

Corporate Restructuring—Law & Practice

335

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) Do you think mergers and acquisitions have been deployed as a strategic choice by present era corporate enterprises ? State your views with reasons.
(6 marks)
 - (b) Why a company has to undertake corporate restructuring exercise ?
(6 marks)
 - (c) State whether the following statements are true or false citing briefly relevant provisions of the law :
 - (i) The expression 'reconstruction' is nowhere used in the Companies Act, 1956.
 - (ii) Accounting Standard-14, issued by the ICAI, classifies mergers into two categories, amalgamations in the nature of mergers and amalgamations in the nature of purchase.
 - (iii) Stamp duty is payable on an order issued by the Board for Industrial and Financial Reconstruction (BIFR) .
 - (iv) There is no need for a notice to be given to the Central Government once again, when court proceeds to pass final order to dissolve the transferor company.
(2 marks each)
2. (a) What are the various defence strategies which a target company can adopt to defend itself from hostile takeovers ?
(8 marks)
 - (b) Enumerate the factors required to measure the success of any merger.
(4 marks)
 - (c) Sumi Ltd. and Muni (P) Ltd. have finalised a scheme of arrangement. The registered offices of both the companies are located in Kolkata. A joint petition is proposed to be filed before the High Court for sanction of the scheme. State whether it is legally tenable.
(4 marks)

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335

: 2 :

3. Attempt the following citing relevant legal provisions and case law, if any :

- (i) Rule 67 of the Companies (Court) Rules, 1959 stipulates that an application under section 391 shall be submitted supported by an affidavit. Rule 69 of the Companies (Court) Rules, 1959 directs that upon hearing of the summons, the Judge shall give such directions as he may think necessary in respect of sundry matters including the aspect of determining the values of the creditors/members of any class as the case may be State whether full details of all the creditors should be given in the petition.
- (ii) Corporate structures are complex and it is not unusual that a company incorporated in India will have its ultimate parent company located in a different country. As global acquisitions have an impact on Indian companies, which law should take precedence ? Should it be Indian takeover regime or the law which governs the activities of such companies incorporated outside India ?
- (iii) Is sanction of the court necessary for a scheme of amalgamation wherein the petitioner company had no secured creditors and all unsecured creditors had accorded their approval to the proposed scheme alongwith the shareholders of both the companies ? The official liquidator also did not have any objection to the scheme.
- (iv) The shareholders of Ravi Ltd. and Minakshi Ltd. are the same set of persons. These two companies merged and formed Bhuvan Ltd. The management now claims that since both the transferor and transferee are the same set of people, there is no transfer and hence no liability to stamp duty. Comment.

(4 marks each)

4. (a) In October, 2008, JIM Airways, the No.1 Indian private operator, and its fierce competitor, KIM Airlines have announced forging of an alliance to share infrastructure, jointly procure ATF.....

You are required to answer the following questions :

- (i) why the two fierce competitors forged a strategic alliance ?
- (ii) what should they keep in mind while managing the alliance ?

(8 marks)

- (b) State the provisions of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997 regarding substantial acquisition of shares. What would be the penalty for non-disclosure of substantial acquisition of shares and takeovers ?

(8 marks)

5. (a) What do you mean by 'core competence' and 'distinctive competence' ? How are they relevant for strategy formulation ? Explain with examples.

(8 marks)

: 3 :

- (b) From the following information supplied to you, determine the market value of equity shares of Shakun Ltd. as per Walter's Model.

EPS	Rs.5
Dividend paid	Rs.3,00,000
No. of shares outstanding	1,00,000
Price-earnings ratio	8
Rate of return on investment	0.15

Are you satisfied with the dividend policy of Shakun Ltd. ? Comment.

(4 marks)

- (c) What is the time limit for buy-back of shares ?

(2 marks)

- (d) The incidence of sickness for a company under the Sick Industrial Companies (Special Provisions) Act, 1985 is by reference to the date on which the company was granted the certificate of commencement of business. Do you agree with this statement ?

(2 marks)

6. (a) Green Ltd. is contemplating the purchase of White Ltd. The information pertaining to both the companies are given below :

Company	No. of Equity Shares	Market Value Per Share (Rs.)
Green Ltd.	3,00,000	30
White Ltd.	2,00,000	20

The EPS for Green Ltd. is Rs.4.00 and for White Ltd. is Rs.2.25. Managements of both the companies are discussing two alternative proposals for exchange of shares as indicated below :

IO in proportion to the relative earnings per share of two companies.

II 0.5 share of Green Ltd. for one share of White Ltd.

You are required to –

- calculate the EPS after merger under the two alternatives; and
- show the impact of EPS for the shareholders of the two companies under both the alternatives.

(10 marks)

- (b) "Valuation of shares and fixation of exchange ratio in an amalgamation of companies is a matter of commercial judgement and the courts should not sit in judgement over it." Comment.

(6 marks)

335

: 4 :

7. (a) Shubham Ltd., a listed company now propose to buy-back 20% of its paid-up capital. The articles of association of the company do not allow for buy-back. You happen to be the Company Secretary of the company and the Board has asked you to prepare a note with draft resolutions.
(8 marks)
- (b) What are the key dimensions of the 'integration process' ?
(4 marks)
- (c) "Once an order of winding-up is made by the High Court acting on the opinion of BIFR, the BIFR ceases to have any power to pass any order or give any directions." Do you agree with this statement ? Support your answer with relevant case law.
(4 marks)
8. (a) Explain the provisions regarding convening of general meeting as per court's direction with reference to merger/amalgamation of two companies.
(8 marks)
- (b) "Indirect acquisition of shares of a listed company is outside the jurisdiction of takeover regulations." Express your opinion in the light of legal provisions and decided case laws, if any.
(8 marks)

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