

ADVANCED COMPANY LAW & PRACTICE

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Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 4

NOTE : 1. Answer **SIX** questions including Question No.1 which is compulsory.
2. All references to sections relate to the Companies Act, 1956 unless stated otherwise.

1. (a) Answer **any five** of the following with reasons in brief :
- (i) Can a prospective creditor make an application for the winding-up of the company ?
 - (ii) Can a whole-time director be appointed for a period of six years at a time ?
 - (iii) Can the balance sheet and profit and loss account be adopted at a general meeting other than an annual general meeting ?
 - (iv) Can a company pay remuneration to its managing director when its effective capital is negative ?
 - (v) Can an additional director be appointed as managing director ?
 - (vi) Can a listed company hold its second audit committee meeting in a financial year on 30th October, when its first meeting in that financial year took place on 12th June ?
 - (vii) How much a company is required to transfer to the reserves out of its profits when it proposes to pay a dividend of 15% to the shareholders ?
- (3 marks each)*
- (b) State whether depreciation can be charged under straight line method for computation of managerial remuneration. Can depreciation be charged at a rate higher than the rate given in Schedule XIV to the Companies Act, 1956 ?
- (5 marks)*
2. (a) Re-write the following sentences after filling-in the blank spaces with appropriate word(s)/figure(s) :
- (i) Under section _____ appeal to _____ can be preferred for refusal of transfer/transmission of shares by a company.
 - (ii) Petition to Company Law Board alleging oppression can be made by shareholders on criterion of _____ and/or criterion of _____.
 - (iii) At any general meeting, a resolution put to the vote at the meeting shall be decided on a _____ unless a _____ is demanded.

- (iv) Winding-up of a company is deemed to commence at the time of _____ except in the case of voluntary winding-up in which case at the time of _____ for voluntary winding-up.
- (v) Any amount received by way of _____ deposit from an employee of the company is not to be treated as _____ in terms of the Companies (Acceptance of Deposits) Rules, 1975.

(2 marks each)

- (b) Summarise the provisions contained in Table-A of Schedule I to the Companies Act, 1956 relating to delegation of Board's power to a committee of the Board.
- (6 marks)*
3. (a) Prosperity Ltd., a listed company, plans to implement a buy-back of shares. Advise the requirements to be complied with by the company relating to escrow account.
- (8 marks)*
- (b) Solar Power Ltd. secured a working capital loan of Rs.5 crore from Janta Bank against the mortgage of its inventories and receivables in January, 2010. In June, 2010, it was noticed that particulars of charge have not been filed with the Registrar of Companies. Prepare a petition for condonation of delay.
- (8 marks)*
4. (a) Suggest steps to enhance investor relations in the light of advanced technologies currently available in the market.
- (6 marks)*
- (b) Heavy Vehicles Ltd. is interested in setting-up a subsidiary company in Germany as a tie-up with Excel Group for the manufacture of commercial vehicles. Advise the company regarding existing regulatory requirements in force.
- (6 marks)*
- (c) Alpha Ltd. has worked out a scheme of amalgamation with Beta Ltd. which was pending before the High Court. Beta Ltd. has a subsidiary Gama Ltd., which held shares in Alpha Ltd. Consequently, the scheme for takeover of Beta Ltd. by Alpha Ltd. would indirectly amount to buy-back of shares by Alpha Ltd. Should Alpha Ltd. comply with the requirements of section 77A ?
- (4 marks)*
5. (a) Comment on **any three** of the following :
- (i) Section 211 relating to form and contents of balance sheet and profit and loss account does not apply to private limited companies and insurance companies while it is applicable to all public limited companies including banking companies and the companies engaged in the generation or supply of electricity.

- (ii) Appointment of auditor in respect of companies having a paid-up capital of Rs.100 crore and above shall be made at a general meeting by way of a special resolution.
- (iii) A chartered accountant with certificate of practice can be appointed as an auditor of a company if he is indebted to the company for an amount of Rs.1,000 or if he has given any guarantee or provided any security in connection with the indebtedness of any third person to the company for an amount of Rs.1,000.
- (iv) The Central Government cannot appoint the company's statutory auditor for conducting special audit when it is of the opinion that the affairs of the company are not being managed in accordance with sound business principles or prudent commercial practices.

(4 marks each)

- (b) Rajat is appointed as a managing director of a public limited company for a period of 5 years effective from 1st January, 2010. Can he be re-appointed for a further period of 5 years ? If so, can the members pass a suitable resolution for his re-appointment at the annual general meeting, say on 20th September, 2012 ?

(4 marks)

6. (a) Genius Ltd. is engaged in civil construction work and has executed a contract with Smart Ltd. When Genius Ltd. raised an invoice for Rs.500 lakh towards the contract, Smart Ltd. disputed the claim and evaluated the same through a committee of experts. Based on the committee's recommendation, the Board of directors of Smart Ltd. approved the payment of Rs.500 lakh at their meeting held on 31st May, 2009. The same was recorded in the minutes of the meeting, but the company was not in the habit of confirming the minutes of the earlier meeting at the subsequent meeting. Therefore, the minutes of the meeting held on 31st May, 2009 were not confirmed at the subsequent meeting of the Board held on 1st August, 2009. Smart Ltd. refused to pay the invoice raised by Genius Ltd. on the ground that the minutes were not confirmed at the subsequent meeting and hence the decision to pay was not valid. Is it valid ? Support your answer with reasons.

(8 marks)

- (b) The articles of association of Bright Ltd. provides that meeting of the Board of directors shall be held at 11 A.M. on the last day of each quarter ending March, June, September and December at the registered office of the company. The company relying on the above provision had not sent notice for the Board meeting held on 31st December, 2008. Can the validity of the meeting be questioned on the ground that no notice had been sent ?

(4 marks)

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- (c) The registered office of Shiva Garments Ltd. is situated in a notified backward area of Maharashtra. The Board wants to keep the books of account of the company at its corporate office in Mumbai which is conveniently located. Comment on the feasibility of maintaining the accounting records at a place other than the registered office of the company.
- (4 marks)*
7. (a) Sarbanes Oxley Act, 2002 (SOX) has brought about adequate provisions to intensify the criterion of objectivity and thereby safeguard independence of the auditors. Discuss.
- (8 marks)*
- (b) Explain the factors to be considered in setting-up a performance evaluation process of the Board of directors.
- (8 marks)*
8. Write notes on **any four** of the following :
- (i) Declaration of solvency in the context of winding-up of a company
 - (ii) Fraudulent preference
 - (iii) Treasury stocks
 - (iv) Meaning and objective of 'investigation' under the Companies Act, 1956
 - (v) Secretarial standards.
- (4 marks each)*

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