

NOV 2010

FINAL (NEW COURSE)  
GROUP-I PAPER-4  
CORPORATE AND  
ALLIED LAWS

Roll No. ....

Total No. of Questions – 7

Total No. of Printed Pages – 7

Time Allowed : 3 Hours

Maximum Marks : 100

## HCL

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

Question No. 1 is compulsory.

Answer any **five** questions from the remaining **six** questions.

Marks

1. (a) X, who does not hold any shares in his name is appointed as Director in JAM Company on 1<sup>st</sup> April, 2010. His wife holds 10,000 Equity Shares in the company in her name singly. Certain members of the company objects to X' appointment on the ground that since he does not hold any shares in his own name, his appointment is violative of the provisions of the Companies' Act, 1956. Articles of the Company are silent on the issue of holding any shares by a Director. 5
- Examine the provisions of the Act and decide
- (i) Whether contention of the members is tenable ?
- (ii) Whether X wife's shareholding in the company can be the ground for 'X' continuation as a director in the company ?
- (iii) What would be your answer in case 'X' is one of the subscriber of the Memorandum of Association ?
- (b) A is the Director of M & Co. Ltd. A has borrowed ₹ 50/- lacs on reasonable terms from X for company's benefit and business. A has no power to borrow. 5
- What will be the legal position ? Please explain.

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P.T.O.

- (c) The Central Govt. has formed its opinion on certain grounds that the recognition granted to a Stock-Exchange be withdrawn. Examining the provisions of the Securities (Contracts) Regulation Act, 1956, explain the procedure that must be followed by the Central Govt. to give effect to the above. Also state whether any such withdrawal of recognition shall affect the validity of the contracts already entered into by Stock-Exchange, before withdrawal of recognition. **5**
- (d) A is the Auditor of B and Co. Ltd. Board of Directors decided to remove A on certain grounds. Please indicate what procedure is to be followed to remove A ? Advise the Board. **5**
2. (a) Certain Members of MDV Company Limited having share capital feel that the affairs of the company are being mismanaged by Directors. Members therefore, decide to move the Company Law Board, complaining the mismanagement of company affairs by Directors of the Company. Examine the provisions of the Companies' Act, 1956 and state **8**
- (i) Whether members are entitled to complain the Company Law Board.
- (ii) Whether the following acts of the Board of Directors amount to mismanagement :
- (A) Continuation of Directors in their office after expiry of their tenure and infighting continues among them.
- (B) Non-declaration of dividend when it does not lead to devaluation of shares.

- (b) XYZ Ltd. while preparing the Balance Sheet and Profit and Loss Account for the financial year ended 31<sup>st</sup> March, 2010 did not comply with the Accounting Standards. State the consequences that follow in case of Non-compliance. 8
3. (a) X, a Director of MJV Ltd., was appointed on 1<sup>st</sup> April, 2009, one of the terms of appointment was that in the absence of adequacy of profits or if the company had no profits in a particular year, he will be paid remuneration in accordance with Schedule XIII. For the financial year ended 31<sup>st</sup> March, 2010, the company suffered heavy losses. The company was not in a position to pay any remuneration but he was paid ₹ 50 lacs for the year, as paid to other directors. The effective capital of the company is ₹ 150 crores. Referring to the provisions of Companies' Act, 1956, as contained in Schedule XIII, examine the validity of the above payment of remuneration to X. 8
- (b) Under the provisions of the Companies' Act, 1956, examine the validity of the following appointments made by Board of VMR Ltd. 8
- (i) ABC Ltd. is a subsidiary company of VMR Ltd. in which Y is a Director. Y has been appointed as Manager – Research & Development in V.M.R. Ltd. on a monthly salary of ₹ 2 lacs per month with effect from 1<sup>st</sup> April, 2010.
- (ii) What would be your answer in case VMR Ltd. is a subsidiary of ABC Ltd. ?

4. (a) In ABC Ltd. three Directors were to be appointed. The item was included in agenda for the Annual General Meeting scheduled on 30<sup>th</sup> September, 2010, under the category of 'Ordinary Business'. All the three persons as proposed by the Board of Directors were elected as Directors of the company by passing a 'single resolution' avoiding the repetition (multiplicity) of resolution. After the three directors joined the Board, certain members objected to their appointment and the resolution. Examine the provisions of Companies' Act, 1956 and decide
- (i) Whether the contention of the members shall be tenable and whether both the appointment of Directors and the 'single resolution' passed at the Company's Annual General Meeting shall be void.
- (ii) What would be your answer in case the company in question is an "Association not for Profit" incorporated under Section 25 of the Companies' Act, 1956.
- (b) In relation to winding up of a company incorporated under the Companies' Act 1956; explain clearly the meaning of the term 'overriding preferential payments'. Examine the provisions of the Companies' Act and decide whether the following debts of a company under the winding up shall be 'Preferential payments' and shall be paid in priority to the claim of unsecured creditors :
- (a) Wages amounting to ₹ 30,000/- (Rupees Thirty thousand) only of an employee for services rendered for a period of 8 months within the preceding 12 months next before the relevant date.
- (b) ₹ 1 lac due to an employee from Provident Fund and ₹ 50,000/- towards gratuity.

- (c) ₹ 20,000/- payable by the company on account of expenses incurred in respect of investigation held under Section 235 of the Companies' Act, 1956.
5. (a) As required under the provisions of the Companies' Act, 1956, as amended in 2000, a company incorporated under the Act has to include in the Report of Board of Directors a 'Directors Responsibility Statement'. Directors of the company seek your advise about the matters to be included in the statement. Advise. 8
- (b) ABC Company Ltd. an unlisted company, decided to offer Equity Shares through Initial Public issue. Under the provisions of SEBI Act, 1992, the company is required to file draft prospectus and other documents with SEBI and get the documents registered with the Registrar of Companies. Board of Directors of the company seek your advice about the conditions to be complied for the initial public offer (I.P.O.). You being a practising Chartered Accountant, advise the Board. 8
6. (a) The Board of Directors of VDV Ltd., a banking company incorporated in India, for the accounting year ended 31-3-2010 transferred 15% of its net profit to its Reserve Fund. Certain shareholders of the company objects to the above Act of the Board of Directors on the ground that it is violative of the provisions of the Banking Regulation Act, 1949. Examine the provision of Banking Act and decide : 8
- (i) Whether contention of the Shareholders is tenable.
- (ii) Would your answer be still the same in case the Board of Directors transfer 30% of the company's net profits to Reserve Fund.

- (b) The Board of Directors of DJA Ltd. seek your advice about the procedure to be followed for 'Electronic filing and Authentication of Documents' with the Registrar of Companies, Mumbai. Advise the Board about the procedure to be followed in this regard and explain the manner in which the 'E' filing is regulated by the Central Govt. 8

7. Attempt any **four** :

- (a) Examine the provisions of Foreign Exchange Management Act, 2002 and advise whether the approval of Central Govt. is needed in the following cases : 4
- (i) X wants to remit certain sum of money out of lottery winnings.
- (ii) Payment of Royalty in case it is 10% of local sales and 20% of exports and the lump sum payment of U.S. \$ 3 millions.
- (b) What are the agreements prohibited under Section 3(1) of the Competition Act, 2002 ? 4
- (c) Under provisions of Companies' Act, 1956, relating to producer company, examine whether the office of director of such company shall fall vacant in the following circumstances : 4
- (i) X a Director of ABC Ltd., a producer company has made a default in payment of loan taken from a company and default continues for 60 days.
- (ii) Z a Director of the above company could not call the Annual General Meeting for the company due to some natural calamity occurred three days before the Schedule date.

(7)

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**Marks**

- (d) Explain the Rule of "Reasonable construction under the interpretation of Statute, Deeds etc". 4
- (e) Explain Asset Reconstruction, Financial Assets under the Securitization and Reconstruction of Financial Assets Enforcement of Security and Interest Act 2002. 4
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