

# INDEX

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## CHAPTER -1

### PRILIMINARY

#### PRACTICAL QUESTIONS

✎ **Question 1:**

(May. 2007)

The paid-up Share Capital of AVS Private Limited is ₹ 1 crore, consisting of 8 lacs Equity Shares of ₹ 10 each, fully paid-up and 2 lacs Cumulative Preference Shares of ₹ 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.

XYZ Private Limited and BCL Private Limited are the subsidiaries of TSR Private Limited. With reference to the provisions of the Companies Act, 2013 examines 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?

**Answer:**

**Total ESC of AVS Pvt. Ltd.**

☞ is ₹ 80,00,000

**ESC held by XYZ Pvt. Ltd. in AVS Pvt. Ltd.**

☞ is ₹ 30,00,000

**ESC held by BCL Pvt. Ltd. in AVS Pvt. Ltd.**

☞ is ₹ 15,00,000

**ESC held by TSR Pvt. Ltd. in AVS Pvt. Ltd.**

☞ is ₹ 45,00,000, since for the purpose of determining holding-subsidary relationship, ESC held in AVS Ltd. by its Subsidiaries XYZ Pvt. Ltd. (viz. ₹ 30,00,000) and BCL Pvt. Ltd. (viz. ₹15,00,000) shall be considered.

**AVS Pvt. Ltd. is a subsidiary of TSR Pvt. Ltd.**

☞ since TSR Pvt. Ltd. holds more than one-half of ESC of AVS Pvt. Ltd.

**Answer would remain same**

☞ even if TSR Pvt. Ltd. has 8 out of 10 directors on the Board of Directors of AVS Pvt. Ltd. since in such a case TSR Pvt. Ltd. controls the composition of Board of Directors of AVS Pvt. Ltd.

✎ **Question 2:**

Nov. 2009

The United Traders Association was constituted by two joint Hindu Families consisting of 51 major and 5 minor members. The Association was carrying the business of trading as retailers with the object for acquisitions of gain. The Association was not registered as a company under the Companies Act or other law.

State whether United Traders Association is having any legal status? Will there be any change in the status of this Association if the members of the United Traders Association is subsequently reduced to 45.

**Answer:**

**United Traders Association is an illegal association**

☞ since the number of adult members exceeds 50.

**If the company makes a fresh contract**

☞ would not make any change in the status of United Traders Association, since an illegal association continues to be an illegal association even though, subsequently, the number of members is reduced below 50.

**CHAPTER -2**  
**INCORPORATION OF COMPANY AND MATTERS INCIDENTAL**  
**THERE TO**

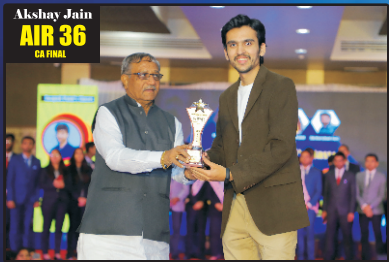
**(A) Multiple Choice Questions**

- 1. The minimum number of members in a private company and public company are**  
 (a) Three and seven respectively                      (b) Two and seven respectively  
 (c) Two and nine respectively                          (d) None of the above
  
- 2. Which one of the following is not the content of Memorandum of Association?**  
 (a) Name clause    (b) Registered office clause  
 (c) Objects clause    (d) Board of Directors clause
  
- 3. The Registrar shall register any alteration of the memorandum with respect to the objects of the company and certify the registration within a period of \_\_\_\_\_ from the date of filing of the special resolution**  
 (a) 30 days    (b) 60 days  
 (c) 90 days    (d) 6 months
  
- 4. Only a natural person who is an Indian citizen and who has stayed in India for a period of at least \_\_\_\_\_ days during the immediately preceding one calendar year shall be eligible to incorporate a OPC**  
 (a) 180 days    (b) 181 days  
 (c) 182 days    (d) 183 days

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
(b)	(d)	(a)	(c)

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(B) PRACTICAL QUESTIONS

Question 1:

(Nov. 2007)

Sunrise Limited submitted the documents for incorporation on 5<sup>th</sup> October, 2018. It was incorporated and certificate of incorporation of the company was issued by the Registrar on 20<sup>th</sup> October, 2018. The company on 14<sup>th</sup> October, 2018 entered into a contract which created its contractual liabilities. The company denies the said liability on the ground that company is not bound by the contract entered into prior to issuing of certificate of incorporation. Decide under the provisions of the Companies Act, 2013 whether the company can be exempted from the said contractual liability:

**Answer:**

***The company is not bound by the contract entered into on 20.10.2018***

- ☞ Since a pre-incorporation contract is not binding on the company, as the company was not in existence when such contract was entered into.
- ☞ Thus, the company is exempted from the said liability.

***However, the company shall be bound by the contract entered into on 20.10.2018, if***

- ☞ The company, after incorporation, has adopted the pre-incorporation contract in accordance with the provisions of Sec. 15 and 19 of Specific Relief Act, 1963.

Question 2:

Nov. 2001, May, 2013

K Ltd. was in the process of incorporation. Promoters of the company signed an agreement for the purchase of certain furniture for the company and payment was to be made to the suppliers of furniture by the company after incorporation. The company was incorporated and the furniture was received and used by it. Shortly after incorporation, the company went into liquidation and the debt could not be paid by the company for the purchase of the above furniture. As a result supplier sued the promoters of the company for the recovery of money.

Examine whether promoters can be held liable for the payment under the following situation:

1. When the company has already adopted the contract after incorporation?
2. When the company makes a fresh contract with the suppliers in substitution of pre-incorporation contract?

**Answer:**

**1. If the company adopts the contract after incorporation**

- ☞ The company shall be liable for the payment of furniture used by it;

**2. If the company makes a fresh contract**

- ☞ The answer shall remain same as in (i) above.

Question 3:

May 2008, Nov 2003

*Before the incorporation of the company, the promoters of the company entered into an agreement with Mr. Jainson to buy an immovable property on behalf of the company. After incorporation, the company refused to buy the said property. Advise Mr. Jainson whether he has any remedy under the provisions of the Companies Act?*

**Answer:**

**Mr. Jainson has no remedy against the company**

- ☞ Since a pre-incorporation contract is not binding on the company, as the company was not in existence when such contract was entered into;
- ☞ Unless the company, after incorporation, has adopted the pre-incorporation contract in accordance with the provisions of Sec. 15 and 19 of Specific Relief Act, 1963.

**Mr. Jainson may hold the promoters liable**

- ☞ For any loss incurred by him, since if a pre-incorporation contract is not adopted by the company after incorporation, the promoters are personally liable.

**Question 4:**

**May 2013**

*The articles of association of a limited company provided that 'X' shall be the law officer of the company and he shall not be removed except on the ground of proved misconduct. The company removed him even though he was not guilty of misconduct. Decide, whether company's action is valid?*

**Answer:**

**Company's action is valid, and 'X' has no remedy against the company**

- ☞ Since the memorandum and articles do not bind a company to the outsiders (Sec. 10);
- ☞ Since, unless 'X' proves a contract independent of the articles, he cannot enforce any right against the company as he has no right to rely on the articles  
**(Eley v Positive Govt. Security Life Assurance Co.)**

**Question 5:**

**Nov. 1997**

The objects clause of the Memorandum of Association of the XYZ (Pvt.) Ltd. New Delhi, authorized to do trading in mangoes. The company, however, entered into partnership with Mr. A and traded in mangoes and incurred liabilities to Mr A. The company, subsequently, refused to admit the liability to 'A' on the ground of 'ultra vires' the Company'.

Advice whether stand of the company is legally valid and if so, gives reasons in support of your answer.

**Answer:**

**The company is not liable to A**

- ☞ since the partnership agreement for trading in mangoes is an ultra vires contract, and an ultra vires contract is void ab initio, and is not binding on the company or the other party;
- ☞ since the power to enter into partnership is not an ancillary or incidental power;
- ☞ since such power can be legally exercised by the company only if the object clause of memorandum expressly authorizes the company to enter into partnership.

**Question 6:**

**Nov. 2006**

The principal business of XYZ Company Ltd. was the acquisition of vacant plots of land and to erect the houses. In the course of transacting the business, the Chairman of the Company acquired the knowledge of arranging finance for the development of land. The XYZ Company introduced a financier to another company ABC Ltd. and received an agreed fee of Rs. 2 lakhs for arranging the finance. The Memorandum of Association of the company authorizes the company to carry on any other trade or business which can in the opinion of the board of directors, be advantageously carried on

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by the company in connection with the company's general business. Referring to the provisions of the Companies Act, examine the validity of the contract carried out by XYZ Company Ltd. with ABC Ltd.

### Answer:

#### Arranging finance or financier is an ultra vires act.

- ☞ since it falls outside the object clause of memorandum;
- ☞ since an object contained in the object clause is not valid if authorizes the company to carry on any other trade or business which can be advantageously carried on by the company.

#### The contract entered into by the company is ultra vires

- ☞ since the company has no power to arrange finance or financier;
- ☞ since the board cannot take the defence that the memorandum authorizes the company to carry on any business which can be advantageously carried on in connection with company's present business (since, it is a 'specified purpose' given u/s 17 for alteration of object clause, but it cannot be the ground or basis for carrying on a business which is outside the object clause);
- ☞ Unless the memorandum is first altered by complying with the requirements of Sec. 17, and afterwards the business of arranging finance is carried on.

### Question 7:

May. 2010

*The object clause of the Memorandum of Association of RST Limited authorizes it to publish and sell text-books for students. The company, however entered into an agreement with Q to supply 100 laptops of worth Rs. 5 lac for resale purposes. Subsequently, the company refused to make payment on the ground that the transaction was ultra vires the company. Examine the validity of the company's refusal for payment to Q under the provisions of the Companies Act.*

### Answer:

#### The contract to purchase laptops

- ☞ is an ultra vires contract, and is therefore, void ab initio.

#### Q cannot enforce the contract against RST Limited

- ☞ since the contract is ultra vires;
- ☞ since no party to an ultra vires contract has a right to sue.

#### The Court may order RST Limited to deliver back the laptops to Q

- ☞ if the laptops are still in the possession of the company;
- ☞ if the Court, applying the principle of equity, deems it fit considering the circumstances of the case.

### Question 8:

May. 2008

*Under the Articles of Association of Sunshine Ltd. company directors had power to borrow up to Rs. 10,000 without the consent of the general meeting. The Directors themselves lent Rs. 35,000 to the company without such consent and took debentures of the Company. Decide under the provisions of the Companies Act, whether the company is liable? If so, what is the extent of liability of the company in this case?*

**Answer:**

**The company is not liable for Rs. 35,000**

☞ since, the benefit of doctrine of indoor management can be availed of only by an outsider who has no knowledge of any irregularity in the internal management of the company.

**The liability of the company is limited to Rs. 10,000**

☞ since the directors, having knowledge of the fact that the limit of borrowings specified under the articles would be exceeded, themselves lent Rs. 35,000 without the consent of the general meeting;  
☞ since on the similar facts as in the given case, same decision was given in Howard v. Patent Ivory Manufacturing Company.

**Question 9:**

**Nov. 2016**

*The Articles of Association of XYZ Ltd. provides the Board of Directors has authority to issue bonds provided such issue is authorized by the shareholders by a necessary resolution in the general meeting of the company. The company was in dire need of funds and therefore, it issued the bonds to Mr. X without passing any such resolution in general meeting. Can Mr. X recover the money from the company? Decide referring the relevant provisions of the Companies Act, 2013.*

**Answer:**

**The company is bound to Mr. X**

☞ since the lender, Mr. X, had lent the money to the company assuming that the company was authorized to borrow money after obtaining authorization from the members in GM;  
☞ since, on the same facts, the Court held in Royal British Bank v Turquand that the outsiders dealing with the company were not required to inquire into the internal management of the company, and the outsiders were entitled to assume that as far as internal proceedings of the company were concerned, everything had been done regularly (termed as doctrine of indoor management).



**CHAPTER -3**  
**PROSPECTUS AND ALLOTMENT OF SECURITIES**

**(A) Multiple Choice Questions**

- 1. Offer of securities or invitation to subscribe securities under private placement shall be made to \_\_\_\_\_ maximum number of person in the aggregate in a financial year**  
 (a) 50 (b) 100  
 (c) 150 (d) 200
  
- 2. A private company may issue securities through the way of, except**  
 (a) Public offer (b) Right issues  
 (c) Bonus issue (d) Private placement
  
- 3. The Registrar of companies shall refuse to register a prospectus:**  
 (a) If it is not dated.  
 (b) Contains statement of an expert who has not sign edit.  
 (c) Contains information which is six month old.  
 (d) In all the above cases.
  
- 4. A prospectus issued in the form of advertisement must state:**  
 (a) The objects for which the company has been formed.  
 (b) The liability of members.  
 (c) The amount of share capital of company.  
 (d) All the above
  
- 5. Shelf prospectus remains valid upto**  
 (a) 6 months (b) 1 year  
 (c) 2 years (d) 5 years

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
(d)	(a)	(d)	(d)	(b)

**PRACTICAL QUESTIONS**

➤ **Question 1:**

**May 2004, 2013**

*A company issued a prospectus. All the statements contained therein were literally true. It also stated that the company had paid dividends for a number of years, but did not disclose the fact that the dividends were not paid out of trading profits, but out of capital profits. All allottee of shares wants to avoid the contract on the ground that the prospectus was false in material particulars. Decide.*

**Answer:**

***The prospectus is misleading***

- ☞ since non-disclosure of the fact that the company was making losses and that the dividends were paid out of past year profits gave a false impression that the company was making profits;
- ☞ since suppression of such fact might have affected investor's decision to subscribe for shares.
- ☞ since the prospectus does not disclose all the material fact truly, honestly and accurately.

***The allottee of shares is entitled to avoid allotment***

- ☞ since the allottee has a right to rescind the contract of allotment of shares if he had relied and acted on the prospectus, i.e. he subscribed for shares after being influenced by a misleading prospectus
- Rex. V. Kysant.***

➤ **Question 2:**

**Nov. 2006, May 2017**

*With a view to issue shares to the general public of a prospectus containing some false information was issued by a company. Mr. X received a copy of the prospectus from the company, but did not apply for allotment of any shares. The allotment of shares to the general public was completed by the company within the stipulated period. A few months later, Mr. X bought 2000 shares through the stock exchange at a higher price which later on fell sharply. X sold these shares at a heavy loss. Mr. X claims damages from the company for the loss suffered on the ground that the prospectus issued by the company contained a false statement. Referring to the provisions of the Companies Act, examine whether X's claim for damages is justified.*

**Answer:**

**Mr. X is not an original allottee of shares**

- ☞ since he purchased the shares from the market, and not from the company.

**Mr. X cannot claim damages from the company.**

- ☞ since Mr. X is not an original allottee of shares;
- ☞ since Mr. X did not subscribe for shares on the faith of a misleading prospectus (Peek v. Gurney)

➤ **Question 3:**

**May 2008, 2016**

*Peek Ltd. Co. issued and published its prospectus to invite the investors to purchase its shares. The said prospectus contained false statement. Mr. X purchased some partly paid shares of the company in good faith on the Stock Exchange. Subsequently, the company was wound up and the name of Mr. X is liable to pay the unpaid amount?*

1. *Whether Mr. X is liable to pay the unpaid amount?*
2. *Can Mr. X sue the directors of the company to recover damages?*

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**Answer:**

**Mr. X is not an original allottee of shares**

☞ since he purchased shares from the secondary market, viz. stock exchange.

**Mr. X is liable to pay the unpaid calls**

- ☞ since Mr. X holds partly paid shares;
- ☞ since he is liable as a contributory.

**Mr X cannot sue the directors to recover damages**

☞ since Mr. X has no cause of action against the company or the directors as he did not subscribe for shares on the faith of a misleading prospectus (*peek v. Gurney*)

🔗 **Question 4:**

*Nov. 2008*

*M applies for share on the basis of a prospectus which contains mis-statement. The shares are allotted to him, who afterwards transfers them to N. Can N bring an action for a rescission on the ground of mis-statement? Decide under the provisions of the Companies Act.*

**Answer:**

**Mr. N is not an original allottee of shares**

☞ since he obtained the shares by way of transfer from M.

**Mr. N cannot claim damages from the company**

- ☞ since Mr. N is not an original allottee of shares;
- ☞ since Mr. N did not subscribe for shares on the faith of a misleading prospectus (*Peek v. Gurney*)

🔗 **Question 5:**

*Nov. 2009*

*Modern Furnitures Limited was willing to purchase teakwood estate in Chhattisgarh State. Its prospectus contained some important extracts from an expert report giving the number of teakwood trees and other relevant information in the estate in Chhattisgarh State. The report was found inaccurate. Mr. 'X' purchased the shares of Modern Furnitures Limited on the basis of the above statement in the prospectus. Will Mr. 'X' have any remedy against the company? When an expert will not be liable? State the provisions of the Companies Act, in this respect.*

**Answer:**

**Mr. X is entitled to repudiate the allotment**

- ☞ since he purchased the shares relying on a mis-statement contained in the prospectus.
- ☞ he proves that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue, he forthwith gave a reasonable public notice that it was issued without his knowledge or consent.

🔗 **Question 6:**

*May. 2003*

*The Board of directors of a company decide to pay 5% of issue price as underwriting commission to the underwriters. On the other hand the articles of association of the company permit only 3% commission. The Board of directors further decides to pay the commission out of the proceeds of the share capital. Are the decisions taken by the board of directors valid under the Companies Act, 2013?*

**Answer:**

**The company cannot pay underwriting commission of 5%**

- ☞ since the rate of underwriting commission cannot be more than 5% of issue price of shares or such lower rate as prescribed under the articles (3% in the present case);
- ☞ since the maximum permissible underwriting commission in this case is 3%

**The company may pay underwriting commission out of the proceeds of the share capital.**

- ☞ since Rule 13 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 expressly permits payment of underwriting commission out of the proceeds of the issue, i.e. out of the proceeds of share capital.

**Question 7:**

**Nov. 2010**

*Unique Builders Limited decides to pay 2.5 percent of the value of debentures as underwriting commission to the underwriters but the Articles of the company authorize only 2.0 percent underwriting commission on debentures.*

*The company further decides to pay underwriting commission in the form of flats. Examine the validity of the above arrangements under the provisions of the Companies Act, 2013.*

**Answer:**

**The company cannot pay underwriting commission of 2.5%**

- ☞ since the rate of underwriting commission cannot be more than 2.5% of issue price of debentures or such lower rate as prescribed under the articles (2% in the present case);
- ☞ since the maximum permissible underwriting commission in this case is 2%.

**Payment of underwriting commission in the form of flats is permissible**

- ☞ since underwriting commission may be paid in cash or in kind or in lump sum or by way of a percentage (Booth v New Africander Gold Mining Co.);
- ☞ since there is no prohibition on payment of underwriting commission in kind.

## CHAPTER -4

### SHARE CAPITAL AND DEBENTURES

#### (A) Multiple Choice Question

1. **The subscribed capital of a company is:**

(a) never more than the issued capital	(b) never less than the issued capital
(c) always equal to the issued capital	(d) prescribed percentage of the issued capital
  
2. **Part of the capital for which application have been received from the public and shares allotted to them**

(a) nominal capital	(b) issued capital
(b) Subscribed capital	(d) Called up capital
  
3. **Shares which are issued by a company to its directors or employees at a discount or for a consideration:**

(a) Equity Shares	(b) Preference Shares
(c) Sweat Equity Share	(d) Redeemable preference shares

#### ANSWER KEYS

<b>1</b>	<b>2</b>	<b>3</b>
(a)	(c)	(c)

(B) PRACTICAL QUESTIONS

Question 1:

Nov 1999, 2005

'Sunrise Ltd' is authorized by its articles to accept the whole or any part of the amount of remaining unpaid calls from any member although no part of that amount has been called up. 'X', a shareholder of the Sunrise Ltd., deposits in advance the remaining amount due on his shares without any calls made by 'Sunrise Ltd'.

**Answer:**

**Acceptance of calls in advance by Sunrise Ltd. is valid (Sec. 50)**

- ☞ since Sunrise Ltd. has express provision in the articles authorizing it to accept calls in advance;
- ☞ since the power to receive calls in advance has been exercised for the benefit of the company.
- ☞ since the prospectus does not disclose all the material fact truly, honestly and accurately.

**Rights and liabilities of X**

- ☞ X shall not be entitled to any voting rights in respect of 'calls in advance' until the call becomes presently payable (Sec. 50)
- ☞ The dividend is paid on the nominal value of share. However, Sunrise Ltd. / shall pay dividend in proportion to the paid up capital held by each member, if the articles so provide (Sec. 51).
- ☞ Interest on calls in advance shall be paid to X at such rate as may be specified in the articles.
- ☞ X becomes an unsecured creditor of the company.
- ☞ The amount paid as calls in advance is non-refundable.

Question 2:

Nov. 2017

A Limited has an Authorized Capital of 10,00,000 equity shares of the face value of Rs. 100/- each. Some of the shareholders expressed their opinion in the Annual General Meeting that it is very difficult for them to trade in the shares of the Company in the share market and requested the Company to reduce the face value of each share to Rs. 10/- and increase the number of shares to 1,00,00,000. Examine whether the request of the shareholders is possible and if so, how the Company can alter its share capital as per the provisions of the Companies Act, 2013.

**Answer:**

**It is possible to reduce the nominal value of Rs. 10 per share.**

- ☞ if the articles of the company authorize it to do so; and
- ☞ if the company passes an resolution.

The notice of such alteration shall be given to the Registrar, within 30 days, along with a copy of altered memorandum.

Question 3:

May 2001, 2007, 2017

DJA Company Limited is holding 40% of total equity shares in MR Company Limited. The Board of Directors of MR Company Limited decided to raise the paid-up equity share capital by issuing further shares and also decided not to offer any shares to DJA Company Limited on the ground that it was already holding a high percentage of shares in MR Company Limited. Articles of Association of MR Company Limited provides that the new shares be offered to the existing shareholders of the company. On 1-9-2018 new shares were offered to all the shareholders except DJA Company Limited. Referring

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*to the provisions of the Companies Act, 2013 examine the validity of decision of Board of Directors of MR Company Limited of not offering any further shares to DJA Company Limited.*

**Answer:**

**The decision of the Board is not valid**

- ☞ since the refusal to offer shares to DJA Company Limited on the ground that is already holding a high percentage of shares, is not a valid ground as per Sec. 62.

**Question 4:**

**Nov. 2017**

*Shyam Dairy Ltd. a dairy products manufacturing company wants to set-up a new processing unit at Jaipur. Due to paucity of funds, the existing shareholders are not willing to fund for expansion. Hence, the Company approached XYZ Ltd. for subscribing to the shares of the company for expansion purposes. Can Shyam Dairy Ltd. issue shares only to XYZ Ltd. under the provisions of the Companies Act, 2013? If so, state the conditions.*

**Answer:**

**Shyam Dairy Ltd. can issue further shares to XYZ Ltd.**

- ☞ if a special resolution authorizing the issue of shares to XYZ Ltd. is passed in a GM of Shyam Dairy Ltd.; and
- ☞ the shares are issued to XYZ Ltd. at a price as is determined by the valuation report of a registered valuer.

**Mr. N cannot claim damages from the company**

- ☞ since Mr. N is not an original allottee of shares;
- ☞ since Mr. N did not subscribe for shares on the faith of a misleading prospectus (*Peek v. Gurney*)

**Question 5:**

**Nov. 2010**

*The Board of Directors of XYZ Private Limited, a subsidiary of SRN Limited, decides to grant a loan of Rs. 2.00 lac to P, the finance manager of the company getting salary of Rs. 30,000 per month, to buy 400 partly paid –up equity shares of Rs. 1,000 each of XYZ Limited. Examine the validity of Board's decisions with reference to the provisions of the Companies Act.*

**Answer:**

**XYZ Private Limited shall be treated as a public company.**

- ☞ since it is a subsidiary of a public company [Sec. 2(71)].
- ☞ since the loan of Rs. 2 lakh given to the Finance Manager exceeds his 6 months' salary;
- ☞ since the loan is given for purchase of partly paid shares.

**Question 6:**

**Nov. 2002, 2016**

*ABC Company Limited at a general meeting of members of the company passes an ordinary resolution to buy-back 30% of its equity share capital. The articles of the company empower the company for buy-back of shares. The company further decides that the payment for buy-back be made out of the proceeds of the company's earlier issue of equity shares. Explaining the provisions of the Companies Act, and stating the sources through which the buy-back of companies own shares be executed, examine:*



# SPC KE SAARE AIR Of NOV-2018

## EK HI SAATH EK HI PLATFORM PAR

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1. Whether company's proposal is in order?
2. Would you answer be still the same in case the company, instead of 30%, decides to buy-back only 20% of its equity share capital?

### Answer:

#### The proposal of the company to buy-back its shares is not valid

- ☞ since the company has passed OR instead of SR, as required u/s 68;
- ☞ since the company proposes to buy-back 30% of the equity share capital which exceeds the statutory ceiling of 25% of total paid up equity capital;
- ☞ since the company proposes to buy-back out of the proceeds of an earlier issue of same kind of shares, which is prohibited u/s 68.

#### The decision to buy-back 20% of equity share capital shall not be valid

- ☞ since buy-back by passing OR is violative of Sec. 68;
- ☞ since buy-back out of the proceeds of an earlier issue of same kind of shares is prohibited u/s 68.

### Question 7:

May. 2018

*Xgen Limited has a paid-up equity capital and free reserves to the extent of Rs. 50,00,000. The company is planning to buy-back shares to the extent of Rs. 4,50,000. The company approaches you for advice with regard to the following:*

1. Is special resolution required to be passed?
2. What is the time limit for completion of buy-back?
3. What should be ratio of aggregate debts to the paid-up capital and free reserves after buy-back?

### Answer:

#### Special resolution is not required to be passed

- ☞ since the buy-back shall not exceed 10% of aggregate of paid up equity shares capital and free reserves.

#### The buy-back has to be completed

- ☞ within 1 year of passing the resolution for buy-back.

#### Debt equity ratio

- ☞ The ratio of debt (secured as well as unsecured debt) owed by the company must not be more than twice the aggregate of paid up capital and free reserves after such buy-back.

### Question 8:

Nov. 2015, May 2018

*A company refuses to register transfer of shares made by Mr. X to Mr. Y. The company does not even send a notice of refusal to Mr. X or Mr Y respectively within the prescribed period. Has the aggrieved party any right(s) against the company for such refusal? Advise as per the provisions of the Companies Act, 2013.*

### Answer:

#### The company has contravend Sec. 58

- ☞ since, in case of refusal by a company to transfer the shares, the company is required to send notice of refusal to the transferor and the transferee within 30 days of receipt of transfer deed;

#### Rights against company's refusal

- ☞ Mr. Y is entitled to file an appeal to the Tribunal against the refusal of the company to transfer the shares;

☞ Mr. X has no right to appeal against the refusal of the company to transfer the shares.

**Order of the Tribunal**

- ☞ The Tribunal may direct the company to register the transfer of shares.
- ☞ The company shall comply with the order of Tribunal within 10 days.
- ☞ The Tribunal may direct the company to pay damages, if any, sustained by any party aggrieved.

**Question 9:**

**May 1997**

*500 equity shares in 'XYZ Limited were acquired by Mr. 'B'. But the signature of Mr. 'A', the transferor, on the transfer deed was forged. Mr. 'B', after getting the shares registered by the company in his name, sold 200 equity shares to Mr. 'C' on the strength of the share certificate issued by XYZ Limited. Mr 'B' and Mr. 'C' were not aware of the forgery. What are the rights of Mr. 'A', 'B' and 'C' against the company with reference to the aforesaid shares?*

**Answer:**

**Rights of Mr. A:**

☞ He can compel the company to restore his name on the register of members (since a forged transfer is without any legal effect and the true owner continues to be the member of the company).

**Liabilities of B**

☞ 'B' is liable to compensate the loss caused to the company since he had lodged the forged transfer deed, even though he was not aware of the forgery.

**Rights of C**

- ☞ The company can refuse to register 'C' as a member.
- ☞ The company is liable to 'C' since the company had issued the share certificate to B, and therefore, the company shall be stopped from denying the liability accruing to it from its own default.

**Question 10:**

**Nov. 2006**

*X had applied for the allotment of 1,000 shares in a company. No allotment of shares was made to him by the company. Later on, without any further application from X, the company transferred 1,000 partly-paid shares to him and placed his name in the Register of members. X, knowing that his name was placed in the Register of Members, took no steps to get his name removed from the Register of Members. The company later on made final call. X refuses to pay for this call. Referring to the provisions of the Companies Act, examine whether his (X's) refusal to pay for the call is tenable and whether he can escape himself from the liability as a member of the company.*

**Answer:**

**Register of members is a prima facie evidence:**

☞ of any matters directed or authorized to be inserted therein by the Act (Sec. 95).

**X is a member by estoppels**

☞ since he knowingly permitted inclusion of his name in the register of members.

**X is a liable to pay the final call**

☞ since a member by estoppels is liable to pay the unpaid calls.

**Question 11:**

**Nov. 2004**

*M/s Honest Cycles Ltd. has received an application for transfer of 1,000 equity shares of Rs. 10 each fully paid up in favour of Mr. Balak. On scrutiny of the application form it was found that the*

## SWAPNIL PATNI CLASSES

*applicant is minor. Advise the company regarding the contractual liability of a minor and whether shares can be allotted to Balak by way of transfer.*

### **Answer:**

**The company is advised to transfer fully paid shares to Mr. Balak.**

- ☞ since a minor can become a member, if the shares are fully paid up;
- ☞ since there is no question of liability of minor if the shares are fully paid up.

### **Question 12:**

**June. 2009**

*X, a minor purchased 500 equity shares of Rs. 10 each of a company, on which only Rs. 5 per share were paid, from the Mumbai Stock Exchange, and submitted an application to the company for transfer of these shares in his name. Examining the provisions of the Companies Act, decide whether these shares can be transferred to X.*

### **Answer:**

**The company is advised not to transfer partly paid shares to X, the minor**

- ☞ since a minor is not bound to pay the unpaid calls;
- ☞ since such transfer does not create any contractual relations between the minor and the company;
- ☞ since if the shares are transferred to the minor, the minor or the company may afterwards, repudiate such transfer.

**CHAPTER -5**  
**ACCEPTANCE OF DEPOSITS BY COMPANIES**

**(A) Multiple Choice Questions**

1. An eligible company as per section 76, which is accepting deposits within the limits specified under section 180 (1) (c) may accept deposits by means of \_\_\_\_\_
  - (a) ordinary resolution
  - (b) unanimous resolution
  - (c) special resolution
  - (d) special resolution and approval of Central Government
  
1. Every company shall pay a penal rate of interest for the overdue period in case of deposits, whether secured or unsecured, matured and claimed but remaining unpaid.
  - (a) 9% p.a.
  - (b) 10% p.a.
  - (c) 12% p.a.
  - (d) 18% p.a.
  
2. A reserve account that shall not be used by the company for any purpose other than repayment of deposits is called:
  - (a) Cancellation of the existing contract
  - (b) Change in one or more terms of the contract
  - (c) Substitution of existing contract for a new one
  - (d) None of these
  
4. Where depositors so desire, deposits may be accepted in joint names not exceeding \_\_\_\_\_
  - (a) 2
  - (b) 3
  - (c) 5
  - (d) 7
  
4. No deposits are repayable earlier than \_\_\_\_\_ from the date of such deposits or renewal thereof.
  - (a) 3 months
  - (b) 6 months
  - (c) 12 months
  - (d) 1 year

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
(a)	(d)	(b)	(b)	(a)

**(B) PRACTICAL QUESTION**

Question 1:

Nov 2017

'ABC Ltd. having a net worth of ₹ 80 crores and turnover of ₹ 30 crores wants to accept deposits from public other than its members. Referring to the provisions of the Companies Act, 2013, state the conditions and the procedures to be followed by ABC Ltd. for accepting deposits from public other than its members.

Answer:

**ABC Ltd. is not eligible to accept deposits from the public**

Since its net worth is not ₹ 100 crore or more and its turnover is not ₹ 500 crore or more.

**CHAPTER -6  
REGISTRATION OF CHARGES**

**(A) Multiple Choice Question**

1. **The company's instrument creating a charge or modification thereon shall be preserved for a period of years from the date of satisfaction of charge by the company.**  
 (a) 5 (b) 7  
 (c) 8 (d) 15
  
2. **On receipt of intimation of satisfaction of charge, the registrar issues a notice to the holder calling a show cause within such time not exceeding days as to why payment or satisfaction in full should not be regarded as intimated to the Registrar:**  
 (a) 14 (b) 21  
 (c) 30 (d) 300
  
3. **The Registrar of charges and instrument of charges, shall be open for inspection during \_\_\_\_\_**  
 (a) Working hours (b) Business hours  
 (c) At all times (d) 9 am to 5 pm
  
4. **Any person acquiring property (on which charge is registered under section 77) shall be deemed to have notice of the charge from:**  
 (a) end of 30 days (b) date of application for charge  
 (c) date acquiring the property (d) date of such registration
  
5. **An interest or lien created on the property or assets of a company or any of its undertakings or both as security is known as:**  
 (a) Debt (b) Charge  
 (c) Liability (d) Hypothecation

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
(c)	(a)	(b)	(d)	(b)



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एक ही साथ, एक ही मंच पर

(B) PRACTICAL QUESTIONS

Question 1:

Nov 2007, June 2009

While sanctioning working limit, the rate of interest has been fixed at a specified percentage above the bank rate as notified by the Reserve Bank of India.

There was a change in the interest rate due to Reserve Bank of India notification issued later. The Bank insisted on filing a return of notification of charges. Is the stand of bank correct? Discuss, in the light of the provisions of the Companies Act, 2013.

Answer:

**There is no modification of charge**

- ☞ since a change in the interest rate does not amount to a modification in terms and conditions of the charge;
- ☞ since the Department of Company Affairs has also advised the same.

**The stand of the bank is not correct**

- ☞ since there is no modification of charge, and so Sec. 79 is not attracted.

Question 2:

May 2008

A charge requiring registration with Registrar of Companies was created on 1<sup>st</sup> August, 2018 by XYZ Limited. The Secretary of the Company realized on 15<sup>th</sup> September, 2018 that the charge was not filed with the Registrar. State the steps to be taken by the Secretary to get the charge registered with the Registrar.

Answer:

**Registrar may register the charge created on 01.08.2018**

- ☞ since if a charge is not registered within 30 days of its creation, the Registrar may, on application made to him by the company, allow the registration of charge after 30 days of its creation, but within 300 days of creation of charge. The company shall pay such additional fees as may be prescribed.

Question 3:

May 2008, 2016

ABC Limited realized on 2<sup>nd</sup> November, 2018 that particulars of charge created on 12<sup>th</sup> September, 2018 in favour of a Bank were not filed with the Registrar of Companies for Registration. What procedure should the company follow to get the charge registered with the Registrar of Companies? Would the procedure be different if the charge was created on 12<sup>th</sup> September, 2018 instead of 12<sup>th</sup> September, 2018? Explain with reference to the relevant provisions of the Companies Act, 2013.

Answer:

**Registrar may register the charge created on 12.09.2018**

- ☞ since if a charge is not registered within 30 days of its creation, the Registrar may, on application made to him by the company, allow the registration of charge after 30 days of its creation, but within 300 days of creation of charge. The company shall pay such additional fees as may be prescribed (Sec. 77)



**CG may condone the delay if the charge was created on 12.09.2018**

☞ since if a charge is not registered within 300 days of its creation, the company may make an application to CG for condonation of delay, and CG may condone such delay, i.e. CG may allow the extension of time for registration of the charge (Sec. 87)

**Question 4:**

**Nov. 2016**

*MNC Limited realized on 2<sup>nd</sup> May, 2018 that particular of charge created on 12<sup>th</sup> March, 2018 in favour of a Bank were not filed with Registrar of Companies for Registration. What procedure should the company follow to get the charge registered with the Registrar of Companies? Would the procedure be different if the charge was created on 12<sup>th</sup> February, 2018 instead of 12<sup>th</sup> March, 2018? Explain with reference to the relevant provisions of the Companies Act, 2013.*

**Answer:**

**Registrar may register the charge created on 12<sup>th</sup> March, 2018**

☞ since if a charge is not registered within 30 days of its creation, the Registrar may, on application made to him by the company, allow the registration of charge after 30 days of its creation, but within 300 days of creation of charge. The company shall pay such additional fees as may be prescribed (Sec. 77).

**There will be no difference even if the charge was created on 12<sup>th</sup> February, 2018**

☞ since in this case also, the charge is filed with the Registrar after 30 days of its creation but within 300 days of its creation, and so the Registrar may allow the registration of the charge on payment of such additional fees as may be prescribed (Sec. 77).

**CHAPTER -7**  
**MANAGEMENT AND ADMINISTRATION**

**(A) Multiple Choice Questions**

1. A resolution shall be a special resolution when the votes cast in favour of the resolution by members are not less than \_\_\_\_\_ the number of votes, if any, cast against the resolution.
 

(a) Twice	(b) Three times
(c) One third	(d) One fourth
  
2. Register of members, debenture holders, other security holders or copies of return may also be kept at any other place in India in which more than \_\_\_\_\_ of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company and the Registrar has been given a copy of the proposed special resolution in advance.
 

(a) one-half	(b) one-eight
(c) one-tenth	(b) one-third
  
3. The Registrar may grant an extension by \_\_\_\_\_ , for holding the Annual General Meeting to any company for special reasons (except in the case of first AGM of the company).
 

(a) 1 Month	(b) 2 Months
(c) 3 Months	(d) 6 Months
  
4. Every listed company shall file with the Registrar a copy of the report on each annual general meeting within \_\_\_\_\_ of the conclusion of the annual general meeting.
 

(a) 7 days	(b) 30 days
(c) 3 months	(d) 90 days

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
(c)	(a)	(d)	(b)

(B) PRACTICAL QUESTIONS

Question 1:

May 2018

*Bazaar Limited called its AGM in order to lay down the financial statements for Shareholders' approval. Due to want of Quorum, this meeting was cancelled. The directors did not file the annual returns with the Registrar. The directors were of the idea that the time for filing of returns within 60 days from the date of AGM would not apply, as AGM was cancelled. Has the company contravened the provisions of Companies Act, 2013? If the company has contravened the provisions of the Act, how will it be penalized?*

Answer:

**Bazaar Limited has contravened Sec. 92**

If it has not filed the annual return within 60 days of the last date AGM ought to have been held.

**Penalty**

If a company fails to file its annual return, before the expiry of the period specified in section 403 with additional fee, then the punishment shall be as follows:

- (a) Punishment for the company: Minimum fine of ₹ 50,000 and maximum fine of ₹ 5 lakh.
- (b) Punishment for every officer of the company who is in default:
  - 1. Imprisonment upto 6 months; or
  - 2. Fine: Minimum ₹ 50,000; Maximum ₹ 5 lakh; or
  - 3. Both

Question 2:

May 2018

*M/s. Techno Ltd. maintains its Register of Members at its registered office in Mumbai. A group of members residing in Kolkata want to keep the register of members at Kolkata.*

- 1. Explain with provisions of Companies Act, 2013, whether the company can keep the Registers and Returns at Kolkata.
- 2. Does Mr. Ranjit, Director (but not a shareholder) of the company have the right to inspect the Register of Members?

Answer:

**1. The company can keep the registers and returns at Kolkata**

If

- (i) More than 10% of the total number of members reside at Kolkata;
- (ii) SR is passed in GM. And
- (iii) The Registrar has been given in advance a copy of the proposed SR.

**2. Mr. Ranjit is entitled to inspect the register of members**

Since Sec. 94 entitles any person (even if he is not a member) to make inspection of registers and returns;

On payment of such fee as may be specified in the articles of the company but not exceeding ₹ 50 for each inspection

**Question 3:**

**Nov. 2007**

*XYZ Limited called its Annual General meeting on 28<sup>th</sup> September, 2018. The notice of the meeting was posted on 6<sup>th</sup> September, 2018. With reference to the provisions of the Companies Act, 2013 examine whether the notice given by the company was valid.*

**Answer:**

Day of holding the AGM	28 <sup>th</sup> September, 2018.
Day of dispatch of notice	6 <sup>th</sup> September, 2018.
Days to be excluded	<ul style="list-style-type: none"> <li>➤ Day of holding the AGM (i.e. 28<sup>th</sup> September, 2018)</li> <li>➤ Day of dispatch of notice (6<sup>th</sup> September, 2018)</li> <li>➤ 2 days for service of notice (i.e. 7<sup>th</sup> and 8<sup>th</sup> September, 2018)</li> </ul>
Number of days notice given	19 days.
Number of days notice required u/s 101	21 days.
1. AGM has not been validly called	since 21 days notice of the AGM has not been given to the members.
2. The notice is short	By 2 days.
3. The shortfall may be condoned	If consent is given for such shorter notice by at least 95% of the members entitled to vote at such AGM.

**Question 4:**

**May 2006, May 2007**

*A company served a notice of general meeting upon its members. The notice stated that a resolution to increase the share capital of the company would be considered as such meeting. A shareholder complains that the amount of the proposed increase was not specified in the notice. Is the notice valid?*

**Answer:**

**Increase in share capital**  
 ☞ is an item of special business  
**Explanatory statement is required**  
 ☞ for every item of special business.  
**Material facts must be disclosed**  
 ☞ in the explanatory statement.  
**Amount of proposed increase in share capital**  
 ☞ is a material fact which ought to be disclosed in the explanatory statement;  
 ☞ since the explanatory statement must contain all the information and all the facts that may enable the members to understand the meaning, scope and implications of the items of business and to take decision thereon.  
**The notice is not valid in the given case**  
 ☞ since the provisions of Sec. 102 are mandatory;  
 ☞ since notice given, or any resolution passed in the GM, without containing the explanatory statement or without disclosing the material facts, is invalid.

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**Question 5:**

**May 2009**

*M.H. Company Limited served a notice of general meeting upon its shareholders. The notice stated that the issue of sweat equity shares would be considered at such meeting. Mr. A, a share holder of the M.H. Company Limited complains that the issue of sweat equity shares was not specified fully in the notice. Is the notice issued by M.H. Company Limited regarding issue of sweat equity shares valid according to the provisions of the Companies Act, 2013? Explain fully.*

**Answer:**

**Issue of sweat equity shares**

☞ Is an item of special business.

**Explanatory statement is requirement**

☞ For every item of special business.

**Material facts must be disclosed**

☞ In the explanatory statement.

**Material facts in the given case are**

- (a) Number of shares
- (b) Current market price
- (c) Consideration
- (d) The class of directors or employees to whom such equity shares shall be issued (Sec. 54)

**The notice is not valid in the given case**

- ☞ Since the provisions of Sec. 102 are mandatory;
- ☞ Since notice given, or any resolution passed in the GM, without containing the explanatory statement or without disclosing the material facts, is invalid.

**Question 6:**

**May 2009**

*The articles of association of X Ltd. require the personal presence of 7 members to constitute quorum of general meetings. The following persons were present in the extra-ordinary general meeting to consider the appointment of Managing Director:*

- 1. A, the representative of Governor of Madhya Pradesh.
- 2. B, and C, shareholders of preference shares,
- 3. D, representing Y Ltd. and Z Ltd.
- 4. E, F, G and H as proxies of shareholders.

*Can it be said that the quorum was present in the meeting?*

**Answer:**

**A shall be treated as a member personally present**

☞ since he is the representative of the Governor of Madhya Pradesh (Sec. 112).

**B and C are not members personally present**

- ☞ since preference shareholders can vote only in relation to such matters which directly affect their rights;
- ☞ since appointment of MD does not directly affect the rights of preference shareholders.

**D shall be treated as two members personally present**

☞ since each of the two body corporates shall be treated as a member personally present (Sec. 113).

**The quorum is not present in the given case**

- ☞ since the quorum can be increased by the articles (from 5 to 7, in the given case);
- ☞ since only 3 members are personally present in the given case, but quorum required is 7.

**Question 7:**

**May 2009**

*DJA Company Ltd. has only 50 preference shareholders. A meeting of the preference shareholders was called by the company for amending the terms of these shares. Mr. A, was the only preference shareholder who attended the meeting. He, however, held proxies from all other shareholders. He took the Chair, conducted the meeting and passed a resolution for amending the terms of the issue of these shares. Referring to the provisions of the Companies Act, examine the validity of meeting and the resolution passed thereat.*

**Answer:**

**Sharp v Dawes**

☞ A meeting means coming together of more than one person. Therefore, one member cannot constitute a meeting.

**The meeting and resolutions passed thereat are not valid**

- ☞ since presence of a single member (viz. Mr. A) does not constitute a meeting;
- ☞ since same judgment was given in Sharp V Dawes.

**Question 8:**

**Nov. 2007**

*The quorum for a General meeting of a public company is 15 members personally present according to the provisions of the articles of association of the company. Examine with reference to the provisions of the Companies Act, 2013, whether there is proper quorum at a General meeting of the company which was attended by the following persons:*

1. 13 members personally present
2. 2 members represented by proxies who are not members of the company
3. One person representing two member companies.

**Answer:**

**Required quorum**

☞ 15 members personally present (since the quorum can be increased by the articles).

**Member personally present**

☞ 13

**Members present by proxies**

☞ 2

☞ Not counted in quorum.

**Representative**

☞ Representing two companies is counted as two members personally present (Sec. 113)

**Total number of members personally present**

☞ 15

**Whether quorum is present?**

☞ Yes

**Question 9:**

**Nov. 2008**

*State the legal position in the following circumstances with reference to the provisions in the Companies Act, 2013. At an adjourned extraordinary general meeting of a Public Ltd. Company adjourned for want of quorum, only 3 members are personally present.*

Answer:

**The quorum is present at the adjourned EGM**

☞ since if an EGM is not held for want of quorum, and at the adjourned EGM also, quorum is not present within half an hour from the time fixed for holding the adjourned EGM, then, the members present shall be the quorum [Sec. 103(3)]

Question 10:

June. 2009

*The Board of Directors of ABC Limited called an Extra-ordinary General Meeting of the company to transact certain urgent matters. The meeting could not be held for want of requisite quorum. As a result, the meeting was adjourned to next week. Again, at the adjourned meeting also the requisite quorum was not present. Members present at this meeting held the meeting and passed certain resolutions. With reference to provisions of Companies Act, examine the validity of the meeting and state whether resolutions passed at such meeting shall be binding upon the company and its members.*

Answer:

**The resolutions passed at the EGM are valid and binding**

☞ since if an EGM is adjourned for want of quorum, and the required quorum is again not present in the adjourned EGM, then, the members present shall be deemed to be the quorum [Sec. 103(3)]

Question 11:

May. 2015

*The Annual General Meeting of KMP Limited was held on 30<sup>th</sup> April, 2018. The Articles of Association of the company is silent regarding the quorum of the General Meeting. Only 10 members were personally present in the above meeting, out of the total 2,750 members of the company. The Chairman adjourned the meeting for want of quorum. Referring to the provisions of the Companies Act, 2013, examine the validity of Chairman's decision.*

Answer:

**The required quorum is**

☞ 15 members personally present since the total number of members of the company exceed 1,000 but does not exceed 5,000.

**The AGM shall automatically adjourn**

☞ To the same day, time and place in the next week, or to such other date, time and place as the Board may determine, since the quorum is not present within half an hour from the time fixed for the commencement of the meeting.

**The question of adjournment by the chairman does not arise**

☞ since, in case of absence of quorum, the meeting automatically adjourns without requiring any direction by the chairman regarding adjournment.

Question 12:

May. 2010

*K, a member of MNO Limited appoints L as his proxy to attend the general meeting of the company. Later he (K) also attends the meeting. Both K (the member) and L (the proxy) vote on a particular resolution in the meeting. K's vote was declared invalid by the Chairman stating that since he has appointed the proxy, L's vote has been considered as valid. K objects to the decision of the Chairman. Decide, under the provision of the Companies Act, 2013 whether K's objections shall be tenable.*

Answer:



**The appointment of L as proxy is revoked**

☞ when K, the member, himself attends the GM.

**Vote of L, the proxy, is void**

☞ since, when K, the member, himself attends the GM, the proxy is revoked, and so, L has no right to vote.

**K's objection is tenable**

☞ since the Chairman has erroneously considered L's vote as valid.

**Question 13:**

**Nov. 2013**

*A, a shareholder, of a company, appointed B, as a proxy, to attend the general meeting of the shareholders. Later on, A, himself, attended the meeting and voted on a resolution. Decide whether A can do so?*

**Answer:**

**The appointment of B as proxy is revoked.**

☞ when A, the member, himself attends the GM

**Vote of A, the member, is valid**

☞ since, when A, the member, himself attends the GM, the proxy is revoked, and so, A, the member, is entitled to vote.

**Question 14:**

**Nov. 2004**

*Annual General Meeting of a Public Company was scheduled to be held on 15.12.2003. Mr. A, a shareholder, issued two Proxies in respect of the shares held by him in favour of Mr. 'X' and Mr. 'Y'. The proxy in favour of 'Y' was lodged on 12.12.2003 and the one in favour of Mr. X was lodged on 15.12.2003. The company rejected the proxy in favour of Mr. Y as the proxy in favour of Mr. Y was of dated 12.12.2003 and that in favour of Mr. X was of dated 13.12.2003. Is the rejection by the company in order?*

**Answer:**

**Proxy in favour of Y**

☞ dated 12.12.2003, lodged with the company on 12.12.2003.

**Proxy in favour of X**

☞ dated 13.12.2003, lodged with the company on 15.12.2003.

**Proxy in favour of X shall be rejected**

☞ since proxy form appointing X as proxy was not lodged with the company within the prescribed time, i.e. at least 48 hours before the AGM.

**Proxy in favour of Y shall be valid**

☞ and, therefore, the action taken by the company is not valid.

**Question 15:**

**May. 2017**

*A General Meeting was scheduled to be held on 15<sup>th</sup> April, 2016 at 4.00 P.M. As per the notice the members who are unable to attend the meeting in person can appoint a proxy and the proxy forms duly filled should be sent to the company so as to reach at least 48 hours before the meeting. Mr. X, a member of the company appoints Mr. Y as his proxy and the proxy form dated 10-04-2016 was deposited by Mr. Y with the company at its Registered Office on 11-04-2016. However, Mr. X changes his mind and on 12-04-2016 gives another proxy to Mr. Z and it was deposited on the same day with*

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*the company. Similarly, another member Mr. W also gives two separate proxies to two individuals named Mr. M and Mr. N. in the case of Mr. M, the proxy dated 12-04-2016 was deposited with the company on the same day and the proxy form in favour of Mr. N was deposited on 14-04-2016. All the proxies viz. Y, Z, M and N were present before the meeting.*

*According to the provisions of the Companies Act 2013, who would be the persons allowed to represent as proxies for members X and W respectively?*

**Answer:**

**Proxy appointed by Mr. X in favour of Mr. Y**

☞ is dated 10.04.2016, and is deposited with the company on 11.04.2016.

**Proxy appointed by Mr. X in favour of Mr. Z**

☞ is dated 12.04.2016, and is deposited with the company on same day viz. 12.04.2016.

**Mr. Z shall be allowed as Proxy for Mr. X in the GM**

☞ since proxy form appointing Mr. Z as proxy was signed by the member, Mr. X later in point of time, and it was deposited with the company within the prescribed time, i.e. at least 48 hours before the GM.

**Proxy appointed by Mr. W in favour of Mr. M**

☞ is dated 12.04.2016, and is deposited with the company on same day viz. 12.04.2016.

**Proxy appointed by Mr. W in favour of Mr. N**

☞ is dated 12.04.2016, and is deposited with the company on 14.04.2016.

**Proxy appointed by Mr. W in favour of Mr. N shall be rejected**

☞ since, proxy form appointing N as proxy was not deposited with the company within the prescribed time, i.e. at least 48 hours before the GM.

**Mr. M shall be allowed as proxy for Mr. W in the GM.**

☞ since, by reason of rejection of proxy form in favour of Mr. N, only one valid proxy form in favour of Mr. M has reached the company within the prescribed time of at least 48 hours before the GM.

**Question 16:**

**May. 2008**

*The Chairman of the meeting of a company received a Proxy 54 hours before the time fixed for the start of the meeting. He refused to accept the Proxy on the ground that the Articles of the company provided that a Proxy must be filed 60 hours before the start of the meeting. Decide, under the provisions of the Companies Act, whether the Proxy holder can compel the Chairman to admit the Proxy?*

**Answer:**

**The refusal of the Chairman is not valid.**

☞ since a proxy lodged with the company 48 hours before the time fixed for commencement of the meeting is valid;

☞ since the time limit of 48 hours can be decreased, but cannot be increased.

**Question 17:**

**June. 2009**

*Annual General Meeting, of MGR Limited is convened on 28<sup>th</sup> December, 2018. Mr. J, who is a member of the company, approaches the company on 28<sup>th</sup> December, 2018 and demands inspection of proxies lodged with the company. Explain the legal position as stated under the Companies Act, 2013 in this regard.*

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**Answer:**

**Mr. J is not entitled to inspect proxies**

☞ since a member who intends to inspect the proxies has to give notice to the company of his intention to do so, at least 3 days before the commencement of the GM.

**Question 18:**

**June. 2009**

*Golden Private Limited in its Articles of Association provides a format of 'proxy form' different from the one prescribed under the Companies (Management and Administration) Rules, 2014. S, a shareholder submits an instrument appointing proxy to the company in the form as prescribed under the Companies (Management and Administration) Rules, 2014. The company rejects the proxy on the ground that it is not in the form as prescribed in Articles of Association of the company. Is the rejection valid under the provisions of Companies Act, 2013? Decide giving reasons.*

**Answer:**

**The rejection of proxy form by the company is not valid**

- ☞ since a company cannot reject a proxy form if it is in the same form as may be prescribed (Form No. MGT-11 has been prescribed for appointment of proxy).
- ☞ even though the proxy form used by the member does not comply with any special requirements specified in the articles of the company.

**Question 19:**

**Nov. 2007**

*What is the concept of proxy in relation to the meetings of a Company? Decide the appointment and rights of a proxy, under the Companies Act, 2013, in the following cases:*

1. *When a body corporate is a member in the company.*
2. *When a foreign company is a member in the company.*

**Answer:**

**A body corporate is entitled to appoint a representative**

- ☞ As per the provisions of Sec. 113.
- ☞ Such representative shall be entitled to exercise the same rights and powers (including the right to vote by proxy) on behalf of such body corporate, as if it were an individual member.

**The foreign company is also entitled to appoint a representative as per Sec. 113.**

- ☞ since the provisions of Sec. 113 are applicable not only to companies but also to foreign companies;
- ☞ since Sec. 113 uses the words, "a body corporate (whether a company within the meaning of this Act or not)".

**Question 20:**

**Nov. 2005**

*C a member of LS & Co. Ltd., holding some shares in his own name on which final call money has not been paid, is denied by the company voting right at a general meeting on the ground that the articles of association do not permit a member to vote if he has not paid the calls on the shares held by him. With reference to the provisions of the Companies Act, 2013 examine the validity of company's denial to C of his voting right.*

**Answer:**

- ☞ since the member is restrained from exercising his voting right on one of the grounds specified u/s 106 (viz. Non-payment of calls on shares);
- ☞ since the ground restricting voting right is contained in the articles.

**Question 21:**

Nov. 2009

*The articles of ABC Limited provided that only those shareholders would be entitled to vote whose names have been there on the Register of Members of two months before the date of the meeting. X, a member, of the ABC Limited was holding 200 equity shares of the company. X transferred his shares to Y before one month from the date on which the meeting was due. The name of Y could not be entered in the Register of Members as the application of transfer of shares was pending. X attended the meeting but he was prohibited by the company from exercising his voting right on the ground that he has not hold his shares for specified period as provided in the articles before the date of the meeting.*

*State whether X can exercise his voting right in the meeting? State also the grounds upon which X may be excluded from exercising his voting rights in the meeting of the shareholders.*

**Answer:**

**X is entitled to vote at the GM**

- ☞ since a company cannot restrict the voting rights of a member on any ground other than the grounds specified u/s 106;
- ☞ since the restriction of voting right on the ground that a member has not held his shares for 2 months, is not a specified ground u/s 106.

**Question 22:**

May. 2010

*J held 100 partly paid up shares of LKM Limited. The company asked him to pay the final call money on the shares. Due to some unavoidable circumstances he was unable to pay the amount of call money to the company. At a general meeting of the shareholders, the chairman disallowed him to cast his vote on the ground that the articles do not permit a shareholder to vote if he has not paid the calls on the shares held by him J contested the decision of the Chairman. Referring to the provisions of the Companies Act, 2013 decide whether the contention of J is valid.*

**Answer**

**The contention of J is not valid**

- ☞ since he is restrained from exercising his voting right on one of the grounds specified u/s 106 (viz. non-payment of calls on shares);
- ☞ since the ground restricting voting right is contained in the articles.

**Question 23:**

Nov. 2007

*For a special resolution in a Company's general meeting, 10 voted in favour, 2 against and 4 abstained. The chairman declared the resolution as passed. Is it a valid resolution as per the provisions of the Companies Act, 2013?*

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**Answer:**

Votes cast in favour	10
Votes cast against the resolution	2
Members abstained from voting	4
SR is passed	<ul style="list-style-type: none"> <li>☞ since votes cast in favour of the resolution (viz. 10) are not less than 3 times the votes cast against the resolution (viz. 2).</li> <li>☞ since members abstaining from voting are ignored.</li> </ul>

**Question 24:**

**Nov. 2008**

*Developers Ltd. held a General Meeting of shareholders for passing a special resolution regarding alteration of Articles of Association. Out of the members present in the meeting 20 voted in favour, 4 against and 8 members did not vote and abstained from voting. The Chairman of the meeting declared the resolution as passed. Is it a valid resolution as per the provisions of the Companies Act, 2013?*

**Answer:**

Votes cast in favour	20
Votes cast against the resolution	4
Members abstained from voting	8
SR is passed	<ul style="list-style-type: none"> <li>☞ since votes cast in favour of the resolution (viz. 20) are not less than 3 times the votes cast against the resolution (viz. 4).</li> <li>☞ since members abstaining from voting are ignored.</li> </ul>

**Question 25:**

**May 2018**

*Benson Limited issued a notice with the agenda for nine businesses to be transacted in the Annual General Meeting (two businesses were regarding appointment of Mr. Sahu and Mr. Pranav as directors). The chairman decided to move the resolutions for all the nine businesses together to save the time of the members present. Examine the validity of the resolutions.*

**Answer:**

**Moving a single resolution for 9 businesses (including two businesses for appointment of 2 directors) is not valid.**

☞ Since it is prohibited as per the provisions of Sec. 162.

**Question 26:**

**May 2005**

*The minutes of the meeting must contain fair and correct summary of the proceedings thereof. Can the Chairman direct exclusion of any matter from the minutes? Some of the shareholders insist on inclusion of certain matters which are regarded as defamatory of a director of the company. The Chairman declines to do so. State how the matter can be resolved.*

**Answer:**

**Chairman has the power**

- ☞ To determine whether a matter is defamatory of any person or not;
- ☞ To direct not to include in the minutes any matter which is defamatory of any person.

**Refusal by Chairman is valid**

☞ Since the matter discussed in GM is, in the opinion of the Chairman, defamatory of a director.

**Question 27:**

**May 2007**

*XYZ Limited held its Annual General Meeting on September 15, 2018. The meeting was presided over by Mr. V, the Chairman of the Company's Board of Directors. On September 17, 2018, 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, 2013, state the manner in which the minutes of the above meeting are to be signed in the absence of Mr. V and by whom.*

**Answer:**

**Minutes of AGM are to be signed by a director duly authorized by Board**

- ☞ Within a period of 30 days of conclusion of AGM, i.e. on or before 15.10.2018
- ☞ Since in case of death or inability of the Chairman of the same GM, the minutes are to be signed by a director duly authorized by the Board in this behalf.

**Question 28:**

**May 2008**

*MN Limited held its Annual General Meeting on 27<sup>th</sup> March, 2018. Mr. M, the Chairman of the said meeting died on 1<sup>st</sup> April, 2018, when minutes of the annual general meeting were not yet recorded and signed. How would you deal with the situation? Would your answer be different in case the meeting held on 27<sup>th</sup> March, 2018 was a Board meeting?*

**Answer:**

**Minutes of AGM are to be signed by a director duly authorized by Board**

- ☞ Within 30 days of the conclusion of AGM, i.e. on or before 26.04.2018
- ☞ Since in case of death or inability of the Chairman of the same GM, the minutes are to be signed by a director duly authorized by the Board in this behalf.

**In case the meeting held was a Board meeting, then**

- ☞ The minutes are required to be signed within 30 days of the conclusion of such meeting;
- ☞ By the Chairman of the same meeting, viz. 27.03.2018 or the Chairman of next succeeding Board meeting.

**Question 29:**

**Nov 2010. May 2017**

*In a General Meeting of PQR Limited the chairman directed to exclude certain matters detrimental to the interest of the company from the minutes. M, a shareholder contended that the minutes of the meeting must contain fair and correct summary of the proceedings thereat. Decide whether the contention of M is maintainable under the provisions of the Companies Act, 2013.*

**Answer:**

**Chairman has the absolute discretion**

- ☞ To determine whether a matter is detrimental to the interest of the company or not;
- ☞ To direct not to include in the minutes any matter which is detrimental to the interest of the company.

**Refusal by Chairman is valid**

- ☞ Since the matter discussed in GM is, in the opinion of the Chairman, detrimental to the interest of the company.

**Contention of M is not tenable**

☞ In view of the above stated legal position.

**Question 30:**

*May 2006, 2013, Nov, 2017*

*To remove the Managing Director, 40% members of Global Ltd. submitted requisition for holding extra-ordinary general meeting. The company failed to call the said meeting and hence the requisitionists held the meeting. Since the Managing Director did not allow the holding of meeting at the registered office of the Company, the said meeting was held at some other place and a resolution for removal of the Managing Director was passed. Examine the validity of the said meeting and resolution passed therein in the light of the provisions of the Companies Act, 2013.*

**Answer:**

**The requisition is valid**

☞ Assuming that the requisitionists hold at least 10% of the paid up share capital of the company;  
☞ Since the requisition need not disclose the reasons behind the resolutions proposed at the EGM *LIC v Escorts*.

**Holding of EGM at a place other than the registered office is valid**

☞ Since the Board failed to call the EGM within the time prescribed u/s 100, thereby entitling the members to call, hold and conduct the EGM;  
☞ Since the registered office was kept lock, and so it was not possible for the requisitionists to hold the EGM in the same manner in which GMs are ordinarily held, viz. at the registered office of the company.

**Resolution removing the MD is valid**

☞ Since the EGM was called, held and conducted, and the resolution removing MD was passed in accordance with the provisions of the Act [*R Chettiar v M Chettiar*]

**Question 31:**

*June 2009*

*As a Corporate Professional advise your client company whether the following matters can be transacted by getting a resolution passed through Postal Ballots:*

- 1. Issue of shares with differential voting-rights;*
- 2. Sale of whole of the undertaking of a company;*
- 3. Buy-back of own shares by the company.*

**Answer:**

**Issue of shares with differential voting-rights**

☞ Shall be transacted by passing a resolution by postal ballot;  
☞ Unless the company is OPC or the number of members of the company is upto 200.

**Sale of whole of the undertaking of a company**

☞ Shall be transacted by passing a resolution by postal ballot;  
☞ Unless the company is OPC or the number of members of the company is upto 200.

**Buy-back of own shares by the company**

☞ Shall be transacted by passing a resolution by postal ballot;  
☞ Unless the company is OPC or the number of members of the company is upto 200.





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## CHAPTER 8 – DECLARATION AND PAYMENT OF DIVIDEND

### (A) Multiple Choice Questions

- i) **After Declaration of dividend it should be paid within**
- a) 14 days
  - b) 21 days
  - c) 30 days
  - d) 45 days
- ii) **Which of the following amount is not credited to IEPF Account**
- a) Unpaid dividend account of company
  - b) Matured deposit with company
  - c) Profit on sale of asset
  - d) Matured debentures with companies.
- iii) **In how many days from the date of declaration of interim dividend, it shall be deposited in a separate bank account**
- a) 5 days
  - b) 7 days
  - c) 15 days
  - d) 21 days
- iv) **In how many years the amount of unpaid dividend account should be transferred to Investor Education and Protection Fund**
- a) 3 years
  - b) 5 years
  - c) 7 years
  - d) 10 years
- v) **If declared dividend has not been paid or the warrant in respect thereof has not been posted within 30 days from the date of declaration to any shareholder entitled to the payment of the dividend, the company shall also liable to pay simple interest at the rate of p.a. during the period for which such default continues.**
- a) 5%
  - b) 6%
  - c) 15%
  - d) 18%

**Answers:-**

1	c)	2	c)	3	a)	4	c)	5	d)
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## (B) Practical Questions

### Question 1

The Board of Directors of Nimbahera Chemicals Limited proposes to transfer more than 10% of the profits of the company to the reserves for the current year. Advise the Board of Directors of the said company mentioning the relevant provisions of the Companies Act, 2013.

**Answer:**

The first proviso to 123 (1) of the Companies Act, 2013 provides that a company may, before the declaration of any dividend in any financial year, **transfer such percentage** of its profits for that financial year as it may **consider appropriate** to the reserves of the company. Therefore, under the Companies Act, 2013 the amount transferred to reserves out of profits for a financial year has been left at the **discretion of the company** acting vide its Board of Directors. Therefore the **company is free to transfer any part of its profits to reserves as it deems fit**.

### Question 2

A Public Company has been declaring dividend at the rate of 20% on equity shares during the last 3 years. The Company has not made adequate profits during the year ended 31st March, 2015, but it has got adequate reserves which can be utilized for maintaining the rate of dividend at 20%. Advise the Company as to how it should go about if it wants to declare dividend at the rate of 20% for the year 2014-15 as per the provisions of the Companies Act, 2013.

**Answer:**

As per **Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014**, in the event of adequacy or absence of profits in any year, a company may declare dividend out of surplus subject to the fulfillment of the following conditions:

- a) The **rate of dividend** declared shall **not exceed the average of the rates at which dividend was declared** by it in the **three years immediately preceding that year**;  
Provided that this sub-rule shall **not apply** to a company, which has **not declared** any dividend **in each of the three preceding financial year**.
- b) The **total amount to be drawn** from such accumulated profits shall **not exceed one-tenth of the sum of its paid-up share capital and free reserves** as appearing in the latest audited financial statement;
- c) The **amount so drawn** shall **first be utilized to set off the losses** incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared;
- d) The **balance of reserves** after such withdrawal shall **not fall below 15% of its paid up share capital** as appearing in the latest audited financial statement.

In the given case therefore, the company can declare a dividend of 20% provided it has the required residual reserve, after such payment, of 15% of its paid up capital as appearing in its latest audited financial statement. The **company should have the dividend recommended by the Board and put up for the approval of the members at the Annual General Meeting** as the authority to declare lies with the members of the company.

**[Note: Vide Notification dated 29th May, 2015, sub-rule (5) of Rule 3 of the Companies (Declaration and Payment of Dividend) Rules 2014 has been omitted by the Companies (Declaration and Payment of Dividend) Second Amendment Rules, 2015]**

### Question 3

The Annual General Meeting of ABC Limited declared a dividend at the rate of 30 percent payable on paid up equity share capital of the Company as recommended by Board of Directors on 30th April, 2014. But the Company was unable to post the dividend warrant to Mr. Ranjan, an equity shareholder of the Company, up to 30th June, 2014. Mr. Ranjan filed a suit against the Company for the payment of dividend along with interest at the rate of 20 percent per annum for default period.

Decide in the light of provisions of the Companies Act, 2013, whether Mr. Ranjan would

succeed? Also state the directors' liability in this regard under the Act.

**Answer:**

**Section 127** of the Companies Act, 2013 lays down the penalty for non-payment of dividend within the prescribed time period. Under section 127 where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has **not been posted within thirty days** from the date of declaration to any shareholder entitled to the payment of the dividend:

- a) **every director** of the company shall, if he is knowingly a party to the default, be punishable with **imprisonment** which may **extend to two years** and with **fine** which shall **not be less than one thousand rupees** for every day during which such default continues; and
- b) the **company** shall be liable to pay simple **interest** at the rate of **eighteen per cent per annum** during the period for which such default continues.

Therefore, in the given case Mr Rajan will not succeed in his claim for 20% interest as the limit under section 127 is 18% per annum.

#### Question 4

**The Board of Directors of Neema Tools Limited recommended dividend on 20th February, 2014 and the same was approved and declared by the company in its Annual General Meeting held on 31st May, 2014 and was paid to the shareholders on 15th June, 2014. But dividend was not paid to Mr. Goyameer, a shareholder. The company adjusted the amount of dividend against a sum due to it from Mr. Goyameer. Decide, under the provisions of the Companies Act, 2013 the liability of the company in this regard?**

**Answer :**

**Payment of dividend (Section 127 of the Companies Act, 2013):** Section 127 of the Companies Act, 2013 lays down that dividend has to be paid within 30 days from the date of its declaration. **Failure to pay or post dividend warrant within 30 days constitutes** an offence under the Act and renders every **director** of the company, if he is knowingly a party to the default, punishable with simple **imprisonment** for a term which may **extend to two years** and also to a **fine of one thousand rupees** for every day during which such default continues and the **company** shall be liable to pay simple **interest at the rate of eighteen per cent per annum** during the period for which such default continues.

The Section further provides that **no offence shall be deemed to have been committed** in the case where the dividend has been **lawfully adjusted** by the company against any sum due to it from the shareholder.

In the instant case, dividend was **declared on 31st May, 2014 and was paid on 15th June, 2014** i.e. **within 15 days**. The time limit prescribed by section 127 of the said Act is 30 days so **no offence** is committed.

Further, no dividend was paid to Mr. Goyameer as the company **adjusted the amount of dividend against a sum due** to it from Mr. Goyameer. **Section 127 expressly authorizes** the company to lawfully adjust the amount of dividend against any sum due to it from the shareholder.

In instant case, adjustment of amount of dividend is also **not violative** of Companies Act, 2013.

#### Question 5

**X & Co. Ltd. Made a loss of ₹ 20 Lakhs after providing for depreciation for the year ended 31st March, 2015 and as a result the company was not in a position to declare any dividend for the said year out of profits. However, the Board of Directors of the company announced the declaration of dividend of 15% on the equity shares payable out of free reserves. The paid up share capital of the company and its free reserves as on 31st March, 2015 (as per the audited Balance Sheet) are ₹ 2 Crores & 10 Crores respectively. The average dividend declared by the company in the last 3 years is 25%. Examine the validity of Declaration of Dividend.**

**Answer:**

- 1) **Dividend shall be declared or paid by a company for any financial year only-**
  - a) out of the **profits of the company for that year** arrived at after providing for depreciation in accordance with the provisions of Section 123(2), or
  - b) out of the **profits** of the company for any **previous financial year or years** arrived at after providing for depreciation in accordance with the provisions of that sub-section and remaining

undistributed, or

**[Note: Such depreciation shall be provided in accordance with the provisions of Schedule II]**

- c) out of **both**; or
- d) out of **money provided** by the **Central Government or a State Government** for the payment of dividend by the company in pursuance of a guarantee given by that Government

**2) Declaration of dividend out of accumulated profits -**

As per **Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014**, dividend can be declared out of the profits transferred to the Reserves by complying with the following conditions -

- a) The **rate of dividend** declared shall **not exceed the average of the rates** at which dividend was declared by it in the **3 years immediately preceding** that year:  
However, this rule will not apply if a company has not declared any dividend in each of the three preceding financial year
- b) The **total amount to be drawn** from such accumulated profits shall **not exceed one-tenth of the sum of its paid-up share capital and free reserves** as appearing in the latest audited financial statement.
- c) The **amount so drawn** shall first be **utilised to set off the losses** incurred in the financial year in which dividend is declared before any dividend in respect of equity shares is declared.
- d) The **balance of reserves** after such withdrawal shall **not fall below 15% of its paid up share capital** as appearing in the latest audited financial statement.

In the given case,

- a) The average rate of Dividend declared by the Company during the preceding 3 Financial Years is 25%. So, for the current Financial Year, the rate of dividend shall **not exceed 25% i.e ₹ 50 Lakhs**.
- b) The maximum amount that may be drawn from the reserves shall **not exceed 10% of (₹ 2 Crore + ₹ 10 Crore), i.e ₹ 1.2 Crore**.
- c) Out of the amount drawn from the reserves (viz. ₹ 1.2 Crore), loss for the current financial year (viz. ₹ 0.20 Crore) shall first be set off. Thus, **maximum amount that can be utilized for dividend shall be ₹ 1.2 Crore less ₹ 0.20 Crore i.e ₹ 1 Crore** (i.e rate of dividend shall not exceed 50%)
- d) After the dividend is declared out of reserves, the balance of reserves shall **not fall below 15% of paid up share capital**, viz. 15% of ₹ 2 Crore, viz. ₹ 30 Lakh. Thus, maximum amount that can be utilized for dividend shall be ₹ 10 crore less ₹ 30 lakh, viz ₹ 9.7 Crore (i.e rate of dividend shall not exceed 85%)

Thus, in the present case, the **maximum rate** of dividend that may be distributed in accordance with the conditions contained in Rule 3 of the Companies (Declaration and Payment of Dividend) Rules, 2014 is **25%**. Therefore, the decision of the Board of Directors to announce a dividend of 15% on equity shares is valid.

**Question 6**

The Board of Directors of XYZ Company Limited at its meeting declared a dividend on its paid-up equity share capital which was later on approved by the company's Annual General Meeting. In the meantime the directors at another meeting of the Board decided by passing a resolution to divert the total dividend to be paid to shareholders for purchase of investments for the company. As a result dividend was paid to shareholders after 45 days. Examining the provisions of the Companies Act, 2013, state:

- (i) Whether the act of directors is in violation of the provisions of the Act and also the consequences that shall follow for the above act of directors?
- (ii) What would be your answer in case the amount of dividend to a shareholder is adjusted by the company against certain dues to the company from the shareholder?

**Answer:**

Payment of dividend; delay in payment; adjustment against dues (Section 127 of the

### **Companies Act, 2013):**

According to **Section 127** of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or the warrant in respect thereof has **not been posted within thirty days** from the date of declaration to any shareholder entitled to the payment of the dividend, **every director** of the company shall, if he is knowingly a party to the default, is **liable for the punishment** under the said section.

In the present case, the Board of Directors of XYZ Company Limited at its meeting declared a dividend on its paid-up equity share capital which was later on approved by the company's Annual General Meeting. In the meantime the directors at another meeting of the Board decided by passing a resolution to divert the total dividend to be paid to shareholders for purchase of investment for the company. As a result **dividend was paid to shareholders after 45 days**.

(i) The Board of Directors of XYZ Company Limited violated section 127 of the Companies Act, 2013 as it failed to pay dividend to shareholders within 30 days due to their decision to divert the total dividend to be paid to shareholders for purchase of investment for the company.

**Consequences:** The following are the consequences for the violation of above provisions:

- a) Every director of the company shall, if he is knowingly a party to the default, be punishable with **imprisonment** which may extend to **two years** and shall also be liable for a **fine** which shall **not be less than one thousand rupees** for every day during which such default continues.
  - b) The company shall also be liable to pay simple **interest** at the rate of **18% p.a.** during the period for which such default continues.
- (ii) If the amount of dividend to a shareholder is adjusted by the company against certain dues to the company from the shareholder, then failure to pay dividend within 30 days shall not be deemed to be an offence under Proviso to section 127 of the Companies Act, 2013.

### **Question 7**

(i) Referring to the provisions of the Companies Act, 2013, examine the validity of the following:

**The Board of Directors of ABC Limited proposes to declare dividend at the rate of 20% to the equity shareholders, despite the fact that the company has defaulted in repayment of public deposits accepted before the commencement of this Act.**

(ii) **WL Limited is facing loss in business during the current financial year 2015-16. In the immediate preceding three financial years, the company had declared dividend at the rate of 8%, 10% and 12% respectively. To maintain the goodwill of the company, the Board of Directors has decided to declare 12% interim dividend for the current financial year. Examine the applicable provisions of the Companies Act, 2013 and state whether the Board of Directors can do so?**

**Answer :**

(i) **Prohibition on declaration of dividend:**

**Section 123(6)** of the Companies Act, 2013, specifically provides that a **company which fails to comply** with the provisions of **Section 73** (Prohibition of acceptance of deposits from public) and **Section 74** (Repayment of deposits, etc., accepted before the commencement of this Act) shall not, so long as such **failure continues**, declare any dividend on its equity shares.

In the given instance, the **Board of Directors of ABC Limited proposes to declare dividend at the rate of 20%** to the equity share holders, **in spite of the fact that the company has defaulted in repayment of public deposits** accepted before the commencement of the Companies Act, 2013. So according to the above provision, **declaration of dividend by the ABC Limited is not valid**.

(ii) **Declaration of Interim Dividend:**

According to **Section 123(3)** of the Companies Act, 2013, the Board of Directors of a company

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may declare **interim dividend** during any financial year out of the surplus in the profit and loss account and out of profits of the financial year in which such interim dividend is sought to be declared.

However, in case the company has **incurred loss during the current financial year up to the end of quarter immediately preceding the date of declaration of interim dividend**, such interim dividend shall **not be declared** at a rate higher than the average dividends declared by the company during the **immediately preceding three financial years**.

In the given case the company is facing loss during the current financial year 2015-16. In the immediate preceding three financial years, the company declared dividend at the rate of **8%, 10% and 12%**. As per the above mentioned provision, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years [i.e.  $8+10+12=30/3=10\%$ ]. Therefore, **decision of Board of Directors to declare 12% of the interim dividend for the current financial year is not tenable**.

### Question 8

XYZ, a Government Company (100% paid up capital is held by a State Government) has been declaring dividend at the rate of 20% during the last 3 years. has not made adequate profits during the year ended 31st March, 2015, but it has got adequate reserves which can be utilized for maintaining the rate of dividend at 20%. State in the light of the Companies Act, 2013 whether the XYZ company can declare dividend for the year The Company 2014-15.

**Answer :**

As per the **Second proviso to Section 123(1)** of the Companies Act, 2013, where a company, owing to **inadequacy or absence of profits** in any financial year, proposes to declare dividend out of the accumulated profits earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall be made only in accordance with prescribed **Rule 3** of the Companies (Declaration and Payment of Dividend) Rules, 2014.

*Vide Notification No. G.S.R. 463(E), dated 5th June 2015 Central Government directed that this proviso to section 123(1), shall not apply to a Government Company where the entire paid up share capital is held by the Central Government, or by any State Government or Governments or by the Central Government and one or more State Governments.*

In the given case, therefore, the XYZ, a Government Company cannot declare dividend out of accumulated Reserves in the financial year 2014-15

### Question 9

R Limited did not have sufficient profits during the preceding financial year. The Board of Directors of the company propose to declare dividend out of the accumulated profits earned during the previous years which were transferred to some other reserves other than free reserves. Examine the validity of the above act referring to the provisions of the Companies Act, 2013.

**Answer :**

As per **Section 123(1)** of the Companies Act, 2013, where a company, owing to **inadequacy or absence of profits** in any financial year, proposes to **declare dividend out of the accumulated profits** earned by it in previous years and transferred by the company to the reserves, such declaration of dividend shall be made only in accordance with prescribed rules of the **Companies (Declaration and Payment of Dividend) Rules, 2014**. Such **dividend shall be declared or paid by a company only from its free reserves**. No other reserve can be utilized for the purposes of declaration of such dividend.

Hence the **decision of the Board of Directors of R Ltd. is not valid to declare dividend from any reserve other than free reserves**.



## CHAPTER 9 – ACCOUNTS OF COMPANIES

### (A) Multiple Choice Questions

- i) The books of accounts of every company shall be maintained in order for :**
- a) 3 Years
  - b) 5 years
  - c) 8 years
  - d) 10 years
- ii) A company can re- open / recast its book of accounts on an application to Tribunal made by :**
- a) Registrar
  - b) Member
  - c) Board of Directors
  - d) Income –tax authorities
- iii) CSR Committees of the Board shall consists of :**
- a) Directors forming 1/3<sup>rd</sup> of the total no. directors.
  - b) Atleast 2 directors
  - c) 3/ more directors
  - d) 3/ more directors, out of which atleast 1 director shall be an independent.
- iv) Provisions of CSR are applicable to :**
- a) Companies with net worth of 500 cr/more
  - b) Companies with turnover of 1000 cr/more
  - c) Companies with net profit of 5 cr/ more in any financial year
  - d) All of the above
- v) OPC shall file a copy of the duly adopted financial statements to registrar in :**
- a) 30 days of the date of meeting in which it was adopted
  - b) 90 days of the date of meeting in which it was adopted
  - c) 90 days from the closure of the financial statement
  - d) 180 days from the closure of the financial statement
- vi) Who can be appointed as an internal auditor?**
- a) Chartered Accountants
  - b) Cost accountants
  - c) Any other professional
  - d) All of the above

Answers:-

1	c)	2	d)	3	d)	4	d)	5	d)	6	d)
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## (B) PRACTICAL QUESTIONS

### Question 1

The Board of directors of Bharat Ltd. has a practical problem. The registered office of the company is situated in a classified backward area of Maharashtra. The Board wants to keep its books of account at its corporate office in Mumbai which is conveniently located. The Board seeks your advice about the feasibility of maintaining the accounting records at a place other than the registered office of the company. Advise.

**Answer :**

According to **Section 128(1)** of the Companies Act, 2013, every company is required to keep the **books of accounts and other relevant books and papers and financial statement** for every financial year which give a **true and fair view** of the state of the affairs of the company, including that of its **branch office** or offices, if any, and **explain transactions** effected both at the registered office and its branches and such books shall be kept on **accrual basis** and according to the **double entry system** of accounting.

The **proviso to section 128(1)** further provides that all or any of the books of account aforesaid and other relevant papers may be **kept at such other place in India as the Board of Directors may decide** and where such a decision is taken, the company shall, **within seven days** thereof, file with the Registrar a **notice in writing** giving the full address of that other place.

Therefore, the **Board of Bharat Ltd. is empowered to keep its books of account at its corporate office in Mumbai by following the above procedure.**

### Question 2

Mr. White is working as Chief Accountant in White Metal Limited. The Board of Directors of the said company propose to charge him with the duty of ensuring compliance with the provisions of the Companies Act, 2013 so that books of account can be properly maintained and Balance Sheet and Profit and Loss Account can be prepared as per the provisions of law. Draft a "Board Resolution" for the said purpose. Also point out the consequences in case of default; when such a resolution is passed.

**Answer :**

**Board Resolution for charging Mr. White, Chief Accountant, with the duty of Compliance with the requirements of Sections 129 & 134 of the Companies Act, 2013**

"Resolved that Mr. White, Chief Accountant of the company be and is hereby charged with the duty of seeing that the requirements of Sections 129 and 134 of the Companies Act, 2013 are duly and fully complied with.

Resolved further that the said Mr. White is hereby entrusted with the authority to do such Acts or deeds as may be necessary or expedient for the purpose of discharging his above referred duties."

**Consequences of contravention: Section 128(6)** provides that if the **managing director**, the **whole-time director** in charge of finance, the **Chief Financial Officer** or any **other person** of a company **charged by the Board** with the duty of complying with the provisions of this section, contravenes such provisions, such managing director, whole-time director in charge of finance, Chief Financial officer or such other person of the company shall be **punishable with imprisonment** for a term which may **extend to one year** or with **fine** which shall **not be less than fifty thousand rupees** but which may **extend to five lakh rupees** or with **both**. Hence, Mr. White is liable for punishment as referred above.

### Question 3

**Advise: XYZ Ltd. wants to maintain its books of account on cash basis.**

### **Answer :**

The Companies Act, 2013 vide **Section 128(1)** now requires every company to prepare and keep at its **registered office**, books of account and other relevant books and papers and financial statement for every financial year which give a **true and fair view** of the state of the affairs of the company, including that of its **branch office** or offices, if any, at the registered office and its branches and such books shall be kept on **accrual basis** and according to the **double entry system** of accounting.

The second part of the section clearly states that the books of accounts must be maintained on accrual basis and according to the double entry system of accounting.

**No exception has been given by the Act to any class or classes of companies from the above requirement.** Hence, it is clear that XYZ Ltd. **cannot maintain its books of accounts on cash basis.**

### **Question 4**

**Mr. Ramanujam, one of the Directors in Debari Food Processing Limited was not satisfied with the performance of the company in financial matters. He requested Mr. Anandaraja, a Chartered Accountant, to inspect the books of accounts of the company on his behalf. Decide, under the provisions of the Companies Act, 2013 whether the said company can refuse to allow Mr. Anandaraja to inspect the books of accounts?**

### **Answer :**

Under **Section 128(3)** of the Companies Act, 2013, the books of account and other books and papers maintained by the company within India shall be **open for inspection** at the **registered office** of the company or at such other place in India by any director **during business hours**, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as may be prescribed.

The Companies Act, 2013 makes it quite clear that the **inspection can be done by a director.**

However, in case the director wishes to get the **inspection done by an agent or a representative** he must seek the **approval of the Board of Directors** without which he will not be allowed to do so. In Vakharia Vs Supreme General Film Exchange Co. Ltd it was held that a director is entitled to take inspection of accounts personally or through an agent provided that there is no reasonable objection to the person chosen and the agent undertakes not to utilize the information obtained by him for any purpose other than the purpose of his principal.

As the **right of inspection is a statutory right** given under this section, a **director who is prevented or refused** from inspection **may enforce his right through court.**

As such, Mr. Ramanujam being the director in Debari Food Processing Limited may appoint Mr. Anandaraja to inspect the books of accounts of the company only with the approval of the Board of Directors.

Hence, the Debari Food Processing Limited **cannot refuse to allow Mr. Anandaraja to inspect the books of accounts if such right of inspection has been approved by the Board of Directors.**

### **Question 5**

- (i) Define the expression "Accounting Standards" within the meaning of Companies Act, 2013.**
- (ii) XYZ Limited did not prepare its Balance Sheet as at 31st March, 2015 and the Profit and Loss Account for the year ended on that date in conformity with some of the mandatory Accounting Standards issued by the Institute of Chartered Accountants of India. You are required to state with reference to the provisions of the Companies Act, 2013, the responsibilities of directors and statutory auditor of the company in this regard.**

### **Answer :**

- (i) As per sub-section (2) of Section 2** of the Companies Act, 2013, the expression "accounting standards" means the standards of accounting or any addendum thereto for companies or class of companies referred to in section 133. As per **Section 133**, the **standards** of accounting **recommended** by the **Institute of Chartered Accountants of India** constituted under the Chartered Accountants Act, 1949 as may be **prescribed by the Central Government** in

consultation with and after examination of the recommendations made by the **National Financial Reporting Authority** established under section 132 of the said Act.

(ii) **Sub-section (1) of the Section 129** of this act states that financial statement of the company shall comply with the accounting standards notified under section 133. As per sub-section (5), where the **Financial Statements** of the company **do not comply with the accounting standards**, such companies shall **disclose in its financial statements**, the following, namely:

- a) the **deviation** from the accounting standards;
- b) the **reasons** for such deviation; and
- c) the **financial effect**, if any, arising due to such deviation.

Apart from the above consequence on non compliance, **Section 129(7)** further provides that if a company contravenes the provisions of Section 129 (which requires compliance with Accounting Standards), the **managing director, whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board** with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be **punishable with imprisonment** for a term which may **extend to one year** or with **fine** which shall **not be less than fifty thousand rupees** but which may **extend to five lakh rupees**, or with **both**.

Moreover, the Board of Directors is also required under **Section 134** of the Companies Act, 2013 to include a **Directors Responsibility Statement** indicating therein that in the preparation of the financial statements the applicable accounting standards had been followed along with proper explanation relating to material departures, if any. If such person (as above referred) fails to take all reasonable steps to secure compliance by the company, as respects any accounts laid before the company in general meeting, with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts, he shall, in respect of each offence, be **punishable with imprisonment** for a term which may **extend to 1 year**, or **with fine not less than ₹ 50,000** but which may **extend to ₹ 5,00,000** or with **both**.

#### **Responsibilities of auditors:**

As per **Section 143(3) (e)** of the Companies Act, 2013, the statutory auditor's responsibility is to **state in his report**, whether in his opinion, the **profit and loss account and balance sheet comply with the accounting standards** referred to in section 143 of the Companies Act, 2013.

#### **Question 6**

**Gujarat Textiles Limited is having a foreign subsidiary company. The said Indian holding company failed to furnish particulars of its foreign subsidiary company in its Balance Sheet. Decide the liability of Gujarat Textiles Limited under the Companies Act, 2013.**

#### **Answer :**

Under **Section 129(3)** of the Companies Act, 2013, where a **company has one or more subsidiaries**, it shall, in addition to financial statements provided under sub-section (2), **prepare a consolidated financial statement** of the company and of all the subsidiaries in the **same form and manner as that of its own** which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2).

Provided that the company shall **also attach** along with its financial statement, a separate statement containing the **salient features of the financial statement of its subsidiary** or subsidiaries in such form as may be prescribed.

For reference, sub section 2 of section 129 provides that at every annual general meeting of a company, the Board of Directors of the company shall lay before such meeting financial statements for the financial year.

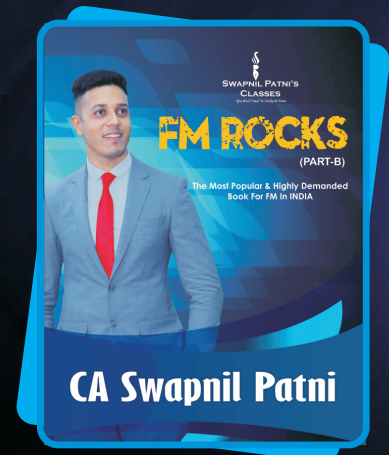
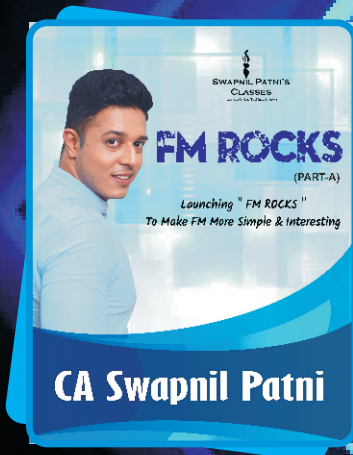
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***Vide Notification G.S.R. 37(E) dated 16th January 2015 the Central Government amended the Companies (Accounts) Rules, 2014 and following fourth proviso has been inserted in Rule 6 which dealt with the manner of consolidation of accounts.***

According to which it had been provided that **nothing in this Rule 6 shall apply in respect of consolidation of financial statement by a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1st April, 2014.** Therefore, Gujarat Textiles Ltd. has not contravened the provisions of Section 129 of the Companies Act, 2013 by not furnishing the consolidated financial statements of its foreign subsidiary on the one hand and not attaching with its financial statements a separate statement of the foreign subsidiary giving the salient features thereof.

### **Question 7**

**State giving reasons whether the following are true or false under the provisions of the Companies Act, 2013? The Board of Directors of ABC Ltd. wants to circulate unaudited accounts before the Annual General Meeting of the shareholders of the Company.**

**Answer :**

**False. Section 129(2)** of the Companies Act, 2013 provides that **at every annual general meeting** of a company, the **Board of Directors** of the company shall lay before such meeting financial statements for the financial year. Further Section 134(7) provides that **signed copy** of every **financial statement**, including consolidated financial statement, if any, shall be **issued, circulated or published** along with a copy each of:

- a) any **notes annexed** to or forming part of such financial statement;
- b) the **auditor's report**; and
- c) the **Board's report**.

It, therefore, follows that **unaudited accounts cannot be sent to members** or **unaudited accounts cannot be filed with the Registrar** of Companies.

### **Question 8**

**The Board of Directors of Vishwakarma Electronics Limited consists of Mr. Ghanshyam, Mr. Hyder (Directors) and Mr. Indersen (Managing Director). The company has also employed a full time Secretary. The Profit and Loss Account and Balance Sheet of the company were signed by Mr. Ghanshyam and Mr. Hyder. Examine whether the authentication of financial statements of the company was in accordance with the provisions of the Companies Act, 2013?**

**Answer :**

Under **Section 134(1)** of the Companies Act, 2013 the **financial statement**, including consolidated financial statement, if any, shall be **approved by the Board** of Directors **before they are signed on behalf of the Board by at least:**

- a) The **chairperson** of the company where he is authorised by the Board; or
- b) **Two directors** out of which **one** shall be **managing director** and **Chief Executive Officer**, if he is a director in the company,
- c) the **Chief Financial Officer** and the **Company Secretary** of the company, wherever they are appointed.

In the instant case, the Balance Sheet and Profit and Loss Account have been signed by Mr. Ghanshyam and Mr. Hyder, the directors. In view of Section 134(1) of the Companies Act, 2013, Mr. Indersen, the **Managing Director should be one of the two signing directors. Since the company has also employed a full time Secretary, he should also sign the Balance Sheet and Profit and Loss Account.**

### **Question 9**

**The Companies Act, 2013 has prescribed an additional duty on the Board of Directors to include in the Board's Report a 'Directors' Responsibility Statement'. Explain briefly the details to be furnished in the said statement.**

**Answer :**

**Section 134(3)(c)** of the Companies Act, 2013 provides that there shall be attached to statements laid before a company in general meeting, a **report by its Board of Directors**, which shall include a number of statements as prescribed in the sub section including **Directors' Responsibility Statement**.

Further **Section 134(5)** states that the Directors Responsibility Statement shall state that:

- (i) In the preparation of the annual accounts, the **applicable accounting standards** had been followed along with proper explanation relating to material departures;
- (ii) the directors had selected such **accounting policies and applied them consistently** and made **judgments and estimates** that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit or loss of the company for that period;
- (iii) the directors had taken **proper and sufficient care for the maintenance of adequate accounting standards** in accordance with the provisions of this Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities; that the directors had prepared the annual accounts on a going concern basis; and
- (iv) the directors, in the case of a **listed company**, had **laid down internal financial controls** to be followed by the company and that such internal financial controls are adequate and were operating effectively.
- (v) the directors had **devised proper systems to ensure compliance** with the provisions of all **applicable laws** and that such systems were adequate and operating effectively.

#### **Question 10**

**The Annual General Meeting of Robertson Ltd., for laying the Annual Accounts thereat for the year ended 31st March, 2014 was not held, as the accounts were not ready. In this context:**

- (i) **Advise the company regarding compliance of the provisions of section 137 of the Companies Act, 2013 for filing of copies of financial statements with the Registrar of Companies.**
- (ii) **Will it make any difference in case the Annual Accounts were duly laid before the Annual General Meeting held on 27th September, 2014 but the same were not adopted by the shareholders?**

**Answer :**

Under **Section 137(1)** of the Companies Act, 2013, a copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, **duly adopted at the annual general meeting** of the company, shall be **filed with the Registrar within thirty days** of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified. Every company shall file the financial statements with the Registrar **together with Form AOC-4**.

Provided that where the financial statements under sub-section (1) are **not adopted at annual general meeting or adjourned annual general meeting**, such unadopted financial statements along with the required documents under sub-section (1) shall be **filed with the Registrar within thirty days** of the date of annual general meeting and the Registrar shall take them in his records as **provisional** till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose.

Further under **Section 137(2)** of the Companies Act, 2013 where the annual general meeting of a company for any year has **not been held**, the **financial statements** along with the documents required to be attached under sub-section (1), **duly signed along with the statement of facts and reasons for not holding the annual general meeting** shall be **filed with the Registrar within thirty days** of the last date **before which the annual general meeting should have been held** and in such manner, with such fees or additional fees as may be prescribed within the time specified.

Accordingly,

- (i) In the present case though Annual General Meeting was not held, it ought to be held by 30th September, 2014 under Sections 96 of the Companies Act, 2013.

Therefore, under the provisions of Section 137(2) the financial statements along with the documents required to be attached under this Act, duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held i.e. by 30th October 2014 along with such fees or additional fees as may be prescribed.

- (ii) Since the Annual General Meeting has been held in time on 27th September 2014, the unadopted financial statements along with the required documents under sub-section (1) of section 137 shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose.

### **Question 11**

**Explaining the provisions of the Companies Act, 2013, answer the following:**

- (i) **Manner in which the companies are required to present the financial statements.**  
(ii) **What kinds of companies are exempted from the preparation of the above statements in terms of nature and the contents?**  
(iii) **State the consequences and the penalties in case the company does not comply with the accounting standards?**

**Answer :**

- (i) In accordance with the provisions of the Companies Act, 2013 as contained in **Section 129(1)**, the financial Statements of a company shall be prepared in such a manner so that these:
- Give a **true and fair view** of the state of affairs of the company or companies.
  - Comply** with the **accounting standards** notified under Section 133 of the Act.
  - Shall be **in the form or forms as may be provided** for different class or classes of companies in Schedule III to the Act.
  - However, the **items contained** in such financial statements shall be in accordance with the **accounting standards**.
- (ii) The **above provisions** relating to nature and content of financial statement shall **not apply to following companies**:
- Insurance companies
  - Banking companies
  - Company engaged in the generation or supply of electricity
  - Any other class of company for which a form of financial statement has been specified in or under the Act governing such class of company.
- (iii) According to **Section 129(5)** of the Act, in case the financial statements of a company are **not**



**prepared in compliance with the Accounting Standards, the company shall disclose** in its financial statements the following viz.

- a) The **extent** to which the **financial statements do not comply** with Accounting Standards i.e. deviation from the Accounting Standards.
- b) The **reasons for such deviation** i.e. what has led the company to deviate from the Accounting Standards.
- c) The **financial effects**, if any, arising out of such deviation.

As per **Section 129(7)** of the Act, if a company **contravenes** the **provisions relating to preparation of financial statements**, the **Managing Director**, the **Whole-time Director** in charge of finance, the **Chief Financial Officer** or any other person charged by the Board with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be **punishable with**:

- a) **Imprisonment** for a term which may **extend to 1 year**; or
- b) **Fine** which shall **not be less than ₹ 50,000** which may **extend to ₹ 5 lacs**; or
- c) **Both** with imprisonment as well as the fine.

*Section 129 shall not apply to the Government Companies to the extent of application of Accounting Standard 17(Segment Reporting) to the companies engaged in defence production. (Inserted vide Notification dated 5th June 2015)*

### Question 12

The Board of Directors of X company undertakes to make contribution under the discharge of its social responsibilities for promotion of sanitation facilities and to make available clean and safe drinking ganga water in nearby villages. State in the light of the Companies Act, 2013, whether the company can undertake such a responsibility and contribute towards the achievement of such social responsibility?

**Answer :**

**Section 135** of the Companies Act, 2013 deals with the provisions related to the Corporate Social Responsibility. According to which it is **mandatory for every company** with specified criteria to spend a prescribed percentage of their profits on certain specified areas of social upliftment in discharge of their social responsibilities. The Companies (CSR Policy) Rules, 2014 provides that the CSR may include:-

- (i) **Projects or programs relating to** activities specified in **Schedule VII** to the Act; or
- (ii) Projects or programs relating to activities **undertaken by the board of directors** of a company (Board) in pursuance of recommendations of the CSR Committee of the Board as per declared CSR Policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.

The MCA vide Notification No. G.S.R. 741(E) dated 24th October, 2014, has amended Schedule VII to the Companies Act, 2013, whereby, **contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and contribution to the Clean Ganga Fund** setup by the Central Government for rejuvenation of river Ganga have also been included in the activities which may be included by companies in their Corporate Social Responsibility policies.

Accordingly, in the given case, X company can take such responsibility and contribute for the promotion of sanitation facilities and rejuvenation of river ganga for supply of safe drinking water in nearby villages where it operates.

### Question 13

**P Limited did not prepare its Balance Sheet and the Profit and Loss Account for the year in conformity with some of the mandatory Accounting Standards issued by the Institute of Chartered Accountants of India. State with reference to the provisions of the Companies Act, 2013, the responsibilities of directors of the company in this regard.**

**Answer :**

**Section 129(1)** of the Companies Act, 2013 states that financial statement of the company shall comply with the accounting standards notified under section 133. Further section 129(5) says that where the Financial Statements of the company **do not comply with the accounting standards**, such companies shall disclose in its financial statements, the following, namely:

- (a) the **deviation** from the **accounting standards**;
- (b) the **reasons** for such deviation; and
- (c) the **financial effect**, if any, arising due to such deviation.

Also **Section 129(7)** provides that if a company contravenes the provisions of section 129 (which requires compliance with accounting standards), the **managing director, whole-time director in charge of finance, the Chief Financial Officer or any other person charged by the Board** with the duty of complying with the requirements of this section and in the absence of any of the officers mentioned above, all the directors shall be **punishable with imprisonment** for a term which may extend to one year or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Moreover, the Board of Directors is also required under **Section 134(5)** of the Companies Act, 2013 to include a **Directors Responsibility Statement** indicating therein that in the preparation of the financial statements the applicable accounting standards had been followed along with proper **explanation relating to material departures**, if any. If such person (as above referred) **fails to take all reasonable steps** to secure compliance by the company, as respects any accounts laid before the company in general meeting, with the provisions of this section and with the other requirements of this Act as to the matters to be stated in the accounts, he shall, be punishable with imprisonment for a term which may **extend to 1 year**, or with **fine not less than ₹50,000 but which may extend to ₹ 5,00,000 or with both**.

#### **Question 14**

**The Board of Directors of Sunrise Ltd. want to circulate unaudited accounts before the Annual General Meeting of the shareholders of the Company. Examine the validity of the act of the Board of Directors under the provisions of the Companies Act, 2013.**

**Answer :**

**Section 129(2)** of the Companies Act, 2013 provides that at every annual general meeting of a company, the Board of Directors of the company shall lay financial statements for the financial year. Further section 134(7) provides that signed copy of every financial statement, including consolidated financial statement, if any, shall be issued, circulated or published along with a copy each of:

- a) any **notes annexed** to or forming part of such financial statement;
- b) the **auditor's report**; and
- c) the **Board's report**.

It, therefore, follows that **unaudited accounts cannot be sent to members** or **unaudited accounts cannot be filed with the Registrar of Companies**. So the act of the Board of Directors of sunrise limited is not valid.

#### **Question 15**

**Mr. Bhagvath, recently acquired 76 % of the equity shares of M/s Renowned Company Ltd., in the hope of earning good dividend income. Unfortunately the existing Board of Directors have been avoiding declaration of dividend due to alleged inadequacy of profits. Unconvinced, Mr. Bhagvath seeks permission of the Company to allow him to examine the Books of Accounts, which is summarily rejected by the Company. Examine and advise the provisions relating to inspection of Books of Accounts and remedy available.**

**Answer :**

**Inspection of Books of Accounts of the Company (Section 128 of the Companies Act, 2013)-**

Mr. Bhagvath has no right to carry out an inspection of the books of accounts of the company despite the fact that he holds 76% of the equity shares of M/s Renowned Company Ltd. **According to Sections 128(3) and 206 of the Companies Act, 2013, following persons have the right to carry out the inspection of the books of accounts of the company:**

- a) **Directors** of the Company [Section 128(3) of the Companies Act, 2013]
- b) **Registrar** of Companies [Section 206 of the Companies Act, 2013]
- c) Such **officer of Government** as may be authorised by the Central Government in this behalf (Section 206 of the Companies Act, 2013).
- d) Such **officers of SEBI** as may be authorised by SEBI [Section 206 read with Section 24 of the Companies Act, 2013].
- e) Since **Mr. Bhagvath does not fall in any of above mentioned categories**, he is **not eligible to carry out the inspection**.

[Note: According to Regulation 89(ii) of the Table F of the Schedule I of the Companies Act, 2013, a member shall have right of inspecting any account or book or document of the company only if conferred by law or authorized by the Board or by the company in general meeting]

### **Question 16**

**Rajasthan Textiles Limited (RTL) is a company in India with a subsidiary company M and subsidiary company S in USA. Decide the liability of RTL with respect to the filing of the financial statements under the Companies Act, 2013**

**Answer :**

Under **Section 129(3)** of the Companies Act, 2013, where a company has one or more subsidiaries, it shall, in addition to the financial statements provided under sub-section (2), prepare a **consolidated financial statement (CFS)** of the company and of all the subsidiaries in the **same form and manner as that of its own** which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under sub-section (2).

Provided that the company shall also attach along with its financial statement, a separate statement containing the **salient features** of the **financial statement of its subsidiary** or subsidiaries in such form as may be prescribed.

Section 129(2) provides that at **every annual general meeting** of a company, the **Board of Directors** of the company shall **lay before such meeting financial statements for the financial year**.

Accordingly, as per the above provisions, CFS is prepared at the holding company level, so RTL (holding company of M & S) is required to prepare in addition to its own financial statements, a CFS of the company and of all the subsidiaries in the same form and manner as that of its own. So, the CFS prepared by RTL will include the financial statement of RTL and of its subsidiaries M and S in USA.

### **Question 17**

**Mr. D, one of a Director in PQR Limited was not satisfied with the performance of its subsidiary company in financial matters. He authorised Mr. F, a financial expert, to inspect the books of accounts of the company on his behalf. Decide, under the provisions of the Companies Act, 2013 whether the said company can refuse to allow Mr. F to inspect the books of accounts of its subsidiary company?**

**Answer :**

Under **Section 128(3)** of the Companies Act, 2013, the **books of account and other books and papers** maintained by the company within India shall be **open for inspection** at the **registered office** of the company or at such **other place in India** by any director **during business hours**, and in the case of financial information, if any, maintained outside the country, copies of such financial information shall be maintained and produced for inspection by any director subject to such conditions as prescribed under Rule 4 of the Companies (Accounts) Rule, 2014.

Provided that the **inspection in respect of any subsidiary** of the company shall be **done only by the person authorized** in this behalf by a resolution of the Board of Directors.

In the given case, Mr. D being the director in PQR Limited authorised Mr. F to inspect the books of accounts of its subsidiary company. As per the above provision, the inspection in respect of any subsidiary of the company shall be done only by the person authorized in this behalf by a resolution of the Board of Directors.

Since in the given problem, **Mr. F was authorized by the Mr. D at its own without seeking approval of the Board of Directors** to inspect the books of accounts of its subsidiary company. So, **company can refuse** to allow Mr. F to inspect the books of accounts of its subsidiary company.

### **Question 18**

**ABC Limited has on its Board, four Directors viz. W, X, Y and Z. In addition, the company has Mr. D as the Managing Director. The company also has a full time Company Secretary, Mr. Wise, on its rolls. The financial statements of the company for the year ended 31st March, 2015 were authenticated by two of the directors, Mr. X and Y under their signatures.**

**Referring to the provisions of the Companies Act, 2013:**

- (i) Examine the validity of the authentication of the Balance Sheet and Statement of Profit & Loss and the Board's Report.**
- (ii) What would be your answer in case the company is a One Person Company (OPC) and has only one Director, who has authenticated the Balance Sheet and Statement of Profit & Loss and the Board's Report?**

**Answer :**

In accordance with the provisions of the Companies Act, 2013, as contained under section 134 (1), the financial statements, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by at least:

- (a) The **Chairperson of the company** where he is authorized by the Board; or
- (b) Two directors out of which one shall be the **managing director and Chief Executive Officer, if he is a director** in the company
- (c) The **Chief Financial Officer and the Company Secretary** of the company, wherever they are appointed.

In case of a One Person Company, the financial statements shall be signed by only one director, for submission to the auditor for his report thereon.

The Board's report and annexures thereto shall be signed by its Chairperson of the company, if he is authorized by the Board and where he is not so authorized, shall be signed by at least two directors one of whom shall be a managing director or by the director where there is one director.

- (i) In the given case, the Balance Sheet and Profit & Loss Account have been signed by Mr. X and Mr. Y, the directors. In view of the provisions of Section 134 (1), the Managing Director Mr. D should be one of the two signatories. Since the company has also employed a full time Secretary, he should also sign the Balance Sheet and Profit & Loss Account. **Therefore, authentication done by two directors is not valid.**
- (ii) **In case of OPC, the financial statements should be signed by one director and hence, the authentication is in order.**

### **Question 19**

**DJA Company Limited, incorporated under the provisions of the Companies Act, 2013, has two subsidiaries - AJD Limited and AMR Limited. All the three companies have prepared their financial statements for the year ended 31st March, 2015. Examining the provisions of the Companies Act, 2013, answer the following:**

- (i) In what manner the subsidiaries - AJD Limited and AMR Limited shall prepare their Balance Sheet and Profit & Loss Account?**
- (ii) What would be your answer in case the DJA Limited - the holding company, is not required to prepare consolidated financial statements under the Indian Accounting Standards?**
- (iii) What shall be your answer in case one of the subsidiary company's financial statements do not comply with the Accounting Standards?**

**(iv) To what extent is the Central Government empowered to exempt a company from preparing the financial statements in compliance with the Indian Accounting Standards?**

**Answer :**

**(i) In accordance with the provisions of the Companies Act, 2013, as contained under section 129(3) and (4):** Where a company has one or more subsidiaries, it shall, in addition to its own financial statements prepare a consolidated financial statement of the company and of all the subsidiaries in the same form and manner as that of its own. The consolidated financial statements shall also be laid before the AGM of the company along with the laying of its own financial statement. The company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiaries in Form AOC-1. For the purpose of consolidated financial statements, 'subsidiaries' shall include associate company and joint venture.

**(ii) According to Companies (Accounts) Rules, 2014, the consolidation of financial statements of the company** shall be made in accordance with the provisions of Schedule III to the Act and the applicable accounting standards. However, for a company which is not required to prepare consolidated financial statements under the Accounting Standards, it shall be sufficient if the company complies with provisions of consolidated financial statements provided in Schedule III to the Act. The provisions applicable to the preparation, adoption and audit of the financial statements of a holding company shall, mutatis mutandis, also apply to the consolidated financial statements.

**(iii) If the financial statements of a company do not comply with the accounting standards, the company shall disclose in its financial statements the following viz.**

- (a) The deviation from the accounting standards,
- (b) The reasons for such deviation, and
- (c) The financial effects, if any, arising out of such deviation.

The Central Government may, on its own or on any application by a class or classes of companies, by notification, exempt any class or classes of companies from complying with any of the requirements of this Section or the rules made thereunder, if it is considered necessary to grant such exemption in the public interest. **Any such exemption may be granted either unconditionally or subject to such conditions as may be specified in the notification.**

### **Question 20**

**Explain the law laid down under the Companies Act, 2013 in respect of filing of annual financial statements with Registrar of companies in the following two situations who is liable for the default.**

**(i) Where financial statements of the company are filed with the ROC after 10 months from its due date;**

**(ii) Where financial statements are not at all filed by the company with the ROC?**

**Answer:**

**(i) Under section 403** of the Companies Act, 2013, any document may be filed within 270 days from the date by which it should have been filed under the Act. Any such document be also filed after 270 days on payment of fee and additional fee as may be prescribed, and the company and its officers who are in default shall be liable for the penalty or punishment provided under the Act.

Accordingly, in the present case, the financial statement has been filed after 270 days. Thus, the company may file the same on payment of fee and additional fee after 10 months. The company and its officers may approach ROC for compounding the offence, to avoid any prosecution by ROC for such failure or default.

**(ii) Under section 137 (3)** of the Companies Act, 2013, if a company fails to file the financial statement, the company and the Managing director and the Chief Financial officer, if any, and in their absence, any other director who is charged by the Board with the responsibility of complying with the extent provisions, and in the absence of any such director, all the directors of the company, shall be punishable.

### Question 21

The Board of Directors of Star Ltd. consists of Mr. X, Mr. Y and Mr. Z. Mr. X and Mr. Y are Directors of the Company and Mr. Z is Managing Director in the Board. The company has also employed Mr. F as the Chief Financial Officer. The Financial Statement of the company were Signed by Mr. X and Mr. Y.

Examine the following concerns -

- (i) Whether the authentication of financial statements of the company was in conformity with the provisions of the Companies Act, 2013?
- (ii) If Financial Statement is not in conformity, how the above issue can be repaired in compliance with the Companies Act, 2013?

Answer

(i) Under **section 134(1)** of the Companies Act, 2013 the financial statement, including consolidated financial statement, if any, shall be **approved by the Board of Directors before they are signed on behalf of the Board by at least:**

- (a) The **chairperson** of the company where he is authorised by the Board; or
- (b) **Two directors** out of which one shall be **managing director**, and **Chief Executive Officer**, if he is a director in the company, and
- (c) The **Chief Financial Officer** and the **Company Secretary** of the company, wherever they are appointed.

In given instance, the Financial Statement have been signed by Mr. X and Mr. Y, the directors. In view of Section 134(1) of the Companies Act, 2013, Mr. Z, the Managing Director should be one of the two signing directors. Since the company has also employed **Mr. F as the Chief Financial Officer, he should also sign the Financial Statement.** So, the authentication of the financial statements of the company was not in conformity with the provisions of the Companies Act, 2013.

(ii) **Section 131 of the Companies Act, 2013** provides of preparation of revised financial statement or revised report. According to this section if it appears to the directors of a company that the financial statement of the company; or the report of the Board, **do not comply with the provisions**

**of section 129 or section 134**, they may prepare revised financial statement or a revised report in respect of any of the three preceding financial years after obtaining approval of the Tribunal on an application made by the company in such form and manner as may be prescribed and a copy of the order passed by the Tribunal shall be filed with the Registrar. **It is also provided that the detailed reasons for revision of such financial statement or report shall also be disclosed in the Board's report in the relevant financial year in which such revision is being made.**

### Question 22

(a) The registered office of the Jai Bharat Ltd. is situated in a remote area of Rajasthan. Due to various issues and practical problems due to lack of development, the Board decided to keep its books of account at its corporate office in Jaipur which is conveniently located.

The Board seeks your advice about the viability of maintaining the accounting records at Jaipur rather than the registered office of the company. Advise the Jai Bharat Ltd. within the light of the Companies Act, 2013.

(b) XYZ Ltd is a listed company having turnover of ₹1200 crores during the financial year 2015-16. The CSR committee of the Board formulated and recommended a CSR project which was approved by the Board. Company finalised the project under its CSR initiatives which require funds @ 5 % of average net profit of the company for last three financial years. Will such excess expense be counted in subsequent financial years as a part of CSR expenditure? Advise.

Answer

(a) According to **section 128(1)** of the Companies Act, 2013, every company is required to **prepare and keep the books of accounts and other relevant books and papers** and financial statement for every financial year which give a true and fair view of the state of the affairs of the company, including that of its branch office or offices, if any, and explain the transactions effected

both at the registered office and its branches and such books shall be kept on accrual basis and according to the double entry system of accounting.

The proviso to **section 128(1)** further provides that all or any of the books of account aforesaid and other relevant papers may be kept at such other place in India as the Board of Directors may decide and where such a decision is taken, the company shall, within seven days thereof, file with the Registrar a notice in writing giving the full address of that other place. **Further company may keep such books of accounts or other relevant papers in electronic mode as per the Rule 3 of the Companies (Accounts) Rules, 2014.**

**Therefore, the Board of Jai Bharat Ltd. is empowered to keep its books of account at its corporate office in Jaipur by following the above procedure.**

**(b) In terms of Section 135(5) of the Companies Act, 2013,** the Board of every company to which section 135 is applicable, shall ensure that the company spends, in every Financial year at least 2 per cent of average net profits of the company made during the three immediately preceding financial years, in pursuance of its CSR policy. There is no provision for carry forward of excess expenditure to the next year(s). The words used in the section are 'at least'. **Therefore, any expenditure over 2% would be considered as voluntary higher spending.**

### **Question 23**

**ABC Ltd is an unlisted public company engaged in pharma sector and has paid up capital of rupees 10 crores and achieved turnover of rupees 200 crores during financial year 2015-16. Is it necessary for ABC Ltd to file its financial statement in XBRL mode? Discuss stating clearly the classes of companies mandated to file their financial statement in extensible Business Reporting Language (XBRL) mode with its key benefits. State exceptions, if any.**

**Answer:**

The following class of companies shall file their financial statement in XBRL (Extensible Business Reporting Language) mode and by using the XBRL taxonomy:

- (i) all companies listed with any stock exchange(s) in India and their Indian subsidiaries; or**
- (ii) all companies having paid up capital of rupees 5 crores or above;**
- (iii) all companies having turnover of rupees 100 crores or above; or**
- (iv) all companies which were covered under the Companies (Filing of Documents and Forms in Extensible Business Reporting Language) Rules, 2011.**

However, Banking Companies, Insurance Companies, Power Companies and Non- Banking Financial Companies (NBFCs) \* and housing finance companies need not file financial statements under this rule.

**Key benefits of XBRL filing are as under:**

Relevant data has tags and selective information can be fetched for specific purposes by various government and regulatory agencies.

It is in conformity with Global Reporting Standards, which helps in improved data mining and relevant information search.

In view of the above it is necessary for ABC Ltd. To files its Financial Statement is XBRL mode.

### **Question 24**

**Super Real Estate Limited, a listed company has made the following profits, the profits reflect eligible profits under the relevant section of the Companies Act, 2013.**

<b>Financial year Amount</b>	<b>( In crores)</b>
2011-12	20
2012-13	40
2013-14	30
2014-15	70
2015-16	50

- (i) Calculate the amount that the company has to spend towards CSR.**
- (ii) Give the composition of the CSR committee of a listed and unlisted company.**
- (iii) Will the company suffer penalties if they fail to provide for or incur expenditure for CSR?**

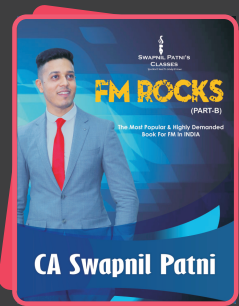
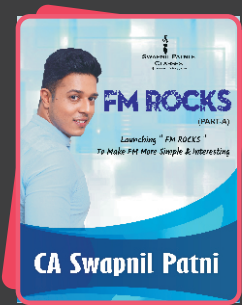
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**(iv) List only two activities that are expressly prohibited from being considered as CSR activities.**

**Answer:**

Section 135 read with Companies (Corporate Social Responsibility Policy) Rules, 2014 of the Companies Act, 2013 deals with the provisions related to the Corporate Social Responsibility.

As per the given facts, following are the answers in the given situations-

**(i) Amount that Company has to spend towards CSR:** According to section 135 of the Companies Act, 2013, the Board of every company shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its CSR Policy.

Accordingly, net profits of Super Real Estate Ltd. for three immediately preceding financial years is 150 crores (30+70+50) and 2% of the average net profits of the company made during these three immediately preceding financial years will constitute 1 crore, can be spent towards CSR in financial year 2016-2017.

**(ii) Composition of CSR Committee:**

(a) In the case of listed company, the CSR Committee shall consist of three or more directors, out of which at least one director shall be an independent director.

(b) Whereas in case of an unlisted public company or a private company, is not required to appoint an independent director and shall have its CSR Committee without such director. A private company having only two directors on its Board shall constitute its CSR Committee with two such directors.

**(iii) In case of failure to incur expenditure for CSR:** If the company fails to provide such amount or incur expenditure for CSR, the Board shall, in its report, under section 134 of the Companies Act, 2013 specify the reasons for not spending the amount.

As no quantum of punishment is given under section 135, section 450 of the Companies Act, 2013 says that, the company and every officer of the company or any other person who is in default or contravenes in compliances with section 135 shall be punishable with fine which may extend to 10,000. In case of continuation of contravention with further fine extending to 1000 for every day after the first during which the contravention continues.

**(iv) Activities not to be considered as CSR Activities:** The Companies (CSR Policy) Rules, 2014 provides for some activities which are not considered as CSR activities:

(a) The CSR projects or programs or activities undertaken outside India.

(b) The CSR projects or programs or activities that benefit only the employees of the company and their families.

(c) Contribution of any amount directly or indirectly to any political party under section 182 of the Act.

Expenses incurred by companies for the fulfillment of any Act/ Statute of regulations (such as Labour Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Companies Act.

### **Question 25**

**Bengaluru Limited is a listed company with a net worth of 95 lakhs and turnover of 11.6 crores as on 31st March, 2016. The company wants to circulate the financial statements in electronic mode. Referring to the provisions of the Companies Act, 2013, advise the company whether it can do so.**

**Answer:**

**Manner of circulation of financial statements in certain cases [Rule 11 of the Companies (Accounts) Rules, 2014]:**

(a) In case of all listed companies and such public companies which have a **net worth of more than one crore rupees** and **turnover of more than ten crore rupees**, the **financial statements may be sent-**

(i) by **electronic mode** to such members whose shareholding is in dematerialized format and whose email Ids are registered with Depository for communication purposes;

(ii) where Shareholding is held otherwise than by dematerialized format, to such members who have positively consented in writing for receiving by electronic mode; and

(iii) by dispatch of physical copies through any recognised mode of delivery as specified under section 20 of the Act, in all other cases.

**(b)** A listed company shall also place its financial statements including consolidated financial statements, if any, and all other **documents required to be attached thereto, on its website, which is maintained by or on behalf of the company.**

### **Question 26**

**Explain the concept of 'CSR' (Corporate Social Responsibility) as introduced by the Companies Act, 2013. Examining the provisions of the Act, answer the following:**

- (i) Which companies are required to constitute CSR Committee?**
- (ii) Which companies are excluded from the requirements of the provisions of the Act in relation to CSR committee?**
- (iii) What is the minimum contribution the companies are required to make towards CSR?**

**Answer :**

### **Concept of Corporate Social Responsibility, CSR Committee & Minimum Contribution (Sections 135 of the Companies Act, 2013)**

**Corporate Social Responsibility (CSR):** CSR implies a concept, whereby **companies decide voluntarily to contribute to a better society and a cleaner environment** — a concept, whereby the companies integrate social and other useful concerns in their business operations for the betterment of its stakeholders and society in general in a voluntary way.

According to **Section 135** of the Companies Act, 2013:

**(i) Company which is required to constitute CSR committee:**

Every company including its holding or subsidiary, and a foreign company defined under section 2(42) of the Companies Act, 2013 having its branch office or project office in India, having

- a) **net worth** of rupees **500 crore or more**, or
- b) **turnover** of rupees **1,000 crore or more** or
- c) a **net profit** of rupees **5 crore or more**,

during any **financial year** shall constitute a **Corporate Social Responsibility Committee** of the Board.

- a) The CSR Committee shall **institute a transparent monitoring mechanism** for implementation of the CSR projects or programs or activities undertaken by the company.
- b) However, the **net worth, turnover or net profit of a foreign company** shall be **computed** in accordance with **balance sheet and profit and loss account** of such company as **prepared in accordance with the provisions of Section 381(1)(a) and Section 198** of the Act.

**(ii) Companies excluded from the requirements of the provisions of the Act in relation to CSR Committee:**

Every company which **ceases to be a company as per section 135(1)** of the Act for **three consecutive financial years** –

- (1) shall **not be required** to constitute a CSR Committee, and
- (2) is **not required** to comply with the provisions as per section 135.

**(iii) Required minimum contribution of the Companies towards CSR:**

- a) The **Board** of every company shall ensure that the **company spends**, in every financial year, **at least two per cent of the average net profits** of the company made **during the three immediately preceding financial years**, in pursuance of its CSR Policy.
- b) The company shall **give preference to the local area** and areas around it where it operates, for spending the amount earmarked for CSR activities.
- c) If the company **fails to spend** such amount, the Board shall, in its report, **specify the reasons for not spending the amount.**
- d) Companies may **build CSR capacities** of their **own personnel** as well as those of their implementing agencies through Institutions with established track records of at least three

financial years. However, **such expenditure shall not exceed five percent** of total CSR expenditure of the company in one financial year.

**Question 27**

**PQR Limited is an unlisted Public company having paid up share capital of ₹ 80 crores during the preceding financial year 2014-15. The turnover of the company was ₹ 110 crores for the same period. Referring to the provisions of the Companies Act, 2013, answer the following:**

- (i) **Is it mandatory for the above company to appoint an internal auditor for the financial year 2015-16?**
- (ii) **What are the qualifications of the Internal Auditor?**

**Answer :**

(i) **Class of companies required to appoint Internal Auditor: Section 138** of the Companies Act, 2013 and the Companies (Accounts) Rules, 2014 prescribes the class of companies required to appoint Internal Auditor. According to it, following class of companies shall be required to appoint an internal auditor or a firm of internal auditors.

- (1) **Every listed company;**
- (2) **Every unlisted public company having –**
  - a) **Paid up share capital of 50 crore rupees or more** during the preceding financial year; or
  - b) **Turnover of 200 crore rupees or more** during the preceding financial year; or
  - c) **Outstanding loans or borrowings** from banks or public financial institutions **exceeding 100 crore rupees or more** at any point of time during the preceding financial year; or
  - d) **Outstanding deposits of 25 crore rupees or more** at any point of time during the preceding financial year; and
- (3) **Every private company having –**
  - a) **Turnover of 200 crore rupees or more** during the preceding financial year; or
  - b) **Outstanding loans or borrowings** from banks or public financial institutions **exceeding 100 crore rupees or more** at any point of time during the preceding financial year.

As per the facts given in the question, **PQR Limited is an unlisted public company with the paid up share capital of ₹ 80 crores** during the preceding financial year with **the turnover of ₹ 110 crores**. Since PQR Limited fulfills one of the criteria with paid up share capital of more than ₹ 50 crore rupees during the preceding financial year, **it is mandatory for the PQR Limited to appoint an internal auditor for the financial year 2015-16.**

- (ii) As per the **Section 138(1)**, an **internal auditor** shall **either be a Chartered Accountant** (engaged in practice or not) or a Cost Accountant, or such other professional as may be decided by the Board. Even an employee of the company may also be appointed as an Internal Auditor of the company as per the **Rule 13 of the Companies (Accounts) Rules, 2014**

# CHAPTER 10 – AUDIT AND AUDITORS

## (A) Multiple Choice Questions

- i) For appointing an auditor other than the retiring auditor,**
- a) Special notice is required.
  - b) Ordinary notice is required.
  - c) Neither ordinary nor special notice is required
  - d) Approval of Central Government is required.
- ii) The auditors of a company can be removed by the**
- a) Board of directors of the company
  - b) Audit committee
  - c) Company in general meeting by ordinary resolution and previous approval of CG
  - d) Company in general meeting by special resolution and previous approval of CG
- iii) After registration of a company, first auditors shall be appointed within**
- a) 30 days
  - b) 90 months
  - c) 180 days
  - d) One year
- iv) The auditor of a Government Company shall be appointed or re-appointed by**
- a) The Central Government
  - b) Comptroller and Auditor General of India.
  - c) Central Government on the advise of Comptroller and Auditor General of India.
  - d) None of the above
- v) Which of the following is a prohibited services to be rendered by the auditor of the Company**
- a) design and implementation of any financial information system
  - b) making report to the members of the company on the accounts examined by him
  - c) compliance with the auditing standards
  - d) Reporting of fraud against the company by officers or employees to the Central Government

**Answers:-**

1	a)	2	d)	3	a)	4	b)	5	a)
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## (B) PRACTICAL QUESTIONS

### Question 1

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.**

What difference it would make, if the Auditor was First Auditor appointed by the Board of Directors?

Answer :

- (i) **Section 139(6)** of the Companies Act, 2013 lays down that the **first auditor** of a company shall be **appointed by the Board of Directors within 30 days of the registration** of the company. Section 139 (6) continues to provide further that if the **Board of Directors fails** to appoint such auditor, it shall **inform the members** of the company, who shall **within ninety days** at an **extraordinary general meeting appoint such auditor** and such auditor shall hold office till the conclusion of the first annual general meeting.

From the above provisions of law if the Board of Directors fails to appoint the first auditors within the stipulated 30 days, it shall take the following steps:

- a) **Inform the members** of the Company;
  - b) Immediately **take steps to convene an extra ordinary general meeting** not later than 90 days;
  - c) **Members** shall at that extra ordinary meeting appoint the **first auditors** of the company;
  - d) The **first auditors** so appointed **shall hold office upto the conclusion of the first AGM** of the company.
- (ii) **Section 140** of the Companies Act, 2013 prescribes certain **procedure for removal of auditors**. Under Section 140 (1) the auditor appointed under Section 139 may be removed from his **office before the expiry** of his term only by a **special resolution** of the company, after obtaining the previous approval of the Central Government in that behalf in the prescribed manner. From this sub section it is clear that the approval of the Central Government shall be taken first and thereafter the special resolution of the company should be passed. Provided that before taking any action under this sub-section, the auditor concerned shall be given a **reasonable opportunity of being heard**.

Therefore, in terms of **Section 140 (1)** of the Companies Act, 2013 read with **Rule 7** of the Companies (Audit & Auditors) Rules, 2014 the **following steps should be taken for the removal of an auditor before the completion of his term**:

- a) **Passing of the Board Resolution** for the removal of the auditor;
- b) The **application to the Central Government** for removal of auditor shall made in **Form ADT-2** and shall be accompanied with fees as provided for this purpose under the Companies (Registration Offices and Fees) Rules, 2014
- c) The **application** shall be **made to the Central Government within thirty days** of the resolution passed by the Board.
- d) The **company** shall hold the **general meeting within sixty days** of receipt of approval of the Central Government for passing the special resolution.

### Question 2

Explain how the auditor will be appointed in the following cases:

- (i) **A Government Company within the meaning of section 394 of the Companies Act, 2013.**
- (ii) **The Auditor of the company has resigned on 31st December, 2013, while the Financial Year of the company ends on 31st March, 2014.**
- (iii) **A company, whose shareholders include the following:**

- a) Bank of Baroda (A Nationalized Bank) holding 12% of the subscribed capital in the company.
- b) National Insurance Company Limited (carrying on General Insurance Business) holding 10% of the subscribed capital in the company.
- c) Maharashtra State Financial Corporation (A Public Financial Institution) holding 8% of the subscribed capital in the company.

**Answer :**

- (i) The **appointment and re-appointment of auditor of a Government Company** or a government controlled company is governed by the provisions of **Section 139** of the Companies Act, 2013 which are summarized as under:  
The **first auditor** shall be appointed by the **Comptroller and Auditor General of India within 60 days** from the **date of incorporation** and in case of **failure** to do so, the **Board** shall **appoint auditor within next 30 days** and on **failure** to do so by Board of Directors, it shall inform the **members**, who shall **appoint the auditor within 60 days at an extraordinary general meeting (EGM)**, such auditor shall **hold office till conclusion of first Annual General Meeting**.  
In case of **subsequent auditor** for existing government companies, the **Comptroller & Auditor General of India** shall appoint the **auditor within a period of 180 days** from the commencement of the financial year and the auditor so appointed shall **hold his position till the conclusion of the Annual General Meeting**.
- (ii) The situation as stated in the question relates to the creation of a **casual vacancy** in the office of an auditor **due to resignation of the auditor before the AGM**. Under **Section 139(8)** any casual vacancy in the office of an auditor arising as a result of his resignation, such vacancy can be **filled by the Board of Directors within thirty days** thereof and in addition the **appointment of the new auditor** shall also be **approved by the company at a general meeting convened within three months** of the recommendation of the Board and he shall **hold the office till the conclusion of the next annual general meeting**.
- (iii) The Companies Act, 2013 lays **categorizes companies** into **government companies and non-government companies** and lists down the provisions relating to appointment, removal etc of auditors as per this classification. Hence, in the given case as the **total shareholding of the three institutions adds upto 30% of the subscribed capital** of the company it is **not a government company also not a deemed Government company**. Hence, the **provisions applicable to non-government companies in relation to the appointment of auditors shall apply**.

### Question 3

Parkash Carriers Limited appointed Mr. Raman as its auditor in the Annual General Meeting held on 30th September, 2009. Initially, he accepted the appointment. But he resigned from his office on 31st October, 2009 for personal reasons. The Board of directors seeks your advice for filling up the vacancy by appointment of Mr. Albert as auditor. Advise as per the provisions of the Companies Act, 2013.

Also suggest the procedure to be adopted in case Mr. Albert is proposed to be removed from his office before the expiry of his term.

**Answer :**

Under **Section 139(8)** of the Companies Act, 2013, any casual vacancy in the office of an auditor shall in the case of a company other than a company whose accounts are subject to audit by an auditor appointed by the **Comptroller and Auditor General of India**, be **filled by the Board of Directors within thirty days**, but if such **casual vacancy** is as a result of the resignation of an auditor, such appointment shall also be approved by the company at a general meeting convened **within three months of the recommendation of the Board** and he shall hold the office till the conclusion of the next annual general meeting.

Therefore, in the present case, as the **auditor has resigned**, the **casual vacancy** so created can be **filled up by the Board** appointing Mr. Albert. However, the appointment of Mr. Albert must be approved by the company by passing of an **ordinary resolution at a general meeting** of the company which must be **convened by the Board within 3 months** of recommendation of the Board.

Mr. Albert will be entitled to hold office till the conclusion of the next Annual General Meeting. Under **Section 140(1)** of the Companies Act, 2013, the auditor appointed under Section 139 may be **removed from his office before the expiry** of his term only by a **special resolution** of the company, after obtaining the **previous approval of the Central Government** in that behalf in the prescribed manner:

Provided that before taking any action under this sub-section, the auditor concerned shall be given a **reasonable opportunity of being heard**.

Therefore, in terms of **Section 140(1)** of the Companies Act, 2013 **read with Rule 7** of the Companies (Audit & Auditors) Rules, 2014, the following steps should be taken for the removal of an auditor before the completion of his term:

- a) **Passing of the Board Resolution** for the removal of the auditor;
- b) The **application to the Central Government** for removal of auditor shall be made in **Form ADT-2** and shall be **accompanied with fees** as provided for this purpose under the Companies (Registration Offices and Fees) Rules, 2014
- c) The application shall be made to the **Central Government within thirty days** of the resolution passed by the Board.

#### Question 4

One-fourth of the subscribed capital of AMC Limited was held by the Government of Rajasthan. Mr. Neeraj a qualified Chartered Accountant was appointed as an auditor of the Company at the Annual General Meeting held on 30th April, 2014 by an ordinary resolution. Mr. Sanjay, a shareholder of the Company objects to the manner of appointment of Mr. Neeraj on the ground of violation of the Companies Act 2013. Decide, whether the objection of Mr. Sanjay is tenable? Also examine the consequences of the above appointment under the said Act.

**Answer :**

Under the Companies Act, 2013, the **holding of 25% shares** of AMC Ltd. **does not make it a government company**. Hence, it will be treated as a **non-government company**.

Under **Section 139** of the Companies Act, 2013, the **appointment of an auditor** by a company **vests generally with the members** of the company **except** in the case of the **first auditors** and in the **filling up** of the **casual vacancy not caused by the resignation** of the auditor, in which case, the power to appoint the auditor vests with the **Board of Directors**. The appointment by the members is by way of an **ordinary resolution** only and **no exceptions** have been made in the Act **whereby a special resolution is required** for the appointment of the auditors.

Therefore, the contention of Mr Sanjay is not tenable. The appointment is valid under the Companies Act, 2013.

#### Question 5

**Examine the validity of the following with reference to the provisions of the Companies Act, 2013:-**

- (i) **EF Limited appointed an individual firm, Naresh & Company, Chartered Accountants, as Auditors of the company at the Annual General Meeting held on 30<sup>th</sup> September, 2014. Mrs. Kamala, wife of Mr. Naresh, invested in the equity shares face value of ₹ 1 lakh of EF Limited on 15<sup>th</sup> October, 2014. But Naresh & Company continues to function as statutory auditors of the company.**
- (ii) **Mr. Suresh, a Chartered Accountant, was appointed by the Board of Directors of AB Limited as the First Auditor. The company in General Meeting removed Mr. Suresh without seeking the approval of the Central Government and appointed Mr. Gupta as Auditor in his place.**

**Answer :**

- (i) **Disqualification of auditor:** According to **Section 141(3)(d)(i)** of the Companies Act, 2013, a **person** who, or his **relative or partner holds any security** of the company or its subsidiary or of its holding or associate company a subsidiary of such holding company, which carries voting rights, such person **cannot be appointed** as auditor of the company.  
Provided that the **relative** of such person may **hold security or interest** in the company of **face value not exceeding ₹ 1 lakh rupees**.

In the case Mr. Naresh, Chartered Accountants, did not hold any such security. But Mrs. Kamala, his wife held equity shares of EF Limited of **face value ₹ 1 lakh, which is within the specified limit.**

Further **Section 141(4)** provides that if an **auditor becomes subject, after his appointment, to any of the disqualifications** specified in Sub-section 3 of Section 141, he shall be **deemed to have vacated** his office of auditor. Hence, Naresh & Company can continue to function as auditors of the Company even after 15th October 2014 i.e. after the investment made by his wife in the equity shares of EF Limited.

- (ii) **Removal of first auditor: Section 140(1)** stipulates that any auditor appointed under section 139 may be **removed from office before the expiry of his term** by passing **special resolution** in general meeting, **after obtaining the previous approval of the Central Government** in that behalf.

Provided that before taking any action under subsection (1) of Section 140, the auditor concerned shall be given a **reasonable opportunity of being heard.**

The **first auditors** appointed by Board of Directors can be **removed** in accordance with the provision of **Section 140(1)** of the companies act, 2013. Hence the **removal of the first auditor appointed by the Board without seeking approval of the Central Government is invalid.** The company contravened the provision of the Act.

### Question 6

An audit firm, comprising of two partners, holds office as auditor of 41 private companies out of which paid-up capital of 20 companies exceeds 50 Lakhs. Such audit firm wants to appoint as an auditor in XYZ Pvt. Ltd. Decide whether this is in consonance with the applicable law.

**Answer :**

As per **Section 141(3)(g)** of the Companies Act, 2013, **private companies shall also be included in the provisions with respect to ceiling on number of audits.** As per the provision, a person shall **not be eligible for appointment** as an auditor of a company if such person or partner is at the date of such appointment or reappointment **holding appointment as an auditor of more than twenty companies.** Therefore, such firm cannot be appointed as an auditor of XYZ Ltd. Thus, in above case such appointment shall not be in order. **There is no relevance of paid up share capital in the above case.**

*[Note: As per the Notification G.S.R. 464(E), dated 5th June 2015, section 141(3)(g) shall apply on the private companies with the modification that private company with paid up share capital less than one hundred crore rupees shall be excluded while calculating ceiling on the number of audits]*

### Question 7

The auditors of a company refuse to make their report on the annual accounts of a company before it is signed on behalf of the Board of directors. Advise the company.

**Answer :**

The **auditor is right.** Theoretically, **accounts are presented to auditors only after they are approved by the Board and signed by authorized persons.** The auditor is only expected to **submit his report** on the accounts presented to him for audit after conducting an examination of the necessary documents, analyzing relevant information and test checking accounting records in order to be able to form an opinion of the financial statements presented to him. In practice, the checking of accounts is already completed before accounts are approved by the Board. Auditor informally approves the draft account with notes etc., before the accounts are approved by the Board. However, **auditor signs the accounts only after these are approved by Board and signed by persons authorized by Board of the company.**

### Question 8

Mr. Prince, A Chartered Accountant, holding certificate of practice from the Institute of Chartered Accountants of India has been appointed as auditor of ABC Limited, which is a public limited company. Mr. Y, a relative of Mr. Prince, hold security in the company, the face value of



which is ₹5,000. Explaining the provisions of the Companies Act, 2013 answer the following:

- (i) Examine the validity of Mr. Prince's appointment as auditor in the above company.
- (ii) What would be your answer in case Mr. Prince is already the auditor of 10 companies?
- (iii) What shall be your answer in case Mr. Prince has some business relationship with a subsidiary company of ABC Limited and is rendering consulting services to the subsidiary company?

**Answer :**

- (i) In accordance with the provisions of Companies Act, 2013 as contained in **Section 141(3)(d)**, a **person** who, or **his relative or partner**, is **holding any security of or interest** in the company or its subsidiary, or of its holding or associate company or a subsidiary of such holding company **cannot be appointed as an auditor** of the company. However, if that relative is holding the security or interest in the company of **face value not exceeding ₹ 1,00,000** as prescribed under the **Companies (Audit and Auditors) Rules, 2014**, a person can be appointed as an auditor of the company even though he is related to the person holding security or interest. Therefore, the **appointment of Mr. Prince as an auditor is valid, since Mr. Y, a relative of Mr. Prince holds securities of the value not more than ₹ 1,00,000 (₹ 5,000 in the given case).**
- (ii) In the second case, Mr. Prince is already the auditor of 10 companies. As per **Section 141(3)(g)** of the Companies Act, 2013, a person shall **not be eligible for appointment** as an auditor of a company if a person is in **full time employment else where** or a person or **partner of a firm holding appointment** as its auditor, if such persons or partner is at the date of such appointment or reappointment **holding appointment as auditor of more than 20 companies**. In this case since **Mr. Prince is auditor in only 10 companies, he can accept the appointment as an auditor in 10 more companies.**
- (iii) In the third case, in accordance with the provisions of the Act as contained in **Section 141(3)(e)**, a **person or a firm** who, whether **directly or indirectly has business relationship** with the company, or its subsidiary, or its holding or associate company or subsidiary of such holding company or associate company of such nature as may be prescribed under the **Companies (Audit and Auditors) Rules, 2014**, shall be **disqualified from being appointed as an auditor of a company**. Therefore, **Mr. Prince cannot be appointed as an auditor of the company in the given case, since he is having some business relationship with a subsidiary of ABC Limited.**

### Question 9

**AB & Co. is an audit firm comprising of two partners Mr. A and Mr. B holding appointments as an auditor in 41 private companies out of which paid-up capital of 20 companies exceeds 50 Lakhs. XYZ Private Limited wants to appoint AB & Co. as its auditor. Decide whether this is in consonance with the provisions as contained in the Companies Act, 2013.**

**Answer :**

As per **Section 141(3)(g)** of the Companies Act, 2013, a **person shall not be eligible for appointment as an auditor** of a company if a **person is in full time employment else where** or a person or partner of a firm holding appointment as its auditor, if such persons or partner is at the date of such appointment or reappointment **holding appointment as auditor of more than 20 companies**. **Private companies** shall also be **included** in the provisions with respect to ceiling on number of audits.

As per **Section 141(3)(g)**, the **limit of 20 company audits is per person**. In the case of an audit **firm having 2 partners**, the **overall ceiling will be  $2 \times 20 = 40$**  company audit. Sometimes, a chartered accountant is a partner in a number of auditing firms. In such a case, all the firms in which he is partner or proprietor will be together entitled to 20 company audits on his account. Therefore, in the instant case, AB & Co. is an audit firm comprising of two partners Mr. A and Mr. B holding appointments as an auditor in 41 private companies out of which paid-up capital of 20 companies exceeds 50 Lakhs. Therefore, **XYZ Private Limited cannot appoint AB & Co. as its auditor since they are holding appointments as an auditor in 41 private companies which exceeds overall ceiling of 40**. Thus, in above case such appointment shall not be in order. There is no relevance of paid up share capital in the above case.

### Question 10

XYZ, a refinery company controlled by the Central Government, incorporated on 30th June, 2015. The XYZ Company decided to appoint Mr. Ramaswamy as a first auditor. The Board of Directors of XYZ Company appointed him as an auditor in first annual general meeting. M, a member of the company raised its objection on the appointment of the Mr. Ramaswamy as a first auditor of XYZ company stating that Board is not authorized for the appointment. Examining the provisions of the Companies Act, 2013, state whether the contention of M is tenable.

**Answer :**

According to **Section 139(7)** of the Companies Act, 2013, in the case of a **government company** or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the **first auditor** shall be appointed by the **Comptroller and Auditor-General of India within sixty days** from the date of registration of the company and in case the Comptroller and Auditor-General of India **does not appoint** such auditor within the said period, the **Board of Directors** of the company shall **appoint such auditor within the next thirty days**; and in the case of **failure** of the Board to appoint such auditor within the next thirty days, it shall **inform the members** of the company who shall appoint such auditor **within the sixty days at an extraordinary general meeting**, who shall **hold office till the conclusion of the first annual general meeting**.

In the given case, XYZ is directly controlled Central Government Company, incorporated on 30th June, 2015. Mr. Ramawamy was appointed as first Auditor in the first Annual general meeting. As per the above provision, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days.

Thus, **M objection on the appointment of the Ramaswamy as auditor, is correct**. As per the above provision, Comptroller and Auditor-General of India is authorized to appoint him as auditor, in case of his failure to appoint within the prescribed period, then the Board may appoint such auditor of the company.

### Question 11

On recommendation of the Board of Directors of DJA Company Limited, Mr. R is appointed at the company's Annual General Meeting held on 1st October, 2014 as the company's auditor for a period of 10 years. A resolution to this effect was passed unanimously with no vote against the resolution. Explaining the provisions of the Companies Act, 2013 relating to the appointment and re- appointment of auditors:

(i) Examine the validity of the above resolution.

(ii) What shall be your answer in case an audit firm R & Associate is appointed as the company's auditor?

**Answer :**

**Appointment of Auditor [Section 139 of the Companies Act, 2013 and the Companies (Audit and Auditors) Rules, 2014]:**

**Section 139(2)** of the Companies Act, 2013, provides that listed companies and other prescribed class or classes of companies (except one person companies and small companies) shall not appoint or re-appoint-

- 1) an individual as auditor for more than one term of five consecutive years; and
- 2) an audit firm as auditor for more than two terms of five consecutive years.

The Companies (Audit and Auditors) Rules, 2014 has prescribed the following classes of companies for the purposes of Section 139(2):

- 1) all **unlisted public companies** having **paid up share capital of rupees 10 crore or more**;
- 2) **all private limited companies** **having** paid up share capital of rupees **50 crore or more**;

3) all companies **having paid up share capital of below threshold limit mentioned in (1) & (2) above** but having public borrowings **from financial institutions, banks or public deposits** of ₹ 50 crores or more.

(i) In the above question, on recommendation of the Board of Directors of DJA Company Limited, Mr. **R is appointed** at the company's Annual General Meeting held on 1st October, 2014 as the **company's auditor for a period of 10 years**. As per the above provisions of the Companies Act, 2013, the appointment of **Mr. R as auditor of the company for 10 years is not valid because an individual shall not be appointed as auditor for more than one term of five consecutive years**. The said **resolution is not valid**.

[Note: As the question does not specify the status of the company whether listed or unlisted; amount of paid up share capital, public borrowings from financial institutions, banks or public deposits are not known; it is assumed that DJA Company Limited is a listed company or within the prescribed classes of companies specified under the above said Rules].

(ii) **An audit firm can be appointed as an auditor for two terms of five consecutive years**. This means that a firm can be appointed for five years and thereafter may be appointed/ reappointed for further five years. The total period for which a firm can be appointed is 10 years. A **firm cannot be appointed as auditor for ten years by a single resolution**.

Thus, the **appointment of R & Associate as the company's auditor for ten years by a single resolution is not valid**.

### Question 12

List out three matters on which an Auditor of a company has to express his views and comments in his report as per the Companies (Audit and Auditors) Rules, 2014.

**Answer:**

The Companies (Audit and Auditors) Rules, 2014, provides that the auditor's report shall also include their views and comments on the following matters namely :

- (i) whether the **company has disclosed the impact**, if any, of **pending litigations** on its financial position in its financial statement;
- (ii) whether the **company has made provision**, as required under any law or accounting standards, for **material foreseeable losses**, if any, on long term contracts including derivative contracts;
- (iii) whether there has been any **delay in transferring amounts, required to be transferred**, to the **Investor Education and Protection Fund** by the company.

### Question 13

An audit firm, comprising of two partners, holds office as auditor of 40 private companies. Such audit firm wants to be further appointed as an auditor in XYZ Pvt. Ltd with a paid up capital of ₹ 110 crore. Decide whether this is in consonance with the applicable law.

**Answer:**

As per **Section 141(3)(g)** of the Companies Act, 2013, **private companies** shall also be included in the provisions with respect to **ceiling on number of audits** with the restriction inserted vide Notification No. G.S.R. 464(E), dated 5th June 2015, that the **private companies having paid up share capital less than 100 crore rupees shall not be included for calculation of specified number of audits**. As per the provision, a **person shall not be eligible for appointment** as an auditor of a company if such person or partner is at the date of such appointment or reappointment holding appointment as an **auditor of more than twenty companies**.

Since **XYZ Pvt. Ltd. is with paid up share capital ₹ 110 crore and so will be included in the prescribed ceiling limit of audit**, therefore, such audit firm cannot be appointed as an auditor of XYZ Pvt. Ltd as it will exceed the ceiling prescribed for number of audits.

**Assumption:** Here, it is assumed that all the 40 private companies in which the said audit firm holds the office of auditor are having the paid up capital of ₹ 100 crore or more.

#### Question 14

Mr. Zed, was appointed as an auditor of a company on 1<sup>st</sup> December, 2015. The company was incorporated on 1st November, 2015. Mr. K, a relative of Mr. Zed was holding securities of that company having face value of ₹ 1,10,000. Mr. Murthy, a shareholder of the company raised an objection on the appointment of the auditor. Referring to the provisions of the Companies Act, 2013, comment whether the contention of Mr. Murthy is tenable.

**Answer :**

As per **Section 141(3)(d)(i)** of the Companies Act, 2013, an auditor is disqualified to be appointed as an auditor if he or his relative or partner is holding any security of or interest in the company or its subsidiaries, or of its holding or associate company or a subsidiary of such holding company. Further as per proviso to this section the relative of the auditor may hold the securities or interest in the company of face value not exceeding ₹ 1,00,000.

Referring the above provisions to the given situation, Mr. K, the relative of Mr. Zed, an auditor, is holding securities of Face value of ₹ 1,10,000 in the company, which is in contravention to the provisions of Section 141(3)(d)(i). Therefore, **Mr. Zed is not eligible for appointment as an auditor of the company. Hence, the contention of Mr. Murthy is tenable.**

#### Question 15

The auditor of Organic Foods Ltd., accepted the Certificate from Mr. Rohan who is the manager, a person of knowledge, competence and high reputation, as to the value of the stock in trade. The valuation of stock referred to above was found to be grossly overstated for several years in the balance sheets of the company. As a result of the over valuation, dividends were paid out of capital. The auditor did not examine the books of account very minutely. If they had done so and compared the amount of stock at the beginning of the year, with the purchases and sales during the year, they would have noticed the over valuation. The company subsequently went into liquidation and the auditors were sued to make good the loss caused by the wrongful payment of dividends based on the balance sheets figures. Based on the above facts, you are required to decide, with reference to the provisions of the Companies Act, 2013 and the decided case laws, the following issues:

**(i) Whether the Auditors of the company will be liable for the loss caused to the company by the wrongful payment of dividends based on the Balance sheets duly audited by the Auditors.**

**(ii) What are the statutory duties of the Auditors in this regard?**

**Answer :**

The problem given in question is mainly relates to the duties of the auditors. Section 143 of the Companies Act, 2013 provides that the main duty of the auditor is to make a report to the members of the company on the accounts examined by him and the balance sheet and the profit and loss account of the company and on every document which is annexed to the balance sheet or profit and loss account laid before the company in general meeting. **The auditor owes a duty to the members to state whether the accounts give a true and fair view of the affairs of the company at the end of the financial year and of the profit and loss account of the year.**

The duty of an auditor is to give information in direct and express terms (Crichton's Oil Co. Re (1902) 2ch 86) and not merely to arouse inquiry. If he discovers that any illegal or improper payments or any other papers have been made, his duty will be to make it public by reporting. The auditor occupies a fiduciary position in relation to the shareholders and in auditing the accounts maintained by the directors, he must act in the best interest of the shareholders who are in the position of beneficiaries. But there is a limitation relating the duties to be performed by the auditor. An auditor is not bound to be a detective and is not expected to approach his work with suspicion or with a foregone conclusion that there is something wrong. He is a watchdog but not bloodhound. He is justified in believing tried servants of the company in whom confidence was placed by the company.

He is entitled to assume that they are honest and to rely upon their representations, provided he takes reasonable care. If there is anything calculated to excite suspicion, he should probe it to the

bottom, but in the absence of anything of that kind he is only bound to be reasonably cautious and careful.

This question is related to case of Kingston Cotton Mill Co. Re (No. 2) (1896) 2 Ch 279. In this case it was held that, the auditors were not liable. It is not auditor's duty to take stock. There are many matters in which he may rely on the honesty and accuracy of others. Further auditors do not guarantee the discovery of all frauds.

However, it is possible to hold a different view by stating that the auditor cannot escape from his responsibility by relying on the stock valuation certified by Mr. Rohan who is the manager. **Though, it is not the duty of auditor to examine the books of accounts very minutely, they are supposed to examine the quantity of stock at the beginning of year with the purchases & sales and arriving at the figures of closing stock which would have become clear that there was overvaluation of stock. Thus, the auditor of the company will be responsible for the violations and shall be punishable with fine which shall not be less than ₹ 25,000 but which may extend up to ₹ 5 lakhs as per provisions of Section 147(2) of the Act.**

### Question 16

**Selected Directors of Confidence Ltd. conspired with the Auditor of the company to embezzle the accounts of the company in their interest. Tribunal on an application filed by the certain directors passed the order for the removal of auditor. In view of the given facts state the following-**

- (i) Whether the order directing removal of auditor by tribunal on an application of certain directors is valid?**
- (ii) If an order of removal passed against the auditor, will he be eligible to be appointed in other company?**

### **Answer**

**(i)** According to the section 140(5) of the Companies Act, 2013, without prejudice to any action under the provisions of this Act or any other law for the time being in force, the Tribunal either suo motu or on an application made to it by the Central Government or by any person concerned, if it is satisfied that the auditor of a company has, whether directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, it may, by order, direct the company to change its auditors.

**Accordingly, in the given question, Tribunal on an application filed by certain directors for removal of auditor of the company on the account of embezzlement of the accounts of the company in the interest of selected directors, passed the order for removal.**

Referring the above provision, Tribunal, on being satisfied on an application filed by the certain directors alleging that the auditor of a company has embezzled the accounts of the company in the interest of the selected directors is colluded in the committing of the fraud, it may by order direct the company to change its auditor. Therefore, the act of tribunal by passing of an order of removal of auditor directing to company is valid.

- (ii)** Proviso to **section 140(5)** of the Act provides that an auditor against whom final order has been passed by the Tribunal under this section shall not be eligible to be appointed as an auditor of any company for a period of **five years from the date of passing of the order and the auditor shall also be liable for action under section 447.**

## CHAPTER -1

### THE INDIAN CONTRACT ACT

#### (A) Multiple Choice Questions

1. **A contract of indemnity is a**

(a) Contingent Contract	(b) Wagering contract
(c) Quasi Contract	(d) Void agreement
  
2. **In a contract of Guarantee there is/are:**

(a) One contract	(b) Two contracts
(c) Three contracts	(d) Four contracts.
  
3. **S and P go into a shop. S says to the shopkeeper, C, “Let P have the goods, and if he does not pay you, I will.” This is a**

(a) Contract of Gurantee	(b) Contract of Indemnity
(c) Wagering agreement	(d) Quasi-contract
  
4. **A guarantee obtained by a creditor by keeping silence as to material circumstances is:**

(a) Valid	(b) Voidable
(c) Unenforceable	(d) Invalid
  
5. **A bailee has**

(a) A right to particular lien over the goods bailed	(b) A right of generation
(c) A right of both particular and general lien	(d) No lien at all over the goods bailed.
  
6. **The delivery of goods by one person to another as security for the payment of a debt is called**

(a) Bailment	(b) Pledge
(c) Mortgage	(d) Hypothecation
  
7. **The position of a finder of lost goods is that of a**

(a) Bailor	(b) Bailee
(c) Surety	(d) Principal debtor
  
8. **The delivery of goods by one person to another for some specific purpose and time is known as:**

(a) Mortgage	(b) Pledge
(c) Bailment	(d) Charge
  
9. **Is one who represents to be an agent of another when in reality he has no such authority from the other agent a tall.**

(a) Substituted agent	(b) Subordinate agent
(c) Pretended agent	(d) Both (a) & (b)

**SWAPNIL PATNI CLASSES**

**10. Out of the following, who can appoint an Agent?**

- (a) Minor (b) Person of sound mind  
(c) Person of unsound mind (d) None of the above

**11. When an authority of agent is said to be implied:**

- (a) Given by words  
(b) spoken  
(c) Inferred from the circumstances of the case  
(d) written

**12. A guarantee obtained by a creditor by keeping silence as to material circumstances is:**

- (a) Valid (b) Voidable  
(c) Unenforceable (d) Invalid

**13. L made an offer to MD of a company. MD accepted the offer though he had no authority to do so. Subsequently L withdrew the offer but the company ratified the MD's acceptance. State which of the statement given here under is correct:**

- (a) L was bound with the offer (b) an offer once accepted cannot be withdrawn  
(c) Both option (a) & (b) is correct (d) L is not bound to an offer

**14. A is residing in Delhi and has a house in Mumbai. A appoints B by a power of attorney to take care of his house. State the nature of agency created between A and B:**

- (a) Implied agency (b) Agency by ratification  
(c) Agency by necessity (d) Express agency

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	
(a)	(c)	(b)	(b)	
<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
(c)	(b)	(b)	(c)	(c)
<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
(b)	(c)	(b)	(c)	(d)

**(B) PRACTICAL QUESTIONS**

➤ **Question 1:**

**May 2018**

*Mr. D was in urgent need of money amounting ₹ 5,00,000. He asked Mr. K for the money. Mr. K lent the money on the sureties of A, B and N without any contract between them in case of default in repayment of money by D to K. D makes default in payment. B refused to contribute. Examine whether B can escape liability?*

➤ **Answer**

**B cannot escape the liability**

- ☞ Since B is one of the co-sureties;
- ☞ Since in case of default by the principal debtor, every co-surety is liable to pay to the creditor all the sums which the principal debtor was liable to pay the creditor, unless the contract of guarantee otherwise provides.

➤ **Question 2:**

**Nov. 2002**

*'A' stands surety for 'B' for any amount which 'C' may lend to B from time to time during the next three months subject to a maximum of ₹ 50,000. One month later A revokes the guarantee, when C had lent to 'B' ₹ 5,000. Referring to the provisions of the Indian Contract Act, 1872 decide whether 'A' is discharged from all the liabilities to 'C' for any subsequent loan. What would be your answer in case 'B' makes a default in paying back to 'C' the money already borrowed i.e. ₹ 5,000?*

➤ **Answer**

**A is discharged**

- ☞ from the liabilities in respect of any loan given by C to B after the date of revocation of continuing guarantee.
- ☞ For the loan of ₹ 5,000 already given by C to B.

➤ **Question3:**

**May. 2006**

*Ravi becomes guarantor for Ashok for the amount which may be given to him by Nalin within six months. The maximum limit of the said amount is ₹ 1 lakh.. After two months Ravi withdraws his guarantee. Upto the time of revocation of gurantee, Nalin had given to Ashok ₹ 20,000.*

*Referring to the provisions of the Indian Contract Act, 1872 decide:-*

- (i) *Whether Ravi is discharged from his liabilities to Nalin for any subsequent loan?*
- (ii) *Whether Ravi is liable if Ashok fails to pay the amount of ₹ 20,000 to Nalin?*

➤ **Answer**

**Ravi is discharged**

- ☞ From all the liabilities in respect of any loan given by Nalin to Ashok after the date of revocation of continuing guarantee.

**Ravi is not discharged**

- ☞ For the loan of ₹ 20,000 already given by Nalin to Ashok.



**Question 4:**

Nov. 2008

A gives to C a continuing gurantee to the extent of ₹ 5,000 for the vegetables to be supplied by C to B from time to time on credit. Afterwards, B became embarrassed, and without the knowledge of A, B and C contract that C shall continue to supply B with vegetables for Examining the provision of the Indian Contract Act, 1872, decide whether A is liable on his guarantee given to C.

**Answer**

**A is not liable to C**

- ☞ for the transactions that take place after variation between B and C.
- ☞ since a surety is discharged if any variation is made in contract of guarantee without the consent of the surety.

**Question 5:**

Nov. 2006

C, the holder of an over due bill of exchange drawn by A as surety for B, and accepted by B, contracts with X to give time to B. Is A discharged from his liability?

**Answer**

**A is not discharged from his liability**

- ☞ since where a contract to give time to the principal debtor is made by the creditor with a third person, and not with the principal debtor, the surety is not discharged (Sec. 136).

**Question 6:**

Nov. 2008

B owes C a debt guaranteed by A. C does not sue B for a year after the debt has become payable. In the meantime, B becomes insolvent. Is A discharged? Decide with reference to the provisions of the Indian Contract Act, 1872.

**Answer**

**A is not discharged**

- ☞ since mere forbearance on the part of the creditor to sue the principal debtor does not discharge the Surety.

**Question 7:**

May. 2007

Examine whether the following constitute a contract of 'Bailment' under the provisions of the Indian Contract Act, 1872:

- (i) V parks his car at a parking lot, lock it, and keeps the keys with himself.
- (ii) Seizure of goods by customs authorities.

**Answer**

**(i) Parking the car and keeping key with himself**

- ☞ does not result in a valid contract of bailment;
- ☞ since delivery of goods does not take place in such a case (delivery here would refer to symbolic delivery, viz. delivery of keys of the car)

**(ii) Seizure of goods by custom authorities**

- ☞ results in a valid contract of bailment;
- ☞ since all the essentials of a valid contract of bailment are satisfied in such a case.

**Question 8:**

**May 2005**

*A hires a carriage of B and agrees to pay ₹ 500 as hire charges. The carriage is unsafe, though B is unaware of it. A is injured and claims compensation for injuries suffered by him. B refuses to pay. Discuss the liability of B.*

**Answer**

**Nature of bailment**

☞ Hire of carriage of B by A amounts to non-gratuitous bailment.

**Duty of B**

☞ To disclose to A that the carriage was unsafe (even though he was unaware about it).

**A is entitled to compensation**

☞ for injuries suffered by him due to non-disclosure of faults in the carriage.

**Question 9:**

**May 2008**

*M lends a sum of ₹ 5,000 to B, on the security of two shares of a Limited Company on 1<sup>st</sup> April 2018. On 15<sup>th</sup> June 2018, the company issued to bonus shares. B returns the loan amount of ₹ 5,000 with interest but M returns only two shares which were pledged and refuses to give the two bonus shares. Advise B in the light of the provisions of the Indian Contract Act, 1872.*

**Answer**

**B is entitled to the two bonus shares**

☞ since the bailor (pawnor, in case of pledge of goods) is entitled to any accretion to the goods;

☞ since the issue of two bonus shares by the company amounts to accretion to the goods.

**Question 10:**

**Nov. 2003**

*Sunil delivered his car to Mahesh for repairs. Mahesh completed the work, but did not return the car to Sunil within reasonable time, though Sunil repeatedly reminded Mahesh for the return of car. In the meantime a big fire occurred in the neighbourhood and the car was destroyed. Decide whether Mahesh can be held liable under the provisions of the Indian Contract Act, 1872.*

**Answer**

**Duty to Mahesh**

☞ to return the car to Sunil, without demand by Sunil, after completion of repairs (Sec. 160).

**Mahesh is liable for the loss of car by fire**

☞ since Mahesh failed to return the car within reasonable time of completion of repairs

☞ even though the car was destroyed without Mahesh's fault or negligence or due to extraordinary circumstances or acts of God (Sec. 161).

**Question 11:**

**May 2008**

*Ravi sent a consignment of goods worth ₹ 60,000 by railway and got railway receipt. He obtained an advance of ₹ 30,000 from the bank and endorsed and delivered the railway receipt in favour of the bank by way of security. The railway failed to deliver the Decide in the light of provisions of the Indian Contract Act, 1872, whether the bank would succeed in the said suit?*

**Answer**

**The contract between Ravi / X and Bank is a contract of pledge**

☞ since deposit of title deeds with the bank as security against an advance constitutes a pledge.

**Rights of pawnee**

☞ If a third person wrongfully deprives the pawnee of the goods, or causes any damage to the goods, the pawnee is entitled to all the remedies as the owner (viz. the pawnor) might have exercised as if the goods were not pledged (Sec. 180).

**The Bank would succeed in suit filed against the railways for entire value of the consignment**

☞ since in case of pledge, the pawnee can exercise all the rights which the pawnor could exercise in respect of such goods, if the goods are damaged or some third party deprives the pawnee of such goods (*Morvi Mercantile Bank Ltd. v. Union of India*)

☞ The compensation received by the pawnee shall be divided among the pawnor and pawnee as per their respective interests (Sec. 181)

**The bank shall pay over to Ravi**

☞ ₹ 30,000 (viz. ₹ 60,000 less ₹ 30,000)

**Question 12:**

**May 2008**

*R is the wife of P. She purchased some sarees on Credit from Q. Q demanded the amount from P. P Refused. Q filed a suit against P for the said amount. Decide in the light of provisions of the Indian Contract Act, 1872, whether Q would succeed?*

**Answer**

**Q is entitled to sue P**

- ☞ since a husband is liable for the necessities supplied to his wife;
- ☞ since the wife has an implied authority to pledge his husband's credit for necessities;
- ☞ since it is a legal presumption that a married woman is an agent of her husband.

**Question 13:**

**June 2009**

*R of New Delhi sends his agent M to purchase certain goods from Global Enterprise, Mumbai on credit for him. Later on R pays the amount for the goods purchased. On another occasion, he again sends M to purchase goods but this time pays sufficient cash to M for the purpose. M, however again purchases the goods from Global Enterprises but on credit and soon thereafter he dies. Global Enterprise file a suit against R for recovery of the said amount. Decide whether Global Enterprise would be given any relief by the Court under the provisions of the Indian Contract Act, 1872.*

**Answer**

**R is liable to Global Enterprise for goods purchased by M**

- ☞ since the principal is bound to third parties for all such acts of the agent as are within the scope of authority of the agent;
- ☞ since on a previous occasion, purchase of goods by M on behalf of R, and subsequent payment for such goods by R, established that it was within the scope of authority of M to purchase goods on credit on behalf of R.

**Question 14:**

May 2018

Rahul, a transporter was entrusted with the duty of transporting tomatoes from a rural farm to a city by Aswin. Due to heavy rains, Rahul was stranded for more than two days. Rahul sold the tomatoes below the market rate in the nearby market where he was stranded fearing that the tomatoes may perish. Can Aswin recover the loss from Rahul on the ground that Rahul had acted beyond his authority?

**Answer**

- ☞ since an agency by necessity has come into existence, since –
  - (i) there was an actual and definite necessity for Rahul to act on behalf of Aswin; and
  - (ii) Rahul sold the tomatoes for the purpose of protecting the interest of Aswin.
- ☞ Assuming that Rahul was not in a position to communicate with Aswin and Rahul exercised such reasonable care as a man of ordinary prudence would have exercised in his own case.

**Question 15:**

Nov. 2005

Mr. Ahuja of Delhi engaged Mr. Singh as his agent to buy a house in West Extension area. Mr. Singh bought a house for ₹ 20 lakhs in the name of a nominee and then purchased it himself for ₹ 24 lakhs. He then sold the same house to Mr. Ahuja for ₹ 26 lakhs. Mr. Ahuja later comes to know the mischief of Mr. Singh and tries to recover the excess amount paid to Mr. Singh. Is he entitled to recover any amount from Mr. Singh? If so, how much? Explain.

**Answer**

Non-disclosure of profit of ₹ 6 lakhs amounts to breach of duty by Mr. Singh

- ☞ since Mr. Singh, without disclosing all material facts and without obtaining the consent of Mr. Ahuja, dealt in the business of agency on his own account (Sec. 215);
- ☞ since Mr. Singh made a secret profit (Sec. 216)

**Rights of Mr. Ahuja**

Mr. Ahuja is entitled to repudiate the contract or to claim from Mr. Singh ₹ 6 lakhs.

**Question 16:**

May. 2008

P appoints A as his agent to sell his estate. A, on looking over the estate before selling it, finds the existence of a good quality Granite-Mine on the estate, which is unknown to P. A buys the estate himself after informing P that he (A) wishes to buy the estate for himself but conceals the existence of Granite-Mine. P allows A to buy the estate, in ignorance of the existence of Mine. State giving reasons in brief the rights of P, the principal, against A, the agent.

What would be your answer if A had informed P about the existence of Mine before he purchased the estate, but after two months, he sold the estate at a profit of ₹ 1 lakh?

**Answer**

**Non-disclosure of existence of mine amounts to breach of duty by A**

- ☞ since A, without disclosing all material facts and without obtaining the consent of P, dealt in the business of agency on his own account.

**If A had informed P about the existence of mine**

- ☞ then, A would not be liable, even though he makes a profit of ₹ 1 lakh, since in such a case, there is no breach of duty of disclosure and obtaining consent.

**Question 17:**

**May. 2018**

*ABC Ltd. sells its products through some agents and it is not the custom in their business to sell the products on credit. Mr. Pintu, one of the agents sold goods of ABC Ltd. to M/s. Parul Pvt. Ltd. (on credit) which was insolvent at the time of such sale. ABC Ltd. sued Mr. Pintu for compensation towards the loss caused due to sale of product to M/s. Parul Pvt Ltd. Will ABC Ltd. succeed in its claim?*

**Answer**

**ABC Ltd. shall succeed in claiming loss from Pintu**

- ☞ since, as per Sec. 211, it was the duty of Pintu to conduct the business in accordance with the directions given by the principal, viz. ABC Ltd., and in the absence of any such directions according to the customs which prevail in doing business of the same kind;
- ☞ since pintu has failed to conduct the business according to the customs prevalent in the business in which ABC Ltd. is engaged, and so Pintu shall be liable to make good the loss incurred by ABC Ltd.

**Question 18:**

**May. 2014**

*Sunil borrowed a sum of ₹ 3 lakh from Rajendra. Sunil appointed Rajendra as his agent to sell his land and authorized him to appropriate the amount of loan out of the sale proceeds. Afterwards, Sunil revoked the agency. Decide under the provisions of the Indian Contract Act, 1872 whether the revocation of the said agency by Sunil is lawful?*

**Answer**

**Agency in the given case is**

- ☞ An agency coupled with interest.

**Revocation of agency by Sunil is not valid**

- ☞ Since the agency coupled with interest cannot be revoked.

**CHAPTER -2**  
**THE NEGOTIABLE INSTRUMENTS ACT 1881**

**(A) Multiple Choice Questions**

- 1. Person named in the instrument to whom money is directed to be paid**  
 (a) Drawer (b) Acceptor  
 (c) Maker (d) Payee
  
- 2. Maker of a bill of exchange is called as .....**  
 (a) Drawer (b) Drawee  
 (c) Acceptor (d) Payee
  
- 3. Days of grace provided to the Instruments at maturity is .....**  
 (a) 1 day (b) 2 days  
 (c) 3 days (d) 5 days
  
- 4. Parties to a negotiable instrument can be discharged from liability by .....**  
 (a) Cancellation (b) Payment  
 (c) Release (d) All of the above
  
- 5. Validity period for the present ment of cheque in bank is**  
 (a) 3 months (b) 6 months  
 (c) 1 year (d) 2 years
  
- 6. Offences committed under the Negotiable Instruments Act can be ....**  
 (a) Compoundable (b) Non compoundable  
 (c) Non compoundable and non-bailable (d) bailable

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
(d)	(a)	(c)	(d)	(a)	(a)

(B) PRACTICAL QUESTIONS

Question 1:

Nov. 2002

Referring to the provisions of the Negotiable Instruments Act, 1881, examine the validity of the following Promissory Notes:

(i) I owe you a sum of ₹ 1,000. 'A' tells 'B'

(ii) 'X' promises to pay 'Y' a sum of ₹ 10,000, six months after 'Y' marriage with 'Z'

Answer

**It is not a valid promissory note**

☞ since A has not made any promise to pay ₹ 1,000 to B (mere acknowledgement of indebtedness) does not result in a valid promissory note).

☞ since A has not made any instrument in writing.

**It is not a valid promissory note**

☞ since the promise is conditional (as Y's marriage with Z is not certain to happen)

Question 2:

May. 2004

S writes, " I promise to pay' B' a sum of ₹ 500, seven days after my marriage with 'C' is this a promissory note?"

Answer

**The promise by S does not constitute a valid promissory note**

☞ since the promise is conditional (as marriage of S with C is not certain to happen).

Question 3:

Nov. 2007

Whether the following notes may be considered as valid Promissory notes:

(i) I promise to pay ₹ 5,000 or ₹ 7,000 to Mr. Ram.

(ii) I promise to pay to Mohan ₹ 500, if he secures 60% marks in the examination.

(iii) I promise to pay ₹ 3,000 to Ravi after 15 days of the death of A.

Answer

**It is not a valid promissory note**

☞ since the amount payable is not certain.

**It is not a valid promissory note**

☞ since the promise is conditional (since it is not certain that Mohan would secure 60% marks in examination).

**It is a valid promissory note**

since the promise is not conditional (since it is dependent upon a death of A, which is certain to happen, although the time of its happening is not certain).

Question 4:

Nov. 2005, May 2015

A major, and B, a minor, executed a promissory note in favour of C. Examine with reference to the provisions of the Negotiable Instruments Act, the validity of the promissory note and whether it is binding on A and B.

**Answer**

**The promissory note is valid**

☞ since a negotiable instrument does not become invalid only because of the reason that any party to the negotiable instrument (viz. the maker, payee, endorser or endorsee) is a minor.

**B is not liable**

☞ since a minor is not liable on a negotiable instrument.

**A is liable**

☞ since all the parties, except the minor are liable on a negotiable instrument drawn, accepted, endorsed, or negotiated by a minor.

**Question 5:**

**Nov. 2005**

Ascertain the 'date of maturity' of a bill payable 120 days after date. The bill of exchange was drawn on 1<sup>st</sup> June, 2005.

**Answer**

<b>Date of the bill</b>	1 <sup>st</sup> June, 2005
<b>Nature of bill</b>	Time bill – Payable 120 days after date.
<b>Days to be excluded</b>	The date on which the bill is drawn viz. 1 <sup>st</sup> June, 2005, shall be excluded.
<b>120 days from 1<sup>st</sup> June</b>	Remaining days in June – 29 Days in July – 31 Days in August – 31 120 <sup>th</sup> day ends on September 29, 2005.
<b>Days of grace</b>	3 days (added to September, 29, 2005).
<b>120 days + days of grace calculated from 1<sup>st</sup> June</b>	2 <sup>nd</sup> October, 2005
<b>Date of maturity</b>	1 <sup>st</sup> October, 2005 (being the preceding business day) since 2 <sup>nd</sup> October is a public holiday.

**Question 6:**

**Nov. 2007**

Calculate the date of maturity of the following bills of exchange explaining the relevant rules relating to determination of the date of maturity as provided in the Negotiable instruments Act, 1881:

- (i) A Bill of Exchange dated 31<sup>st</sup> August, 2007 is made payable three months after date.
- (ii) A Bill of Exchange drawn on 15<sup>th</sup> October, 2007 is payable twenty days after sight and the bill is presented for acceptance on 31<sup>st</sup> October, 2007.



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**Answer**

<b>Date of the bill</b>	31.08.2007
<b>Nature of bill</b>	Time bill – Payable 3 months after date.
<b>Corresponding day after 3 months</b>	30.11.2007 (Corresponding day of the relevant month (i.e. Date on which negotiable instrument is drawn + stated number of months) + 3 <sup>rd</sup> day. However, if in the relevant month, there is no corresponding day, the last day of such month shall be taken
<b>Days of grace</b>	3 days (added to 30.11.2007)
<b>3 months + days of grace calculated from 31.08.2007</b>	03.12.2007
<b>Date of maturity</b>	03.12.2007
<b>Ans (ii)</b>	
<b>Date of the bill</b>	15.10.2007
<b>Nature of bill</b>	Time bill – Payable 20 days after sight.
<b>Date of presentation of bill for acceptance</b>	31.10.2007
<b>Days to be excluded</b>	The date on which the bill is presented for acceptance, viz. 31.10.2007 shall be excluded.
<b>20 days from 31.10.2007</b>	20.11.2007.
<b>Days of grace</b>	3 days (added to 20.11.2007)
<b>20 days + days of grace calculated from 31.10.2007</b>	23.11.2007
<b>Date of maturity</b>	23.11.2007

**Question 7:**

**Nov. 2004**

*Draws a bill on B.B accepts the bill without any consideration. The bill is transferred to C without consideration. C transferred it to D for value. Decide –*

- (i) Whether D can sue the prior parties of the bill, and
- (ii) Whether the prior parties other than D have any right of action interse?

**Answer**

**Rights of D**

D can recover the amount of the bill from all the prior parties since D is a holder for value.

**Rights of prior parties other than D**

No party prior to D can recover the amount of the bill from any prior party since a negotiable instrument creates no obligation of payment between the parties if it was made, drawn, accepted, endorsed, or transferred without consideration.

**Question 8:**

**Nov. 2010**

*P draws a bill on Q for ₹ 10,000. Q accepts the bill. On maturity the bill was dishonored by non-payment. P files a suit against Q for payment of ₹ 10,000. Q proved that the bill was accepted for value of ₹ 7,000 and as an accommodation to the plaintiff for the balance amount i.e. ₹ 3,000 Referring to the provisions of the Negotiable Instruments Act, 1881, decide whether P would succeed in recovering the whole amount of the bill.*

**Answer**

**Y is entitled to recover only ₹ 3,000**

☞ since the consideration was originally absent in a part (viz. for ₹ 2,000), and so the holder is entitled to receive only ₹ 2,000.

**Question 9:**

**Nov. 2007**

*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 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.*

**Answer**

**B is entitled to recover only such amount as was payable by A**

- ☞ since B (i.e. payee) stands in immediate relation with A (i.e. drawer);
- ☞ since the consideration consists of money;
- ☞ since the consideration was originally absent in part.

**C is entitled to recover the whole amount of cheque**

- ☞ since a holder in due course is entitled to receive whole of the amount of the negotiable instrument.

**Question 10:**

**Nov. 2016**

*Discuss with reasons, whether the following persons can be called as a 'holder' under the Negotiable Instruments Act, 1881:*

- (i) X who obtains a cheque drawn by Y by way of gift.
- (ii) A, the payee of the cheque, who is prohibited by a court order from receiving the amount of the cheque.
- (iii) M, who finds a cheque payable to bearer, on the road and retains it.
- (iv) B the agent of C, is entrusted with an instrument without endorsement by C, who is the payee.
- (v) B, who steals a blank cheque of A and forges A's signature.

**Answer**

**(i) X is a holder**

- ☞ since X is entitled in his own name to the possession of the cheque and to receive the amount of the cheque.

**(ii) A is not a holder**

- ☞ since he is not entitled to recover the amount of the cheque as per court's order.

**(iii) M is not a holder**

- ☞ since the cheque was not negotiated to him;
- ☞ since mere 'possession' does not make a person a holder; it is the 'entitlement to possession which makes a person 'holder';
- ☞ since M is not entitled to the possession and is not entitled to receive or recover the amount of the cheque (Sec. 8);

☞ since a finder of a lost negotiable instrument has no right to receive the amount of the negotiable instrument (sec. 58).

**(iv) B is not a holder**

- ☞ since he is entitled to the possession of the negotiable instrument, but not in his own name;
- ☞ since he is entitled to receive the amount of the negotiable instrument, but not in his own name.

**(v) B is not a holder**

- ☞ since he is in wrongful possession of the negotiable instrument;
- ☞ since he is not at all entitled to the possession of the negotiable instrument;
- ☞ since he is not entitled to receive or recover the amount of the negotiable instrument;
- ☞ since a cheque containing forged signature of the drawer is a nullity, and does not confer any title to any person.

**Question 11:**

**Nov. 2015**

*Mr. A is the payee of an order cheque. Mr. B steals the cheque and forges Mr. A's signatures and endorses the cheque in his own favour. Mr. B then further endorses the cheque to Mr. C, who takes the cheque in good faith and for valuable consideration.*

*Examine the validity of the cheque as per the provisions of the Negotiable Instruments Act, 1881 and also state whether Mr. C can claim the privilege of a holder-in-Due course?*

**Answer**

**Mr. C is not HDC**

- ☞ since forgery is nullity;
- ☞ since Mr. C shall not derive any title under an endorsement made by Mr. B, as Mr. B had no title to the cheque because of forged endorsement of Mr. A;
- ☞ since Mr. B was neither the 'payee' nor the 'endorsee' of the cheque by reason of forged endorsement of Mr. A, and so Mr. C cannot become the 'payee of endorsee' of such cheque under an endorsement made by Mr. B;
- ☞ since Mr. A continue to be the holder of the cheque because the ownership of the negotiable instrument remains vested in the person who is the holder at the time when the forged signatures were put on the negotiable instrument.

**Question 12:**

**Nov. 2006**

*B obtains A's acceptance to a bill of exchange by fraud. B endorses it to C who is a holder in due course. C endorses the bill to D who knows of the fraud. Referring to the provisions of the Negotiable Instruments Act, 1881, decide whether D can recover the money from A in the given case.*

**Answer**

**D is HDC**

- ☞ since all the conditions given u/s 9 are satisfied.
- ☞ since D has acquired the negotiable instrument from C, and the title of C is not defective;
- ☞ since it is immaterial that D had knowledge of the fraud (provided D was not a party to the fraud).

**D can recover payment from A**

- ☞ since HDC has the right to receive or recover payment of the negotiable instrument from all the prior parties.

Question 13:

Nov. 2014

*S, by inducing T, obtains a Bill of Exchange from him fraudulently in his (S) favour. Later, he enters into a commercial deal and endorses the bill to V towards consideration to him (V) for the deal. V takes the bill as a Holder-in-due-course. V subsequently endorse the bill to S for value, as consideration to S for some other deal. On maturity the bill is dishonoured. S sues T for the recovery of the money. With reference to the provision of the Negotiable Instruments Act, 1881 decide whether S will succeed in the case or not.*

Answer

**S cannot recover the money from T**

- ☞ since S was himself a party to the fraud;
- ☞ since S shall not have the same rights as that of 'V' from whom he (viz. S) obtained the bill, since as per Sec. 53 a holder who derives his title from HDC has the same rights as of that HDC only if he himself was not a party to the fraud or illegality which affected the bill in some stage of its journey.

Question 14:

Nov. 2015

*Referring to the provisions of the Negotiable Instruments Act, 1881, examine the validity of the following:*

*A cheque marked 'Not Negotiable' is not transferable.*

Answer

**A cheque marked 'not negotiable' is transferrable**

- ☞ but, no transferee shall have a title better than that of the transferor, even though he acquired the cheque in good faith and without negligence (Sec. 130).

Question 15:

Nov. 2002

*The drawer, 'D' is induced by 'A' to draw a cheque in favour of P, who is an existing person. 'A' instead of sending the cheque to 'P', forges his name and pays the cheque into his own bank. Whether 'D' can recover the amount of the cheque from 'A's banker. Decide.*

Answer

**D's banker is not liable**

- ☞ since a paying banker is not liable even if it is subsequently found that any endorsement on the cheque has been forged;
- ☞ provided the paying banker made the payment in due course (Sec. 85).

**A's banker is not liable**

- ☞ since a collecting banker is not liable for any loss caused to the true owner due to defective title of the holder,
- ☞ provided the collecting banker acted in good faith and without negligence while collecting the amount of the crossed cheque as an agent (Sec. 131).

Question 16:

May, 2003, 05, 08, 14

*A issues a cheque for ₹ 25,000 in favour of B. A has sufficient amount in his account with the Bank. The cheque was not presented within reasonable time to the Bank for payment and the Bank in the*

*meantime, became bankrupt. Decide under the provision of the Negotiable Instruments Act, whether B can recover the money from A?*

**Answer**

**The drawer is discharged since**

- ☞ the drawer has sufficient balance when the cheque ought to be presented for payment;
- ☞ the holder had defaulted in presenting the cheque for payment within a reasonable time;
- ☞ the drawer has suffered actual damages due to the failure of the bank after issue of cheque but before presentation of the cheque.

**Question 17:**

**May 2016**

*Mr. Bean is a promoter who has taken a loan on behalf of company but he is neither a director nor a person-in-charge of the company. He sent a cheque from the company's account to discharge its legal liability. Subsequently, the cheque was dishonored and a complaint was lodged against him. Can he be held liable for an offence under Section 138 of the Negotiable Instruments Act, 1881?*

**Answer**

**Company has committed an offence u/s 138**

- ☞ since a company is held liable for dishonor of a cheque issued to discharge the debt or liability (Sec. 138).

**Persons liable where offence u/s 138 is committed by a company**

- ☞ in case of dishonor of a cheque issued by a company, company as well as every officer in charge of the company is liable u/s 138 (Sec. 141).

**Mr. Bean has not committed any offence u/s 138.**

since Mr. Bean is not a director or an officer in charge of the company. (*HNB Mulla Firoze v C Y Somaya Julu*)

**Question 18:**

**Nov. 2006**

*V makes a gift of ₹ 10,000 to W through a cheque issued in favour of W. Later he (V) inform W not to present the cheque for payment and informs the bank also to stop payment. Examining the provisions of the Negotiable Instruments Act, 1881, decide whether V's above acts constitute an offence.*

**Answer**

**V is not liable for an offence u/s 138**

- ☞ since the drawer of a cheque is liable u/s 138 only if a cheque is issued to discharge a legally enforceable debt or other liability.
- ☞ since in the present case, the cheque has been issued by V as a gift to W, and not for discharge of a legally enforceable debt or other liability (Sec. 138).

**Presumption of consideration is not applicable**

- ☞ since it can be proved that the cheque was given as a gift (Sec. 139).

**Question 19:**

**Nov. 2007**

*State whether the following alterations are material alterations under the Negotiable Instruments Act, 1881?*

- (i) *The holder of the bill inserts the word "or order" in the bill,*
- (ii) *The holder of the bearer cheque converts it into account payee cheque,*
- (iii) *A bill payable to X is converted into a bill payable to X and Y.*

**Answer**

**(i) It is not a material alteration**

☞ since even after insertion of the words 'or order', the negotiable instrument continues to be an order instrument.

**(ii) It is a material alteration**

☞ since it restricts the right of the holder to obtain the payment of the cheque in cash and to negotiate it;  
☞ but such alteration is authorized by the Act, and so no party is discharged.

**(iii) It is a material alteration**

☞ since the right to receive the payment has been altered (before the alteration, the right to receive was with X, but after the alteration, the right is with X and Y jointly)

**Question 20:**

**June. 2009**

*A issues an open 'bearer' cheque for ₹ 10,000 in favour of B who strikes out the word 'bearer' and puts crossing across the cheque. The cheque is thereafter negotiated to C and D. When it is finally presented by D's banker, it is returned with remarks, 'payment countermanded' by drawer. In response to this legal notice from D, A pleads that the cheque was altered after it had been issued and therefore he is not bound to pay the cheque. Referring to the provisions of the Negotiable Instruments Act, 1881, decide whether 'A's argument is valid or not?*

**Answer**

**Effects of striking off the word 'bearer'**

☞ It amounts to a material alteration.  
☞ However, such material alteration is authorized by the Act.  
☞ Therefore, the cheque is not discharged; it remains valid.

**Effect of crossing the cheque**

☞ It amounts to a material alteration.  
☞ However, such material alteration is authorized by the Act.  
☞ Therefore, the cheque is not discharged; it remains valid.

A's argument is not valid

☞ since the reason for dishonor of cheque is not 'material alteration', but 'payment countermanded by drawer'.  
☞ Therefore, A is liable for the payment of the cheque, and he shall also be liable for dishonor of cheque in accordance with the provisions of Sec. 138.

**Question 21:**

**June. 2009**

*Mr. Wise obtains fraudulently from 'R' a crossed cheque 'Not Negotiable'. He transfers the cheque to 'V', who gets the cheque encashed from ANS Bank Limited which is not the drawee bank. 'R' on coming to know about the fraudulent act of Mr. Wise sues ANS Bank for the recovery of money. Examine with reference to the relevant provisions of The Negotiable Instruments Act, 1881, whether 'R' will succeed in his claim? Would your answer be still the same in case Mr. Wise does not transfer the cheque and gets the cheque encashed from ANS Bank himself?*

**Answer**

**The collecting banker is not liable R**

- ☞ since it has collected the payment of the cheque, acting as an agent
- ☞ provided it has collected the payment of the cheque in good faith and without negligence (Sec. 131).

**Even if Mr. Wise collects the cheque himself**

- ☞ collecting banker is not liable for the same reasons cited above (Sec. 131).

**Question 22:**

**May. 2003**

*An acceptor accept a bill of exchange but writes on it 'Accepted but payment will be made when goods delivered to me is sold'. Decide the validity.*

**Answer**

**The acceptance is valid and the acceptor is liable**

- ☞ but, it amounts to qualified acceptance (since the acceptance is subject to some qualification or condition, viz. payment will be made when goods are sold).
- ☞ but, no other party shall be liable on the bill, unless it has given its consent to the qualified acceptance.
- ☞ However, the holder is entitled to object to qualified acceptance, and treat the bill as dishonoured by non-acceptance, and in such a case, all the prior parties shall be liable towards the holder (sec. 86)

**Question 23:**

**May. 2003**

*Examine the validity of the following in the light of the provisions of the Negotiable Instrument Act, 1881:*

*(i) An oral acceptance*

*(ii) An acceptance by mere signature without writing the word 'accepted'.*

**Answer**

(i) The acceptance is not valid

- ☞ since it is not given in writing and is not signed.

(ii) The acceptance is valid

- ☞ since the drawee has signed the bill;
- ☞ since writing the word 'accepted' is not a statutory requirement.

**Question 24:**

**May. 2007**

*Referring to the provisions of the Negotiable Instruments Act, 1881, examine the validity of the following:*

*A Bill of Exchange originally drawn by M for a sum of ₹ 10,000, but accepted by R only for ₹ 7,000.*

**Answer**

**The acceptance is valid and the acceptor is liable for ₹ 7,000**

- ☞ but, it amounts to qualified acceptance (since the acceptance is given for a part of the sum mentioned in the bill).
- ☞ but, no other party shall be liable on the bill, unless it has given its consent to the qualified acceptance.

☞ However, the holder is entitled to object to qualified acceptance, and treat the bill as dishonoured by non-acceptance, and in such a case, all the prior parties shall be liable towards the holder (Sec. 86).

**Question 25:**

**May. 2007**

*Referring to the provisions of the Negotiable Instruments Act, 1881, examine whether acceptance of a bill of exchange in the following situations shall be treated as 'qualified' acceptance where the acceptor:*

- (i) Undertakes to pay only ₹ 2,000 for a bill drawn for ₹ 5,000;
- (ii) Declares the payment to be independent of any other event;
- (iii) Writes: "Accepted, payable at ABC Bank".

**Answer**

**(i) The acceptance is qualified**

☞ since the acceptance is given for a part of the sum mentioned in the bill.

**(ii) The acceptance is not qualified**

☞ since the acceptance is given without any condition or qualification.

**(iii) The acceptance is not qualified**

☞ since an acceptance to pay at a particular place amounts to general acceptance (but if it is expressly stated that the bill shall be paid at the specified place only and not elsewhere, it amount to qualified acceptance).

**Question 26:**

**May. 2007 Nov. 2008**

*X draws a bill on Y but signs it in the fictitious name of Z. The bill is payable to the order of Z. The bill is duly accepted by Y. M obtains the bill from X thus becoming its holder in due course. Can Y avoid payment of the bill? Decide in the light of the provisions of the Negotiable Instruments Act, 1881.*

**Answer**

**Y is liable to M for the payment of the bill**

- ☞ since where a bill is signed by the drawer in a fictitious name, the acceptor cannot allege against a holder in due course that the drawer is fictitious;
- ☞ since it can be proved that the signatures of the person signing in the capacity of drawer and that of the person signing in the capacity of the endorser are in same handwriting.

**Question 27:**

**Nov. 2009**

*'N' is the holder of a bill of exchange made payable to the order of 'P'. The bill of exchange contains the following endorsements in blank;*

First endorsement	'P'
Second endorsement	'Q'
Third endorsement	'R'
Fourth endorsement	'S'

*'N' strikes out, without S' consent, the endorsements by 'Q' and 'R'. Decide with reasons whether 'N' is entitled to recover anything from S under provisions of Negotiable Instruments Act, 1881.*



*Answer*

**Effect of striking off the name of an endorser**

☞ where the holder cancels the name of any party liable on the negotiable instrument, such a party and all parties subsequent to him are discharged.

☞ **S is discharged**

since the holder, N has struck off the name of Q and R, and S is the party subsequent to Q and R.

**N is not entitled to recover anything from S**

☞ since S has been discharged due to cancellation of endorsement of Q and R.

**CHAPTER -3**  
**THE GENERAL CLAUSES ACT, 1897**

**(A) Multiple Choice Questions**

- 1. The General Clauses Act, 1897 intends to:**
  - (a) Provide general definitions
  - (b) Applicable to all Central Acts and Regulations.
  - (c) Applicable where there is no definition, unless there is anything repugnant in the subject or context.
  - (d) All of the above
  
- 2. The General Clauses Act is one of the oldest Acts, came into force on:**

(a) 1 <sup>st</sup> April, 1897	(b) 11 <sup>th</sup> March, 1897
(c) 11 <sup>th</sup> March, 1887	(d) 1 <sup>st</sup> April, 1868
  
- 3. Preamble is most important in any legislation, it:**
  - (a) Provides definitions in the Act.
  - (b) Expresses scope, object and purpose of the Act.
  - (c) Provides summary of the entire Act.
  - (d) None of the above.
  
- 4. As per Rule of an Educational Institution, every student may come on weekends for extra classes but every student shall appear on a weekly test conducted in the institute, which means:**
  - (a) Attending weekend classes is optional but appearing in weekly test is compulsory
  - (b) Attending weekend classes is compulsory but appearing in weekly test is optional
  - (c) Attending weekend classes and appearing in weekly test, both are compulsory for students
  - (d) Attending weekend classes and appearing in weekly test both are optional for students.
  
- 5. Which of the following is not an Immovable Property:**

(a) Land	(b) Building
(a) Timber	(d) Machinery permanently attached to the land

**ANSWER KEYS**

1	2	3	4	5
(d)	(b)	(b)	(a)	(c)

(B) PRACTICAL QUESTIONS

Question 1:

*What is “Financial Year” under the General Clauses Act, 1897?*

Answer:

According to Section 3(21) of the General Clauses Act, 1897, ‘Financial Year’ shall mean the year commencing on the first day of April.

The term year has been defined under Section 3 (66) as a year reckoned according to the British calendar. Thus as per General Clauses Act, Year means calendar year which starts from January to December.

Hence, in view of the both above definitions, it can be concluded that Financial Year is a year which starts from first day of April to the end of March.

Question 2:

*What is “Immovable Property” under the General Clauses Act, 1897?*

Answer:

According to Section 3(26) of the General Clauses Act, 1897, ‘Immovable Property’ shall include:

- (i) Land
- (ii) Benefits to arise out of land, and
- (iii) Things attached to the earth, or permanently fastened to anything attached to the earth.

For example, trees are immovable property because trees are benefits arise out of the land and attached to the earth. However, timber is not immovable property as the same are not permanently attached to the earth. In the same manner, buildings are immovable property.

Question 3:

*As per the provisions of the Companies Act, 2013, a whole time Key Managerial Personnel (KMP) shall not hold office in more than one company except its subsidiary company at the same time. Referring to the Section 13 of the General Clauses Act, 1897, examine whether a whole time KMP can be appointed in more than one subsidiary companies?*

Answer:

Section 203(3) of the Companies Act, 2013 provides that whole time key managerial personnel shall not hold office in more than one company except in its subsidiary company at the same time. With respect to the issue that whether a whole time KMP of holding company be appointed in more than one subsidiary companies or can be appointed in only one subsidiary company.

It can be noted that Section 13 of General Clauses Act, 1897 provides that the word ‘singular’ shall include the ‘plural’, unless there is anything repugnant to the subject or the context. Thus, a whole time key managerial personnel may hold office in more than one subsidiary company as per the present law.

Question 4:

*A notice when required under the Statutory rules to be sent by “registered post acknowledgement due” is instead sent by “register post” only. Whether the protection of presumption regarding*

*serving of notice by “registered post” under the General Clauses Act? Referring to the provisions of the General Clauses Act, 1897, examine the validity of such notice in this case.*

**Answer:**

As per the provision of Section 27 of the General Clauses Act, 1897, where any legislation or regulation requires any document to be served by post, then unless a different intention appears, the service shall be deemed to be effected by:

- (i) Properly addressing
- (ii) Pre-paying, and
- (iii) Posting by registered post.

Alter containing the document to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Therefore, in view of the above provision, since, the statutory rules itself provides about the service of notice that a notice when required under said statutory rules to be sent by ‘registered post acknowledgement due’ then, if notice was sent by ‘registered post’ only it will not be the compliance of said rules. However, if such provision was not shall be deemed to be effected.

Furthermore, in similar case of In United Commercial Bank v. Bhimsain Makhija, AIR 1994 Del 181: A notice when required under the statutory rule to be sent by ‘registered post acknowledgement due’ is instead sent by ‘registered post’ only, the protection of presumption regarding serving of notice under ‘registered post’ under this section of the Act, neither tenable nor based upon sound exposition of law.

**Question 5:**

**May, 2018**

*X owned a land with fifty tamarind trees. He sold his land and the (obtained after cutting the fifty trees) to Y. X wants to know whether the sale of timber tantamount to sale of immovable property. Advise him with reference to provisions of “General Clauses Act, 1897”.*

**Answer:**

“Immovable Property” [Section 3(26) of the General Clauses Act, 1897]: ‘Immovable Property’ shall include:

- (i) Land,
- (ii) Benefits to arise out of land, and
- (iii) Things attached to the earth, or
- (iv) Permanently fastened to anything attached to the earth.

It is an inclusive definition. It contains four elements: land, benefits to arise out of land, things attached to the earth and things permanently fastened to anything attached to the earth. Where, in any enactment, the definition of immovable property is in the negative and not exhaustive, the definition as given in the General Clauses Act will apply to the expression given in that enactment.

In the instant case, X sold Land along with timber (obtained after cutting trees) of fifty tamarind trees of his land. According to the above definition, Land is immovable property; however, timber cannot be immovable property since the same are not attached to the earth.

**Question 6**

(May 2018)

**Explain briefly any four effects by repeal of an existing Act by central legislation enumerated in Section-6 of The General Clauses Act, 1897.**

**Answer**

According to Section 6 of the General Clauses Act, 1897, where any Central legislation or any regulation made after the commencement of this Act repeals any Act made or yet to be made, unless another purpose exists, the repeal shall not:

- (a) Revive anything not enforced or prevailed during the period at which repeal is effected or;
- (b) Affect the prior management of any legislation that is repealed or anything performed or undergone or;
- (c) Affect any claim, privilege, responsibility or debt obtained, ensued or sustained under any legislation so repealed or;
- (d) Affect any punishment, forfeiture or penalty sustained with regard to any offence committed as opposed to any legislation or
- (e) Affect any inquiry, litigation or remedy with regard to such claim, privilege, debt or responsibility or any inquiry, litigation or remedy may be initiated, continued or insisted.

**Question 7**

(May 2018)

**What is the meaning of service by post as per provisions of The General Clauses Act, 1897?**

**Answer**

“Meaning of Service by post” [Section 27 of the General Clauses Act, 1897]: Where any legislation or regulation requires any document to be served by post, then unless a different intention appears, the service shall be deemed to be effected by:

- a) properly addressing
- b) pre-paying, and
- c) posting by registered post.

A letter containing the document to have been effected at the time at which the letter would be delivered in the ordinary course of post.

**Question 8**

(RTP - Nov 2018)

**Mr. Ram, an advocate has fraudulently deceived his client Mr. Shyam, who was taking his expert advise on taxation matters. Now, Mr. Ram is liable to a fine for acting fraudulently both under the Advocates Act, 1961 as well as the Income Tax Act, 1961. State the provision as to whether his offence is punishable under the both the Acts, as per the General Clauses Act, 1897.**

**Answer**

**“Provision as to offence punishable under two or more enactments” [Section 26]:**

Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be punished twice for the same offence.

Thus, Mr. Ram shall be liable to punished under the Advocates Act, 1961 or the Income Tax Act, 1961, but shall not be punished twice for the same offence.

## CHAPTER -4 INTERPRETATION OF STATUTES

### (A) Multiple Choice Questions

- i) **Formal legal document which creates or confirms a right or record a fact is a—**
- a) Document
  - b) Deed
  - c) Statute
  - d) Instrument
- ii) **Which among the following is the cardinal rule of construction of statutes—**
- a) Harmonious Rule of construction
  - b) Beneficial Rule of construction
  - c) Literal Rule of construction
  - d) Reasonable Rule of construction
- iii) **Rule of Reasonable Construction is based on the maxim—**
- a) Absolut asentenia expositor non indigent
  - b) Ut res magis valeat quam pareat
  - c) Quo facit per alium facit per se
  - d) Contemporanea exposition
- iv) **Rule of Beneficial construction is also known as—**
- a) Purposive construction
  - b) Mischieve Rule
  - c) Heydons's Rule
  - d) All of the Above
- v) **Pick the odd one out of the following aids to interpretation—**
- a) Preamble
  - b) Marginal Notes
  - c) Proviso
  - d) Usage
- vi) **Which rule of construction is applicable where there is a real and not merely apparent conflict between the provisions of an Act, and one of them has not been made subject to the other—**
- a) Rule of Beneficial construction
  - b) Rule of Literal construction
  - c) Rule of Harmonious construction
  - d) Rule of Exceptional construction
- vii) **An internal aid that may be added to include something within the section or to exclude something from it, is—**
- a) Proviso
  - b) Explanation
  - c) Schedule

d) Illustrations

viii) An aid that expresses the scope, object and purpose of the Act—

a) Title of the Act

b) Heading of the Chapter

c) Preamble

d) Definitional sections

**Answer:-**

1	d)	2	c)	3	b)	4	d)	5	d)	6	c)	7	b)	8	c)
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## (B) PRACTICAL QUESTIONS

### Question 1

Explain the rule of 'beneficial construction' while interpreting the statutes quoting an example.

#### Answer:

Where the language used in a statute is capable of more than one interpretation, the most firmly established rule for construction is the principle laid down in the Heydon's case. This rule enables, consideration of four matters in constituting an act:

- a) what was the law before making of the Act?
- b) what was the mischief or defect for which the law did not provide?
- c) what is the remedy that the Act has provided, and
- d) what is the reason for the remedy?

The rule then directs that the courts must adopt that construction which 'shall suppress the mischief and advance the remedy'. Therefore, even in a case where the usual meaning of the language used falls short of the whole object of the legislature, a more extended meaning may be attributed to the words, provided they are fairly susceptible of it. If the object of any enactment is public safety, then its working must be interpreted widely to give effect to that object. Thus in the case of Workmen's Compensation Act, 1923 the main object being provision of compensation to workmen, it was held that the Act ought to be so construed, as far as possible, so as to give effect to its primary provisions.

However, it has been emphasized by the Supreme Court that the rule in Heydon's case is applicable only when the words used are ambiguous and are reasonably capable of more than one meaning [CIT v. Sodra Devi (1957) 32 ITR 615 (SC)].

### Question 2

How far are (i) title, (ii) preamble and (iii) marginal notes in an enactment helpful in interpreting any of the parts of an enactment?

#### Answer:

- i. **Title:** An enactment would have what is known as 'Short Title' and also a 'Long Title'. The short title merely identifies the enactment and is chosen merely for convenience. The 'Long title' describes the enactment and does not merely identify it.  
The Long title is a part of the Act and, therefore, can be referred to for ascertaining the object and scope of the Act.
- ii. **Preamble:** It expresses the scope and object of the Act more comprehensively than the long title. The preamble may recite the ground and the cause for making a statute and or the evil which is sought to be remedied by it. The preamble like the Long title can legitimately be used for construing it. However, the preamble cannot override the provisions of the Act. Only if the wording of the Act gives rise to doubts as to its proper construction (e.g., where the words or a phrase has more than the one meaning and doubts arise as to which of the two meanings is intended in the Act) the preamble can and ought to be referred to arrive at the proper construction.
- iii. **Marginal notes:** As held in CIT Ahmed Bhai Umar Bhai Company HJR 1950, SC (134,141) marginal notes applied to the section cannot be used for construing the section. However, marginal notes appended to the Articles of the Constitution have been held to be part of the constitution and therefore, have been made use of in construing the articles.



### Question 3

**Explain the principles of "Grammatical Interpretation" and "Logical Interpretation" of a Statute". What are the duties of a court in this regard?**

**Answer:**

**Principles of Grammatical Interpretation and Logical Interpretation:** In order to ascertain the meaning of any law/ statute the principles of Grammatical and Logical Interpretation is applied to conclude the real meaning of the law and the intention of the legislature behind enacting it.

**Meaning-**Grammatical interpretation concerns itself exclusively with the verbal expression of law. It does not go beyond the letter of the law, whereas Logical interpretation on the other hand, seeks more satisfactory evidence of the true intention of the legislature.

**Application of the principles in the court-** In all ordinary cases, the grammatical interpretation is the sole form allowable. The court cannot delete or add to modify the letter of the law. However, where the letter of the law is logically defective on account of ambiguity, inconsistency or incompleteness, the court is under a duty to travel beyond the letter of law so as to determine the true intentions of the legislature. So that a statute is enforceable at law, however, unreasonable it may be. The duty of the court is to administer the law as it stands rather it is just or unreasonable. However, if there are two possible constructions of a clause, the courts may prefer the **logical construction** which emerges from the setting in which the clause appears and the circumstances in which it came to be enacted and also the words used therein.

### Question 4

**Explain the usefulness of 'Heading and Title of a chapter in an Act and marginal notes of a Section' as internal aids in interpreting the provisions of a Statute.**

**Answer:**

**Heading and Marginal Notes:** A number of sections in an Act applicable to any particular object are grouped together, sometimes in the form of chapters, pre-fixed by Heading and/or Titles. Marginal notes means titles to the section.

In **Uttam Das Chela Sunder Das v. SGPC AIR 1996 SC 2133**, it was observed that 'Marginal notes or captions undoubtedly, part and parcel of legislative exercise and the language employed therein provides the key to the legislative intent. The words employed are not mere **surplus age**'. Marginal note is legislative and not editorial exercise **C Bhagirath v. Delhi Admn. AIR, 1985 SC 1050**. It gives an indication as to what was exactly the mischief that was intended to be remembered and throws light on the intention of legislature. It is relevant factor to be taken into consideration in construing the ambit of the section. **Shree Sajjan Mills Ltd. (v) CIT (1985) 156 ITR 585(SC)**. Heading, title and marginal notes can be referred to if the words are ambiguous. If there is any doubt in the interpretation of words in a section, the headings help to resolve the doubt. But they cannot control the plain words of a statute.

**To sum up, heading, title and marginal notes can be used to understand the legislative intent, but cannot limit or restrict the clear word used in a section.**

### Question 5

**Explain the effects of a proviso to a section in a statute.**

**Answer**

**Proviso:** Some time a section in a statute contains a proviso. The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview, if the proviso were not there. **The effect of the proviso is to qualify the**

**preceding enactment which is expressed in terms which are too general.** As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment. Ordinarily a proviso is not interpreted as stating a general rule.

It is a cardinal rule of interpretation that a proviso to a particular provision of a statute embraces only the field which is covered by the main provision. It carries out an exception to the main provision to which it has been enacted as a proviso and to no other **(Ram NarainSons Ltd v. Asst. Commissioner of Sales Tax AIR 1955 Sc. 765).**

### Question 6

**Explain briefly the distinction between “Mandatory” and “Directory” provisions in a statute. How the Court deals with them differently?**

**Answer:**

The distinction between a provision which is mandatory and one which is 'directory' is that when it 'mandatory', it must be strictly complied with, when it is 'directory', it would be sufficient that it is substantially complied with. **Non-observance of mandatory provisions involves the consequences invalidating. But non-observance of directory provision does not entail the consequence of invalidating, whatever other consequences may occur.**

No general rule can be laid down for deciding whether any particular provision on a statute is mandatory or directory. In each case the court has to consider not only the actual word used, but has to decide the legislatures intent. For ascertaining the real intention of the legislature, the court may consider, amongst other things, the following

- a) The **nature and design** of the statute.
- b) **The consequence**, which would flow from construing one-way or the other.
- c) The **impact of other provisions** by resorting to which the necessity of complying with the provision in question can be avoided.
- d) **Whether or not the statute provides any penalty** if the provision in question is not complied with
- e) If the **provision in question is not complied with**, whether the consequences would be trivial or serious.
- f) Most important of all, whether the **object of the legislation will be defeated or furthered.**

Where a specific penalty is provided in a statute itself for non-compliance with the particular provision of the Act no discretion is left to the court to determine whether such provision is directory or mandatory - it has to be taken as mandatory.

### Question 7

**(i) Many a time a proviso is added to a Section of the enactment. Explain the function of such a proviso while carrying out the interpretation?**

**(ii) Discuss the rules of interpretation of deeds and documents**

**Answer:**

**(i) The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview if the proviso were not there.** The effect of the proviso is to qualify the preceding enactment which is expressed in terms which are too general. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment ordinarily a proviso is not interpreted as it stating a general rule.

It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision. It carves out an exception to the

**provision to which it has been enacted as a proviso and not to the other. (Ram Narain Sons Ltd. Vs. Assistant Commissioner of Sales Tax.,A.I.R,1995 SC 765)**

An explanation is at times appended to a section to explain the meaning of the text of the section. An explanation may be added to include something within the Section or to exclude something from it. An explanation should normally be so read as to harmonise with and clear up any ambiguity in the main section. It should not be so construed as to widen the ambit of the section.

**(ii) The rules regarding interpretation of deeds and documents are as follows:**

First and the foremost point that has to be borne in mind is that one has to **find out what a reasonable man, who has taken care to inform himself of the surrounding circumstances of a deed or a document, and of its scope and intendments, would understand by the words used in that deed or document.**

It is inexpedient to construe the terms of one deed by reference to the terms of another. Further, it is well established that the same word cannot have two different meanings in the same document, unless the context compels the adoption of such a rule.

The Golden Rule is to ascertain the intention of the parties to the instrument after considering all the words in the document/deed concerned in their ordinary natural sense. For this purpose, the relevant portions of the document have to be considered as a whole. The circumstances in which the particular words have been used have also to be taken into account. Very often, the status and training of the parties using the words have also to be taken into account as the same words may be used by a ordinary person in one sense and by a trained person or a specialist in quite another sense and a special sense. It has also to be considered that very many words are used in more than one sense. It may happen that the same word understood in one sense will give effect to all the clauses in the deed while taken in another sense might render one or more of the clauses ineffective. In such a case the word should be understood in the former and not in the latter sense.

It may also happen that there is conflict between two or more clauses of the same document. An effort must be made to resolve the conflict by interpreting the clauses so that all the clauses are given effect to. If, however, it is not possible to give effect to all of them, then it is the earlier clause that will over ride the latter one.

Similarly, if **one part of the document is in conflict with another part, an attempt should always be made to read the two parts of the documents harmoniously, if possible. If that is not possible, then the earlier part will prevail over the latter one which, therefore, be disregarded.**

### **Question 8**

**How will you interpret definitions in a statute, if the following words are used in a statute ?**

**(i) Means,**

**(ii) Includes**

**Give one illustration for each of the above from statutes you are familiar with.**

**Answer:**

**Interpretation of the words “Means” and “Includes” in the definitions- The definition of a word or expression in the definition section may either be restricting of its ordinary meaning or may be extensive of the same.**

When a word is defined to 'mean' such and such, the definition is 'prima facie' restrictive and exhaustive, we must restrict the meaning of the word to that given in the definition section.

But where the word is defined to 'include' such and such, the definition is 'prima facie' extensive, here the word defined is not restricted to the meaning assigned to it but has extensive meaning which also includes the meaning assigned to it in the definition section.

### Example-

**Definition of Director [section 2(34) of the Companies Act, 2013]-** Director means a director appointed to the board of a company. The word "means" suggests exhaustive definition.

**Definition of Whole time director [Section 2(94) of the Companies Act, 2013]-** Whole time director includes a director in the whole time employment of the company. The word "includes" suggests extensive definition. Other directors may be included in the category of the whole time director.

### Question 9

**What are the Internal and External aids to interpretation of statutes? Give five examples each of Internal and External aid.**

#### Answer:

Internal aids to interpretation/construction are those which are **found within the text of the statutes**. On the other hand, external aids of interpretation are those factors which are **external to the text of the statute but are of great help**.

#### Examples of internal aids to interpretation:

- a) Definitional sections and clauses
- b) Illustrations
- c) Provisos
- d) Long title and short title
- e) Preambles
- f) Heading and title of chapter
- g) Marginal notes
- h) Explanations
- i) Schedules
- j) Reading the statute as a whole

#### Examples of external aids to interpretation:

- a) Historical setting (Background)
- b) Consolidating statute & Previous law
- c) Usage
- d) Earlier & later analogous acts
- e) Earlier acts explained by the later act
- f) Reference to repealed acts
- g) Dictionary definition
- h) Use of foreign decisions

### Question 10

- a) **What is the effect of proviso? Does it qualify the main provisions of an Enactment?**
- b) **Does an explanation added to a section widen the ambit of a section?**
- c) **What do you understand by the term "Preamble" and how does it help in interpretation of a statute?**

#### Answer:

- Normally a Proviso is added to a section of an Act to **except something or qualify something stated in that particular section to which it is added**. A proviso should not be, ordinarily, interpreted as a general rule. A proviso to a particular section carves out an exception to the main provision to which it has been enacted as a Proviso and to no other provision. **[Ram Narian Sons Ltd. Vs. Commissioner of Sales Tax AIR (1955) S.C. 765]**

- Sometimes an explanation is added to a section of an Act for the purpose of **explaining the main provisions contained in that section**. If there is some ambiguity in the provisions of the main section, the explanation is inserted to **harmonise** and clear up and ambiguity in the main section. Something may added be to or something may be excluded from the main provision by insertion of an explanation. But the explanation should not be construed to widen the ambit of the section.
- The **“Preamble”** expresses the **scope, object and purpose of the Act**. It may recite the ground and the cause making a statue and the evil, which is sought to be remedied by it. It is a part of the statute and can legitimately be used for construing it. However, it does not over-ride the plain provisions of the Act, but if the wording of the statute gives rise to the doubts as to its proper construction, e.g., where the words or phrase have more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, then the Preamble can and ought to be referred to in order to arrive at the proper construction.

### Question 11

**Briefly explain the meaning and application of the rule of "Harmonious Construction" in the interpretation of statutes.**

**Answer:**

**Meaning of rule Harmonious Construction:** When there is **doubt about the meaning of the words of a statute**, these should be understood in the sense in which they harmonise with the subject of the enactment and the object which the legislature had in view. Where there are in an enactment two or more provisions which cannot be reconciled with each other, they should be so interpreted, wherever possible, as to give effect to all of them. This is what is known as the Rule of Harmonious Construction.

It must always be borne in mind that a statute is passed as a whole and not in sections and it may well be assumed to be animated by one general purpose and intent. The Court's duty is to give effect to all the parts of a statute, if possible. But this general principle is meant to guide the courts in furthering the intent of the legislature, not overriding it.

**Application of the Rule:** The Rule of Harmonious Construction is applicable only when there is a real and not merely apparent conflict between the provisions of an Act, and one of them has not been made subject to the other. When after having construed their context the words are capable of only a single meaning, the rule of harmonious construction disappears and is replaced by the rule of literal construction.

### Question 12

**The word “May” doesn’t mean “Shall”. Yet the word ‘May’ under certain circumstances means “Shall”. Discuss the statement in the context of interpretation of statutes and the importance of distinction between mandatory and directory provisions.**

**Answer:**

The use of the word **‘may’** in a statutory provision will not by itself show that the provision is directory in nature. In some cases, the legislature may use the word **‘may’** as a matter of pure conventional courtesy and yet intend a mandatory force. Therefore, in order to interpret the legal import of the word **‘may’** we have to consider various factors, e.g. the object and the scheme of the Act, the context or background against which the words have been used, the purpose and advantages of the Act sought to be achieved by use of this word and the like.

Coming to the word **‘shall’**, the use of the word **‘shall’** would not of itself make a provision of the Act mandatory. It has to be construed with reference to the context in which it is used. Thus, as against

the government the word 'shall' when used in a statute is to be construed as 'may' unless a contrary intention is manifest. Hence, a provision in a criminal statute that the offender shall be punished as prescribed in the statute is not necessary to be taken as against the government to direct prosecution under that provision rather under some other applicable statute.

The **distinction** between a provision which is mandatory and one which is directory is that when it is mandatory, it must be strictly complied with; when it is '**directory**', it would be sufficient that it is substantially complied with. Non-observance of mandatory provision involves the consequences of invalidity. But non-observance of directory provisions does not entail the consequence of invalidity, whatever other consequences may occur.

No general rule can be laid down for deciding whether any particular provision in a statute is mandatory or directory. In each case the court has to consider not only the actual words used, but has to decide the legislative intent. For ascertaining the real intention of the legislature, the court may consider, amongst other things, the following:

- a) The **nature and design** of the statute.
- b) The **consequence** which would flow from construing from one way or the other.
- c) The **impact of other provisions** by resorting to which the necessity of complying with the provisions in question can be avoided.
- d) Whether or not the **statute provides any penalty** if the provision in question is not complied with.
- e) If the **provision in question is not complied with**, whether the consequences would be trivial or serious.
- f) Most important of all, **whether the object of the legislation will be defeated or furthered**.

Where a **specific penalty** is provided in a statute itself for non-compliance with the particular provision of the act, **no discretion is left to the court to determine whether such provision is directory or mandatory - it has to be taken as mandatory**.

### Question 13

**Explain the principles of "Rule of Beneficial Interpretation".**

**Answer:**

While framing the language of a statute, generally, care is taken to make it in such a manner that there **does not remain any confusion** in its interpretation. But sometimes, the language of the statute may be capable of more than one interpretation. In such cases the most firmly established rule of construction is the principle laid down in the Heydon's case. This rule is also called the "**mischief rule**". This rule enables construction of four matters in construing an Act as stated below:

- a) What was the law before the making of the Act?
- b) What was the mischief or defect for which the law did not provide;
- c) What is the remedy that the Act has provided; and
- d) What is the reason for the remedy?

The rule then directs that the courts must adopt that construction which 'shall suppress the mischief and advance the remedy'. Therefore, even in a case where the usual meaning of the language used falls short of the whole object of the legislature, a more extended meaning may be attributed to the words, provided they are fairly susceptible of it. If, however, the circumstances show that the phraseology in the Act is used in a larger sense than its ordinary meaning then that sense may be given to it. If the object of a statute is public safety then its working must be interpreted widely to give effect to that object. Thus the legislature having intended, while passing the Workmen's Compensation Act, the main object being provision of compensation to workman, it was decided that the act ought to be so construed, as far as possible, so as to give effect to its

primary provisions.

**It has been emphasized by the Supreme Court that the rule in Heydon's case is applicable only when the works used are reasonably capable of more than one meaning.**

This rule does not normally apply to a fiscal statute like Income Tax Act. While construing a fiscal statute the words of the statute are given the plain meaning. If a tax payer is within the plain meaning of the terms of an exemption, he cannot be denied the benefit by resorting to any supposed intention of the exempting authority. This was held by the Supreme Court in the case of Hemraj Gordhandas vs. H.H. Dave. It may also happen that there is conflict between two or more clauses of the same document. An effort must be made to resolve the conflict by interpreting the clauses so that all the clauses are given effect to. If, however, it is not possible to give effect to all of them, then it is the earlier clause that will override the latter one. Similarly, if one part of the document is in conflict with another part, an attempt should always be made to read the two parts of the documents harmoniously, if possible. If that is not possible, then the earlier part will prevail over the latter one which, therefore, be disregarded.

#### **Question 14**

**In what way are the following terms considered as 'internal aid' in the interpretation of statutes?**

- a) **Illustrations**
- b) **Explanation.**

**Answer:**

a) **Illustrations:** Illustrations form a part of the statute and considered to be of relevance and value in construing the text of the section. However, illustration cannot have the effect of modifying the language of the section and can neither curtail nor expand the ambit of the section.

b) **Explanation:** An Explanation may be added to include something or to exclude something from it. Explanation should normally be read as to harmonize with and clear up any ambiguity in the main section. It should be construed as to widen the ambit of the section.

#### **Question 15**

**Gaurav Textile Company Limited has entered into a contract with a Company. You are invited to read and interpret the document of contract. What rules of interpretation of deeds and documents would you apply while doing so?**

**Answer:**

The rules regarding interpretation of deeds and documents are as follows:

First and the foremost point that has to be borne in mind is that one has to find out **what reasonable man, who has taken care to inform himself of the surrounding circumstances of a deed or a document, and of its scope and intendments, would understand by the words used in that deed or document.**

It is inexpedient to construe the terms of one deed by reference to the terms of another. Further, it is well established that the **same word cannot have two different meanings in the same documents, unless the context compels the adoption of such a rule.**

The Golden Rule is to ascertain the intention of the parties of the instrument after considering all the words in the documents/deed concerned in their ordinary, natural sense. For this purpose, the **relevant portions of the document have to be considered as a whole.** The circumstances in which the particular words have been used have also to be taken into account. Very often, the **status and training of the parties using the words have also to be taken into account as the same words maybe used by an ordinary person in one sense and by a trained person or a specialist**

**in quite another sense and a special sense.** It has also to be considered that very many words are used in more than one sense. It may happen that the same word understood in one sense will give effect to all the clauses in the deed while taken in another sense might render one or more of the clauses ineffective. In such a case the word should be understood in the former and not in the latter sense.

It may also happen that there is **a conflict between two or more clauses of the same documents.** An effect must be made to resolve the conflict by interpreting the clauses so that all the clauses are given effect. If, however, **it is not possible to give effect of all of them, then it is the earlier clause that will override the latter one.**

### Question 16

**Explain the rule of "Ejusdem Generis" with reference to the interpretation of statutes. State the cases in which this rule is no applicable.**

**Answer:**

**Rule of Ejusdem Generis:** The term ejusdem generic means of the same kind or species. Simply stated the rule means where any Act enumerates different subjects, general words following specific words are to be construed with reference to the words that precede them. The general words are to be taken as applying to things of the same kind as the specific words previously mentioned unless there is something to show that a wider sense was intended. Thus the rule of '**ejusdem generis**' means that where specific words are used and after these specific words, some general words are used, the general words would take their color from the specific words used earlier (e.g.) where an Act permitted keeping of dogs, cats, cows, buffaloes and other animals, the expression 'other animals' would not include wide animals like lions and tigers, but would only mean domesticated animals like horses, etc.

However, there are certain cases/circumstances on which this rule cannot be applied in the interpretation of statutes. The general principle of 'ejusdem generis' applies only where the **specific words are all of the same nature.** When they are of different categories, then the meaning of general words following these specific words remain unaffected. These general words would not take color from the earlier specific words.

**Again if the particular words used exhaust the whole genus (category), then the general words are to be construed as covering a larger genus.** Further, the Courts have a discretion whether to apply the 'ejusdem generis' doctrine in a particular case or not. For instance, the 'just and equitable' clause in the winding up, powers of the Court is held to be not restricted by the first five situations in which the Court may wind up a company.

### Question 17

**Explain the Rule of "Reasonable construction under the interpretation of Statute, Deeds etc."**

**Answer:**

The rule of reasonable construction lays down that the words of a statute must be construed '**ut us maquisvaleatquampareat**' meaning thereby that words of statute must be construed so as to a sensible meaning. Generally, the words or phrases of a statute are to be given their ordinary meaning. In the case of **Dr. A.L. Mudaliar vs. LIC of India (1963) (SC)**, it was held that the Memorandum of Association of a company must be read fairly and its import derived from a reasonable interpretation of the language which it employs. Further, in order to determine whether a transaction is intra vires the objects of a company, the objects clause should be reasonably construed; neither with rigidity nor with laxity. [**WamanLalChotanlal Parekh vs. Scindia Steam Navigation Co. Ltd.(1944)**].



If the court finds that giving a plain meaning to the words will not be a fair or reasonable construction, it becomes the duty of the court to depart from the dictionary meaning and adopt the construction which will advance the remedy and suppress the mischief provided the court does not have to resort to conjecture or surmise. A reasonable construction will be adopted in accordance with the policy and object of the statute.

### Question 18

**What is meant by 'disclaimer of onerous property' and how the same is exercised during winding up. Explain the circumstances under which such a disclaimer is not allowed.**

**Answer:**

The provisions relating to disclaimer of onerous property will arise during the winding up of the company. The **liquidator, may, with the leave of the court disclaim any onerous property within 12 months of the commencement of the winding up. If the existence of any disclaimable property does not come to the knowledge of the liquidator, within one month after the commencement of the winding up, he can disclaim at any time within 12 months after he has become aware of it.** The Court has, however, the power to extend the time.

An onerous property may consist of

- (a) land of any tenure burdened with onerous covenants
- (b) shares or stocks in companies
- (c) any other property which is unsalable or not readily saleable
- (d) Unprofitable contracts.

The liquidator's right to disclaim is lost if within 28 days or such extended period as may be allowed by the court, of receiving a demand from any interested person to make his decision, he does not give notice that he intends to apply to the court for leave to disclaim [Section 535(4)]

### Question 19

**"Associate words should be understood in common sense manner". Explain the statement in the light of rules of interpretation of statutes.**

**Answer:**

**Associated Words- Interpretation:** When two words or expressions are coupled together one of which generally excludes the other, obviously the more general term is used in a meaning excluding the specific one. On the other hand there is the concept of "**Noscitur A Sociis**", **that is to say, the meaning of a word is to be judged by the company it keeps. When two or more words which are capable of analogous meaning are coupled together, they are to be understood in their cognate sense.** They take, as it were, their color from each other i.e.

More general is restricted to a sense analogous to the less general. For example, in the expression '**commercial establishment means an establishment which carries on any business, trade or profession.**' The term 'profession' is construed with the associated words 'business' and 'trade' and it has been held that a private dispensary does not fall within the definition.

Similarly, the expression 'place of public resort' would have one meaning when coupled with the expression 'roads and streets' and the same expression 'place of public resort' would have quite different meaning when coupled with the word "houses".

### Question 20

**Explain the importance of "Preamble" and "Proviso" being internal aids to interpretation.**

**Answer:**

**Preamble:** The Preamble expresses the scope, object and purpose of the Act more comprehensively than the Long Title. The Preamble may recite the ground and the cause making a statute and the evil which is sought to be remedied by it.

Like the Long Title, the Preamble of a Statute is a part of the enactment and can legitimately be used for construing it. However, the Preamble does not over-ride the plain provision of the Act but if the wording of the statute gives rise to doubts as to its proper construction, e.g., where the words or

phrase has more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, the Preamble can and ought to be referred to in order to arrive at the proper construction.

In short, the **Preamble to an Act discloses the primary intention of the legislature but can only be brought in as an aid to construction if the language of the statute is not clear. However, it cannot override the provisions of the enactment.**

**Proviso:** The normal function of a proviso is to except something out of the enactment or to qualify something stated in the enactment which would be within its purview if the proviso were not there. The effect of the proviso is to qualify the preceding enactment which is expressed in terms which are too general. As a general rule, a proviso is added to an enactment to qualify or create an exception to what is in the enactment: ordinarily a proviso is not interpreted as stating a general rule.

It is a cardinal rule of interpretation that a proviso to a particular provision of a statute only embraces the field which is covered by the main provision. It carves out an exception to the main provision to which it has been enacted as a proviso and to no other. (Ram Narain Sons Ltd. vs. Assistant Commissioner of Sales Tax, AIR 1955 SC 765)

### Question 21

**Explain the "Rule of Exceptional Construction" with regards to interpretation of Statutes**

**Answer:**

Rule of Exceptional Construction: This rule has several aspects, viz.:

- a) **The Common Sense Rule:** Despite the general rule that full effect must be given to every word, if no sensible meaning can be fixed to a word or phrase, or if it would defeat the real object of the enactment, it should be eliminated. The words of a statute must be so construed as to give a sensible meaning to them, if at all possible. They ought to be construed '**utresmagisvaleatquampereat**' meaning thereby that it is better for a thing to have effect than to be made void.
- Conjunctive and Disjunctive Words 'or' 'and': The word 'or' is normally disjunctive and 'and' is normally conjunctive. However, at times they are read as vice versa to give effect to the manifest intention of the legislature as disclosed from the context. This would be so where the literal reading of the words produces an unintelligible or absurd result: in such a case 'and' may be read for 'or' and 'or' for 'and' even though the result of so modifying the words is less favourable to the subject, provided that the intention of the legislature is otherwise quite clear.
- b) **'May', 'must' and 'shall':** Before discussing this aspect, it would be worthwhile to note the terms 'mandatory' and 'directory'. Practically speaking, the distinction between a provision which is 'mandatory' and one which is 'directory' is that when it is mandatory, it must be strictly observed; when it is 'directory' it would be sufficient that it is substantially complied with. However, we have to look to the substance and not merely the form: an enactment in mandatory

form might substantially be directory and, conversely, a statute in directory form may in substance be mandatory. Hence, it is the substance that counts and must take precedence over mere form. If a provision gives a power coupled with a duty, it is mandatory: whether it is or is not so would depend on such considerations:

- i) the **nature of the thing empowered** to be done,
- ii) the **object for which it is done**, and
- iii) the **person for whose benefit the power is to be exercised**.

### **Question 22**

**Explain the usefulness of following terms in interpreting / construing a statute:**

**(i) Preamble**

**(ii) Use of Foreign Decisions**

**Answer:**

**(i) Preamble:** The preamble expresses the scope, object and purpose of the Act more comprehensively than the Long Title. The preamble may recite the ground and the cause of making a statute and the evil which is sought to be remedied by it.

Like the Long Title, the preamble of a Statute is a part of the enactment and can legitimately be used for construing it. However, the preamble does not over-ride the plain provision of the Act but if the wording of the statute gives rise to doubts as to its proper construction, e.g. where the words or phrase has more than one meaning and a doubt arises as to which of the two meanings is intended in the Act, the preamble can and ought to be referred to in order to arrive at the proper construction.

In short, the preamble to an Act discloses the primary intention of the legislature but can only be brought in as an aid to construction if the language of the statute is not clear. However, it cannot override the provisions of the enactment.

**(ii) Use of Foreign Decisions:** Foreign decisions of countries following the same system of jurisprudence as ours and given on laws similar to ours can be legitimately used for construing our own Acts. However, prime importance is always to be given to the language of the Indian statute. Further, where guidance can be obtained from Indian decisions, reference to foreign decisions may become unnecessary.

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**PART-A**

**CHAPTER - 1**  
**INTRODUCTION TO COMPANIES**

1. Section 2 (20) provides for the definition of \_\_\_\_\_  
(a) Company (b) CA  
(c) CS (c) Cost Accountant
2. Section 2 (20) provides that a company means a company incorporated under this Act, or under any \_\_\_\_\_  
(a) Company Law (b) Previous Company Law  
(c) Act (d) Foreign Company Law
3. In the famous case Lee v/s Lee farming Mr. Lee was appointed as \_\_\_\_\_  
(a) Director, Pilot (b) Managing Director  
(c) Director, Chief Pilot (d) Managing Director, Pilot
4. Salmon & Company Ltd. was \_\_\_\_\_  
(a) One Person Company (b) One Man Company  
(c) Both (a) and (b) (d) Neither (a) nor (b)
5. In case of Company Limited by Guarantee, the liability of subscriber to MOA arises in the event of \_\_\_\_\_  
(a) Merger (b) Demerger  
(c) Reconstruction (d) Winding Up
6. Member may come & member may go but company continues forever. This Principal is called \_\_\_\_\_  
(a) Separate Legal Entity (b) Body Corporate  
(c) Corporation Soul (d) Perpetual Succession
7. Sec \_\_\_ of company Act 2013 provides that shares are \_\_\_\_\_ property.  
(a) 42, Movable Property (b) 44, Movable Property  
(c) 42, Immovable Property (d) 44, Immovable Property

8. The official signatures of the company are called \_\_\_\_\_  
(a) Company Seal (b) Official Seal  
(c) Corporate Seal (d) Common Seal
9. A company is \_\_\_\_\_ association for profit.  
(a) Compulsory (b) Voluntary  
(c) Mandatory (d) Discretionary
10. In the case of State Trading Corporation v/s Commercial Tax Officer the status of the Company as \_\_\_\_\_ has been interpreted  
(a) National (b) President  
(c) Person (d) Citizen
11. Residential status of company is to be determined for the purpose of \_\_\_\_\_  
(a) Exemption (b) Registration  
(c) Tax liability (d) Perpetual succession
12. The term body corporate has been defined under \_\_\_\_\_  
(a) Sec 2 (10) (b) Sec 2 (11)  
(c) Sec 2 (12) (d) Sec 2 (13)
13. Body Corporate can also be termed as \_\_\_\_\_  
(a) Corporation (b) Corporation Aggregate  
(c) Both (a) and (b) (d) Company
14. Body Corporate \_\_\_\_\_ Company incorporate outside India.  
(a) Means (b) Includes  
(c) Stated (d) Excludes
15. Sec 2(11) specifically excludes \_\_\_\_\_ from the definition of body corporate.  
(a) Society (b) Co-operative Society  
(c) Trust (d) Trade union
16. Which of the following statement is false?  
(a) The term body corporate includes financial institutions  
(b) The term body corporate includes nationalized Banks  
(c) The term body corporate includes foreign company  
(d) The term company is wider than the term body corporate

17. Rule 10 of Companies (Miscellaneous) Rules, 2014 states that Illegal Association is a partnership consisting of more than \_\_\_\_\_ persons.
- (a) 10 (b) 20  
(c) 50 (d) 100
18. The limit of 50 persons u/s 464 read with rule is not applicable to \_\_\_\_\_
- (i) HUF  
(ii) Association of CA  
(iii) Association of CS  
(iv) Association of Cost Accountants
- (a) I (b) I+II  
(c) I+II+III (d) I+II+III+IV
19. Members of illegal association shall be liable to fine extended to ₹ \_\_\_\_\_
- (a) 10,000 (b) 50,000  
(c) 1,00,000 (d) 5,00,000
20. The offence under sec 464 is
- (a) Compoundable (b) Non-compoundable  
(c) Partially compoundable (d) Liable to imprisonment
21. Offence u/s 464 is compounded by \_\_\_\_\_
- (a) RD (b) ROC  
(c) NCLT (d) MCA
22. When the law disregards the corporate entity and instead pay regards to the individual member behind the legal façade, it is Constructive Notice \_\_\_\_\_
- (a) Doctrine of Constructive Notice (b) Doctrine of Ultra Vires  
(c) Doctrine of Indoor Management (d) Doctrine of Alter Ego
23. When the law disregards the corporate entity and instead pay regards to the individual member behind the legal façade, it is known as \_\_\_\_\_
- (a) Separate legal entity (b) Perpetual success  
(c) Corporate veil (d) Lifting of Corporate Veil

**ANSWER KEY**

1	2	3	4	5	6	7	8	9	10
(a)	(b)	(c)	(b)	(d)	(d)	(b)	(d)	(b)	(d)
11	12	13	14	15	16	17	18	19	20
(c)	(b)	(c)	(b)	(b)	(d)	(c)	(d)	(c)	(a)
21	22	23							
(a)	(d)	(d)							



## CHAPTER -2

# CLASSIFICATION OF COMPANIES

1. Section 2 (68) of companies Act, 2013 provides for\_\_\_\_\_  
(a) Private Company (b) Public Company  
(c) Government Company (d) Prospectus
2. Every Private Company must have at least \_\_\_\_\_ Directors  
(a) 1 (b) 2  
(c) 3 (d) 7
3. The maximum number of members in Private Company not to exceed\_\_\_\_\_  
(a) 10 (b) 50  
(c) 100 (d) 200
4. OPC is a company with  
(a) One Member (b) One Director  
(c) One Officer (d) One Business
5. An OPC is a \_\_\_\_\_  
(a) Public Company (b) Private Company  
(c) Small Company (d) Both (b) and (c)
6. The annual return of OPC has to be signed by \_\_\_\_\_  
(a) CS (b) At least 2 Directors  
(c) CS and 2 Directors (d) 1 Member and 1 Director
7. If OPC has 2 Directors, then at least \_\_\_\_\_ Board meetings in a year must be convened  
(a) 2 (b) 3  
(c) 4 (d) 6
8. Consent of nominee under OPC shall be taken in form \_\_\_\_\_  
(a) INC-1 (b) INC-2  
(c) INC-3 (d) INC-4
9. In case of change in nominee under OPC, an intimation to ROC shall be given in form \_\_\_\_\_  
(a) INC-1 (b) INC-2  
(c) INC-3 (d) INC-4

10. In the event of death of member of OPC, the new member shall nominate a new member shall nominate a new nominee within \_\_\_\_\_ days of becoming a member
- (a) 7 (b) 10  
(c) 15 (d) 30
11. Which of the following statement about OPC is untrue?
- (a) OPC can't carry out non-banking  
(b) No minor shall become nominee in OPC  
(c) OPC can invest in securities of a body corporate  
(d) A person can't invest in securities of a body corporate
12. Section 2 (85) states about
- (a) Private company (b) Small company  
(c) Public company (d) Subsidiary company
13. The paid up share capital of a small company shall not exceed ₹ \_\_\_\_\_
- (a) 10 lakh (b) 25 lakh  
(c) 50 lakh (d) 5 crore
14. The minimum number of members and directors under public company are \_\_\_\_\_ and \_\_\_\_\_
- (a) 7, 3 (b) 3, 7  
(c) 7, 2 (d) 3, 5
15. Which of the following isn't a kind of company?
- (a) Company Limited by Guarantee  
(b) Company Limited by Shares  
(c) Unlimited Company  
(d) Personal Liability Company
16. Section 2(92) of Company Act, 2013 provides for \_\_\_\_\_
- (a) Unlimited Company (b) Whole Time Director  
(c) Total Voting Power (d) Turnover
17. Which of the following statement is false about Section 8 Company?
- (a) It doesn't intend to pay dividend  
(b) It can't amalgamate with other Companies  
(c) License is granted by CG  
(d) Partnership firm can become its member

18. Section 8 Company can't alter its provision of MOA and AOA except prior approval of \_\_\_\_\_

- (a) NCLT (b) CG  
(c) RD (d) ROC

19. The annual report of Government Companies has to be placed before parliament within \_\_\_\_\_ months of \_\_\_\_\_

- (a) 6 months, financial year  
(b) 3 months, financial year  
(c) 1 month, AGM  
(d) 3 month, AGM

20. Holding Company controls more than half of the total \_\_\_\_\_ of its subsidiary company

- (a) Share Capital (b) Equity Share Capital  
(c) Voting Power (d) Assets

21. Section 2(42) deals with \_\_\_\_\_

- (a) Associate Company (b) Foreign Company  
(c) Free Reserves (d) Government Company

22. Which of the following isn't PFI?

- (a) LIC of India (b) IDFC Ltd.  
(c) ICICI Bank (d) UTI

**ANSWER KEY**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
(a)	(b)	(d)	(a)	(d)
<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(a)	(a)	(c)	(d)	(c)
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>
(c)	(b)	(c)	(a)	(d)
<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
(a)	(b)	(b)	(d)	(c)
<b>21</b>	<b>22</b>			
(b)	(c)			

CHAPTER -3

PROMOTION AND FORMATION OF COMPANIES

1. The term promoter is defined under Section \_\_\_\_\_ of Companies Act, 2013.  
 (a) Section 2(69)      (b) Section 2(70)      (c) Section 2(88)      (d) Section 2(89)
2. The promoter is a person who is named as such in \_\_\_\_\_.  
 (a) Prospectus      (b) Annual Return      (c) Both a & b      (d) Either a & b
3. A person with direct or indirect control over company is called \_\_\_\_\_.  
 (a) Subscriber      (b) Director      (c) Promoter      (d) Chairperson
4. Which of the following statement is true about Promoter of the Company?  
 (a) The term promoter is defined under section 2(68)  
 (b) Promoter is the agent of company  
 (c) Promoter is the agent of company  
 (d) Promoter stands in fiduciary relationship with the company.
5. Promoter must have personal business interest. It was held in the case of  
 (a) Darry v/s peek      (b) Lydney & Wigpool from Ore Co. v/s Bird  
 (c) Peek v/s Gurney      (d) Nash v/s Lynde
6. Which of the following can be exercised by company against promoter ?  
 (a) Rescind the contract      (b) Payment of original cost only  
 (b) Sue for misfeasance      (c) All of the above
7. Company cannot ratify pre-incorporation contracts. It was held in the case of \_\_\_\_\_.  
 (a) Derry v/s Peek  
 (b) Peek v/s Gurney  
 (c) Kelner v/s Baxter  
 (d) Howard v/s patent Fuory Manufacturing Company
8. An application for availability of name with ROC is to be made through \_\_\_\_\_.  
 (a) INC-1      (b) DIR-2      (c) RUN      (d) CIN
9. Declaration by Professional while incorporation of company shall be made in \_\_\_\_\_.  
 (a) INC -8      (b) INC-9      (c) INC -10      (d) INC-2

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10. Consent for appointment of Director is to filed in form \_\_\_\_\_.  
(a) INC-11                      (b) DIR-2                      (c) DIR -8                      (d) INC-9
11. A specified IFSC Public Company & Specified IFSC Private company shall be formed only as \_\_\_\_\_.  
(a) Company limited by shares                      (b) Company limited by Guarantee  
(c) Unlimited Company                      (d) Closely held company
12. RUN stands for \_\_\_\_\_.  
(a) Reserve Unique Name                      (b) Reserve Unique Number  
(c) Recreate Unique Name                      (d) Rectify Unique Name
13. Certificate of information shall be provided by ROC in form \_\_\_\_\_.  
(a) COI- 11                      (b) INC-11                      (c) COI-1                      (d) INC-22
14. SPICE stands for \_\_\_\_\_.  
(a) Simplified Proforma for incorporating company electronically.  
(b) Simplified Procedure for the incorporating easily.  
(c) Simplified Proforma for incorporation of company through email.  
(d) Simplified Proforma for incorporation company through Electronic Documentation format (EDF)

**ANSWER KEY**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
(a)	(d)	(c)	(d)	(b)	(c)	(c)
<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
(c)	(a)	(b)	(a)	(a)	(b)	(a)

CHAPTER -4

MEMORANDUM AND ARTICLES OF ASSOCIATION

1. The term MOA has been defined under \_\_\_\_\_ of Companies Act, 2013.  
 (a) Section 2(5)                      (b) Section 2(56)                      (c) Section 2(55)                      (d) Section 2(57)
2. \_\_\_\_\_ is the supreme charter of the company & defines the powers of the company.  
 (a) Memorandum of association                      (b) Articles of Association  
 (c) Certificate of Incorporation                      (d) prospectus
3. In Case of Company Limited by Shares the memorandum shall be made as per \_\_\_\_\_.  
 (a) Table D                      (b) Table C                      (c) Table B                      (d) Table A
4. The MOA of OPC has to be signed by \_\_\_\_\_.  
 (a) 1 Person                      (b) 2 person                      (c) 3 person                      (d) 7 person
5. Who among the following can become subscriber to MOA?  
 (a) Natural Person                      (b) Artificial Person  
 (c) Minor                      (d) Both a & b
6. Who among the following cannot be the subscriber?  
 (a) Company                      (b) LLP  
 (b) Minor                      (d) Body Corporate
7. Minor cannot be a subscriber to MOA. It was held in the case of \_\_\_\_\_.  
 (a) Re-Metal Constituents Company  
 (b) Palaniappa Mudaliar v/s Official Liquidator, Pashupati Bank Ltd.  
 (c) Miss Nandita jain v/s Bennett Coleman.  
 (d) Derry v/s Perk
8. A company is under obligation to display its former name along with its name, if changed the name during last \_\_\_\_\_.  
 (a) 2 years                      (b) 1 year                      (c) 6 months                      (d) 3 months
9. While reserving the name of company, penalty up to ₹ \_\_\_\_\_ may be imposed if wrong information has been provided by promoter's \_\_\_\_\_.  
 (a) ₹ 10,000                      (b) ₹ 50,000                      (c) ₹ 1 Lakh                      (d) ₹ 5 Lakh

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10. Intimation of registered office to ROC can be made in form \_\_\_\_\_.
- (a) INC-11                      (b) INC-10                      (c) INC-21                      (d) INC-22
11. The second clause of MOA is called \_\_\_\_\_ ,
- (a) State Clause                      (b) Registered office clause  
(c) Domicile Clause                      (d) All of the above
12. The authorized Capital of the company can also be termed as \_\_\_\_\_.
- (a) Registered Capital                      (b) Nominal Capital  
(c) Issued Capital                      (d) Both a & b
13. In case there is change in name of company, then the new COI shall be issued by ROC is \_\_\_\_\_.
- (a) INC-11                      (b) INC 22                      (c) INC – 25                      (d) INC -28
14. The registered office of the company can be shifted form one city to another by passing.
- (a) BR(Board Resolution)                      (b) OR(Ordinary Resolution)  
(c) SR(Special Resolution)                      (d) UR(Unanimous Resolution)
15. Notice of change in registered office to ROC shall be filed by specified IFSC Companies in \_\_\_\_\_.
- (a) 15 Days                      (b) 30 Days  
(c) 45 Days                      (d) 60 Days
16. An application for shift in registered office involving change in ROC shall be made in Form \_\_\_\_\_ to RD
- (a) INC- 22                      (b) INC -23                      (c) INC-25                      (d) INC-28
17. A state government cannot oppose the shifting of registered office of a company from one state to another on the ground that by this change the state would be deprived of its revenue. It was held in case of \_\_\_\_\_.
- (a) Minerva Mills Ltd. v/s Government of Maharashtra  
(b) Atlas Cycles Ltd v/s Government of Haryana  
(c) Cotton Mills v/s Government of Punjab  
(d) Tikri Chemicals Ltd v/s State of Rajasthan
18. For change in object clause the special Resolution need not be passed by Postal Ballot if members in a company doesn't exceeds \_\_\_\_\_.
- (a) 100                      (b) 200                      (c) 250                      (d) 500
19. Notice of alternation in Capital Clause shall be filed in form \_\_\_\_\_.
- (a) SH-7                      (b) INC-24                      (c) MGT-11                      (d) PAS-5

20. Table H provides for the format of AOA for \_\_\_\_\_.
- (a) Company Ltd by Shares  
 (b) Company Ltd by Guarantee without Share Capital  
 (c) Company Ltd. by Guarantee & Share Capital  
 (d) Unlimited Company
21. Which of the following content is not specified in AOA of the Company ?
- (a) General meeting  
 (b) Remuneration  
 (c) Liabilities Clause  
 (d) Winding up
22. Section 5 Companies Act, 2013 provides for \_\_\_\_\_
- (a) MOA  
 (b) AOA  
 (c) Alteration  
 (d) Entrenchment Provision
23. AOA cannot be altered if :-
- (a) Against MOA  
 (b) Against Company Law  
 (c) Against Public Policy  
 (d) All of the above
24. Company is not bound to the outsider for the contents specified in its AOA. It was laid down in the case of :-
- (a) Woods v/s Odessa Waterworks Co.  
 (b) Royfield v/s Hands  
 (c) Eley v/s Positive Life Insurance Co.  
 (d) Boreland's trustee v/s Steel Brothers & Co. Ltd.
25. Ashbury Railways Carriage & Iron Co. v/s Richie(1875) is a landmark judgement in \_\_\_\_\_
- (a) Doctrine of Alter Ego  
 (b) Doctrine of Ultra Vires  
 (c) Doctrine of Constructive Notice  
 (d) Doctrine of Indoor management
26. "Omnia Praesumuntur Rit Esse Acts" is a maximum related to \_\_\_\_\_
- (a) Doctrine of Alter Ego  
 (b) Doctrine of Ultra Vires  
 (c) Doctrine of Constructive Notice  
 (d) Doctrine of Indoor management.

**ANSWER KEY**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
(b)	(a)	(d)	(a)	(d)	(c)	(b)	(a)	(c)
<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>
(d)	(d)	(d)	(c)	(c)	(d)	(b)	(a)	(b)
<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	
(a)	(b)	(c)	(d)	(d)	(c)	(b)	(d)	



## CHAPTER -5 MEMBERSHIP

1. Section 2(55) of Companies Act, 2013 States about \_\_\_\_\_.  
 (a) Member                      (b) Membership                      (c) Shareholder                      (d) Subscriber
  
2. Who among the following shall be considered as member of the company ?  
 (a) Subscriber to MOA                      (b) Transfer of shares  
 (c) Beneficial owner                      (d) All Of the Above
  
3. Shareholder + Registered with depositories or company is \_\_\_\_\_.  
 (a) Member                      (b) Subscriber                      (c) Director                      (d) Co-Partner
  
4. Subscriber to MOA cannot rescind the contract for the purchase of shares , it was held in the case \_\_\_\_\_.  
 (a) Derry v/s Peek                      (b) Miss Nandita jain v/s Bennett Coleman  
 (c) Re – Metal Constituents Co.                      (d) Pashupati Bank v/s Presiding Officer
  
5. Section 19 provides that \_\_\_\_\_.  
 (a) Subsidiary company cannot become member of holding company  
 (b) Sui Juris  
 (c) Partnership firm can't become member  
 (d) OPC cannot member in company
  
6. Partnership firm \_\_\_\_\_ become a member of \_\_\_\_\_ company  
 (a) can, Sec 8                      (b) cannot , Sec 8  
 (c) can, Private Company                      (d) cannot, Private Company
  
7. Minor can apply for registration of share if \_\_\_\_\_.  
 (a) Fully , paid up                      (b) Through natural guardian  
 (c) Both (a) and (b)                      (d) Statement given is false
  
8. Which of the following statement is false?  
 (a) Pawnee shall not become member in a company.  
 (b) Pawnee is also known as pledge.  
 (c) Pawnee cannot sell the share pawned to him  
 (d) Shares can be pledged not mortgaged.
  
9. Person applying for shares in factitious is liable to imprisonment extended to \_\_\_\_\_.  
 (a) 6 months                      (b) 1 years                      (c) 3 years                      (d) 10 years

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10. Mr. A has applied for shares through multiple identities. This offence is \_\_\_\_\_.
- (a) Compoundable (b) Non-Compoundable  
(c) Partial compoundable (d) Any of the above
11. \_\_\_\_\_ is short cut to forfeiture.
- (a) Transfer (b) Transmission (c) Surrender (d) Estoppel
12. Examine the following statements & state false statement.
- (a) AOA may provide for expulsion of member.  
(b) AOA is a contract between company and its member.  
(c) Member is empowered with the right to transfer his shares.  
(d) Where shares are held by CG, share certificate is issued in the name of president.
13. Joint members are counted as 1 in case of \_\_\_\_\_.
- (a) Private Company (b) Public Company  
(c) Sec 8 (d) One Person Company
14. Shares of CG & SG can be held in the name of President & Governor as empowered by Article \_\_\_\_\_.
- (a) 297 (b) 298 (c) 299 (d) 300
15. Share held by government in any company cannot be issued share certificate in the name of \_\_\_\_\_.
- (a) President (b) Governor (c) Collector (d) None of the above
16. For variation of members rights, consent in writing of the holder of not less than \_\_\_\_\_ of the issued capital of shall of that class.
- (a) 2/3 (b) 3/4 (c) 1/4 (d) 1/10
17. Petition to NCLT for the cancellation of variation in members rights shall be made to NCLT within \_\_\_\_\_ days of which consent was given.
- (a) 7 Days (b) 15 Days (c) 21 Days (d) 30 Days
18. SR should is passed through postal ballot except \_\_\_\_\_.
- (a) OPC (b) Private company  
(c) Both (a) and (b) (d) Neither (a) and (b)
19. If any violation has been made by the company under sec 48, then the penalty not less than extending to \_\_\_\_\_ can be imposed on company.
- (a) 25000 to 1 Lakh (b) 10000 to 1 Lakh  
(c) 10000 to 5 Lakh (d) 25000 to 5 Lakh
20. In case of company with guarantee \_\_\_\_\_ is transferred
- (a) Shares (b) Interest (c) Guarantee (d) Subscription

**SWAPNIL PATNI CLASSES****Answer Keys**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>
(a)	(d)	(a)	(c)	(a)	(a)	(c)
<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>
(c)	(d)	(b)	(c)	(a)	(a)	(c)
<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	
(c)	(b)	(c)	(c)	(d)	(b)	

## CHAPTER -6

# PROSPECTUS AND ALLOTMENT

1. Section 23 provides for \_\_\_\_\_  
 (a) Abridged prospectus (b) Self-prospectus  
 (b) Red-hearing (d) Methods of issuing securities
2. The prospectus is defined under \_\_\_\_\_  
 (a) 2(69) (b) 2(70) (c) 2(71) (d) 2(72)
3. Sec 2(70) of Company Act, 2013. Define prospectus issued to \_\_\_\_\_  
 (a) Company (b) Body Corporate  
 (c) Corporation soul (d) Foreign company
4. A single private communication between business fiends shall not satisfy the term \_\_\_\_\_  
 (a) Prospectus (b) Issue  
 (c) Public issue (d) Private Placement
5. Prospectus must be issued to public is was held in case of \_\_\_\_\_  
 (a) Immugan v/s Rangaram  
 (b) Nash v/s Lynde  
 (c) Derry v/s Peek  
 (d) South of England Natural Gas Petroleum Ltd.
6. Prospectus must contain opinion of \_\_\_\_\_  
 (a) Expert (b) Independent expert  
 (c) Independent director (d) Director
7. The Prospectus must be issued to public within \_\_\_\_\_ days of \_\_\_\_\_ to ROC  
 (a) 30, delivery (b) 60, delivery (c) 90, delivery (d) 90, registration
8. If the Company makes any default u/s 33 it shall be liable for penalty of \_\_\_\_\_  
 (a) 5,000 (b) 50,000 (c) 100,000 (d) 500,000
9. In order to constitute offer for sale, such on offer made to public within \_\_\_\_ months after allotment to underwriter.  
 (a) 1 Months (b) 3 Months (c) 6 Months (d) 12 Months
10. Prospects under Section 25 is \_\_\_\_\_  
 (a) Deemed Prospectus (b) Constructive Prospectus  
 (c) Prospect by implication (d) All of the above

11. Section 28 states about \_\_\_\_\_  
(a) Shelf Prospectus (b) Red herring Prospectus  
(b) Deemed Prospectus (d) Offer for sale
12. Self-Prospectus is valid for the period \_\_\_\_\_  
(a) 1 Months (b) 3 Months (c) 6 Months (d) 1 Year
13. Prospectus without complete particular of quantum of price of the Securities is called \_\_\_\_\_  
(a) Shelf (b) Abridged (c) Red Herring (d) Deemed
14. In case of Misstatement in prospectus \_\_\_\_\_ can be imposed  
(a) Civil Liability (b) Criminal Liability  
(c) Both (a) and (b) (d) Either (a) or (b)
15. In case of Misrepresentation in Prospectus \_\_\_\_\_  
(a) Remedy against Company only (b) Remedy against Director & Promoter  
(c) Experts along with director & Promoter (d) All of the above
16. A subsequent purchaser of share in open market has no remedy against the company or Director or promoters held in the case of  
(a) Derry v/s Peek (b) Peek v/s Gurney  
(c) Nash v/s Lynde (d) Lynde v/s Gurney
17. Section 37 states about \_\_\_\_\_  
(a) Criminal liability (b) Civil Liability  
(b) Fraudulent Inducement (d) Class Action Suit
18. Section 24 of Companies Act, 2013 empowers \_\_\_\_\_  
(a) SEBI (b) NCLT (c) ROC (d) RD
19. If company is willing to utilize the amount raised for the purpose other than specified in prospectus then \_\_\_\_\_ is required to be passed  
(a) OR (b) SR (c) BR (d) None
20. Public offer shall mandatorily be made through dematerialized form as stated in Section \_\_\_\_\_ 29  
(a) 29 (b) 30 (c) 31 (d) 32
21. An act of appropriation of Capital by BOD is called \_\_\_\_\_  
(a) Allotment (b) Public issue (c) Transfer (d) Apostallization

22. Application money shall not be less than \_\_\_\_\_ of the nominal value of securities.  
(a) 2.5% (b) 5% (c) 10% (d) 25%
23. Company shall receive minimum subscription within 30 days from date of \_\_\_\_  
(a) Publication of Prospectus (b) Registration of Prospectus  
(b) Issue of Prospectus (d) From the date of opening of issue
24. If the company has not received minimum subscription, then the amount received is to be repaid within \_\_\_\_ day from closure of issue.  
(a) 5 days (b) 7 days (c) 15 days (d) 30 days
25. Return of allotment to be filled by company in form \_\_\_\_\_ to ROC in \_\_\_\_ days.  
(a) PAS-1,30 days (b) PAS-2,30 days  
(c) PAS-3,30 days (d) PAS-4,30 days
26. Sec 42 provides that a company cannot make \_\_\_\_\_ to more than 200 person in aggregate in financial year.  
(a) Allotment (b) Offer for securities  
(b) Transfer (c) Issue
27. Letter of offer to be issued by company in \_\_\_\_  
(a) PAS 2 (b) PAS 4 (c) PAS 5 (d) PAS 6
28. In order to make private placement securities is \_\_\_\_\_ required  
(a) BR (b) SR (c) OR (d) UR
29. While calculating the limit of 200 person under Section 42 \_\_\_\_\_  
(a) QIB is included (b) Employees stock option included  
(c) QIB & ESOP is excluded (d) QIB is included & ESOP is excluded
30. The minimum investment size for private placement shall not be less than \_\_\_\_\_ as per \_\_\_\_  
(a) ₹ 20,000, issue price (b) ₹ 20,000, market value  
(c) ₹ 20,000, face value (d) ₹ none of the above
31. Allotment under private placement is to be made within \_\_\_\_\_ day of receiving application money under IFSC public and IFSC Private Company.  
(a) 30 days (b) 60 days (c) 90 days (d) 100 days

ANSWER KEY

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>
(d)	(b)	(b)	(b)	(d)	(b)	(c)	(b)	(c)
<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>
(d)	(c)	(d)	(c)	(a)	(d)	(b)	(d)	(a)
<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>
(b)	(a)	(a)	(b)	(c)	(c)	(c)	(b)	(b)
<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>					
(b)	(c)	(c)	(c)					

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## CHAPTER -7

# UNDERWRITING COMMISSION

1. Underwriter is \_\_\_\_\_
  - (a) Agent
  - (b) Del Credere agent
  - (c) Factor agent
  - (d) Business agent
  
2. \_\_\_\_\_ is a member of stock exchange
  - (a) Company
  - (b) Underwriter
  - (c) Broker
  - (d) Debenture trustee
  
3. The rate of underwriting commission is \_\_\_\_\_% in shares, and \_\_\_\_\_% in case debentures of issue price
  - (a) 7.5%, 2.5%
  - (b) 2.5%, 2.5%
  - (b) 5%, 10%
  - (d) 5%, 2.5%
  
4. Underwriting commission is paid out of \_\_\_\_\_
  - (a) Proceed of issue
  - (b) Profit of company
  - (b) Out of reserve
  - (d) Either (a) or (b)
  
5. Copy of underwriter agreement should be delivered to \_\_\_\_\_
  - (a) Register Of Companies
  - (b) NCLT
  - (b) RD
  - (d) MCA
  
6. \_\_\_\_\_ is insurer against under subscription of securities.
  - (a) Broker
  - (b) Underwriter
  - (c) Company
  - (d) Stock exchange
  
7. Section \_\_\_\_\_ of Companies Act read with rule \_\_\_\_\_ of the Companies (Prospectus and Allotment of Securities) Rules, 2014, permits the company to pay Underwriting commission.
  - (a) 40, 12
  - (b) 40, 13
  - (c) 40, 15
  - (d) 40, 17
  
8. The payment of Underwriting Commission authorized by \_\_\_\_\_
  - (a) MOA
  - (b) AOA
  - (c) SR
  - (d) OR
  
9. Which statement is false?
  - (a) Underwriting commission to be disclosed in prospectus.
  - (b) Underwriting commission shall be paid on all securities allotted to underwriter.
  - (c) Prospectus shall disclose number of shares Underwritten.
  - (d) Underwriting commission shall not be paid on these securities which are not offered to public for subscription.



ANSWER KEYS

1	2	3	4	5
(b)	(c)	(a)	(d)	(a)
6	7	8	9	
(b)	(b)	(b)	(b)	

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## CHAPTER - 8

# SHARE CAPITAL OF A COMPANY

1. Section 2(50) of Companies Act, 2013 provides for\_\_\_\_\_
  - (a) Subscribed Capital
  - (b) Issued Capital
  - (c) Called Up Capital
  - (d) Paid Up Share Capital
2. As per Section 2(84) Share means share in the share capital of a Company and includes\_\_\_\_\_
  - (a) Debentures
  - (b) Preference Shares
  - (c) Stocks
  - (d) Bonds
3. Section 43 provides for\_\_\_\_\_
  - (a) Buy Back of Shares
  - (b) Kinds of Shares
  - (c) Issue of shares at Premium
  - (d) Reduction in Share Capital
4. Company can bring of Preference shares by passing\_\_\_\_\_
  - (a) Board Resolution
  - (b) Ordinary Resolution
  - (c) Unanimous Resolution
  - (d) Special Resolution
5. Company engaged in the setting up of infrastructural projects may issue preference shares for a period not exceeding\_\_\_\_\_
  - (a) 30 Years
  - (b) 20 Years
  - (c) 10 Years
  - (d) 5 Years
6. Where a Company is not in a position to redeem its Preference shares, it may redeem unredeemed preference shares by issue of further preference shares with consent of holders of\_\_\_\_\_ in value of such preference shares.
  - (a) 10%
  - (b) 51%
  - (c) 75%
  - (d) 100%
7. In case of Redemption of Preference shares, the Company is required to submit SH-7 to ROC in\_\_\_\_\_
  - (a) 7 days
  - (b) 14 days
  - (c) 30 days
  - (d) 60 days
8. A Company may issue equity shares with differential rights upon expiry of \_\_\_\_\_ years from the end of the financial year in which such default was made good.
  - (a) 2
  - (b) 3
  - (c) 5
  - (d) 7
9. The equity Capital with differential voting rights shall not exceed\_\_\_\_\_ of the total post issue paid u equity share Capital.
  - (a) 24%
  - (b) 26%
  - (c) 51%
  - (d) 1/10%<sup>th</sup>
10. In order to issue DVR shares, the Company needs to obtain the approval of the shareholders in a General Meeting by way of\_\_\_\_\_
  - (a) Ordinary Resolution
  - (b) Special Resolution
  - (c) Super majority Resolution
  - (d) Unanimous Resolution

11. The detail with respect to issue to DVR shares shall be provided by company in its \_\_\_\_\_  
(a) Annual Report (b) Annual Return  
(c) Board Report (d) Internal Audit Report
12. In case of Nidhi Company, no member shall exercise voting rights on poll in excess of \_\_\_\_\_ percentage of total voting rights of equity shareholders.  
(a) 2% (b) 3% (c) 5% (d) 11%
13. Preference shares are entitled to vote on every resolution placed before the company at any meeting if the dividend due on such shares are in arrears for a period of \_\_\_\_\_ or more  
(a) 2 years (b) 3 years (c) 4 years (d) 1 years
14. Company may purchase its own shares out of \_\_\_\_\_  
(a) Free Reserves (b) Securities Premium A/c  
(c) Proceeds of earlier issue (d) All of the above
15. By passing Board Resolution, company may buy back shares up to \_\_\_\_\_  
(a) 10% of the aggregate of Paid up Equity and Free reserves  
(b) 10% of the aggregate of Paid up Capital and Free reserves  
(c) 25% of the aggregate of Paid up Equity and Free reserves  
(d) 25% of the aggregate of paid up Capital and Free reserves
16. Letter of Buy Back offer shall be as per format prescribed in \_\_\_\_\_  
(a) PAS-4 (b) SH-8 (c) MHT-4 (d) PAS-8
17. Where \_\_\_\_\_ resolution is passed, the offer for buy back may remain open for a period less than 15 days.  
(a) Ordinary (b) Special (c) Super majority (d) Unanimous
18. Form SH-9 provides for \_\_\_\_\_  
(a) Letter of Buy Back (b) Declaration of Solvency  
(c) Return of Buy Back (d) Registered of Buy Back
19. Which of the following statement about Securities Premium is False?  
(a) To be maintained with same sanctity as share capital  
(b) Cannot be treated as free reserves  
(c) Can be treated a profits  
(d) To be kept in Securities Premium A/c
20. Securities Premium cannot be utilized towards:-  
(a) Issuing fully paid up Bonus Shares (b) Buy Back of Shares  
(c) Reduction in Share Capital (d) Writing off the expenses or commission paid.
21. Sweat Equity shares can be issued by company by passing:-  
(a) Board Resolution (b) Ordinary Resolution  
(c) Special Resolution (d) Unanimous Resolution

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22. Sweat Equity shares shall not exceed \_\_\_\_\_ of the paid up equity Capital of the Company of the company at any time.  
(a) 5% (b) 15% (c) 25% (d) 26%
23. The special resolution passed for the issuance of Sweat Equity Shares is valid for a period of \_\_\_\_\_  
(a) 6 months (b) 12 months (c) 15 months (d) 18 months
24. Sweat equity shares issued to the directors or employers shall be locked in for a period of \_\_\_\_\_ years from the date of allotment.  
(a) 2 years (b) 3 years (c) 5 years (d) 10 years
25. Register of Sweat Equity Shares is to be maintained in \_\_\_\_\_  
(a) SH-7 (b) MGT-3 (c) SH-3 (d) SH-11
26. Notice of right offer shall be dispatched to all the shareholders at least \_\_\_\_\_ days before opening of the offer.  
(a) 2 days (b) 3 days (c) 5 days (d) 10 days
27. When the Company is bringing issue at a price lesser than market price for its existing holders. It is called \_\_\_\_\_  
(a) Right Issue (b) Right of first Refusal  
(c) Pre-emptive right (d) All of the above
28. For issuing employees stock option \_\_\_\_\_ is required to be passed by Company.  
(a) Ordinary Resolution (b) Special Resolution  
(c) Unanimous Resolution (d) Board Resolution
29. Preferential Allotment of shares can be made by Company if authorized by \_\_\_\_\_ of members.  
(a) Special Resolution (b) Ordinary Resolution  
(c) Supermajority (d) Unanimous Resolution
30. A company may issue Bonus shares, out of \_\_\_\_\_  
(a) Free reserves (b) Securities Premium A/c  
(c) Capital redemption reserve A/c (d) All of the above

**ANSWER KEYS**

1	2	2	4	5	6	7	8	9	10
(b)	(c)	(b)	(d)	(a)	(c)	(c)	(c)	(b)	(a)
11	12	13	14	15	16	17	18	19	20
(c)	(c)	(a)	(d)	(a)	(b)	(d)	(b)	(c)	(c)
21	22	23	24	25	26	27	28	29	30
(c)	(c)	(b)	(b)	(c)	(b)	(d)	(b)	(a)	(d)

## CHAPTER - 9

# SHARE CERTIFICATE

1. Share Certificate is to be issued in Form \_\_\_\_\_  
 (a) SH-1                      (b) SH-2                      (c) SH-3                      (d) SC-1
2. In case of listed Company the form and contents of Share Certificates has to be approved by \_\_\_\_\_  
 (a) SEBI    (b) RBI  
 (c) Stock Exchange                              (d) Compliance officer of CG
3. Share Certificate is a prima facie evidence of \_\_\_\_\_  
 (a) Estoppel as to a Payment                      (b) Estoppel as to Title  
 (c) Both A and B                                      (d) Neither A nor B
4. Register of Duplicate Share Certificate is to be maintained by Company in \_\_\_\_\_  
 (a) SH-2                      (b) SH-3                      (c) SC-2                      (d) MGT-2
5. The identity of the shares is established by \_\_\_\_\_  
 (a) Name of Company                                      (b) Common Seal  
 (c) No of shares held                                      (d) Distinctive number of shares
6. Which of the following statement is untrue?  
 (a) Share Certificate is issued to be subscribers to MOA in 2 months of COI  
 (b) Share certificate is issued to shareholders holding shares in depository  
 (c) Share Certificate specifies the name of holder and amount paid up  
 (d) Shares do not carry its distinctive numbers in Physical Form
7. Company may while issuing duplicate share certificate fees not exceeding \_\_\_\_\_  
 (a) ₹ 10/- per share                                      (b) ₹ 10/- per share certificate  
 (c) ₹ 50/- per share certificate                                      (d) ₹ 50/- per share
8. In case of Unlisted company, the duplicate share Certificate shall be issued within \_\_\_\_\_  
 (a) 45 days                      (b) 30 days                      (c) 3 months                      (d) 60 days

### ANSWER KEYS

1	2	3	4	5	6	7	8
(a)	(c)	(c)	(a)	(d)	(b)	(c)	(c)

## CHAPTER -10

# TRANSFER AND TRASNMISSION

1. Provision regarding transfer of shares are given under \_\_\_\_\_  
 (a) Sec 55                      (b) Sec 56                      (c) Sec 57                      (d) Sec 58
2. Instrument of transfer of securities shall be made in \_\_\_\_\_  
 (a) SH- 1                      (b) SH-2                      (c) SH-4                      (d) SH-5
3. Transferee under obligation to file registration application with company within \_\_\_\_\_ days of execution.  
 (a) 15                      (b) 30                      (c) 45                      (d) 60
4. The requirement of SH-4 in 60 days shall not be applicable in case of \_\_\_\_\_  
 (a) Equity shares issued by govt. company                      (b) Preference share issued by govt. company  
 (c) Bonds issued by govt. company                      (d) Municipal bonds
5. An instrument on which signature of transferor is forged is called \_\_\_\_\_  
 (a) Blank transfer                      (b) Inchoate transfer  
 (c) Valid transfer                      (d) None of the above
6. Forged transfer is \_\_\_\_\_  
 (a) Void                      (b) Voidable                      (c) Void-ab-initio                      (d) Valid
7. In case of transfer of partly paid share notice in form \_\_\_\_\_ is to be served by company to Transferee Shareholder.  
 (a) SH-4                      (b) SH-5                      (c) SH-6                      (d) SH-7
8. In case of partly paid up shares, transferee is under obligation to response within \_\_\_\_\_ from the date of receiving company notice  
 (a) 7 days                      (b) 2 weeks                      (c) 15 days                      (d) 21 days
9. AOA of the Company may allow joint holding in the names of \_\_\_\_\_ persons  
 (a) 2                      (b) 3                      (c) 4                      (d) 5
10. Section 58 of company act, 2013 states about \_\_\_\_\_  
 (a) Transfer & Transmission  
 (b) Transfer by fictitious person  
 (c) Rectification in register of member  
 (d) Circumstances under which Company may refuse to register transfer

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11. Share certificate shall be issued to subscriber to MOA within \_\_\_\_\_ from \_\_\_\_\_  
(a) 1 month, date of 1<sup>st</sup> board meeting (b) 2 months, date of 1<sup>st</sup> board meeting  
(c) 1 month, date of incorporation (d) 2 months, date of incorporation
12. Debentures certificate is to be issued within \_\_\_\_\_ months of allotment  
(a) 2 months (b) 3 months (c) 6 months (d) 9 months
13. Probate can also be termed as \_\_\_\_\_  
(a) Affidavit (b) Indemnity bond (c) Attested copy Will (d) NOC
14. IFSC Private Company must deliver share certificate within \_\_\_\_\_ days from the date of receipt of transmission application.  
(a) 15 (b) 60 (c) 30 (d) 90

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(b)	(c)	(d)	(a)	(d)	(a)	(b)	(b)	(c)	(d)
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>						
(d)	(c)	(c)	(b)						

## CHAPTER -11 DEBENTURES

1. Section 2(30) states that debenture includes\_\_\_\_\_
  - (a) Debenture stock
  - (b) Bonds
  - (c) Other Security
  - (d) All of the above
  
2. Which of the following statements is false?
  - (a) Convertible debentures can be issued by passing SR.
  - (b) Company may issue debentures with voting rights
  - (c) Debenture is a document which creates and acknowledges debt.
  - (d) Specific performance can be enforced against company by debenture holders
  
3. Which of the following statement is untrue?
  - (a) Debenture is usually in the form of the certificate
  - (b) Debenture provides for the payment of a specified sum at specified date.
  - (c) Even zero rate of interest debentures can be issued
  - (d) Debentures can't be issued at discount.
  
4. For rollover of debentures, the approval of debenture holders by way of \_\_\_\_\_ is required.
  - (a) Ordinary
  - (b) Special
  - (c) Super Majority
  - (d) Unanimous
  
5. Infrastructure Debt Fund Non-Banking Financial Companies can issue debentures for a period of \_\_\_\_\_
  - (a) 10 years
  - (b) 15 years
  - (c) 20 years
  - (d) 30 years
  
6. Debentures must be listed before expiry of \_\_\_\_\_ weeks from the date of closing of subscription.
  - (a) 2
  - (b) 4
  - (c) 6
  - (d) 10
  
7. Company shall not issue prospectus to more than \_\_\_\_\_ persons without appointing debentures trustee
  - (a) 50
  - (b) 100
  - (c) 200
  - (d) 500
  
8. Debenture trustee can be removed by consent of not less than \_\_\_\_\_ in value of debenture holders at their meeting.
  - (a) 1/10<sup>th</sup>
  - (b) Half
  - (c) 3/4<sup>th</sup>
  - (d) 1/4<sup>th</sup>
  
9. The copy of Debenture trust Deed shall be forwarded to member or debenture holders within \_\_\_\_\_ days of request made
  - (a) 3
  - (b) 5
  - (c) 7
  - (d) 10



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10. Rule 18(7) of the companies (share Capital and Debenture Rules, 2014 states about \_\_\_\_\_
- (a) Debenture Trustee (b) Debenture Trust Deed  
(c) Debenture Redemption Reserve (d) Roll Over of Debenture
11. The term debenture includes debenture stock, bonds and securities except excluded by \_\_\_\_\_
- (a) RBI or CG (b) CG or NCLT  
(c) RBI or SEBI (d) RBI or NCLT
12. Debenture Trust Deed has to be executed between company and trustee within \_\_\_\_\_
- (a) 3 months of closure of offer (b) 21 days of allotment of debentures  
(c) 60 days of issue opening date (d) 90 days of issuing prospectus

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(d)	(b)	(d)	(b)	(d)	(d)	(d)	(c)	(c)	(c)
<b>11</b>	<b>12</b>								
(a)	(a)								

## CHAPTER -12

# ACCEPTANCE OF DEPOSIT BY COMPANIES

1. Eligible Company is a public company with net worth of ₹ \_\_\_\_\_ or Turnover of ₹ \_\_\_\_\_  
 (a) 50 Crore, 250 Crore (b) 100 Crore, 500 Crore  
 (c) 10 Crore, 100 Crore (d) 250 Crore, 1000 Crore
2. An eligible Company can raise deposits up to \_\_\_\_\_ of Paid Up Capital & Free Reserves & Securities Premium  
 (a) 10% (b) 25% (c) 35% (d) 100%
3. An Eligible Company (Govt. Co.) can raise up to \_\_\_\_\_ of Paid Up Capital & Free Reserves & Securities Premium.  
 (a) 10% (b) 25% (c) 35% (d) 100%
4. An IFSC Public Companies and other Private Companies can raise up to \_\_\_\_\_ of Paid Up Capital & Free Reserves & Securities Premium  
 (a) 10% (b) 25% (c) 35% (d) 100%
5. Which of the following Private Companies cannot accept deposits from its members without any limit \_\_\_\_\_  
 (a) Start Up Company within 5 years of COI  
 (b) Private Company whose borrowing is not more than Paid up Capital or ` 20 Crore (whichever is less)  
 (c) Private Company which is not subsidiary or associate of any Company  
 (d) No default in repayment of borrowings
6. Circular regarding deposits is to be issued in newspaper in Form \_\_\_\_\_  
 (a) DPT-1 (b) DPT-2 (c) DPT-3 (d) DPT-4
7. Copy of circular to ROC has to be filed by Company at least \_\_\_\_\_ days before issue  
 (a) 10 days (b) 15 days (c) 30 days (d) 45 days
8. In case of default by the Company in repayment of deposits, an insurance company within 30 days from \_\_\_\_\_  
 (a) ₹ 25,000, actual amount with interest, less. (b) ₹ 50,000, actual amount, more  
 (c) ₹ 25,000, actual amount, more (d) ₹ 50,000, actual amount with interest, less

9. In case of secured deposits, security has to be created by company within 30 days from \_\_\_\_\_  
 (a) Date of Circular issued  
 (b) Date of copy of circular filed to ROC  
 (c) Date of closure of application period or deposit period  
 (d) Date of acceptance
10. The Trust Deed has to be executed between Company & Trustee of Depositor in \_\_\_\_\_  
 (a) DPT-1 (b) DPT-2 (c) DPT-3 (d) DPT-4
11. Meeting is to be called by Debenture Trustee if request is made by \_\_\_\_\_ depositors in \_\_\_\_\_  
 (a) 1/10<sup>th</sup>, value (b) 3/4<sup>th</sup>, number (c) 3/4<sup>th</sup>, value (d) 1/10<sup>th</sup>, number
12. Deposit receipt is to be issued by company to the Company to the depositor within \_\_\_\_\_ days of realization of cheque  
 (a) 7 (b) 15 (c) 21 (d) 30
13. Register of deposits is to be preserved by company for \_\_\_\_\_  
 (a) 5 calendar years (b) 8 accounting years  
 (c) 5 accounting years (d) 8 calendar years
14. Return of Deposits is to be filed by company to ROC in \_\_\_\_\_ on or before \_\_\_\_\_ every years  
 (a) DPT-3, 30<sup>th</sup> June (b) DPT-2, 30<sup>th</sup> April  
 (c) DPT-3, 30<sup>th</sup> April (d) DPT-3, 30<sup>th</sup> September
15. Penal rate of interest in case of default in repayment of deposits for overdue period is \_\_\_\_\_  
 (a) 12 % (b) 15 % (c) 18 % (d) 24 %
16. Which of the following is covered under the definition of Deposits?  
 (a) Amount received as a facility from bank  
 (b) Amount received from other company  
 (c) Any interest bearing amount received or held in trust  
 (d) Amount received from Multilateral Financial institution

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(b)	(b)	(c)	(d)	(b)	(a)	(c)	(a)	(d)	(b)
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>				
(a)	(c)	(d)	(a)	(c)	(c)				

## CHAPTER -13 CHARGES

1. The term charge has been defined under Section \_\_\_\_\_ of Companies Act, 2013  
 (a) 2(14) (b) 2(15) (c) 2(16) (d) 2(21)
2. Under Companies Act, 2013 Charge mean an interest or lien created on the property on the property or assets of a Company or any of its undertaking or both as security and includes a \_\_\_\_\_  
 (a) Pledge (b) Mortgage (c) Hypothecation (d) All of the above
3. Which of the following is a kind of charge?  
 (a) Fixed Charge (b) Flexible Charge (c) Both A and B (d) Neither A and B
4. Charge may be created by \_\_\_\_\_  
 (a) Act of Parties (b) Operation of Law (c) Both A and B (d) Neither A and B
5. A Floating charge crystallizes when \_\_\_\_\_  
 (a) The Company goes into liquidation (b) The company ceases to carry on the business  
 (b) Happening of event specified by deed (d) All of the above
6. Company is under obligation to register the Charge with ROC within \_\_\_\_\_ days.  
 (a) 7 (b) 15 (c) 30 (d) 60
7. Certificate of Registration of Charge is issued by ROC to Company in Form \_\_\_\_\_  
 (a) CHG-1 (b) CHG-2 (c) CHG-3 (d) CHG-4
8. In case of non- registration of Charge with ROC in 300 days, condemnation application shall be made to \_\_\_\_\_ in Form \_\_\_\_\_  
 (a) RD, CHG-8 (b) NCLT, CHG-8 (c) CG, CHG-3 (d) NCLT, CHG-6
9. Section 77 of Companies Act, 2013 is not applicable to the charges prescribed in consultation with \_\_\_\_\_  
 (a) SEBI (b) RBI (c) CG (d) NCLT
10. Certificate of modification of charge is issued by ROC to Company in Form \_\_\_\_\_  
 (a) CHG-1 (b) CHG-2 (c) CHG-3 (d) CHG-4
11. The register of charges maintained by Company can be inspected by members and creditors \_\_\_\_\_  
 (a) Free of cost (b) Payment of ₹ 10  
 (c) Payment of ₹ 100 (d) Payment specified in AOA

12. CHG-7 is a format for \_\_\_\_\_  
 (a) Appointment of Receiver (b) Satisfaction of Charge  
 (b) Charge in respect of debentures (c) Register of Charges
13. If the charge has been created in respect of the property situated in India, the certificate of verification shall be provided by \_\_\_\_\_  
 (a) Director (b) Company Secretary  
 (c) Authorized officer of Charge holder (d) Any of the above
14. Charge, if not registered is \_\_\_\_\_  
 (a) Valid against the liquidator (b) Void against the liquidator  
 (c) Discretion of liquidation (d) Any of the above
15. For non- registration of charge Company may be fined not less than ₹ \_\_\_\_\_ and not exceeding ₹ \_\_\_\_\_  
 (a) ₹ 25,000 , ₹5,00,000 (b) ₹ 50,000 , ₹ 5,00,000  
 (c) ₹ 1,00,000 , ₹10,00,000 (d) ₹ 25,000 , ₹ 10,00,000
16. Section 87 of Companies Act, 2013 deals with \_\_\_\_\_  
 (a) Satisfaction of Charge (b) Condonation by CG  
 (c) Register of Charges (d) Penalty for non- registration of Charges

**ANSWER KEY**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(c)	(b)	(c)	(c)	(d)	(c)	(b)	(c)	(b)	(c)
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>				
(a)	(d)	(d)	(b)	(c)	(b)				

## CHAPTER -14

# REGISTERS AND RETURNS

1. Section 92 of Companies Act, 2013 states about \_\_\_\_\_  
 (a) Annual Report (b) Annual Accounts  
 (c) Annual Return (d) Prospectus
2. Accounting books are also known as \_\_\_\_\_  
 (a) Statutory Books (b) Non-statutory Books  
 (c) Statistical Books (d) Optional Books
3. Under Section 88 \_\_\_\_\_ number of registers are to be maintained by company  
 (a) 3 (b) 4 (c) 5 (d) 6
4. Which of the following register is not to be maintained statutorily  
 (a) Register of Sweat equity Shares (b) Register of charges  
 (c) Register of Allotees (d) Register of Deposits
5. An Index of securities is not necessary to be maintained if the number of security holders are less than \_\_\_\_\_  
 (a) 20 (b) 50 (c) 100 (d) 200
6. The Company shall inform the \_\_\_\_\_ about the foreign address within \_\_\_\_\_ days from the date of keeping foreign registers in \_\_\_\_\_  
 (a) RD, 30, MGT 4 (b) ROC, 30, MGT 3  
 (c) NCLT, 15, MGT 2 (d) MCA,7, OPM 1
7. Where any person who is not member but does hold any interest such person make declaration in \_\_\_\_\_ form.  
 (a) MGT-4 (b) MGT-5 (c) MGT-6 (d) SH-8
8. Declaration In Respect of Sec 89 shall be given by IFSC company within \_\_\_\_\_ days  
 (a) 30 (b) 60 (c) 90 (d) 120
9. Company other than \_\_\_\_\_ is under obligation to give declaration of beneficial interest  
 (a) Private (b) Public (c) IFSC (d) Government
10. The register of company can be closed for any period not exceeding in the aggregate \_\_\_\_\_ days in the years  
 (a) 15 (b) 30 (c) 45 (d) 60
11. Date fixed by the company for taking record of its shareholder is called \_\_\_\_\_ date  
 (a) Relevant (b) Reference (c) Effective (d) Record

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12. A company may keep its registers at any place in India where more than \_\_\_\_\_ total members reside  
 (a)  $\frac{1}{4}$  (b)  $\frac{1}{10}$  (c)  $\frac{2}{3}$  (d)  $\frac{3}{4}$
13. A Ltd. is willing to keep its statutory registers at a place in India where more than \_\_\_\_\_ total members reside.  
 (a) BR (b) OR (c) SR (d) RD approval
14. If company has not rectified the register of members on direction of NCLT, then Company shall be liable to penalty not less than \_\_\_\_\_ and not exceeding \_\_\_\_\_  
 (a) 1 lakh, 5 lakh (b) 25,000, 5 lakh  
 (c) 1 lakh, 25,00,000 (d) No penalty will be imposed
15. Returns which are required when contingency arises are called \_\_\_\_\_  
 (a) Annual Return (b) Period Return  
 (c) Casual Return (d) Contractual Return
16. Annual return is to be filled in form \_\_\_\_\_ to \_\_\_\_\_ in \_\_\_\_\_ days  
 (a) MGT 9, ROC, 30 Days (b) MGT 7, ROC, 60 Days  
 (c) MGT 7, ROC, 30 Days (d) MDT 7, ROC, 60 Days
17. A Private Company is exempted for disclosed in its Annual Return \_\_\_\_\_  
 (a) Indebtness (b) Changes in KMP  
 (c) Remuneration of KMP (d) Shareholding Pattern
18. Certification of Annual Report by PCS to be given under \_\_\_\_\_  
 (a) MGT 7 (b) MGT 8  
 (c) MGT 9 (d) MGT 10
19. Annual Report of Company is to be certified by PCS if \_\_\_\_\_  
 (a) Paid up capital 10 crore (b) Turnover 50 crore  
 (c) Both (a) and (b) (d) Either (a) or (b)
20. Sec 93 is applicable to \_\_\_\_\_  
 (a) Every Company (b) Public Company  
 (c) Private Company (d) Listed Company

**ANSWER KEYS**

1	2	3	4	5	6	7	8	9	10
(c)	(c)	(d)	(c)	(b)	(b)	(a)	(b)	(d)	(c)
11	12	13	14	15	16	17	18	19	20
(d)	(b)	(c)	(a)	(c)	(d)	(c)	(b)	(d)	(d)

## CHAPTER -15

# GENERAL MEETINGS

2. Business which are usually transacted in AGM are called\_\_\_\_\_
  - (a) Ordinary
  - (b) Special
  - (c) Extra- Ordinary
  - (d) Documentary
3. A Company shall hold its first AGM within a period of \_\_\_\_\_ from the date of closure of financial year
  - (a) 3 months
  - (b) 6 months
  - (c) 9 months
  - (d) 12 months
4. A Company shall convene its AGM (other than first) within a period of \_\_\_\_\_ from the date of closure of financial year.
  - (a) 3 months
  - (b) 6 months
  - (c) 9 months
  - (d) 12 months
5. The gap between 2 AGM's shouldn't exceed \_\_\_\_\_
  - (a) 12 months
  - (b) 15 months
  - (c) 6 months
  - (d) 9 months
6. Application for extensive of time period to convene AGM is to be made by company to ROC in \_\_\_\_\_ Form
  - (a) GNL-1
  - (b) MSC-1
  - (c) EXT-1
  - (d) MGT-1
7. Annual general meeting of an unlisted company may be held at any place in India if consent is given in writing or by electronic mode by \_\_\_\_\_ in advance.
  - (a) All the members
  - (b) More than half of the members
  - (b)  $\frac{3}{4}$ <sup>th</sup> of the members
  - (d)  $\frac{1}{10}$ <sup>th</sup> of the members
8. Annual return is to be filed by company to ROC in form \_\_\_\_\_ in \_\_\_\_\_ days of AGM
  - (a) MGT-9, 60 Days
  - (b) MGT-9, 30 Days
  - (b) MGT-7, 60 Days
  - (d) MGT-7, 30 Days
9. Failure to call AGM may attract the penalty which may extend to \_\_\_\_\_
  - (a) ₹ 25,000
  - (b) ₹ 50,000
  - (c) ₹ 1,00,000
  - (d) ₹ 5,00,000
10. \_\_\_\_\_ provides that all general meetings, other than AGMs are called
  - (a) Regulation 41 of Table A, Extra Ordinary General Meetings
  - (b) Regulation 42 of Table A, emergency General Meeting
  - (c) Regulation 42 of Table F, Extra Ordinary General Meeting
  - (d) Section 100 of Companies Act, 2013, Extra Ordinary General Meeting



11. EGM shall be held at any place in India or outside India. This rule is applicable to \_\_\_\_\_
- (a) Dormant Company  
(b) Small Company  
(c) IFSC Private Company & IFSC Public Company  
(d) IFSC Private Company
12. Members not less than \_\_\_\_\_ of the paid up capital may request for EGM
- (a) 1/5<sup>th</sup> (b) 1/10<sup>th</sup> (c) Half (d) 3/4<sup>th</sup>
13. Board of Directors must convene the EGM within \_\_\_\_\_ days from the date of receipt of requisition from members
- (a) 14 days (b) 21 days (c) 45 days (d) 90 days
14. If Board doesn't convene EGM even after requisition is made by members, then members may convene EGM by themselves within a period of \_\_\_\_\_ from the date of requisition
- (a) 45 days (b) 3 months (c) 6 months (d) 21 months
15. Sec 98 of Companies Act, 2013 states about \_\_\_\_\_
- (a) Calling of AGM by NCLT (b) Calling of EGM by NCLT  
(c) Penalty for non- convening of AGM (d) None of the above
16. Which of the following isn't a requisite of a valid General Meeting?
- (a) Notice (b) Quorum (c) Chairperson (d) Minutes
17. In case of Sec 8 Companies, GM may be called by giving not less than \_\_\_\_\_ days' notice
- (a) 7 (b) 14 (c) 21 (d) 30
18. In case of failure in delivery of notice of GM by e-mail, physical copy of notice is to be sent to the members within \_\_\_\_\_ of the original attempt.
- (a) 12 hours (b) 24 hours (c) 48 hours (d) 72 hours
19. Notice of GM in electronic form can be sent in \_\_\_\_\_
- (a) Portable Document Form (PDF) (b) Electronic Documentation Form (EDF)  
(c) (a)&(b) (d) (a) or (b)
20. The minimum number of members required to be present at General Meeting is called \_\_\_\_\_
- (a) Proxy (b) Quorum (c) Requisition (d) Representation
21. In case of public company with 855 members, the requirement of quorum is
- (a) 5 members (b) 15 members (c) 30 members (d) 50 members
22. If the members in a company exceed \_\_\_\_\_ the requirement of quorum is 30 members personally present.
- (a) 1,000 (b) 5,000 (c) 10,000 (d) 2,500
23. Who among the following shall not form a part of Quorum?
- (a) Member Personally Present (b) Members Present through Proxy  
(c) Representative of Govt. (d) Representative of Body Corporate

24. In case of an adjournment of meeting, the company shall give not less than \_\_\_\_\_ notice to its members  
(a) 3 days (b) 1 week (c) 14 days (d) 21 days
25. If a poll is demanded on the election of the Chairman, it shall be taken \_\_\_\_\_  
(a) Within 7 days (b) Within 3 days  
(c) Within 48 hours (d) Immediately
26. Penalty for non- mentioning the right of a member to appoint proxy in notice of GM may be extended to ` \_\_\_\_\_  
(a) 5,000 (b) 25,000 (c) 75,000 (d) 1,00,000
27. A person appointed as proxy shall not act as proxy on behalf of more than \_\_\_\_\_ members  
(a) 10 (b) 20 (c) 50 (d) 100
28. Who among the following cant appoint Proxy?  
(a) Member (b) Proxy  
(c) Representative of body corporate (d) Representative of President & Governor
29. A Proxy form should be deposited at registered office of the company at least \_\_\_\_\_ hours before the time fixed for a meeting  
(a) 7 hours (b) 14 hours (c) 24 hours (d) 48 hours
30. Proxy Form is to be filed in Form \_\_\_\_\_  
(a) MGT-11 (b) MGT-15 (c) PRX-11 (d) GML-13
31. If a Company is indulged in canvassing for appointment of Proxy, then penalty up to ₹ \_\_\_\_\_ can be imposed  
(a) ₹25,000 (b) ₹50,000 (c) ₹1,00,000 (d) ₹5,00,000
32. A member willing to inspect Proxies list may file his request with company at least \_\_\_\_\_ days before the GM  
(a) 3 (b) 7 (c) 10 (d) 14
33. In first instance, a resolution is put to vote in GM by \_\_\_\_\_  
(a) Poll (b) Circulation (c) Postal Ballot (d) Show of Hands
34. Which of the following companies need not provide E- Voting facility?  
(a) Companies whose debentures or preference shares are listed only  
(b) Companies listed on SME trading platforms  
(c) Companies listed on Institutional Trading platforms  
(d) All of the above
35. The demand for Poll can be made by members not being less than \_\_\_\_\_ of the total voting power on which aggregate sum of not less than ₹ \_\_\_\_\_ has been paid up  
(a)  $1/10^{\text{th}}$  , ₹ 5 lakh (b)  $1/5^{\text{th}}$  , ₹ 5 lakh  
(c)  $3/4^{\text{th}}$  , ₹ 25 lakh (d)  $1/10^{\text{th}}$  , ₹ 10 lakh

36. In voting by Poll, scrutinizer report shall be submitted to chairman in form \_\_\_\_\_  
(a) MGT-11 (b) MGT-12 (c) MGT-13 (d) MGT-15
37. Section 106 states about \_\_\_\_\_  
(a) Voting by Hands (b) Voting by Poll  
(c) Postal Ballot (d) Restriction on exercise of voting rights
38. A \_\_\_\_\_ is the primary stage & the \_\_\_\_\_ is the posterior stage.  
(a) Resolution, Motion (b) Motion, Resolution  
(c) Voting, Motion (d) Voting, Resolution
39. Resolution in which votes cast favour are not less than 3 times the votes cast against it is called \_\_\_\_\_  
(a) Ordinary resolution (b) Special resolution  
(c) Unanimous resolution (d) Resolution by Circulation
40. In case of Special resolution being passed by Specified IFSC Companies MGT-14 is to be filed with ROC within \_\_\_\_\_ days  
(a) 15 (b) 30 (c) 45 (d) 60
41. As per rule 25 of Companies (Management & Administration) Rules, 2014, minutes are to be kept in custody of \_\_\_\_\_  
(a) Chairman (b) CEO (c) CS (d) Auditor
42. If a person is found guilty of tampering within the minutes of the meeting, he shall be punishable with imprisonment for a term which may extend to \_\_\_\_\_ years and fine not be less than ₹ \_\_\_\_\_ but may extend to ₹ \_\_\_\_\_  
(a) 2 years; ₹25,000 ; ₹1 lakh (b) 1 year; ₹25,000; ₹1 lakh  
(c) 3 years; ₹50,000 ; ₹5 lakh (d) 3 years; ₹25,000; ₹1 lakh
43. A member shall be entitled to be furnished copy of minutes for inspection within \_\_\_\_\_ working days of request made.  
(a) 3 (b) 7 (c) 10 (d) 14
44. Report on AGM to be filed by \_\_\_\_\_  
(a) Private Company (b) Public Company  
(c) Every Company (d) Listed Company
45. Report on AGM is to be filed to the Registrar in Form \_\_\_\_\_  
(a) MGT-11 (b) MGT-12 (c) MGT-13 (d) MGT-15

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46. The report on AGM shall be signed & dated by \_\_\_\_\_  
 (a) Chairman (b) CEO (c) CFO (d) Scrutinizer
47. Report on AGM is to be filed in ROC in \_\_\_\_\_ days of the conclusion of AGM  
 (a) 10 (b) 15 (c) 30 (d) 60
48. Which of the following resolution is required to be filed with ROC?  
 (a) Ordinary Resolution (b) Special Resolution  
 (c) Unanimous Resolution (d) Resolution by Circulation
49. In case of an Equality of votes on a matter required Ordinary Resolution, casting vote is provided to Chairman if \_\_\_\_\_  
 (a) Provided in AOA  
 (b) Consented by more than half members present in meeting  
 (c) Consented by 3/4<sup>th</sup> members present in meeting  
 (d) Consented by all members present in meeting without any member against it.

**ANSWER KEYS**

1	2	3	4	5	6	7	8	9	10
(c)	(a)	(c)	(b)	(b)	(a)	(a)	(c)	(c)	(c)
11	12	13	14	15	16	17	18	19	20
(d)	(b)	(c)	(b)	(b)	(d)	(b)	(d)	(d)	(b)
21	22	23	24	25	26	27	28	29	30
(a)	(b)	(b)	(a)	(d)	(a)	(c)	(b)	(d)	(a)
31	32	33	34	35	36	37	38	39	40
(c)	(a)	(d)	(d)	(a)	(c)	(d)	(b)	(b)	(d)
41	42	43	44	45	46	47	48	49	
(c)	(a)	(b)	(d)	(d)	(a)	(c)	(b)	(a)	

## CHAPTER -16

# DIVISIBLE PROFITS & DIVIDENDS

1. Which of the following statement about dividend is untrue?
  - (a) Paid to Shareholders in proportion of amount paid up
  - (b) Preference Shareholders are given priority
  - (c) Section 8 Companies can declare dividend
  - (d) Dividend can also be paid from accumulated profits
  
2. Which of the following statement is untrue?
  - (a) Dividend declared in AGM shall not exceed the dividend recommended in Board Meeting
  - (b) No dividend is to be declared without adoption of accounts
  - (c) If dividend is not declared in AGM, then it cannot be declared in EGM
  - (d) Dividend not to be paid out of capital
  
3. Dividend can be paid by the company from \_\_\_\_\_
  - (a) Profits of such year
  - (b) Profits of Previous years
  - (c) Amount provided by government
  - (d) Any of the above
  
4. In case of inadequacy of profits, Rule 3 of Companies(Declaration and Payment of Dividend) Rules, 2014 is to be complied for payment of dividend except in case of \_\_\_\_\_
  - (a) Private Company
  - (b) Small Company
  - (c) Government Company
  - (d) Wholly Owned Government Company
  
5. Dividend once declared has to be deposited in separate bank account within \_\_\_\_\_
  - (a) 7 days of AGM
  - (b) 30 days of recommendation
  - (c) 5 days of declaration
  - (d) 60 days from 30<sup>th</sup> September or AGM whichever is earlier
  
6. If Company is willing to declare dividend even if there are no profits in such year, then the rate of dividend shall not exceed \_\_\_\_\_
  - (a) The Dividend paid for immediately preceding financial year
  - (b) The Average of Dividend paid in immediately preceding three financial years
  - (c) Interim Dividend
  - (d) 15% of the paid up capital and free reserves
  
7. As per Rule 3 of Companies (Declaration and Payment of Dividend) Rules, 2014, in case of inadequacy of profit the dividend amount drawn shall not exceed \_\_\_\_\_
  - (a) Average of Dividend for immediately preceding 3 financial years
  - (b) 1/10<sup>th</sup> of the paid up capital and free reserves
  - (c) 15% of the paid up capital
  - (d) 50% of the Dividend paid during immediately preceding financial year

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8. If dividend is not claimed by the member, then shall be transferred to Unpaid Dividend Account in \_\_\_\_\_ days after expiry of \_\_\_\_\_ days  
 (a) 5, 30 (b) 7, 30 (c) 7, 14 (d) 5, 15
9. Dividend declared by the company but not claimed by the member for 7 years shall be transferred to \_\_\_\_\_  
 (a) Investor Protection Fund (b) Investor Education and Protection Fund  
 (b) Investor Protection and Education Fund (d) Investor Education and Protection Fund
10. The amount of IEPF can be utilized towards Class Action Suit sanctioned by \_\_\_\_\_  
 (a) NCLT (b) RD (c) ROC (d) CG
11. Nidhi Company may give declaration in local newspaper and display on notice board for at least \_\_\_\_\_ months, if amount of Dividend is not more than ₹ \_\_\_\_\_  
 (a) 3 months, ₹ 1,000 (b) 3 months, ₹ 100  
 (c) 3 months, ₹ 500 (d) 2 months, ₹ 100
12. The term dividend has been defined under section \_\_\_\_\_  
 (a) 2(34) (b) 2(35) (c) 2(36) (d) 2(43)
13. The provision regarding Declaration of Divisible profits and dividend are provided under \_\_\_\_\_  
 (a) Section 88 to 95 (b) Section 123 to 127  
 (c) Section 128 to 140 (d) Section 77 to 87
14. The Transfer of shares by Companies to IEPF shall be deemed as \_\_\_\_\_  
 (a) Issue of Shares (b) Transfer of Share  
 (c) Re-issue of Shares (d) Transmission of Shares

**ANSWER KEYS**

1	2	3	4	5	6	7	8	9	10
(c)	(c)	(d)	(d)	(c)	(b)	(b)	(b)	(d)	(a)
11	12	13	14						
(b)	(b)	(b)	(d)						

## CHAPTER -17

# ACCOUNTS

1. Board may keep the accounts at place other than registered office by filing Form \_\_\_\_\_ to \_\_\_\_\_ in \_\_\_\_\_ days
 

(a) AOC-3, ROC, 30 days	(b) AOC-4, ROC, 30 days
(c) AOC-5, ROC, 7 days	(d) AOC-5, ROC, 15 days
  
2. Company shall provide information to the director who has requested within \_\_\_\_\_ days of receipt of request.
 

(a) 7	(b) 10	(c) 15	(d) 21
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3. The books of Accounts has to be preserved by Company for a period of \_\_\_\_\_
 

(a) 5 calendar years	(b) 8 calendar years	(c) 8 financial years	(d) 8 years immediately preceding the relevant financial year
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4. The term branch office has been defined under section \_\_\_\_\_
 

(a) 2(14)	(b) 2(15)	(c) 2(13)	(d) 2(12)
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5. Financial year in relation to any company or \_\_\_\_\_ shall mean the period ending on the 31<sup>st</sup> day of March every year
 

(a) LLP	(b) Foreign Company
(c) Body Corporate	(d) Public Financial Institutions
  
6. In case of Small Company, the Term Financial Statement does not include
 

(a) Statement of Change in equity	(b) Cash Flow Statement
(c) Body Corporate	(d) Public Financial Institutions
  
7. Cash Flow Statement is included in the Financial Statement for \_\_\_\_\_
 

(a) Small Company	(b) Dormant Company
(c) Private Company	(d) One Person Company
  
8. The statement containing salient feature of the financial statement of a Company's subsidiaries or associate company shall be in Form \_\_\_\_\_
 

(a) AOC-1	(b) AOC-2	(c) AOC-3	(d) AOC-4
-----------	-----------	-----------	-----------
  
9. An application for voluntary revision to the tribunal shall be made within \_\_\_\_\_ of decision taken by Board
 

(a) 12 weeks	(b) 10 weeks	(c) 8 weeks	(d) 2 weeks
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10. Company cannot request ROC to allow voluntary revision of financial statement or Board's report without prior approval of \_\_\_\_\_  
 (a) IBBI (Insolvency & Bankruptcy Board of India)  
 (b) NCLT (National Company Law Tribunal)  
 (c) RD (Regional Director)  
 (d) CG (Central Government)
11. NFRA may impose the penalty of not less than \_\_\_\_\_ rupees which may extend to \_\_\_\_\_ times of the fees received in case of firms.  
 (a) 10 lakhs, 5 times      (b) 5 lakh, 10 times      (c) 1 lakh, 5 times      (d) 10 lakh, 10 times
12. NFRA may debar the member or firm from engaging himself or itself from practice for \_\_\_\_\_  
 (a) 5 years      (b) 10 years  
 (c) 6 months to 5 years      (d) 6 months to 10 years
13. Financial Statement should be signed on behalf of Board by \_\_\_\_\_  
 (a) Chairman & 1 Director  
 (b) Chairman & 1 MD  
 (c) Chairman & 2 MDs  
 (d) Chairman & 2 Director (with at least 1 MD, if any)
14. Financial Statement is to be filed by Company to ROC in Form \_\_\_\_\_ in \_\_\_\_\_ days  
 (a) AOC-3, 15 days      (b) AOC-4, 60 days  
 (c) AOC-4, 30 days      (d) AOC-3, 60 days
15. OPC shall file financial statements to ROC within \_\_\_\_\_  
 (a) 30 days of AGM      (b) 180 days from closure of financial year  
 (c) 30 days from closure of financial year      (d) 60 days from AGM
16. Which of the following companies is not required to file e-form AOC-4 XBRL:-  
 (a) Listed Company  
 (b) Company with Paid up Capital of ₹5 crore or more  
 (c) Company having Turnover of ₹5 crore or more  
 (d) Company covered under IND-AS
17. Which of the following companies is not required to appoint Internal Auditor  
 (a) Listed company  
 (b) Private company with turnover of ₹100 crore or more  
 (c) Public company with paid up Capital of ₹50 crore or more  
 (d) Public company with outstanding deposits of ₹25 crore

**ANSWER KEYS**

1	2	3	4	5	6	7	8	9	10
(c)	(c)	(d)	(a)	(c)	(b)	(c)	(a)	(d)	(b)
11	12	13	14	15	16	17			
(b)	(d)	(d)	(c)	(b)	(c)	(b)			



## CHAPTER -18

# CORPORATE SOCIAL RESPONSIBILITIES

1. Corporate Social Responsibility (CRS) is provided under section \_\_\_\_\_ of Companies Act, 2013  
 (a) Section 134                      (b) Section 135                      (c) Section 136                      (d) Section 137
2. Which of the following company shall constitute a CSR committee?  
 (a) Company with Net Worth of ₹500 crore                      (b) Company with Turnover of ₹100 crore  
 (c) Company with Net Profit of ₹5 crore                      (d) All of the above
3. CSR Contribution is at least \_\_\_\_\_ % of average net profits of the Company  
 (a) 1%                      (b) 2%                      (c) 3%                      (d) 5%
4. Section 135 shall not apply to the Specified IFSC Companies for a period of \_\_\_\_\_ years from the commencement of business  
 (a) One year                      (b) Four years                      (c) Three years                      (d) Five years
5. CSR Committee shall consist of at least \_\_\_\_\_  
 (a) 2 Directors                      (b) 3 Directors  
 (c) 5 Directors                      (d) 1/3<sup>rd</sup> of total Directors
6. The activities included in CSR policy of the Company shall be one of those specified in \_\_\_\_\_ of the Companies Act.  
 (a) Table A                      (b) Schedule VII  
 (c) Table F                      (d) Schedule VI
7. Which of the following activities isn't specified in schedule pertaining to CSR?  
 (a) Rural Development Project                      (b) Slum Area Development  
 (c) Smart City                      (d) Swachh Bharat Kosh
8. CSR Committee shall consists of \_\_\_\_\_ independent directors  
 (a) 1                      (b) 2                      (c) 3                      (d) 1/3<sup>rd</sup>
9. The Composition of CSR committee shall be disclosed in \_\_\_\_\_  
 (a) Board Report                      (b) Corporate Governance Report  
 (b) Secretarial Audit Report                      (b) Management Discussion & Analysis Report

### ANSWER KEYS

1	2	3	4	5	6	7	8	9
(b)	(d)	(b)	(d)	(b)	(b)	(c)	(a)	(a)

## CHAPTER -19

# AUDIT

1. Which of the following can be appointed as an auditor?
 

(a) LLP	(b) Person covered under section 144
(c) Both	(c) None
  
2. Which of the following company is covered under the maximum limit of an auditor?
 

(i) Dormant Company	
(ii) (OPC)	
(iii) Small Company	
(iv) Small company private Company with p.u Capital of less than ₹100 crore	
(a) I+II	(b) II+III
(c) I+II+III	(d) I+II+III+IV
  
3. The first auditor of a company other than a Government Company, is to be appointed by BOD within \_\_\_\_\_ days of COI
 

(a) 15	(b) 30	(c) 60	(d) 90
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4. The first auditor so appointed is to hold office till \_\_\_\_\_
 

(a) Conclusion of First AGM	(b) Conclusion of First GM
(c) Lapse of 1 year	(d) The expiry of 6 <sup>th</sup> AGM
  
5. The company shall file a notice of appointment of Auditor with ROC in \_\_\_\_\_ in \_\_\_\_\_ days in case of IFSC Public & IFSC Private Companies
 

(a) ADT-2, 15 days	(b) ADT-2, 30 days
(c) ADT-1, 30 days	(d) ADT-1, 15 days
  
6. Which of the following company may appoint firm as auditor for more than 2 terms of 5 consecutive years?
 

(a) Listed Company	
(b) Unlisted Public Company with paid up capital of ₹10 crore	
(c) Private Company with borrowing of ₹50 crore	
(d) Private Company with paid up capital of ₹20 crore	
  
7. In Case of Prescribed Companies, after expiry of 2 terms of 5 consecutive years, cooling off period of \_\_\_\_\_ is required to re-appoint same auditor.
 

(a) 1 year	(b) 3 years	(c) 5 years	(d) 10 years
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8. In case of Government Company, first auditor is to be appointed by CAGI in \_\_\_\_\_ days from COI.
 

(a) 15	(b) 60	(c) 180	(d) 180
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9. In case of subsequent Auditor for existing government Companies, CAGI shall appoint auditor within \_\_\_\_\_ days from commencement of \_\_\_\_\_  
 (a) 180, financial year (b) 60 days, AGM  
 (c) 180, AGM (d) 60 days, financial year
10. The casual vacancy in the officer of auditor of Govt. Co. shall be filled by CAGI in 30 days & if failure than by \_\_\_\_\_ in next \_\_\_\_\_ days  
 (a) Members, 30 days (b) BOD, 30 days  
 (c) CG, 90 days (d) CFO, 30 days
11. The auditor who has resigned from the company shall file a statement in Form \_\_\_\_\_  
 (a) ADT-1 (b) ADT-2 (c) ADT-3 (d) ADT-4
12. In order to remove an auditor, \_\_\_\_\_ of the members in GM is to be passed within \_\_\_\_\_ days of approval of \_\_\_\_\_  
 (a) Ordinary Resolution, 60, ROC (b) Special Resolution, 60, CG  
 (c) Special Resolution, 60, NCLT (d) Unanimous Resolution, 30, RD
13. The auditor shall report the fraud to the Board within \_\_\_\_\_ of discovery  
 (a) 2 days (b) 3 days (c) 7 days (d) 10 days
14. Fraud discovered by auditor involving ₹ \_\_\_\_\_ or more is required to be forwarded to CG  
 (a) 50 lakhs (b) 1crore (c) 5crore (d) 10crore
15. Cost Audit Report is to be made in form \_\_\_\_\_  
 (a) CRA-1 (b) ADT-1 (c) CRA-4 (d) CRA-3

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(a)	(d)	(b)	(a)	(c)	(d)	(c)	(b)	(a)	(b)
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>					
(c)	(b)	(a)	(b)	(c)					

## PART-B

CHAPTER -1  
INDIAN CONTRACT ACT

1. Suraj delivers his car to Chanda, a garage owner for repair. Who is the Bailor In this case?  
(a) Suraj (b) Chanda  
(c) None of the above (d) Both Suraj and Chanda
2. Ram had to travel to a different town for 5 Days. He left his Cow in the custody of Shyam so that she can be taken care of. After 2 Days the cow delivers a calf. Now Shyam has to return to Ram:  
(a) Only the cow (b) Only the calf  
(c) Both the cow and Calf (d) Either the cow or the calf
3. S and P go into a shop. S says to the shopkeeper C, "Let P have the goods and if he sdoes not pay you, I will." This is  
(a) Contract of Guarantee (b) Contract of Indemnity  
(c) Wagering agreement (d) Quasi Contract
4. A Guarantee obtained by a creditor by keeping silence as to material circumstances is :  
(a) Valid (b) Voidable (c) Unenforceable (d) Invalid
5. A contract of Indemnity is a  
(a) Contingent Contract (b) Wagering Contract  
(b) Quasi Contract (d) Void Contract
6. A, B and C are sureties for D, enter into Bonds, each in a different penalty, namely, A in the penalty of 100000, B in that of 200000, C in that of 400000, conditioned for D's duly accounting to E. D to the extent of 300000. According to the Indian Contract Act:  
(a) Only A is liable  
(b) A and B each are liable to pay 100000 and 200000 respectively  
(c) A and B are each liable to pay 100000  
(d) A,B,C are each liable to pay 100000
7. Mr A, puts 'M' as his cashier under Mr B and agrees to stand as surety provided that B checks the cash every Month. M embezzles cash. According to the Indian Contract Act 1872,  
(a) A and B shall equally share the loss  
(b) No one is liable to pay the penalty  
(c) A is not responsible, if B failed to verify the cash  
(d) A is responsible, even if B failed to verify the cash every month

8. A guarantees to C, to the extent of 2,00,000 rupees, payment for rice to be supplied by C to B. C supplies to B rice to a less amount than 2,00,000 rupees, but obtains from A payment of the sum of 2,00,000 rupees in respect of the rice supplied. As per the provisions of the Indian Contract Act, 1872:
- (a) A can recover from B more than the price of the rice actually supplied.
  - (b) A cannot recover from B more than the price of the rice actually supplied.
  - (c) A can recover from C the price of the rice actually supplied.
  - (d) C can recover from A the price of the rice actually supplied.
9. A contracts with B for a fixed price to construct a house for B within a stipulated time. B would supply the necessary material to be used in the construction. C guarantees A's performance of the contract. B does not supply the material as per the agreement. As per the provisions of the Indian Contract Act, 1872:
- (a) C is liable to A
  - (b) C is liable to B
  - (c) C is liable to A for the cost material not supplied
  - (d) C is discharged from his liability
10. Which contract is entered with the objective of promisee against anticipated loss?
- (a) Indemnity
  - (b) Pledge
  - (c) Agency
  - (d) Bailment
11. Which of these is included in contract of indemnity?
- (a) Express promise to make good the losses
  - (b) Event not depending on conduct of promisor
  - (c) Life insurance contracts
  - (d) Loss caused by accident
12. Promisee is entitled to sue for specific performance on when he has incurred \_\_\_\_\_ & it is covered under contract.
- (a) Anticipated liability
  - (b) Absolute liability
  - (c) Contingent liability
  - (d) Present Liability
13. Which of these is a contract to perform the promise, or discharge the liability of a third person in case of his default?
- (a) Indemnity
  - (b) Pledge
  - (c) Guarantee
  - (d) Bailment
14. Which party's Liability under guarantee is Co-extensive with the liability of principal debtor?
- (a) Creditor
  - (b) Third Party
  - (c) Guarantor
  - (d) Debtor

15. The Nature of surety's liability under contract of guarantee is \_\_\_\_\_  
(a) Primary & Independent (b) Secondary & Unconditional  
(c) Primary & Dependent (d) Secondary & Conditional
16. After payment of debt under contract of guarantee the surety get all the right which creditor had against Principal debtor, This is called right of \_\_\_\_\_  
(a) Repossession (b) Subrogation (c) Disruption (d) Distortion
17. When the repayment of debt is to principal debtor is guaranteed by more than one person, they are called \_\_\_\_\_  
(a) Guarantor (b) Creditor (c) Debtor (d) Co-Surety
18. Which is not the way of revocation for discharge of surety?  
(a) Notice (b) Death (c) Insolvency (d) Novation
19. In this contract one person transfers possession of goods to another person on condition that such another person will restore them to the transferor.  
(a) Agency (b) Indemnity (c) Bailment (d) Guarantee
20. Putting goods in possession of a person who agrees to hold them as a bailee for another person, although this transfer does not actually take place.  
(a) Symbolic Delivery (b) Constructive delivery  
(b) Actual Delivery (d) None of these
21. In which type of bailment the liability for non-disclosure of unknown faults is with the bailer?  
(a) Gratuitous Bailment (b) Non-gratuitous Bailment  
(c) Both (a) & (b) (d) Neither (a) nor (b)
22. Right of premature termination of bailment is available for bailor under \_\_\_\_\_  
(a) Gratuitous Bailment (b) Non-gratuitous Bailment  
(c) Both (a) & (b) (d) Neither (a) nor (b)
23. Which is not the duty of the bailee?  
(a) Not to Set up Adverse title (b) Retain accretion to goods  
(c) Take care of goods (d) Authorized use of goods
24. In case of non-gratuitous bailment the bailer is liable to pay \_\_\_\_\_  
(a) Ordinary Expenses (b) Extraordinary expenses  
(c) (a) & (b) Both (d) None of these

25. Who has no rights to have general lien?  
(a) Banker (b) Factors (c) Wharfingers (d) Bailor
26. Which is known as bailment of goods used as security for payment of debt or performance of a promise?  
(a) Indemnity (b) Pledge (c) Guarantee (d) Agency
27. Which is the right of Pawnee?  
(a) Right of retainer (b) Right to extraordinary expense  
(c) Sue for sell of goods (d) All the Above
28. The pawnor has every right of the \_\_\_\_\_  
(a) Ordinary Debtor (b) Ordinary Creditor  
(c) Manager (d) Owner
29. Which is not the duty of pawnor?  
(a) Pay the Debt (b) Pay deficit on sell  
(c) Disclose faults in goods (d) Pay Ordinary expense
30. Who is the person appointed to do any act for another in dealing with third party  
(a) Bailor (b) Indemnifier (c) Pawnee (d) Agent
31. In which the existence of consideration is not at all necessary for its validity/caution?  
(a) Sale (b) Barter (c) Agency (d) Exchange
32. When a person has by his conduct, induced other to believe that certain person is his agent, known as \_\_\_\_\_  
(a) Agency by Estoppel (b) Agency By Holding Out  
(c) Agency by Ratification (d) None of these
33. When a person by his positive conduct leads third person to believe person doing some act in his behalf is authorized. Known as \_\_\_\_\_  
(a) Agency by Estoppel (b) Agency By Holding Out  
(c) Agency by Ratification (d) None of these
34. Which is an important element under agency by ratification?  
(a) Communication (b) Full Knowledge  
(c) Reasonable Time (d) All the above

35. A person employed by, and acting under the control of, the original agent in the business of agency is known as \_\_\_\_\_
- (a) Substituted Agent (b) Sub-Agent  
(c) Special Agent (d) Del-credere Agent
36. Who is authorized to do all the acts which the principal can lawfully do and delegate?
- (a) Universal Agent (b) Sub-Agent  
(c) Special Agent (d) Del-credere Agent
37. Wife is considered as an \_\_\_\_\_ of her husband.
- (a) Implied Agent (b) Express Agent  
(c) Implied Principal (d) Express Principal
38. A person who untruly represents himself to be authorized agent of another & thereby induced third party to deal with him.
- (a) Implied Agent (b) Universal Agent  
(c) Pretended Agent (d) General Agent
39. Which is not the duty of an agent?
- (a) Communicate with principal (b) Keep and render accounts  
(c) Set-up adverse title (d) Not to delegate authority
40. In case of undisclosed principal who is personally liable to the third party?
- (a) Undisclosed Principal (b) Agents  
(c) Both (d) None of these
41. Which is the reason of termination of agency by operation of law?
- (a) Expiry of period (b) Death  
(c) Destruction of subject matter (d) All of the above



**SWAPNIL PATNI CLASSES****Answer Keys**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>
(a)	(c)	(b)	(d)	(a)	(d)	(c)	(b)	(d)	(a)
<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>
(a)	(b)	(c)	(c)	(d)	(b)	(d)	(d)	(c)	(b)
<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>
(a)	(a)	(b)	(b)	(d)	(b)	(d)	(d)	(d)	(d)
<b>31</b>	<b>32</b>	<b>33</b>	<b>34</b>	<b>35</b>	<b>36</b>	<b>37</b>	<b>38</b>	<b>39</b>	<b>40</b>
(c)	(a)	(a)	(d)	(b)	(a)	(a)	(c)	(c)	(b)
<b>41</b>									
(d)									

CHAPTER -2

Negotiable Instrument Act, 1881

1. Negotiable Instruments Act was enacted in the year \_\_\_\_\_  
 (a) 1872 (b) 1881 (c) 1930 (d) 2013
2. Section 4 Negotiable Instruments Act, 1881 deals with \_\_\_\_\_  
 (a) Promissory Note (b) Bills of Exchange  
 (c) Negotiated by Delivery (d) Endorsement
3. Bearer instrument can be transferred by \_\_\_\_\_  
 (a) Assignment (b) Negotiation by Delivery  
 (c) Negotiation by Delivery (d) Negotiation by endorsement and delivery
4. Which of the instrument is not liable to stamp duty?  
 (a) Promissory note (b) Cheque  
 (c) Hundi (d) (b) and (c)
5. Every \_\_\_\_\_ is a \_\_\_\_\_ but every \_\_\_\_\_ is not a \_\_\_\_\_  
 (a) HDC, holder, holder, HDC  
 (b) Assignment, Negotiation, Negotiation, Assignment  
 (c) Order instrument, bearer, bearer instrument, order  
 (d) Foreign instrument, inland, inland instrument, foreign
6. Which of the following is not a presumption as to Negotiable Instrument?  
 (a) Consideration (b) Date  
 (c) Time of Transfer (d) Parties
7. Which of the following statement is false about Negotiable Instrument?  
 (a) Negotiable by Statute (b) Issued for certain amount of money  
 (c) Not negotiable by Custom (d) Freely Transferable
8. Which of the following statement is untrue about promissory not?  
 (a) Written Promise (b) Certain sum of Money  
 (c) 2 parties (d) Conditional Undertaking
9. Order instrument can be negotiated by \_\_\_\_\_  
 (a) Endorsement only (b) Delivery only  
 (c) Endorsement and delivery (d) Either (a) or (b)

10. Which of the following promissory note is valid?  
(a) Without date (b) Signed by minor  
(c) Acknowledgement of debt (d) Jointly by minor and major
11. There are usually \_\_\_\_\_ parties in BOE.  
(a) 2 (b) 3 (c) 4 (d) 5
12. Bill of exchange is \_\_\_\_\_  
(a) A written undertaking (b) An unconditional promise  
(c) An unconditional order (d) A written acknowledgement
13. Which of the following is not an essential element of a BOE?  
(a) Unconditional Order (b) Signed by maker  
(c) Certain sum of money (d) Acceptance by drawee
14. There are usually \_\_\_\_\_ parties in Promissory note whereas \_\_\_\_\_ in BOE.  
(a) 2,3 (b) 3, 2 (c) 2, 2 (d) 3, 3
15. Liability of a maker of a note is \_\_\_\_\_  
(a) Secondary (b) Vicarious (c) Primary (d) Strict
16. Cheque is a bill of exchange drawn on \_\_\_\_\_  
(a) Payer (b) Drawee (c) Banker (d) Buyer
17. Electronic cheque is a cheque drawn in electronic form by using computer resource and signed with digital signature and \_\_\_\_\_  
(a) Hash Function (b) Asymmetric Crypto System  
(c) Symmetric Crypto System (d) Automated Date & Processing System
18. Truncated cheque is a cheque which is truncated during \_\_\_\_\_  
(a) The deposit in Payee's Bank (b) The Transfer to the Drawer's bank  
(c) The course of clearing cycle (d) The time of payment
19. Which of the following is an essential element of Electronic Cheque?  
(a) No use of paper (b) Digital signature  
(c) Originally in Electronic form (d) All of the above
20. Noting and protesting isn't required in case there is dishonor of \_\_\_\_\_  
(a) Promissory note (b) Bill of exchange (c) Cheque (d) Hundi
21. Which of the following negotiable instrument can be crossed?  
(a) Cheque (b) BOE (c) Promissory note (d) Hundi

22. Generally an acceptance is \_\_\_\_\_  
 (a) Qualified (b) Unqualified (c) Conditional (d) Contingent
23. If Mr. A is the seller of goods and drawn BOE on Mr. B i.e. the buyer in such case, Mr. B shall be  
 (a) Drawee (b) Acceptor (c) Payer (d) All of the above
24. The person who accepts the bill for the honour of the other is \_\_\_\_\_  
 (a) Acceptance in need (b) Angel Acceptor  
 (c) Acceptor for honour (d) Drawee acceptor
25. A person who pays a bill for any other person is called \_\_\_\_\_  
 (a) Payer (b) Drawee  
 (c) Drawee in need (d) Payer for honour
26. Payer for Honour can recover the sum from \_\_\_\_\_  
 (a) Payer only (b) All prior parties  
 (c) Last 2 prior parties (d) Drawee only
27. Which of the following statement is untrue about holder?  
 (a) Entitled to possess the instrument (b) Entitled to receive or recover the amount  
 (c) Not to legally transfer the instrument (d) To enforce payment
28. Mr. A, father of Mr. B issued cheque of ₹5,000 in favour of Mr. B due to natural love and affection, Here Mr. B is \_\_\_\_\_  
 (a) Holder (b) Holder in Due Course  
 (c) Payee for Honour (d) Donee for honour
29. A blank cheque signed by Mr. A has been found by Mr. B, in such a Case Mr. B is \_\_\_\_\_  
 (a) Holder (b) Holder in due course  
 (c) Payee (d) None of the above
30. A cheque has been issued by Mr. A to Mr. B on 1<sup>st</sup> Jan & has been endorsed by Mr. B on 15<sup>th</sup> Feb and by Mr. C to Mr. D on 5<sup>th</sup> April. Here, Mr. D is \_\_\_\_\_  
 (a) Holder in Due Course (b) Acceptor in Due Course  
 (c) Holder (d) Drawee
31. Which one of the following is untrue about the Holder in Due Course?  
 (a) Better title than transfer (b) Cure all defects in instrument  
 (c) Rights is affected by Inchoate instrument (d) All prior parties are liable
32. Which of the following is an essential requirement of a HDC?  
 (a) With Consideration (b) Before maturity  
 (c) Bonafide (d) All of the above

33. Section 9 of Negotiable Instruments Act, 1881 states about\_\_\_\_\_
- (a) Endorsement (b)Acceptance  
(c) Cheque (d) Holder in Due Course
34. Mr. A issued promissory note in favour of Mr. B to be paid on 15<sup>th</sup> March, but instead make the payment to Mr. B on 10<sup>th</sup> March. This transaction between Mr. A and Mr. B on 10<sup>th</sup> March shall be called\_\_\_\_\_
- (a) Payment in Due Course (b) Payment  
(c) Pre-payment (d) Discretionary payment
35. Which of the following statement is untrue about inland Bill?
- (a) Drawn in India (b) On person residing in India  
(c) Payable in India Only (c) None of the above
36. A bill payable drawn and accepted to provide financial help to other is \_\_\_\_\_
- (a) Time bill (b) Date bill  
(c) Demand bill (d) On Sight Bill
37. A bill drawn and accepted to provide financial help to other is \_\_\_\_\_
- (a) Trade Bill (b) Accommodation Bill  
(b) Assignment (d) Endorsement and Delivery
38. Transfer of ownership in any article under Transfer of Property Act can be made by\_\_\_\_\_
- (a) Negotiation (b) Endorsement  
(c) Assignment (d) Endorsement and delivery
39. Which of the following is not a kind of endorsement?
- (a) Restrictive (b) Special (c) Impartial (d) Sans Recourse
40. Which of the following is not a kind of instrument?
- (i) Deed (ii) Currency Note  
(iii) Document (iv) Promissory Note
- (a) (i) + (ii) (b) (ii) + (iii) (c) (i) + (iii) (d) ii + iv
41. An instrument issued with certain spaces left blank is called\_\_\_\_\_
- (a) Blank instrument (b) Inchoate Instrument  
(c) Unmature instrument (d) Ambiguous instrument
42. When the day on which B.O.E is at maturity is a public holiday the instrument shall be deemed to be due on \_\_\_\_\_
- (a) One day prior to maturity date (b) Next day  
(c) Next business day (d) Next working day

43. The expression public holiday includes Sunday and any other day declared by the \_\_\_\_\_ by notification in Official Gazette.  
 (a) Central Govt. (b) State Govt.  
 (c) Appropriate Govt. (d) Government
44. When two parallel transverse lines are drawn on the face of cheque, it is called \_\_\_\_\_  
 (a) Endorsement (b) Crossing  
 (c) Accommodating (d) Negotiation
45. If the crossing on a Cheque is cancelled, it is called \_\_\_\_\_  
 (a) Cancellation of crossing (b) Opening of crossing  
 (c) Re-opening of crossing (d) Crossing with endorsement
46. When can the banker may not refuse the payment?  
 (a) Payment is Countermanded (b) Defect in the title of person  
 (c) Post Dated cheque (d) Incomplete cheque
47. Which of the following alteration is not authorized by the Act?  
 (a) Rate of interest (b) Negotiation Bank  
 (c) Completion of inchoate instrument (d) Conversion of blank endorsement into full
48. A negotiable instrument can be dishonored by \_\_\_\_\_  
 (a) Non-acceptance (b) Non-Payment  
 (c) Both (a) & (b) (d) Neither (a) nor (b)
49. Section 93 to 98 of Negotiable Instrument Act, 1881 deals with \_\_\_\_\_  
 (a) Dishonor by Non- acceptance (b) Notice of Dishonor  
 (c) Dishonor by Non- payment (d) Dishonor
50. Formal Certificate of Dishonor is called \_\_\_\_\_  
 (a) Noting (b) Protesting  
 (b) Endorsement (d) Crossing

**ANSWER KEYS**

1	2	3	4	5	6	7	8	9	10
(b)	(a)	(c)	(c)	(a)	(d)	(c)	(d)	(c)	(a)
11	12	13	14	15	16	17	18	19	20
(b)	(c)	(d)	(a)	(c)	(c)	(b)	(c)	(d)	(c)
21	22	23	24	25	26	27	28	29	30
(a)	(b)	(d)	(c)	(d)	(b)	(d)	(a)	(d)	(c)
31	32	33	34	35	36	37	38	39	40
(c)	(d)	(d)	(b)	(c)	(a)	(b)	(c)	(c)	(b)
41	42	43	44	45	46	47	48	49	50
(b)	(c)	(a)	(b)	(b)	(d)	(a)	(c)	(b)	(b)

## CHAPTER -3

# THE GENERAL CLAUSE ACT 1897

1. \_\_\_\_\_ is one of the objective of the General Clauses Act, 1897
  - (a) To shorten the language of legal Central Acts;
  - (b) To study the bare Acts;
  - (c) To understand the law word to word;
  - (d) To learn the rules and regulations of the constitution;
  
2. Which one of the following is one of the purpose of this Act
  - (a) To present different statutes
  - (b) To present one single statute
  - (c) Not to present any statute
  - (d) None of the above
  
3. Section 3(18) of the General Clauses Act, 1897 provides for \_\_\_\_\_
  - (a) Central Act
  - (b) Central Government
  - (c) Commencement
  - (d) Document
  
4. Section 3(26) of the General Clauses Act, 1897 provides for \_\_\_\_\_
  - (a) Government
  - (b) Government Securities
  - (c) Immovable Property
  - (d) Imprisonment
  
5. Section 3(36) of the General Clauses Act, 1897 provides for \_\_\_\_\_
  - (a) Month
  - (b) Movable Property
  - (c) Oath
  - (d) Offence
  
6. Section 3(42) of the General Clauses Act, 1897 provides for \_\_\_\_\_
  - (a) Person
  - (b) Official Gazette
  - (c) Registered
  - (d) Rule
  
7. According to the General Clauses Act, 1897 \_\_\_\_\_ is a Movable Property.
  - (a) Trees
  - (b) Buildings
  - (c) Timber
  - (d) Rights of way to access land
  
8. According to the General Clauses Act, 1897 \_\_\_\_\_ is a Movable Property.
  - (a) Standing Crop
  - (b) Machinery fixed to soil
  - (c) Land
  - (d) Right to drain of water
  
9. Which of the following shall be included in the expression – “Writing”
  - (a) Printing
  - (b) Lithography
  - (c) Photography
  - (d) All of the above

**SWAPNIL PATNI CLASSES**

10. According to the General Clauses Act, 1897 Official Gazette shall mean  
(a) The Gazette of India (b) The Gazette of a State  
(c) (a) and b (d) (a) or b
11. Which of the following is included in the definition of “Person” according to the General Clauses Act, 1897  
(a) Any Company (b) Association  
(c) (a) and b (d) (a) or b
12. According to Sec 9, it shall be sufficient, for the purpose of \_\_\_\_\_ the first in series of days to use the word “from” and for the purpose of \_\_\_\_\_ the last in a series of days, to use the word “to”.  
(a) Include, exclude (b) Exclude, include  
(c) Include, include (d) Exclude, exclude
13. According to Sec 11, for the purpose of any Central Act or Regulation made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a \_\_\_\_\_ line on a horizontal plane.  
(a) Curvy Line (b) Straight Line  
(c) Zigzag Line (d) None of the above
14. As per Sec14 of this Act, where, by any Central Act or Regulation made after the commencement of this Act, any power is conferred, then unless a different intention appears that powers may be exercised\_\_\_\_\_  
(a) From time to time (b) Only once  
(c) Can’t say (d) None of the above
15. Mr. Ram, an advocate has fraudulently deceived his client Mr. Shyam, who was taking his expert advice on taxation matters. According to Sec 26 of this Act, Mr. Ram’s offence is punishable under which Act or Acts?  
(a) Advocates Act, 1961 (b) IPC  
(c) (a) & (b) (d) (a) or b
16. A notice when required under the Statutory rules to be sent by “registered post acknowledgment due” is instead sent by “registered post” only. Referring to the provisions of the General Clauses Act, 1897, state whether the protection of presumption regarding serving of notice by “registered post” under the General Clauses Act is tenable?  
(a) Yes (b) No (c) Maybe (d) Can’t say

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
(a)	(b)	(d)	(c)	(b)	(a)	(c)	(d)
<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>
(d)	(d)	(c)	(b)	(b)	(a)	(d)	(b)



## CHAPTER -4

# INTERPRETATION OF STATUTES

1. \_\_\_\_\_ is the first rule of interpretation
 

(a) Rule of literal construction	(b) Rule of grammar construction
(c) Both of the above	(d) None of the above
  
2. Rule I is used if \_\_\_\_\_
 

(a) Words in statute are clear	(b) Language used in statute is plain
(c) Literal meaning is clear and unambiguous	(d) All of the above
  
3. If word relates to particular trade such word shall be given meaning which is understood by everybody conversant with such trade even though such meaning is different from popular meaning.
 

(a) Correct	(b) Incorrect
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4. Can courts legislate over the rules?
 

(a) Yes	(b) No	(c) Maybe	(d) Don't know
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5. Where ordinary meaning is absurd and literal Interpretation fails to achieve the purpose \_\_\_\_\_ rule is applicable
 

(a) Correct	(b) Incorrect
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6. Is rule 2 applicable is meaning is clear and intention of law can be gathered precisely?
 

(b) Yes	(b) No	(c) Maybe	(d) Don't know
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7. Mischief rules are not generally applied in fiscal statutes.
 

(a) Correct	(b) Incorrect
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8. Rule of \_\_\_\_\_ construction is applied if there is conflict between two or more provisions
 

(a) Heydon's rule	(b) Harmonious construction
(c) Grammar construction	(b) None of the above
  
9. Sultana begam v/s prem chand jain case was related to rule \_\_\_\_\_
 

(a) Harmonious construction	(b) Heydon's rule
(c) Grammar construction	(d) None of the above
  
10. The effect of provision containing the word 'notwithstanding' is opposite to a provision containing the 'subject to'
 

(a) Correct	(b) Incorrect
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11. The words without prejudice means  
(a) Without surprise (b) Without affecting  
(b) None of the above
12. \_\_\_\_\_ are the types of provision.  
(a) Mandatory provision (b) Directory provision  
(c) Both of the above (d) Voluntary provision
13. \_\_\_\_\_ rule is used if two or more things belonging to a particular class are mentioned, other members of that class are silently excluded.  
(a) Expressio unius est exclusio alterius (b) Noscitur a sociis  
(c) Eiusdem generis (d) None of the above
14. \_\_\_\_\_ rule specifies that if two or more words which are capable of analogous meaning are grouped together, they should be understood in cognate sense. i.e., they their colour from each other and are given a similar or related meaning.  
(a) Expression unius est exclusio alterius (b) Noscitur a sociis  
(c) Eiusdem generis (d) None of the above
15. If words are clear, still preamble can be used.  
(a) Yes (b) No
16. Can managerial notes be used for constructing a statute?  
(a) No (b) No (c) Maybe (d) None of the above
17. Use of words means and include, imply definition is exhaustive.  
(a) Correct (b) Incorrect
18. \_\_\_\_\_ means consideration of statutes of affairs behind enactment of act.  
(a) Parliamentary history (b) Historical facts  
(c) External aids (d) Internal aids
19. In rule of interpretation of deeds and documents the golden rule is \_\_\_\_\_  
(a) Consider the circumstances in which particular words have been used  
(b) Read document as whole  
(c) Both of the above  
(d) None of the above
20. Record is an element of document.  
(a) True (b) False
21. \_\_\_\_\_ means a formal legal document which creates or confirms a right or records a fact:  
(a) Contract (b) Statute (c) Instrument (d) None of the above
22. In rule of interpretation of deeds and documents the golden rule is \_\_\_\_\_  
(a)
23. Interpretation is not the process by which the real meaning of an Act and the intention of the legislature in enacting it is ascertained:

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(a) True (b) False

24. An interpretation of Act serves as the bridge between statute making and process of interpretation of statutes:

(a) True (b) False

25. It is \_\_\_\_\_ when its purpose is to discover real and true meaning of statute:

(a) Doctrinal (b) Legal (c) Interpretation (d) Functional

26. On occasions when choice has to be made between two interpretations, narrower and wider one should adopt \_\_\_\_\_ interpretation.

(a) Narrower (b) Wider (c) Any of the above (d) None of the above

27. The rule of \_\_\_\_\_ stands for elimination of statutes and words in a statute which defeat the real objective of the statute or make no sense.

(a) Exceptional Construction  
 (b) Beneficial Construction  
 (c) Heydon's rule  
 (d) Harmonious Construction

**ANSWER KEYS**

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
(c)	(d)	(a)	(b)	(b)	(b)	(c)	(a)
<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>
(b)	(a)	(a)	(a)	(b)	(c)	(a)	(b)
<b>17</b>	<b>18</b>	<b>19</b>	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>
(b)	(b)	(b)	(a)	(a)	(c)	(c)	(a)
<b>25</b>	<b>26</b>	<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>	<b>32</b>
(c)	(b)	(a)	(a)	(b)	(a)	(a)	(b)
<b>33</b>	<b>34</b>	<b>35</b>					
(a)	(b)	(a)					