

**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 Will your answer be different, if preference shareholders have subsequently withdrawn their consent?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) Rajesh, who is a resident of New Delhi, sent a transfer deed, for registration of transfer of shares to the company at the address of its Registered Office in Mumbai on 13.05.2014. He did not receive the shares certificates till 14.09.2014. He lodged a criminal complaint in the Court at New Delhi. Decide, under the provisions of the Companies Act, 2013, whether the Court at New Delhi is competent to take action in the said matter. [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

## MTP\_Final\_Syllabus 2012\_Jun2015\_Set 2

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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 2013 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 2014 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 2014. Advise the Company on the complaints made by the Shareholders.

[6]

(c) M/s XYZ Ltd. was incorporated on 1<sup>st</sup> January, 2012. On 1<sup>st</sup> November, 2014 a political party approaches the company for a contribution of ₹10 lakhs for political purpose. Advise in respect of the following:

(i) Is the company legally authorised to give this political contribution?

(ii) Will it make any difference, if the company was in existence on 1<sup>st</sup> October, 2011?

(iii) Can the company be penalised for defiance of rules in this regard?

[4]

### Question 4:

(a) 'A' commits forgery and thereby obtains a certificate of transfer of shares from a company and transfers the shares to 'B' for value acting in good faith. Company refuses to transfer the shares to 'B'. Whether the company can refuse? Decide the liability of 'A' and of the company towards 'B'. In the light of the above state the meaning and consequences of a forged transfer.

[6]

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

[4]

(c) Sunflower Ltd. decided to terminate the services of Mr. Dinesh, who was employed as Sales Manager. However, the Company feels that the Sales Manager may not vacate the Company's flat at Mumbai. What action can be taken by the Company under the Companies Act, to regain possession of the flat? Is it necessary to take such action under the Act before terminating the services of Mr. Dinesh? Will it make any difference, if the flat is not owned by the Company, but taken on lease?

[5]

### Question 5:

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

[5]

(b) At an annual general meeting of your company, one of the directors being badly heckled by irate shareholders had tendered his resignation orally which was accepted by the majority of members present at the meeting. Can the director continue in his office after the annual general meeting?

[4]

(c) Mr. Bipin goes abroad for four months from 4.4.2014 and an alternate director has been appointed in his place. Advice as to sending of notice as required under section 173(3).

[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 –

## **MTP\_Final\_Syllabus 2012\_Jun2015\_Set 2**

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- (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?

Advise with reference to the relevant provisions of the Companies Act, 2013. [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) M/s ABC Ltd. had power under its memorandum to sell its undertaking to another company having similar objects. The Articles of the company contained a provision by which directors were empowered to sell or otherwise deal with the property of the company. The Shareholders passed an ordinary resolution for the sale of its assets on certain terms and required the directors to carry out the sale. The Directors refused to comply with the wishes of the shareholders where upon it was contended on behalf of the shareholders that they were the principal and directors being their agents were bound to give effect to their decision. Based on the above facts, decide the following issues, having regard to the provisions of the Companies Act, 2013 and case laws.

- (i) Whether the contention of shareholders against the non-compliance of their wishes by the directors is tenable.
- (ii) Can shareholders usurp the powers which by the articles are vested in the directors by passing a resolution in the general meeting? [6]

(c) Board of Directors of M/s. ABee Ltd, in its meeting held on 29th May 2014, declared an interim dividend payable on paid up Equity Share Capital of the Company. In the Board Meeting Scheduled for 10th June 2014, the Board wants to revoke the said declaration. You are required to state with reference to the provisions of the Companies Act, 2013 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]**