

(Time Allowed – 3 Hours)

**DIVISION A: MULTIPLE CHOICE QUESTIONS (TOTAL OF 30 MARKS)**

(Question nos. 1-10 are of 2 marks each and from 11- 20 are of 1 mark each)

1. ABHI Limited is a wholly owned subsidiary company of ETERNAL Limited. ETERNAL Ltd., makes an application for merger of Holding and Subsidiary Companies under the section 232 of the Companies Act, 2013. The Company Secretary of the ETERNAL Ltd., states that company cannot apply for merger under section 232 of the said Act. In fact said that the company shall have to apply for merger as per section 233 i.e. Fast Track Merger. State the correct statement in terms of the validity of the difference in the opinion of the Company secretary-
  - (a) Opinion of the Company Secretary of the ETERNAL Ltd. is valid holding that merger shall be as per section 233.
  - (b) Opinion of the Company Secretary of the ETERNAL Ltd. is invalid as merger shall be possible only as per section 232.
  - (c) Opinion of the Company Secretary of the ETERNAL Ltd. is invalid as the provisions given for fast track merger in the section 233 are of the optional nature.
  - (d) Opinion of the Company Secretary of the ETERNAL Ltd. is invalid as the provisions given for fast track merger in the section 233 can be made between only small companies.
2. Mr. Raj, a resident of India went to Australia for a business deal in January 2019. He realised foreign exchange for bearing expenses while staying there for the business purpose. After maturing the deal, he returned back to India in 28th of February ,2019. Mr. Raj was left with certain unused foreign exchange. He retained the foreign exchange with him for future use. Mr. Raj have to return the unused foreign exchange –
  - (a) Latest by 27th August 2019
  - (b) Latest by 28th August 2019
  - (c) Latest by 29th August 2019
  - (d) Latest by 31st August 2019
3. ABC and Co, the tax consultants of X Limited for which an interim resolution professional – Mr A, has been appointed under the Corporate Insolvency resolution process has refused to furnish information to Mr A on the grounds of client confidentiality. Are they right?
  - (a) Yes, they are right
  - (b) No, the Code provides powers to the IRP to access all information from various parties
  - (c) Partly right, they can do so only after consent of the directors
  - (d) Mr A is not right in even asking for this information

4. Surya Ltd., incorporated and registered in New Delhi with a foreign shareholding more than 50% due to liberalisation in Foreign Direct Investment (FDI) policy. State the correct statement as to the status of the Surya Ltd.
- (a) Surya limited shall not considered as foreign source because of its registration in India.
  - (b) Surya Ltd would be 'foreign source' have foreign shareholding more than 50% of foreign company.
  - (c) Surya Ltd would be 'foreign source' have foreign contribution through various international agencies.
  - (d) Both (b) & (c)
5. Aakaar Solar Energy Private Limited was allowed the status of a 'dormant company' after a certificate to this effect was issued on 1st July 2018 by the Registrar of Companies, Delhi and Haryana. Mention the latest date after which the Registrar is empowered to initiate the process of striking off the name of the company if Aakaar Solar Energy continues to remain as a dormant company.
- (a) After 30th June, 2023.
  - (b) After 30th June, 2019.
  - (c) After 30th June, 2020.
  - (d) After 30th June, 2021.
6. Jupiter Shopping Mall Limited was incorporated on 3rd December, 2016. As on 31st March 2018, it had free reserves of Rs. 50.00 lacs and its Securities Premium Account showed a balance of Rs. 7.50 lacs. One of its directors Raha has a leaning towards a particular political party in which his other family members are actively involved. Raha convinced the other two directors of the company i.e. Promila and Rana to contribute a sum of Rs. 10.00 lacs to this political party. Accordingly, the Board of Directors held a meeting on 16th December, 2018 and passed a resolution to contribute the decided amount. Advise the company as to how much amount they can contribute to a political party in the FY 2018-19.
- (a) The company cannot contribute any amount to a political party in the FY 2018-19.
  - (b) The company can contribute maximum Rs. 2.50 lacs in the FY 2018-19.
  - (c) The company can contribute maximum Rs. 3.75 lacs in the FY 2018-19.
  - (d) The company can contribute maximum Rs. 5.00 lacs in the FY 2018-19.
7. Astistav Private Limited is a company with ten shareholders. A member holding less than one-tenth of the share capital of the company apply to the Tribunal for relief against oppression and mismanagement. State whether a member have a right to apply to the tribunal in above situation:
- (a) A single Member cannot apply to the Tribunal for relief against oppression and mismanagement
  - (b) A member cannot apply as he is holding less than one-tenth of the share capital of the company
  - (c) A member can apply being one-tenth of the total number of members.
  - (d) A member cannot apply as the requirement of atleast hundred members is not

complied with.

8. Nanny Marcons Private Limited was incorporated on 9th June, 2017. For the financial year 2017-2018, it did not file its financial statements and annual returns. For the time being the company desires to be treated as 'inactive company' since it does not intend to carry on any business permitted by its Memorandum. As to when ROC can issue certificate of status of dormant company to 'Nanny Marcons' on the basis of non-submission of financial statements if the company makes an application to the Registrar in this respect.
  - (a) After non-submission of financial statements for the two financial years i.e. 2018-19 and 2019-20.
  - (b) After non-submission of financial statements for the next financial year i.e. 2018-19.
  - (c) After non-submission of financial statements for the three financial years i.e. 2018-19, 2019-20 and 2020-21.
  - (d) After non-submission of financial statements for the four financial years i.e. 2018-19, 2019-20, 2020-21 and 2021-22.
9. Mr. KG filed a complaint against Mr. P alleging that Mr. P has communicated unpublished price sensitive information to Mr. X. Mr. P took a plea that Mr. X requested him for such information and it was done bonafidely. State the correct statement as to the liability of Mr. P in the given situation-
  - (a) Mr. P will not be liable as he communicated about unpublished price sensitive information on the request of Mr. X
  - (b) Mr. P will not be liable as he communicated about unpublished price sensitive information to Mr. X in the ordinary cause of business
  - (c) Mr. P will not be liable as he communicated about unpublished price sensitive information to Mr. X as it was done without any malafide intention.
  - (d) Mr. P will be liable as he communicated about unpublished price sensitive information to Mr. X, whether with or without his request for such information.
10. 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.

## INTEGRATED CASE SCENARIO

Ali Baba Limited is a listed company incorporated under the provisions of Company Law having its registered office at Andhra Pradesh. Mrs. Smart is a Managing Director of Ali Baba Limited since its incorporation. She was first director and one of the promoters of the company. She has vast experience of managing the company in very efficient manner.

Ali Baba Ltd. is a holding company of PM Limited with a Fira Private Limited as a subsidiary to PM Limited.

Following are the details pertaining to the incorporation of the related entities and its capital structure:

S. No.	Particulars	Ali Baba Limited	PM Limited	Fira Private Limited
1.	Date of Incorporation	17/09/1985	06/09/1988	28/09/1989
2.	Place of Registered Office	Andhra Pradesh	Delhi	Hyderabad
3.	Authorised Share Capital	`100,00,00,000/-	`20,00,00,000/-	`10,00,00,000/-
4.	Paid Up Share Capital	`99,00,00,000/-	`10,00,00,000/-	`10,00,00,000/-

Under the guidance of Mrs. Smart, Ali Baba Limited acquired shareholding in PM Limited and thus resulting it into a subsidiary company of Ali Baba Limited. Now the Board of Directors of Ali Baba Limited wishes to nominate Mrs. Smart for the position of Managing Director in PM Limited and also to appoint her as Whole Time Director(WTO) in Fira Private Limited, which is a wholly owned subsidiary (WOS) of PM Limited.

Therefore, the Board of Directors of PM Limited passed a Board Resolution through resolution by circulation to appoint Mrs. Smart as Managing Director of the company. Subsequently, the Board of Directors of Fira Private Limited passed the Board Resolution at Board Meeting, wherein all directors present in the meeting approved the resolution for appointing her as Whole Time Director of the company and then subsequent to unanimous Board approval, Fira Private Limited also conducted the general meeting for getting approval of shareholders and passed the ordinary resolution to appoint her as Whole Time Director in the company.

Further, for appointment of Mrs. Smart, PM Limited and Fira Private Limited had complied with Schedule V of the Companies Act, 2013 as a result respective companies did not take any approval from Central Government for her appointment as Managing Director and Whole Time Director respectively.

**Based on the above provided information and in the light of applicable provisions of the Companies Act, 2013, read with Schedule V of the Act, you are asked to advice on the following Multiple Choice Questions from 11 to 15:**

11. State on the validity of the appointment of Mrs. Smart as Managing Director in PM Limited in terms of the provisions of the Companies Act, 2013?
- (a) Invalid, as no such appointment was made or approved by resolution passed at the board meeting with the consent of all the directors present at the meeting and supported by general meeting's ordinary resolution under section 196.
  - (b) Valid as whole time KMP shall hold office in its subsidiary at the same time.
  - (c) Valid with further approval of the Central Government
  - (d) Invalid because a person cannot hold more than one office as Managing Director

12. Whether Mrs. Smart appointment as Whole Time Director in Fira Private Limited is valid as per provisions of the Companies Act, 2013?
- (a) No, because being Fira Private Limited is private company so rule 8 & 8A of Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014, not applicable
  - (b) Yes, as per section 2(71) it is deemed as public Co.
  - (c) Yes, on further approval of Central Government
  - (d) No, because of restriction under section 203(3) on appointment in more than one company.
13. What will be legal position as to the appointment of Mrs. Smart as Managing Director in PM Limited, if Ali Baba Limited is a Government Company?
- (a) Invalid due to non-compliance of section 203
  - (b) Valid in light of the provisions 203(4A)
  - (c) Valid with approval of central government
  - (d) Invalid because a person cannot hold office of Managing Director in more than 1 company.
14. What is the status of Fira Private Limited for the purpose of the applicability of the Companies Act, 2013, if Ali Baba Limited is a Government Company?
- (a) Private Company
  - (b) Public Company
  - (c) Government Company
  - (d) Associate Company
15. Whether appointment of Mrs. Smart as Whole Time Director in Fira Private Limited is legally acceptable, if Ali Baba Limited is a Government Company?
- (a) No, because being Fira Private Limited is private company so rule 8 & 8A of Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014, not applicable
  - (b) Yes, because section 203 is not applicable on Government Companies
  - (c) Yes, with further approval Central Government
  - (d) No, because of restriction under section 203(3)
16. A group of creditors of X Limited makes a complaint to the Registrar of Companies. They asserted that the management of the company is indulged in destruction and falsification of the accounting records of the company. The complainants request the Registrar to take an immediate steps to stop the management to tamper with the records. The complaint was received in the morning on 1st January 2019 and the ROC entered the premises within half an hour for the search. The course of action that can be taken by Registrar are:
- (a) Registrar may enter and search the place where such books or papers are kept and seize them
  - (b) Registrar may enter and search the place where such books or papers are kept and can seize only after obtaining an order from the special court

- (c) Registrar may enter and search the place where such books or papers are kept only on the order of the special court
- (d) Registrar may enter and search the place where such books or papers are kept and give an opportunity to the company to represent why such documents may not be seized.
17. With whom will the Central Government file an application if it is of the opinion that such a scheme is not in public interest or in the interest of the creditors?
- (a) Cannot move an application
- (b) it may file an application before the Tribunal
- (c) it may file an application before the Parliament
- (d) it may be through special leave filed before Supreme Court
18. When can a winding up order not be called a notice of discharge?
- (a) when the business of the company is continued
- (b) when the business of the company is closed since 2 years.
- (c) On the discretion of the management
- (d) Till the appointment of a provisional liquidator
19. In case a Valuer becomes interested in any property, stock etc of the company, he may be appointed as Registered Valuer of the company after a cooling off period of:
- (a) 3 years
- (b) 5 years
- (c) 1 year
- (d) He will never be appointed as Registered Valuer of the company
20. Any person who is aggrieved by the order of Appellate Tribunal may approach to the Supreme Court on any question of law within:-
- (a) 30 Days                      (b) 45 Days                      (c) 60 Days                      (d) 90 Days

#### **DIVISION B: DESCRIPTIVE QUESTIONS (TOTAL 70 MARKS)**

**Instruction: Question No. 1 is compulsory. Out of remaining five questions, any four questions may be attempted.**

1. (a) State the legal positions as to the valid appointment of the directors in the given situations in the light of the Companies Act, 2013-
- i. Shiksham Ltd. was formed for prompting the girls education with 15 directors in its Board. Due to expansion of its objective at large scale, the company increased the strength of its directors to 20 without passing SR.
- ii. Mr. Kabir was appointed as an alternate director on behalf of Mr. Robert, as Mr. Robert goes abroad and comes back to India temporarily and leaves country again.
- iii. PQR Ltd., who failed to file a financial statement in previous financial year 2017- 2018, appointed Mr. Khurana as a director in July 2018. **(6 Marks)**

- (b) The last three years' Balance Sheet of PTL Ltd., contains the following information and figures:

	As at 31.03.2016 Rs.	As at 31.03.2017 Rs.	As at 31.03.2018 Rs.
Paid up capital	50,00,000	50,00,000	75,00,000
General Reserve	40,00,000	42,50,000	50,00,000
Credit Balance in Profit & Loss Account	5,00,000	7,50,000	10,00,000
Debenture Redemption Reserve	15,00,000	20,00,000	25,00,000
Securities Premium	2,00,000	2,00,000	2,00,000
Secured Loans	10,00,000	15,00,000	30,00,000

On going through other records of the Company, the following is also determined:

Net Profit for the year (as calculated in accordance with the provisions of the Companies Act, 2013)	12,50,000	19,00,000	34,50,000
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In the ensuing Board Meeting scheduled to be held on 5th November, 2018, among other items of agenda, following items are also appearing:

- (i) To decide about borrowing from Financial institutions on long-term basis.
- (ii) To decide about contributions to be made to Charitable funds.

Based on above information, you are required to find out as per the provisions of the Companies Act, 2013, the amount upto which the Board can borrow from Financial institution and the amount upto which the Board of Directors can contribute to Charitable funds during the financial year 2018-19 without seeking the approval in general meeting.

**(8 Marks)**

2. (a) Mr. Shram, is an employee of the company ABC Limited and investigation is going on him under the provisions of Companies Act, 2013. The company wants to terminate the Mr. Shram on the ground of investigation proceeding against him. ABC Ltd. filed the application to tribunal for approval of termination. However, not received any reply from the tribunal within 30 days of filling an application. The company consider it as a deemed approval and terminated Mr. Shram. Examine the given situations in the light of the stated facts as per the Companies Act, 2013-

- Is the contention of company being valid in law?
- What is remedy available to Mr. Shram?
- What is remedy available to Mr. Shram, if reply of Tribunal has been received within 30 days of application?

**(8 Marks)**

- (b) Mr. Sane, an Indian National desires to obtain Foreign Exchange for the following purposes :

- (i) Remittance of US Dollar 50,000 out of winnings on a lottery ticket.
- (ii) US Dollar 1,00,000 for sending a cultural troupe on a tour of U.S.A.

Advise him whether he can get Foreign Exchange and if so, under what conditions ?

**(6 Marks)**

**3. (a)**

- (i) AMC Ltd. was ordered to be wound up compulsory by an order dated 10th March, 2019 by the Tribunal. The official liquidator who has taken control for the assets and other records of the company has noticed the following:

The Managing Director of the company has sold certain properties belonging to the company to a private company in which his son was interested causing loss to the company to the extent of INR 50 lakhs. The sale took place on 15th October, 2018.

Examine what action the official liquidator can take in this matter, having regard to the provisions of the Companies Act, 2013. **(4 Marks)**

- (ii) In the annual general meeting of XYZ Ltd., while discussing on the matter of retirement and reappointment of director Mr. X, allegations of fraud and financial irregularities were marked against him by some members. This resulted into chaos in the meeting. The situation was normal only after the Chairman declared about initiating an inquiry against the director Mr. X, however, could not be re-appointed in the meeting. The matter was published in the newspapers next day. On the basis of such news, whether the court can take cognizance of the matter and take action against the director on its own? Justify your answer with reference to the provisions of the Companies Act, 2013.

**(4 Marks)**

- (b) Mr. Ramesh was partner in the Firm, Rajkumar & sons. The said firm was established by Mr. Raj Kumar, who is director of the Subh Labh Pvt. Limited which is a one person company. Subh Labh PVT. LTD. have foreign income from the clientele being of outside India. Companies generation of foreign income was invested by the Mr. Rajkumar in its firm without being disclosed in its financial records. Mr. Ramesh was not aware of the such undisclosed flow of fund in the Firm. Give the following answer considering the given facts-

- (i) Liability of Mr. Ramesh being a partner of a firm, involved in use of income of Subh Labh Pvt. Ltd. obtained from their foreign clientele.
- (ii) Liability of Mr. Rajkumar being a director of the Subh Labh Pvt. Ltd.

**(6 Marks)**

- 4. (a)** Mr. Z (Member of SEBI) due to his severe accident was in financial debt availed for his treatment. He was deranged and was in mental stress. This effected on the performance of his duties in a responsible manner. A group of complainants have alleged that Mr. Z is not normal in his behaviour and rendering of his services in office may be detrimental to the public interest and so should be removed from his office. Advise in the given situation, the tenability of maintenance of complaint against Mr. Z.

**(8 Marks)**

- (b)** State under what circumstances Government can cancel the certificate of registration granted to a person under FCRA?

**(6 Marks)**



5. (a)

(I) DEJY as Company Limited incorporated in Singapore desires to establish a place of business at Mumbai. You being a practising Chartered Accountant have been appointed by the company as a liaison officer, for compliance of legal formalities on behalf of the company. Examining the provisions of the Companies Act, 2013, state the documents you are required to furnish on behalf of the company, on the establishment of a place of business at Mumbai.

(4 Marks)

(II) Mr. Truth, a director of Horizan Private Limited, is duly authorized by the Board of directors to prepare and file returns, report or other documents to the Registrar of Companies on behalf of the company. Though he filed all the required documents to Registrar in time, however, subsequently it was found that the filed documents were false and inaccurate in respect to material particulars (knowing it to be false) submitted to the Registrar. State the penal provision under the Companies Act, 2013?

(4 Marks)

(b) Mr. IP was proposed to be appointed as a resolution professional for the 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. IP is partner. In the light of the given facts, examine the nature of the proposal of the appointment of Mr. IP for the conduct of the CIRP as per the Insolvency and Bankruptcy Code, 2016.

(6 Marks)

6. (a) Mr. Ram, a Managing Director of MJV Ltd., was appointed on 1st April, 2015. One of the terms of appointment was that in the absence of adequacy of profits or if the company had no profits in a particular year, he will be paid remuneration in accordance with Schedule V. For the financial year ended 31st March, 2017, the company suffered heavy losses. The company was not in a position to pay any remuneration but he was paid Rs. 50 lacs for the year, as paid to other directors. The effective capital of the company is Rs.100 crores. In addition, the company also appointed Mr. Bharat, a director, for professional services rendered as software engineer. It was agreed to pay suitable additional remuneration to Mr. Bharat whenever his services are utilized. Referring to the provisions of Companies Act, 2013, as contained in Schedule V, examine the validity of the payment of remuneration to Mr. Ram, and Mr. Bharat an additional remuneration for rendering his services.

(8 Marks)

(b) The Board of Directors of RPS Limited decides to pass a resolution by circulation for allotment of 1,000 equity shares to Mr. A. Draft a specimen Board Resolution to be passed by circulation for this purpose.

(6 Marks)