. Ltd., as per the turnover and paid up share capital norms, qualifies for the status of a 'small company' it wants to be categorized as 'small company'. Advise.

- (a) If H Ltd. converts itself into a private limited company, S Pvt Ltd. being its subsidiary can be categorized as a 'small company' since it meets turnover and paid up share capital norms applicable to a 'small company'.
- (b) So long as S Pvt. Ltd. meets the turnover and paid up share capital norms applicable to a 'small company' (which at present is the case), it shall be categorized as a 'small company'.
- (c) S Pvt. Ltd. cannot be categorized as a 'small company' because it is the subsidiary of another company.
- (d) Categorisation of S Pvt. Ltd. is possible only if H Ltd., the holding company, also meets the turnover and paid up share capital norms applicable to a 'small company'.

12. Ravi and Ragini have formed a Section 8 company; date of incorporation being 18.02.2018 and they being the directors and also the shareholders. During June, 2018 it transpired that two unsuitable articles were required to be altered for smooth functioning of the company. Advise.

- (a) Since articles regulate the internal management of the company, both Ravi and Ragini being directors and shareholders are themselves capable of altering the articles.
- (b) In case of Section 8 company, articles can be altered only if the company shows profits consecutively for two years.
- (c) In case of Section 8 company, prior approval of the Central Government is required to be obtained before its articles are altered.
- (d) In case of Section 8 company, at least one year must elapse from the date of its incorporation before its articles are altered but there is no need to obtain prior permission of the Central Government.

13. Ravi is the owner of a grocery store. In March 2018, he got the idea of forming a 'One Person Company' and convinced his sister Ruchika, an Indian citizen who resides in London but visits India from time to time, to become nominee in his OPC. In the year 2017, Ruchika first came to India on 10th January and left for London on 26th February. Thereafter, she again visited India on 7th June and remained here till 10th October and boarded an evening flight for London on the same day. From then onward she did not visit India in the year 2017 but on 2nd January 2018 she came to India for a short duration and left for London on 14th February, 2018. Is it possible for Ravi to appoint Ruchika as nominee?

- (a) Ruchika can be appointed as nominee by Ravi because she is a natural person, an Indian citizen and resided in India for more than 90 days during the year 2017.
- (b) Ruchika can be appointed as nominee by Ravi because she is a natural person, an Indian citizen and resided in India for more than 182 days during the years 2017 and 2018 i.e. prior to March 2018 when Ravi contemplated to form his OPC.
- (c) Ravi cannot appoint Ruchika as nominee in his OPC because she did not reside in India for 182 days or more during the year 2017 though she is a natural person and also an Indian citizen.
- (d) Since Ravi is the sole member of his OPC who will look after all its affairs and the appointment of nominee is just a formality, a visit to India during 2017 for any number of days would make Ruchika eligible to be appointed as nominee.

14. Abha formed a 'One Person Company (OPC)' on 15-10-2017 with her husband Akhil as nominee and Rs. 10 lacs as Authorised and paid-up share capital. In the month of April 2018 she got in touch with a foreigner and is expecting to receive a substantial export order by May 2018 whose final delivery must be completed by December 2018. She is contemplating to convert her OPC into a private limited company before she receives the export order in May 2018.

- (a) Since Abha is the sole member of OPC she is having full discretion to voluntarily convert it into a private limited company any time after 15-10-2017.

- (b) Abha can voluntarily convert her OPC into a private limited company only after the expiry of first financial year by which the accounts are closed (i.e. after 31-3-2018 without any restriction.)
- (c) Abha can voluntarily convert her OPC into a private limited company only after she delivers duly audited first financial statements and Annual Return to the concerned Registrar of Companies by due date and without making payment of any additional fee.
- (d) Abha can voluntarily convert her OPC into a private limited company only after expiry of two years from 15-10-2017 (i.e. on 15-10-2019 or thereafter).

15. Seven Hospitality Limited ("Company") was incorporated in 2013. Company run resorts and hotels nearby Mumbai. In 2018, Central government received an application from Mr. X ("proprietor") who has registered trademark for word "Seven". In ideal situation, what will be the Central Government's stand?

- (a) Central Government will ask to take permission from Registrar, as he have approved this name in first place;
- (b) Central Government will ask them to mutually agree to use the word "Seven";
- (c) Central Government will direct the Company to change its name;
- (d) Central Government will deny his application;

16. Swastik Pvt Ltd passed a special resolution to change its name to Swastik Darshan Pvt Limited on 30th May, 2017. Relevant MCA filing was done on due time and then Company got its new stationery printed on 1st, July, 2017. However, there was a delay in issue of certificate and Company received new certificate on 20th August, 2017 which was issued on 10th August, 2017. Company wants to enter into a lease agreement for new premise. When they can do such agreement in new name of the Company?

- (a) 30th may, 2017
- (b) 1st, July, 2017
- (c) 20th August, 2017
- (d) 10th August, 2017

17. Roma along with her six friends has got incorporated Roma Trading Ltd. in May 2017. She kept the paid-up share capital at Rs. 30 lacs. Further, in April 2018, she noticed that in the last financial year, the turnover of the company was well below Rs. 2 crores. Advise whether the company can be treated as a 'small company'.

- (a) Roma Trading Ltd. is definitely a 'small company' since its paid-up capital is much below Rs. 50 lacs and also its turnover has not exceeded the threshold limit of Rs. 2 crores.
- (b) The concept of 'small company' is applicable only in case of a private limited company/OPC and therefore, despite meeting the criteria of 'small company' it being a public limited company cannot enjoy benefits of 'small company'.

- (c) Unlike a private limited company/OPC which automatically becomes a 'small company' as soon as it meets the criteria of 'small company', Roma Trading Ltd. being a public limited company has to maintain the norms applicable to a 'small company' continuously for two years so that, thereafter, it is treated as a 'small company'.
- (d) If all the shareholders of Roma Trading Ltd. give an undertaking to the ROC stating that they will not let the paid share capital and also turnover exceed the limits applicable to a 'small company' in the next two years, then it can be treated as a 'small company'.

18. Savita and her husband Sukesh have got incorporated Savi Trading Company Private Limited with authorised and paid up share capital of Rs. 40 lacs. As per its last profit and loss account relating to the FY 2017-18, the turnover was Rs. one crore and seventy lacs. Accordingly, their company is considered as a 'small company' in the FY 2018-19. They think that the status of 'small company', once bestowed, will continue till next 10 financial years. Advise.

- (a) Their contention that the status of 'small company', once bestowed, will continue till next 10 financial years is absolutely correct.
- (b) The status of 'small company', once bestowed, can continue till next 7 financial years only.
- (c) The status of 'small company' will keep on changing from time to time, for it is not permanent for any particular period.
- (d) If ROC permits, the status of 'small company' can continue maximum for three years including the year in which it is attained.

19. Amar made an application, his wife Abhilasha being other proposed subscriber and got reserved a name for incorporation of a private limited company but the Registrar of Companies, Delhi and Haryana, much before the incorporation, found that the name was applied by furnishing wrong information.

- (a) The reserved name shall be cancelled by the ROC because the name was applied by furnishing wrong information and Amar who made the application shall be liable to a penalty up to Rs. one lac.
- (b) The reserved name, after seeking explanation from Amar and after he pays a penalty of Rs. one lac shall be allotted by the ROC and the company shall be incorporated by this name.
- (c) The reserved name shall be cancelled by the ROC but Amar shall not be liable to pay any penalty because cancellation of name in itself is a penalty.
- (d) Besides cancellation of the reserved name Amar and Abhilasha shall be debarred from making an application for reservation of name for one year from the date on which cancellation letter was issued by the ROC.

20. Vivek is in trading business whereby he supplies handmade gloves and socks to many charitable trusts who supports the elderly people. Vivek now wants to expand his business and wants to reap the benefits of company form of organisation by opening his business as an OPC registered under section 8 of the Companies Act, 2013. Advise Vivek:

- (a) Vivek cannot form an OPC as he is in trading business
- (b) Vivek cannot form an OPC to be registered under section 8 of the Companies Act, 2013
- (c) Vivek can form an OPC to be registered under section 8 of the Companies Act, 2013
- (d) Vivek can form an OPC as a private company and then convert it into a section 8 company

QUESTION NO.2

A. With a view to issue shares to the general public a prospectus containing some false information was issued by a company. Mr. X received copy of the prospectus from the company, but did not apply for allotment of any shares. The allotment of shares to the general public was completed by the company within the stipulated period. A few months later, Mr. X bought 2000 shares through the stock exchange at a higher price which later on fell sharply. X sold these shares at a heavy loss. Mr. X claims damages from the company for the loss suffered on the ground the prospectus issued by the company contained a false statement. Referring to the provisions of the Companies Act, 2013 examine whether X's claim for damages is justified. **(6 MARKS)**

B. Mars Ltd. declared and paid dividend in time to all its equity holders for the financial year 2016-17, except in the following two cases:

- i. Mrs. Sheetal, holding 250 shares had mandated the company to directly deposit the dividend amount in her bank account. The company, accordingly remitted the dividend but the bank returned the payment on the ground that there was difference in surname of the payee in the bank records. The company, however, did not inform Mrs. Sheetal about this discrepancy.
- ii. Dividend amount of Rs. 50,000 was not paid to Mr. Piyush, deceased, in view of court order restraining the payment due to family dispute about succession.

You are required to analyse these cases with reference to provisions of the Companies Act, 2013 regarding failure to distribute dividends. **(4 MARKS)**

C. Mr. X, in association with his relative formed a company to promote education for the children of poor section. A licence was issued by the Central Government allowing the said company to be registered under section 8 of the Company. Government aids and lot of funds were contributed by public for the fulfilment of the benevolent object. However, on the complaint against the company, CG came to know about the manipulation of the funds in the company and so order to revoke the licence of the company. Further, directed for the amalgamation with another company registered under this section with an object to save girl child.

Examine the legal position as to the order passed by the Central government in the given situation in the light of the Companies Act, 2013. **(6 MARKS)**

- D. Mr. Bhalla instructs Aman, a merchant, to buy a ship for him. Aman employs a ship surveyor of good reputation to choose a ship for Mr. Bhalla. The surveyor makes the choice negligently and the ship turns out to be unseaworthy and is lost. Now, Mr. Bhalla holds Aman responsible for the same. Examine as per the provisions of the Contract Act, 1872, whether Aman is responsible to Mr. Bhalla. **(3 MARKS)**

QUESTION NO.3

- A. Mind Limited realised on 2nd May, 2018 that particulars of charge created on 12th March, 2018 in favour of a Bank were not filed with Registrar of Companies for Registration. What procedure should the company follow to get the charge registered with the Registrar of Companies? Would the procedure be different if the charge was created on 12th February, 2018 instead of 12th March, 2018? Examine with reference to the relevant provisions of the Companies Act, 2013. **(5 MARKS)**
- B. Kavish Ltd., desirous of buying back of all its equity shares from the existing shareholders of the company, seeks your advice. Examining the provisions of the Companies Act, 2013 discuss whether the above buy back of equity shares by the company is possible. Also, state the sources out of which buy-back of shares can be financed? **(5 MARKS)**
- C. Natraj Limited is an unlisted Public company having paid up share capital of Rs. 80 crores during the preceding financial year 2016-17. The turnover of the company was Rs. 110 crores for the same period. Referring to the provisions of the Companies Act, 2013, discuss the answer to the following: **(7 MARKS)**
- (i) Is it mandatory for the above company to appoint an internal auditor for the financial year 2017-18?
- (ii) What are the qualifications of the Internal Auditor?

QUESTION NO.4

- A. As per the provisions of the Companies Act, 2013, a whole time Key Managerial Personnel (KMP) shall not hold office in more than one company except its subsidiary company at the same time. Referring to the Section 13 of the General Clauses Act, 1897, examine whether a whole time KMP can be appointed in more than one subsidiary companies? **(4 MARKS)**
- B. Examine the validity of the following with reference to the relevant provisions of the Companies Act, 2013: **(4 MARKS)**
- a. The Board of Directors of Shrey Ltd. called an extraordinary general meeting upon the requisition of members. However, the meeting was adjourned on the ground that the quorum was not present at the meeting. Advise the company.
- b. Mary Ltd is a listed company having turnover of Rs. 1200 crores during the financial year 2016-17. The CSR committee of the Board formulated and recommended a CSR project which was approved by the Board. The company finalised the project under its CSR initiatives which require funds @ 5 % of average net profit of the company for last three financial years. Will such excess expense be counted in subsequent financial years as a part of CSR expenditure? Advise the company.

- C. Write short notes on the following in respect of the provisions of the Companies Act, 2013: **(6 MARKS)**
- (i) Creation of debenture redemption reserve account.
 - (ii) Appointment of 'Debenture Trustee' by a company.
- D. Mayank engages Babloo as a clerk to collect money for him. But Babloo fails to account for some of his receipts, and Mayank in consequence calls upon him to furnish security for his duly accounting. Amrit gives his guarantee for Babloo's duly accounting. Mayank does not acquaint Amrit with Babloo's previous conduct. Babloo afterwards makes default. Decide in the light of the provisions of the Contract Act, 1872, whether the guarantee is valid. **(3 MARKS)**

QUESTION NO.5

- A. Explain what is 'presentment for acceptance', as per the provisions of the Negotiable Instruments Act, 1881. **(5 MARKS)**
- B. State in what way does the Companies Act, 2013 regulate and restrict the following in respect of a company going for public issue of shares: **(6 MARKS)**
- (i) Minimum Subscription, and
 - (ii) Application Money payable on shares being issued
- C. Explain the principles of "Grammatical Interpretation" and "Logical Interpretation" of a Statute. What are the duties of a court in this regard? **(6 MARKS)**

QUESTION NO.6

- A. The Board of directors of Bharat Ltd. has a practical problem. The registered office of the company is situated in a classified backward area of Maharashtra. The Board wants to keep its books of account at its corporate office in Mumbai which is conveniently located. The Board seeks your advice about the feasibility of maintaining the accounting records at a place other than the registered office of the company. Advise. **(4 MARKS)**
- B. Explain the modes of discharge from liability on instruments, as per the provisions of the Negotiable Instruments Act, 1881. **(5 MARKS)**
- C. The directors of Ninu Ltd. want to voluntarily revise the Financial statements of the company. They have approached you to state to them the provisions of the Companies Act, 2013 regarding voluntary revision of financial statements. **(5 MARKS)**
- D. Examine the following with reference of the provisions of the Companies Act, 2013.
- Miraj Limited issued a notice with the agenda for nine businesses to be transacted in the Annual General Meeting (two businesses were regarding appointment of Mr. S and Mr. P as directors). The chairman decided to move the resolutions for all the nine businesses together to save the time of the members present. Examine the validity of the resolutions. **(3 MARKS)**