

CA PE - II :: Business and Corporate Laws : May 2007

Roll No.....

Total No. of Questions— 10]

Time Allowed : 3 Hours

[Total No. of Printed Pages—4

Maximum Marks : 100

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Answers to questions are to be given only in English except in the cases of candidates who have opted for Hindi medium. If a candidate who has not opted for Hindi medium, answers in Hindi, his answers in Hindi will not be valued.

Questions 1 and 7 are compulsory.

Candidates are required to attempt **three** questions out of questions **2, 3, 4, 5** and **6** and **two** questions out of questions **8, 9** and **10**

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1. Answer any four of the following:

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| (a) Y holds agricultural land in Gujarat on a lease granted by X, the owner. The land revenue payable by X to the Government being in arrear, his land is advertised for sale by the Government. Under the Revenue law, the consequence of such sale will termination of Y's lease. Y in order to prevent the sale and consequent termination of his own lease, pays the Government, the sum due from X. Referring to the provisions of the Indian Contract Act, 1972 decide whether X is liable to make good to Y, the amount so paid? | 5 |
| (b) A, an agent of a buyer, had obtained goods from the Railway organization and loaded the goods on his truck. In the meantime, the Railway organization and loaded the goods on his truck. In the meantime, the Railway organization received a notice from B, a seller, for stopping goods in transit as the buyer had become insolvent. Referring to the provisions of the Sale of Goods Act, 1930 decide whether the Railway organization can stop the goods in transit, as instructed by the seller? | 5 |
| (c) A and B entered into an agreement to carry on a business of manufacturing and selling toys. Each one of them contributed Rs. 25 lacs as their capital with a condition that A and B will share the profits equally, but the loss, if any is to be borne by A along. Referring to the provisions of the Indian Partnership Act, 1922 decide whether there exists a partnership between A and B. | 5 |
| (d) A owes a certain sum of money to B. A does not know the exact amount and hence he makes out a blank cheque in favour of B, signs and delivers it to B with a request to fill up the amount due payable by him. B fills up fraudulently the amount larger than the amount due payable by A and | 5 |

endorses the cheque to C in full payment of dues of B. Cheque of A is dishonoured. Referring to the provisions of the Negotiable Instruments Act, 1881, discuss the rights of B and C.

- (e) Examine whether the Payment of Bonus Act, 1965 be applicable to the following cases: 5
- (i) J, who is working in a social welfare organisation.
 - (ii) D, an employee employed by an establishment engaged in an industry carried on by a department of the Central Government.
- (f) While an employee may increase his contribution to Provident Fund, is an employer also liable to proportionately increase his contribution to the above under the Employees Provident Funds and Miscellaneous Provisions Act, 1952? Explain. 5
2. (a) Examine whether the following constitute a contract of 'Bailment' under the provisions of the Indian Contract Act, 1972: 5
- (i) V parks his car at a parking lot, locks it, and keeps the keys with himself.
 - (ii) Seizure of goods by customs authorities
- (b) State the circumstances under which the Registrar of Societies may cancel the registration of a society registered under the Cooperative Societies Act 1912. What is the effect of such cancellation? Explain. 5

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3. (a) A contracted with B to supply him (B) 500 tons of iron-steel @ Rs. 4,800 per ton, and at the same time told 'C' that he did so for the purpose of performing his contract entered into with B. C failed to perform his contract in due course. Consequently, A could not procure any iron-steel and B rescinded the contract. What would be the amount of damages which A could claim from C in the circumstances? Explain with reference to the provisions of the Indian Contract, 1972. 5
- (b) A, B and C are partners in a firm called ABC Firm. A with the intention of deceiving D, a supplier of office stationery, buys certain stationery on behalf of the ABC Firm. The stationery is of use in the ordinary course of the firm's business. A does not give the stationery to the firm, instead brings it to his own use. The supplier D, who is unaware of the private use of stationery by A, claims the price from the firm. The firm refuses to pay for the price, on the ground that the stationery was never received by it (firm). Referring to the provisions of the Indian Partnership Act, 1932 decide: 5
- (i) Whether the Firm's contention shall be tenable?

- (ii) What would be your answer if a part of the stationery so purchased by A was delivered to the firm by him, and the rest of the stationery was used by him for private use, about which neither the firm nor the supplier D was aware?
4. (a) Mr. S agreed to purchase 100 bales of cotton from T, out of his large stock and sent his men to take delivery of the goods. They could pack only 60 bales. Later on, there was an accidental fire and the entire stock was destroyed including 60 bales that were already packed. Referring to the provisions of the Sale of Goods Act, 1930 explain as to who will bear the loss and to what extent? 5
- (b) Explain the meaning of the term 'Basic Wages' under the Employees Provident Funds and Miscellaneous Provisions Act, 1952. 5
5. (a) Referring to the provisions of the Negotiable Instruments Act, 1981, examine the validity of the following: 5
- (i) A Bill of Exchange originally drawn by M for a sum of Rs. 10,000, but accepted by R only for Rs. 7,000.
- (ii) A cheque marked 'Not Negotiable' is not transferable.
- (b) Explain the provisions of the Multi-State Cooperative Societies Act, 2002 relating to the appointment and removal of auditors of a society registered under the Act. 5
6. (a) During the accounting year 2005–06, XYZ Limited to which the Payment of Bonus Act, 1965 applies, suffered heavy losses. The Board of Directors of the company decided not to pay any bonus to its employees. The employees moved the court for relief. Referring to the provisions of the Act, decide whether the employees of the company would be given by relief by the court? 5
- (b) State the grounds on which a member of a society registered under the Multi State Cooperative Societies. Act, 2002 may be expelled from the membership of the Society. 5

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7. Answer any **four** of the following

- (a) The object clause of the Memorandum of Association of LSR Private Limited Lucknow, authorised to do trading in fruits and vegetables. The company, however, entered into a Partnership with Mr. J and traded in steel and incurred liabilities to Mr. J. The Company, subsequently, refused to admit the liability to J on the ground that the deal was 'Ultra Vires' the company. Examine the validity of the company's refusal to admit the liability to J. Give reasons in support of your answer. 5
- (b) VRS Company Limited is holding 45% of total Equity shares in SV Company Limited. The Board of Directors of SV Company Limited (incorporated on January 1, 2004) decided to raise the share capital by issuing further Equity shares. The board of Directors resolved not to offer any shares to VRS Company Limited on the ground that it was already holding a high percentage of the total number of shares already issued, in SV Company Limited. The Articles of Association of SV Company Limited provide that the new shares be offered to the existing shareholders of the company. On March 1, 2007 new shares were offered to all the shareholders except VRS Company Limited. Referring to the provisions of the Companies Act, 1956 examine the validity of the decision of the Board of Directors of SV Company Limited of not offering any further shares to VRS Company Limited. 5
- (c) X, a registered shareholder of Y Limited left his share certificates with his broker. A forged the transfer deed in favour of Z, accompanied by these share certificates lodged the transfer deed along with the share certificates with the company for registration. The Company Secretary, who had certain doubts, wrote to X informing him of the proposed transfer and in the absence of a reply from him (X) within the stipulated time, registered the transfer of shares in the name of Z. Subsequently, Z sold the shares to J and J's name was placed in the register of shareholders. Later on, X discovered that forgery has taken place. 5

Referring to the provisions of the Companies Act, 1956, state the remedy available to X and Z in the given case. Explain.

- (d) The paid-up Share Capital of AVS Private Limited is Rs. 1 crore, consisting of 8 5 lacs Equity Shares of Rs. 10 each, fully paid-up and 2 lacs Cumulative Preference Shares of Rs. 10 each, fully paid-up. XYZ Private Limited and BCL Private Limited are holding 3 lacs Equity Shares and 1,50,000 Equity Shares respectively in AVS Private Limited. 5

XYZ Private Limited and BCL Private Limited are the subsidiaries of TSR Private Limited.

With reference to the provisions of the Companies Act, 1956, Examine whether AVS Private Limited is a subsidiary of TSR Private Limited? Would your

answer be different if TSR Private Limited has 8 out of total 10 directors on the Board of Directors of AVS Private Limited?

- (e) State the purposes for which the object clause of the Memorandum of Association of a public limited company, registered under the Companies Act, 1956, can be altered. 5

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8. (a) Explain the provisions of the Companies Act, 1956 relating to the 'Service of Documents' on a company and the members of the company. When is service of document deemed to be effective in case the document is sent by post Explain. 5
- (b) State any six charges which are required to be registered under the provisions of the Companies Act, 1956. What is the effect of non-registration of a charge required to be registered under the Act? Explain. 5
9. (a) Though six out of seven signatures to the Memorandum of Association of a company were forged, the company was registered and the Certificate of Incorporation issued. Can the registration of the company be challenged subsequently on the ground of forged signatures? 5
- (b) Who are the persons entitled to receive notice of a general meeting of a company, registered under the Companies Act, 1956? Shall the non-receipt of notice of the general meeting by any member invalidate the proceedings of the meeting? Explain. 5
10. (a) ABC Limited served a notice of a general meeting upon its members. The notice stated that a resolution to increase the Share Capital of the company would be considered at the meeting. A member complains to the company that the amount of the proposed increase was not specified in the notice. In the light of the provisions of the Companies Act, 1956, examine the validity of the notice. 5
- (b) XYZ Limited held its Annual General Meeting on September 15, 2006. The meeting was presided over by Mr. V, the Chairman of the company's Board of Directors. On September 17, 2006, Mr. V, the Chairman without signing the minutes of the meeting, left India to look after his father who fell sick in London. Referring to the provisions of the Companies Act, 1956, state the manner in which the minutes of the above meeting are to be signed in the absence of Mr. V and by whom? 5

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