

Test Series: May, 2020

MOCK TEST PAPER – 1
FINAL (OLD) COURSE: GROUP – I
PAPER 4: CORPORATE AND ALLIED LAWS

Time Allowed – 3 Hours

Maximum Marks – 100

DIVISION A: MULTIPLE CHOICE QUESTIONS (TOTAL OF 30 MARKS)

Instructions: All questions are compulsory.

Integrated Case Scenario 1 (8 Marks)

M/s. Sheetal Chemicals Limited (SCL) is a listed public company dealing in petrochemicals which are used in numerous household products like wax, detergents, dyes, carpeting, safety glasses, etc.

As per the latest audited balance sheet as at 31st March, 2019, company have following financial position-

Paid up share capital	Rs. 40 crore
Authorised capital	Rs. 50 crore
Turnover for FY 2018-2019	Rs. 300 crore

Composition of Board

The company has thirteen directors on its Board namely, A1, B2, C3, D4, E5, F6, G7, H8, I9, J10, K11, L12 and M13 of which A1, B2, C3, D4 and E5 are the independent directors. The Articles of Association of the company restrict the maximum number of directors to fifteen.

SCL remains ever-conscious to corporate governance and ensures compliance to legal provisions in both letter and spirit. L12 is the Managing Director of the company whereas M13 is the only woman director. The company has constituted requisite committees as per the requirements of law. The Audit Committee consists of seven directors as members *i.e.* A1, B2, C3, D4, E5, I9, J10 and K11.

Earlier, for the financial year ending 31st March, 2018, the company successfully convened and held Annual General Meeting (AGM) on 25th September, 2018 at its registered office at Pune. On the fateful day of AGM, while returning to Mumbai from Pune by road after her re-appointment at AGM, a fatal accident claimed the life of M13 thus snatching an efficient and trustworthy director from the hands of the company. Later on, a Board Meeting was held on 09-01-2019 and N14, a finance professional and daughter of deceased woman director M13 was appointed as director to fill the vacancy of woman director so created due to the death of M13. It may be noted that before 09-01-2019, a Board Meeting was held on 15-09-2018.

SCL is a growing company which wants to diversify its business into the sphere of agrochemicals also and therefore, desires to bring on its Board O15 who is a chemical engineer with hands-on experience of about twenty years post his qualification in the field of agrochemicals and other petroleum products. Besides production, he is well versed in marketing of agrochemicals both in India and abroad. It is hoped that he shall prove to be a valuable asset to the company. Accordingly, a Board Meeting was held on 14th April, 2019 to appoint O15 as additional director. As the total strength of directors was well within the limit prescribed by the Articles, there was no need to alter the Articles.

Multiple Choice Questions (MCQs)

1. After the appointment of O15 as additional director on 14-04-2019, another Board Meeting of SCL was held on 17-05-2019. From the given options, choose the correct one which indicates the quorum for the current Board meeting.
 - (a) Nine directors
 - (b) Five directors
 - (c) Four directors
 - (d) Two directors
2. For the purpose of meeting of the Audit Committee of SCL, how many members should be present at such meeting in order to constitute the quorum.
 - (a) All the seven members
 - (b) Only five members of which minimum two should be independent members
 - (c) Only three members of which minimum two should be independent members
 - (d) Only two members of which minimum one should be independent member
3. From the case scenario, it is observed that after the death of M13, her daughter N14 was appointed at a Board Meeting held on 09-01-2019 to fill the vacancy of woman director. Is the appointment of N14 on 09-01-2019 justified?
 - (a) No. The appointment of N14 should have been made within three months from 25-09-2018.
 - (b) No. The appointment of N14 should have been made within two months from 25-09-2018.
 - (c) No. The appointment of N14 should have been made within one month from 25-09-2018.
 - (d) Yes. The appointment of N14 made on 09-01-2019 is justified.
4. In the above case scenario, L12 is the Managing Director of SCL. If it is assumed that there is no managing or whole-time director, then in such a situation, how much remuneration the company can pay to all the directors for the Financial Year 2019-20.
 - (a) 11% of the net profits available for the Financial Year 2019-20
 - (b) 5% of the net profits available for the Financial Year 2019-20
 - (c) 3% of the net profits available for the Financial Year 2019-20
 - (d) 1% of the net profits available for the Financial Year 2019-20

Integrated Case Scenario 2 (10 Marks)

Hiwaves Private Ltd. for expansion of its business took the financial debt of Rs. 50 crore from the GBC Bank Ltd. in 2017. Hiwaves Private Ltd. in its initial one year paid the instalments of the amount of debt timely. However from mid of 2018, Hiwaves Private Ltd. started omission in the payments of instalments. Despite of repeated reminders, Hiwaves Private Ltd. continued with default in payments of instalments.

GBC Bank Ltd. filed an application under Insolvency and Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against Hiwaves Private Ltd., alleging default in payments of debt, interest and other charges on 18th November, 2018.

The application was admitted in the NCLT on 1st December, 2018.

The Ex-directors and shareholders of Hiwaves Private Ltd. preferred an appeal against the said admission of application under section 7 of the IBC. Appellant submitted that name of Hiwaves Private Ltd. was struck off from the Register of Companies under Section 248 of the Companies Act, 2013. Also, asserted that

application under section 7 of IBC was preferred by GBC Bank Ltd., is barred by limitation and against a non-existent company (i.e. Hiwaves Private Ltd.). So, they alleged that no such application is maintainable. However, the appeal was set aside.

During the CIRP, Resolution Professional (RP), “Mr. Amar” was appointed to manage the estate of the Hiwaves Private Ltd.

During the pendency of the CIRP, the Enforcement Directorate (ED) provisionally attached the assets belonging to the Hiwaves Private Ltd. Mr. Amar (RP) intimated the ED about initiation of the CIRP and imposition of moratorium on the property and assets of the Hiwaves Private Ltd. as the resolution professional was required to take charge and custody of the same. ED submitted that moratorium declared by the Adjudicating Authority would not be applicable to the criminal case initiated under the Prevention of Money Laundering Act, 2002.

Multiple Choice Questions

1. Comments upon attachment order of Enforcement Directorate under PML Act during moratorium in the given case:
 - (a) Attachment order is valid and resolution professional cannot take charge of property.
 - (b) Attachment order is not valid.
 - (c) Attachment order is valid but Resolution Professional can proceed to take charge of property and deal under IBC.
 - (d) Attachment order is nullity and Resolution Professional can proceed to take charge of the property and deal under the IBC, as if no attachment orders.

2. In the given case, Hiwaves Private Ltd. was struck off from Register of Companies under the Companies Act, 2013. State whether GBC Bank Ltd. can file an application under section 7 of the Code-
 - (a) No. Application cannot be filed as the Hiwaves Private Ltd. is no more in the existence as it is struck off from Register of Companies.
 - (b) No. Application cannot be filed under the Code but under the Companies Act be filed within 2 years from the date of notice notified in Official Gazette on struck off from Register of Companies.
 - (c) Yes. Application can be filed under both the laws by the GBC Bank Ltd, being under the two different jurisdictions.
 - (d) Yes. Application can be filed on an appeal of GBC bank Ltd. (being a creditor) before Tribunal under the Companies Act for taking Hiwaves Private Ltd. into register of companies, and then may file an application of initiation of CIRP under the capacity financial creditor, under the Code.

3. As given in the case, GBC Bank Ltd. files an application for initiation of CIRP on 18th November, 2018 which was admitted on 1st December, 2018. Suppose, if later Hiwaves Private Ltd. pays off the outstanding debt amount and request the GBC Bank Ltd. to withdraw the application. Specify which amongst the following is the correct statement:
 - (a) No withdrawal can be done, as the application has been admitted.
 - (b) Yes, withdrawal is possible by approval of 66% of voting shares of the CoC.
 - (c) No withdrawal is applicable here as application of CIRP is not maintainable as Hiwaves Private Ltd. is struck off.
 - (d) Yes, withdrawal is possible by approval of 90% of voting shares of the CoC.

4. Within how many days application for initiation of CIRP can be admitted by NCLT, as it was filed on 18th November, 2018 by GBC Bank Ltd.?
- Within 7 days from receipt of application
 - Within 10 days from receipt of application
 - Within 14 days from receipt of application
 - Within 21 days from receipt of application
5. Suppose, NCLT rejects application of GBC Bank Ltd. on account of incomplete application submitted before it. Within how many days, the applicant can rectify the defect in the application?
- Within 7 days of receipt of such notice from NCLT
 - Within 10 days of receipt of such notice from NCLT
 - Within 14 days of receipt of such notice from NCLT
 - Within 30 days of receipt of such notice from NCLT

Multiple choice questions (Total 10 marks)

3. Infra Ltd. was wound up by an order of Tribunal dated 10th March, 2019 by the Tribunal. The appointed official liquidator of the company noticed that the MD of the Infra Ltd. had sold certain properties belonging to the company to a Supra Pvt. Ltd. in which his brother was interested on 15th October, 2018. This caused loss to the Infra Ltd. to the extent of INR 60 lakhs. Examine the course of action, the official liquidator can take in this matter.
- The official liquidator can recover the sale of assets of the company as per the Section 328 of the Companies Act, 2013
 - The transaction made will be regarded as invalid and restore the position of the company.
 - This transaction made will be regarded as valid as being made under ordinary course of its business.
- Only statement (1) is correct
 - Only statement (2) is correct
 - Only statement (3) is correct
 - Statements (1) & (2) are correct **(2 Marks)**
4. Nanny Marcons Private Limited was incorporated on 9th June, 2017. For the financial year 2017-2018, it did not file its financial statements and annual returns. For the time being the company desires to be treated as 'inactive company' since it does not intend to carry on any business permitted by its Memorandum. As to when ROC can issue certificate of status of dormant company to 'Nanny Marcons' on the basis of non-submission of financial statements if the company makes an application to the Registrar in this respect.
- After non-submission of financial statements for the two financial years i.e. 2018-19 and 2019-20.
 - After non-submission of financial statements for the next financial year i.e. 2018-19.
 - After non-submission of financial statements for the three financial years i.e. 2018-19, 2019-20 and 2020-21.
 - After non-submission of financial statements for the four financial years i.e. 2018-19, 2019-20, 2020-21 and 2021-22 **(2Marks)**

5. Ruby Diamonds Limited is required to establish 'Vigil Mechanism' though it is neither a listed company nor a company which has accepted deposits from the public. Name the third criterion because of which it is necessitated that the company needs to create 'Vigil Mechanism'
- As per the last audited statements, the subscribed capital of the company is in excess of Rs. 50 crore.
 - As per the last audited statements, the paid up capital of the company is in excess of Rs. 50 crore.
 - As per the last audited statements, the turnover of the company is in excess of Rs. 50 crore.
 - None of the above **(1 Mark)**
6. Ram and Shyam, two brothers, are professionally qualified Chartered Accountants. They are engaged in working as recovery agents for different types of loans and advances given by banks to different customers. They were also involved in arrangement of short terms funds for their client's. Their business was doing well and they were making a good amount of money. While dealing with banks they came to know about Asset reconstruction Companies (ARC'S). Both the brothers wanted to expand their business, so they decided to register themselves as an ARC. From the following tick the correct option; which is incorrect in respect of their beginning of ARC business---
- Chartered Accountants are not eligible to commence on the business of securitisation or asset reconstruction.
 - The requirement of minimum of net owned fund of One hundred crore rupees
 - After registered as an ARC they will no longer be eligible to continue their business of arranging short term funds for their clients.
 - They will be required to raise funds only from qualified buyers. **(2 Marks)**
7. Videshi. Ltd, a foreign company established with a principal place of business at Kolkata, West Bengal. The company delivered various documents to Registrar of Companies. State the number of days and place where the said company shall deliver such documents:
- Within 15 days to the Central Government
 - Within 15 days to the Registrar having jurisdiction over New Delhi
 - Within 30 days to the Registrar having jurisdiction over West Bengal
 - Within 30 days to the Registrar having jurisdiction over New Delhi **(1 Mark)**
8. Mr. Z was appointed as representative of ABC Company for a 10 days corporate programme organized in USA. During the said period in USA, he was diagnosed with the severe kidney disease, so decided to have a treatment done in USA. State the maximum amount that can be drawn by Mr. Z as foreign exchange for the medical treatment abroad.
- USD 1,25,000
 - USD 2,25,000
 - USD 2,50,000
 - As estimated by a medical institute offering treatment **(1 Mark)**
9. An agreement which restricts competition in the relevant market is known as:
- Fair-competitive agreement;
 - Competitive agreement;
 - Pro-competitive agreement;
 - Anti-competitive agreement **(1 Mark)**

10. Prohibited current account transactions find place in:
- Schedule I of the FEM (Current Account Transactions) Rules, 2000.
 - Schedule II of the FEM (Current Account Transactions) Rules, 2000.
 - Schedule III of the FEM (Current Account Transactions) Rules, 2000.
 - All of the above
- (1 Mark)**
11. Any property found to be involved in money laundering cannot be provisionally attached by the Director, ED for more than -----.
- 30 days
 - 60 days
 - 90 days
 - 180 days
- (1 Mark)**

DIVISION B: Descriptive questions (70 Marks)

Question No. 1 is compulsory. Out of remaining five questions attempt any four.

1. (a) Prince Ltd. desires to appoint an additional director on its Board of directors. The Articles of the company confer upon the Board to exercise the power to appoint such a director. As such Mr. Mantri is appointed as an additional director. In the light of the provisions of the Companies Act, 2013, examine:
- Whether Mr. Mantri can continue as director if the annual general meeting of the company is not held within the stipulated period and is adjourned to a later date?
 - Can the power of appointing additional director be exercised at the Annual General Meeting by the members?
 - As the Company Secretary of the company what checks would you make after Mr. Mantri is appointed as an additional director?
- (6 Marks)**
- (b) The Board of Directors of Future Fashions Limited at its meeting recommended a dividend on its paid-up equity share capital which was later on approved by the shareholders at the Annual General Meeting. In the meantime, the directors at another meeting of the Board decided by passing a board resolution to divert the total dividend to be paid to the shareholders for purchase of certain short-term investments in the name of the company. As a result, dividend was paid to shareholders after 45 days.
- Examining the provisions of the Companies Act, 2013, state whether the act of directors is in violation of the provisions of the Act and if so, state the consequences that shall follow for the above act.
- (8 Marks)**
2. (a) (i) A group of members of XYZ Limited has filed a petition before the Tribunal alleging various acts of oppression and mismanagement by the majority shareholders of the company. The Petitioner group holds 12% of the issued share capital of the company. During the pendency of the petition, some of the petitioner group holding about 5% of the issued share capital of the company wish to disassociate themselves from the petition and they along with the other majority shareholders have submitted before the Tribunal that the petition may be dismissed on the ground of non-maintainability. Examine their contention having regard to the provisions of the Companies Act, 2013.
- (3 Marks)**

- (ii) ABC Limited is a wholly owned subsidiary company of XYZ Limited. The Company wants to make application for merger of Holding and Subsidiary Companies under Section 232. The Company Secretary of the XYZ Limited is of the opinion that company cannot apply for merger as per section 232. The company shall have to apply for merger as per section 233 i.e. Fast Track Merger. Examine on the validity of the contention made by Company Secretary as per law? **(5 Marks)**
- (b) Examine the given situations in the light of the respective laws:
- (i) Mr. Veer is having 400 shares of Travel Everywhere Limited and the current price of these shares in the market is Rs. 100. Veer's goal is to sell these shares in 6 months' time. However, is worried that the price of these shares could fall considerably, by then. At the same time, Veer doesn't want to sell off these shares today, as he conjectured that the share price might appreciate in the near future. Determine how should Mr. Veer protect his security and reduce the risk of loss on the share price under the Securities Contract (Regulation) Act, 1956? **(4 Marks)**
- (ii) SEBI received complaints from some investors alleging that ABC Ltd. and some brokers are indulging in price manipulation in the shares of ABC Ltd. Explain the powers that can be exercised by SEBI under the Securities and Exchange Board of India Act, 1992 in case the allegations are found to be correct. **(2 Marks)**
3. (a) Leading Ltd. filed an application to the registrar for removal of the name of company from the register of companies after passing special resolution. On the complaint of certain members, Registrar came to know that already an application is pending before the Tribunal for the approval of proposed compromise or arrangement scheme. The application of compromise or arrangement was filed two months before the filing of this application to the Registrar.
- Determine the given situations in the lights of the given facts as per the Companies Act, 2013:
- (i) Legality of filing an application by Leading Ltd. before the Registrar.
- (ii) Consequences if Leading Ltd. files an application in the above given situation.
- (iii) In case Registrar notifies Leading Ltd as dissolved under section 248 in compliances to the required provisions, what remedy will be available to the aggrieved party? **(8 Marks)**
- (b) ABCRubber Limited and Syntax Tyres Limited marketing their products in India proposes to be amalgamated. The enterprise created as a result of the said amalgamation will have assets of value of Rs. 950 crore and a turnover of Rs. 6500 crore. Advise on the validity of proposed amalgamation in the light of the provisions of the Competition Act, 2002. **(6 Marks)**
4. (a) ABZ Ltd. an unlisted company with total assets of Rs. one crore as per financial statement as on 31st March, 2018, defaulted in the payment of the financial debt against the financial creditor Mr. X. Mr. An application for initiation of insolvency process was filed by Mr. X, against ABZ Ltd. under the fast track corporate insolvency resolution process on 31st May, 2019. Discuss the relevancy for disposal through the mechanism of the fast track corporate insolvency resolution process and the legal position of holding of fast track corporate insolvency resolution process by Mr. X in the term of the IBC, 2016. Compute the time period for completion of fast track process in the said situation. **(8 Marks)**
- (b) Apex Limited failed to repay the amount borrowed from the banker, ACE Bank Limited, which is holding a charge on all the assets of the company. The Bank took over management of the company in accordance with the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by appointing four persons as directors for

management of the business of the Apex Ltd. The company business before take over, was managed by a Managing Director, Mr. X. Referring to the provisions of the said Act, examine, whether Mr. X is entitled to compensation for loss of office in the given circumstances. **(6 Marks)**

5. (a) Determine the legal positions in the given situations.
- (i) Excel Ltd. committed an offence under the Companies Act, 2013. The offences fall within the jurisdiction of a special court of Bundi district in which the registered office of Excel Ltd was situated. However in that Bundi district, there were two special courts one in X place and other in Y place. Identify the jurisdiction of special court for trial of an offences committed by Excel Ltd. **(3 Marks)**
 - (ii) As per provisions of the Companies Act, 2013, what is the status of XYZ Ltd., a Company incorporated in London, U.K., which has a share transfer office at Mumbai? **(2 Marks)**
 - (iii) Abroad Ltd. a foreign company without establishing a place of business in India, issued prospectus for subscription of securities in India. Being a consultant of the company, advise on the validity of such an issue of prospectus by Abroad Ltd. **(3 Marks)**
- (b) Mr. Fraudulent, 16 years old, has been arrested for a cognizable and non-bailable offence punishable under the Prevention of Money Laundering Act, 2002 for money laundering of amount of 70 lakh. Advise, in the given situation whether Mr. Fraudulent can be released on bail in this case? **(6 Marks)**
6. (a) State the procedure for the following, explaining the relevant provisions of the Companies Act, 2013:
- (i) Appointment of First Auditor, when the Board of directors did not appoint the First Auditor within one month from the date of registration of the company.
 - (ii) Removal of Statutory Auditor (appointed in last Annual General Meeting) before the expiry of his term. **(8 Marks)**
- (b) (i) Mr. P has won a big lottery and wants to remit US Dollar 20,000 out of his winnings to his son who is in USA. Advise whether such remittance is possible under the Foreign Exchange Management Act, 1999. **(3 Marks)**
- (ii) Differentiate Mandatory Provision from a Directory Provision. What factors decide whether a provision is directory or mandatory? **(3 Marks)**