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CA FINAL

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Answers

Division A: Multiple Choice Questions

1. Integrated Case Scenario

- (1) (a)
- (2) (c)
- (3) (d)
- (4) (b)

2. Integrated Case Scenario

- (1) (c)
- (2) (b)
- (3) (a)
- (4) (d)

Multiple choice questions

- 1. (a)
- 2. (a)
- 3. (c)
- 4. (b)
- 5. (b)
- 6. (c)
- 7. (c)
- 8. (a)
- 9. (a)
- 10. (b)
- 11. (d)
- 12. (c)

Division B: Descriptive Questions**Q.1****(a)**

As per section 188 of the companies Act, 2013, any contract or arrangement between a company and any related party for sale, purchase or supply of any goods or materials shall require compliance of section 188. Among others, the following are the related parties:

- A firm, in which a director, manager or his relative is a partner.
- A private company in which a director or manager or his relative is a member or director. **(2 Marks)**

In the given case, all the two parties are related parties. Therefore, following legal requirements are required to be complied with:

1. Audit Committee approval shall also be required in all cases of Related Party Transactions, where such audit committee is constituted
2. Consent of the Board is to be obtained by passing a resolution at a Board Meeting.
3. The agenda of the Board meeting in which the approval of the Board is to be obtained shall contain the particulars prescribed.
4. If any director is interested in such appointment, he shall not be present at the Board meeting during discussions on such appointment.
5. The contract or arrangement shall require the prior approval of the members by an ordinary resolution if the value of the contract or arrangement for sale, purchase or supply of any goods or materials exceeds 10% of the turnover of the company or Rs.100 crore, whichever is lower.

(1 Mark for point 3 and 4, 1 Mark each for point 1, 2 and 5)

(b)

- (i) Removal of Mr. Z, an independent director who was re-appointed for a second term: As per first proviso to section 169(1), Mr. Z can be removed by VGP Ltd. only by passing a special resolution and after giving him a reasonable opportunity of being heard.

(1 Mark)

- (ii) Appointment of Mr. N a nominee director, as an independent director of VGP Ltd: As per section 149(6)(a), a person can be appointed as an independent director only if he is not a managing director or a whole-time director or a nominee director.

Since Mr. N is a nominee director in VGP Ltd., he cannot be appointed as an independent director in VGP Ltd. **(1 Mark)**

(iii) Appointment of Mrs. Jasmine as an independent-cum-woman director

As per section 149(6)(b), an independent director means a director who is not a promoter of the company or its holding, subsidiary or associate company.

Mrs. Jasmine is a promoter of PDS Ltd., which is an associate company of VGP Ltd. (since as per section 2(6) an associate company includes a joint venture company.

Therefore, Mrs. Jasmine cannot be appointed as an independent director of VGP Ltd.

(i) Validity of appointment of Mrs. Jasmine as woman director in PDS Ltd

Section 149 does not contain any ground of disqualification for appointment as a woman director. Thus, a person who is a promoter of a joint venture company is not disqualified for appointment as a woman director.

Accordingly, Mrs. Jasmine's appointment as a woman director of VGP Ltd. is valid. **(1 Mark)**

(ii) Whether Mr. N, can be appointed as an independent director of PDS Ltd?

(a) As per section 149(6)(a) a person can be appointed as an independent director only if he is not a managing director or a whole-time director or a nominee director.

(b) As per section 149(6)(b), an independent director means a director-

(i) who is not a promoter of the company or its holding, subsidiary or associate company;

(ii) who is not related to promoters or directors in the company, its holding, subsidiary or associate company.

(c) As per section 149(6)(i) an independent director means a director who, neither himself nor any of his relatives holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the 3 financial years immediately preceding the financial year in which he is proposed to be appointed.

In the given case, Mr. N is a nominee director in VGP Ltd., but he is not a nominee director in PDS Ltd. So, he is not disqualified for appointment as independent director in PDS Ltd. as per section 149(6)(d)- Also, he is not disqualified for appointment as independent director in PDS Ltd. as per section 149(6)(b) or 149(6)(e)(1)-

Therefore, Mr. N can be appointed as a nominee director in PDS Ltd.

(2 Marks)

(iii) Is an independent director entitled for stock option?

As per section 149(9) an independent director is not entitled to any stock options.

(1 Mark)

(iv) As per section 149(6)(e)(i), an independent director means a director who, neither himself nor any of his relatives Holds or has held the position of a key managerial personnel or is or has been employee of the company or its holding, subsidiary or associate company in any of the 3 financial years immediately preceding the financial year in which he is proposed to be appointed.

Thus, a person who is present holding the position of a key Managerial Personnel in the same company cannot be appointed as an independent director.

(2 Marks)

Q.2

(a)

(i)

Legal provision Change provision

Section 245(3) of the companies act, 2013 empowers the members or depositors (if such members or depositors are eligible as per section 245 to make a class action application to the Tribunal on the ground that the management or conduct of the affairs of the company are being conducted in a manner prejudicial to the interests of the company or its members or depositors.

Note 1:

In case of a company having a share capital, the requisite number of member or members to file an application under sub-section (1) of section 245 shall be –

- (i) (a) at least five per cent of the total number of members of the company; or
- (b) one hundred members of the company, whichever is less; or
- (ii) (a) member or members holding not less than five per cent. of the issued share capital of the company, in case of an unlisted company;
- (b) member or members holding not less than two per cent. of the issued share capital of the company, in case of a listed company.

2. The requisite number of depositor or depositors to file an application under sub-section (1) of section 245 shall be -

- (i) (a) at least five per cent. of the total number of depositors of the company; or
- (b) one hundred depositors of the company, whichever is less; or
- (ii) depositor or depositors to whom the company owes five per cent. of total deposits of the company.

(2 Marks)

Facts

M/s Rockford Limited is a listed company having 300 depositors and deposits of Rs. 60 crores. Out of total 300 depositors, 35 depositors of the company have filed a class action application against Rockford Limited by appointing Mr. Krish as their representative to file an application to the Tribunal Mr. Krish is a practicing advocate, but he is not a depositor of the company.

In the class action application, it has been alleged that the management and conduct of affairs of the company are being conducted in a manner which is prejudicial to the interest of the depositors being oppressive.

Section 245 does not require that the person authorised by the depositors to make a class action application to the Tribunal has to be a depositor himself. Instead, section 432 states that a party to any proceeding or appeal before the Tribunal may appear in person or authorise one or more chartered accountants or company secretaries or cost accountants or legal practitioners or any other person.

Conclusion

Since the application has been made by appropriate depositors, it is accepted by the Tribunal

(2 Marks)

(a)

(ii)

Legal provision

As per section 230(6) of the companies act, 2013

Where a meeting of members is called by the Tribunal for approving a scheme of compromise or arrangement, such scheme is required to be approved by a majority of the members who are present and voting, and such majority of members must also be the members representing three-fourths in the value of members present and voting at the meeting. In other words, a scheme of arrangement between the company and members must be approved by more than 50% of the number of members who hold atleast 75% of the value of shares. It is to be noted that members or creditors not present in the meeting or present in the meeting but abstaining from voting are not to be counted.

(2 Marks)

Facts

In this case 350 members who attended the meeting representing 10,00,000 shares

130 members voted in favour of the scheme representing 800,000 shares

160 members voted against the scheme representing 100,000 shares

60 members abstained from voting representing 100,000 shares

Conclusion

The scheme has not been approved by the majority of members, present and voting, though it has been approved by the members holding three-fourth of the shares. It is evident that the requirements of approval by members in terms of majority in number of members and 'three-fourths in value of shares' are cumulative, i.e. these are two separate compliances. Accordingly, the scheme has not been approved by the requisite majority, and therefore this scheme should not be sanctioned by the Tribunal.

(2 Marks)

(b)

(i)

As per Section 12 of FEMA, 1999

Power of RBI to Inspect Authorised Person:

The RBI may cause an inspection to be made of the business of any authorized person as may appear to it to be necessary or expedient for the purpose of:

- verifying the correctness of any statement, information or particulars furnished to the RBI;
- obtaining any information or particulars which such authorized person has failed to furnish on being called upon to do so;
- securing compliance with the provisions of this Act or of any rules, regulations, directions or orders made there under.

(2 Marks)

Duty of Authorised Person:

It shall be the duty of every authorized person, and where such person is a company or a firm, every director, partner or other officer of such company or firm, as the case may be

- to produce to any such officer making an inspection such books, accounts and other documents in his custody and
- to furnish any statement or information relating to the affairs of such person, company or firm as the said officer may require within such time and in such manner as directed.

(1 Mark)

b**(ii)**

As per Section 16 of the SARFAESI Act, 2002

Compensation to Managing Director for loss of Office:

Irrespective of anything contained in any contract or in any other law for the time being in force, no managing director or any other director or a manager or any person in charge of management of the business of the borrower shall be entitled to any compensation for the loss of office or for the premature termination under this Act.

(2 Marks)

However any such managing director or any other director or manager or any such person in charge of management has the right to recover from the business of the borrower, moneys recoverable otherwise than by way of such compensation.

(1 Marks)

Q.3**(a)**

legal provision

- As per section 203, every company belonging to such class or classes of companies as may be prescribed shall have the following whole-time key managerial personnel:
 - (i) Managing director, or Chief Executive Officer or manager and in their absence, a whole-time director;
 - (ii) Company Secretary; and
 - (iii) Chief Financial Officer.
- As per Rule 8 of the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, the following classes of companies shall have the whole-time key managerial personnel:
 - (a) Every listed company
 - (b) Every other public company having a paid-up share capital of Rs. 10 crore or more.

Note: In case of Private company which has a Paid up share capital of ten crore rupees or more shall have a whole time company secretary

(3 Marks)

Facts and analysis

- The paid up share capital of Wee Limited is Rs. 12 crore, and so it is covered by the provisions contained in Rule 8.

- Since Rule 8 applies to Wee Limited, it is required to appoint the following whole-time key managerial personnel:
 - (i) Managing director, or Chief Executive Officer or manager and in their absence, a whole-time director,
 - (ii) Company Secretary; and
 - (iii) Chief Financial Officer.
- Mr. X, who is a fellow member of the Institute of Chartered Accountants of India has been appointed as the Chief Financial Officer of Wee Limited.
- Mr. X is also a fellow member of the Institute of Company Secretaries of India.
- A person who is member of the Institute of Company Secretaries of India is qualified to be appointed as the Company Secretary.
- It is proposed to appoint Mr. X as the Company Secretary.
- If Mr. X is appointed as the Company Secretary, Mr. X would simultaneously hold the position of Chief Financial Officer as well as the position of Company Secretary of Wee Limited.
- The words 'whole-time' as well as 'and' used in section 203 read with (Rule 8 imply that the company is required to appoint one person as Managing director, or Chief Executive Officer or manager or whole-time director, appoint another person as Company Secretary and appoint some other person as the Chief Financial Officer. In simple words, for the three positions specified in (Rule 8, there has to be three different individuals.
- Thus, if a person who already holds the position of Chief Financial Officer of the company is also appointed as the Company Secretary of the company, it does not amount to compliance of section 203 read with Rule 8.

(4 Marks)

Conclusion

- The proposal of Wee Limited to appoint Mr. X as the Company Secretary, when he is already holding the office of Chief Financial Officer, is not valid since it would result in non-compliance of the provisions of section 203 read with Rule 8.

(1 Marks)

(b)

As per Section 5 of PMLA, 2002

- This section shall not prevent the person interested in the enjoyment of the immovable property attached under this section, from such enjoyment.

(1 Mark)

- The Director or any other officer not below the rank of Deputy Director authorised by the Director, has reason to believe (to be recorded in writing), that:
 - (a) any person is in possession of any proceeds of crime; and
 - (b) such proceeds of crime are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of crime, he may, by order in writing, provisionally attach such property for a period not exceeding 180 days from the date of the order, in prescribed manner.

(2 Marks)

For the purposes of computing the period of 180 days. the period during which the proceedings under this section is stayed by the High Court shall be excluded and a further period not exceeding 30 days from the date of order of vacation of such stay order shall be counted.

(1 Mark)

Person Interested in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

(1 Mark)

Conclusion: Mr Guddu son of Mr Kishore can occupy the Residential House during the period of provisional attachment.

(1 Mark)

Q.4

(a)

(i)

- (a) The audit committee shall have minimum 3 directors as members. 2/3rd of the members of audit committee shall be independent directors. In case of a listed entity having outstanding superior rights (SR) equity shares, the audit committee shall comprise of only independent directors.
- (b) All members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.
- (c) The Chairperson of the Audit Committee shall be an independent director.

(1 Mark each for point a,b and c)

Conclusion:

In the present case, audit committee comprises of 7 Directors including 4 independent Directors. The majority of the members of the Audit Committee has the ability to read

and understand the financial statements but none of them has accounting or related financial management expertise.

Existing Audit Committee is not qualified under the provisions of Regulation 18 of SEBI (LODR) Regulations, 2015 as 2/3rd of members (i.e. 5) need to be independent director, all members of audit committee shall be financially literate and at least one member shall have accounting or related financial management expertise.

(1 Mark)

(a)

(ii)

As per section 23A of the SCRA, 1956

Provision

- (a) to furnish any information, document, books, returns or report to a recognized stock exchange, fails to furnish the same within the time specified therefore in the listing agreement or conditions or bye-laws of the recognized stock exchange, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less for each such failure;
- (b) to maintain books of account or records, as per the listing agreement or conditions, or bye-laws of a recognised stock exchange and if there is failure to maintain the same, shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees whichever is less.

(1 Mark)

Conclusion

Therefore, in the given case, Success Ltd. is liable under section 23A of the Securities Contracts (Regulation) Act, 1956 as it could not supply the certain information asked by the stock exchange and also did not maintain any record.

(1 Mark)

(b)

(i)

Section 2(h) of the Foreign Contribution (Regulation) Act 2010]

- (i) Foreign Contribution means the donation, delivery or transfer made by any foreign source of any article, (except given as a gift for personal use upto Rs 1,00,000),
- (ii) of any currency, whether Indian or foreign:

(iii) security and includes any foreign security under the Foreign Exchange Management Act, 1999.

(2 Marks)

- As per explanation, a donation, delivery or transfer of any article, currency or foreign security by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.
- Foreign source includes a foreign company.

(1 Mark)

- In the given Situation, management of a foreign co., Ventex corp., established by few Indians in Hongkong, used to donate a huge amount to the Balaji trust, in Chennai, India. Since the Ventex Corp., is a foreign company, so donation made by the Ventex Corp., is a foreign contribution for the religious and charitable purpose.
- If the Balaji trust is registered under the FCRA, it may accept the foreign contribution after satisfying conditions without seeking prior permission.
- Balaji Trust can accept foreign contribution with prior permission of C.G. within limit, if it is not registered under the FCRA.

(1 Mark)

(b)

(ii)

Termination of Arbitration Agreement:

- An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.
- An arbitration agreement always operates in relation to a principal contract. If the principal contract is terminated through discharge or novation, the arbitration agreement terminates with the contract. However, if the principal contract breached, then the arbitration agreement survives because of the operation of the doctrine of separability.
- In the present case, at the end of existing contract, service agreement was not renewed. It results in discharge of existing agreement and hence, the arbitration agreement.

Conclusion: Arbitration agreement should be treated as terminated.

(2 Marks)

Other Grounds of Termination: Arbitration agreement may be terminated on following grounds:

- Mutual consent: like any contract, the parties involved can jointly agree to put an end to a particular arbitration agreement.
- Termination of principal contract: If the principal contract is terminated through discharge or novation, the arbitration agreement terminates with the contract. However if the principal contract is breached, then the arbitration agreement survives because of the operation of the doctrine of separability.
- Death of parties: under the Indian law, an arbitration agreement is not discharged by the death of any party. It shall be enforceable by or against the legal representatives of the deceased.
- Operation of Law: An arbitration agreement can be extinguished by the operation of law by virtue of which any right of action is extinguished.

(2 Marks)

Q.5

(a)

(i)

Legal provision

Section 421 of the Companies Act, 2013 deals the provisions with respect to appeals against the orders of the Tribunal, as explained below:

- Any person aggrieved by an order of the Tribunal may prefer an appeal to the Appellate Tribunal.
- No appeal shall lie to the Appellate Tribunal from an order made by the Tribunal with the consent of parties.

(1 Mark)

- Every appeal before the Appellate Tribunal shall be filed within 45 days from the date on which a copy of the order of the Tribunal is made available to the person aggrieved and shall be in such form, and accompanied by such fees, as may be prescribed.

Provided that, the Appellate Tribunal may entertain an appeal after the expiry of the said period of 45 days but within a further period not exceeding 45 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period.

(1 Mark)

- On the receipt of an appeal, the Appellate Tribunal shall, after giving the parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

- The Appellate Tribunal shall send a copy of the order to the Tribunal and the parties to appeal.

(1 Mark)

Conclusion

- (i) The order is admissible as the order of NCLT was passed without the consent of the parties.

- (ii) The powers of the Tribunal shall be exercisable by Benches consisting of two Members out of whom one shall be a Judicial Member and the other shall be a Technical Member:

Provided that it shall be competent for the Members of the Tribunal authorised in this behalf to function as a Bench consisting of a single Judicial Member and exercise the powers of the Tribunal in respect of such class of cases or such matters pertaining to such class of cases, as the President may, by general or special order, specify:

Provided further that if at any stage of the hearing of any such case or matter, it appears to the Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of two Members, the case or matter may be transferred by the President, or, as the case may be, referred to him for transfer, to such Bench as the President may deem fit.

(2 Marks)

- (iii) The Appellate Tribunal may entertain an appeal after the expiry of the said period of 45 days but within a further period not exceeding 45 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within that period. In the Instant case, the appeal filed on 26.07.20 before NCLT is tenable.

(1 Mark)

(a)

(ii)

Voluntary Winding Up: As per Section 59 of the Insolvency and Bankruptcy Code, 2016, the voluntary liquidation of a corporate person shall meet such conditions and procedural requirements as may be specified by the Board (IBBI).

Conditions of initiation of voluntary liquidation proceedings:

Voluntary liquidation proceedings of a corporate person registered as a company shall meet the following conditions, namely:—

- (a) declaration from majority of the directors of the company verified by an affidavit stating that they have made a full inquiry into the affairs of the company and they have formed an opinion that either the company has no debt or that it will be able

to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation; and the company is not being liquidated to defraud any person;

(1 Mark)

(b) the declaration given above shall be accompanied with the following document namely:

(i) audited financial statements and record of business operations of the company for the previous two years or for the period since its incorporation, whichever is later;

(ii) a report of the valuation of the assets of the company, if any prepared by a registered valuer;

(1 Mark)

(c) within four weeks of a declaration under sub-clause (a) above, there shall be—

(i) a special resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily and appointing an insolvency professional to act as the liquidator; or

(ii) a resolution of the members of the company in a general meeting requiring the company to be liquidated voluntarily as a result of expiry of the period of its duration, if any, fixed by its articles, or on the occurrence of any event in respect of which the articles provide that the company shall be dissolved, as the case may be and appointing an insolvency professional to act as the liquidator:

(2 Marks)

Provided that the company owes any debt to any person, creditors representing two thirds in value of the debt of the company shall approve the resolution passed under sub-clause (c) within seven days of such resolution.

Notification to Registrar of company and the Board: The Company shall notify the Registrar of Companies and the Board about the resolution to liquidate the company within seven days of such resolution or the subsequent approval by the creditors, as the case may be.

(1 Mark)

(b)

- Under section 274, if application for winding up is made by any other person other than company, the Tribunal shall order and direct the company to file statement of affairs along with objections to petition within 30 days. The Tribunal may allow further period of 30 days in special circumstances.

(2 Marks)

- Before issuing above order, the Tribunal shall be satisfied that prima facie case of winding up made out against company.
- The tribunal may direct petitioner to deposit such security for costs, as it may consider reasonable as a precondition to issue directions to the company. If company fails to file statement of affairs, it does not have right to oppose petition.

(1 Mark)

Q.6

(a)

(i)

As per Section 2(42), foreign company' means any company or body corporate incorporated outside India which -

- (a) has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
- (b) conducts any business activity in India in any other manner

As per Section 386, a share transfer office or share registration office constitutes a place of business.

(1 Mark)

As per section 379, if 50% or more of the paid-up share capital (whether equity or preference or partly equity and partly preference) of a foreign company is held (whether singly or in the aggregate) by one or more Indian citizens or one or more companies or bodies corporate incorporated in India or one or more Indian citizens and one or more bodies corporate incorporated in India, then, such a foreign company shall, in respect of its Indian business, comply with Chapter XXII of the Companies Act, 2013(viz. Companies Incorporated Outside India) and such other provisions of the Act as may be prescribed by the Central government, as if it were a company incorporated in India.

In the given case, Insta Limited is a company incorporated in USA and it has a share transfer office at Mumbai. So, Insta Limited is a foreign company within the meaning of section 2(42) read with section 386. Mr. Hitanshu, An Indian Citizen along with Tata Limited, a company incorporated in India hold in aggregate more than 50% of the paid up capital of Insta Limited. So, Insta Limited shall be covered under section 379.

Accordingly, it shall have to comply with, in respect of its Indian business, provisions of Sections 379 to 393 of Companies Act, 2013 and such other provisions of the Act as may be prescribed by the Central government, as if it were a company incorporated in India.

(2 Marks)

Formalities to be complied with

- It shall file with the Registrar the documents and information as contained in section 380. Such documents and information has to be filed within 30 days of establishment of place of business in India.
- Where any alteration is made in the documents delivered to the Registrar under section 380, it shall, within 30 days of such alteration, deliver to the Registrar for registration, a return containing the particulars of the alteration .
- It shall prepare and file with the (Registrar a balance sheet and profit and loss account.
- It shall prepare and file with the (Registrar a list of all the places of business established in India .
- It shall exhibit outside every office or place where it carries on business in India, the name of the foreign company, the country of incorporation and the fact that the liability of members is limited.
- It shall exhibit in all business letters, billheads and letter papers, and in all notices and other official publications, the name of the foreign company, the country of incorporation and the fact that the liability of members is limited.

It shall comply with the provisions contained in sections 71, 92, 128, 77 to 87, 206 to 229 and 135 to the extent the provisions contained in these sections are applicable to it as per section 384.

(3 Marks)

(a)

(ii)

Legal provision

As per section 210 of the Companies Act, 2013, the Central government is empowered to order an investigation into the affairs of the company if it is of the opinion that such investigation is necessary on the receipt of a report of the Registrar or inspector under section 208 or on intimation of a special resolution passed by a company that the affairs of the company ought to be investigated or in public interest.

(2 Mark)

Facts & conclusion

In the given case, the application to the Central government requesting investigation into the affairs of the company has been made by some shareholders. No general meeting of the company has been held, and no special resolution has been passed that the affairs of the company ought to be investigated. Since, the requirement of section 210 with respect to passing of the special resolution has not been complied with; the application made by 120 shareholders is bound to be rejected. However, section 210

empowers the Central government to order investigation into the affairs of the company, if the Central government is of the opinion that such investigation is in public interest.

Thus, the Central government has discretion to order the investigation if it is of the opinion that such investigation is necessary in the public interest. Section 210 does not anyway restrict the power of the Central government to order investigation, i.e. the Central may make an order of investigation suo motu or on receipt of an application from any person, if it is of the opinion that such investigation is necessary in the public interest. Therefore, on receiving the application from 120 shareholders, if the Central government, after considering the allegations contained in the application, is of the opinion that an investigation into the affairs of the company is necessary in the public interest, the Central government may order such investigation.

(2 Marks)

(b)

As per section 247, the registered valuer shall be appointed by the audit committee or The Board, in case the audit committee is not constituted.

As per section 177, constitution of an audit committee is mandatory for all listed public companies.

In the given case, M/s Aparna Limited is a listed public company, and so it is mandatory for M/s Aparna Limited to constitute the audit committee. Complying with the provisions of section 177, M/s Aparna Limited has constituted the audit committee.

(2 Marks)

As per section 247, the Board is empowered to appoint the registered valuer only in a case where there is no audit committee. Since in the present case, M/s Aparna Limited has constituted the audit committee, the appointment of the registered valuer shall be made by the audit committee, and not By the Board of directors.

Thus, the opinion of the audit committee that the Board does not have the right to appoint the registered valuer, is correct.

(2 Marks)