

**Paper-13: CORPORATE LAW AND COMPLIANCE**

**SECTION - A**

**Answer Q No. 1 (Compulsory) and any 4 from the rest of Section A**

**Question 1:**

(a) The issued, subscribed and paid-up share capital of Zeeshan Ltd. is ₹10 lakhs consisting of 90,000 equity shares of ₹10 each fully paid up and 10,000 preference shares of 10 each fully paid up. Out of members of company, 400 members holding one preference share each and 50 members holding 500 equity shares applied for relief under sections 397 and 398 of the Companies Act, 1956. As on the date of petition, the company had 600 equity shareholders and 5,000 preference shareholders.

Examine whether the above petition under sections 397 and 398 is maintainable. Will your answer be different, if preference shareholders have subsequently withdrawn their consent? [6]

(b) X Co. Ltd., a closely held company comprised of two groups of shareholders – one foreign and the other Indian. The foreign group holds 60% and the Indian 40% of the shares of the company. As per Articles of Association of the company both groups had equal managerial powers. The relationship between the two groups soured and the operations of the company reached a deadlock. The Indian group, therefore, approached the Company Law Board for action against the foreign group for oppression. Referring to the provisions of the Companies Act, 1956 and/or the decided case laws, discuss -

(i) Whether the contention of oppression against the foreign group by the India group is tenable?

(ii) What are the powers of the Company Law Board in this regard? [2+3]

(c) Arjun buys 500 shares in a company from Nishant on the faith of a share certificate issued by the company. Arjun tenders to the company a transfer deed, duly executed, along with Nishant's share certificate for transferring the shares in his name. The company discovers that the certificate in the name of Nishant has been fraudulently obtained and refuses to register the transfer. Advise Arjun. Is Arjun entitled to get the shares transferred in his name? [4]

**Question 2:**

(a) Smart Technologies Ltd. has been wound up and the Official Liquidator has been asked to take charge of the Company. Briefly explain the relevant provisions regarding filing of Statement of Affairs in relation to the Company in liquidation. [8]

(b) "Life Policy cannot be questioned after the expiry of 2 years from the date on which it was effected". Explain with reference to Section 45 of the act. [4]

(c) The object clause of the Memorandum of a company empowers it to carry on distillery business and any other business that is allied to it. The company wants to alter its Memorandum so as to include the cinema business in its objects clause. Advise the company. [3]

**Question 3:**

(a) A Ltd. and B Ltd. both dealing in Chemicals and Fertilizers have entered into an agreement to jointly promote the sale of their products. A complaint has been received by the CCI stating that the agreement between the two is Anti-Competitive and against the interest of other in the

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trade. Examine what are the factors the CCI will take into account to determine whether the agreement in question will have any appreciable adverse effect on competition in the market.

[5]

(b) Mr. Rahul was appointed as an Additional Director of Conservative Finance Ltd. w.e.f. 1st October 2012 in a casual vacancy by way of a circular resolution passed by the Board of Directors. The next AGM of the Company was due on 31st March 2013 but the same was not held due to delay in the finalization of the accounts. Some of the Shareholders of the Company have questioned the validity of the appointment of Mr. Rahul and his continuation as Additional Director beyond 31st March 2013. Advise the Company on the complaints made by the Shareholders.

[6]

(c) Mr. Bibek, a chartered accountant is a director in PQR Limited. The company proposes to appoint or engage the firm Bibek and Co. in which Mr. Bibek is a partner in one or more of the following capacities:

(i) Consultants on regular retainer basis.

(ii) Authorised representative to appear before tribunals.

Discuss whether the provisions of section 314 of the Companies Act are attracted in the above situations.

[4]

### Question 4:

(a) MR. PURU, who does not hold any shares in his name is appointed as Director in Wonderful Company on 1st April, 2013. His wife holds 10,000 Equity Shares in the company in her name singly. Certain members of the Company objects to MR. PURU's appointment on the ground that since he does not hold any shares in his own name, his appointment is violative of the provisions of the Companies Act, 1956. Articles of the Company are silent on the issue of holding any shares by a Director. Examine the provisions of the Act and decide

(i) Whether contention of the members is tenable?

(ii) Whether MR. PURU's wife's shareholding in the company can be the ground for MR. PURU's continuation as a director in the company?

(iii) What would be your answer in case 'MR. PURU' is one of the subscriber of the Memorandum of Association?

[6]

(b) What is a Nidhi company? Explain the procedure to incorporate a Nidhi company.

[4]

(c) Adarsh company's Articles of Association do not contain any provision for nomination of directors by a financial institution. The company has borrowed long-term funds from the IDBI and ICICI Ltd. A & B are nominated by said lenders respectively on the Board of the company. Advise whether the company can accept the nominations.

[5]

### Question 5:

(a) Is the Central Government empowered to supersede the Authority under Insurance Regulatory & Development Authority Act, 1999? Explain.

[5]

(b) M/s. Ashis Holding Ltd. has filed the annual accounts for the year ended 31.3.2013 with the Registrar Of Companies, Kolkata. The registrar, after examination of the accounts issued a show cause notice to the company and its directors why prosecution proceedings should not be launched for not disclosing true and fair view of the state of affairs of the company. After careful

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examination you find that the registrar is justified in issuing the show cause notice. Advise as to how the company and its directors can save themselves from the prosecution proceedings under the provisions of the Companies Act. [4]

(c) M/s X Ltd. and its two directors have received a show cause notice from the Registrar of Companies, Mumbai as to why prosecution proceedings should not be launched against them for violation of the provisions of Section 297 of the Companies Act, 1956 in not obtaining the previous approval of the Central Government in respect of a contract entered into by the company with a firm in which one of the directors of the company is interested as a partner. The company seeks your help. Advise the company the steps that should be taken to avoid prosecution proceedings, assuming that they have committed the offence. [3]

(d) The Directors of Technosoft Industries Ltd, registered in Calcutta, propose to hold the next Board Meeting in May 2014. They seek your advice in respect of the following matters –

- (i) Can the Board Meeting be held in Chennai, when all the Directors of the Company reside at Calcutta?
- (ii) Can the Board meeting be called on a Public Holiday and that too after business hours as majority of the Directors of the Company have gone to Chennai on vacation?
- (iii) Is it necessary that the notice of the Board meeting should specify the nature of business to be transacted? [3]

### Question 6:

(a) The Board of Directors of M Limited propose to donate ₹3,00,000 to a school established exclusively for the benefit of children of employees and also donate ₹50,000 to a political party during the Financial year ending 31st March, 2013. The average net profits determined in accordance with the provisions of Sections 349 and 350 of the Companies Act, 1956 during the three immediately preceding financial years is ₹40,00,000.

Examine with reference to the provisions of the Companies Act, 1956 whether the proposed donations are within the powers of the Board of Directors of the Company. [5]

(b) A government company holds 49% of the subscribed share capital in Shaheen & Co. Ltd. Mr. Rishi has been appointed as the auditor at the Annual General Meeting of Shaheen & Co. Ltd. through an ordinary resolution. Certain members of the company object to this appointment on the ground that the appointment of auditors is violative of the provisions of the Companies Act, 1956. Examine the legal position with reference to the relevant provisions of the Companies Act, 1956. [6]

(c) Board of Directors of M/s. ABee Ltd, in its meeting held on 29th May 2013, declared an interim dividend payable on paid up Equity Share Capital of the Company. In the Board Meeting Scheduled for 10th June 2013, the Board wants to revoke the said declaration. You are required to state with reference to the provisions of the Companies Act, 1956 whether the Board of Directors can do so. [4]

**SECTION B**

**[Answer any five questions from Q.No.7 (a) to (f)]**

**Question 7:**

- (a) What is the role of SEBI in promoting Corporate Governance?**
- (b) What is Project Governance? What are the benefits of Project Governance?**
- (c) "Corporate Social Responsibility is to be considered as an investment and not as a charity" – Discuss.**
- (d) "The concept of Memorandum of Understanding (MoU) has been designed to provide flexibility and autonomy to CPSEs such that it facilitates them in pursuing the objectives and purposes, for which the enterprises have been set up."In the light of the above statement, explain the concept of MoU in India.**
- (e) What is Corporate Citizenship? Is this fundamentally different from Corporate Social Responsibility?**
- (f) Triple Bottom Line Approach of Corporate Social Responsibility (CSR).**

**[5×5]**