

PAPER 2

# Corporate & Other Laws Reviewer

Chapter-wise compilation  
RTP, MTP and PYP questions

## KEY HIGHLIGHTS



Easy to Hard  
Difficulty Level



Importance levels  
marked as A, B or C



Reference to  
all questions



Quick recap of  
important concepts



Exam  
Insights



Last Day Revision  
Questions Marked

APPLICABLE  
FOR MAY'25,  
SEPT'25 AND  
JAN'26

# **Corporate & Other Laws**

## **REVIEWER**

**CA Intermediate**  
**May 2025,**  
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**Publisher:**



**VIVITSU**  
STRIVING TOWARDS KNOWLEDGE

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# Corporate & Other Laws Reviewer

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*This book belongs to future,*

**CA Finalist**

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*“You become what you believe.”*

*-Oprah Winfrey*



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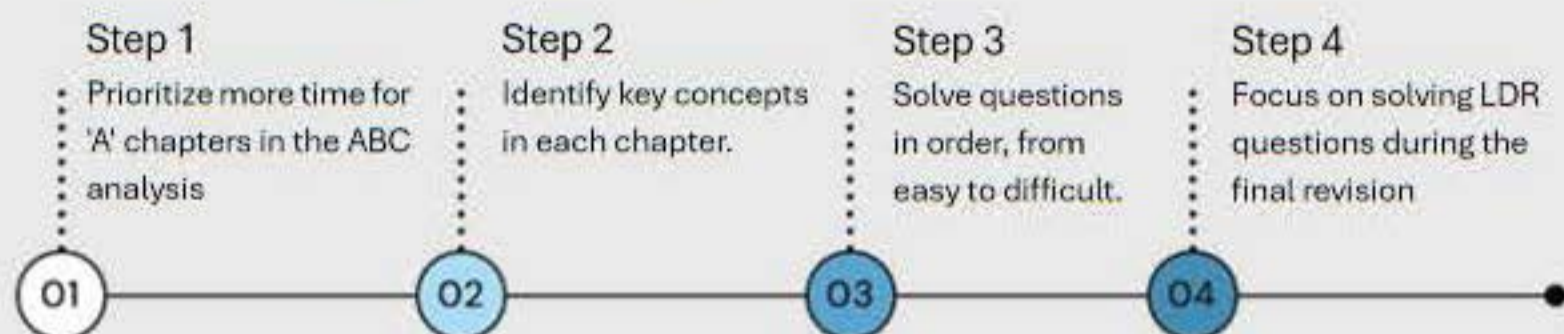
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YOU MUST BE WONDERING

## How to Read this book?



### Step 1: Prioritize your chapters

Chapters in the index are categorized as A, B, or C based on their importance. Focus more on 'A' chapters, as they carry the most weight, and give adequate attention to 'B' chapters. While all chapters must be covered, this approach helps manage time efficiently for better results.



### Step 2: Identify key concept

Identify the key concepts for each chapter using the list provided at the start of the chapter. Ensure you understand them thoroughly. If you struggle with a question, revisit the concepts, review them, and strengthen your understanding before moving forward.



### Step 3: Start easy

Start with Question 1, as they progress from easy to difficult, helping you build confidence throughout the chapter. Pay close attention to the "EXAM INSIGHTS" to avoid common mistakes. Questions are segregated topic wise where possible.



### Step 4: Last Day Revision (LDR)

Focus on solving LDR questions during the final revision. In the 1.5 days before the exam, prioritize these questions as they cover the most critical concepts from each chapter. You'll find a quick summary of LDR question numbers listed right before each chapter for easy reference.

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## ABC Analysis



Very Important,  
Read on priority



Moderately  
Important



Less critical but still  
essential

*Ensure you thoroughly read all chapters without skipping any. The ABC analysis is designed to help you prioritize based on past trends, but it should not replace comprehensive preparation.*

## CHAPTER 12: THE LIMITED LIABILITY PARTNERSHIP ACT, 2008

### CONCEPTS OF THIS CHAPTER

- |   |   |
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| • LLP- Meaning & Concept                    | • Sec 37- Penalty for False Statement         |
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### LDR Questions

- Q 9  
Q 11  
Q 13  
Q 14

### QUICK REVIEW OF IMPORTANT CONCEPTS

#### Need for LLP

- The LLP Act, 2008 provides an alternative to traditional partnerships with unlimited liability and rigid LLC governance.
- LLPs combine limited liability with partnership flexibility, allowing members to structure operations through mutual agreement.
- They benefit entrepreneurs, professionals, and service providers by creating commercially efficient business vehicles.
- Due to their flexibility, LLPs are ideal for small enterprises and venture capital investments.

#### Advantages of LLP

- Is organized and operates on the basis of an agreement
- Provides flexibility without imposing detailed legal and procedural requirements
- Easy to form
- Easy to dissolve
- Flexible capital structure
- All partners enjoy limited liability

#### Limited Liability partnership agreement

Any written agreement between the partners of the LLP or between the LLP and its partners which determines the mutual rights and duties of the partners and their rights and duties in relation to that LLP.

#### Small Limited Liability partnership

1. Contribution does not exceed ₹25 lakh or a higher prescribed limit up to ₹5 crore.
2. Turnover does not exceed ₹40 lakh or a higher prescribed limit up to ₹50 crore, based on the previous financial year's Statement of Accounts and Solvency.
3. Meets other prescribed requirements and conditions

#### Partners

##### Any individual or body corporate may be a partner in a LLP

However, an individual shall not be capable of becoming a partner of a LLP, if—

- He has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;



- He is an undischarged insolvent; or
- He has applied to be adjudicated as an insolvent and his application is pending

1. Minimum Number Of Partners

- Every LLP shall have at least two partners. If at any time the number of partners of a LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced,
- the person, who is the only partner of the LLP during the time that it so carries on business after those six months and
  - has the knowledge of the fact that it is carrying on business with him alone,
  - shall be liable personally for the obligations of the LLP incurred during that period.

2. Designated Partners

- Every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.
- If in LLP, all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such body corporate shall act as designated partners.
- **Resident in India:** For the purposes of this section, the term resident in India means a person who has stayed in India for a period of not less than 120 days during the financial year.

Incorporation

Incorporation Document

- two or more persons associated for carrying on a lawful business with a view to profit shall subscribe their names to an incorporation document;
- the incorporation document shall be filed in such manner and with such fees, as may be prescribed with the Registrar of the State in which the registered office of the LLP is to be situated; and
- Statement in the prescribed form, made by either an advocate, or a CS or a CA or a Cost Accountant, who is engaged in the formation of the LLP and by any one who subscribed his name to the incorporation document, that all the requirements of this Act and the rules made thereunder have been complied with, in respect of incorporation and matters precedent and incidental thereto.

If a person makes a statement	knows to be false; or does not believe to be true,	Shall be punishable	with imprisonment for a term which may extend to 2 years and with fine which shall not be less than ₹ 10,000 but which may extend to ₹ 5 Lakh.
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Incorporation By Registration

When the requirements imposed by section 11 have been complied with, the Registrar shall retain the incorporation document and, he shall, within a period of 14 days—

register the incorporation document; and	give a certificate that the LLP is incorporated by the name specified therein
	<ul style="list-style-type: none"><li>• The certificate shall be signed by the Registrar and authenticated by his official seal</li><li>• The certificate shall be conclusive evidence that the LLP is incorporated by the name specified therein</li></ul>

Registered Office of LLP and Change therein

- Every LLP must have a registered office for receiving communications and notices.
- Documents can be served via post, registered post, or other prescribed methods at the registered office or a declared address.
- A LLP may change the place of its registered office and file the notice of such change with the Registrar and any such change shall take effect only upon such filing
- Non-compliance results in a penalty of ₹500 per day, up to ₹50,000 for the LLP and each partner.



### Effect of Registration

1. Suing and being sued;
2. Acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;
3. Having a common seal, if it decides to have one; and
4. Doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

### Reservation of name

- A person may apply to the Registrar with the prescribed fee to reserve a name for a proposed LLP or a name change.
- Upon approval and payment, the Registrar reserves the name for 3 months from the date of intimation.

### Rectification of name of LLP

The Central Government may direct an LLP to change its name within 3 months of issuing the direction. After changing its name, the LLP must:

- Notify the Registrar within 15 days for certificate of incorporation update.
- Update its name in the LLP agreement within 30 days of the certificate change.

### Extent and limitation of liability of LLP and partner

#### 1. Extent of liability of LLP

- An LLP is not bound by a partner's actions if the partner lacks authority and the third party knows this or does not believe them to be a partner.
- The LLP is liable for a partner's wrongful act or omission if it occurs in the course of business or with LLP's authority.
- Any obligation of the LLP, whether contractual or otherwise, is solely the LLP's responsibility.
- LLP liabilities are to be met from LLP property.

#### 2. Extent of liability of partner

- A partner is not personally liable, directly or indirectly for an obligation referred to in section 27(3) solely by reason of being a partner of the LLP.
- The provisions of section 27(3) and section 28(1) shall not affect the personal liability of a partner for his own wrongful act or omission, but a partner shall not be personally liable for the wrongful act or omission of any other partner of the LLP.

### Holding out

- Anyone falsely representing themselves as a partner in an LLP is liable if credit is given to the LLP based on that representation.
- If the LLP receives credit due to such representation, it is liable for the amount received or any financial benefit derived, in addition to the individual's liability.
- The continued use of a deceased partner's name in the LLP does not make their legal representative or estate liable for LLP actions after their death.

### Annual Return

- Duly authenticated Annual Return with the Registrar within 60 days of closure of financial year

### Penalty for Non-Filing:

- LLP – ₹ 100 per day subject to maximum ₹1,00,000
- Every Designated Partner - ₹ 100 per day subject to maximum ₹ 50,000

### Winding Up of LLP

#### Winding up of a LLP may be

Voluntary or by the Tribunal

- if the LLP decides that LLP be wound up by the Tribunal
- if, for a period of more than 6 months, the number of partners of the LLP is reduced below 2
- if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the State or public order
- if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or annual return for any 5 consecutive financial years



## Question & Answers

### LLP- Meaning & Concept

#### Question 1

Define the term 'Small limited liability partnership' as per the provisions of the Limited Liability Partnership Act, 2008. (MTP 5 Marks July'24) (MTP 5 Marks Dec'24)

#### Answer 1

##### Small limited liability partnership

According to section 2(1)(ta) of the Limited Liability Partnership Act, 2008, small limited liability partnership means a limited liability partnership:

- (i) the contribution of which, does not exceed twenty-five lakh rupees or such higher amount, not exceeding five crore rupees, as may be prescribed; and
- (ii) the turnover of which, as per the Statement of Accounts and Solvency for the immediately preceding financial year, does not exceed forty lakh rupees or such higher amount, not exceeding fifty crore rupees, as may be prescribed; or
- (iii) which meets such other requirements as may be prescribed, and fulfils such terms and conditions as may be prescribed.

#### Question 2

Define the term 'Body Corporate' as per the provisions of the Limited Liability Partnership Act, 2008. (MTP 5 Marks Aug'24)

#### Answer 2

**(b) Body Corporate:** According to section 2(1)(d) of the Limited Liability Partnership Act, 2008, body corporate means a company as defined in section 2(20) of the Companies Act, 2013 and includes:

- (i) a LLP registered under the Limited Liability Partnership Act, 2008;
- (ii) a LLP incorporated outside India; and
- (iii) a company incorporated outside India, but does not include—
  - (i) a corporation sole;
  - (ii) a co-operative society registered under any law for the time being in force; and
  - (iii) any other body corporate (not being a company as defined in section 2(20) of the Companies Act, 2013 or a limited liability partnership as defined in the Limited Liability Partnership Act, 2008), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

#### Question 3

"LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership". Explain. (MTP 5 Marks Mar'24, SM)

#### Answer 3

Limited Liability Partnership (LLP) is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership. Limited Liability: Every partner of a LLP is, for the purpose of the business of LLP, the agent of the LLP, but not of other partners (Section 26 of the LLP Act, 2008). The liability of the partners will be limited to their agreed contribution in the LLP, while the LLP itself will be liable for the full extent of its assets.

Flexibility of a partnership: The LLP allows its members the flexibility of organizing their internal structure as a partnership based on a mutually arrived agreement. The LLP form enables entrepreneurs, professionals and enterprises providing services of any kind or engaged in scientific and technical disciplines, to form commercially efficient vehicles suited to their requirements. Owing to flexibility in its structure and operation, the LLP is a suitable vehicle for small enterprises and for investment by venture capital.



#### Question 4

**Define the term 'Financial Year' as per the provisions of the Limited Liability Partnership Act, 2008.**  
(MTP 5 Marks Nov'24)

#### Answer 4

**Financial Year:** According to section 2(1)(l) of the Limited Liability Partnership Act, 2008, "Financial year", in relation to a Limited Liability Partnership (LLP), means the period from the 1st day of April of a year to the 31st day of March of the following year.

However, in the case of a LLP incorporated after the 30th day of September of a year, the financial year may end on the 31st day of March of the year next following that year.

### Characteristics of LLP

#### Question 5

**Mohit is a creditor of WIVITSU LLP. He has a claim of ₹ 10,00,000 against the LLP. However, the assets of the LLP are valued at only ₹ 7,00,000. Now, Mohit seeks to hold the partners of the LLP personally accountable for the shortfall of ₹ 3,00,000. Under the provisions of the Limited Liability Act, 2008, can Mohit demand for the deficit from the partners of WIVITSU LLP? (RTP May'24, SM)**

#### Answer 5

A limited liability partnership is a body corporate formed and incorporated under the Limited Liability Partnership Act, 2008 and is a legal entity separate from that of its partners. The LLP itself will be liable for the full extent of its assets but the liability of the partners will be limited. Creditors of LLP shall be the creditors of LLP alone. In other words, creditors of LLP cannot claim from partners. The liability of the partners will be limited to their agreed contribution in the LLP. Hence, the creditors of WIVITSU LLP are the creditors of WIVITSU LLP only. Partners of LLP are not personally liable towards creditors. Thus, Mohit cannot claim his deficiency of ₹ 3,00,000 from the partners of WIVITSU LLP.

### Sec 5- Partners

#### Question 6

**Mr. Ankit Sharma wants to form a LLP taking him, his wife Mrs. Archika Sharma and One HUF as partners for that. Whether this LLP can be incorporated under LLP Act, 2008? Explain.**

#### Answer 6

Section 5 of Limited Liability Partnership Act, 2008 provides any individual or body corporate may be a partner in an LLP. However, an individual shall not be capable of becoming a partner of a LLP, if—

- (a) he has been found to be of unsound mind by a Court of competent jurisdiction and the finding is in force;
- (b) he is an undischarged insolvent; or
- (c) he has applied to be adjudicated as an insolvent and his application is pending.

Further, Section (2)(1)(e) provides that a Body Corporate it means a company as defined in 'clause (20) of section 2 of the Companies Act, 2013 and includes—

- (i) an LLP registered under this Act;
- (ii) an LLP incorporated outside India; and
- (iii) a company incorporated outside India,

but does not include—

- (i) a corporation sole;
- (ii) a co-operative society registered under any law for the time being in force; and
- (iii) any other body corporate (not being a company as defined in 'clause (20) of section 2 of the Companies Act, 2013' or a limited liability partnership as defined in this Act), which the Central Government may, by notification in the Official Gazette, specify in this behalf.

Therefore, HUF is not covered in the definition of body corporate and cannot be partner in LLP.



## Sec 6- Minimum number of Members

### Question 7

A dispute among the partners of Limited Liability Partnership (the LLP) jeopardized the stability of the business. Out of two partners, one due to a quarrel, left the LLP. The other partner alone continued the business of the LLP. You are being an expert in law is requested to explain the provisions governing the LLP being operated by a single partner and its winding up by the Tribunal as per the provisions of the Limited Liability Partnership Act, 2008. (PYP 5 Marks May'24)

### Answer 7

According to section 6 of the Limited Liability Partnership Act, 2008,

- (i) Every LLP shall have at least two partners.
- (ii) If at any time the number of partners of a LLP is reduced below two and the LLP carries on business for more than six months while the number is so reduced, the person, who is the only partner of the LLP during the time that it so carries on business after those six months and has the knowledge of the fact that it is carrying on business with him alone, shall be liable personally for the obligations of the LLP incurred during that period.

In the given situation, the alone partner should consider the above provisions of the Limited Liability Partnership Act, 2008, governing the LLP being operated by a single partner.

As per section 64 of the Limited Liability Partnership Act, 2008, the circumstances in which LLP may be wound up by Tribunal are:

- (a) if the LLP decides that LLP be wound up by the Tribunal;
- (b) if, for a period of more than 6 months, the number of partners of the LLP is reduced below two;
- (c) if the LLP has acted against the interests of the sovereignty and integrity of India, the security of the state or public order;
- (d) if the LLP has made a default in filling with the Registrar the Statement of Account and Solvency or annual return for any 5 consecutive financial years; or
- (e) if the Tribunal is of the opinion that it is just and equitable that the LLP be wound up.

## Sec 7- Designated Partners

### Question 8

There is an LLP by the name Ram Infra Development LLP which has 4 partners namely Mr. Rahul, Mr. Raheem, Mr. Kartar and Mr. Albert. Mr. Rahul and Mr. Albert are non – resident while other two are resident. LLP wants to take Mr. Rahul and Mr. Raheem as Designated Partner. Explain in the light of Limited Liability Partnership Act, 2008 whether LLP can do so? (SM)

### Answer 8

According to Section 7 of LLP Act, 2008 every LLP shall have at least two designated partners who are individuals and at least one of them shall be a resident in India. Further, explanation to the section provides, the term “resident in India” means a person who has stayed in India for a period of not less than one hundred twenty days during the financial year. Hence, in the given problem, besides Mr. Ram and Mr. Raheem, Mr. Albert should also be designated partners.

### Question 9

LDR

Mohan and Rakul are college friends and intend to do trading in musical instruments. They have met Mr. John and Ms. Kate who are non-resident Indian and they all have decided to form a Limited Liability Partnership (LLP) under the name and style of Mohan John LLP with an initial capital contribution of ₹ 1,00,000 each. The LLP was incorporated on October 15, 2020. The LLP intends to appoint Mr. John and Ms. Kate as designated partners and consults same with its Company Secretary. You as the Company Secretary advise the LLP on the



**appointment of Mr. John and Ms. Kate as the only designated partners of the LLP. (MTP 5 Marks Mar'24)**

#### Answer 9

According to section 7 of the Limited Liability Partnership Act, 2008, every Limited Liability Partnership shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.

In the given case, Mohan John LLP intends to appoint Mr. John and Ms. Kate (both are non-resident Indians) as the only designated partners. This is not in consonance with provisions of the Limited Liability Partnership Act, 2008, as at least one of the designated partners should be a resident in India.

#### Question 10

**Mr. Prateek (an individual) has started a Limited Liability Partnership firm along with Brown Limited and Picture Limited. As per the provisions of the Limited Liability Partnership Act, 2008, advise Limited Liability Partnership firm, about who can be the designated partners of the firm. (MTP 5 Marks Apr'24)**

#### Answer 10

According to section 7 of the Limited Liability Partnership Act, 2008, every Limited Liability Partnership (LLP) shall have at least two designated partners who are individuals and at least one of them shall be a resident in India.

Provided, if in LLP, all the partners are bodies corporate or in which one or more partners are individuals and bodies corporate, at least two individuals who are partners of such LLP or nominees of such bodies corporate shall act as designated partners.

In the given question, at least Mr. Prateek and one nominee of any bodies corporate shall be designated partners.

### Sec 17- Rectification of Name of LLP

#### Question 11

LDR

**M/s Vardhman Steels LLP was incorporated on 01.09.2022. On 01.01.2023, one partner of a partnership firm named M/s Vardhimaan Steels is registered with Indian Partnership Act, 1932 since 01.01.2000 requested ROC that as the name of LLP is nearly resembles with the name of already registered partnership firm, the name of LLP should be changed. Explain whether M/s Vardhman Steels LLP is liable to change its name under the provisions of Limited Liability Act, 2008? (SM, MTP 5 Marks Aug'24)**

#### Answer 11

Section 15 of LLP Act, 2008 provides no LLP shall be registered by a name which, in the opinion of the Central Government is—

- (a) undesirable; or
- (b) identical or too nearly resembles to that of any other 'LLP or a company or a registered trade mark of any other person under the Trade Marks Act, 1999'.

Further, section 17 provides, if the name of LLP is identical with or too nearly resembles to—

- (a) that of any other LLP or a company; or
- (b) a registered trade mark of a proprietor under the Trade Marks Act, 1999 then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the CG may direct that such LLP to change its name within a period of 3 months from the date of issue of such direction.

Following the above provisions, LLP need not change its name if its name resembles with the name of a partnership firm. These provisions are applicable only in case where name is resembles with LLP, company or a registered trade mark of a proprietor.

Hence, M/s Vardhman Steels LLP need not change its name even it resembles with the name of partnership firm.

#### Question 12

**XYZ LLP was registered under the Limited Liability Partnership Act, 2008 (LLP Act) with a name that was later found to be identical to an existing company's name, XYZ OPC Pvt Ltd. This similarity was not noticed at the**



time of registration.

Explain the provisions of the Limited Liability Partnership Act, 2008, in respect of the following:

- (i) When the name of LLP is identical.
- (ii) Formalities with the Registrar of Companies after name change of LLP. (RTP Sep'24)

### Answer 12

According to section 17 of the LLP Act, 2008,

- (i) Notwithstanding anything contained in sections 15 and 16, if through inadvertence, or otherwise, the LLP, on its first registration or on its registration by new name, is registered by a name which is identical with or too nearly resembles to-
  - (a) that of any other LLP or a company; or
  - (b) a registered trade mark of a proprietor under the Trade Marks Act, 1999as likely to be mistaken, then on an application of such LLP or proprietor referred to in clauses (a) and (b) respectively or a company, the Central Government may direct such LLP to change its name or new name within a period of 3 months from the date of issue of such direction, Provided that an application of the proprietor of the registered trade marks shall be maintainable within a period of 3 years from the date of incorporation or registration or change of name of the LLP under this Act.
- (ii) Where an LLP changes its name or obtains new name, it shall within a period of 15 days from the date of such change, give notice of the change to Registrar along with the order of the Central Government, who shall carry out necessary changes in the certificate of incorporation and within 30 days of such change in the certificate of incorporation, such LLP shall change its name in the LLP agreement.

## Sec 24- Cessation of Partnership Interest

### Question 13

LDR

Priya, Smita, Shilpa, and Shefali were partners in Sharma & Associates LLP. Shilpa resigned from the firm effective 7th May 2024. However, neither Sharma & Associates LLP nor Shilpa informed the Registrar of Companies about her resignation. Is Shilpa still liable for any losses incurred by the firm from transactions entered into after 7th May 2024? Analyze this situation with reference to the provisions of the Limited Liability Partnership Act, 2008. (5 Marks) (MTP 5 Marks July'24 & Nov'24, SM)

### Answer 13

- (a) According to section 24(3) of the Limited Liability Partnership Act, 2008, where a person has ceased to be a partner of a LLP (hereinafter referred to as 'former partner'), the former partner is to be regarded (in relation to any person dealing with the LLP) as still being a partner of the LLP unless:
    - (a) the person has notice that the former partner has ceased to be a partner of the LLP; or
    - (b) notice that the former partner has ceased to be a partner of the LLP has been delivered to the Registrar.
- Hence, by virtue of the above provisions, as no notice of resignation was given to Registrar of Companies, Shilpa will still be liable for the loss of firm of the transactions entered after 7th May 2024.

## Sec 25- Registration of changes in Partners

### Question 14

LDR

Amit and Priya are partners in XYZ LLP, a consulting firm. Recently, Priya moved to a new address but forgot to notify the LLP within the required period. A month later, Amit's cousin, Ramesh, expressed interest in joining XYZ LLP as a partner, and after a few discussions, he was accepted as a new partner. However, XYZ LLP did not immediately update the Registrar of Companies (RoC) regarding Priya's address change or Ramesh's admission as a partner. Two months after Ramesh joined, the LLP filed a notice with the RoC about these changes. Advise the LLP about the default on part of LLP about the non compliance in respect to not informing the ROC about:

- (i) Priya's address change.



(ii) **Ramesh's admission as a partner.** (RTP Jan'25)

**Answer 14**

According to section 25 of the Limited Liability Partnership Act, 2008,

- (1) Every partner shall inform the LLP of any change in his name or address within a period of 15 days of such change.
  - (2) A LLP shall—
    - (a) where a person becomes or ceases to be a partner, file a notice with the Registrar within 30 days from the date he becomes or ceases to be a partner; and
    - (b) where there is any change in the name or address of a partner, file a notice with the Registrar within 30 days of such change.
  - (3) A notice filed with the Registrar under sub-section (2)—
    - (a) shall be in such form and accompanied by such fees as maybe prescribed;
    - (b) shall be signed by the designated partner of the LLP and authenticated in a manner as may be prescribed; and
    - (c) if it relates to an incoming partner, shall contain a statement by such partner that he consents to becoming a partner, signed by him and authenticated in the manner as may be prescribed.
- (i) **Priya's Address Change:** Under the provision, Priya was required to inform XYZ LLP of her address change within 15 days of the move. Following that, XYZ LLP was required to file a notice with the RoC within 30 days of being notified of Priya's new address. As Priya did not inform the LLP about change of address and consequently LLP did not file a notice regarding the change in address of Priya with the Registrar, XYZ LLP is not in compliance with the required timeline.
- (ii) **Ramesh's Admission as a Partner:** For new partners, XYZ LLP must file a notice with the RoC within 30 days of a person becoming a partner. This notice should include Ramesh's consent statement, signed by him and authenticated as prescribed. The delay in filing means XYZ LLP did not meet the 30-day requirement.

**Sec 31- Whistleblowing**

STRIVING TOWARDS KNOWLEDGE

**Question 15**

**Explain the protection available for the "whistle-blowers" in the context of the Limited Liability Partnership Act, 2008 (PYP 3 Marks May'24)**

**Answer 15**

- (b)(i) According to section 31 of the Limited Liability Partnership Act, 2008,
- (1) The Court or Tribunal may reduce or waive any penalty leviable against any partner or employee of a LLP, if it is satisfied that:
    - such partner or employee of an LLP has provided useful information during investigation of such LLP; or
    - when any information given by any partner or employee (whether or not during investigation) leads to LLP or any partner or employee of such LLP being convicted under this Act or any other Act.
  - (2) No partner or employee of any LLP may be discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against the terms and conditions of his LLP or employment merely because of his providing information or causing information to be provided pursuant to sub-section (1).

**Sec 37- Penalty for False Statement**

**Question 16**

**Describe the consequences of making a false statement in any return, statement or other document under section 37 of the Limited Liability Partnership Act, 2008. (Chapter 12: The Limited Liability Partnership Act, 2008) (2 Marks) (PYP 2 Marks May'24)**



### Answer 16

**According** to section 37 of the Limited Liability Partnership Act, 2008

If in any return, statement or other document required by or for the purposes of any of the provisions of this Act, any person makes a statement:

- (a) which is false in any material particular, knowing it to be false; or
- (b) which omits any material fact knowing it to be material, he shall, save as otherwise expressly provided in this Act, be punishable with imprisonment for a term which may extend to 2 years, and shall also be liable to fine which may extend to 5 lakh rupees but which shall not be less than 1 lakh rupees.

## Sec 42- Partner's Transferable Interest

### Question 17

A, B, C and D are the partners of Alpha LLP and have equal share in the profits and losses of the LLP. A has made an agreement to transfer 70% of his share in the profits of Alpha LLP to his daughter X.

X wanted to access information about the trading transactions of Alpha LLP claiming that she is entitled to the information as she receives a percentage of profits from the LLP. The partners refused to grant her access. Does X have any remedy against the denial according to the provisions of the Limited Liability Partnership Act, 2008? Are the partners correct in denying access to X? (PYP 5 Marks Sep'24)

### Answer 17

**Whether X has any remedy against the denial?**

According to section 42 of the Limited Liability Partnership Act, 2008, the rights of a partner to a share of the profits and losses of the limited liability partnership and to receive distributions in accordance with the limited liability partnership agreement are transferable either wholly or in part.

The transfer of right pursuant to this section does not, by itself, entitle the transferee or assignee to participate in the management or conduct of the activities of the limited liability partnership, or access information concerning the transactions of the limited liability partnership.

In the given question, the partners of Alpha LLP are correct in denying access of information about trading transactions to X (daughter of A).

X does not have any remedy against the denial by the partners of Alpha LLP.

## Sec 63- Winding up & Dissolution

### Question 18

M/s Strong Steels Limited Liability Partnership firm was incorporated on 01st April 2010 with ten partners. The LLP had very good business and made considerable profits during the past years. Recently due to obsolete practices, M/s Strong Steels Limited LLP started making loss. Also, M/s Strong Steels LLP did not file its annual returns from 2020-21. Three partners decided that the LLP be wound up by the Tribunal. The remaining partners objected to it. Referring to section 64 of the Limited Liability Partnership Act, 2008, can the Tribunal pass an order to wound up M/s Strong Steels LLP? Also state the provisions and penalty for not filling annual return with the Registrar. (PYP 5 Marks Sep'24)

### Answer 18

According to section 63 of the Limited Liability Partnership Act, 2008, the winding up of a LLP may be either voluntary or by the Tribunal and LLP, so wound up, may be dissolved.

As per section 64 of the Limited Liability Partnership Act, 2008, a LLP may be wound up by the Tribunal, if the LLP has made a default in filing with the Registrar the Statement of Account and Solvency or Annual Return for any 5 consecutive financial years.

In the present case, M/s Strong Steels LLP did not file its Annual Returns from 2020-21. In the financial year 2024-25, the default in filing of annual return has not continued for 5 consecutive years. In view of the facts of the question and provisions of the Act, the Tribunal cannot pass an order to wind up M/s Strong Steels



LLP. The objection of remaining partners is correct.

#### **Annual Return [Section 35]**

(1) Every LLP shall file an annual return duly authenticated with the Registrar within 60 days of closure of its financial year in such form and manner and accompanied by such fee as may be prescribed.

(2) Penalty for non-filing of annual return:

LLP – ₹100 per day subject to maximum ₹1,00,000

Every Designated Partners – ₹100 per day subject to maximum ₹50,000.

#### **Multiple Choice Questions (MCQs)**

##### **Characteristics of LLP**

1. Which of the following cannot be converted into LLP? (SM)

- (a) Partnership firm
- (b) Private company
- (c) Listed company
- (d) Unlisted company

**Ans: (c)**

2. Which one of the following statements about limited liability partnerships (LLPs) is incorrect? (SM)

- (a) An LLP has a legal personality separate from that of its members.
- (b) The liability of each partner in an LLP is limited.
- (c) Members of an LLP are taxed as partners.
- (d) A listed company can convert to an LLP.

**Ans: (b)**

3. For the purpose of LLP, Resident in India means: (SM)

- (a) Person who has stayed in India for a period of not less than 182 days during the current year.
- (b) Person who has stayed in India for a period of not less than 180 days during the immediately preceding one year.
- (c) Person who has stayed in India for a period of not less than 181 days during the immediately preceding one year.
- (d) Person who has stayed in India for a period of not less than 120 days during the financial year.

**Ans: (d)**

##### **Sec 15- Name of LLP**

4. Name of the Limited Liability Partnership shall be ended by: (SM)

- (a) Limited
- (b) Limited Liability partnership or LLP
- (c) Private Limited
- (d) OPC

**Ans: (b)**

##### **Sec 16- Reservation of Name of LLP**

5. The approved name of LLP shall be valid for a period of \_\_\_\_\_ from the date of approval: (SM)

- (a) 1 Month
- (b) 2 Months
- (c) 3 months
- (d) 6 months

**Ans: (a)**



### Sec 25- Registration of changes in Partners

6. Bhavesh, Yash and Chirag incorporated a Limited Liability Partnership for doing the business of trading of timber under the name Solid Lakkad LLP. Chirag has shifted his residence from 12, Block C, Kamla Nagar, Agra to 808, Sector 1, Bodla, Agra on 16th November, 2023. Chirag informed the firm about change of his address on 20th November, 2023 sending a written notice. Now, by which date Solid Lakkad LLP is required to file a notice with the registrar? (RTP May '24)
- (a) 01st December, 2023
  - (b) 05th December, 2023
  - (c) 16th December, 2023
  - (d) 20th December, 2023

Ans: (c)

### Sec 27- Extent of Liability of LLP

7. XYZ LLP is a consulting firm where four partners—A, B, C, and D—are responsible for various functions. Partner B, without consulting the other partners, enters into a contract with a third party, Mr. P, for a high-value procurement deal on behalf of XYZ LLP. It is later found that Partner B did not have authority to engage in such deals, and XYZ LLP has no history of involvement in procurement. Mr. P, who is an experienced business-person, was aware that Partner B was not authorized to enter into procurement deals for XYZ LLP. In this scenario, which of the following is correct based on the Limited Liability Partnership Act, 2008? (RTP Jan'25)
- (a) XYZ LLP is bound by the contract because partner B is a partner in the LLP.
  - (b) XYZ LLP is bound by the contract as Mr. P believed partner B was authorized to act on behalf of the LLP.
  - (c) XYZ LLP is bound by the contract because Mr. P is a third party and was not aware of the internal matters of XYZ LLP.
  - (d) XYZ LLP is not bound by the contract as partner B lacked authority, and Mr. P knew of this lack of authority.

Ans: (d)

### Sec 28- Extent of Liability of Partner

8. WIVITSU LLP was incorporated with two partners, Mr. Raj and Ms. Rani. Due to certain differences, Ms. Rani resigned from the LLP on 1st January, 2024, leaving Mr. Raj as the sole partner. Mr. Raj continued running the business without admitting a new partner and was aware that he was the only remaining partner. On 1st August of the same year, WIVITSU LLP incurred a debt of ₹ 5 lakh from a vendor. Given the provision in the Limited Liability Partnership Act, 2008, which of the following statements correctly describes Mr. Raj's liability in this situation? (RTP Jan'25)
- (a) Mr. Raj will not be personally liable for the ₹ 5 lakh debt as the debt was incurred by the LLP.
  - (b) Mr. Raj will be personally liable for the ₹ 5 lakh debt since he was the sole partner of the LLP for more than six months.
  - (c) Mr. Raj and Ms. Rani will both be liable for the ₹ 5 lakh debt as they were originally partners.
  - (d) The LLP will be automatically dissolved after six months, and no personal liability will arise for Mr. Raj.

Ans: (b)

## CHAPTER 13: THE GENERAL CLAUSES ACT, 1897

### CONCEPTS OF THIS CHAPTER

- |   |   |
|---|---|
| • Basic Understanding of Legislation        | • Sec 8- Construction of references to repealed enactments        |
| • Sec 3(13)-Commencement                    | • Sec 9- Commencement and termination of time                     |
| • Sec 3(21)- Financial Year                 | • Sec 10- Computation of Time                                     |
| • Sec 3(22)- Good Faith                     | • Sec 11- Measurement of Distances                                |
| • Sec 3(23)- Government                     | • Sec 12- Duty to be taken pro rata in enactments                 |
| • Sec 3(26)- Immoveable Property            | • Sec 13- Gender & Number   |
| • Sec 3(36)- Moveable Property              | • Sec 16- Power to appoint to include power to suspend or dismiss |
| • Sec 3(39)- Official Gazette               | • Sec 19- Official Chiefs & Subordinates                          |
| • Sec 3(42)- Person                         | • Sec 23- Making of Rules or Bye-laws after previous Publications |
| • Sec 3(51)- Rule                           | • Sec 26- Offence punishable under two or more enactments         |
| • Sec 3(37)- Oath                           | • Sec 27- Meaning of Service by Post                              |
| • Sec 5- Coming into operation of enactment | • Sec 3(18)- Document   |
| • Sec 6- Effect of Repeal                   | • Sec 3(66)- Calendar Year  |



### LDR Questions

Q 22

Q 25

Q 29

Q 48

### QUICK REVIEW OF IMPORTANT CONCEPTS

#### Coming into operation of enactment

- Where any Central Act has not specifically mentioned a particular date to come into force
- any specific date of enforcement is prescribed in the Official Gazette
- Law takes no cognizance of fraction of day
- Thus, where an Act provides that it is to come into force on the first day of January, it will come into force on as soon as the clock has struck 12 on the night of 31st December.
- It shall be implemented on the day on which it receives the assent of the President in case of an Act of Parliament
- And it shall come into enforcement on the date of its publication in the Official Gazette

#### Commencement and termination of time

- **Use the word "from"** – exclude the first in a series of days or any other period of time
- **Use the word "to"** – include the last in a series of days or any other period of time

#### Computation of time

- Where by any legislation or regulation, any act or proceeding is directed or allowed to be done or
- taken in any court or office on a certain day or within a prescribed period then,
- if the Court or office is closed on that day or last day of the prescribed period,



- the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

### Measurement of Distances

- In the measurement of any distance,      • a straight line on a horizontal plane
- that distance shall, unless a different intention appears, be measured in

### Gender and number

**In all legislations and regulations, unless there is anything repugnant in the subject or context-**

- Words importing the masculine gender      = shall be taken to include females
- Words in singular      = shall include the plural and vice versa

### Provision as to offence punishable under two or more enactments

- 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)
- The Constitution states that no person shall be prosecuted and punished for the same offence more than once

### Meaning of Service by post

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:**

- Properly addressing      • Pre-paying, and      • Posting by registered post.

## Question & Answers

### Basic Understanding of Legislation

#### Question 1

Ayush and Vipul are good friends and pursuing CA course. While doing group studies for the paper of "Corporate and Other Law", they are confused about the provisions of section 3 of the Companies Act 2013. Section 3 provides "A company may be formed for any lawful purpose by....." Both Ayush and Vipul are in difficulty about the meaning of word "may". Whether it should be taken as mandatory or directory? (RTP May '22)

#### Answer 1

The word 'shall' is used to raise a presumption of something which is mandatory or imperative while the word 'may' is used to connote something which is not mandatory but is only directory or enabling. However, sometimes Word 'may' has a mandatory force if directory force will defeat the object of the Act. However, sometimes the words "may and shall" can be interpreted interchangeably depending on the intention of the legislator.

Ayush and Vipul, two CA students, are confused with the language of the provisions of section 3 of the Companies Act 2013 that whether the word "may" used in section should be considered as mandatory or directory. In the given case, it can be said that the word "may" should be taken as mandatory force, because the law will never allow the formation of company with unlawful object. Here the word used "may" shall be read as "shall". Usage of word 'may' here makes it mandatory for a company for the compliance of section 3 for its formation.

### Sec 3(13)-Commencement

#### Question 2

**Elucidate the term "Commencement" as per the General Clauses Act, 1897. (MTP 3 Marks April 21)**

#### Answer 2

Section 3(13) of the General Clauses Act, 1897, defines the term "Commencement".

"Commencement" used with reference to an Act or Regulation, shall mean the day on which the Act or



Regulation comes into force. Coming into force or entry into force (also called commencement) refers to the process by which legislation; regulations, treaties and other legal instruments come to have a legal force and effect. A law cannot be said to be in force unless it is brought into operation by legislative enactment, or by the exercise of authority by a delegate empowered to bring it into operation. The theory of a statute being "in operation in a constitutional sense" though it is not in fact in operation has no validity. (*State of Orissa Vs. Chandrasekhar Singh Bhai* — AIR1970 sc 398).

### Sec 3(18)- Document

#### Question 3

Explain the following with reference to the provisions of the General Clauses Act, 1897:

**Document (MTP 2 Marks Dec'24)**

#### Answer 3

According to section 3(18) of the General Clauses Act, 1897, 'Document' shall include any matter written, expressed or described upon any substance by means of letters, figures or marks or by more than one of those means which is intended to be used or which may be used, for the purpose or recording that matter.

### Sec 3(21)- Financial Year

#### Question 4

A confusion regarding the meaning of 'financial year' arose among the financial executive and accountant of a company. Both were having different arguments regarding the meaning of financial year & calendar year. What is the correct meaning of the financial year under the provision of the General Clauses Act, 1897? How it is different from calendar year? (Chapter – The General Clauses Act, 1897) (MTP 4 Marks Mar'24) (MTP 4 Marks Oct '23) (MTP 4 Marks Oct'22, PYP 4 Marks Dec'21, RTP May 21)

OR

What is "Financial Year" under the General Clauses Act, 1897? (SM)

#### Answer 4

**Financial Year:** 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 the General Clauses Act, 1897, year means calendar year which starts from January to December.

**Difference between Financial Year and Calendar Year:** Financial year starts from first day of April, but Calendar Year starts from first day of January.

### Sec 3(22)- Good Faith

#### Question 5

What do you understand by the term 'Good Faith'. Explain as per the provisions of the General Clauses Act, 1897. (MTP 4 Marks Nov'24)

#### Answer 5

**Good Faith:** According section 3(22) of the General Clauses Act, 1897, a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not.

The question of good faith under the General Clauses Act is one of fact. It is to determine with reference to the circumstances of each case. The term "Good faith" has been defined differently in different enactments. This definition of the good faith does not apply to that enactment which contains a special definition of the term "good faith" and there the definition given in that particular enactment has to be followed. This definition may be applied only if there is nothing repugnant in subject or context, and if that is so, the definition is not applicable.



### Question 6

**"The act done negligently shall be deemed to be done in good faith."**

**Comment with the help of the provisions of the General Clauses Act, 1897.**

*(MTP 4 Marks April '23, MTP 3 Marks Mar'22 & Sep '23, PYP 3 Marks Jan 21)*

#### Answer 6

In general, anything done with due care and attention, which is not malafide is presumed to have been done in good faith.

But, according to section 3(22) of the General Clauses Act, 1897, a thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not.

The question of good faith under the General Clauses Act is one of fact. It is to determine with reference to the circumstances of each case.

It is therefore understood that the General Clauses Act, 1897 considers the honesty in doing the Act as a primary test to constitute the thing done in good faith and therefore the act done honestly but with negligence may also be termed as done in good faith as per the General Clauses Act, 1897.

The term "Good faith" has been defined differently in different enactments. This definition of the good faith does not apply to that enactment which contains a special definition of the term "good faith" and there the definition given in that particular enactment has to be followed. This definition may be applied only if there is nothing repugnant in subject or context, and if that is so, the definition is not applicable.

### Question 7

**Mr. P bought a car from Mr. G who was his friend. Mr. P did not check the car or test drive it. Whether the purchase made could be said to be made in good faith? Explain with reference to the provisions of the General Clauses Act, 1897. (PYP 2 Marks Sep'24)**

#### Answer 7

**Whether Purchases made could be said to be made in Good Faith?**

According to section 3(22) of the General Clauses Act, 1897, a thing shall be deemed to be done in 'good faith' where it is in fact done honestly, whether it is done negligently or not.

The question of good faith under the General Clauses Act, 1897 is one of fact in *Maung Aung Pu v. Maung Si Maung*, it was pointed out that the expression 'good faith' is not defined in the Indian Contract Act, 1872 and the definition given here in the General Clauses Act, 1897 does not expressly apply the term on the Indian Contract Act. The definition of good faith as is generally understood in the civil law and which may be taken as a practical guide in understanding the expression in the Contract Act is that nothing is said to be done in good faith which is done without due care and attention as is expected with a man of ordinary prudence. An honest purchase made carelessly without making proper enquiries cannot be said to have been made in good faith so as to convey good title.

Hence, in the given case, the purchase of car by Mr. P cannot be said to be made in good faith.

### Sec 3(23)- Government

### Question 8

**The Income Tax Act, 1961 provides that the gratuity paid by the government to its employees is fully exempt from tax. You are required to explain the scope of the term 'government' and clarify whether the exemption from gratuity income will be available to the State Government Employees? Give your answer in accordance with the provisions of the General Clauses Act, 1897.**

*(MTP 3 Marks March '23, PYP 2 Marks Jan 21) (MTP 2 Marks Sep '23)*

#### Answer 8

According to section 3(23) of the General Clauses Act, 1897, 'Government' or 'the Government' shall include both the Central Government and State Government.

Hence, wherever, the word 'Government' is used, it will include Central Government and State Government both. Thus, when the Income Tax Act, 1961, provides that gratuity paid by the government to its employees



is fully exempt from tax, the exemption from gratuity income will be available to the State Government employees also.

### Sec 3(26)- Immoveable Property

#### Question 9

Examine the validity of the following statements with reference to the General Clauses Act, 1897: 'Things attached to the earth' have been held to be immovable property. (MTP 2 Marks March '22)

#### Answer 9

'Things attached to the earth' have been held to be immovable property: This statement is valid.

As per section 3(26) of the General Clauses Act, 1897, 'Immovable Property' shall include:

- (1) Land,
- (2) Benefits to arise out of land, and
- (3) Things attached to the earth, or
- (4) Permanently fastened to anything attached to the earth.

It is an inclusive definition. The four elements to the definition include 'things permanently fastened to anything attached to the earth'. Hence, the statement given is correct.

#### Question 10

Examine the validity of the following statements with reference to the General Clauses Act, 1897:

- (i) Insurance Policies covering immovable property have been held to be immovable property.
- (ii) The word "bullocks" could be interpreted to include "cows".

(MTP 3 Marks April '23, PYP July '21 4 Marks)

#### Answer 7

- i. Insurance Policies covering immovable property have been held to be immovable property:

This statement is not valid.

Insurance policy is a written document containing an agreement between the insurer and insured. It includes a matter intended to be used or may be used for the purpose or recording of the matter. Hence, the insurance policies covering immovable property is not covered under the definition of immovable property.

- ii. The word 'bullocks' could be interpreted to include 'cows': This statement is not valid. Where a word connoting a common gender is available but the word used conveys a specific gender, there is a presumption that the provisions of General Clauses Act, 1897 do not apply. Thus, the word 'bullocks' could not be interpreted to include 'cows'.

#### Question 11

X owned a land with fifty tamarind trees. He sold his land to (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".

(MTP 4 Marks, Mar'21, April '19, Oct'19, PYP 4 Marks, May '18, RTP Nov 19, RTP May'23, SM)

#### Answer 11

"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.

### Sec 3(36)- Moveable Property

#### Question 12

What is the meaning of the following as per provisions of the General Clauses Act, 1897?  
Movable Property (PYP Dec '21) (MTP Apr'24 & April 22) (MTP 2 Marks Nov'24)

#### Answer 12

**Movable Property:** According to section 3(36) of the General Clauses Act, 1897, 'Movable Property' shall mean property of every description, except immovable property. Thus, any property which is not immovable property is movable property. Debts, share, electricity are moveable property.

#### Question 13

Yogveer Singh has a mango orchard at Manchanga Village, Bilaspur. The orchard has more than one hundred Mango trees. Yogveer Singh has sold orchard along with all the mango trees. Explain, in the lights of provisions of the General Clauses Act 1897, whether the sale of trees will be considered as sale of Immovable Property? (RTP May '24)

#### Answer 13

According to section 3(36) of the General Clauses Act 1897, 'Movable Property' shall mean property of every description, except immovable property. While section 3(26) provides, '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.

In the given question, Yogveer Singh has sold mango orchard along with all the mango trees. In the lights of provisions of the Act, as trees are benefits arise out of the land and attached to the earth, hence, mango trees are immovable property.

### Sec 3(37)- Oath

#### Question 14

What is the meaning of the following as per provisions of the General Clauses Act, 1897?  
"Oath" (PYP Dec '21) (MTP 2 Marks Apr'24 & April 22, Nov'24)

#### Answer 14

**Oath:** As per section 3(37) of the General Clauses Act, 1897, 'Oath' shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing.

### Sec 3(39)- Official Gazette

#### Question 15

What is the meaning of 'Official Gazette' as per the provisions of the General Clauses Act, 1897?  
(PYP 3 Marks Nov '22, MTP 2 Marks July'24)

#### Answer 15

"Official Gazette" [Section 3(39) of the General Clauses Act, 1897]: 'Official Gazette' or 'Gazette' shall mean:

- (i) The Gazette of India, or
- (ii) The Official Gazette of a state.

The Gazette of India is a public journal and an authorised legal document of the Government of India, published weekly by the Department of Publication, Ministry of Housing and Urban Affairs. As a public journal, the Gazette prints official notices from the government. It is authentic in content, accurate and strictly in



accordance with the Government policies and decisions. The gazette is printed by the Government of India Press.

### Sec 3(42)- Person

#### Question 16

What is the meaning of the following as per provisions of the General Clauses Act, 1897?  
**Person** (PYP Dec '21) (MTP Apr'24 & April 22) (MTP 2 Marks Dec'24)

#### Answer 16

**Person:** According to section 3(42) of the General Clauses Act, 1897, 'Person' shall include any company or association or body of individuals, whether incorporated or not.

### Sec 3(51)- Rule

#### Question 17

What is the meaning of the following as per provisions of the General Clauses Act, 1897?  
**"Rule"** (PYP Dec '21) (MTP Apr'24 & April 22)

#### Answer 17

**Rule:** As per section 3(51) of the General Clauses Act, 1897, 'Rule' shall mean a rule made in exercise of a power conferred by any enactment, and shall include a Regulation made as a rule under any enactment.

### Sec 5- Coming into operation of enactment

#### Question 18

Referring to the provisions of the General Clauses Act, 1897, answer the following questions:  
**Whenever a new law is enacted by the Government of India, what shall be its date of coming into force?**  
(PYP 2 Marks Sep'24)

#### Answer 18

As per section 5 of the General Clauses Act, 1897, where any Central Act has not specifically mentioned a particular date to come into force, it shall be implemented on the day on which it receives the assent of the Governor General in case of a Central Act made before the commencement of the Indian Constitution and/or, of the President, in case of an Act of Parliament.

Where, if any specific date of enforcement is prescribed in the Official Gazette, the Act shall come into enforcement from such date.

#### Question 19

SEBI (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015 was issued by SEBI vide Notification dated 14th August, 2015 with effect from 1 January, 2016. Referring to the provisions of the General Clauses Act, 1897, examine the date of enforcement of these Regulations?  
(MTP Oct'21 3 Marks, Oct'18, 2 Marks, RTP Nov 20, SM, PYP May '19 2 Marks)

#### Answer 19

According to section 5 of the General Clauses Act, 1897, where any Central Act has not specifically mentioned a particular date to come into force, it shall be implemented on the day on which it receives the assent of the Governor General in case of a Central Act made before the commencement of the Indian Constitution and/or, of the President in case of an Act of Parliament. Hence, in the given question, SEBI (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015 shall come into enforcement on 1st January, 2016 rather than the date of its notification in the gazette.



## Question 20

The Parliament recently passed the Environment Protection Amendment Act, 2024, to strengthen regulations on industrial waste disposal. The Act specified the commencement date as 1st September, 2024. The President gave assent to the Act on 15th July, 2024.

Green Earth Limited, an industrial company, is uncertain about when the provisions of the Environment Protection Amendment Act, 2024, will start to apply. The company's legal team has raised question on whether they need to immediately comply with the new regulations or if they have a grace period until the commencement date. Give your answer in reference to the provisions of the General Clauses Act, 1897. (RTP Jan'25)

### Answer 20

According to section 5 of the General Clauses Act, 1897, where any Central Act has not specifically mentioned a particular date to come into force, it shall be implemented on the day on which it receives the assent of the Governor General in case of a Central Acts made before the commencement of the Indian Constitution and/or, of the President in case of an Act of Parliament.

In the given question, the Environment Protection Amendment Act, 2024, received assent of President of India on 15th July, 2024. The commencement date is prescribed as 1<sup>st</sup> September 2024. Accordingly, the Environment Protection Amendment Act, 2024, shall come into enforcement 1<sup>st</sup> September, 2024.

## Sec 6- Effect of Repeal

## Question 21

**Repeal' of provision is different from 'deletion' of provision. Explain as per the General Clauses Act, 1897.**

### Answer 21

In Navrangpura Gam Dharmada Milkat Trust Vs. Rmtuji Ramaji, AIR 1994 Guj 75 case, it was decided that 'Repeal' of provision is in distinction from 'deletion' of provision. 'Repeal' ordinarily brings about complete obliteration (abolition) of the provision as if it never existed, thereby affecting all incoherent rights and all causes of action related to the 'repealed' provision while 'deletion' ordinarily takes effect from the date of legislature affecting the said deletion, never to effect total effecting or wiping out of the provision as if it never existed.

## Question 22



**"Whenever an Act is repealed, it must be considered as if it had never existed." Comment and explain the effect of repeal under the General Clause Act, 1897. (PYP 4 Marks, May '23, PYP May'18, 4 Marks, PYP 3 Marks May'22)**

### Answer 22

"Effect of Repeal" [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:

1. Revive anything not enforced or prevailed during the period at which repeal is effected or;
2. Affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
3. Affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
4. Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
5. 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.

In State of Uttar Pradesh v. Hendra Pal Singh, (2011), 5 SCC 305, SC held that whenever an Act is repealed, it must be considered as if it had never existed. Object of repeal is to obliterate the Act from statutory books, except for certain purposes as provided under section 6 of the Act.



**EXAM INSIGHTS :** Majority of the examinees have correctly mentioned one or more effect of repeal with proper explanation under the General Clauses Act, 1897. There are many examinees who have not attempted the part of the question.

## Sec 8- Construction of references to repealed enactments

### Question 23

Section 2(18) (aa) of the Income Tax Act, 1961, provides that a company is said to be a company in which the public are substantially interested, if it is a company which is registered under section 25 of the Companies Act, 1956. After the advent of Companies Act, 2013, the corresponding change has not been made in section 2(18) of the Income tax Act, 1961. Explain, with reference to the provisions of the General Clauses Act 1897, how will the provisions of section 2(18) (aa) of the Income Tax Act, 1961, will be considered after the enactment of the Companies Act 2013? (RTP Nov'22)

### Answer 23

According to section 8 of the General Clauses Act, 1897, where this Act or Central Act or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Also, in Gauri Shankar Gaur v. State of U.P., AIR 1994 SC 169, it was held that every Act has its own distinction. If a later Act merely makes a reference to a former Act or existing law, it is only by reference and all amendments, repeals new law subsequently made will have effect unless its operation is saved by the relevant provision of the section of the Act.

As per the facts of the question, even after the advent of the Companies Act 2013, no corresponding amendment was done in section 2(18)(aa) of the Income Tax Act, 1961, which provides that a company is said to be a company in which the public are substantially interested, if it is a company which is registered under section 25 of the Companies Act, 1956. In the given situation, as per section 8 of the General Clauses Act, 1897 and the decision of case of Gauri Shankar Gaur v. State of U.P., for section 2(18)(aa) of the Income Tax Act, 1961, provisions of the Companies Act, 2013 will be applicable in place of the Companies Act, 1956.

## Sec 9- Commencement and termination of time

### Question 24

Mr. M issued a cheque of ₹ 3,00,00 dated 31.12.2023 at 10 a.m. to Mr. N as a consideration towards the medical services provided by the later. Mr. N presented the above cheque on 31.03.2024 during the banking business hours. The cheque was dishonoured taking the plea that it was not presented within the requisite time of 3 months as provided under section 138 of the Negotiable Instruments Act 1881.

Referring to the provisions of the General Clauses Act, 1897 decide, whether the plea for dishonouring the cheque was valid. (PYP 2 Marks May'24)

### Answer 24

As per the section 9 of the General Clauses Act, 1897, in case any legislation or Regulation, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from", and, for the purpose of including the last in a series of days or any other period of time, to use the word "to". The first day in series is 31.12.2023 and last day is 31.03.2024. Hence, applying the above provisions, 31.12.2023 is to be excluded and 31.03.2024 is to be included in calculation as per the General Clauses Act, 1897.

Since, the cheque has been presented within 3 months i.e. on 31.03.2024, it is eligible for honour and payment. Hence, the plea of dishonouring the cheque is not valid.

### Question 25

LDR

The Companies Act, 2013 provides that the amount of dividend remained unpaid/unclaimed on expiry of 30



days from the date of declaration of dividend shall be transferred to unpaid dividend account within 7 days from the date of expiry of such period of 30 days. If the expiry date of such 30 days is 30.10.2021, decide the last date on or before which the unpaid/unclaimed dividend amount shall be required to be transferred to a separate bank account in the light of the relevant provisions of the General Clauses Act, 1897? (MTP 3 Marks Nov 21, SM, PYP May '19, 2 Marks, SM)

#### Answer 25

Section 9 of the General Clauses Act, 1897 provides that, for computation of time, in any legislation or regulation, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from" and for the purpose of including the last in a series of days or any other period of time, to use the word "to".

As per the facts of the question the company shall transfer the unpaid/unclaimed dividend to unpaid dividend account within the period of 7 days. 30th October 2021 will be excluded and 6th November 2021 shall be included, i.e. 31st October, 2021 to 6th November, 2021 (both days inclusive).

#### Question 26

Wivitsu Ltd. declares a dividend for its shareholders in its AGM held on 27<sup>th</sup> September, 2022. Referring to provisions of the General Clauses Act, 1897 and Companies Act, 2013, advice:

- (i) The dates during which Wivitsu Ltd. is required to pay the dividend?
- (ii) The dates during which Wivitsu Ltd. is required to transfer the unpaid or unclaimed dividend to unpaid dividend account? (SM)

#### Answer 26

As per section 9 of the General Clauses Act, 1897, for computation of time, the section states that in any legislation or regulation, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time to use the word "from" and for the purpose of including the last in a series of days or any other period of time, to use the word "to".

- (i) **Payment of dividend:** In the given instance, Wivitsu Ltd. declares dividend for its shareholder in its Annual General Meeting held on 27/09/2022. Under the provisions of Section 127 of the Companies Act, 2013, a company is required to pay declared dividend within 30 days from the date of declaration, i.e. from 28/09/2022 to 27/10/2022. In this series of 30 days, 27/09/2022 will be excluded and last 30<sup>th</sup> day, i.e. 27/10/2022 will be included. Accordingly, Wivitsu Ltd. will be required to pay dividend within 28/09/2022 and 27/10/2022 (both days inclusive).
- (ii) **Transfer of unpaid or unclaimed dividend:** As per the provisions of Section 124 of the Companies Act, 2013, where a dividend has been declared by a company but has not been paid or claimed within 30 days from the date of the declaration, to any shareholder entitled to the payment of the dividend, the company shall, within 7 days from the date of expiry of the said period of 30 days, transfer the total amount of dividend which remains unpaid or unclaimed to a special account to be opened by the company in that behalf in any scheduled bank to be called the "Unpaid Dividend Account" (UDA). Therefore, Wivitsu Ltd. shall transfer the unpaid/unclaimed dividend to UDA within the period of 28<sup>th</sup> October, 2019 to 3<sup>rd</sup> November, 2019 (both days inclusive).

### Sec 10- Computation of Time

#### Question 27

Yellow and Pink had a long dispute regarding the ownership of a land for which a legal suit was pending in the court. The court fixed the date of hearing on 29.04.2022, which was announced to be a holiday subsequently by the Government. What will be the computation of time of the hearing in this case under the General Clauses Act, 1897? (MTP 4 Marks March '23 & Sep '23, PYP 2 Marks Jan '21)

#### Answer 27

According to section 10 of the General Clauses Act, 1897, where by any legislation or regulation, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period then, if the Court or office is closed on that day or last day of the prescribed period, the



act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

In the given question, the court fixed the date of hearing of dispute between Yellow and Pink, on 29.04.2022, which was subsequently announced to be a holiday.

Applying the above provisions, we can conclude that the hearing date of 29.04.2022, shall be extended to the next working day.

#### Question 28

**Shree was supposed to submit an appeal to the High Court of Delhi on 8th September, 2023, which was the last day on which such appeal could be submitted. However, on that day the High Court was closed due to total Lockdown in Delhi for 30 days due to visit of foreign delegates from 40 countries for G40 Summit. Examine the remedy available to Shree under the provisions of the General Clauses Act, 1897. (MTP 3 Marks Oct '23, PYP 3 Marks, July '21)**

#### Answer 28

The given answer is based on section 10 which deals with "Computation of time" under the General Clauses Act, 1897. Where by any legislation or regulation, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period then, if the Court or office is closed on that day or last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

In the question, Shree was supposed to submit an appeal to High Court on 8<sup>th</sup> September 2023, which was the last day of filing the same. On that day High Court was closed due to total lockdown all over Delhi.

In line with said provision, Shree can submit an appeal on the day on which the High Court is open.

#### Question 29

LDR

**Mr. Sohan has issued a promissory note of `1000 to Mr. Mohan on 17<sup>th</sup> May 2021 payable 3 months after date. After that, a sudden holiday was declared on 20<sup>th</sup> August 2021 due to Moharram. As per the provisions of the General Clauses Act 1897, what should be the date of presentment of promissory note for payment? Whether it should be 19<sup>th</sup> August 2021 or 21<sup>st</sup> August 2021? (RTP Nov '21)**

#### Answer 29

Section 10 of the General Clauses Act 1897 provides where by any legislation or regulation, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period then, if the Court or office is closed on that day or last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

A promissory note of `1000 was issued by Mr. Sohan to Mr. Mohan on 17<sup>th</sup> May 2021 which was payable 3 months after date. After that, a sudden holiday was declared on 20<sup>th</sup> August 2021 due to Moharram. In the given case, the period of 3 months ends on 17<sup>th</sup> August 2021. Three days of grace are to be added. It falls due on 20<sup>th</sup> August 2021 which declared to be a public holiday after the issue of Promissory Note. In the light of provisions of Sec. 10 of the General Clauses Act 1897, the due date will be on next day when office is open i.e. 21<sup>st</sup> August 2021.

### Sec 11- Measurement of Distances

#### Question 30

**Define the following with reference to the provisions of the General Clauses Act, 1897:**

**(i) Measurement of Distances (MTP 4 Marks July'24)**

#### Answer 30

**(i) Measurement of Distances**

According to section 11 of the General Clauses Act, 1897, in the measurement of any distance, for the purposes 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 straight line on a horizontal plane.

### Question 31

ABC Limited operates a factory situated near a river. As per a recent Central Act, factories must be located at least 5 kilometers away from any river. A dispute arises when an environmental agency claims that ABC Limited's factory is only 4.5 kilometers away from the river, while ABC Limited contends that the distance is 5.3 kilometers as per the road distance measured along the winding path leading to the river.

Based on the provisions of the General Clauses Act, 1897, advise whether the contention of ABC Limited is correct. (MTP 4 Marks Dec'24) (Chapter The General Clauses Act, 1897)

#### Answer 31

According to section 11 of the General Clauses Act, 1897, in the measurement of any distance, for the purposes 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 straight line on a horizontal plane.

In this case, the distance between ABC Limited's factory and the river must be measured in a straight line on a horizontal plane, not based on the road or path distance. The environmental agency's claim that the factory is only 4.5 kilometers away in a straight line is correct. Since this measurement is less than the required 5 kilometers, the factory does not comply with the law.

Therefore, ABC Limited's contention is not correct.

### Sec 12- Duty to be taken pro rata in enactments

### Question 32

Explain the meaning of 'calculation of duty to be taken on pro rata basis' as per the provisions of the General Clauses Act, 1897. Give an example. (MTP 3 Marks Oct 21, MTP 2 Marks Jul'24)

#### Answer 32

**"Duty to be taken pro rata in enactments":** According to section 12 of the General Clauses Act, 1897, where, by any enactment now in force or hereafter to be in force, any duty of customs or excise or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity. Pro rata is a Latin term used to describe a proportionate allocation.

Example: Where several debtors are liable for the whole debt and each is liable for his own share or proportion only, they are said to be bound pro rata.

### Question 33

Mr. Chaggan Lal is an importer dealing in luxury perfumes. Recently, a new enactment was passed which imposes a duty of 15% on the value of luxury goods, including perfumes.

Now Mr. Chaggan Lal has approached you to explain to him the provisions in relation to 'Duty to be taken pro rata in enactments' of the General Clauses Act, 1897. Also, help him to calculate the amount of duty on a Shipment of 100 bottles of perfumes, each valued at \$50. (RTP Sep'24)

#### Answer 33

According to section 12 of the General Clauses Act, 1897, where, by any enactment now in force or hereafter to be in force, any duty of customs or excise or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

The amount of duty would be =  $(100 \times 50) \times 15\% = \$750$ .

**Question 34**

**State the provisions of the General Clauses Act, 1897 relating to 'gender and number'. (PYP 4 Marks May'24)**

**Answer 34**

According to section 13 of the General Clauses Act, 1897, in all legislations and regulations, unless there is anything repugnant in the subject or context:

- (1) Words importing the masculine gender shall be taken to include females, and
- (2) Words in singular shall include the plural and vice versa.

In accordance with the rule that the words importing the masculine gender are to be taken to include females, the word men may be properly held to include women, and the pronoun 'he' and its derivatives may be construed to refer to any person whether male or female. So, the words 'his father and mother' as they occur in section 125(1)(d) of the CrPC, 1973 have been construed to include 'her father and mother' and a daughter has been held to be liable to maintain her father unable to maintain himself.

Where a word connoting a common gender is available but the word used conveys a specific gender, there is a presumption that the provisions of General Clauses Act, 1897 do not apply.

**Question 35**

**Examine the validity of the following statements with reference to the General Clauses Act, 1897:**

**The word "bullocks" could be interpreted to include "cows".**

**(MTP 2 Marks March '22, MTP 2 Marks April '23, PYP 1.5 Marks July '21)**

**Answer 35**

The word 'bullocks' could be interpreted to include 'cows': This statement is not valid.

Where a word connoting a common gender is available but the word used conveys a specific gender, there is a presumption that the provisions of General Clauses Act, 1897 do not apply. Thus, the word 'bullocks' could not be interpreted to include 'cows'.

**Question 36**

Mrs. Neelu Chandra was director in Laddoo Sweets Private Limited. Once while dealing with supplier of raw materials for company, she agreed to get some secret commission from supplier for making the deal. Afterwards, on finding the facts, the company has filed the suit against Mrs. Neelu Chandra. She contended that section 166 of the Companies Act, 2013, provides "A director of a company shall not achieve or attempt to achieve any undue gain or advantage either to himself or to his relatives, partners, or associates and if such director is found guilty of making any undue gain, he shall be liable to pay an amount equal to that gain to the company." She contended that section 166 is applicable to male director only, she being female will not be liable.

**In the light of the provisions of the General Clauses Act, 1897, decide whether she is bound by the provisions of section 166 of the Companies Act, 2013? (RTP Nov '23)**

**Answer 36**

By virtue of provisions of section 13 of the General Clauses Act, 1897, in all Central Acts or Regulations, unless there is anything repugnant in the subject or context, words importing the masculine gender shall be taken to include females.

Mrs. Neelu Chandra, director in Laddoo Sweets Private Limited, made an undue gain in the form of commission (from supplier for making the deal) in dealing for Laddoo Sweets Private Limited but she denied accepting the liability by saying that the language of section 166 provides penalty only for male directors not for females.

On the basis of provisions of the General Clauses Act, 1897 and facts of the case, the provisions of section 166 of the Companies Act, 2013, are not only applicable to males but also to females. Therefore, Mrs. Neelu Chandra is bound to comply by section 166 of the Companies Act, 2013.



### Question 37

Mr. Avinash currently holds the position of a Whole-time director (Key Managerial Personnel) at Moon Pharma Limited, a company that maintains substantial ownership stake in X Limited (55% shares), Y Limited (60% shares), and Z Limited (65% shares). Mr. Avinash has expressed his desire to expand his role as a Whole-time director to encompass both X Limited and Y Limited. Determine the validity of his appointment as a Whole-time director in these additional companies, as per the provisions of the General Clauses Act, 1897. (PYP 4 Marks Nov'23)

#### Answer 37

As per section 2(87) of the Companies Act, 2013, Subsidiary company, in relation to any other company (that is to say the holding company), means a company in which the holding company -

- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies:

Taking into account the above provision, X Limited, Y Limited and Z Limited are the subsidiary companies of Moon Pharma Limited.

Regarding the question, Mr. Avinash who is a Whole Time Director (KMP) in Moon Pharma Limited, wants to get appointed as Whole Time Director in X Limited and Y Limited.

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.

It can be noted that section 13 of the 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.

Hence, Mr. Avinash can hold office of Whole Time Director also in X Limited and Y Limited.

**EXAM INSIGHTS:** Most of the examinees have failed to provide the correct provisions under the General Clauses Act, 1897, read with the provisions of the Companies Act, 2013, and the correct answer as to whether Mr. Avinash, a whole-time director in a company, can hold the position of a whole-time director in more than one of its subsidiaries.

### Sec 16- Power to appoint to include power to suspend or dismiss

### Question 38

Examine the validity of the following statements with reference to the General Clauses Act, 1897:

Board of Directors of Sabarwal Construction Private Limited authorised by passing resolution in board meeting Mr. Munim to appoint five employees for accounts department of company. Mr. Munim appointed five employees including Mr. Rupal who was relative of one of the director of company. After one month, Mr. Munim observed that Mr. Rupal was not performing his duties honestly. Mr. Munim issued the order of dismissal of Mr. Rupal with proper reasons. Mr. Rupal filed a petition in the court that his dismissal order is not valid as Board of Directors had authorised Mr. Munim only for appointment of employees not for dismissal. Whether is Mr. Rupal correct with his words? (MTP 4 Marks April 22, PYP 2 Marks May'24)

#### Answer 38

As per the provisions of section 16 of the General Clauses Act, 1897, the authority having for the time being power to make the appointment shall also have power to suspend or dismiss any person appointed whether by itself or any other authority in exercise of that power.

Mr. Munim was appointed in board meeting of Sabarwal Construction Private Limited to appoint five employees for accounts department of company. Mr. Munim appointed five employees. After one month, he issued the order of dismissal to one of those five employees. That employee filed an application in the court challenging the validity of dismissal order with the words that Mr. Munim was authorised only for appointment of employees not for dismissal.

On the basis of above provisions and facts of the case, Mr. Rupal was not correct with his words because as per the General Clauses Act, 1897, power to appoint includes power to suspend or dismiss. Hence, Mr. Munim has power to dismiss Mr. Rupal.



## Sec 19- Official Chiefs & Subordinates

### Question 39

In 2022, the Central Government enacted the "Digital Communications Act" to regulate and manage digital communications across the country. The Act provides specific duties and responsibilities for the Director of Digital Communications, including the oversight of digital infrastructure, enforcement of regulations, and ensuring compliance with data protection standards.

In 2023, the Director of Digital Communications, Mr. Arjun Patel, was appointed to lead the implementation of this Act. However, in January 2024, Mr. Patel took a medical leave of absence for six months. During his absence, Ms. Priya Sharma, the Deputy Director of Digital Communications, was lawfully assigned to perform the duties of the Director.

While Mr. Patel was on leave, a major data breach incident occurred involving a significant violation of the Digital Communications Act. Ms. Sharma took immediate action to investigate the breach, enforce penalties, and implement new compliance measures to prevent future incidents.

The actions taken by Ms. Sharma, while performing the duties of the Director, led to a legal challenge. The opposing party argued that only the Director, as specified in the Act, had the authority to enforce such penalties and measures, and that Ms. Sharma's actions were not valid.

Analyze the validity of Ms. Priya Sharma's actions in the context of the General Clauses Act, 1897, considering the provisions related to 'Official chiefs and subordinates. (MTP 4 Marks July'24)

### Answer 39

#### Official Chiefs and subordinates

According to section 19 of the General Clauses Act, 1897, a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

In the instant case, Ms. Priya, the Deputy Director of Digital Communications, was lawfully assigned to perform the duties of the Director. Hence, the actions taken by Ms. Priya Sharma were valid.

## Sec 23- Provisions applicable to making of Rules or Bye-laws after previous Publications

### Question 40

Explain various provisions applicable to rules or bye-laws being made after previous publications as enumerated in Section-23 of the General Clauses Act, 1897. (MTP 4 Marks Aug'24)

### Answer 40

Provisions applicable to making of rules or bye-laws after previous publications [Section 23 of the General Clauses Act, 1897]:

Where, by any Central Act or Regulation, a power to make rules or bye- laws is expressed to be given subject to the condition of the rules or bye- laws being made after previous publication, then the following provisions shall apply, namely: -

- (1) **Publish of proposed draft rules/ bye- laws:** The authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby;
- (2) **To publish in the prescribed manner:** The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Government concerned prescribes;
- (3) **Notice annexed with the published draft:** There shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration;
- (4) **Consideration on suggestions/objections received from other authorities:** The authority having power to make the rules or bye- laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye- laws from any person with respect



to the draft before the date so specified;

- (5) **Notified in the official gazette:** The publication in the Official Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-laws have been duly made.

#### Question 41

The Ministry of Corporate Affairs (MCA) published in the Gazette of India, the proposed draft of Rules further to amend certain rules under the Companies Act, 2013. The MCA made some modifications in the draft Rules already published. In the light of the provisions of the General Clauses Act, 1897, Answer the following:

- (i) Is it required for MCA to publish a draft of the proposed Rules?
- (ii) In case of any irregularities in the publication of the draft, can it be Questioned?
- (iii) Is MCA entitled to make suitable changes in the draft?
- (iv) Is it necessary to re-publish the Rules in the amended form when the changes made are ancillary to the earlier draft? (PYP 4 Marks May'22)

#### Answer 41

The Answer can be given in terms of section 23 of the General Clauses Act, 1897. Following shall be the Answers in the light of the given information and the relevant legal provisions:

- (i) Yes, MCA is required to publish a draft of the proposed Rules for the information of persons likely to be affected thereby.
- (ii) No, in case of any irregularities in the publication of the draft, it cannot be Questioned. The publication in the Official Gazette of a rule or bye-law after previous publication, shall be conclusive proof that the rule or bye-laws has been duly made. It raises a conclusive presumption that after the publication of the rules in the Official Gazette, it is to be inferred that the procedure for making the rules had been followed. Any irregularities in the publication of the draft cannot therefore be Questioned.
- (iii) Yes, MCA is entitled to make suitable changes in the draft before finally publishing them.
- (iv) No, it is not necessary to re-publish the Rules in the amended form when the changes made are ancillary to the earlier draft.

#### Sec 26- Provision as to offence punishable under two or more enactments

#### Question 42

"No shall be prosecuted and punished for the same offence more than once." Explain in the light of provisions of section 26 of the General Clauses Act, 1897. (PYP 3 Marks, May '23)

#### Answer 42

"Provision as to offence punishable under two or more enactments" [Section 26 of the General Clauses Act, 1897]: 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.

Even Article 20(2) of the Constitution states that no person shall be prosecuted and punished for the same offence more than once.

Provisions of section 26 of General Clauses Act, 1897 read with Article 20(2) of the Constitution apply only when the two offences which form the subject of prosecution is the same, i.e., the ingredients which constitute the two offence are the same. If the offences under the two enactments are distinct and not identical, none of these provisions will apply.

#### Question 43

Mr. R, an advocate, fraudulently deceived his client Mr. Chandan who was taking his expert advise on taxation matters. Now, Mr. R is liable to a fine for his fraudulent act both under the Advocates Act and the



**Income Tax Act, 1961. State the provision as to whether his offence is punishable under both Acts. Give your answer as per the provisions of the General Clauses Act, 1897. (MTP 4 Marks April 21, RTP Nov '18)**

#### **Answer 43**

"Provision as to offence punishable under two or more enactments" (Section 26 of the General Clauses Act, 1897) 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 liable to be punished twice for the same offence.

Thus, Mr. R shall be liable to be punished either under the Advocates Act, 1961 or under the Income Tax Act, 1961, but shall not be punished twice for the same offence. He can be punished under any of the enactments if his offence is established.

#### **Question 44**

**In a contract of sale, Mr. A fraudulently sold certain unmarketable goods to Mr. B. Now Mr. A is liable for the fraudulent activity under both the Indian Contract Act, 1872 and the Sale of Goods Act, 1930. State the provision as per the General Clauses Act, 1897 as to whether his offence is punishable under the both the Acts? (PYP 2 Marks Sep'24)**

#### **Answer 44**

**Whether offence is punishable under both the Acts?**

According to section 26 of the General Clauses Act, 1897, 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. A who is liable for the fraudulent activity under both the Indian Contract Act, 1872 and the Sale of Goods Act, 1930, will be prosecuted and punished under either or both the enactments but shall not be liable to be punished twice for the same offence.

### **Sec 27- Meaning of Service by Post**

#### **Question 45**

**What is the meaning of service by post as per provisions of The General Clauses Act, 1897? (MTP May 20, Nov 21 & Sep '22, 3 Marks, MTP April '19, 4 Marks, SM, RTP May 21, PYP May '18 2 Marks)**

#### **Answer 45**

**"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:

- (i) properly addressing
- (ii) pre-paying, and
- (iii) 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 46**

**A notice when required under the Statutory rules to be sent by "registered post acknowledgment due" is instead sent by "registered post" only. Whether the protection of presumption regarding serving of notice by "registered post" under the General Clauses Act is tenable? Referring to the provisions of the General Clauses Act, 1897, examine the validity of such notice in this case. (SM)**

#### **Answer 46**

As per the provisions 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.

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. 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 provided by such statutory rules, then service of notice if by registered post only shall be deemed to be effected. Furthermore, in similar case of *In United Commercial Bank v. Bhim Sain Makhija*, AIR 1994 Del 181, a notice when required under the statutory rules 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 is neither tenable nor based upon sound exposition of law.

#### Question 47

Mr. Vivit purchased a new house and after some time he shifted to his new house. He was regularly filing his Income Tax Return but he did not update his address with the Income Tax Department. The Income Tax department sent a show cause notice to Mr. Vivit whereby the time limit for reply was 15 days from service of notice. The notice was properly sent by registered post to his address which was in the records of the Income Tax Department. The notice reached at old house and present owner of that house refused to accept that notice. After a certain period, the Income Tax Department took a penal action against Mr. Vivit. He requested the department, that he should not be charged as he did not receive the said notice. Advise in terms of the provisions of the General Clauses Act, 1897, whether sending of the show cause notice by the Income Tax Department would be considered proper service of notice?

Give your answer with reference to the provisions of the General Clauses Act, 1897. (MTP 4 Marks Mar'24)

#### Answer 47

According to 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.

Further, on the basis of decision taken by the apex court in case of *Jagdish Singh vs Natthu Singh*, where a notice is sent to the landlord by registered post and the same is returned by the tenant with an endorsement of refusal, it will be presumed that the notice has been served.

In the given case, the Income Tax Department sent the show cause notice properly by a registered post at the address which was in the records of the department. Hence, it was a proper service of notice. Further, refusal by current owner of house to accept the notice, will not amount to- that the notice was not properly served by the Income Tax Department. It was the duty of Mr. Vivit to update his address. Therefore, Income Tax Department is correct in its decision.

#### Question 48

LDR

Mr. A (landlord) staying in Delhi, rented his flat of Bengaluru to Mr. B (tenant) for ₹20,000 per month to be paid annually. An agreement was made between them that during the tenancy period, if A requires his flat to be vacated, one-month prior notice is to be given to Mr. B. After eight months a notice was sent by Mr. A to Mr. B to vacate his flat by registered post which was refused to be accepted by Mrs. C (wife of Mr. B) and Mr. B denied to vacate the flat on ground of non-receipt of notice. Examine, as per the General Clauses Act, 1897, whether the notice is tenable? (PYP 4 Marks Nov '22)



#### Answer 48

According to 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 affected by:

- (i) Properly addressing
- (ii) Pre-paying, and
- (iii) Posting by registered post.

#### Case Laws

- (i) In *Smt. Vandana Gulati Vs. Gurmeet Singh alias Mangal Singh*, AIR 2013 All 69, it was held that where notice sent by registered post to person concerned at proper address is deemed to be served upon him in due course unless contrary is proved.
- (ii) In *Jagdish Singh Vs. Nathu Singh*, AIR 1992 SC 1604, it was held that where a notice is sent by the landlord by registered post and the same is returned by the tenant with an endorsement of refusal, it will be presumed that the notice has been served.

In other words, Endorsement 'not claimed/not met' is sufficient to prove deemed service of notice.

In the given question, Mr. A has served the notice to Mr. B by registered post which was refused to be accepted by Mrs. C (wife of Mr. B). However, Mr. B cannot deny to vacate the flat on ground of non- receipt of notice, since Mrs. C had refused to accept the notice served by Mr. A through registered post.

Hence, the notice served by Mr. A is tenable provided one- month prior notice given to Mr. B.

### Sec 6- Effect of Repeal

#### Question 49

**Whenever a new law is enacted to replace the existing law, it repeals the old enactment. Describe the points which shall not have any effect of repeal of the old enactment. (PYP 2 Marks Sep'24)**

#### Answer 49

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:

- Revive anything not enforced or prevailed during the period at which repeal is effected or;
- Affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
- Affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- 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.

#### Multiple Choice Questions (MCQs)

### Basic Understanding of Legislation

**1. Every Act has a which expresses the scope, object and purpose of the Act. It is the main source for understanding the intention of the lawmaker behind the Act. (SM)**

- (a) Definition
- (b) Preamble
- (c) Affidavit
- (d) Document

**Ans: (b)**



2. Where an act of parliament does not expressly specify any particular day as to the day of coming into operation of such Act, then it shall come into operation on the day on which  
(MTP 1 Mark March 21, Oct'21, Mar'22, SM, Sep'22)
- (a) It receives the assent of the President
  - (b) It receives the assent of the Governor General
  - (c) It is notified in the official gazette
  - (d) It receives assent of both the houses of Parliament

Ans: (a)

### Sec 3(22)- Good Faith

3. X purchased a car from Y, believing that Y was the legitimate owner. Although X paid the full purchase price and took possession of the car, he did not check the Registration Certificate (RC) of the car to verify the authenticity of Y's ownership. Later, it was discovered that Y was not the rightful owner, and the car had been stolen. In the context of "good faith" as defined in the General Clauses Act, 1897, determine the validity of X's ownership claim over the car. (RTP Jan'25)
- (a) X holds valid ownership of the car because he paid the full price and believed Y to be the legitimate owner.
  - (b) X does not hold valid ownership because his purchase was made without due care and attention, even though he acted honestly.
  - (c) X holds valid ownership because he had no knowledge of the car being stolen, showing he acted in "good faith."
  - (d) X's ownership is valid because he did not act negligently, and his actions were deemed "in good faith."

Ans: (b)

### Sec 3(26)- Immoveable Property

4. Which of the following is not an Immoveable Property? (SM) WARDS KNOWLEDGE
- a) Land
  - b) Building
  - c) Timber
  - d) Machinery permanently attached to the land

Ans: (c)

5. What among the following could be considered in the term 'Immovable Property' as defined under section 3(26) of the General Clauses Act, 1897? (MTP 2 Marks Oct 20, Nov'21, Oct'22, SM)
- (i) The soil for making bricks
  - (ii) Right to catch fish
  - (iii) Right to drain water
  - (iv) Doors and Windows of the house
- (a) Only (i) and (iv)
  - (b) Only (i), (ii) and (iv)
  - (c) Only (i) and (ii)
  - (d) Only (ii), (iii) and (iv)

Ans: (b)

6. ABC Real Estate Ltd., a prominent real estate company, has recently acquired a piece of land in a suburban area. The land has a small lake that is expected to generate significant tourism revenue in the future. Additionally, the land has several old structures that are permanently fastened to the earth, such as a stone pavilion and a historical monument. ABC Real Estate Ltd. plans to develop the area by refurbishing the existing structures and enhancing the natural surroundings to attract tourists. Considering the above scenario, identify which of the following components are classified as "Immovable Property" under the General Clauses Act, 1897 (Jul'24 MTP)
- (a) Only the land and the stone pavilion.



- (b) Only the land and the benefits arising from the lake.
- (c) The land, benefits arising from the lake, and the stone pavilion.
- (d) The land, the benefits arising from the lake, the stone pavilion, and the historical monument.

**Ans: (d)**

### Sec 3(66)- Calendar Year

**7. Calendar year starts from: (MTP 1 Mark April '23)**

- (a) January
- (b) April
- (c) June
- (d) September

**Ans: (a)**

### Sec 5- Coming into operation of enactment

**8. An Act has been passed by the government and though sufficient time has elapsed since the Act was passed, it has not been brought into force by the Government. Which of the following is correct in the light of the provisions of the General Clauses Act, 1897? (PYP Sep'24)**

- (a) The court can issue a mandamus with a view to compel the government to bring the Act into operation on a particular day.
- (b) The court can through a writ direct the Government to consider the question as to when the Act should begin to operate.
- (c) The court can publish a date in Official Gazette as an effective date for enforcement of the Act.
- (d) The court cannot direct the government to consider the question as to when Act should begin to operate.

**Ans: (b)**

### Sec 11- Measurement of Distances

**9. The Ministry of Transport is planning to construct a new highway that will connect City A and City B. According to the initial plan, the highway is expected to cover a distance of 150 kilometers. During the survey, the engineers measure the distance between the two cities as the crow flies, without considering the natural terrain and existing road curves. This method is in line with the provisions of the General Clauses Act, 1897 regarding the measurement of distance for the purposes of any Central Act or Regulation.**

**Considering the above scenario, which statement is correct about the measurement of distance as per the General Clauses Act, 1897? (MTP Jul'24)**

- (a) The distance should be measured along the existing roadways and curves.
- (b) The distance should be measured considering the natural terrain and obstacles.
- (c) The distance should be measured in a straight line on a horizontal plane unless otherwise specified.
- (d) The distance should be measured as a combination of straight lines and natural curves.

**Ans: (C)**

### Sec 13- Gender & Number

**10. In all Central Acts and Regulations, unless there is anything repugnant in the subject or context, words importing the masculine gender shall be taken: (MTP 1 Mark March '23 & Sep '23, PYP Sep'24)**

- (a) To exclude females
- (b) To exclude girl child
- (c) To include females
- (d) To exclude boy child

**Ans: (c)**



### Sec 16- Power to appoint to include power to suspend or dismiss

11. Where, by any Central Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having for the time being power to make the appointment shall also have power: (MTP 1 Mark Sep '23)

- (a) To appoint the members of that family
- (b) To grant increment to any family members
- (c) To suspend or dismiss any person appointed
- (d) No other power is conferred except for appointment

Ans: (c)

### Sec 26- Provision as to offence punishable under two or more enactments

12. An act or omission constitutes an offence under two enactments. Referring to the provisions of the General Clauses Act, 1897, state which among the following is correct in such a situation: (SM)

- (a) The offender shall be liable to be prosecuted and punished under that enactment only, which was enacted last and not under the other enactment.
- (b) The offender shall be liable to be prosecuted and punished under that enactment only, which was enacted first and not under the other enactment.
- (c) The offender shall be liable to be prosecuted and punished under both the enactments.
- (d) The offender shall be liable to be prosecuted and punished under that either or any of those enactments but shall not be punished twice for the same offence.

Ans: (d)

13. Apex Manufacturing is an industrial company based in India. Recently, the company found itself embroiled in legal issues concerning two separate offences under different enactments. The first offence involved a violation of environmental regulations, for which the company was prosecuted and fined. Subsequently, Apex Manufacturing was charged under a different law for a similar but not identical environmental violation.

The first offence was under the Environment Protection Act, 1986, for failing to dispose of hazardous waste properly. The second offence, under the Water (Prevention and Control of Pollution) Act, 1974, involved discharging untreated wastewater into a river.

Mr. Sharma, the company's legal advisor, consulted on said issue. He determined the prosecution outlined in Section 26 of the General Clauses Act, 1897, and Article 20(2) of the Constitution of India, which protects against double jeopardy. Comment upon the validity of protection that can be given to the Apex Manufacturing. (RTP Sep'24)

- (a) Yes valid, because both involve environmental violations.
- (b) Not valid, because the specific actions and legal provisions violated are different.
- (c) Its valid, because both result in environmental harm.
- (d) Its valid, though were prosecuted under different Acts but nature of act is similar.

Ans: (b)

14. 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 (MTP 1 Mark Oct 20, Oct'21, Mar'22, Sep'22)

- (a) Under either or any of those enactments
- (b) Twice for the same offence
- (c) Either a. or b. as per the discretion of the court
- (d) none of these

Ans: (a)

# CHAPTER 14: INTERPRETATION OF STATUTES

<p><b>CONCEPTS OF THIS CHAPTER</b></p> <ul style="list-style-type: none"> <li>• Introduction to various terms</li> <li>• Classification of Interpretation</li> <li>• Primary Rules of Construction</li> <li>• Secondary Rules of Construction</li> <li>• Internal Aids for Interpretation</li> <li>• External Aids for Interpretation</li> <li>• Construction of Deeds &amp; Documents</li> </ul>	<div>  <p><b>LDR Questions</b></p> <p>Q 1      Q 18</p> <p>Q 6      Q 29</p> </div>
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## QUICK REVIEW OF IMPORTANT CONCEPTS

### Interpretation of statutes, deeds and documents

<b>Rules of Interpretation</b>	<ul style="list-style-type: none"> <li>• Primary Rules</li> <li>• Secondary Rules</li> </ul>
<b>Aids to Interpretation</b>	<ul style="list-style-type: none"> <li>• Internal Aids</li> <li>• External Aids</li> </ul>

### Classification of Interpretation:

General Classification of Interpretation			
Legal		Doctrinal	
Authentic	Usual	Grammatical	Logical
when rule of interpretation is derived from the legislator himself	when rule of interpretation is derived from some other source such as custom or case law	when the court applies only the ordinary rules of speech	when the court goes beyond the words and tries to discover the intention of the statute in some other way

### Rules of Interpretation/Construction

Primary Rules	Secondary Rules
<ul style="list-style-type: none"> <li>• Rule of Literal Construction</li> <li>• Rule of Reasonable Construction</li> <li>• Rule of Harmonious Construction</li> <li>• The Rule in Heydon's Case or Mischief Rule</li> <li>• Rule of Beneficial Construction</li> <li>• Rule of Exceptional Construction</li> <li>• Rule of Ejusdem Generis</li> </ul>	<ul style="list-style-type: none"> <li>• Doctrine of Noscitur a Sociis</li> <li>• Doctrine of Contemporanea Exposition</li> </ul>

### Internal Aids To Interpretation/Construction

<ul style="list-style-type: none"> <li>• Long Title</li> <li>• Marginal Notes</li> <li>• Proviso</li> <li>• Saving clauses</li> </ul>	<ul style="list-style-type: none"> <li>• Preamble</li> <li>• Definitional Sections</li> <li>• Explanation</li> <li>• Non obstacle clauses</li> </ul>	<ul style="list-style-type: none"> <li>• Heading</li> <li>• Illustrations</li> <li>• Schedules</li> <li>• Read the Statute as a Whole</li> </ul>
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## External Aids To Interpretation/Construction

### External Aids

- |                           |  |
|---------------------------|--|
| 1. Historical Setting     | 2. Consolidating Statutes & Previous Law   |
| 3. Usage                  | 4. Earlier & Later Acts and Analogous Acts |
| 5. Dictionary Definitions | 6. Use of Foreign Decisions                |

### Question & Answers

#### Introduction to various Terms

##### Question 1

LDR

**Differentiate between interpretation and construction. (MTP 4 Marks, March 21, March 18, PYP 4 Marks May'24)**

##### Answer 1

**'Construction'** as applied to a written statute or document means to determine from its known elements its true meaning or the intention of its framers. Construction involves drawing conclusions beyond the actual expressions used in the text. This is done by referring to other parts of the enactment and the context in which the law was made. Thus, when you construe a statute you are attempting to ascertain the intention of the legislature.

##### **Difference between Interpretation and Construction:**

It would also be worthwhile to note, at this stage itself, the difference between the terms **'Interpretation'** and **Construction**. While more often the two terms are used interchangeably to denote a process adopted by the courts to ascertain the meaning of the legislature from the words with which it is expressed, these two terms have different connotations.

Interpretation is the art of ascertaining the meaning of words and the true sense in which the author intended that they should be understood.

It is the drawing of conclusions from a statute that lie beyond the direct expression of the words used therein. [*Bhagwati Prasad Kedia v. C.I.T., (2001)*]

It is the duty of the courts to give effect to the meaning of an Act when the meaning can be equitably gathered from the words used. Words of legal import occurring in a statute which have acquired a definite and precise sense, must be understood in that sense. (*State of Madras v. Gannon Dunkerly Co. AIR 1958*)

Thus, where the Court adheres to the plain meaning of the language used by the legislature, it would be 'interpretation' of the words, but where the meaning is not plain, the court has to decide whether the wording was meant to cover the situation before the court. Here, the court would be resorting to 'construction'. Conclusions drawn by means of construction are within the spirit though not necessarily within the letter of the law. In practice construction includes interpretation and the terms are frequently used synonymously.

##### Question 2

**Explain the principles of "Grammatical Interpretation" and "Logical Interpretation" of a Statute.**

OR

**Explain the "grammatical" and "logical" interpretation and state the situations where the courts adopt them while interpreting the Statutes in India. (MTP March'19, March '21 & Sep'22, 3 Marks, PYP 3 Marks Nov'22, Old & New SM)**

##### Answer 2

**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. In other words, the emphasis in grammatical interpretation



is on “what the law says” and the logical interpretation seeks on the other hand, seeks to ascertain “ what the law means”.

**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.

The Court shall administer the law as it stands and shall not attempt an alternative interpretation based on logic that is ostensibly just or reasonable.

However, if there are two possible constructions of a clause, the Courts may prefer the logical construction.

### Question 3

**Define Grammatical Interpretation. What are the exceptions to grammatical interpretation? (MTP 4 Marks Oct 21, Old & New SM, PYP May '18 ,4 Marks)**

#### Answer 3

**Grammatical Interpretation and its exceptions:** ‘Grammatical interpretation’ concerns itself exclusively with the verbal expression of the law, it does not go beyond the letter of the law. In all ordinary cases, ‘grammatical interpretation’ is the sole form allowable. The Court cannot take from or add to modify the letter of the law.

This rule, however, is subject to some exceptions:

- (i) Where the letter of the law is logically defective on account of ambiguity, inconsistency or incompleteness. As regard the defect to ambiguity, the Court is under a duty to travel beyond the letter of the law so as to determine from the other sources the true intention of the legislature. In the case of the statutory expression being defective on account of inconsistency, the court must ascertain the spirit of the law.
- (ii) If the text leads to a result which is so unreasonable that it is self-evident that the legislature could not mean what it says, the court may resolve such impasse by inferring logically the intention of the legislature.

### Classification of Interpretation

### Question 4

**What are the differences between interpretation and construction in the legal context, and how do these two concepts relate to each other as per Interpretation of Statute? (MTP Dec'24 4 Marks) (Chapter Interpretation of Statutes)**

#### Answer 4

##### **Difference and Relationship between Interpretation and Construction**

The two terms- ‘Interpretation’ and ‘Construction’, are used interchangeably to denote a process adopted by the courts to ascertain the meaning of the legislature from the words with which it is expressed, these two terms have different connotations.

Interpretation is the art of ascertaining the meaning of words and the true sense in which the author intended that they should be understood.

Thus, where the Court adheres to the plain meaning of the language used by the legislature, it would be ‘interpretation’ of the words, but where the meaning is not plain, the court has to decide whether the wording was meant to cover the situation before the court. Here, the court would be resorting to ‘construction’. Conclusions drawn by means of construction are within the spirit though not necessarily within the letter of the law.

In practice construction includes interpretation and the terms are frequently used synonymously.



## Question 5

**Explain the rule which suggests that the 'Plain word requires no explanation' and 'Technical words be understood in technical sense only'. (PYP 4 Marks Sep'24)**

**Answer 5****Rule that suggests 'Plain Word requires no explanation'**

This Rule is called "Rule of Literal Construction".

It is a cardinal rule of construction that a statute must be construed literally and grammatically giving the words their ordinary and natural meaning. Therefore, the language used in the statute must be construed in its grammatical sense. The correct course is to take the words themselves and arrive if possible, at their meaning without reference to cases, in the first instance.

If the phraseology of a statute is clear and unambiguous and capable of one and only one interpretation, then it would not be correct to extrapolate these words out of their natural and ordinary sense. When the language of a statute is plain and unambiguous it is not open to the courts to adopt any other hypothetical construction simply with a view to carrying out the supposed intention of the legislature.

This principle is contained in the Latin maxim "absoluta sententia expositore non indiget" which literally means "an absolute sentence or preposition needs not an expositor". In other words, plain words require no explanation.

Sometimes, occasions may arise when a choice has to be made between two interpretations— one narrower and the other wider or bolder. In such a situation, if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one.

**Technical words are to be understood in a Technical sense only**

This point of literal construction is that technical words are understood in the technical sense only. In construing the word 'practice' in the Supreme Court Advocates Act, 1951, it was observed that practice of law generally involves the exercise of both the functions of acting and pleading on behalf of a litigant party. When legislature confers upon an advocate the right to practice in a court, it is legitimate to understand that expression as authorizing him to appear and plead as well as to act on behalf of suitors in that court. (Ashwini Kumar Ghose v. Arabinda Bose AIR 1952 SC 369).

## Question 6



**Vivit, a director of the company, not being personally concerned or interested, financially or otherwise, in a matter of a proposed motion placed before the Board Meeting, did not disclose his interest although he has knowledge that his sister is interested in that proposal. He resists from making any disclosure of his interest on the presumption that he is not required by law to disclose any interest as he is not personally interested or concerned in the proposal. He made his presumption relying on the 'Rule of Literal Construction'. Explaining the scope of interpretation under this rule in the given situation, decide whether the decision of Vivit is correct? (MTP 3 Marks March '23 & Sep '23, PYP 3 Marks Jan '21)**

**Answer 6****Rule of Literal Construction**

Normally, where the words of a statute are in themselves clear and unambiguous, then these words should be construed in their natural and ordinary sense and it is not open to the court to adopt any other hypothetical construction. This is called the rule of literal construction.

This principle is contained in the Latin maxim "absoluta sententia expositore non indiget" which literally means "an absolute sentence or preposition needs not an expositor". In other words, plain words require no explanation.

Sometimes, occasions may arise when a choice has to be made between two interpretations — one narrower and the other wider or bolder. In such a situation, if the narrower interpretation would fail to achieve the manifest purpose of the legislation, one should rather adopt the wider one.

When we talk of disclosure of 'the nature of concern or interest, financial or otherwise' of a director or the



manager of a company in the subject-matter of a proposed motion (as referred to in section 102 of the Companies Act, 2013), we have to interpret in its broader sense of referring to any concern or interest containing any information and facts that may enable members to understand the meaning, scope and implications of the items of business and to take decisions thereon. What is required is a full and frank disclosure without reservation or suppression, as, for instance where a son or daughter or father or mother or brother or sister is concerned in any contract or matter, the shareholders ought fairly to be informed of it and the material facts disclosed to them. Here a restricted narrow interpretation would defeat the very purpose of the disclosure.

In the given question, Vivit (a director) did not disclose his interest in a matter placed before the Board Meeting (in which his sister has interest), as he is not personally interested or concerned in the proposal. Here, he ought to have considered broader meaning of the provision of law; and therefore, even though he was personally not interested or concerned in the proposal, he should have disclosed the interest.

### Primary Rule-Rule of Harmonious Construction

#### Question 7

**Explain the meaning of 'Without Prejudice' as a Harmonious aid to interpretation of statutes. Support your answer with the help of an example. (RTP Nov '23)**

#### Answer 7

##### Without prejudice

When certain particular provisions follow general provisions and when it is stated that the particular provisions are without prejudice to those general provisions, the particular provisions would not restrict or limit the operation and generality of the preceding general provisions. In other words, the particular provisions shall operate in addition to and not in derogation of the general provisions.

Example: Section 4(3) of the Companies Act, 2013, "Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains....." This implies that while registering (and deciding) the name of the company [as per section 4(3)], provisions of section 4(2) shall also be operative.

#### Question 8

**Imagine you are a legal advisor for a company drafting a new contract. One of the clauses in the contract states: "Notwithstanding anything contained in any other provisions of this agreement, the company reserves the right to terminate the agreement without notice if there is a breach of confidentiality by the employee." Explain to the management of the company the meaning of a non-obstante clause in legal documents and its effect on overriding other provisions with reference to decided case law. (Chapter 14: Interpretation of Statutes) (RTP Sep'24)**

#### Answer 8

A clause that begins with the words "notwithstanding anything contained" is called a non-obstante clause. Unlike the "subject to" clause, the notwithstanding clause has the effect of making the provision prevail over others. When this term is used then the clause will prevail over the other provision(s) mentioned therein. (K. Parasurammaiah v. Pakari Lakshman AIR 1965 AP 220).

In conclusion, a non-obstante clause plays a crucial role in legal drafting by ensuring that the specified provision prevails over conflicting provisions, thereby enhancing legal certainty and consistency in judicial interpretation.

#### Question 9

**Explain the term "Generali specialibus non derogant", in connection with Interpretation of Statutes. (PYP 4 Marks May'24)**

#### Answer 9

It is a basic rule of interpretation that if it is possible to avoid a conflict between two provisions on a proper



construction thereof, then it is the duty of the court to so construe them that they are in harmony with each other. But where it is not possible to give effect to both the provisions harmoniously, collision may be avoided by holding that one section which is in conflict with another merely provides for an exception or a specific rule different from the general rule contained in the other. A specific rule will override a general rule. This principle is usually expressed by the maxim, “*generalia specialibus non derogant*”.

However, this rule can be adopted only when there is a real and not merely apparent conflict between provisions, where the words of a statute, on a reasonable construction thereof, admit of one meaning only then such natural meaning will prevail. The court shall not attempt an interpretation based on equity and harmonious construction.

#### Question 10

**A clause that begins with the words ‘notwithstanding anything contained’ is a clause, that has the effect of making the provision prevail over others. It can operate at four levels. Explain any two of them.**

*(PYP 4 Marks Nov’23)*

#### Answer 10

A clause that begins with the words ‘notwithstanding anything contained’ is called a *non- obstante* clause. Unlike the ‘subject to’ clause, the notwithstanding clause has the effect of making the provision prevail over others. When this term is used then the clause will prevail over the other provision(s) mentioned therein. (K. Parasurammaiah Vs. Pakari Lakshman AIR 1965 AP 220)

A notwithstanding clause can operate at four levels.

S. No.	Clause	Effect
1.	Notwithstanding anything contained in another section or sub- section of that statute.	The clause will override such other section(s) / sub-section(s)
2.	Notwithstanding anything contained in a statute.	The clause will override the entire enactment.
3.	Notwithstanding anything contained in specific section(s) or sub-section(s) or all the provisions contained in another statute.	The clause will prevail over the other enactment.
4.	Notwithstanding anything contained in any other law for the time being in force.	The clause will override all other laws.

#### Primary Rule- Rule of Heydons Case/ Mischief Rule

#### Question 11

**Explain the rule in ‘Heydon’s Case’ while interpreting the statutes quoting an example.**

*(MTP 4 Marks March 21, Nov’21, MTP 3 Marks April ’19, SM, PYP 3 Marks Dec’21)*

#### Answer 11

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:

- (1) what was the law before making of the Act,
- (2) what was the mischief or defect for which the law did not provide,
- (3) what is the remedy that the Act has provided, and
- (4) 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. Soda Devi (1957) 32 ITR 615 (SC)*].

### Primary Rule- Rule of Exceptional Construction

#### Question 12

**Differentiate Mandatory Provision from a Directory Provision. What factors decide whether a provision is directory or mandatory? (MTP 3 Marks April 21, PYP May '19 3 Marks, PYP 4 Marks May '18, Old & New SM) (MTP 4 Marks Aug'24)**

#### Answer 12

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 consideration as:

- the nature of the thing empowered to be done,
- the object for which it is done, and
- the person for whose benefit the power is to be exercised

### Primary Rule- Rule of Ejusdem Generis

#### Question 13

**Enumerate when does the rule of Ejusdem Generis apply. (MTP 3 Marks Sep'22)**

#### Answer 13

**The rule of Ejusdem Generis applies when:**

1. The statute contains an enumeration of specific words
2. The subject of enumeration constitutes a class or category
3. That class or category is not exhausted by the enumeration
4. General terms follow the enumeration; and
5. There is no indication of a different legislative intent.

#### Question 14

**Explain in reference to Interpretation of Statutes, the cases where Rule of Ejusdem Generis will not apply. (PYP 3 Marks Nov '22)**

#### Answer 14

**The Rule of Ejusdem Generis will not apply in the following situations:**

1	If the preceding term is general, as well as that which follows this rule cannot be applied.
2	Where the particular words exhaust the whole genus.
3	Where the specific objects enumerated are essentially diverse in character.
4	Where there is an express intention of legislature that the general term shall not be read ejusdem generis the specific terms.



**EXAM INSIGHTS:** Majority of the examinees have not answered correctly the cases where the Rule of Ejusdem Generis will not apply with reference to Interpretation of Statutes. Some of the examinees have written only the meaning of Ejusdem Generis which is not the requirement of the question / or they wrote the answers in a generalized manner.

### Secondary Rule- Doctrine of Noscitur a Sociis

#### Question 15

Define the concept of 'Doctrine of Noscitur a Sociis' with example in accordance with the provisions of the Interpretation of Statutes.

(PYP 3 Marks Nov'23) (MTP 3 Marks May 20, March '22 & Oct '22, PYP 3 Marks Nov 20)

#### Answer 15

**Noscitur a Sociis** means that when two or more words that are susceptible of analogous meaning, are coupled together they are understood to be used in their cognate sense. They take, as it were, their colour from each other, that is the meaning of the more general word being restricted to a sense analogous to that of the less general.

Examples of the principle of Noscitur a Sociis are as follows:

Fresh orange juice is not a fruit juice.

While dealing with a Purchase Tax Act, which used the expression 'manufactured beverages including fruit-juices and bottled waters and syrups'.

It was held that the description 'fruit juices' as occurring therein should be construed in the context of the preceding words and that orange-juice unsweetened and freshly pressed was not within the description. (*Commissioners. Vs. Savoy Hotel*, (1966) 2 All. E.R. 299)

Private Dispensary of a doctor is not a commercial establishment

In dealing with the definition of commercial establishment in section 2 (4) of the Bombay Shops and Establishments Act, 1948, which reads, 'commercial establishment means an establishment which carries on any business, trade or profession', the word 'profession' was construed with the associated words 'business' and 'trade' and it was held that a private dispensary of a doctor was not within the definition. (*Dr. Devendra M. Surti Vs. State of Gujrat*, A.I.R. 1969 SC 63)

**EXAM INSIGHTS:** Majority of the examinees have satisfactorily explained the concept of "Doctrine of Noscitur a Sociis" with example, as per the Interpretation of Statutes.

### Secondary Rule- Doctrine of Contemporanea Expositio

#### Question 16

Explain the Doctrine of Contemporanea Expositio. (PYP 3 Marks, May '23 MTP 4 Marks July'24)

#### Answer 16

Doctrine of Contemporanea Expositio

This doctrine is based on the concept that a statute or a document is to be interpreted by referring to the exposition it has received from contemporary authority. The maxim "Contemporanea Expositio est optima et fortissima in lege" means "contemporaneous exposition is the best and strongest in the law." This means a law should be understood in the sense in which it was understood at the time when it was passed.



This maxim is to be applied for construing ancient statutes, but not to Acts that are comparatively modern.

**Exam Insights :** Most of the examinees have not correctly explained the Doctrine of Contemporanea Expositio. Instead, many examinees explained the Doctrine of Noscitur a Sociis under interpretation of statutes. Many students did not attempt this part of the question.

### Internal Aid- Preamble

#### Question 17

**When can the Preamble be used as an aid to interpretation of a statute? (MTP 4 Marks July'24)**

#### Answer 17

Preamble merely affords help in the matter of construction, if there is an ambiguity in the law.

Courts refer to the preamble as an aid to construction in the following situations:

Situation 1: Where there is any ambiguity in the words of an enactment the assistance of the preamble may be taken to resolve the conflict.

Situation 2: Where the words of an enactment appear to be too general in scope or application then courts may resort to the preamble to determine the scope or limited application for which the words are meant.

#### Question 18

LDR

**When can the Preamble be used as an aid to interpretation of a statute? (MTP 3 Marks April '23, RTP Nov '20, PYP May '19 ,3 Marks, SM, RTP May '22, RTP May '23)**

#### Answer 18

**Preamble:** The Preamble expresses the scope, object and purpose of the Act more comprehensively. The Preamble of a Statute is a part of the enactment and can legitimately be used as an internal aid 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, for example, 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.

Example: Use of the word 'may' in section 5 of the Hindu Marriage Act, 1955 provides that "a marriage may be solemnized between two Hindus....." has been construed to be mandatory in the sense that both parties to the marriage must be Hindus as defined in section 2 of the Act. It was held that a marriage between a Christian male and a Hindu female solemnized under the Hindu Marriage Act was void. This result was reached also having regard to the preamble of the Act which reads: 'An Act to amend and codify the law relating to marriage among Hindus' [GullipoliSowria Raj v. BandaruPavani, (2009)1 SCC714].

### Internal Aid- Heading and Title of a Chapter

#### Question 19

**In what way is 'Heading and Title of a Chapter' considered as internal aid in the interpretation of statutes. (MTP 4 Marks Apr'24)**

#### Answer 19

Heading and Title of a Chapter

If we glance through any Act, we would generally find that a number of its sections referring to a particular subject are grouped together, sometimes in the form of chapters, prefixed by headings and/or Titles. These Heading and Titles prefixed to sections or groups of sections can legitimately be referred to for the purpose



of construing the enactment or its parts.

The headings of different portions of a Statute can be referred to determine the sense of any doubtful expression in a section ranged under any particular heading.

They cannot control the plain meaning of the words of the enactment though, they may, in some cases be looked at in the light of preamble if there is any ambiguity in the meaning of the sections on which they can throw light.

It may be noted that headings may sometimes be referred to know the scope of a section in the same way as the preamble. But a heading cannot control or override a section.

### Internal Aid-Definitional Sections

#### Question 20

Write short notes on the following in understanding definitions while interpreting statutes:

(i) Ambiguous definitions

(ii) Definitions subject to a contrary context (MTP 3 Marks April 22 & March '23) (MTP 4 Marks Dec'24)

#### Answer 20

- (i) Ambiguous definitions: Sometime, we may find that the definition section may itself be ambiguous, and so it may have to be interpreted in the light of the other provisions of the Act and having regard to the ordinary meaning of the word defined. Such type of definition is not to be read in isolation. It must be read in the context of the phrase which it defines, realising that the function of a definition is to give accuracy and certainty to a word or phrase which would otherwise be vague and uncertain but not to contradict it or depose it altogether.
- (ii) Definitions subject to a contrary context: When a word is defined to bear a number of inclusive meanings, the sense in which the word is used in a particular provision must be ascertained from the context of the scheme of the Act, the language of the provision and the object intended to be served thereby.

#### Question 21

How will you interpret the 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. (MTP 3 Marks May 20 & Oct '22 & Oct '23, SM, RTP Nov '22, PYP 3 Marks July '21 MTP 4 Marks Mar'24)

#### Answer 21

**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 22

(i) What is the purpose of inclusion of 'definitions' of certain words and expressions in the body of any statute?



(ii) The definition sometimes includes the words 'mean', 'include', 'means and include' and 'to apply to and include'. What is the meaning of such words? (PYP 4 Marks Sep'24)

#### Answer 22

##### (i) Purpose of inclusion of 'definition' of certain words and expressions in the body of any statute

The legislature has the power to embody in a statute itself the definitions of its language and it is quite common to find in the Statutes 'definitions' of certain words and expressions used in the body of the statute. When a word or phrase is defined as having a particular meaning in the enactment, it is that meaning alone which must be given to it in interpreting a Section of the Act unless there be anything repugnant in the context. This is called an exhaustive definition. The Court cannot ignore an exhaustive statutory definition and try and extract what it considers to be the true meaning of the expression independently of it. The purpose of a definition clause is two-fold: (i) to provide a key to the proper interpretation of the enactment, and (ii) to shorten the language of the enacting part by avoiding repetition of the same words contained in the definition part every time the legislature wants to refer to the expressions contained in the definition.

##### (ii) Restrictive and extensive 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.

We may also find a word being defined as 'means and includes' such and such. In this case, the definition would be exhaustive.

On the other hand, if the word is defined 'to apply to and include', the definition is understood as extensive.

#### Internal Aid- Proviso

STRIVING TOWARDS KNOWLEDGE

#### Question 23

Write short note on: Proviso with reference to interpretation of Statutes, Deeds and Documents (MTP 3 Marks March '22, PYP Nov'18 ,4 Marks, MTP 4 Marks Aug'24, MTP 3 Marks April 21, PYP 3 Marks May'22)

#### Answer 23

**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.

#### Question 24

What is the effect of proviso? Does it qualify the main provisions of the enactment? Explain it with reference to Interpretation of Statutes. (MTP 4 Marks Nov'24)

#### Answer 24

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. Usually, a proviso is embedded in the main body of the section and becomes an integral part of it.

The effect of the proviso is to qualify the preceding enactment which is expressed in terms which are too general.



It is a cardinal rule of interpretation that a proviso or exception 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).

### Internal Aid- Explanation

#### Question 25

Write short note on:

(i) Explanation, with reference to interpretation of Statutes, Deeds and Documents.

(MTP 3 Marks March '22, PYP Nov'18 ,4 Marks, MTP 4 Marks Aug'24, MTP 3 Marks April 21, Apr'23, SM, MTP 3 Marks Nov 21, PYP 3 Marks May '22)

#### Answer 25

**Explanation:** 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.

The meaning to be given to an explanation will really depend upon its terms and not on any theory of its purpose.

#### Question 26

Does an explanation added to a section widen the ambit of a section? (MTP 4 Marks Nov'24)

#### Answer 26

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 the ambiguity in the main section. Something may be added 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.

### Internal Aid- Reading Statute as a Whole

#### Question 27

What does the principle of "reading the statute as a whole" imply in the interpretation of statutes? Explain with the help of an example. (RTP May '24 MTP 4 Marks Apr'24)

or

The 'Statute should be read as a Whole'. Explain the statement. (RTP Nov-18)

#### Answer 27

It is the elementary principle that construction of a statute is to be made of all its parts taken together and not of one part only. The deed must be read as a whole in order to ascertain the true meaning of its several clauses, and the words of each clause should be so interpreted as to bring them into harmony with other provisions – if that interpretation does no violence to the meaning of which they are naturally susceptible. And the same approach would apply with equal force with regard to Acts and Rules passed by the legislature.

One of the safest guides to the construction of sweeping general words is to examine other words of like import in the same enactment or instrument to see what limitations must be imposed on them. If we find that a number of such expressions have to be subjected to limitations and qualifications and that such limitations and qualifications are of the same nature, that circumstance forms a strong argument for subjecting the expression in dispute to a similar limitation and qualification.

Example: If one section of an Act requires 'notice' should be given, then a verbal notice would generally be



sufficient. But, if another section provides that 'notice' should be 'served' on the person or 'left' with him, or in a particular manner or place, then it would obviously indicate that a written notice was intended.

### External Aid- Historical Setting

#### Question 28

In what way are the following terms considered as external aid in the interpretation of statutes:

**Historical Setting** (MTP 3 Marks Oct'22 & Oct '23, PYP 3 Marks Dec'21 & July '21 MTP 4 Marks Mar'24)

#### Answer 28

**Historical Setting:** The history of the external circumstances which led to the enactment in question is of much significance in construing any enactment. We have, for this purpose, to take help from all those external or historical facts which are necessary in the understanding and comprehension of the subject matter and the scope and object of the enactment. History in general and Parliamentary History in particular, ancient statutes, contemporary or other authentic works and writings all are relevant in interpreting and construing an Act.

### External Aid- Usage

#### Question 29

LDR

At the time of interpreting statutes what will be the effect of 'Usage' or 'Practice'? (MTP 3 Marks Oct 20, PYP Nov '19, 3 Marks, SM, RTP May 21 & RTP Nov 21 PYP 3 Marks Nov'23) (RTP Jan'25)

#### Answer 29

**Effect of usage:** Usage or practice developed under the statute is indicative of the meaning recognized to its words by contemporary opinion. A uniform notorious practice continued under an old statute and inaction of the Legislature to amend the same are important factors to show that the practice so followed was based on correct understanding of the law. When the usage or practice receives judicial or legislative approval it gains additional weight.

In this connection, we have to bear in mind two Latin maxims:

- (i) 'Optima Legum interpretest consuetude' (the custom is the best interpreter of the law); and
- (ii) 'Contemporanea exposito est optima et fortissinia in lege' (the best way to interpret a document is to read it as it would have been read when made).

Therefore, the best interpretation/construction of a statute or any other document is that which has been made by the contemporary authority. Simply stated, old statutes and documents should be interpreted as they would have been at the time when they were enacted/written.

Contemporary official statements throwing light on the construction of a statute and statutory instruments made under it have been used as *contemporanea exposition* to interpret not only ancient but even recent statutes in India.

### External Aid- Dictionary Definitions

#### Question 30

What is External Aid to interpretation? Explain how the Dictionary definitions are the External Aids to Interpretations? (PYP 3 Marks Jan 21) (MTP 3 Marks Sep '23)

#### Answer 30

External aids are the factors that help in interpreting/construing an Act and have been given the convenient nomenclature of 'External Aids to Interpretation'. Apart from the statute itself there are many matters which may be taken into account when the statute is ambiguous. These matters are called external aids.

**Dictionary Definitions:** Dictionary Definitions is one of the External Aids to interpretation. First we have to refer to the Act in question to find out if any particular word or expression is defined in it. Where we find



that a word is not defined in the Act itself, we may refer to dictionaries to find out the general sense in which that word is commonly understood. However, in selecting one out of the several meanings of a word, we must always take into consideration the context in which it is used in the Act. It is the fundamental rule that the meanings of words and expressions used in an Act must take their colour from the context in which they appear. Further, judicial decisions laying down the meaning of words in construing statutes in 'pari materia' will have greater weight than the meaning furnished by dictionaries. However, for technical terms reference may be made to technical dictionaries.

### External Aid- Use of Foreign Decisions

#### Question 31

**In what way are the following terms considered as external aid in the interpretation of statutes:**

**Use of Foreign Decisions (MTP 3 Marks Oct'22 & Oct '23, PYP 3 Marks Dec'21 & July '21) (MTP 4 Marks Mar'24)**

#### Answer 31

**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.

### Construction of Deeds & Documents

#### Question 32

**Vivit Limited has entered into a contract with Su Limited. 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? (MTP 3 Marks April 22, Old & New SM)**

#### Answer 32

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.



## Multiple Choice Questions (MCQs)

### Introduction to various Terms

1. Formal legal documents which create or confirm a right or record a fact is a— (MTP 1 Mark April 21, MTP 1 Mark May'20)

- (a) Document
- (b) Deed
- (c) Statute
- (d) Instrument

Ans: (d)

2. .... interpretation concerns itself with “what the law says” and ..... interpretation, seeks to ascertain “what the law means”. (RTP May '22)

- (a) Grammatical, Logical
- (b) Legal, usual
- (c) Usual, legal
- (d) Logical, grammatical

Ans: (a)

3. Statutory interpretation is a practice through which the courts break down the words of a legislation and give true intent to it. While the legislature makes the laws, the judiciary performs the art of interpretation to give meaning to the words of the law maker. It is correctly said that “The purpose of Interpretation of Statutes is to help the Judge to ascertain the intention of the Legislature – not to control that intention or to confine it within the limits, which the Judge may deem reasonable or expedient”. For interpretation of statutes various tools are used, you are required to pick the option depicting correct sequence of tools in order their application. (MTP 1 Mark Sep '23)

- (a) Internal Aids to Construction, External Aids to Constructions, and Literal Construction
- (b) Literal Construction, Internal Aids to Construction, and External Aids to Constructions
- (c) Internal Aids to Construction, Literal Construction, and External Aids to Constructions
- (d) External Aids to Constructions, Internal Aids to Construction, and Literal Construction

Ans: (b)

### Primary Rule-Rule of Literal Construction

4. According to the rule, the words of the statute are to be given their plain and ordinary meaning. — (MTP 1 Mark Oct 21 & March '22)

- (a) Literal rule
- (b) Golden rule
- (c) Natural rule
- (d) Mischief rule

Ans : (a)

5. When the law is clear and unambiguous the court shall construe the meaning of a provision based on strict ..... (MTP 1 Mark April 22)

- (a) grammatical meaning
- (b) logical meaning
- (c) alternative interpretation
- (d) hypothetical meaning

Ans: (a)

6. As per Rule of Literal Construction, Technical words are to understood in: (MTP 1 Mark March '23)

- (a) Normal sense
- (b) Ordinary sense
- (c) Technical sense
- (d) Legal sense

Ans: (c)

### Primary Rule-Rule of Harmonious Construction

7. When there is a conflict between two or more statutes or two or more parts of a statute then which rule is applicable: (MTP 1 Mark Oct 21, March '22, Mar'19, Sep'22 & Oct '23, SM)



- (a) Welfare construction
- (b) Strict construction
- (c) Harmonious construction
- (d) Mischief Rule

**Ans: (c)**

**8. A clause that begins with the words 'Notwithstanding anything contained' is called:**

*(MTP 1 Mark March '23, RTP Nov'22)*

- (a) An obstacle clause
- (b) A non- obstante clause
- (c) An objectionable clause
- (d) A superior clause

**Ans: (b)**

#### Primary Rule- Rule of Heydons Case/ Mischief Rule

**9. The Rule in Heydon's case is also known as** *(MTP 1 Mark March 21, March 22, SM)*

- (a) Purposive construction
- (b) Mischief Rule
- (c) Golden Rule
- (d) None of the Above

**Ans: (b)**

**10. Doctrine of Mischief Rule was given under:** *(MTP 1 Mark April '23)*

- (a) Foss vs. Harbottle
- (b) Thomson vs. Clan Morris
- (c) Foster vs. DiphwysCasson
- (d) Heydon's Case

**Ans: (d)**

#### Secondary Rule- Doctrine of Noscitur a Sociis

**11. According to \_\_\_\_\_ rule of interpretation, meaning of words should be known from its accompanying or associated words.** *(MTP 1 Mark April 22)*

- (a) Mischief rule
- (b) Primary Rule
- (c) Noscitur a Sociis
- (d) Golden Rule

**Ans: (c)**

**12. means that when two or more words that are susceptible of analogous meaning, are coupled together they are understood to be used in their cognate sense.** *(MTP 1 Mark Oct'22 , April '23 & Oct '23)*

- (a) Noscitur a Sociis
- (b) Contemporanea Expositio
- (c) prima facie
- (d) absoluta sententia expositore non indigent

**Ans: (a)**

#### Internal Aid- Preamble

**13. An aid that expresses the scope, object and purpose of the Act—** *(MTP 1 Mark, April'19, Apr'21, RTP Nov'20)*

- (a) Title of the Act
- (b) Heading of the Chapter
- (c) Preamble
- (d) Definitional sections

**Ans: (c)**

**14. The preamble is most important in any legislation, it:** *(MTP 1 Mark April 22, May'20 & Oct '23)*

- (a) Provides definitions in the Act.
- (b) Expresses scope, object and purpose of the Act.



- (c) Provides summary of the entire Act.
- (d) provides side notes often found at the side of a section.

**Ans: (b)**

#### Internal Aid- Explanation

**15. An internal aid that may be added to include something within the section or to exclude something from it, is— (MTP 1 Mark, April'19, Apr'22 & Sep '23, SM)**

- (a) Proviso
- (b) Explanation
- (c) Schedule
- (d) Illustrations

**Ans: (b)**

#### External Aid- Historical Setting

**16. Regal Textiles, a well-established fabric manufacturing company, has been operating under the Textile Regulations Act of 1980 for several decades. Over the years, various provisions of this Act have been subject to interpretation by both the company and the industry at large. One such provision pertains to the definition of "sustainable practices," which has been a point of contention. "Sustainable practices" to include the use of organic materials and recycling waste products. This interpretation has been widely accepted and acted upon without any legal challenges.**

**Recently, a new regulatory body has argued that "sustainable practices" should be strictly defined to include only carbon-neutral processes, excluding the use of non-organic recycled materials. This new interpretation has created confusion and potential compliance issues for Regal Textiles, which has long adhered to the established understanding of the term. He prepares to argue that the long-standing interpretation of "sustainable practices" should be upheld. What principle will Mr. Kumar likely rely on to argue against the new interpretation proposed by the regulatory body? (RTP Sep'24)**

- (a) The principle of judicial activism.
- (b) The principle of strict construction.
- (c) The principle of historical usage.
- (d) The principle of prospective overruling.

**Ans: (c)**

#### External Aid- Usage

**17. Pick the odd one out of the following aids to interpretation — (MTP 1 Mark March 21, March 22, March '23, Oct'22 & Oct '23)(New SM)**

- (a) Preamble
- (b) Marginal Notes
- (c) Proviso
- (d) Usage

**Ans: (d)**

#### External Aid- Dictionary Definitions

**18. Which among the following is an External Aid to interpretation: (MTP 1 Mark April '23)**

- (a) Illustrations
- (b) Dictionary
- (c) Proviso clause
- (d) Title

**Ans: (b)**

## CHAPTER 15: THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999

CONCEPTS OF THIS CHAPTER		 <b>LDR Questions</b> Q 9      Q 18 Q 15     Q 27
• Sec 2(h)- Currency	• Sec 2(n)- Foreign Exchange	
• Sec 2(v)- Person Resident in India	• Sec 3- Dealing in Foreign Exchange	
• Current Account Transactions- Schedule I Transactions for which withdrawal of foreign exchange is prohibited		
• Current Account Transactions- Schedule II Transactions which require Govt of India Approval		
• Current Account Transactions-Schedule III Transactions which require RBI Approval		
• Sec 6- Capital Account Transactions	• Capital Account Transactions- Prohibited Transactions	

### QUICK REVIEW OF IMPORTANT CONCEPTS

**Capital Account Transactions-** A transaction which alters- assets or liabilities, including contingent liabilities, outside India of persons resident in India or assets or liability in India of persons resident outside India.

#### Current Account Transaction

- means a transaction (other than a capital account transaction) and without prejudice to the generality of the foregoing such transaction includes,
- payments due in connection with foreign trade, other current business, services, and short-term banking and credit facilities in the ordinary course of business.
- payments due as interest on loans and as net income from investments.
- remittances for living expenses of parents, spouse and children residing abroad, and
- expenses in connection with foreign travel, education and medical care of parents, spouse and children;

#### Person Resident in India

- a person residing in India for more than 182 days in the PFY but does not include—
  - a person who has gone out of India / who stays outside India, in either case for—
    - employment outside India, or
    - business or vocation outside India, or
    - for any other purpose, for an uncertain period;
  - a person who has come to / stays in India, in either case, otherwise than for:
    - employment in India, or
    - business or vocation in India, or
    - for any other purpose, for an uncertain period;
- any person or body corporate registered or incorporated in India,
- an office, branch or agency in India owned or controlled by a person resident outside India,
- an office, branch or agency outside India owned or controlled by a person resident in India;

#### Determination of Residential Status

**During the relevant previous year did he reside in India for more than 182 days**

Yes

No



Did he go out or stay outside India during the current year?

**No – Person Resident in India (PRII)**

Did he go out or stay outside India during the current year?

Yes

Employment, Business, any purpose for uncertain period?

**Yes – PROI NO - PRII**

Did he come to or stay in India during the current year?

**No - Person Resident outside India (PROI)**

Employment, Business, any purpose for uncertain period?

**Yes – PRII No - PROI**

## Current Account Transactions

### Schedule I

- (i) Remittance out of lottery winnings.
- (ii) Remittance of income from racing/riding, etc., or any other hobby.
- (iii) Remittance for purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes etc.
- (iv) Payment of commission on exports made towards equity investment in Joint Ventures/ Wholly Owned Subsidiaries abroad of Indian companies.
- (v) Remittance of dividend by any company to which the requirement of dividend balancing is applicable.
- (vi) Payment of commission on exports under Rupee State Credit Route, except commission up to 10% of invoice value of exports of tea and tobacco.
- (vii) Payment related to "Call Back Services" of telephones.
- (viii) Remittance of interest income on funds held in Non-resident Special Rupee Scheme a/c.

### Schedule II

**Transactions which require RBI's prior approval for drawal of foreign exchange:**

Purpose of Remittance	Ministry/Department of Govt. of India whose approval is required
Cultural Tours	Ministry of Human Resources Development (Department of Education and Culture)
Advertisement in foreign print media for the purposes other than promotion of tourism, foreign investments and international bidding (exceeding US\$ 10,000) by a State Government and its Public Sector Undertakings	Ministry of Finance, Department of Economic Affairs
Remittance of freight of vessel chartered by a PSU	Ministry of Surface Transport (Chartering Wing)
Payment of import through ocean transport by a Govt. Department or a PSU on c.i.f. basis (i.e., other than f.o.b. and f.a.s. basis)	Ministry of Surface Transport (Chartering Wing)
Multi-modal transport operators making remittance to their agents abroad	Registration Certificate from the Director General of Shipping
Remittance of hiring charges of transponders by	Ministry of Information and Broadcasting
(a) TV Channels	Ministry of Communication and Information Technology.
(b) Internet service providers	Ministry of Surface Transport (Director General of Shipping)
Remittance of container detention charges exceeding the rate prescribed by Director General of Shipping	
Remittance of prize money/ sponsorship of sports activity abroad by a person other than International/ National/ State Level sports bodies, if the amount involved exceeds US \$ 100,000	Ministry of Human Resource Development (Department of Youth Affairs and Sports)
Remittance for membership of P & I Club	Ministry of Finance (Insurance Division)

### Schedule III

**Transactions which require RBI's prior approval for drawal of foreign exchange:**



### Facilities for individuals

Individuals can avail of foreign exchange facility for the following purposes within the limit of USD 250,000 only:

- (i) Private visits abroad (except Nepal & Bhutan)
- (ii) Gifts or donations
- (iii) Employment abroad
- (iv) Emigration
- (v) Maintenance of close relatives abroad
- (vi) Business travel, conferences, training, medical expenses, or accompanying a patient
- (vii) Medical treatment abroad
- (viii) Studies abroad
- (ix) Other current account transactions

Any additional remittance in excess shall require prior approval of the Reserve Bank of India.

for the item numbers (iv), (vii) and (viii) above, the individual may avail of exchange facility for an amount in excess of the limit prescribed if it is so required by a country of emigration, medical institute offering treatment or the university, respectively.

### Facilities for persons other than individual

following remittances by persons other than individuals shall require prior approval of the Reserve Bank of India:

- (i) Donations exceeding 1% of foreign exchange earnings (last 3 years) or USD 5M (whichever is less) for:
  - Chairs in reputed educational institutes
  - Non-investment funds of educational institutes
  - Contributions to technical institutions/bodies in the donor company's field
- (ii) Agent commission abroad for selling Indian residential/commercial property exceeding USD 25K or 5% of inward remittance (whichever is more).
- (iii) Remittances exceeding:
  - USD 10M per infrastructure consultancy project
  - USD 1M per other consultancy project
- (iv) Reimbursement of pre-incorporation expenses exceeding 5% of investment or USD 100K (whichever is higher).

### Capital Account Transactions

PRII As per Section 6(4) MAY	PROI As per Section 6(5) MAY
Hold, Own, Transfer Or Invest In Foreign Currency, Foreign Security Or Any Immovable Property Situated Outside India	Hold, Own, Transfer Or Invest In Indian Currency, Security Or Any Immovable Property Situated In India
IF	IF
The Same Was Acquired, Held Or Owned By Such Person When He Was PROI Or Inherited From A PROI	The Same Was Acquired, Held Or Owned By Such Person When He Was PRII Or Inherited From A PRII

### Schedule

#### I. Permissible Transactions

##### SCHEDULE I

The list of permissible classes of transactions made by persons resident in India is:

- (a) Investment by a person resident in India in foreign securities.
- (b) Foreign currency loans raised in India and abroad by a person resident in India.
- (c) Transfer of immovable property outside India by a person resident in India.
- (d) Guarantees issued by a person resident in India in favour of a person resident outside India.
- (e) Export, import and holding of currency/currency notes.
- (f) Loans and overdrafts (borrowings) by a person resident in India from a person resident outside India.

##### SCHEDULE II

The list of permissible classes of transactions made by persons resident outside India is:

- (a) Investment in India by a person resident outside India, that is to say,
  - (i) issue of security by a body corporate or an entity in India and investment therein by a person resident outside India; and
  - (ii) investment by way of contribution by a person resident outside India to the capital of a firm or a proprietorship concern or an association of a person in India.
- (b) Acquisition and transfer of immovable property in India by a person resident outside India.
- (c) Guarantee by a person resident outside India in favour of, or on behalf of, a person resident in India.



- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>(g) Maintenance of foreign currency accounts in India and outside India by a person resident in India.</li> <li>(h) Taking out of insurance policy by a person resident in India from an insurance company outside India.</li> <li>(i) Loans and overdrafts by a person resident in India to a person resident outside India.</li> <li>(j) Remittance outside India of capital assets of a person resident in India.</li> <li>(k) Undertake derivative contracts</li> </ul> | <ul style="list-style-type: none"> <li>(d) Import and export of currency/currency notes into/ from India by a person resident outside India.</li> <li>(e) Deposits between a person resident in India and a person resident outside India.</li> <li>(f) Foreign currency accounts in India of a person resident outside India.</li> <li>(g) Remittance outside India of capital assets in India of a person resident outside India.</li> <li>(h) Undertake derivative contracts</li> </ul> |
|--|--|

#### Prohibited Transactions

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>(a) No person shall undertake or sell or draw foreign exchange to or from an authorised person for any capital account transaction-</li> </ul>   | <ul style="list-style-type: none"> <li>(i) ,a resident individual may, draw from an authorized person foreign exchange not exceeding USD 250,000 per financial year or such amount as decided by Reserve Bank from time to time for a capital account transaction specified in Schedule I.</li> <li>(ii) Where the drawal of foreign exchange by a resident individual for any capital account transaction specified in Schedule I exceeds USD 250,000 per financial year, or as decided by Reserve Bank from time to time as the case may be, the limit specified in the regulations relevant to the transaction shall apply with respect to such drawal.</li> </ul> |
| <ul style="list-style-type: none"> <li>b) The person resident outside India is prohibited from making investments in India in any form, in any company, or partnership firm or proprietary concern or any entity whether incorporated or not which is engaged or proposes to engage:</li> </ul>   | <ul style="list-style-type: none"> <li>(i) In the business of chit fund</li> <li>(ii) (As Nidhi company;</li> <li>(iii) In agricultural or plantation activities;</li> <li>(iv) In real estate business, or construction of farm houses or</li> <li>(v) In trading in Transferable Development Rights</li> </ul>  |
| <ul style="list-style-type: none"> <li>(c) No person resident in India shall undertake any capital account transaction which is not permissible in terms of Order S.O. 1549(E) dated April 21, 2017, as amended from time to time, of the Government of India, Ministry External Affair</li> </ul>  | <ul style="list-style-type: none"> <li>with any person who is, a citizen of or a resident of Democratic People's Republic of Korea, or an entity incorporated or otherwise, in Democratic People's Republic of Korea, until further orders, unless there is specific approval from the Central Government to carry on any transaction</li> </ul>  |
| <ul style="list-style-type: none"> <li>(d) The existing investment transactions, with any person who is, a citizen of or resident of Democratic People's Republic of Korea, or an entity incorporated or otherwise in Democratic People's Republic of Korea, or any existing representative office or other assets possessed in Democratic People's Republic of Korea, by a person resident in India, which is not permissible in terms of Order S.O. 1549(E) dated April 21, 2017, as amended from time to time, of the Government of India, Ministry of External Affairs .</li> </ul> | <ul style="list-style-type: none"> <li>shall be closed/ liquidated/disposed/settled within a period of 180 days from the date of issue of this Notification, unless there is specific approval from the Central Government to continue beyond that period."</li> </ul>  |

#### Question & Answers

##### Sec 2(c)- Authorized Person

##### Question 1

**Explain the meaning of the followings terms as defined under the Foreign Exchange Management Act, 1999:**  
**(i) authorized person (MTP 2 Marks Dec'24)**



### Answer 1

According to section 2(c) of the Foreign Exchange Management Act, 1999, Authorised person means an authorised dealer, money changer, off- shore banking unit or any other person for the time being authorised under section 10(1) to deal in foreign exchange or foreign securities.

## Sec 2(h)- Currency

### Question 2

Explain the meaning of term 'currency' as per the provisions of the Foreign Exchange Management Act, 1999. (MTP 2 Marks July'24, Dec'24)

### Answer 2

#### Currency

According to section 2(h) of the Foreign Exchange Management Act, 1999, 'Currency' includes all currency notes, postal notes, postal orders, money orders, cheques, drafts, travelers' cheques, letters of credit, bills of exchange and promissory notes, credit cards or such other similar instruments, as may be notified by the Reserve Bank.

## Sec 2(j)- Current Account Transaction

### Question 3

Explain the meaning of term 'Current Account transactions' as defined under the Foreign Exchange Management Act, 1999. (MTP 4 Marks Nov'24)

### Answer 3

According to section 2(j) of the Foreign Exchange Management Act, 1999, 'Current Account transaction' means a transaction other than a capital account transaction and without prejudice to the generality of the foregoing such transaction includes,

- (i) payments due in connection with foreign trade, other current business, services, and short-term banking and credit facilities in the ordinary course of business.
- (ii) payments due as interest on loans and as net income from investments.
- (iii) remittances for living expenses of parents, spouse and children residing abroad, and
- (iv) expenses in connection with foreign travel, education and medical care of parents, spouse and children.

## Sec 2(n)- Foreign Exchange

### Question 4

Explain the meaning of term 'Foreign Exchange' as per the provisions of the Foreign Exchange Management Act, 1999. (MTP 4 Marks Aug'24)

### Answer 4

According to section 2(n) of the Foreign Exchange Management Act, 1999, 'foreign exchange' means foreign currency and includes:

- (i) deposits, credits and balances payable in any foreign currency,
- (ii) drafts, travelers' cheques, letters of credit or bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency,
- (iii) drafts, travelers' cheques, letters of credit or bills of exchange drawn by banks, institutions or persons outside India, but payable in Indian currency.

## Sec 2(v)- Person Resident in India

### Question 5

Ms. Milap had resided in India for 182 days in the financial year 2019-20. She went to UK on 1st April, 2020 and returned to India on 1st July, 2021 on an employment contract in India for a year. She completed her



contract and immediately left India. Under Section 2(v) of FEMA 1999, determine the residential status of Milap for the financial years:

- (i) 2020-21
- (ii) 2021-22 (MTP 6 Marks, Sep '22)

#### Answer 5

As per Section 2(v) of the Foreign Exchange Management Act, 1999, "Person Resident in India" means: a person residing in India for more than 182 days during the course of the preceding financial year but does not include—

- (A) a person who has gone out of India or who stays outside India, in either case—
  - (a) for or on taking up employment outside India, or
  - (b) for carrying on outside India a business or vocation outside India, or
  - (c) for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;
- (B) a person who has come to or stays in India, in either case, otherwise than:
  - (a) for or on taking up employment in India, or
  - (b) for carrying on in India a business or vocation in India, or
  - (c) for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;

In line with the above definition, Residential status of Milap for the financial years will be as follows :

- (i) **For FY 2020-2021:** As in the preceding year 2019-2020, Milap resided for 182 days which is not in compliance with the requirement of number of days of her stay (for more than 182 days). Here, residential status of Milap is a Person resident outside India.

**For FY 2021-2022:** In the preceding year 2020-2021, Milap has not resided in India as she went to UK on 1st April 2020 and returned on 1st July 2021. In this case also, the residential status of Milap is a person resident outside India.

#### Question 6

Mr. L was employed as a fashion designer in Elegant Textile Ltd., a public limited company in Guru gram, India during the financial year 2023 -24. He had efficiently provided his services for 183 days during the above said period. On 01.04.2024, Mr. H. the Human Resource Manager of Jeff Fashion Ltd., Paris (a foreign country) offered him a better employment opportunity in such company.

On 02.04.2024, Mr. L. left India for taking up employment as a production controller at Jeff Fashion Ltd. in Paris. On 30.04.2024 he flew back to India for a 10 day family function in Manali, India.

In light of the provisions of the Foreign Exchange Management Act, 1999 , elucidate: The residential status of Mr. L-

- (i) On his return for attending the family function on 30.04.2024.
- (ii) In case, instead of vacation, he joins an employment in an Indian company after arriving on 30.04.2024. (PYP 4 Marks May'24)

#### Answer 6

According to section 2(v) of the Foreign Exchange Management Act, 1999, "Person resident in India" means a person residing in India for more than 182 days during the course of the preceding financial year but does not include a person who has gone out of India or who stays outside India, for or on taking up employment besides with the other specified purposes, outside India.

- (i) In the given question, Mr. L will be treated as a person resident outside from 2.4.2024 till the time he works in Jeff Fashion Ltd. In Paris, as he has gone out of India for or on taking up employment outside India. His return to India for 10 days to attend a family function, will not alter his residential status.
- (ii) Mr. L will be treated as a person resident in India from the day he joins employment in India (after arriving on 30.4.2024).

#### Question 7

Suresh resided in India during the Financial Year 2013-14. He left India on 15th July, 2014 for Switzerland for pursuing higher studies in Biotechnology for 2 years. What would be his residential status under the Foreign Exchange Management Act, 1999 during the Financial Years 2014-15 and 2015-16?



Mr. Suresh requires every year USD 25,000 towards tuition fees and USD 30,000 for incidental and stay expenses for studying abroad. Is it possible for Mr. Suresh to get the required Foreign Exchange and, if so, under what conditions? (SM)

#### Answer 7

**Residential Status:** According to section 2(v) of the Foreign Exchange Management Act, 1999, 'Person resident in India' means a person residing in India for more than 182 days during the course of preceding financial year [Section 2(v)(i)]. However, it does not include a person who has gone out of India or who stays outside India for employment outside India or for any other purpose in such circumstances as would indicate his intention to stay outside India for an uncertain period.

Generally, a student goes out of India for a certain period. In this case, Mr. Suresh who resided in India during the financial year 2013-14 left on 15.7.2014 for Switzerland for pursuing higher studies in Biotechnology for 2 years, he will be resident as he has gone to stay outside India for a 'certain period' RBI has however clarified in its AP circular no. 45 dated 8<sup>th</sup> December 2003, that students will be considered as non-residents. This is because usually students start working there to take care of their stay and cost of studies.

Mr. Suresh will not be resident during the Financial Year 2015-2016 as he did not stay in India during the relevant previous financial year i.e. 2014-15.

However, during the FY 2015-16 Mr. Suresh will not be considered as resident as he left India on 15<sup>th</sup> July, 2014. He is determined to be person Resident outside from 16<sup>th</sup> July 2014 for the FY 2015-16.

**Foreign Exchange for studies abroad:** According to Para I of Schedule III to Foreign Exchange Management (Current Account Transactions), Amendment Rule, 2015 dated 26th May, 2015, individuals can avail of foreign exchange facility for the studies abroad within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit shall require prior approval of the RBI. Further proviso to Para I of Schedule III states that individual may be allowed remittances (without seeking prior approval of the RBI) exceeding USD 2,50,000 based on the estimate received from the institution abroad. In this case the foreign exchange required is only USD 55,000 per academic year and hence approval of RBI is not required.

#### Question 8

Ravi, an Indian citizen, works as a software engineer for an international company. During the previous financial year (2023-2024), Wiwit Su resided in India for 200 days. However, in April of the current financial year, he accepted a job offer in Canada and left India with a long-term work visa, planning to settle in Canada indefinitely.

Analyse the residential status of Wiwit Su for the financial year 2024-2025, as per the provisions of the Foreign Exchange Management Act, 1999. (RTP Jan'25)

#### Answer 8

As per section 2(v) of the Foreign Exchange Management Act, 1999, the term 'person resident in India' means the following entities:

A person who resides in India for more than 182 days during the preceding financial year.

The following persons are not persons resident, in India even though they may have resided in India for more than 182 days.

- A. A person who has gone out of India or stays outside India for any of the three purposes given below,
- B. A person who has come to or stays in India otherwise than for any of the three purposes given below;

#### Three Purposes

- (1) For or on taking up Employment
- (2) For carrying on a business or Vacation
- (3) For any other purpose in such circumstances as would indicate stay for an uncertain period.

**Ravi's Residential Status:** Wiwit Su resided in India for more than 182 days in the preceding financial year, which would typically qualify him as a "person resident in India." However, his decision to leave India for long-term employment in Canada changes his status. According to the provision, a person who has left India for the purpose of employment abroad is not considered a "person resident in India" even if they meet the 182-day requirement. Thus, Wiwit Su does not qualify as a resident for the current financial year.

**Question 9****LDR**

Mr. Ashok, a citizen of India, has been working in a company in Chicago, USA, since last 8 years and had been settled there with his family. However, the said company opened its branch in India last year and Mr. Ashok has been deputed there for a duration of 26 months from 25th April, 2020. He remitted an amount of \$ 2,80,000 on 20th December, 2021 to his family in USA. The details of salary earned by him from 25th April, 2020 to 30th November, 2021 are as follows:-

Particulars	\$*
Gross Salary	3,50,000
Contribution to Provident Fund	40,000
TDS as per Income Tax Act, 1961	40,000

\* Amount is converted to USD from INR.

You being an expert in Foreign Exchange Matters, kindly advise on the below issues:- (Partially deleted as out of syllabus)

- (i) How much excess amount, if any, has been remitted by Mr. Ashok to his family in USA? (MTP 3 Marks, March'22)

**Answer 9**

- i. According to section 2(v) of the Foreign Exchange Management Act, 1999, 'Person resident in India' means a person residing in India for more than 182 days during the course of preceding financial year but does not include a person who has come to or stays in India, for or on taking up employment in India. As per Schedule III to the Foreign Exchange Management (Current Account Transactions) Rules, 2000, For a person who is resident but not permanently resident in India and-
- (a) is a citizen of a foreign State other than Pakistan; or
  - (b) is a citizen of India, who is on deputation to the office or branch of a foreign company or subsidiary or joint venture in India of such foreign company, may make remittance up to his net salary (after deduction of taxes, contribution to provident fund and other deductions).

Explanation: For the purpose of this item, a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignments, the duration of which does not exceed three years, is a resident but not permanently resident. Fact of the case & Conclusion: Mr. Ashok is a citizen of India working in a company in USA and has been deputed to its branch in India for a duration of 26 months i.e. for not more than 3 years and Mr. Ashok's stay in F.Y. 2020-21 was more than 182 days in India, so, he would be considered as a resident but not permanently resident in India. Accordingly, he was allowed to remit an amount up to his net salary i.e. \$ 2,70,000 (\$ 3,50,000 - \$ 40,000 - \$ 40,000) while he has remitted an amount of \$ 2,80,000 to his family in USA. Thus, the excess amount remitted by him is \$ 10,000 (\$ 2,80,000 - \$ 2,70,000).

**Sec 3- Dealing in Foreign Exchange****Question 10**

A foreign tourist comes to India and he purchases a antiques from a shop. He would like to pay US\$ 30 in cash to the shopkeeper. Comment in the light of the FEMA, whether shopkeeper is permitted to accept foreign currency? (RTP May '21)

**Answer 10**

As per section 3 of the FEMA, save as otherwise provided in this Act, rules or regulations made thereunder, or with the general or special permission of the Reserve Bank, no person shall receive otherwise than through an authorised person, any payment by order or on behalf of any person resident outside India in any manner. Where any person in, or resident in, India receives any payment by order or on behalf of any person resident outside India through any other person (including an authorised person) without a corresponding inward remittance from any place outside India, then, such person shall be deemed to have received such payment otherwise than through an authorized person;

Here in the given case, the foreign tourist wanted to pay foreign currency in cash on purchase of antiques to shopkeeper which as per section 3, is not permissible to any person to receive any payment by order or on



behalf of any person resident outside India in any manner except received through an authorised person. Therefore, the Shopkeeper cannot accept cash as it will be a receipt otherwise than through Authorised Person except where the shopkeeper have taken a money changers license to accept foreign currency.

### **Current Account Transactions- Schedule I-Transactions for which drawal of foreign exchange is prohibited**

#### **Question 11**

Referring to the provisions of the Foreign Exchange Management Act, 1999, state the kind of approval required for the following transactions:

- (i) A requires U.S. \$ 5,000 for remittance towards hiring charges of transponders.
- (ii) B requires U.S. \$ 2,000 for payment related to call back services of telephones. (MTP 4 Marks Nov'24, SM)

#### **Answer 11**

Under provisions of section 5 of the Foreign Exchange Management Act, 1999 certain Rules have been made for drawal of Foreign Exchange for Current Account transactions. As per these Rules, Foreign Exchange for some of the Current Account transactions is prohibited. As regards some other Current Account transactions, Foreign Exchange can be drawn with prior permission of the Central Government while in case of some Current Account transactions, prior permission of Reserve Bank of India is required.

Accordingly,

- (i) It is a current account transaction, where A is required to take approval of the Central Government for drawal of foreign exchange for remittance of hire charges of transponders.
- (ii) Withdrawal of foreign exchange for payment related to call back services of telephone is a prohibited transaction. Hence, Mr. B cannot obtain US \$ 2,000 for the said purpose.

In all the cases, where remittance of Foreign Exchange is allowed, either by general or specific permission, the remitter has to obtain the Foreign Exchange from an Authorised Person.

#### **Question 12**

Referring to the provisions of the Foreign Exchange Management Act, 1999, state the kind of approval required for Payment of commission of U.S. \$ 20,000 on exports made towards equity investment in Joint Ventures/Wholly Owned Subsidiaries abroad of Indian companies. (MTP 4 Marks Dec'24)

#### **Answer 12**

Under provisions of section 5 of the Foreign Exchange Management Act, 1999 certain Rules have been made for drawal of Foreign Exchange for Current Account transactions. As per these Rules, Foreign Exchange for some of the Current Account transactions is prohibited. As regards some other Current Account transactions, Foreign Exchange can be drawn with prior permission of the Central Government while in case of some Current Account transactions, prior permission of Reserve Bank of India is required.

Accordingly, Payment of commission on exports made towards equity investment in Joint Ventures/ Wholly Owned Subsidiaries abroad of Indian companies, is a transactions for which drawal of foreign exchange is prohibited.

In all the cases, where remittance of Foreign Exchange is allowed, either by general or specific permission, the remitter has to obtain the Foreign Exchange from an Authorised Person.

#### **Question 13**

- (i) Mr. P has won a big lottery and wants to remit US Dollar 20,000 out of his winnings to his son who is in USA. Advise whether such remittance is possible under the Foreign Exchange Management Act, 1999.
- (ii) Mr. Z is unwell and would like to have a kidney transplant done in USA. He would like to know the formalities required and the amount that can be drawn as foreign exchange for the medical treatment abroad.(SM)

#### **Answer 13**

**Remittance of Foreign Exchange (Section 5 of the Foreign Exchange Management Act, 1999):** According to



section 5 of the FEMA, 1999, any person may sell or draw foreign exchange to or from an authorized person if such a sale or drawal is a current account transaction. Provided that Central Government may, in public interest and in consultation with the reserve bank, impose such reasonable restrictions for current account transactions as may be prescribed.

As per the rules, drawal of foreign exchange for current account transactions are categorized under three headings-

1. Transactions for which drawal of foreign exchange is prohibited,
2. Transactions which need prior approval of appropriate government of India for drawal of foreign exchange, and
3. Transactions which require RBI's prior approval for drawl of foreign exchange
  - (i) Mr. P wanted to remit US Dollar 20,000 out of his lottery winnings to his son residing in USA. Such remittance is prohibited and the same is included in the Foreign Exchange Management (Current Account Transactions) Rules, 2000.  
Hence Mr. P cannot withdraw foreign exchange for this purpose.
  - (ii) "Remittance of foreign exchange for medical treatment abroad" requires prior permission or approval of RBI where the individual requires withdrawal of foreign exchange exceeding USD 250,000. The Schedule also prescribes that for the purpose of expenses in connection with medical treatment, the individual may avail of exchange facility for an amount in excess of the limit prescribed under the Liberalized Remittance Scheme, if so required by a medical institute offering treatment.

Therefore, Mr. Z can draw foreign exchange up to the USD 250,000 and no prior permission/ approval of RBI will be required. For amount exceeding the above limit, authorised dealers may release foreign exchange based on the estimate from the doctor in India or hospital or doctor abroad.

#### Question 14

Analyse the below mentioned situation in the light of the provisions of the Foreign Exchange Management Act, 1999.

- (i) Mr. Vinod has won a big lottery and wants to remit US Dollar 20,000 out of his winnings to his son who is in Singapore.
- (ii) Mr. Shyam requires US Dollar 5,000 for remittance towards hiring charges of transponders. (MTP 4 Marks July'24)

#### Answer 14

According to section 5 of the Foreign Exchange Management Act, 1999, any person may sell or draw foreign exchange to or from an authorized person if such a sale or drawal is a current account transaction. Provided that Central Government may, in public interest and in consultation with the reserve bank, impose such reasonable restrictions for current account transactions as may be prescribed.

As per the rules, drawal of foreign exchange for current account transactions are categorized under three headings-

1. Transactions for which drawal of foreign exchange is prohibited,
2. Transactions which need prior approval of appropriate government of India for drawal of foreign exchange, and
3. Transactions which require RBI's prior approval for drawl of foreign exchange.
  - (i) Mr. Vinod wanted to remit US Dollar 20,000 out of his lottery winnings to his son residing in Singapore. Such remittance is prohibited and the same is included in the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence Mr. Vinod cannot withdraw foreign exchange for this purpose.
  - (ii) In the given situation, it is a current account transaction, where Mr. Shyam is required to take approval of the Central Government for drawal of foreign exchange for remittance of hire charges of transponders.

#### Question 15

LDR

Mr. A, an Indian National desires to obtain Foreign Exchange for the following purposes:

- (i) Remittance of US Dollar 50,000 out of winnings on a lottery ticket.
- (ii) US Dollar 100,000 for sending a cultural troupe on a tour of U.S.A.

Advise him whether he can get Foreign Exchange and if so, under what conditions? (MTP 4 Marks)



### Answer 15

Under provisions of section 5 of the Foreign Exchange Management Act, 1999 certain Rules have been made for drawl of Foreign Exchange for Current Account transactions. As per these Rules, Foreign Exchange for some of the Current Account transactions is prohibited. As regards some other Current Account transactions, Foreign Exchange can be drawn with prior permission of the Central Government while in case of some Current Account transactions, prior permission of Reserve Bank of India is required.

- (i) such remittance is prohibited and the same is included in First Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence, Mr. A cannot withdraw Foreign Exchange for this purpose.
- (ii) Foreign Exchange for meeting expenses of cultural tour can be withdrawn by any person after obtaining permission from Government of India, Ministry of Human Resources Development, (Department of Education and Culture) as prescribed in Second Schedule to the Foreign Exchange Management (Current Account Transactions) Rules, 2000. Hence, in respect of item Mr. A can withdraw the Foreign Exchange after obtaining such permission.

In all the cases, where remittance of Foreign Exchange is allowed, either by general or specific permission, the remitter has to obtain the Foreign Exchange from an Authorised Person.

### Current Account Transactions- Schedule II- Transactions which require Govt of India Approval

#### Question 16

Mr. Pravesh, an Indian following purposes:

U.S. \$ 10,000 for remittance towards hiring charges of transponders.

Advise him whether he can get Foreign Exchange, as per the provisions of the Foreign Exchange Management Act, 1999. (MTP 4 Marks Mar'24, SM)

### Answer 16

Under section 5 of the Foreign Exchange Management Act, 1999, and Rules relating thereto, some current account transactions require prior approval of the Central Government, some others require the prior approval of the Reserve Bank of India, some are freely permitted transactions and some others are prohibited transactions.

This is a current account transaction, where Pravesh is required to take approval of the Central Government for drawal of foreign exchange for remittance of hire charges of transponders.

In all the cases, where remittance of Foreign Exchange is allowed, either by general or specific permission, the remitter has to obtain the Foreign Exchange from an Authorised Person as defined in Section 2(c).

#### Question 17

Ms. Prabha, a classical dancer of Bharatnatyam, wants to go to the USA for a performance. In this connection she requires foreign exchange drawal of US\$ 50,000. Explain Ms. Prabha, the provision of the Foreign Exchange Management Act, 1999, in respect of permission required for such drawal of foreign exchange. (MTP 4 Marks Mar'24)

### Answer 17

According to the provisions of the Foreign Exchange Management Act, 1999 read with respective Rules and Schedule, foreign exchange drawals for cultural tours require prior permission/approval of the Ministry of Human Resources Development (Department of Education and Culture) irrespective of the amount of foreign exchange required. Therefore, in the given case, Ms. Prabha is required to seek permission of the said Ministry of the Government of India.



(Includes concepts of Schedule III)

The Adjudicating authority under FEMA Act, 1999 based on the complaints received in writing from the officer authorized by the Central Government, had issued show cause notice to following persons accused of committing contravention under the Act, to show cause as to why an inquiry should not be held against them as follows: -

Notice issued to whom	Alleged contravention prescribed in the show-cause notice issued	Reply by the accused person to the show-cause notice
Global Shipping Ltd.	Made remittance for membership of P & I club without taking the requisite approval	The amount for the same was remitted through the RFC Account and EEFC Account, respectively, for which no approval was required.
Siphonic Ltd.	Made remittance of \$ 1,10,000 to BMT Inc., a US company, without taking requisite approval, as reimbursement of pre-incorporation expenses incurred for setting up the company by bringing investment of ₹ 18 crore into India. (1 USD = ₹ 75)	Such remittance does not exceed the limit as specified, so, no approval was required.

In the context of aforesaid case-scenario, examine in the lights of the provisions of the FEMA Act, 1999 and its rules & regulations, the validity of the contentions made by the aforesaid persons?

(MTP 6 Marks Oct 21)

**Answer 18**

**i. Validity of Contention made by Global Shipping Ltd.**

As per Rule 4 read with the Schedule II of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, for making remittance for membership of P & I Club, prior approval of Ministry of Finance (Insurance Division) is required to be taken.

No approval is required where any remittance has to be made for the transactions listed in Schedule II from an RFC account and EEFC account, respectively. However, if payment has to be made for remittance for membership of P & I, approval is required even if payment is from EEFC account.

Here, Global Shipping Ltd. was required to take approval of the Ministry of Finance (Insurance Division) for making the remittance through EEFC account and in case of RFC account only, no approval was required.

Thus, its contention is partially invalid.

**ii. Validity of Contention made by Siphonic Ltd.**

As per Rule 5 read with the Schedule III of the Foreign Exchange Management (Current Account Transactions) Rules, 2000, for remittances exceeding five per cent of investment brought into India or USD 100,000 whichever is higher, by an entity in India by way of reimbursement of pre-incorporation expenses, prior approval of the Reserve Bank of India shall be required.

Here, Siphonic Ltd. made remittance of \$ 1,10,000 equivalent to ₹ 82.5 lakhs (1 USD = ₹ 75) to BMT Inc., a US company, as reimbursement of pre-incorporation expenses for bringing investment of ₹ 18 crore into India. So, the amount remitted comes to approximately 4.58% (₹ 82.5 lakhs / ₹ 1800 lakhs) of the investment made into India which is lesser than the prescribed limit of 5%. However, as it exceeds \$ 1,00,000 and so approval was required irrespective of whether the amount remitted exceeds 5% of the investment or not.

Thus, the contention of Siphonic Ltd. is invalid.

Mr. Rohan Sharma, an international cricket player has started its cricket academy, namely, Rohan Sharma Cricket Academy, a private coaching club, which provides coaching for cricket. The Academy has a cricket team which participates in cricket matches all over India as well as outside India.

Rohan Sharma Cricket Academy in a collaboration with Melbourne Cricket Academy is organizing a cricket event in Melbourne, Australia in the month of May 2024 and June 2024. Rohan Sharma Academy is required



to remit USD 200,000 to Melbourne Cricket academy as a part of its share for organizing the cricket event in Melbourne. Advise whether it can get Foreign Exchange and if so, under what conditions? (MTP 4 Marks Apr'24)

#### Answer 19

Section 5 of the Foreign Exchange Management Act, 1999 provides that any person may sell or draw foreign exchange to or from an authorized person if such sale or drawal is a current account transaction.

The Central Government in consultation can, in public interest and in consultation with Reserve Bank of India, impose reasonable restrictions for such transactions.

Schedule II of the Foreign Exchange Management (Current Account Transactions) Rules, 2000 provides that no person shall draw foreign exchange for a transaction without approval of the Central Government. One of the transaction included in Schedule II is remittance of prize money/ sponsorship of sports activity abroad by a person other than International/ National/ State level sports bodies, if the amount involved exceeds USD 100,000.

Accordingly, Rohan Sharma Cricket Academy can withdraw foreign exchange of USD 100,000 as participation fee after obtaining permission from Ministry of Human Resource Development (Department of Youth Affairs and Sports) as prescribed in Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.

#### Question 20

University of Oxford is one of the leading institutes of UK. In the month of May 2024, they are planning a cultural event in UK. The University has invited Ms. Kanika Tripathi and her group, an Indian artist to perform in the event.

Ms. Kanika Tripathi needs to withdrawal foreign exchange of USD 75,000 for the purpose of visit to UK for performing at cultural event of University of Oxford in UK. Advise whether she can withdraw Foreign Exchange and if so, under what conditions? (MTP 4 Marks Apr'24)

#### Answer 20

Section 5 of the Foreign Exchange Management Act, 1999 provides that any person may sell or draw foreign exchange to or from an authorized person if such sale or drawal is a current account transaction. The Central Government in consultation can, in public interest and in consultation with Reserve Bank of India, impose reasonable restrictions for such transactions.

Schedule II of the Foreign Exchange Management (Current Account Transactions) Rules, 2000 provides that no person shall draw foreign exchange for a transaction without approval of the Central Government. One of the transaction included in Schedule II is 'cultural tours'.

Accordingly, Ms. Kanika Tripathi can withdraw foreign exchange of USD 75,000 for meeting expenses of cultural tour after obtaining permission from Ministry of Human Resource Development (Department of Education and Culture) as prescribed in Schedule II of Foreign Exchange Management (Current Account Transactions) Rules, 2000.

#### Current Account Transactions-Schedule III- Transactions which require RBI Approval

#### Question 21

State which kind of approval is required for the following transactions under the Foreign Exchange Management Act, 1999:

R wants to get his heart surgery done at United Kingdom. Up to what limit Foreign Exchange can be drawn by him and what are the approvals required? (SM)

#### Answer 21

**Approval to the following transactions under FEMA, 1999:**

Individuals can avail of foreign exchange facility within the limit of USD 2,50,000 only. Any additional remittance in excess of the said limit for the expenses requires an approval from RBI. However, in connection with medical



treatment abroad, no approval of the Reserve Bank of India is required. Therefore, R can draw foreign exchange up to amount estimated by a medical institute offering treatment.

#### Question 22

**Mr. Pravesh, an Indian National desire to obtain Foreign Exchange for the following purposes:  
US\$ 140,000 for studies abroad on the basis of estimates given by the foreign university. (MTP 2 Marks  
March'24)**

#### Answer 22

Remittance of Foreign Exchange for studies abroad: According to the provisions of the Foreign Exchange Management Act, 1999, foreign exchange may be released for studies abroad up to a limit of US \$ 250,000 for the studies abroad without any permission from the Reserve Bank of India (RBI). Above this limit, RBI's prior approval is required. Further, proviso to Para I of Schedule III states that individual may be allowed remittances exceeding USD 250,000 based on the estimate received from the institution abroad. In this case since US \$ 140,000 is the drawal of foreign exchange, so permission of the RBI is not required by Mr. Pravesh.

#### Question 23

**Mr. Rohan, an Indian Resident individual desires to obtain Foreign Exchange for the following purposes:**

- (A) US\$ 120,000 for studies abroad on the basis of estimates given by the foreign university.**
- (B) Gift Remittance amounting US\$ 10,000.**

**Advise him whether he can get Foreign Exchange and if so, under what condition(s)? (SM)**

#### Answer 23

- (A) Remittance of Foreign Exchange for studies abroad:** Foreign exchange may be released for studies abroad up to a limit of US \$ 250,000 for the studies abroad without any permission from the RBI. Above this limit, RBI's prior approval is required. Further proviso to Para I of Schedule III states that individual may be allowed remittances exceeding USD 250,000 based on the estimate received from the institution abroad. In this case since US \$ 120,000 is the drawal of foreign exchange, so permission of the RBI is not required.
- (B) Gift remittance exceeding US \$ 10,000:** Under the provisions of Section 5 of FEMA 1999, certain Rules have been made for drawal of foreign exchange for current account transactions. Gift remittance is a current account transaction. Gift remittance exceeding US \$ 250,000 can be made after obtaining prior approval of the RBI. In the present case, since the amount to be gifted by an individual, Mr. Rohan is USD 10,000, there is no need for any permission from the RBI.

#### Question 24

**Explain the rules relating to the remittances made by persons other than individuals requiring approval of RBI as provided in Schedule III to the Foreign Exchange Management (Current Account Transactions) Rules, 2000 issued under the Foreign Exchange Management Act, 1999 in respect of the following:**

- (i) Commission to the agents abroad for sale of residential flats or commercial plots in India.**
- (ii) Remittances for consultancy services procured from outside India.**
- (iii) Remittances by way of reimbursement of pre-incorporation expenses. (PYP 4 Marks May'24)**

#### Answer 24

The following remittances by persons other than individuals shall require prior approval of the Reserve Bank of India as provided under FEMA, 1999 read with Schedule III of the FEM (Current Account Transactions) Rules, 2000:

- (i) Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India exceeding USD 25,000 or five percent of the inward remittance whichever is more.**
- (ii) Remittances exceeding USD 10,000,000 per project for any consultancy services in respect of infrastructure projects and USD 1,000,000 per project, for other consultancy services procured from outside India.**  
Explanation—For the purposes of this sub-paragraph, the expression “infrastructure” shall mean as defined in explanation to para 1(iv)(A)(a) of Schedule I of FEMA Notification 3/2000-RB, dated the May 3, 2000.



- (iii) Remittances exceeding five per cent of investment brought into India or USD 100,000 whichever is higher, by an entity in India by way of reimbursement of pre-incorporation expenses.

#### Question 25

Mitali Diamonds Limited is a company engaged in the business of cutting, polishing and trading of diamonds in and outside India. The company exports the diamonds to USA. For the last five financial years, the foreign exchange earned by the company in exporting diamonds is as under:

FY 2023-24	USD 1,25,000
FY 2022-23	USD 1,10,000
FY 2021-22	USD 95,000
FY 2020-21	USD 98,000
FY 2019-20	USD 93,000

The company wants to give donation of USD 10,000 to an institution situated in USA which provides technical support and training in the field of cutting and polishing of raw diamonds. This will help the company in guiding its own employees, posted in USA to get the requisite training.

Referring to the provisions of the Foreign Exchange Management Act, 1999, state whether the company can give donation to such institution in USA? (PYP 4 Marks Sep'24)

#### Answer 25

As per Schedule III to the Foreign Exchange Management Act, 1999, remittances by persons other than individuals shall require prior approval of the Reserve Bank of India, for donations exceeding 1% of their foreign exchange earnings during the previous three financial years or USD 5,000,000, whichever is less, for:

- Creation of Chairs in reputed Educational Institutes,
- Contribution to Funds (not being an investment fund) promoted by Educational Institutes; and
- Contribution to a Technical Institution or Body or Association in the field of activity of the Donor Company.

In the given question, Mitali Diamonds Limited can donate lower of USD 3,300 [1% of (1,25,000 + 1,10,000 + 95,000)] or USD 5,000,000.

Thus, Mitali Diamonds Limited can give a donation of USD 3,300 without RBI approval and for USD 10,000 it shall require prior approval of the Reserve Bank of India to the said institution as this institution is a Technical Institution or Body or Association in the field of activity of the Donor Company.

### Sec 6- Capital Account Transactions

#### Question 26

Ruchika got an employment opportunity in a UK based IT company. She moved to UK and remained there for 10 years. During her tenure she purchased a small flat in UK for the residential purpose.

After returning to India, she joined another IT company and let out her flat situated in UK. The rental income of UK flat was deposited by her in the bank account of UK. A good amount was accumulated in her UK bank account, so she planned to purchase a second flat in the UK.

Based on the above facts, answer the following questions:

- Whether Ruchika can purchase the first flat in UK and continue to retain even after returning to India?
- Whether Ruchika can purchase second flat in UK after returning to India? (MTP 4 Marks Oct 22)

#### Answer 26

##### (i) Purchase of First Flat in UK

Section 6(4) of the FEMA, 1999 provides that a person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India. Ruchika purchased the first flat when she residing in UK and was resident outside India. After returning to India and after becoming the resident in India, she can continue to hold such flat.

##### (ii) Purchase of Second Flat



After returning to India and becoming the resident in India, Ruchika cannot buy another property in UK as mentioned in Section 6(4) of the FEMA.

### Question 27

LDR

**Mr. Arjun, an Indian resident, had been working abroad for the past 10 years. During his tenure abroad, he acquired foreign currency and held investments in foreign securities. He also inherited a property located in New York from his late grandfather, who was a non-resident Indian. After returning to India permanently, Mr. Arjun wishes to understand the provisions under the Foreign Exchange Management Act, 1999 (FEMA) regarding the ownership and utilization of his foreign assets. (RTP Sep'24)**

### Answer 27

Under the provisions of the Foreign Exchange Management Act, 1999 (FEMA), Mr. Arjun, being a resident in India, can hold, own, transfer, or invest in foreign currency, foreign securities, or immovable property situated outside India under certain conditions. These conditions are clarified by the RBI through A.P. (DIR Series) Circular No. 90 dated 9th January, 2014, which elaborates on section 6(4) of the Act.

#### Clarifications under section 6(4) of FEMA

##### 1. Foreign Currency Accounts

- Mr. Arjun can maintain foreign currency accounts that were opened and maintained by him when he was resident outside India.

##### 2. Income and Investments

- Income earned through employment, business, or vocation outside India while Mr. Arjun was a non-resident.
- Investments made abroad during his non-resident status.
- Gifts or inheritance received from a non-resident Indian.

##### 3. Foreign Exchange and Income therefrom

- Foreign exchange holdings, including income arising from them, held outside India by Mr. Arjun, acquired through inheritance from a non-resident Indian.

##### 4. Utilization of Assets After Return to India

- Mr. Arjun may freely utilize all eligible assets abroad, including the income on such assets or sale proceeds received after his return to India.
- He can make payments or fresh investments abroad without the approval of the Reserve Bank of India, provided the funds used are from eligible assets held by him abroad and the transaction complies with FEMA provisions.

Therefore, Mr. Arjun is eligible to hold and utilize his foreign assets as per the provisions outlined in section 6(4) of FEMA and the RBI circular. These provisions allow him to manage his foreign currency, securities, and inherited property located outside India in compliance with the regulations governing residents' dealings in foreign assets under FEMA.

### Question 28

**Ms. Rose was an Indian citizen who got a job in a software company in USA. She went to USA and stayed there for 12 years. During her stay, she purchased a house in USA for her residence. Then due to some personal issues she moved back to India and joined a software company in India. As she had moved back to India, she let out her house in USA and deposited the rent in her account in USA. Out of that amount, she purchased another house in USA.**

**Based on the above facts, answer the following referring to the provisions of the Foreign Exchange Management Act, 1999.**

- Whether Ms. Rose can purchase the house in USA and continue to retain it even after returning to India?**
- Whether Ms. Rose can purchase another house in USA after returning to India? (PYP 4 Marks Sep'24)**

### Answer 28

- Can Ms. Rose purchase the house in USA and continue to retain it even after returning to India?**

According to section 6(4) of the Foreign Exchange Management Act, 1999, (the Act) a person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated



outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

Ms. Rose stayed in USA for 12 years, hence she must have become a non-resident for those years. She purchased a house during this time.

As per the above provisions, Ms. Rose can rightfully purchase the house in USA and continue to retain it after returning to India.

**(ii) Can Ms. Rose purchase another house in USA after returning to India?**

Ms. Rose deposited the amount of rent from the house to her account in USA. Out of that amount she purchased another house in USA after returning to India. Ms. Rose is a person resident in India due to joining an employment in India.

As per section 6(4)(iv) of the Foreign Exchange Management Act, 1999 (FEMA), a person resident in India may freely utilize all their eligible assets abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments or to make any fresh investments abroad without approval of Reserve Bank, provided the cost of such investments and/or any subsequent payments received therefor are met exclusively out of funds forming part of eligible assets held by her and the transactions are not in contravention to extant FEMA provisions.

In view of the above, Ms. Rose can rightfully purchase another house in USA after returning to India.

### Question 29

**Mr. Vivit, an Indian citizen, was working in Singapore for ten years. He is currently holding assets and bank balances in Singapore and planning to settle down in India. Mr. Vivit seeks your advice as to whether he can hold, own, transfer or invest in a foreign currency, foreign security or any immovable property situated outside India as per the Foreign Exchange Management Act, 1999. (PYP 3 Marks Dec '21) (MTP 3 Marks April '23)**

### Answer 29

As per Section 6 of the FEMA, 1999, a person resident in India may hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India.

Here, in the given case, Mr. Vivit, an Indian Citizen, who was working in Singapore for ten 10 years, currently planning to settle in India wanted to hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India.

Hence in the given case, Mr. Vivit, earned income through employment or business or vocation when he was outside India. After his settlement in India, he may freely utilize all their eligible assets abroad as well as income on such assets or sale proceeds thereof received after their return to India for making any payments or to make any fresh investments abroad without approval of Reserve Bank.

**Note:** - The residential status of Mr. Vivit that he is a 'person resident in India' is not given in the question. The word 'Indian citizen' in the question may be read as 'Indian Resident'.

**EXAM INSIGHTS:** The Performance of the examinees was average. Most of the examinees have answered in a generalized manner without specifying the provisions of Section 6 of Foreign Exchange Management Act, 1999 regarding holding, owning, transfer or invest in a foreign currency, foreign security or any immovable property situated outside India by a person resident in India.

### Question 30

**Grand Father of Mr. Narendra Kamal was farmer in undivided India and own large chunk of land. Due to partition, his grand-father along other family members evacuated from west Punjab, hence got a piece of agricultural land in compensation under Displaced Persons (Compensation and Rehabilitation) Act, 1954 in that area of east Punjab which is present day Haryana touching NCT.**

**Such land was inherited by Mr. Saurabh Kamal and Mr. Varun Kamal (both resides in India) in equal portion as per the testament of their Narendra' Grandfather. Mr. Narendra is only child of Mr. Saurabh. At death of**



Mr. Saurabh in 2005, his will was executed and piece of land belong to him transferred to Mr. Narendra. Mr. Narendra in 2002, shifted to New Zealand, there he operate an accounting KPO firm. Mr. Narendra surrender Indian citizenship and hold kiwi passport. Now the children of Mr. Narendra is also grown-up. His son want to enter in film-making hence need funds, Mr. Narendra decided to sell the land inherited by him from his father (in -turn from his Grandfather). He approached Mr. Balraj, a property linker for identifying buy for said land. It was decided that part of proceed will be used by son of Mr. Narendra and rest will be planned to invest in New Zealand only.

You are required to advise Mr. Narendra can he sell/transfer the land he owned in India as per the relevant provisions of FEMA. (RTP May '23)

#### Answer 30

According to Section 6 (5) of The Foreign Exchange Management Act 1999, it is provided that a person resident outside India may hold, own, transfer or invest in Indian currency, security or any immovable property situated in India if such currency, security or the property was acquired, held, or owned by such person when he was resident in India or inherited from a person who was resident in India (like in given case inherited by Mr. Narendra in 2005).

Further, a person referred to in sub-section (5) of Section 6 of the Act, or his successor shall not, except with the general or specific permission of the Reserve Bank, repatriate outside India the sale proceeds of any immovable property referred to in that sub-section as per the second schedule of the FEM (Permissible Capital Account Transaction) Regulation, 2000. Hence Mr. Narendra allowed transfer (sale) the agriculture land and after seeking permission of RBI can repatriate the sale proceeds, outside India.

### Capital Account Transactions- Prohibited Transactions

#### Question 31

Mr. MGJ, a person resident outside India, is contemplating to invest his foreign currency funds through equity contribution in an Indian company engaged in a huge township development project consisting commercial and residential complex in Bangalore (India). Examine, referring to the provisions of the Foreign Exchange Management Act, 1999, the feasibility of his proposal of investing funds in the said company. (PYP 3 Marks May '22)

#### Answer 31

As per the Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000, a person resident outside India is prohibited from making investments in India in any form, in any Company, or partnership firm or proprietary concern or any entity whether incorporated or not which is engaged or proposes to engage in real estate business, or construction of farm houses.

Here the term "real estate business" shall not include development of townships, construction of residential /commercial premises, roads or bridges and Real Estate Investment Trusts (REITs) registered and regulated under the SEBI (REITs) Regulations 2014.

**Conclusion:** Accordingly, the proposal of investing funds in an Indian Company by Mr. MGJ, is feasible as the investment is for development of township as per the above stated laws.

### Multiple Choice Questions (MCQs)

#### Sec 2(v)- Person Resident in India

1. Dhruv, is a pilot in Bangkok airways. He flies for 15 days in a month and thereafter takes a break for 15 days. During the break, he is accommodated in 'base', which is normally the city where the Airline is headquartered. However, for security considerations, he was based at Delhi. During the financial year, he was accommodated at Delhi for 182 days. Determine the legal position as regards the residential status of Dhruv under the given situation: (MTP 2 Marks Oct 21)
  - (a) Dhruv cannot be considered to be a Person Resident in India.
  - (b) Dhruv can be considered to be a Person Resident in India due to her stay for 182 days in India
  - (c) Dhruv cannot be considered to be a Person Resident in India due to her stay for less than 183 days in India.



- (d) Dhruv can be considered to be a Person Resident in India due to her stay in Delhi for security consideration.

**Ans: (a)**

2. **Priti, on 1st September, 2021 went to UK for doing one year MBA course. Her MBA course completed on 31st August, 2022 and she returned India on the next day. What shall be her residential status for the FY 2022-23 and 2023-24: (MTP 2 Marks Oct 22)**

- (a) Resident in India for FY 2022-23 and FY 2023-24
- (b) Resident in India for FY 2022-23 and Resident outside India for FY 2023-24
- (c) Resident outside India for FY 2022-23 and FY 2023-24
- (d) Resident outside India for FY 2022-23 and Resident in India for FY 2023-24

**Ans: (d)**

3. **Mr. X, a person comes to India on 1st June 2019 for visiting his parents. However, his parents fall sick and he stays till 31st March 2020. Thereafter he continues to stay in India. He decided to live in India for next 6 months by the time his parents recovers. In the light of the given case, determine the correct residential status of Mr. X from the given statements. (RTP, Nov'22)**

- (a) Mr. X is PRII as he did reside in India in the FY 2019-2020.
- (b) Mr. X is PRII as he resides in India for more than 182 days in the FY 2019 -20.
- (c) Mr. X is PROI in the FY 2019-20, but will be treated as PRII from 1st April, 2020, as he resides in India for more than 182 days in the previous FY.
- (d) His stay in India is neither for employment, nor for business, nor for circumstances which show that his stay in India for an uncertain period. In FY 2019-20, he is a PROI as he did not reside in India for more than 182 in FY 2018-19.

**Ans: (d)**

4. **Mr. X had resided in India for less than 182 days during the financial year 2022-2023. He arrived in India on April 1, 2023, to conduct business and intends to leave the business on April 30, 2024, with plans to depart from India on June 30, 2024. What is Mr. X's residential status for the financial year 2023-2024 under the FEMA, 1999? How many days did Mr. X stay in India during the financial year 2023-2024? (RTP Sep24)**

- (a) Non-Resident, 182 days
- (b) Resident, 365 days
- (c) Resident but Not Ordinarily Resident (RNOR), 240 days
- (d) Resident, 91 days

**Ans: (b)**

5. **Ms. Shalini Gupta had enrolled her for management course of three years with IIM, Ahmedabad. Out of three years, two years of educational course would be provided at the campus of IIM, Ahmedabad and one year of educational course would be provided at University of Auckland under student exchange program. Ms. Shalini Gupta is required to pay tuition fee of ₹10 lakh directly to IIM, Ahmedabad for two years course and USD 200,000 to University of Auckland.**

**Ms. Shalini had left India on 20th August 2022 to complete her degree from University of Auckland. In the last month of final year of the course, she got an offer from one of the reputed company situated in Auckland and had accepted the offer and she decided to work there. On 1st September 2023, Ms. Shalini had visited India for 30 days to meet her family and on 1st October 2023 had left India to carry on her employment.**

**Considering the provisions of Foreign Exchange Management Act, 1999, which of the below mentioned options correctly determined the residential status of Ms. Shalini Gupta (MTP 2 Marks Apr'24)**

- (a) Ms. Shalini Gupta to be treated as resident in India for Financial Year (FY) 2023-2024 and FY 2024-2025.
- (b) Ms. Shalini Gupta to be treated as resident in India for FY 2022-2023 and FY 2023-2024.
- (c) Ms. Shalini Gupta to be treated as non-resident for FY 2023-2024 and FY 2024-2025 as she left India for higher studies.
- (d) Ms. Shalini Gupta to be treated as resident in India for FY 2023-2024 since she stays in India for more



than 182 days and non-resident for FY 2024-2025.

**Ans: (c)**

6. After five years of stay in USA, Mr. Umesh came to India at his paternal place in New Delhi on October 25, 2019, for the purpose of conducting business with his two younger brothers Rajesh and Somesh and contributed a sum of ₹ 10,00,000 as his capital. Simultaneously, Mr. Umesh also started a proprietary business of selling artistic brassware, jewelry, etc. procured directly from the manufacturers based at Moradabad. Within a period of two months after his arrival from USA, Mr. Umesh established a branch of his proprietary business at Minnesota, USA. You are required choose the appropriate option with respect to residential status of Mr. Umesh and his branch for the financial year 2020 -21 after considering the applicable provisions of the Foreign Exchange Management Act, 1999: (RTP May 22, SM)
- For the financial year 2020-21, Mr. Umesh and his branch established at Minnesota, USA, are both persons resident outside India.
  - For the financial year 2020-21, Mr. Umesh is a resident in India but his branch established at Minnesota, USA, is a person resident outside India.
  - For the financial year 2020-21, Mr. Umesh and his branch established at Minnesota, USA, are both persons resident in India.
  - For the financial year 2020-21, Mr. Umesh is a person resident outside India but his branch established at Minnesota, USA, is a person resident in India.

**Ans: (c)**

#### Current Account Transactions- Schedule I Transactions for which drawal of foreign exchange is prohibited

7. Mr. Amar (a resident individual) want to remit US\$ 60,000 to his son in the USA after winning a big lottery. Considering the provisions of the Foreign Exchange Management Act, 1999, choose the correct action which Mr. Amar would take to remit the said amount to his son in the USA. (MTP2 Marks Mar'24)
- Visit a local bank and request a direct transfer to his son's US bank account.
  - Cannot remit the said amount as remittance out of lottery winnings is prohibited.
  - Travel to the USA personally with the cash winnings, to give it to his son.
  - Convert the US Dollar winnings into a different currency before sending it to his son.

**Ans:(b)**

#### Current Account Transactions- Schedule II Transactions which require Govt of India Approval

8. Athlete Rajiv Sharma, a professional tennis player from India, achieved remarkable success by winning a prestigious international tennis tournament held in Paris, France. As a result of his victory, he received a prize money of \$150,000 from the event organizers. Rajiv was excited about his winnings and planned to use a portion of the prize money to fund his training and future tournaments abroad. Rajiv decided to remit \$150,000 to his personal account in France to manage his finances and cover his training expenses. However, before proceeding, he needed to ensure that the remittance complied with the Foreign Exchange Management Act (FEMA), 1999, specifically concerning the remittance of prize money or sponsorship of sports activities abroad. Under FEMA regulations, individuals other than international, national, or state-level sports bodies are subject to specific guidelines when remitting amounts exceeding \$100,000. Rajiv was aware that the amount involved in his case exceeded this threshold and sought advice on the necessary steps and compliance. Enumerate in the given instance, according to FEMA regulations, what must Rajiv Sharma do if he wishes to remit prize money exceeding US \$100,000 abroad? (MTP 2 Marks Aug'24, SM)
- Remit the amount directly without any additional requirements.
  - Obtain approval from Paris Government before remitting the amount
  - Only provide proof of winning the prize
  - Require prior approval of Ministry of Human Resource Development (Department of Youth Affairs and Sports)

**Ans: (d)**



9. Kite Sports Academy, a private coaching club, provides coaching for cricket, football and other similar sports. It coaches sports aspirants pan India. It also conducts various sports events and campaigns, across the country. In 2022, to mark the 25th year of its operation, a cricket tournament (akin to the format of T-20) is being organized by Kite Sports Academy in Lancashire, England, in the first half of April. The prize money for the 'winning team' is fixed at USD 40,000 whereas in case of 'runner-up', it is pegged at USD 11,000. You are required to choose the correct option from the four given below which signifies the steps to be taken by Kite Sports Academy for remittance of the prize money of USD 51,000 (i.e. USD 40,000+USD 11,000) to England keeping in view the relevant provisions of Foreign Exchange Management Act, 1999: *MTP 2 Marks Aug'24*
- (a) For remittance of the prize money of USD 51,000, Kite Sports Academy is required to obtain prior permission from the Ministry of Human Resource Development (Department of Youth Affairs and Sports).
  - (b) For remittance of the prize money of USD 51,000, Kite Sports Academy is required to obtain prior permission from the Reserve Bank of India.
  - (c) For remittance of the prize money of USD 51,000, Kite Sports Academy is not required to obtain any prior permission from any authority, whatsoever, and it can proceed to make the remittance.
  - (d) For remittance of the prize money of USD 51,000, Kite Sports Academy is required to obtain prior permission from the Ministry of Finance (Department of Economic Affairs).

**Ans: (c)**

#### Current Account Transactions-Schedule III Transactions which require RBI Approval

10. Akash Ceramics Limited, an Indian company, holds a commercial plot in Chennai which it intends to sell. M/s. Super Seller, a real estate broker with its Head Office in the USA, has been appointed by Akash Ceramics Limited to find some suitable buyers for the said commercial plot in Chennai which is situated at a prime location. M/s. Super Seller identifies Glory Estate Inc., based out of USA, as the potential buyer. It is to be noted that Glory Estate Inc. is controlled from India and hence, is a 'Person Resident in India' under the applicable provisions of Foreign Exchange Management Act, 1999. A deal is finalized and Glory Estate Inc. agrees to purchase the commercial plot for USD 600,000 (assuming 1 USD = ₹ 70). According to the agreement, Akash Ceramics Limited is required to pay commission @ 7% of the sale proceeds to M/s. Super Seller for arranging the sale of commercial plot to Glory Estate Inc. and commission is to be remitted in USD to the Head Office of M/s. Super Seller located in USA. Considering the relevant provisions of Foreign Exchange Management Act, 1999, which statement out of the four given below is correct (ignoring TDS implications arising under the Income-tax Act, 1961): *(SM)*
- (a) There is no requirement of obtaining prior permission of Reserve Bank of India (RBI) for remittance of commission upto USD 25,000 by Akash Ceramics Limited to M/s. Super Seller but for the balance commission of USD 17,000, prior permission of RBI is required to be obtained.
  - (b) There is no requirement of obtaining prior permission of Reserve Bank of India (RBI) for remittance of commission upto USD 30,000 by Akash Ceramics Limited to M/s. Super Seller but for the balance commission of USD 12,000, prior permission of RBI is required to be obtained.
  - (c) There is no requirement of obtaining prior permission of Reserve Bank of India (RBI) for remittance of entire commission of USD 42,000 by Akash Ceramics Limited to M/s. Super Seller.
  - (d) It is mandatory to obtain prior permission of Reserve Bank of India (RBI) for remittance of entire commission of USD 42,000 by Akash Ceramics Limited to M/s. Super Seller.

**Ans: (d)**

11. Mohita Periodicals and Mags Publications Limited, having registered office in Chennai, has obtained consultancy services from an entity based in France for setting up a software programme to strengthen various aspects relating to publications. The consideration for such consultancy services is required to be paid in foreign currency. The compliance officer of Mohita Periodicals and Mags Publications Limited, Mrs. Ritika requires your advice regarding the foreign exchange that can be remitted for the purpose of obtaining consultancy services from abroad without prior approval of Reserve Bank of India. Out of the following four options, choose the one which correctly portrays the amount of foreign exchange remittable for the given purpose after considering the provisions of the Foreign Exchange Management



**Act, 1999 and regulations made thereunder: (SM)**

- (a) Permissible amount of foreign exchange that can be remitted by Mohita Periodicals and Mags Publications Limited for obtaining consultancy services from an entity based in France without prior approval of RBI is US\$ 50,000,000.
- (b) Permissible amount of foreign exchange that can be remitted by Mohita Periodicals and Mags Publications Limited for obtaining consultancy services from an entity based in France without prior approval of RBI is US\$ 10,000,000.
- (c) Permissible amount of foreign exchange that can be remitted by Mohita Periodicals and Mags Publications Limited for obtaining consultancy services from an entity based in France without prior approval of RBI is US\$ 5,000,000.
- (d) Permissible amount of foreign exchange that can be remitted by Mohita Periodicals and Mags Publications Limited for obtaining consultancy services from an entity based in France without prior approval of RBI is US\$ 1,000,000.

**Ans: (d)**

**12. A Limited, an Indian company holds a commercial plot in Chennai, India. It intends to sell the same. M/s Super Seller is a real estate broker with Head Office in the USA. M/s Super Seller is appointed to find buyers for the land. A company Glory Inc., based out of USA is identified as a buyer. Glory Inc., is controlled from India and is hence a Person Resident in India under FEMA provisions. Glory Inc., agrees to buy the land for USD 6,00,000 (assume 1 USD = Rs.70). M/s Super Seller is to be paid commission at the rate of 7% of the sale proceeds. The commission is to be paid to the H.O of M/s Super Seller in USA. Decide, in light of the relevant provisions of FEMA, 1999, which of the following is correct (Ignoring TDS implications arising under the Income Tax Act, 1961): (MTP 2 Marks March-21)**

- (a) Prior permission is not required for remittance of commission upto USD 25,000. For balance commission of USD 17,000, permission of RBI is to be sought by A Limited.
- (b) Prior permission is not required for remittance of commission upto USD 30,000. For balance commission of USD 12,000, permission of RBI is to be sought by A Limited.
- (c) Prior permission is not a tall required for remittance of the entire commission.
- (d) Prior permission is required to be taken from The Reserve Bank of India for the entire amount of commission.

**Ans : (b)**

**13. In September 2016, Mr. P, went to USA, London and Germany on a month long business trip. For this trip he got foreign exchange of US \$ 50,000 from an authorized dealer. In December 2016 he remitted US\$ 50,000 to his son in Canada, who was studying there. In January 2017 he sent his mother and wife to America for his mother's treatment and for the purpose he remitted US\$ 75,000 to his younger brother, who was living there. In March 2017 his daughter got engaged and she opted for a destination marriage to be held in May 2017, in Switzerland. While on trip to Dubai in the March end, 2017, he spent US \$ 35,000 for his daughter's shopping in Dubai. Later, the event manager gave an estimate of US \$ 250,000 for the wedding. As per the provisions of FEMA, for how much remittance does he need to take prior approval of the Reserve bank of India. (MTP 1 Mark Nov 21)**

- (a) He does not need any prior approval at all
- (b) For US \$ 210000
- (c) For US \$ 250000
- (d) For US \$ 15000

**Ans : (a)**

**14. Nandeesh, a resident Indian, remitted USD 1,00,000 on 7th June, 2021, to his son Ishaan who is settled in California, USA, since he urgently required funds. On 9 th July, 2021, Nandeesh again remitted USD 71,000 to meet expenses to be incurred in respect of his ailing wife, Medhavi who had recently gone to USA to meet his son Ishaan but had developed serious coronary disease. For specialised treatment of Medhavi at a specialised hospital, a sum of USD 79,000 was remitted for the second time on 30 th July, 2021 by Nandeesh. Within next 10 days, Medhavi recovered and was allowed to return to her son's residence from the hospital. Choose the correct option from those stated below as to when Nandeesh can send further foreign exchange to his son Ishaan for the purpose of purchasing a house without obtaining the**



**prior approval of Reserve Bank of India: (RTP May '22)**

- (a) Without obtaining the approval of Reserve Bank of India, Nandeesh can send further foreign exchange to his son Ishaan only in the month of April, 2022 or thereafter.
- (b) Without obtaining the approval of Reserve Bank of India, Nandeesh can send further foreign exchange to his son Ishaan only in the month of January, 2022 or thereafter.
- (c) Without obtaining the approval of Reserve Bank of India, Nandeesh can send further foreign exchange to his son Ishaan only in the month of July, 2022 or thereafter.
- (d) Without obtaining the approval of Reserve Bank of India, Nandeesh can send further foreign exchange to his son Ishaan only in the month of November, 2021 or thereafter.

**Ans: (a)**

**15. Mr. Prakhar, an Indian Resident individual, wishes to obtain Foreign Exchange for a gift remittance totaling US\$ 50,000. Which of the following statements accurately reflects the regulatory requirement under the Foreign Exchange Management Act, 1999 (FEMA)?**

**(MTP 2 Marks Mar'24)**

- (a) Mr. Prakhar can freely remit US\$ 50,000 for the gift as it is a current account transaction and the amount of gift remittance is less than US\$ 2,50,000.
- (b) Mr. Prakhar must seek prior approval from the RBI for the remittance exceeding US\$ 50,000.
- (c) Mr. Prakhar must seek prior approval from the RBI for any gift remittance, regardless of the amount.
- (d) Mr. Prakhar does not need to comply with any FEMA requirements as gift remittance does not fall under the purview of the FEMA 1999.

**Ans: (a)**

**16. HBL Private Limited is a project engineering, procurement and construction company. The company has bagged a contract from the Government of State of Tamil Nadu for construction of Water Dam. The company has involved a project consultancy firm situated in Netherlands for preparing techno- economic feasibility report to enable it to start construction work of dam. The company had paid USD 7,000,000 to vendor of Netherlands.**

**The company also availed the services of Software Company situated in UK for the migration of its accounting software from SAP to Oracle for which the Company had paid USD 2,000,000 to the software company. Considering the provisions of Foreign Exchange Management Act, 1999, which of the below mentioned statement is correct: (MTP 2Marks Apr'24)**

- (a) The company can make payment of USD 7,000,000 and USD 2,000,000 without any approval.
- (b) The company can make payment of USD 7,000,000 without any approval and USD 2,000,000 after obtaining prior approval of the Reserve Bank of India (RBI).
- (c) The company can make payment of USD 7,000,000 and USD 2,000,000 after obtaining prior approval of RBI.
- (d) The company can make payment of USD 7,000,000 after obtaining prior approval of RBI and USD 2,000,000 without any approval.

**Ans: (b)**

**17. In September, 2020, Mr. Purshottam Saha visited Atlanta as well as Athens and thereafter, London and Berlin on a month-long business trip, for which he withdrew foreign exchange to the extent of US\$ 50,000 from his banker, State Bank of India, New Delhi branch. In December, 2020 he further, withdrew US\$ 50,000 from SBI and remitted the same to his son Raviyansh Saha who was studying in Toronto, Canada. In the first week of January, 2021, he sent his ailing mother Mrs. Savita Saha for a specialised treatment along with his wife Mrs. Rashmi Saha to Seattle where his younger brother Pranav Saha, holder of Green Card, is residing. For the purpose of his mother's treatment and to help Pranav Saha to meet increased expenses, he requested his banker SBI to remit US\$ 75,000 to Pranav Saha's account maintained with Citibank, Seattle. In February, 2021, Mr. Purshottam Saha's daughter Devanshi Saha got engaged and she opted for a 'destination marriage' to be held in August, 2021 in Zurich, Switzerland. While on a trip to Dubai in the last week of March, 2021, he again withdrew US\$ 35,000 to be used by him and Devanshi Saha for meeting various trip expenses including shopping in Dubai. Later, the event manager gave an estimate of US\$ 2,50,000 for the wedding of Devanshi Saha at Zurich, Switzerland. Which option do you think is the correct one in the light of applicable provisions of Foreign Exchange Management Act, 1999 including obtaining of prior approval, if any, from Reserve Bank of India since Mr. Purshottam Saha**



withdrew foreign exchange on various occasions from his banker, State Bank of India. (RTP May 23, SM)

- (a) In respect of withdrawal of foreign exchange on various occasions from his banker State Bank of India and remitting the same outside India during the financial year 2020-21, Mr. Purshottam Saha is not required to obtain any prior approval.
- (b) In respect of withdrawal of US\$ 35,000 in the last week of March, 2021, for a trip to Dubai, Mr. Purshottam Saha must have obtained prior approval of Reserve Bank of India since the maximum amount of foreign exchange that can be withdrawn in a financial year is US\$ 1,75,000.
- (c) After withdrawing US\$ 1,00,000, Mr. Purshottam Saha must have obtained prior approval of Reserve Bank of India for the remaining remittances made during the financial year 2020-21, otherwise SBI would not have permitted further withdrawals.
- (d) After withdrawing US\$ 50,000, Mr. Purshottam Saha must have obtained prior approval of Reserve Bank of India for the remaining remittances made during the financial year 2020-21, otherwise SBI would not have permitted further withdrawals.

Ans: (a)

#### Sec 6- Capital Account Transactions

18. Mr. V, brother of Mr. R, is a resident of Singapore and he owns an immovable property in Chennai which he inherited from his father, who was a resident of India, Can Mr. V continue to hold the property? (MTP 1 Mark Nov 21, RTP May'20)

- (a) No, he cannot hold transfer or invest in India, since he is resident outside India.
- (b) Yes, he can continue to hold in India, since he is person of India Origin and the property is located in India
- (c) Yes, he can continue to hold the property, since this was inherited from a person who was resident in India.
- (d) Yes, he can continue to hold the property, since his brother (Mr. R) uses the property whenever he travels to Chennai.

Ans: (c)

19. ABC Private Limited is a project engineering, procurement and construction company. The company has bagged a contract from the Government of State of Kerala for construction of Water Dam. The company has involved a project consultancy firm situated in Australia for preparing techno-economic feasibility report to enable it to start construction work of dam. The company had paid USD 7,000,000 to vendor of Australia.

The company also availed the services of Software Company situated in Denmark for the migration of its accounting software from SAP to Oracle for which the company had paid USD 2,000,000 to the software company.

Considering the provisions of Foreign Exchange Management Act, 1999, which of the below mentioned statement is correct: (MTP 2 Marks Nov'24)

- (a) The company can make payment of USD 7,000,000 and USD 2,000,000 without any approval.
- (b) The company can make payment of USD 7,000,000 without any approval and USD 2,000,000 after obtaining prior approval of the Reserve Bank of India (RBI).
- (c) The company can make payment of USD 7,000,000 and USD 2,000,000 after obtaining prior approval of RBI.
- (d) The company can make payment of USD 7,000,000 after obtaining prior approval of RBI and USD 2,000,000 without any approval.

Ans: (b)

20. Mr. Narain Srinivas had enrolled himself for management course of three years with IOL, Mumbai. Out of three years, two years of educational course would be provided at the campus of IOL, Mumbai and one year of educational course would be provided at University of Auckland under student exchange program. Mr. Narain Srinivas is required to pay tuition fee of ₹10 lakh directly to IOL, Mumbai for two years course and USD 200,000 to University of Auckland.

Mr. Narain had left India on 20th August 2022 to complete his degree from University of Auckland. In the last month of final year of the course, he got an offer from one of the reputed company situated in Auckland and had accepted the offer and he decided to work there. On 1st September 2023, Mr. Narain



had visited India for 30 days to meet his family and on 1st October 2023 had left India to carry on his employment.

Considering the provisions of Foreign Exchange Management Act, 1999, which of the below mentioned options correctly determined the residential status of Mr. Narain Srinivas: (MTP 2 Marks Nov'24)

- (a) Mr. Narain Srinivas to be treated as resident in India for Financial Year (FY) 2023-2024 and FY 2024-2025.
- (b) Mr. Narain Srinivas to be treated as resident in India for FY 2022-2023 and FY 2023-2024.
- (c) Mr. Narain Srinivas to be treated as non-resident for FY 2023-2024 and FY 2024-2025 as he left India for higher studies.
- (d) Mr. Narain Srinivas to be treated as resident in India for FY 2023-2024 since he stays in India for more than 182 days and non-resident for FY 2024-2025.

Ans: (c)

21. Sneha, a resident of India, wants to invest her savings. She considers buying shares of a US-based company to benefit from the growing tech market. She is unsure if such an investment is allowed under the Foreign Exchange Management Act, 1999. Advise whether Sneha can invest in shares of the US-based company? (MTP 2 Marks Dec'24)

- (a) Yes, such investments are allowed.
- (b) No, such investments are not allowed.
- (c) Yes, but only if the investment is for US\$ 5000.
- (d) No, unless she is a non-resident Indian (NRI).

Ans: (a)

#### Capital Account Transactions- Prohibited Transactions

22. Rahul, a resident of India and an avid horse-racing enthusiast, earns ₹ 5 lakh as prize money from an international horse-racing event held in Dubai. He wants to remit this amount to his personal foreign bank account for future international race entries and training. He consults his banker to confirm if this transaction is permissible under the Foreign Exchange Management Act (FEMA), 1999.

Can Rahul remit his income from the international horse-racing event to his foreign bank account under FEMA, 1999? (MTP 2 Marks Dec'24)

- (a) Yes, as it is his earned income.
- (b) No, as remittance of income from racing, riding, or any other hobby is prohibited.
- (c) Yes, but only with prior approval from the Reserve Bank of India (RBI).
- (d) No, unless it is for charitable purposes.

Ans: (b)

## CHAPTER 16: CASE SCENARIOS



### LDR Questions

Q 18      Q 22  
Q 20      Q 31

### Question & Answers

CS 1

(MTP 6 Marks April '21) (Chapter 2 Incorporation of Company & Matters Incidental There to)

Mr. Anay, a business graduate from a leading B-School, has been running a chain of restaurants as a sole proprietor concern. The business is based in Chennai. Mr. Anay, in order to develop the business; decided to corporatize his business but he is concerned with dilution of his control over business decisions.

Mr. Anay, during a journey met Mr. Dsouza; one of his old school friends. Mr. Dsouza is presently working in one of leading corporate advisory firms. Mr. Anay seeks advice from Mr. Dsouza, regarding conversion of sole proprietorship concern to company and also explain his intention to keep the entire control in his hand. Mr. Dsouza informed Mr. Anay, about a new type of company, called One Person Company (OPC), which can be formed under Companies Act, 2013. Mr. Dsouza quoted section 2(62), which defines 'one person company' as a company which has only one person as a member.

Mr. Anay felt OPC is correct form of business for him, hence he promoted an OPC 'Casa Hangout Private Limited' (One Person Company) on 14<sup>th</sup> September 2019, to which he sold his sole proprietary business and became the sole member. Mr. Anay, appointed his younger son Mr. Amar, who was 21 year old then, as Nominee to OPC. Mr. Anand who is a famous food blogger and old friend of Mr. Anay was appointed as director of OPC, Mr. Anay himself also become director of company.

Mr. Amar is a professional photographer, and went abroad for a certification course on 23<sup>rd</sup> October 2019. He came back on 1<sup>st</sup> of March 2020. He established a photo-studio as an OPC called 'Best Click Private Limited' (one Person Company) on 20<sup>th</sup> March 2020, in which Mr. Anay is nominee and he became sole member. In the mean time, Mr. Amar also gave his consent as nominee to another OPC in which his elder brother Mr. Shankar is sole member.

Mr. Anay met with an accident on 25<sup>th</sup> March 2020, in which he lost his life. Nomination clause was invoked, as a result Mr. Amar has to take charge over 'Casa Hangout Private Limited' (One Person Company) as member with immediate effect. On 30<sup>th</sup> March 2020 Mr. Shankar was appointed as a new nominee to 'Casa Hangout Private Limited' (One Person Company), who gave written consent on 31<sup>st</sup> March 2020. Mr. Shankar who is an investment banker by profession, is of the opinion that 'Casa Hangout Private Limited' (One Person Company) needs to amend its object clause and add 'carry out investment in securities of body corporate' as one of the objects.

The Financial year closed on 31<sup>st</sup> March 2020. Financial statements of 'Casa Hangout Private Limited' (One Person Company), which is not containing cash flow statements were signed by Mr. Anand who left as only director after death of Mr. Anay.



## Multiple Choice Questions

1. With reference to appointment of Mr. Amar and Mr. Shankar as nominee to 'Casa Hangout Private Limited' (One Person Company)', out of followings, who is eligible to be nominee of OPC?
- (a) Any natural person excluding minor
  - (b) Any legal person excluding minor
  - (c) Any natural person, who is resident of India; but excluding minor
  - (d) Any natural person, who is resident as well as citizen of India; but excluding minor

Ans: (d)

2. Mr. Shankar if he wishes to withdraw his consent as nominee, can do so by giving written notice to
- (a) Director of OPC and to sole member of company
  - (b) Director of OPC and to Registrar of companies
  - (c) Sole member of company and to OPC
  - (d) Sole member of company and to Registrar of companies

Ans: (c)

3. With reference to legal position of Mr. Amar as member/s and nominee/s to various OPCs, which of the following statement is correct with reference to ceiling limit in relation to membership and being nominee to OPC? A person, other than minor; at specific point of time;
- (a) Can be member in any number of OPCs but nominee in one OPC
  - (b) Can be member in one OPC and nominee in any number of OPCs
  - (c) Can be member in one OPC and nominee in another one OPC
  - (d) Can be member and nominee both in any number of OPCs

Ans: (c)

CS 2

(MTP 6 Marks Oct'22) (Chapter 2 Incorporation of Company & Matters Incidental There to)

Jai and Veeru, two friends, formed a private limited company as Basanti Taanga Private Limited and got it registered on 10th January, 2018. The registered office of the company was situated at Kolkata, West Bengal. The company had an authorised share capital of ₹ 50 lacs divided into 5 lacs equity shares of ₹ 10/- each. The issued, subscribed and paid-up share capital of the company was of ₹ 30 lacs divided into 3 lacs equity shares of ₹ 10 each. The company was engaged in supplying various motor parts to the vehicles companies. 'Basanti' was a registered Trade mark of Basanti Motorwala Private Limited of Mumbai since 15th January, 2016 under the Trade Marks Act, 1999. This company was also engaged in manufacturing and supplying various auto parts to the vehicles companies.

Basanti Motorwala Private Ltd. of Mumbai came to know on 20th January, 2022 about Basanti Taanga Private Limited of Kolkata who was using identical name and mark. Being a registered proprietor of a trade mark, Basanti Motorwala Private Ltd. filed an objection with an appropriate authority under Companies Act, 2013 on 15th March, 2022 that the name Basanti Taanga Private Limited or the mark the company was using is found to be identical with or too nearly resembles to the registered trade mark of Basanti Motorwala Private Ltd. and as such the appropriate authority should direct Basanti Taanga Private Limited to change its name. The appropriate authority after going through all the details rejected the application of Basanti Motorwala Private Ltd.

Thereafter on 14th July, 2020, Basanti Motorwala Private Ltd. requested Basanti Taanga Private Limited to change its name and Basanti Taanga Private Limited accepted the same in good relationship. Basanti Taanga Private Limited complied with all the formalities under Companies Act, 2013 such as passing of all necessary resolutions, taking approval from appropriate authority, filing of documents with the Registrar of Companies etc. The name of the company Basanti Taanga Private Limited was changed to Jai Veeru Private Limited. A fresh certificate of incorporation was issued to the company by the Registrar after being satisfied with the name change application of the company. Subsequent to the issuance of the new incorporation certificate, steps were taken up to incorporate the new name in all copies of the Memorandum of Association, Articles of Association and other documents of the company.



1. In the above case scenario, what can be the most evident reason for the appropriate authority to reject the application of Basanti Motorwala Private Ltd?
- The appropriate authority rejected the application on the basis that the names of both the companies are different- Basanti Motorwala Private Ltd and Basanti Taanga Private Limited.
  - The appropriate authority rejected the application as Basanti Motorwala Private Ltd (owner of the registered mark) should have filed the objection within three years of the registration of company with identical name.
  - The appropriate authority could have rejected the application on the basis that both the companies are located in different cities and thus can use almost similar names.
  - The appropriate authority could have rejected the application on the basis that both the companies have different years of incorporation and both are located in different cities.

Ans:(b)

2. In the above case scenario, what ought to have been the time limit within which Basanti Motorwala Private Ltd, should have filed the objection for wrong name:
- On or before 9th January, 2021
  - On or before 9th January, 2022
  - On or before 9th January, 2023
  - They can file the objection at any time

Ans:(a)

3. According to above case, a fresh certificate of incorporation was issued to the company by the Registrar after being satisfied with the name change application of the company. Which of the following statements is correct in this context?
- The change in name of the company is said to be complete and effective from the date of passing of resolution in the general meeting of members.
  - The change in name of the company is said to be complete and effective from the date of issue of fresh certificate of incorporation by the Registrar.
  - The change in name of the company is said to be complete and effective from the date on which documents were filed with the Registrar.
  - The change in name of the company is said to be complete and effective from the date of the order of Ministry of Corporate Affairs approving the change of name.

Ans:(b)

CS 3

(MTP 6 Marks Nov 21) (Chapter 4 Share Capital & Debentures)

Mr. Hari Dutta is an Operation head of North India region of Hilton Ltd. He was a full- time employee of the company. Mr. Hari draws a monthly salary of Rs. 1,00,000. On 14th May 2020, Mr. Hari applied for a loan of Rs. 10,00,000, to buy 1000 fully paid-up equity shares of Rs. 1000 each in Mohan Limited (holding company of Hilton Ltd). The company refused to grant loan to Mr. Hari saying, he is not eligible for the loan for the said amount of Rs. 10,00,000.

Hilton Ltd. is a listed company, authorized by its articles to purchase its own securities. According to the balance sheet and Annual statements of the company for the year 2020-21:

- Issued, subscribed and paid-up Share Capital (20,00,000 equity shares of Rs. 100 each, fully paid-up)
- Free Reserves Rs. 30,00,00,000
- The security premium account Rs. 20,00,00,000
- The secured and unsecured Debt Rs. 50,00,00,000
- Accumulated losses Rs. 50,00,000

The company issued a circular as it wanted to buy back shares worth Rs. 10,00,00,000 from the funds it has in its free reserve and security premium account. The board of directors passed a resolution for the same on 28th April, 2021.

The company has filed with the Registrar of Companies a Letter of Offer in e-form SH-8 on 1st May 2021. The company had also filed with the Registrar of Companies, along with the letter of offer, a declaration of solvency.



The Letter of Offer was dispatched to all the shareholders on 3<sup>rd</sup> May, 2021. The company announced to avail the buy back offer latest by 10<sup>th</sup> May, 2021. Many shareholders who approached the company after the due date were not considered applicable for this buy back scheme. The shareholders raised strong objection on giving just 7 days time to avail the offer by the company.

A special resolution has been passed at a general meeting of the company authorizing the buy-back of shares, which was accompanied by an explanatory statement containing the particulars required to be mentioned as per the provisions of the Companies Act, 2013.

1. The company has planned to buy back shares worth rupees 10,00,00,000. What is the maximum amount of equity shares that the company is allowed to buy back based on the total amount of equity shares?
- (a) Rs. 2,00,00,000
  - (b) Rs. 5,00,00,000
  - (c) Rs. 7,00,00,000
  - (a) Rs. 8,00,00 000

Ans: (b)

2. Suppose the company intends to buy back some partly paid equity shares. Which of the following statement is correct?
- (a) The company is allowed to buy back partly paid equity shares
  - (b) The company is allowed to buy back partly paid equity shares if the total amount of such partly paid equity shares does not exceed 2% of the total buy back.
  - (c) The company is allowed to buy back partly paid equity shares but it cannot buy back partly paid other specified securities.
  - (d) All the shares or other specified securities for buy back must be fully paid up.

Ans: (d)

3. Some shareholders and officers of the company are of the opinion that it was not necessary for the company to pass a special resolution in general meeting with respect to buy back. Choose the correct reasoning:
- (a) It was not necessary to pass the special resolution as the approval of Board had already been granted for such buy back of shares
  - (b) It was necessary to pass special resolution as the amount of buy back exceeds ten percent of the total paid up equity share capital and free reserves
  - (c) It was not necessary to pass the special resolution as the buy back was authorized by the articles of the company
  - (d) It was necessary to pass special resolution as the amount of buy back exceeds fifteen percent of the total paid up equity share capital and free reserves

Ans: (b)

CS 4

(MTP 4 Marks March 23) (Chapter 6 Registration of Charges)

Shiv IT Solutions Ltd. is a company engaged in the business of providing customized software to its clients. This software's are usually related to the employee's attendance, leave management, salary preparation, tax calculation and other matters incidental to HR.

The company is having its own building and other infrastructure in Bengaluru and also at Brussels, Belgium. The company have patent rights over few of its software's and also have the trade mark right over the company's logo.

The company got sanctioned term loan facility of ₹ 10 crores from Best Bank Ltd on 1st January, 2022 by creating a charge on the assets of the company which includes the company's own buildings and intangible assets. The charge should have been created by the company within the time prescribed under the Companies Act, 2013 with the Registrar, however, the company could not get registration of charges within the prescribed time line.

During the course of Secretarial Audit of the company, for the year ended March 2022, it came in the knowledge of the Company Secretary in Practice, that charge was not registered with the Registrar. He



mentioned it in the report and advised the company to get it registered. However, the Action Taken Report (ATR) on the audit objection made by the Company Secretary was not apprised to the Board and no follow up was made by the company thereafter.

Bank's concurrent auditor and statutory auditor also pointed out this issue and narrated that since charge was not created by the company, hence this advance be treated as clean advance and interest rate of clean / unsecured advance, which is 22% (as against the normal rate of 11%) should be applied from the date of disbursement on the outstanding amount till date. Bank also asked a professional, whether it can get the charge registered, at its own, to satisfy the audit objection.

The Bank applied for registration of charge which was considered by the Registrar and registration of creation of charge was granted. The Bank in order to address the audit objections, applied the interest @ 22% on the outstanding amount in the loan account of the company. The company aggrieved with the decision of the Bank, managed to liquidate the term loans account by raising funds from other sources and filed the 'Satisfaction of Charge' with the Registrar.

1. The company can create charge in favour of the lender on the the assets which are:

- (a) Tangible Assets and situated in India only
- (b) Intangible Assets and situated in India only
- (c) Assets that are tangible or otherwise and situated in India or Brussels (Belgium)
- (d) Assets that are tangible or otherwise and situated in India only

Ans : (c)

2. Where the company fails to get the registration of charge, whether the Best Bank Ltd, in whose favour the charge was to be created, can move the application for creation of charge:

- (a) No. It is the responsibility of the borrower company only to get the charge registered in favour of the lender.
- (b) If the company do not get the charge registered in favour of the lender, the lender suo-moto cannot move application for registration of charge in its favour.
- (c) The borrower company can be held liable to pay the penalty only.
- (d) Yes. The lender company can move the application for registration of charge in its favour, if the borrower do not get the charge registered with the prescribed time.

Ans : (d)

CS 5

(MTP 6 Marks Oct 21) (Chapter 7 Management & Administration)

Ramola Textiles is a listed public company with the share capital of ten crores. The share value of the share is ₹ 100/share. The company has maintained the following registers:

- (a) Register of Members indicating separately for each class of equity and preference shares held by each member residing in or outside India
- (b) Register of Debenture-holder

The company has a registered office in Ahmedabad (Gujarat) and its Corporate office is situated in Mumbai. Around 17% of members who are equity share holders and 10% of the members who are preferential shareholders resides in Jaipur (Rajasthan). So out of these members 9% equity share holders and 5% preferential share holder made an application addressed to the company to shift its register of members to its liaison office in Jaipur. The company refused the request of the members by quoting that the register can only be maintained at registered office of the company. Mr. Raheem, a shareholder of the company, wants to sell all his shares in the company and wants to settle abroad. Mr. Raheem sold his equity shares to Mr. Ram on 7<sup>th</sup> May 2021. After completing all the formalities of transfer of shares Mr. Raheem left India on 10<sup>th</sup> May 2021. After three days span Mr. Ram figured out that his name was still not registered in company Register of Members (ROM). The Annual General Meeting was scheduled to be held on 25<sup>th</sup> May 2021. So, Mr. Ram wrote an e-mail to the company regarding addition of his name in ROM. But finally, after no response from the company, Mr. Ram approached the Tribunal to get his name registered in ROM. The Tribunal passed the order on 20<sup>th</sup> May 2021 to enter Mr. Ram's name in register of members of the company.



In the Annual General Meeting (AGM) the company declared to pay 10% dividend to all its shareholders out of the profits which it earned in previous financial year. Mr. Krish, a member of the company is holding 1000 equity shares in the company. Two years back Mr. Krish jointly bought fully paid 1000 equity shares of the company, with Mr. Azim, who is also a member of the company holding 1000 equity shares. Mr Krish needs to pay final call of ₹ 20 per share.

After the Annual General Meeting a report on the meeting including the confirmation to the effect that the meeting was convened, held and conducted as per the provisions of the Act and the rules made thereunder is required to be filed. A copy of the report was filed with the Registrar in Form No. MGT-15 with prescribed fees.

1. The Tribunal passed an order dated 20.05.2021. Latest by what date should the entry of Mr. Ram's name be made in the register of members?
  - (a) 25.05.2021
  - (b) 27.05.2021
  - (c) 30.05.2021
  - (d) 31.05.2021

Ans: (c)

2. Suppose the Chairman of the company after two days of AGM went abroad for next 31 days. Due to the unavailability of the Chairman, within time period prescribed for submission of copy of report of AGM with the registrar, the report as required was signed by two Directors of the company, of which one was additional Director of the company. Comment on the signing of this report of AGM.
  - (a) Yes, the signing is in order as the report can be signed by any director in the absence of Chairman.
  - (b) No, the signing is not in order as only the Chairman is authorised to sign the report
  - (c) Yes, the signing is in order, as in the absence of Chairman at least two directors should sign the report.
  - (d) No, the signing is not in order, since in case the Chairman is unable to sign, the report shall be signed by any two directors of the company, one of whom shall be the Managing director, if there is one and company secretary of the company.

Ans: (d)

3. According to the provision of Companies Act, 2013, till what date the company should submit report of AGM to the registrar?
  - (a) 04.06.2021
  - (b) 09.06.2021
  - (c) 24.06.2021
  - (d) 25.06.2021

Ans: (c)

CS 6

(RTP Nov '22) (Chapter 7 Management & Administration)

Shree Tyres Ltd. is an unlisted public limited company. The company's accounts for the financial year ending on 31st March, 2022 were finalised and audited by the Statutory Auditor. The meeting of the Board of Directors was convened and approved the financial accounts of the company and proposed to convene the Annual General Meeting of the shareholders on Thursday, the 25th August, 2022 at 10 am.

The total number of members is 3500. The Article of the company provides that the quorum for the general meeting of the shareholders shall be at least fifty members. On the day of the meeting only 10 members were physically present. Even after waiting of 30 minutes, the quorum was not present. Accordingly, the meeting was adjourned. According to the provisions of the Companies Act, 2013, the meeting shall adjourn to the same day in the next week at the same time and place.

However, on the same day in the next week i.e., on Thursday, the 1st September, 2022, the same venue (which is a Hotel's Conference Hall) was available from 3 pm only. The Board agreed to conduct the meeting from 3 pm and the all the members were informed individually via mail and also published it in the newspapers (one in English and another in vernacular language)

The adjourned meeting started at 3 pm on 1st September, 2022, the quorum required as per the Articles was 50, however 75 members were present. Out of the 75 members attending the meeting 25 persons were



having the residence near the venue of Annual General Meeting and rest of the members were staying far away. Due to heavy rainfall and scarce availability of public transportation, 40 persons left the meeting so that they can reach home on time. By that time only the ordinary business resolutions were approved and two special business agendas were pending for approval by the members.

1. In the light of the given facts, the General Meeting of the shareholders was decided to be scheduled . Determine by which date the notices to the shareholder should have been given to the members:

- (a) 1st August, 2022
- (b) 2nd August, 2022
- (c) 3rd August 2022
- (d) 4th August, 2022

Ans: (c)

2. Whether adjournment of the general meeting of shareholders of Shree Tyres Ltd. for want of quorum, was justified as per the requirement of the Companies Act, 2013:

- (a) Yes, it was justified, since the quorum was not present within 30 minutes from the time appointed for holding the meeting
- (b) No, it was not justified since the waiting time for the arrival of the requisite quorum is 30 minutes as per the provisions of the Companies Act, 2013, whereas the decision of the adjournment of the meeting was just taken after 15 minutes.
- (c) Yes, if the quorum is not present at the given time (sharp) of meeting, the meeting stands to be adjourned, and there is no requirement of waiting time.
- (d) Yes, it was justified, since the quorum was not present within 45 minutes (as per statutory requirement) from the time appointed for holding the meeting.

Ans: (a)

3. What shall be the quorum for the General Meeting of the Shareholders, where the number of members is 3500:

- (a) Five
- (b) Fifteen
- (c) Thirty
- (d) Fifty:

Ans: (d)

4. As some members left the meeting, the quorum was not present all the time during the Annual General Meeting. The agendas for special business transactions remained un-approved. What is your opinion:

- (a) The quorum once present in the beginning of the meeting is enough.
- (b) The quorum should be present all the time when the meeting is in progress. Any items which could not approved by members for want of quorum, shall be treated as NIL.
- (c) When the quorum is present in the beginning of the meeting, it may be assumed that all the resolutions have been approved, until and unless objected later on by the members present therein.
- (d) The Board may seek special written consent from the all the members later on

Ans: (b)

CS 7

(RTP May 23 & SM) (Chapter 7 Management & Administration)

Modern Limited is a company limited by shares that manufactures furniture items apart from material used in modular kitchens. Modern Limited is an unlisted company with a registered office in Mumbai, Maharashtra. It has a corporate office in Delhi and branch offices throughout the country. Following are facts regarding the 18th annual general meeting (AGM) of Modern Limited.

Modern Limited is the lead sponsor of the furniture trade event India Furniture EXPO 2022 and a member of the Association of Furniture Manufacturers and Traders. Modern Limited, on behalf of the Association, booked the Expo Hall in Mumbai for the event and also decided to convene its 18th AGM at the same hall after the conclusion of EXPO 2022.

But later, they found that the India Furniture Expo 2022, which was scheduled to be held from September



16–19, 2022, had to be postponed as Bombay Municipal Corporation (BMC) continued to occupy the hall as a vaccination center. Therefore, Modern Limited has to rethink its plan and now convene its 18th annual general meeting on September 27, 2022, at the IMA Auditorium in Delhi, near its corporate office. All the members consented to same. The notice of the said meeting was posted on September 5, 2022, specifying place, date and day, in additions to business to be transacted. In case of Mr. Ashok, who is declared insolvent but undischarged, notice was sent to assignee, while a wilful omission was made in giving notice in case of Ms. Anjum.

At the meeting, Mr. Singh was elected as chairman of the meeting by a show of hands, while Mr. Manohar registered his dissent on the appointment of Mr. Singh as chairman of the meeting and sought a poll to elect the chairperson. Mr. Manohar has substantial voting right of company being part of promoter group. A poll was held to elect the chairman of the meeting, and Mr. Singh voted twice in his capacity as a member as well as chairman while the poll was taking place. Mr. Singh was elected chairman through the poll as well, by overwhelming majority.

Ms. Varnika, who is not a member of company, attended the meeting as Mr. Alok's proxy, voted both times: when Mr. Singh was elected by show of hands and when he was elected by poll. When she initially voted, she raised her hand in favour of electing Mr. Singh as chairman of the meeting, while during the election through a poll, she cast a vote against.

Mr. Manohar raises the question on a vote that is casted by Mr. Singh in his capacity as chairman, hence he pass the remarks on him and his allies; which can be considered defamatory in nature. Chairman at his opinion, instructed the company secretary to exclude the remarks passed by Mr. Manohar while preparing the minutes; but some members raised a voice against the discretion of Mr. Singh, because they find remarks didn't carry any matter which can be considered defamatory, while some other members feel remarks are made with intent to defame chairman.

1. Regarding the notice of meeting given by Modern Limited, you are required to pick the correct option in light of provisions of the Companies Act, 2013 and rules notified thereunder.
  - I Modern Limited observe the length of notice, as required.
  - II Notice shall be given to member irrespective he is solvent, adjudged or declared insolvent, or discharged insolvent; Modern Limited committed default
  - III Notice shall be given to assignee of insolvent member, Modern Limited correctly did so
  - IV Willful omission in giving notice will invalidate the proceeding of the meeting in case of Modern Limited
  - (a) Only I, II and IV are correct
  - (b) Only III and IV are correct
  - (c) Only I is correct
  - (d) Only IV is correct

**Ans: (b)**

2. Regarding the place of 18th AGM of Modern Limited, decide whether applicable provisions violated or not; in light of provisions of the Companies Act, 2013 and rules notified thereunder.
  - (a) Violation, because Modern Limited shall convene and conduct AGM only at its registered office
  - (b) Violation, because AGM shall be held either at the registered office of the company or at some other place within the city, town or village in which the registered office of the company is situate
  - (c) No violation, because AGM shall be held either at the register or corporate office of the company or even at some other place within the city, town or village in which the registered or corporate office of the company is situate
  - (d) No violation, because AGM of the said company may be held at any place in India

**Ans: (d)**

3. Regarding vote casted by Ms Varnika, which of following statements hold truth; in light of provisions of the Companies Act, 2013 and rules notified thereunder.
  - (a) Being proxy Ms. Varnika is not allowed to cast vote on a poll, while she can cast vote by show of hand
  - (b) Being proxy Ms. Varnika is not allowed to cast vote by show of hand, while she can cast vote on a poll
  - (c) Despite being non-member Ms. Varnika can be proxy, but can't cast vote either by show of hand or on a poll



(d) Ms. Varnika can cast vote in both the cases; by show of hand as well as on a poll

**Ans: (b)**

4. Regarding the inclusion/exclusion of the remarks by Mr. Manohar, advice the company secretary; which of the following statement hold truth, in light of provisions of the Companies Act 2013 and rules notified thereunder.

- (a) Mr. Manohar's remark shall be included in minutes because minutes shall contain fair summary of the proceedings.
- (b) Mr. Manohar's remark shall be excluded from minutes because remarks are made with intent to defame chairman, the chairman's opinion of inclusion and exclusion is immaterial in such case.
- (c) Mr. Manohar's remark shall be excluded from minutes because chairman has absolute discretion to exclude any matter which is defamatory in his opinion
- (d) Mr. Manohar's remark shall be included in minutes because many members challenge the chairman's opinion and feels remarks were not defamatory.

**Ans:(c)**

**CS 8**

**(MTP 6 Marks April 23) (Chapter 8 Declaration & Payment of Dividend)**

Waste Papers Ltd. is company engaged in the business of collecting waste papers and old newspapers and manufacture from these wastes the corrugated boxes which are used in packing of the products by various suppliers.

The company is earning good profit margin and paying dividend consistently, which can be seen by the following information:

(₹ in Lakh)

Year	Payment of dividend	Paid-up share capital	Free Reserves
2012-13 to 2017-18	10	100	45
2018-19	15	100	60
2019-20	20	100	75
2020-21	22	100	95
2021-22	24	100	120

During the year 2022-23, the company's business was severely affected due to low demand of the corrugated boxes on account of recession situation (slow- down of economy) prevailing all over the country. The company showed a loss of ₹ 20 lakh in the annual accounts.

However, the company wants to maintain its image of consistently dividend paying company and for this year also, it also wants to declare dividend. The company have accumulated free reserves in its hand and want to declare dividend @ 26% (since there is increasing trend of 2% from the preceding years).

During the year 2022-23, Somesh, a shareholder of the company died due to cardiac arrest. He was having 10,000 shares in his D-mat account in which he has made nomination in favour of his son Romesh. When Romesh applied for transmission of the shares, his sister Sanjana, objected and filed a case in the court that she also has right in the property of her father and mere making of nomination do not dilute the rights of the legal heirs to claim share in the property. The matter is sub-judice in the court of law awaiting decision.

The company has business dealing with Mahesh Kumar, who is also a shareholder of the company. The company has supplied some goods to Mahesh Kumar worth ₹ 10,000, but he was not making payment to the company. The company while making payment of the dividend to Mahesh Kumar deducted the due amount, and as a result, nothing was payable to Mahesh Kumar towards the dividend. Mahesh Kumar threatened to take action against the company.

Based on the above facts, answer the following MCQs

1. Whether Waste Papers Ltd, who suffered losses in year 2022-23, can make payment of dividend to the shareholders:

- (a) In case of losses, the company can't pay dividend
- (b) Company may pay dividend out of profits of previous years (which are free reserves), subject to the fulfilment of conditions prescribed for declaration of dividend when there is inadequacy of profits in a particular year
- (c) Company may dividend out of Asset Revaluation Reserve Account



(d) Company may dividend without any restriction as it has enough amount in its Free reserves

**Ans: (b)**

2. Romesh (son of the deceased) made a complaint, that even after declaration of dividend, the company has not posted the dividend warrant at the address given in his transmission form. Which is the most correct statement in this regard:

- (a) The company is not liable to pay dividend to a deceased person
- (b) The company is not liable to pay dividend to the legal heirs of the deceased person
- (c) The company should deposit the dividend in the court, where the matter is under consideration
- (d) The company is not liable where there is a dispute regarding the right to receive the dividend.

**Ans: (d)**

3. In the given case, the amount due to be recovered from Mahesh Kumar was deducted by the company and nothing was now payable to him on account of dividend. Is the action of the company right:

- (a) No, payment of dividend is a separate matter and should not be clubbed with any other matter
- (b) Yes, Mahesh Kumar can take action against the company for not paying any dividend to him
- (c) The company can adjust the any sum, due to it, from the shareholder
- (d) The company should take into confidence and consent of Mahesh Kumar's family members to adjust its dues

**Ans: (c)**

**CS 9**

(RTP May '22 & SM) (Chapter 8 Declaration & Payment of Dividend)

Perfect Tyres and Rubbers Ltd. is a listed entity engaged in the business of manufacturing of tyres and tubes for Light and Heavy Commercial Vehicles. During the financial year 2019-20, the company has declared interim dividend of 5% on the equity shares in its Board meeting held on 17th October, 2019, out of the profits earned during the first quarter of FY 2019-20. Further, the Board of Directors of the company after reviewing results of the fourth quarter of FY 2019-20 again recommended for second Interim Dividend @ 5% on 25th April, 2020. The Board of Directors of the company approved the financial result for the FY 2019-20 in its meeting held on 5th August, 2020, and recommended a final dividend of 15% (including the interim dividends paid earlier) in this board meeting. The general meeting of the shareholders was convened on 31st August, 2020. The shareholders of the company demanded that since interim dividend @10% (5% + 5%) was declared by the company, so the final dividend should not be less than 20% (including the interim dividends). When the Company Secretary emphasised that final dividend cannot exceed, what the Board of Directors have recommended in their board meeting, some of the shareholders boycotted the meeting and moved out of the meeting hall, in protest of the company's decision. However, the agenda for declaration of the dividend was passed unanimously by rest of the shareholders present in the meeting hall, fulfilling the criteria of requirement of quorum, as per the provisions of the Companies Act, 2013.

After approval of the shareholders, the dividend amount was paid to the shareholders, however dividend to some of the shareholders could not be paid within the prescribed period for variety of reasons. The company transferred the unpaid dividend amount to a separate bank account on 15th October, 2020.

The details of the unpaid dividend amount for the previous year's lying in the unpaid dividend account is as under:

S. No.	Dividend pertaining to the FY	Date of declaration of Dividend	Date when the amount was transferred to Unpaid dividend Account	Amount lying in the Unpaid Dividend Account (₹ in lakhs)
1	2019-20	31.08.2020	15.10.2020	92.50
2	2018-19	25.08.2019	28.09.2019	85.14
3	2017-18	20.08.2018	22.09.2018	80.00
4	2016-17	05.09.2017	07.10.2017	75.25
5	2015-16	01.09.2016	04.10.2016	45.15
6	2014-15	07.09.2015	09.10.2015	35.26
7	2013-14	05.05.2014	08.06.2014	15.10



8.	2012-13	06.06.2013	08.07.2013	07.25
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Sustram, one of the investors who is holding 1000 shares in physical form, by visiting web- site of the company, came to know that company had declared the dividends in some previous years, but have not been paid to him. This happened due to the fact the company was not having his current address and bank account details. Sustram approached the company, along with all the supporting evidence to his claim and demanded the dividend amount.

The company after being satisfied, paid all the dividend amount pertaining to the FY 2013-14 to FY 2019-20. However, for FY 2012-13, the company informed that since the amount of dividend has been transferred to Investor Education and Protection Fund, it cannot be taken back now. Aggrieved from this, Sustram threatened the company officials to take appropriate legal action.

Based on the above facts, answer the following MCQs:

- When the shareholders demanded for increase in the rate of dividend, but since the shareholders cannot increase the rate of dividend what the Board of Directors have recommended, some of them walked out of the meeting hall. What shall be the consequences of it:
  - If, even after boycott, quorum is present, all the time during the course of general meeting and they have approved with majority, the rate recommended by the Board shall be treated as approved.
  - Members present at the beginning of the meeting shall remain present all the time during the general meeting, to approve any agenda, else it will be treated as nullified.
  - The approval of the dividend is an ordinary business resolution of the company, so if some of the members have boycotted the meeting, it will have no effect, even if the quorum is not present.
  - The recommendation of the Board of Directors of the company relating to the rate of dividend shall stands withdrawn.

Ans : (a)

- At which date, the unpaid dividend not claimed by the shareholders, shall be transferred to a separate bank account, in the above case:
  - On 5th August, 2020 (the date of Meeting of Board)
  - On 31st August, 2020 (the date of Meeting of Shareholders)
  - On 30th September, 2020 (the date, after 30 days from the meeting of shareholders)
  - Latest by 7th October, 2020 (within seven days from the date of expiry of 30 days)

Ans : (d)

- The company transferred the amount of unpaid dividend to a separate bank account on 15th October, 2020.

What is the interest liability on the part of the company?

- No liability.
- Interest @ 10% p.a. on so much of the amount as has not been transferred to the Unpaid Dividend Account.
- Interest @ 12% p.a. on so much of the amount as has not been transferred to the Unpaid Dividend Account.
- Interest @ 15% p.a. on so much of the amount as has not been transferred to the Unpaid Dividend Account.

Ans : (c)

- In the given case, when and how much amount, the company shall transfer the funds to the Investor Education and Protection Fund:
  - Four years after 01.09.2016; Rs 45.15 lakh
  - Five years after 07.09.2015; Rs 35.26 lakh
  - Six years after 05.05.2014; ₹ 15.10 lakh
  - Seven years after 08.07.2013: ₹ 07.25 lakh

Ans : (d)



Sehzad Color Limited (SCL) was incorporated on 12<sup>th</sup> August 2018 with its registered office situated in Dehradun and branch offices at Delhi and Jaipur. The company was engaged in the business of manufacturing herbal products used as cosmetics. The company had prepared its “books of accounts” and other relevant books and records and financial statements for the year ending 31<sup>st</sup> March 2019.

The company maintains its books of accounts on a double entry system of accounting on an accrual basis and keeps the books of account and other relevant books and papers and financial statements in the city of Jaipur in Rajasthan, which happens to be its major branch office.

Gradually, the activities of the company grew and it opened its first branch office outside India in Colombo, Sri Lanka. The business started developing well and necessary records and documents including the books of account of the branch were maintained. One of the Directors, Mr. Mac, felt it necessary to inspect the books of account and other relevant documents maintained at Colombo branch. However, due to his busy schedule, he could not personally inspect the records and accordingly sought necessary financial information through his attorney holder.

The board of directors of the company had entrusted Ms. Anjali, the General Manager of the Company to fulfil all the duty with regard to the complying with the provisions of the company law in relation to maintaining the books of account, place of keeping the books of account, time period for preservation of books and all relevant papers and such things as prescribed under the Companies Act, 2013 in this regard.

In view of the aforesaid scenario relating to “books of account” of SCL, answer the following questions:

**Multiple Choice Questions**

1. As observed in the case scenario above, Mr. Mac (a director) has sought financial information maintained outside the country (i.e. financial information relating to books of account maintained in Colombo). Can a director do so under the provisions of the Companies Act, 2013?
  - (a) A director can inspect and seek information from any Branch of the Company located within the country only.
  - (b) The director can seek the information through his attorney holder with respect to financial information maintained outside the country also.
  - (c) The director can seek the information only individually and not through his attorney holder with respect to financial information maintained outside the country.
  - (d) The director can seek the information through his representative with respect to financial information maintained outside the country.

**Ans: (c)**

2. With regard to preservation of the books of SCL, the books of accounts for the FY 2018-19 needs to be kept in good order until at least which of the following years?
  - (a) FY 2025-26
  - (b) FY 2026-27
  - (c) FY 2027-28
  - (d) FY 2028-29

**Ans: (b)**

3. The board of directors of the company had entrusted Ms. Anjali, the General Manager of the Company to fulfil all the duty with regard to complying with the provisions of the company law in relation to maintaining the books of account. Which of the statement is correct with respect to entrusting Ms. Anjali for maintaining the books?
  - (a) Only the Managing Director can be entrusted to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of account etc.
  - (b) Only the Managing Director or any Whole time director can be entrusted to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of account etc.
  - (c) Only Whole time director (in charge of finance) or Chief Financial Officer can be entrusted to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of account etc.
  - (d) Only the Managing Director or the Whole time director (in charge of finance) or Chief Financial Officer



or any other person of a company charged by the Board with the duty can be entrusted to take all reasonable steps to secure compliance by the company with the requirement of maintenance of books of account etc.

Ans: (d)

CS 11

(MTP 6 Marks Sep'22) (Chapter 9: Accounts of Companies)

The aggregate value of the paid-up share capital of Sai Ram Limited, a listed company, was ₹ 200 crore divided into 20 crore equity shares of ₹10/- each at the end of the financial year 2021-22 having its registered office at Pune. This company had been registered with an authorised share capital of ₹ 300 crore divided into 30 crore equity shares of ₹10/- each. The company has very good reputation in compliance of all legal requirements on time. The company produces health related products such as ayurvedic medicines, medical instruments, sanitizers, masks, medical soaps etc. The extract of Balance Sheet of the company as on 31st March, 2022 showed the following figures—

Particulars	Amount (₹ in crore)
Free reserves created out of profits	200
Securities Premium account	80
Credit balance of Profit & Loss account	50
Reserves created out of revaluation of assets	25
Miscellaneous expenditure not written off	10

Turnover of the company during the financial year 2021-22 was ₹ 700 crore and the net profit calculated in accordance with section 198 of the Companies Act, 2013 with other adjustments as per CSR Rules was ₹4 crore only.

The Board of Directors of the company constituted of the following persons as directors- a Chartered Accountant 'Sai Ram' as the Managing Director, 'Roshan' and 'Prachita' as independent directors, 'Hari Om', 'Bindu', 'Reddy' and 'Komal'. Prakash, Chief compliance officer of the company informed the Board on 20th April, 2022 that the company attracts the provisions of section 135 of the Companies Act, 2013 and all the formalities have to be complied with accordingly. Thereafter, on 30th April, 2022 a CSR committee was formed to act and comply the provisions of Corporate Social Responsibility.

The company proposed a list of activities to spend 4% of the average net profits of the company made during the three immediately preceding financial years in pursuance of its CSR Policy as under –

1. The CSR projects for the benefit of employees of the company and their families only.
2. A contribution of ₹ 10,000/- to a political party under section 182 of the Companies Act, 2013.
3. A contribution to the PM CARES Fund during Covid pandemic.
4. Local activities like promotion of child and women education.
5. Activities carried out for fulfilment of any other statutory obligations under any law in force in India.
6. CSR projects undertaken through a Section 8 company.

On the basis of above facts and by applying applicable provisions of Companies Act, 2013 and the applicable Rules therein, choose the correct answer.

1. Prakash, Chief compliance officer of the company informed the Board on 20th April, 2022 that the company attracts the provisions of section 135 of the Companies Act, 2013. On what basis of the following he arrived at this conclusion -
  - (a) On the basis of turnover of the company.
  - (b) On the basis of turnover and net profit of the company taken together.
  - (c) On the basis of net worth of the company.
  - (d) On the basis of net worth and turnover of the company taken together.

Ans: (c)

2. For the purpose of section 135 of the Companies Act, 2013, the net worth has to calculated as defined under section 2(57) of the Act. In this context, which of the following statements is correct with reference to the above case –
  - (a) The net worth of Sai Ram Limited during the financial year 2021-22 was ₹520 crore.



- (b) The net worth of Sai Ram Limited during the financial year 2021-22 was ₹530 crore.
- (c) The net worth of Sai Ram Limited during the financial year 2021-22 was ₹555 crore.
- (d) The net worth of Sai Ram Limited during the financial year 2021-22 was ₹620 crore.

**Ans: (a)**

3. Sai Ram Limited constituted a Corporate Social Responsibility Committee as per the provisions of the Act and Companies (Corporate Social Responsibility Policy) Rules, 2014, therein consisting of-

- (a) Sai Ram, Hari Om, Bindu and Reddy
- (b) Hari Om, Bindu, Reddy and Prakash
- (c) Sai Ram, Hari Om, Bindu and Prakash
- (d) Sai Ram, Hari Om, Bindu and Roshan

**Ans: (d)**

**CS 12**

**(RTP Nov 23)(Chapter 9 Accounts of Companies)**

Bharat Sanskar Limited having its registered office at Haridwar, is a listed public company. It is registered with an authorised share capital of ₹ 300 crore divided into 30 crore equity shares of ₹ 10/- each. The paid-up share capital of the company is ₹ 200 crore divided into 20 crore equity shares of ₹ 10/- each. The company is very renowned in manufacturing and supplying devotional items such as high-quality worship materials, fragrances, various types of decorative goods, idols etc.

The Board of Directors of the company constituted of Sagar as the Managing Director and Hari, Rahi, Sansar & Nabh as directors of the company. In the company Raju was holding the post of Company Secretary, Sonu designated as Chief Financial Officer and Moti as Assistant Accountant. The company prepared its Financial Statement for the year 2022 -23, the Board of Directors approved the same and it was signed by the concerned authorities and thereafter submitted to the auditors on 10th May, 2023 for their report. The turnover of the company was ₹ 100 crore during the year 2022-23. The auditor's report was duly received and the annual accounts with Board's report and all necessary annexures were ready on 15th July 2023 after complying with all the formalities as per company law.

The Board Meeting was called on 25th July, 2023 and the Annual General Meeting was fixed on 20th August, 2023. At the Annual General Meeting the Financial Statement along with all annexures was duly received and adopted by the members present. However, the company could not file copies of financial statement along with all the documents annexed to the financial statement adopted at the Annual General Meeting, with the Registrar.

It is also informed that in April, 2023, the company had destroyed all the books of account together with relevant vouchers up to financial year ending on 31st March, 2018.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following queries given herein under: -

1. The Companies Act, 2013 provides that the financial statement should be approved by the Board of Directors, signed by the prescribed authorities and submitted to the auditors for their report. Accordingly, the financial statements of Bharat Sanskar Limited shall be signed by:

- (a) Sagar, Raju and Sonu
- (b) Sansar, Hari, Raju and Sonu
- (c) Sagar, Sansar, Raju and Moti
- (d) Sagar, Sansar, Raju and Sonu

**Ans: (d)**

2. As per provisions of company law, the Board's report with annexures thereto of the above company is required to be duly signed by -

- (a) Sagar only
- (b) Sagar and Hari
- (c) Sagar and Raju
- (d) Sagar and Sonu

**Ans: (b)**



3. In the above case scenario, the company failed to file copies of financial statement along with all the documents annexed to the financial statement adopted at the Annual General Meeting with the Registrar. In this context, which of the following statements is correct?

- (a) Sagar, Raju and Sonu shall be liable to a penalty.
- (b) The company, Sagar and Raju shall be liable to a penalty.
- (c) The company, Sagar and Sonu shall be liable to a penalty.
- (d) Sagar, Raju and Sonu shall be liable to a penalty.

Ans: (c)

4. As per provisions of the Companies Act, 2013, the act of the company in destruction of all books of account together with relevant vouchers was not correct because –

- (a) The books of accounts etc. relating to a period not less than 6 preceding financial years are required to be kept in good order.
- (b) The books of accounts etc. relating to a period not less than 8 preceding financial years are required to be kept in good order.
- (c) The books of accounts etc. relating to a period not less than 10 preceding financial years are required to be kept in good order.
- (d) The books of accounts etc. relating to a period not less than 12 preceding financial years are required to be kept in good order.

Ans: (b)

CS 13

(MTP 10 Marks July'24 & SM) (Chapter 9 Accounts of Companies)

GlobalTech Pvt. Ltd., a technology giant with operations in software development, hardware manufacturing, and IT consulting, has recorded significant financial growth over the past few years. For the financial year 2023-2024, the company reported the following financial metrics:

- Net worth: ₹ 520 crore
- Turnover: ₹ 1,050 crore
- Net profit: ₹ 4.5 crore

In the financial year 2022-2023, GlobalTech Pvt. Ltd. had a net worth of ₹ 480 crore, a turnover of ₹ 1,020 crore, and a net profit of ₹ 4 crore. The company has a subsidiary, TechSubs Ltd., and a foreign subsidiary, GlobalTech International, which has a branch office in India.

GlobalTech Pvt. Ltd. spent ₹ 1.2 crore on various CSR activities during the financial year 2023-2024. However, ₹ 30 lakh remained unspent and was transferred to the Unspent Corporate Social Responsibility Account as per section 135(6) of the Companies Act, 2013.

The company's board comprises members from different parts of the country and they ensure that the administrative overheads do not exceed the prescribed limit of total CSR expenditure.

The company held its annual general meeting on 20th August, 2024 and filed the annual return in compliance with the provisions of the Companies Act, 2013.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions given herein under: -

1. Based on the financial metrics of GlobalTech Pvt. Ltd., is the company required to constitute a Corporate Social Responsibility (CSR) Committee for the financial year 2023-2024?

- (a) Yes, because its net worth exceeds ₹ 500 crore.
- (b) No, because it has not met the required net profit criteria.
- (c) Yes, because its turnover exceeds ₹ 1,000 crore.
- (d) No, because its net profit is less than ₹ 5 crore.

Ans: (c)

2. Given that GlobalTech Pvt. Ltd. has ₹ 30 lakh in its Unspent Corporate Social Responsibility Account, which of the following statements is true?

- (a) The company is not required to constitute a CSR Committee if it has unspent CSR funds.



- (b) The company must constitute a CSR Committee in Financial year 2024-2025, as it has balance in Unspent CSR account.
- (c) The company can use the unspent funds for any other business activity.
- (d) The company must transfer the unspent amount to the Prime Minister's National Relief Fund.

**Ans: (b)**

3. If GlobalTech Pvt. Ltd. had an average net profit of ₹ 5 crore over the past three immediately preceding financial years, what is the minimum amount it must spend on CSR activities in the financial year 2024-2025?

- (a) ₹ 5 lakh
- (b) ₹ 10 lakh
- (c) ₹ 20 lakh
- (d) ₹ 30 lakh

**Ans: (b)**

4. GlobalTech Pvt. Ltd. must ensure that the administrative overheads do not exceed a certain percentage of the total CSR expenditure. What is this percentage?

- (a) 2%
- (b) 5%
- (c) 10%
- (d) 15%

**Ans: (b)**

5. What is the latest date by which GlobalTech Pvt. Ltd. must it file its annual return with the Registrar of Companies (RoC)?

- (a) 10th September 2024
- (b) 15th September 2024
- (c) 10th October 2024
- (d) 19th October 2024

**Ans: (d)**

**CS 14**

**(MTP 6 Marks Mar 21 & May 20) (Chapter 9 Accounts of Companies)**

Krishnakant Limited was incorporated on 24<sup>th</sup> September, 2010 under the jurisdiction of Registrar of Companies, Rajasthan with its registered office located in Jaipur and its manufacturing units spread out in Mumbai, Kanpur, Delhi and Ludhiana. Under the dynamic leadership of Hans Rajpal, the Chairman and Managing Director (CMD) of the company, the company had reached new heights of success. The directors of the company numbered eight including CMD out of which two were the independent directors.

The turnover of the company for the Financial Year 2019-2020 was Rs. 750.00 crores – a whopping rise of more than 20% from the previous year and the net profit stood at an impressive figure of Rs. 6.60 crores – an increase of Rs. 1.80 crores as compared to the net profit of the previous year. The company had a net worth of Rs. 250.00 crores; and it was noticed that the net worth had also registered a northern-

western trend by more than 15%. The authorised and paid-up share capital of the company was Rs. 8.00 crores. Keeping in view the applicability of forming a CSR Committee for the current financial year 2020-21, a CSR Committee was formed with four directors as members of which one was an independent director. The Committee was, among other objectives, given the responsibility of formulating and recommending to the Board, a Corporate Social Responsibility Policy which would indicate the activities to be undertaken by the company within the framework specified in Schedule VII.

As the company has huge profits it has proposed a dividend @ 10% for the year 2019-20 out of the profits of current year.

The company plans to diversify its business by adding another segment to manufacture steel utensils and therefore, is desirous of shifting its registered office to Mumbai from Jaipur which will help the company in carrying on the new business for effectively. Another strategically important segment which the company tapped earlier and now wishes to engage itself in on a large scale relates to manufacturing of stationery items.



During the current Financial Year 2020-21, the company provided ample support for improvement of infrastructure in schools established at Mumbai, Kanpur, Delhi and Ludhiana as part of its CSR activities. In addition, the company contributed towards establishment of Digital Smart Classroom, Libraries and computer labs in these cities. The company also deployed mobile medical units equipped with medical facilities and qualified doctors. In addition to this a large number of public health and sanitation activities had been initiated under Swachh Bharat Abhiyan. The total amount spent on these activities was, till date, almost equal to the minimum amount prescribed and it is hoped that as the current Financial Year 2020-21 approaches its end, the total spending on CSR activities will certainly exceed the budgeted figure.

1. Which of the following factors would have prompted Krishnakant Limited to mandatorily form a Corporate Social Responsibility (CSR) Committee for the current financial year?
- (a) The net profit had increased to Rs. 6.60 crores and it was more by Rs. 1.80 crores in comparison to previous year's net profit.
  - (b) The turnover was Rs. 750.00 crores which was an increase of more than 20% as compared to the previous year.
  - (c) The net worth was Rs. 250.00 crores which when compared to the previous year had registered an increase by more than 15%.
  - (d) The paid-up share capital was Rs. 8.00 crores.

Ans: (a)

2. What is the minimum amount (in percentage) that Krishnakant Limited is required to spend during the Financial Year 2020-21 on the CSR activities?
- (a) 2% of the average net profits made during the two immediately preceding financial years.
  - (b) 2% of the average net profits made during the three immediately preceding financial years.
  - (c) 2.5% of the average net profits made during the two immediately preceding financial years.
  - (d) 2.5% of the average net profits made during the three immediately preceding financial years.

Ans: (b)

3. In the given case scenario, Krishnakant Limited decided to undertake CSR activities on its own. In case, it had decided to engage an external Section 8 company for undertaking its CSR activities and such charitable company is not established by Krishnakant Limited nor it is established by the Central/State Government or by any entity established under an Act of Parliament or a State Legislature, then what should be the established track which this Section 8 company should have in undertaking similar programs or projects which Krishnakant Limited wants it to accomplish?
- (a) Track record of minimum one year
  - (b) Track record of minimum two years
  - (c) Track record of minimum three years
  - (d) Track record of minimum four years

Ans: (c)

CS 15

(MTP 6 Marks Mar 22 & Sep 23) (Chapter 10 Audit & Auditors)

Sourabh Publishers Ltd., a listed entity, passed a resolution in its Board meeting for appointment of Jain & Jain, a Chartered Accountants firm, as Statutory Auditor of the company. The company obtained the consent in writing from Jain & Jain and also placed this recommendation before the general meeting of the shareholder and got it approved.

The company thereafter informed the CA Firm about their appointment and also filed a notice of appointment with the Registrar of Companies within the prescribed time.

Jain & Jain, Chartered Accountants firm is having 3 partners namely, Mridula Jain, Shyamla Jain, Parul Jain. In this firm Mayank Jain and Shashank Jain were associates and were being paid on case-to-case basis and not on fixed salary.

Prior to the appointment of Jain & Jain, the previous auditor was Agrawal Jain & Associates. In this CA firm there were 6 partners namely, Prashant Agrawal, Vikas Agrawal, Vishal Agrawal, Vyom Agrawal, Mayank Jain and Shashank Jain.

Mayank Jain and Shashank Jain were common persons in both the firms.



While working with Sourabh Publishers Ltd., Jain & Jain started facing a lot of issues with the management of the company. After some time, due to these disputes with the management, Jain & Jain resigned from the company.

#### Multiple Choice Questions

1. The newly appointed CA Firm (Jain & Jain) and retiring CA Firm (Agrawal Jain & Associates) have common persons i.e., Mayank Jain and Shashank Jain. Whether the appointment of Jain & Jain in Sourabh Publishers Ltd. is valid as per the provisions of the Companies Act, 2013
- (a) It not valid since both the CA Firms (New and Old) have common persons
  - (b) Mayank Jain and Shashank Jain are the associates in Jain & Jain and not the partners, hence appointment of Jain & Jain, is valid
  - (c) Jain & Jain should expel Mayank Jain and Shashank Jain in order to retain its appointment
  - (d) Agrawal Jain & Associates should expel Mayank Jain and Shashank Jain

Ans : (b)

2. What would have been the position if, Mayank Jain and Shashank Jain are partners in Jain & Jain:
- (a) The position will remain the same as MCQ 1 above
  - (b) There shall be no change, and Jain & Jain may continue as audit firm
  - (c) The appointment of Jain & Jain would not have been in terms of the provisions of the Companies Act, 2013
  - (d) The company may obtain permission from the shareholders in the general meeting by way of Special Resolution for continuation of appointment of Jain & Jain

Ans : (c)

3. In the given case, Jain & Jain due to some dispute with the management on some issues resigned from the company. Choose the correct option in respect to filling of this vacancy:
- (a) Jain & Jain cannot resign and has to hold the office till the conclusion of the next annual general meeting
  - (b) The resignation is tendered by the auditor, the Board of Directors shall appoint new auditor within 30 days and such appointment shall also be approved by the shareholders in the general meeting within 3 months of the recommendation of the Board
  - (c) This vacancy of auditor can be filled by the shareholders in consultation of the Central Government
  - (d) This vacancy of auditor can be filled by the Board of Directors in consultation of the Comptroller and Auditor-General of India

Ans : (b)

CS 16

(MTP 6 Marks Mar 21)

Kaisha Packers and Movers Limited, a reliable and well-established company, was incorporated on 20<sup>th</sup> September, 2014 with an aim to provide convenient and innovative ways of moving customers' household items, re-location of businesses and offices, shifting of vehicles, etc. in the northern region. Their services have been professionally designed to ensure maximum customers satisfaction. The company had been formed by the directors Kashi Sharma, Pranav Chaturvedi, Abhinav Mehra, Anoop Bhargava and Vikash Kumar whose friendship had developed during their college days. Due to hard work and their business acumen, the promoters had successfully created a niche for themselves amid cut-throat competition.

The company has a fleet of over 500 vehicles, 55 branches, professionals and technical and non - technical employees. Over a period of time, Kaisha Packers and Movers has become a trusted brand and prospective customers prefer to engage it whenever they want to re-locate their offices or homes since services are provided in a convenient and cost-effective manner.

The authorised capital of the company is Rs. 150.00 lacs divided into 15,00,000 equity shares of Rs. 10 each. At the time of incorporation, its paid-up capital was Rs. 1,00,00,000 and there were 50 shareholders. The registered office of the company is situated in Hyden Park, Bangalore.

With a view to provide world-class relocation and moving solutions throughout the country, the directors decided to enlarge the capital base of the company. During the mid of the current financial year, it offered



remaining 5,00,000 shares to another 120 persons at a premium of Rs. 10 per share on private placement basis. Among others, Ruchi, a freelance software consultant and her younger sister Rumi, a management consultant in Info Solutions Limited which is well-known company for its high export turnover, were also identified as the prospective subscribers. However, they requested the company to offer them only the minimum number of shares. Similar requests were also received from another twelve persons. Their requests were given due consideration by the directors. All the identified persons who were offered shares paid the required amount (including premium) as per the terms of the offer. The allotment of the shares was made much before the statutory period.

Immediately after the aforesaid allotment of shares, the company rolled out its expansion plan as envisaged earlier and utilised the funds so obtained for the requisite purpose. However, the company is desirous of tapping more prospective investors by offering them equity shares on private placement basis during the remaining part of the current financial year. For this purpose, it is proposed to increase the authorised capital from the present Rs. 150.00 lacs to Rs. 300.00 lacs. In addition to the further allotment of shares on private placement basis, the company is also contemplating to raise deposits from the members. However, Kashi Sharma and Anoop Bhargava are of the opinion that the company should consider raising of deposits only in the next financial year since the funds already raised need to be properly utilized

1. According to the case scenario, the company is desirous of raising deposits from its members to augment the funding requirements. In case, the company also contemplates to raise deposits from public in addition to its members, which of the following option is applicable: (Chapter 5 Acceptance of Deposits by Companies)

- (a) In order to raise deposits from public besides members, the company should have net worth of minimum Rs. 100 crores and a turnover of minimum Rs. 500 crores.
- (b) In order to raise deposits from public besides members, the company should have net worth of minimum Rs. 150 crores and a turnover of minimum Rs. 250 crores.
- (c) In order to raise deposits from public besides members, the company should have net worth of minimum Rs. 150 crores or a turnover of minimum Rs. 750 crores.
- (d) In order to raise deposits from public besides members, the company should have net worth of minimum Rs. 100 crores or a turnover of minimum Rs. 500 crores.

Ans : (d)

2. According to the case scenario, during the mid of the current financial year, the company offered 5,00,000 shares to 120 persons at a premium of Rs. 10 per share on private placement basis. During the remaining part of the current financial year, the company is desirous of tapping more prospective investors by offering them equity shares on private placement basis. How many more such prospective shareholders can be invited by the company for investment in the capital of the company. (chapter 4 Share Capital & Debentures)

- (a) The company can offer equity shares maximum up to the 30 prospective shareholders in the remaining part of the current financial year.
- (b) The company can offer equity shares maximum up to the 55 prospective shareholders in the remaining part of the current financial year.
- (c) The company can offer equity shares maximum up to the 80 prospective shareholders in the remaining part of the current financial year.
- (d) The company can offer equity shares maximum up to the 130 prospective shareholders in the remaining part of the current financial year.

Ans : (c)

3. In the given case scenario, suppose the company has failed to allot the shares within the statutorily allowed period. In such a case, the only remedy available with the company is to refund the application money. State the time period within which the company is required to refund the application money to the subscribers if it has failed to allot the shares within the statutorily allowed period. (chapter 4 Share Capital & Debentures)

- (a) The application money must be refunded within sixty days from the expiry of statutorily period allowed within which the allotment of shares ought to have been made.
- (b) The application money must be refunded within forty-five days from the expiry of statutorily period



allowed within which the allotment of shares ought to have been made.

- (c) The application money must be refunded within thirty days from the expiry of statutorily period allowed within which the allotment of shares ought to have been made.
- (d) The application money must be refunded within fifteen days from the expiry of statutorily allowed period within which the allotment of shares ought to have been made.

**Ans : (d)**

**CS 17**

**(RTP May 21)**

Mr. Ajay is a renowned finance professional with wide experience in banking operations. Due to his experience, he has been appointed as director on the Board of various companies. He is working as the Executive Director - Finance of Doon Carbonates Limited (DCL) for the past 4-5 years and heading the finance department there. As per the object clause of the Memorandum of Association of DCL, it can raise funds by way of loans for the advancement of its business. Articles of Association of DCL authorizes the directors to borrow up to INR 50 lakhs on behalf of the company after passing a valid board resolution and any loans for amounts exceeding the above limit can be raised only after approval at a general meeting.

Board of Directors of DCL raised INR 80 lakhs from Srikanth Finance Services after passing a board resolution and out of this amount, INR 60 lakhs was used to pay a legitimate liability of DCL by the directors. DCL is a widely held company with around 5600 members as per the members register. The 21<sup>st</sup> AGM of DCL is convened on 1<sup>st</sup> September 2020. A total of 34 members attended the meeting out of which 7 members attended through proxy. 6 of such members are represented by single proxy, Mr. Das. The articles of DCL is silent about the quorum.

Mr. Ajay is also director of Padmani Silk Limited (PSL). PSL was established around 25 years back as a private company operating as a micro business with 10 employees in a three- room building. During these years, the company grew exceptionally and went public and was also listed on SME exchange. PSL declares the interim dividend out of the previous year's undistributed profit on 31<sup>st</sup> August 2020 on the occasion of the 25<sup>th</sup> anniversary of the company. PSL deposited the amount of said dividend in a separate bank account with a NBFC on 4<sup>th</sup> of September, 2020.

Mr. Ajay hails from a farming family and carries on the business of cultivation and milling of paddy. He is also the sole member of New-Deal Limited (NDL), a one person company. NDL is operated as rice sheller and also deals in trading of high quality basmati rice. Mr. Ajay's father is operating as a nominee for the purposes of this OPC. The accounts department of NDL prepared and published only Profit and Loss Account and Balance Sheet as a financial statement and did not prepare cash flow statements and explanatory notes to accounts. A statement of changes in equity is not required in the case of NDL.

**Multiple Choice Questions**

**1. Regarding compliance for declaration and distribution of Interim dividend by PSL, which of the following statements is correct? (Chapter 8 Declaration & Payment of Dividend)**

- (a) There is a violation of the provisions because interim dividend can only be declared out of current year's profits.
- (b) There is no violation at all, and all the provisions prescribed by law have been complied with.
- (c) There is a violation because the bank account shall be designated and shall be one of existing banks account of company.
- (d) There is a violation because the bank account shall be opened with scheduled banks only.

**Ans: (d)**

**2. Which of the following statements is correct, with reference to the requirement for financial Statements of 'New Deal Limited' (One Person Company) (Chapter 9 Accounts of Companies)**

- (a) NDL fails to meet the requirement because its financial statement do not include explanatory notes to accounts
- (b) NDL fails to meet the requirement because its financial statements do not include cash flow statement
- (c) NDL fails to meet the requirement because its financial statements do not include explanatory notes to account and cash flow statement



(d) NDL has complied with the requirements related to financial statements

**Ans: (a)**

**3. Regarding the validity of the 21st Annual General Meeting of DCL, which of the following statements is correct? (Chapter 7 Management & Administration)**

- (a) The meeting doesn't have a quorum, because 30 members need to be present in person at the meeting.
- (b) The meeting is valid and has a quorum because 30 members are present at meeting either personally or through a proxy.
- (c) The meeting is valid and has a quorum, because only 5 members are required to be present, either personally or through a proxy, if the number of members as on the date of the meeting is more than five thousand but not more than ten thousand
- (d) The meeting is valid and has a quorum, because only 15 members are required to be present, either personally or through a proxy, if the number of members as on the date of the meeting is more than five thousand but not more than ten thousand

**Ans: (a)**

CS 18

(RTP May 21)

LDR

Mr. M. Mishra is a director of Superior Carbonates and Chemicals Limited (SCCL). SCCL was incorporated by Mr. S. K. Mishra (father of Mr. M. Mishra) on 05<sup>th</sup> July 1995 as a public company. SCCL accepts a loan of ₹ 1.5 crores from Mr. M. Mishra for short term purpose and the loan is expected to be repaid after twenty four months. SCCL in its books of account, records the receipt as a loan under non-current liabilities. At the time of advancing loan, Mr. M. Mishra affirms in writing that such amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others and complete details of his loan transactions are furnished in the boards' report.

DBSL which is an unlisted public company, also accept the deposits from the public as on 1<sup>st</sup> November 2018, which is due for repayment on 30<sup>th</sup> September 2023. DBSL also accepts a LAP (Loan against property) for a term of 10 years from a financial institution on 18<sup>th</sup> June 2020. Charge was created on that day, but DBSL has neglected to register the charge with the registrar. Finally, the application for registration of charge is furnished on 18<sup>th</sup> August 2020.

SCCL has registered office in Paonta-sahib (Himachal Pradesh) and corporate office is situated in Dehradun (Uttarakhand) but around 15% of members whose name is entered in members register are residents of Nainital (Uttarakhand). SCCL has a liaison Office at Nainital. Management of the company is willing to place, the Register of Members at the Nainital Liaison Office. DBSL convene its 7<sup>th</sup> AGM on 10<sup>th</sup> September 2020 at the registered office of the company. Notice for same was served on 21<sup>st</sup> August 2020. 78% of members gave consent to convening AGM at shorter notice due to ambiguity and possibility of another lockdown starting from 11<sup>th</sup> September 2020 on account of the second wave of COVID-19.

**Multiple Choice Questions**

**1. Pick the right statement regarding SCCL's willingness to keep and maintain the register of members at the Nainital liaison office. (Chapter 7 Management & Administration)**

- (a) Register of members shall be kept at either registered office or within the same city that too after passing the resolution, hence SCCL is not correct in placing it at the Nainital liaison office
- (b) Register of members cannot be kept at any other place by SCCL, without passing an ordinary resolution
- (c) Register of members can be kept at Nainital liaison office, after passing a special resolution, because more than 1/10<sup>th</sup> of the total members entered in the register of members reside there
- (d) Register of members cannot be kept at Nainital liaison office, even after passing a special resolution, because less than 1/5<sup>th</sup> of the total members entered in the register of members reside there

**Ans : (c)**

**2. With reference to deposit accepted by DBSL and its duration, you are required to identify which of the**



following statements is correct: (Chapter 5 Acceptance of Deposits by Companies)

- (a) There is no requirement relating to the duration of deposit, DBSL can accept a deposit for any duration.
- (b) Since DBSL is an unlisted company, provision relating to the duration of the deposit is not applicable.
- (c) There is a provision of a minimum duration of six months, but no upper cap to length is provided. Hence deposit accepted by DBSL is in compliance to provisions of Law.
- (d) Acceptance of deposits by DBSL is in violation of provision of law, because the maximum period of acceptance of deposit cannot exceed thirty -six months.

Ans : (d)

3. With reference to application to the registrar for registration of charge by DBSL, which of the following statements is correct? (Chapter 6 Registration of Charges by Companies)

- (a) The charge cannot be registered now, even if the Registrar permits the same.
- (b) The charge can be registered, if registrar permits with payment of ad-valorem fee.
- (c) The charge can be registered, if registrar permits but with payment of an additional fee.
- (d) The charge can be registered, with payment of a standard fee.

Ans : (b)

4. With reference to the loan advanced by Mr. M. Mishra to SCCL, state whether the same is to be classified as a deposit or not? (Chapter 5 Acceptance of Deposits by Companies)

- (a) Deposit, because any sum advanced by the director whether loan or otherwise is always classified as a deposit.
- (b) Deposit, because the tenor of the loan is for a period of more than six months.
- (c) Not a deposit, because such amount is recorded as loan in books of account of SCCL.
- (d) Not a deposit, because the written declaration is provided by Mr. M. Mishra, who was a director when the loan was advanced that the loan is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others.

Ans : (d)

5. Considering the provision relating to length of Notice for AGM, pick out the right option: (Chapter 7 Management & Administration)

- (a) Notice served by DBSL is not valid, because notice given within a shorter duration has to be consented to by all the members entitled to vote at AGM.
- (b) Notice served by DBSL is not valid, because notice given within a shorter duration has to be consented to by at-least 95% of members entitled to vote thereat.
- (c) Notice served by DBSL is valid because the shorter length has been consented to by 75% of members entitled to vote thereat.
- (d) Notice served by DBSL is not valid, because notice given within a shorter length duration needs has to be at-least 50% of the members entitled to vote at AGM that too in writing.

Ans : (b)

CS 19

(RTP May '24 SM)

Golden Limited is a listed company which is incorporated in 2013 having its registered office at Delhi and corporate office in Noida. It is registered with an authorized share capital of ₹ 20 crore divided into 2 crore equity shares of ₹ 10/- each. The paid-up share capital of the company is ₹ 10 crore divided into 1 crore equity shares of ₹ 10/- each. The company is in construction activities like construction of buildings, roads, etc.

On 8th January, 2023, the company incorporated a wholly owned subsidiary, D Limited which is involved in supplying of construction materials like steel, iron, cement, bricks, etc. D Limited elects to choose to prepare its first financial statements for the period from 8th January, 2023 to 31st March, 2023. On 2nd January, 2023, Golden Limited incorporated a new wholly owned subsidiary, E Limited for providing project management consultancy service to its customers or to parent company. On 5th January, 2023, Golden Limited through its subsidiary, E Limited acquired 100% partnership interest in XYZ & Co., partnership firm. E Limited elects to choose to prepare its first financial statements for the period from 2nd January, 2023 to 31st March, 2024 and conducted its Annual General Meeting on 16th August, 2024. On 1st July, 2023, the subsidiary company, D



Limited incorporated a new wholly owned subsidiary, F Limited. Golden Limited prepared its standalone financial statements for the year 2022-23 and presented before the Board of Directors of the company on 25th August, 2023 for their approval and the same were adopted by the shareholders in the Annual General Meeting held on 2nd September, 2023. Golden Limited prepared its standalone and consolidated financial statements for the year 2023-24 and presented before the Board of Directors of the company on 20th August, 2024 for their approval and the same were adopted by the shareholders in the Annual General Meeting held on 26th September, 2024.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following MCQs given herein under: -

1. What is the last date for conducting AGM for E Limited? (Chapter 7 Management & Administration)

- (a) 30<sup>th</sup> September 2023
- (b) 31<sup>st</sup> December 20223
- (c) 30<sup>th</sup> September 2024
- (d) 31<sup>st</sup> December 2024

Ans: (d)

2. What is the due date for conducting AGM for Golden Limited for the year ended March 31, 2023? (Chapter 7 Management & Administration)

- (a) 30th September 2024
- (b) 31<sup>st</sup> October 2024
- (c) 30<sup>th</sup> November 2024
- (d) 31<sup>st</sup> December 2024

Ans: (a)

3. The Companies Act, 2013 provides that in addition to standalone financial statement, the company shall also prepare consolidated financial statements which shall also be presented at AGM. Accordingly, the consolidated financial statements of Golden Limited for the financial year ended 31st March, 2023 includes, financial statements (Chapter 9 Accounts of Companies)

- (a) Golden Limited and D Limited
- (b) Golden Limited, D Limited and E Limited
- (c) Golden Limited, D Limited, E Limited and XYZ & Co., partnership firm
- (d) Golden Limited, D Limited, E Limited, F Limited and XYZ & Co., partnership firm

Ans: (c)

4. The Companies Act, 2013 provides that in addition to standalone financial statement, the company shall also prepare consolidated financial statements which shall also be presented before AGM. Accordingly, the consolidated financial statements of Golden Limited for the financial year ended 31st March 2024 includes: (Chapter 9 Accounts of Companies)

- (a) Golden Limited and D Limited
- (b) Golden Limited, D Limited and E Limited
- (c) Golden Limited, D Limited, E Limited and XYZ & Co., partnership firm
- (d) Golden Limited, D Limited, E Limited, F Limited and XYZ & Co., partnership firm

Ans: (d)

5. Please select which is the correct option/ which is the most correct statement: (Chapter 7 Management & Administration)

- (a) Golden Limited had given the notice for holding AGM in Mumbai on Monday, 26<sup>th</sup> September 2024 at 11.00 A.M.
- (b) Golden Limited had given the notice for holding AGM in Delhi on Monday, 26<sup>th</sup> September 2024 at 11.00 A.M.
- (c) Golden Limited had given the notice for holding AGM in Noida on Tuesday, 27<sup>th</sup> September 2024 at 11.00 A.M.
- (d) Golden Limited had given the notice for holding AGM in Delhi on Monday, 26<sup>th</sup> September, 2024 at 8.30 A.M.



Ans: (b)

CS 20

(MTP 14 Marks Mar'24)

LDR

Silver Private Limited was incorporated in 2016 having its registered office at Gurugram, Haryana. It is registered with an authorized share capital of ₹ 10 crore divided into 1 crore equity shares of ₹ 10/- each. The paid-up share capital of the company is ₹ 50 lakh divided into 5 lakh equity shares of ₹ 10/- each. The company is in manufacturing of rubber parts to be used in manufacturing of parts of passenger vehicles.

Mr. Raj and Mr. Pawan are directors of the company. Mr. Siddharth (son of Mr. Raj) on January 8, 2022 had advanced a loan of ₹ 50 lakh at an interest rate of 8% p.a. and the loan is expected to be repaid after a period of thirty-six months.

Silver Private Limited intends to accept deposits of ₹ 60 lakh from its members for the purpose of expansion of its business. The financial particulars of the company are as below mentioned: -

S. No.	Particulars	Amount (₹)
1	Paid-up share capital	50 lakh
2	Free Reserves	20 lakh
3	Security premium	10 lakh
4	Borrowings from banks	65 lakh
5	Turnover	200 lakh

As on the date of acceptance of deposits, the company has not defaulted in repayment of borrowings along with interest thereon.

The Company Secretary of the company informed Board of Directors of the company that they need to appoint an internal auditor for audit of the company. The Board stated that statutory auditor is already performing audit function and there is no need to appoint internal auditor as it causes additional burden on the company. The company require funds for the purpose of meeting working capital requirements. The company has approached the bank for meeting working capital requirements and has availed a loan of ₹ 65 lakh from bank. The loan is secured by the personal guarantee of the directors of the company.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 1-5) given herein under: -

1. With respect to loan advances by Mr. Siddharth to Silver Private Limited, whether the same can be classified as deposit or not? (Chapter 5 Acceptance of Deposits by Companies)

- (a) It will be treated as deposit as the loan is advanced by Mr. Siddharth who is neither director nor shareholder of the company.
- (b) It will be treated as deposit as the loan is given by relative of the director.
- (c) It will not be treated as deposit as Mr. Siddharth has given loan to the company at an interest rate of 8% p.a.
- (d) It will not be treated as deposit if Mr. Siddharth gives a written declaration to the effect that loan is advanced by him from his own source of funds, not from borrowings or accepting loans or deposits from others and the company shall disclose the details of money so accepted in the Board's Report.

Ans: (d)

2. With respect to acceptance of deposits from members, which of the below mentioned statement is correct: (Chapter 5 Acceptance of Deposits by Companies)

- (a) Silver Private Limited cannot accept deposits of more than paid-up share capital which is ₹ 50 lakh.
- (b) Silver Private Limited can accept deposits of ₹ 60 lakh from members, as it is less than twice of its paid-up share capital or ₹ 50 crore, whichever is less.
- (c) Silver Private Limited cannot accept deposits of more than higher of aggregate of paid-up share capital and free reserves which is ₹ 70 lakh and borrowings which is ₹ 65 lakh.
- (d) Silver Private Limited cannot accept deposits of more than aggregate of paid-up share capital and free



reserves, which is ₹ 70 lakh.

**Ans: (b)**

**3. Is Silver Private Limited required to appoint internal auditor in accordance with the provisions of the Companies Act, 2013? (Chapter 9 Accounts of Companies)**

- (a) Silver Private Limited is not required to appoint internal auditor as private companies are not required to appoint internal auditor.
- (b) Silver Private Limited is required to appoint internal auditor as borrowings is below prescribed limited.
- (c) Silver Private Limited is required to appoint internal auditor as aggregate of paid-up share, free reserves and security premium is more than prescribed limited.
- (d) Silver Private Limited is not required to appoint internal auditor as turnover is less than prescribed limited.

**Ans: (d)**

**4. Which of the following statement is correct in respect of loan of ₹ 65 lakh availed by the company? (Chapter 6 Registration of Charges)**

- (a) Silver Private Limited needs to create and register charge within 30 days from the date of sanction of loan.
- (b) Silver Private Limited is not required to create and register charge as the loan is against the personal guarantee of directors.
- (c) Silver Private Limited needs to create and register charge within 15 days from the date of sanction of loan.
- (d) Silver Private Limited needs to create and register charge within 60 days from the date of sanction of loan.

**Ans: (b)**

**5. The management of Silver Private Limited for ease of doing business and reduce compliance burden, proposed, it to be registered as a small company. Within the provided information and the legal requirements under the Companies Act, 2013, recommend on the validity of the said proposal: (Chapter 1 Preliminary)**

- (a) Proposal is valid, as any private limited company can apply for the status of small company.
- (b) Proposal is invalid, as the Silver Private Limited is not fulfilling the requirement of turnover of ₹ 400 crore.
- (c) Proposal is valid, as the Silver Private Limited is fulfilling the requirement of paid up share capital and turnover which is within the prescribed limits.
- (d) Proposal is invalid, as Silver Private Limited is fulfilling the requirement of paid up share capital.

**Ans: (c)**

**6. The financial particulars of ABC Limited in respect of immediately preceding financial year are as under:**

S. No.	Particulars	Amount in ₹ crore
1	Net worth	280
2	Turnover	550
3	Net Profit	5.50
4	Borrowings	60

**Choose the correct option in terms that whether the provisions of Corporate Social Responsibility are applicable to ABC Limited. (Chapter 9 Accounts of Companies)**

- (a) No, as ABC Limited is having net worth of more than ₹ 250 crore in the immediately preceding financial year.
- (b) Yes, as ABC Limited is having turnover of more than ₹ 500 crore but less than ₹ 800 crore in the immediately preceding financial year.
- (c) Yes, as ABC Limited is having net profit of more than ₹ 5 crore in the immediately preceding financial year.
- (d) Yes, as ABC Limited is having loans and borrowings of more than ₹ 50 crore in the immediately preceding



financial year.

Ans:(c)

7. Under what circumstances is the requirement for constituting a Corporate Social Responsibility (CSR) Committee waived, and who is responsible for discharging the functions of the CSR Committee in such cases(Chapter 9 Accounts of Companies)
- (a) When the amount to be spent by a company does not exceed fifty lakh rupees; the Board of Directors assumes the responsibility of the CSR Committee's functions.
  - (b) When the amount to be spent by a company exceeds fifty lakh rupees; the Board of Directors assumes the responsibility of the CSR Committee's functions.
  - (c) When the amount to be spent by a company does not exceed fifty lakh rupees; the shareholders assume the responsibility of the CSR Committee's functions.
  - (d) When the amount to be spent by a company exceeds fifty lakh rupees; the shareholders assume the responsibility of the CSR Committee's functions.

Ans:(a)

CS 21 (MTP 10 Marks Apr'24 & SM)

ACC Private Limited was incorporated in July 2001. Its shares are listed on BSE and NSE. It is registered with an authorised share capital of ₹ 20 crore divided into 2 crore equity shares of ₹10/- each. The paid-up share capital of the company is ₹ 10 crore divided into 1 crore equity shares of ₹ 10/- each. The Board of Directors of the company in their meeting held on 11th August, 2024 declared interim dividend. The Annual General Meeting of the company was held on 1st September, 2024. The company had incurred losses in the previous financial year as well as in the current financial year upto the period ended June 30, 2024. In the previous five financial years, the company had declared the dividend as under:

Financial Year Ended	Dividend declared per share (₹)	Dividend declared rate (%)
March 31, 2024	Nil	Nil
March 31, 2023	1.00	10%
March 31, 2022	1.10	11%
March 31, 2021	1.30	13%
March 31, 2020	1.20	12%

The company has deposited the amount of dividend declared in a separate account with ABC Bank on August 14, 2024. Out of the total dividend declared, ₹ 60,000 payable to few equity shareholders remains unclaimed even after the expiry of statutory period within which dividend was required to be paid and had been transferred to a separate bank account Unpaid Dividend Account on 20th September 2024. The company prepares a statement containing the names of shareholders, their last known address and the unpaid dividend amount to such each shareholder and place on its website. Meanwhile, the company obtained a term loan of ₹ 15 crore from Laxmi Bank Limited on August 20, 2024, securing it with a charge on the company's assets, including its own buildings (in India and Germany) and intangible assets (trademark right over the company's logo). According to the Companies Act, 2013, the company was required to register this charge with the Registrar within a specified timeframe. However, the company failed to complete the registration process within the prescribed timeline. The Board of Directors has requested their Company Secretary to confirm them whether they are required to incur expenditure towards Corporate Social Responsibility during the financial year 2024-2025 and is required to constitute CSR committee. The financial particulars in respect of immediately preceding financial year are as under:

S. No.	Particulars	Amount (₹ in crore)
1	Net worth	100
2	Turnover	1010
3	Net Profit	4.9
4	Borrowings	60



On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple-Choice Questions (MCQs 1-5) given herein under: -

1. The company can create charge in favour of the lender on the assets which are: (Chapter 6 Registration of Charges)
- (a) Tangible Assets and situated in India only
  - (b) Intangible Assets and situated in India only
  - (c) Assets that are tangible or otherwise and situated in India or Germany
  - (d) Assets that are tangible or otherwise and situated in India only

Ans: (c)

2. The maximum rate at which interim dividend can be declared by the Board during the current financial year is as under: - (Chapter 8 Declaration and Payment of Dividend)
- (a) The board cannot declare the interim dividend at a rate higher than the average dividend declared by the company immediately during preceding two financial years, i.e. 5%.
  - (b) The board cannot declare the interim dividend at a rate higher than the average dividend declared by the company immediately during preceding three financial years, i.e. 7%.
  - (c) The board cannot declare the interim dividend at a rate higher than the average dividend declared by the company immediately during preceding four financial years, i.e. 8.5%.
  - (d) The board cannot declare the interim dividend at a rate higher than the average dividend declared by the company immediately during preceding five financial years, i.e. 9.2%.

Ans: (b)

3. In respect of dividend declared which of the Statement is not correct? (Chapter 8 Declaration and Payment of Dividend)
- (a) The company has transferred the dividend amount to separate bank account within 5 days from the date of declaration of dividend.
  - (b) The company is required to pay dividend within 30 days from the date of declaration of dividend.
  - (c) The company is required to transfer the Unpaid dividend to a separate bank account within 10 days from the date of expiry of statutory period from the date of declaration of dividend.
  - (d) The company is required to prepare a statement containing the names of shareholders, their last known address and the unpaid dividend amount to such each shareholder and place on its website within 90 days from the date of transferring the amount to Unpaid Dividend Account.

Ans: (c)

4. Choose the correct option in terms that whether the provisions of Corporate Social Responsibility are applicable to ACC Private Limited. (Chapter 9 Accounts of Companies)
- (a) The provisions of Corporate Social Responsibility are not applicable to ACC Private Limited as it is a private limited company.
  - (b) Yes, as ACC Private Limited is having turnover of more than ₹ 1000 crore.
  - (c) Yes, as ACC Private Limited is having net profit of more than ₹ 2.5 crore in the immediately preceding financial year.
  - (d) Yes, as ACC Private Limited is having net worth of more than ₹ 50 crore in the immediately preceding financial year.

Ans: (b)

5. The notice for the Annual General Meeting should be served by: (Chapter 7 Management & Administration)
- (a) 6th August 2024
  - (b) 7th August 2024
  - (c) 8th August 2024
  - (d) 10th August 2024

Ans: (a)



Sudeep and Ankit are very fast friend since long. They decided to run a service unit which will provide "Financial and Investment Consultancy Services". For this purpose they formed a limited liability partnership under the name M/s Etharkkum Advisors LLP on 17th April 2020. For this purpose, they prepared a Limited Liability Partnership Deed of which one of the clauses provides that a new partner may be admitted in the LLP with capital contribution which may be in kind or cash. Further new partner is also required to deposit the agreed amount of capital contribution within six months from the date of his admission.

After some time, office of the firm was destroyed due to an earthquake and the LLP was in urgent need of an office premises and some funds for some renovation work.

It is also informed that M/s Etharkkum Advisors LLP approached Manoj on 1st January 2023 to join the firm as third partner. Manoj was out of India for the period from 1st September 2021 to 23rd December 2022. He agreed to join the LLP and also agreed to contribute his office premises at Sanjay Place, Palwal and funds of ₹ 5,00,000 as Capital Contribution in the firm. Manoj joined the firm on 25th January 2023 as limited liability partner. The above said office premises was purchased by Manoj five years ago for ₹ 25,00,000 but the fair market value of this office on 25th January 2023 was ₹ 32,25,000 and on 1st January 2023 was ₹ 30,00,000. Manoj has provided his office to the firm with effect from his admission and promised to deposit the agreed amount of ₹ 5,00,000 within six months as provided in the partnership deed. Before Manoj could deposit the amount with the firm, it was dissolved. Manoj denied to deposit the amount of ₹ 5,00,000 with the contention that he is liable only upto the amount contributed in the firm on the date of dissolution. A creditor of the firm sued Manoj to deposit the said amount so that the firm may pay off his liability.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following: -

1. Whether Manoj could be considered as resident or not as per the Limited Liability Act, 2008? (Chapter 12 The Limited Liability Partnership Act, 2008)
  - (a) Manoj could not be considered resident in India as he was not in India for 182 days in preceding one year
  - (b) Manoj could not be considered resident in India as he was not in India for 120 days in preceding one year i.e. only for 33 days from 24th December 2022 to 25th January 2023
  - (c) Manoj could not be considered as he was not in India for 182 days during the financial year
  - (d) Manoj will be considered as resident in India as he was in India for 120 days during the financial year (2021- 2022)

Ans: (d)

2. What would be the worth of Capital Contribution by Manoj? (Chapter 12 The Limited Liability Partnership Act, 2008)
  - (a) ₹ 25,00,000
  - (b) ₹ 32,25,000
  - (c) ₹ 37,25,000
  - (d) ₹ 35,00,000

Ans: (c)

3. Whether Manoj will be liable to contribute ₹ 5,00,000 after dissolution of the firm? (Chapter 12 The Limited Liability Partnership Act, 2008)
  - (a) Yes, because a partner is personally liable for the deficiency arising at the time of dissolution of LLP.
  - (b) No, because a partner is never personally liable for the deficiency arose at the time of dissolution of LLP.
  - (c) Yes, the partner is under obligation to contribute money also to LLP as per the agreement.
  - (d) No, because a partner is personally liable only upto the amount contributed to the LLP on the date of dissolution of LLP.

Ans: (c)

4. Finload Limited wants to raise funds for its upcoming project. Accordingly, it has issued private



placement offer letters for issuing equity shares to 57 persons, of which six are qualified institutional buyers and remaining are individuals.

Choose the correct statement as per the provisions of the Companies Act, 2013: (Chapter 3 Prospectus and Allotment of Securities)

- (a) Finload Limited company is a public limited company hence it can not issue shares through private placement.
- (b) Since, Finload Limited has made an offer or invitation to more than the prescribed number of persons, it shall be deemed to be an offer to the public and accordingly, it shall be governed by the provisions relating to prospectus.
- (c) Finload Limited has made an offer or invitation to less than the prescribed number of persons as qualified institutional buyers are not counted to calculate the prescribed limit.
- (d) Finload Limited cannot issue shares to qualified institutional buyers, as under private placement shares cannot be issued to qualified institutional buyers.

Ans: (b)

5. Company X, a leading automobile manufacturer, has invested in Company Y, a start-up specializing in electric vehicle technology. Company X holds a 25% stake in Company Y and actively participates in its strategic decisions. Based on the provisions of the Companies Act 2013 regarding associate companies, which of the following statements is correct? (Chapter 1 Preliminary)

- (a) Company X's investment in Company Y does not qualify as an associate company because Company X does not have control of at least 50% of the total voting power.
- (b) Company Y qualifies as an associate company of Company X since Company X holds a 25% stake in Company Y and actively participates in its strategic decisions.
- (c) Company Y cannot be considered an associate company of Company X because it is a start-up and does not meet the minimum criteria for significant influence.
- (d) Company X's investment in Company Y falls under the category of joint venture and does not qualify as an associate company according to the Companies Act 2013.

Ans: (b)

CS 23

(RTP Sep'24)

Tejas Infra Limited was incorporated by Tejasvi Singh and his wife Meenakshi along with seven other family members in the year 2001 with an aim to undertake infrastructure projects relating to transportation in the country. The company had successfully completed construction of roads and canals in Delhi, UP and Chandigarh and rose to become one of the prominent construction companies in India.

The Registered Office of the company is situated in Connaught Place, New Delhi with a capital base of ₹100 crore divided into ten crore equity shares of ₹10 each. The company has eight directors of which three are independent directors. In the year 2019, the company got new projects from the State Government of Punjab to build four flyovers and underpasses in different cities of Punjab.

In order to increase its capital base, Tejas Infra Limited decided to issue 1,00,000 preference shares of ₹100 each to the existing shareholders. For this, purpose it was decided to increase the Authorised Capital by ₹500,00,000 divided into 5,00,000 shares of ₹100 each.

The projects went off well and the turnover rose to the tune of ₹3600 crore in the immediately preceding financial year 2022-23. The net worth of the company stood at ₹550 crore.

As they crossed the threshold limit in the immediately preceding financial year 2022-23, a Board level Committee headed by one of the independent directors, namely, Paritosh was constituted to allocate budget, review the progress and provide guidance on various Corporate Social Responsibility (CSR) and sustainability initiatives. It was decided to spend the requisite amount towards skill development, vocational training, provision of safe drinking water facility, etc. Lokesh, one of the directors, is also a member of this Corporate Social Responsibility Committee. He is in favour of Janta Andolan Manch, a political party. This party is quite prominent in undertaking social work. As per his advice, the Board by a unanimous resolution resolved to contribute ₹5,00,000 to the said political party i.e. Janta Andolan Manch and to treat such contribution as part of CSR activity.

1. From the case scenario, it is evident that Tejas Infra Limited decided to issue 1,00,000 preference shares of ₹ 100 each to the existing shareholders. From the options given below choose the one which indicates the



**maximum period which is permitted to the company for redemption of preference shares. (Chapter 4 Share Capital and Debentures)**

- (a) Tejas Infra Limited being involved in infrastructural activities is permitted to specify maximum period of thirty-five years for redemption of preference shares subject to the condition that it shall redeem minimum 20% of preference shares per year commencing from 31st year onwards or earlier, on proportionate basis at the option of preference shareholders.
- (b) Tejas Infra Limited being involved in infrastructural activities is permitted to specify maximum period of thirty-five years for redemption of preference shares subject to the condition that it shall redeem minimum 10% of preference shares per year commencing from 26th year onwards or earlier, on proportionate basis at the option of preference shareholders.
- (c) Tejas Infra Limited being involved in infrastructural activities is permitted to specify maximum period of thirty years for redemption of preference shares subject to the condition that it shall redeem minimum 10% of preference shares per year commencing from 21st year onwards or earlier, on proportionate basis, at the option of preference shareholders.
- (d) Tejas Infra Limited being involved in infrastructural activities is permitted to specify maximum period of thirty years for redemption of preference shares subject to the condition that it shall redeem minimum 20% of preference shares per year commencing from 26th year onwards or earlier, on proportionate basis, at the option of preference shareholders.

**Ans: (c)**

**2. The case scenario states that the turnover of Tejas Infra Limited rose to the tune of ₹ 3600 crore and net worth of the company stood at ₹ 550 crore in the immediately preceding financial year 2022-23 which required formation of CSR Committee. What is the third criterion which if crossed shall also require that a CSR Committee be formed. Choose the correct option from those stated below: (Chapter 9 Accounts of Companies)**

- (a) The third criterion which also requires formation of CSR Committee is that the company has net profit of ₹ two crore or more in the immediately preceding financial year.
- (b) The third criterion which also requires formation of CSR Committee is that the company has net profit of ₹ three crore or more in the immediately preceding financial year.
- (c) The third criterion which also requires formation of CSR Committee is that the company has net profit of ₹ five crore or more in the immediately preceding financial year.
- (d) The third criterion which also requires formation of CSR Committee is that the company has net profit of ₹ six crore or more in the immediately preceding financial year.

**Ans: (c)**

**3. According to the legal provisions, it is mandatory to redeem preference shares at the stipulated time. Keeping in view the above case scenario, which source is required to be used by Tejas Infra Limited for the redemption of outstanding preference shares: (Chapter 4 Share Capital and Debentures)**

- (a) Tejas Infra Limited is required to redeem preference shares out of the profits which would otherwise be available for dividend.
- (b) Tejas Infra Limited is required to redeem preference shares out of the proceeds of a fresh issue of shares made for the purposes of such redemption.
- (c) Both (a) and (b).
- (d) Tejas Infra Limited is required to redeem preference shares out of its Capital Redemption Reserve.

**Ans: (c)**

**4. While constituting a CSR Committee, how many minimum directors are required to be appointed by Tejas Infra Limited: (Chapter 9 Accounts of Companies)**

- (a) CSR Committee formed by Tejas Infra Limited shall have minimum two directors.
- (b) CSR Committee formed by Tejas Infra Limited shall have minimum three directors of which at least one director shall be an independent director.
- (c) CSR Committee formed by Tejas Infra Limited shall have minimum four directors of which at least one director shall be an independent director.
- (d) CSR Committee formed by Tejas Infra Limited shall have minimum four directors of which at least two directors shall be independent director.



Ans: (b)

CS 24

(MTP Aug'24)

XYZ Ltd. was incorporated on April 1, 2023. The Board of Directors, within the required timeframe, appointed Mr. A as the first auditor of the company on April 20, 2023. Mr. A was tasked with auditing the company's financial statements for the financial year 2022-23, and he held office until the conclusion of the first Annual General Meeting (AGM), which was held on September 30, 2023.

During the AGM, the shareholders decided to appoint Mr. B, a partner in the audit firm MNO LLP, as the new auditor. MNO LLP is a limited liability partnership incorporated under the LLP Act, 2008. Mr. B and his firm were appointed to hold office from the conclusion of the 1st AGM until the conclusion of the 6th AGM in 2028. Five years later, in 2028, the company is considering whether to reappoint Mr. B and MNO LLP for another term. The shareholders are discussing the provisions of the Companies Act, 2013, and the implications of reappointing the same auditor or audit firm for multiple terms.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 1-5, of 2 marks each) given herein under: -

1. Who was responsible for appointing the first auditor of XYZ Ltd., and within what timeframe should the appointment have been made? (Chapter 10 Audit and Auditors)
- (a) Shareholders, within 60 days of registration of company
  - (b) Board of Directors, within 30 days of registration of company
  - (c) Board of Directors, within 60 days of registration of company
  - (d) Shareholders, within 30 days of registration of company

Ans : (b)

2. How long can MNO LLP, as an audit firm, hold office as the auditor of XYZ Ltd. according to the Companies Act, 2013? (Chapter 10 Audit and Auditors)
- (a) One term of five consecutive years
  - (b) Two terms of five consecutive years
  - (c) One term of six consecutive years
  - (d) Three terms of five consecutive years

Ans : (b)

3. If XYZ Ltd. wants to reappoint MNO LLP for another term after 2028, what does the Companies Act, 2013, mandate? (Chapter 10 Audit and Auditors)
- (a) MNO LLP can be reappointed for another term of five years.
  - (b) MNO LLP cannot be reappointed, as they have already served one term.
  - (c) MNO LLP cannot be reappointed, as they have already served two terms.
  - (d) MNO LLP can be reappointed, but the tenure must be reduced to three years.

Ans: (a)

4. What is the maximum tenure for which Mr. A as the first auditor of XYZ Pvt. Ltd., can hold office? (Chapter 10 Audit and Auditors)
- (a) From the date of appointment until the conclusion of the first AGM i.e. 30th September 2023
  - (b) From the date of appointment until the conclusion of the second AGM (in 2024)
  - (c) From the date of appointment until the conclusion of the third AGM (in 2025)
  - (d) From the date of registration of company until the conclusion of the first AGM i.e. 30th September 2023

Ans: (a)

5. By what date the copy of the annual return is to be filed with the Registrar of companies in case of first AGM of XYZ Ltd.? (Chapter 7 Management & Administration)
- (a) 29th November 2023
  - (b) 30th December 2023
  - (c) 31st January 2024



(d) 29th February 2024

**Ans: (a)**

**CS 25**

**(MTP 4 Marks Apr 22 & Oct 23)**

Madhu Oils and Fats Ltd. is a listed entity. It finalised its annual accounts for the year ended on 31st March, 2021. The Audit Committee of Board (ACB) recommended and subsequently the Board approved the same. Annual General meeting of the shareholders was convened on 25th August, 2021, in which the annual accounts of the company were presented before the shareholders. The shareholders have approved dividend @ 10%. A report of the Board of Directors was attached with the annual accounts of the company. During the said meeting, a shareholder pointed out that during the year of 2020-21 there was a big news in the media and newspaper that a fraud has happened in the company of an amount of ₹ 75 lakhs, with the involvement of a senior management official of the company, who is absconding since the news came into media. However, there was no mention about the fraud in the Auditor's Report as well as no comment in the Board's Report. The auditor, who was also present in the General Meeting of the shareholders informed that fraud was detected during the course of audit but no further action was taken by him (auditor).

1. **Going by the facts of the case, by what date should the amount be deposited in a separate account maintained with the scheduled bank for dividend purposes? (Chapter 8 Declaration & Payment of Dividend)**
  - (a) By 30th August 2021
  - (b) By 1st September 2021
  - (c) By 7th September 2021
  - (d) By 24th September 2021

**Ans: (a)**

2. **By what date should the dividend declared in the meeting, be paid to the members of the company? (Chapter 8 Declaration & Payment of Dividend)**
  - (a) By 30th August 2021
  - (b) By 1st September 2021
  - (c) By 7th September 2021
  - (d) By 24th September 2021

**Ans: (d)**

3. **With regard to preservation of the books of Madhu Oils and Fats Ltd, the books of accounts for the Financial Year (FY) 2020-21 needs to be kept in good order until at least which of the following years? (Chapter 9 Accounts of Companies)**
  - (a) FY 2025-26
  - (b) FY 2026-27
  - (c) FY 2027-28
  - (d) FY 2028-29

**Ans: (d)**

4. **The auditor had noticed the fraud that was committed by the senior management. Which is the correct statement in this respect: (Chapter 10 Audit & Auditors)**
  - (a) The auditor shall report the matter to the Central Government immediately.
  - (b) It is not necessary to disclose the details of fraud in the Board's Report
  - (c) The auditor shall report the matter to the audit committee constituted under section 177 or to the Board.
  - (d) Since the Senior Management Personnel is absconding, the auditor is not required to take any action.

**Ans: (c)**

**CS 26**

**(MTP 6 Marks Mar'24) (Chapter 12 The Limited Liability Partnership Act, 2008)**

Vidhya Masterminds LLP was incorporated on 15th April, 2023. Sagar, Manthan, Vishnu and Vasuki were



partners in the firm. Sagar and Manthan were also the designated partners in this firm. The firm was incorporated with the object of manufacturing and trading of cycles. The business was going too smoothly. But on 30th April, 2023, some Mr. Vidhyaram Tolaramani filed an application to registrar that he has a registered trademark in the name of "Vidhya Masters" which he has got registered before 15.04.2023. Therefore, the LLP "Vidhya Masterminds LLP" should change its name. On the basis of basic investigation, registrar found that Mr. Vidhyaram Tolaramani was correct in contention. The registrar sent a direction to Vidhya Masterminds LLP to change its name as it too nearly resembles with the trademark of Mr. Vidhyaram Tolaramani i.e. "Vidhya Masters". The notice was issued by the registrar on 5th May, 2023 by post but due to some internal problem of postal department, notice reached the LLP on 10th May, 2023. Vidhya Masterminds LLP ignored the notice and continued working under the same name. On 15th August, 2023 the registrar suo-moto allotted the LLP a new name "Sahitya Masterminds LLP" and entered this new name in the register of LLP and also issued a fresh certificate of incorporation to Vidhya Masterminds LLP with new name. Vidhya Masterminds LLP, now "Sahitya Masterminds LLP" was not comfortable with new name. It started the process to change the name allotted by the registrar.

Meanwhile, Vishnu was appointed as designated partner in Vidhya Masterminds LLP on 25th July, 2023 but this information was not sent to the registrar. On 20th June, 2023, Mr. Vasuki had given a written notice to the LLP that he could not continue as a partner in LLP with effect from 22nd July, 2023. This cessation from the LLP was also not informed by either LLP or Mr. Vasuki, to the Registrar.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following MCQs (8- 10) given herein under: -

1. When the registrar directed Vidhya Masterminds LLP to change its name, by which date the LLP should have changed the name of LLP?
  - (a) By 5th August, 2023 i.e. within a period of 3 months from the date of issue of such direction by registrar.
  - (b) By 10th August, 2023 i.e. within a period of 3 months from the date of receiving of such direction by the firm.
  - (c) By any time according to the convenience of Vidhya Masterminds LLP.
  - (d) Vidhya Masterminds LLP is not liable to change its name.

Ans : (a)

2. Vishnu was appointed as designated partner in the Vidhya Masterminds LLP on 25th July, 2023. By what time limit the LLP should have informed the registrar?
  - (a) 9th August, 2023 i.e. within 15 days of appointment
  - (b) 24th August, 2023 i.e. within 30 days of appointment
  - (c) 25th August, 2023 i.e. within 1 month of appointment
  - (d) 25th October i.e. within 3 month of appointment.

Ans:(b)

3. Whether Mr. Vasuki will be liable for penalty for not intimating the registrar about the appointment of Mr. Vishnu as designated partner?
  - (a) No, as he was not partner in LLP on the date of appointment of designated partner.
  - (b) Yes, as former partner is to be regarded still being a partner of the LLP unless a notice has been delivered to the Registrar by former partner or LLP.
  - (c) Yes, even if a notice has been delivered to the Registrar by LLP about his retirement.
  - (d) No, in any case Mr. Vasuki will not be liable.

Ans:(b)

CS 27

(MTP 6 Marks Apr'24) (Chapter 12 The Limited Liability Partnership Act, 2008)

M/s Aryan & Aryan LLP was registered on 2nd July 2019. Sudeep and Ankit were partners in the firm. Both Sudeep and Ankit were also the designated partners in this firm. The LLP deals in manufacturing and trading of electric ceiling fans. One day Sudeep met with Mr. Kishore, a director of Krtiken Electronics Private Limited. After discussion, Mr. Kishore showed interest that Krtiken Electronics Private Limited may work



with M/s Aryan & Aryan LLP as partner.

Krtiken Electronics Private Limited was incorporated on 1st June 2017 with the object to deal in electronics. The memorandum and articles of association of Krtiken Electronics Private Limited also authorised it to work as partner in a LLP.

The partners of M/s Aryan & Aryan LLP and directors of Krtiken Electronics Private Limited approached a professional consultant Mrs. Archika Jain for providing the procedure for adding Krtiken Electronics Private Limited as a partner in M/s Aryan & Aryan LLP. She advised that Krtiken Electronics Private Limited could not be the partner in M/s Aryan & Aryan LLP because as per Limited Liability Partnership Act 2008, an individual or a body corporate can be a partner in LLP. She informed that the term 'body corporate' was defined in the Limited Liability Partnership Act, 2008 as a company which is defined in section 3 of the Companies Act, 1956. As Krtiken Electronics Private Limited is registered under Companies Act 2013, it cannot be termed as body corporate. On the advice of Mrs. Archika Jain, M/s Aryan & Aryan LLP dropped the idea to add Krtiken Electronics Private Limited.

It is further informed that Ms. Shanaya was admitted as a new partner in the firm on 17th January 2024. The firm intimated the registrar about her admission on 31st January 2024. On 3rd February 2024, while going to office Ms. Shanaya met with an accident and lost her memory. The doctor declared her of unsound mind to work as partner in M/s Aryan & Aryan LLP. It was also confirmed by a competent court.

On the basis of above facts and by applying applicable provisions of the General Clauses Act, 1897 therein, choose the correct answer (one out of four) of the following MCQs (11-13) given herein under:-

**1. Whether Krtiken Electronics Private Limited could be partner in M/s Aryan & Aryan LLP?**

- (a) No, as Krtiken Electronics Private Limited is not a body corporate as per the definition of "Body Corporate" given in Limited Liability Partnership Act, 2008.
- (b) Yes, because section 8 of the General Clauses Act, 1897 provides where any Act or Regulation made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted. Therefore, after the enactment of Companies Act, 2013, the definition of "Body Corporate" should be construed as a company which is defined in section 2(20) of the Companies Act, 2013.
- (c) No, as provisions of section 8 of the General Clauses Act, 1897 will not be applicable because the Limited Liability Partnership (Amendment) Act, 2021, which amended the definition of "Body Corporate" considering the company registered under Companies Act, 2013, come to effect from 01.04.2022.
- (d) Yes, as the provisions of the General Clauses Act, 1897 are not applicable while interpreting the provisions of the Limited Liability Partnership Act, 2008.

**Ans: (b)**

**2. Following the provisions of Limited Liability Act, 2008 read with the General Clauses Act, 1897, what should be the last date to inform the registrar about the admission of Ms. Shanaya.**

- (a) 15th February 2024
- (b) 16th February 2024
- (c) 17th February 2024
- (d) 18th February 2024

**Ans: (b)**

**3. What would be the status of Ms. Shanaya in the firm, M/s Aryan & Aryan LLP after the accident?**

- (a) She would continue as a partner in M/s Aryan & Aryan LLP even after being declared as of unsound mind.
- (b) Section 24(2) of the Limited Liability Partnership Act, 2008 provides that a person shall cease to be a partner of a LLP if he is declared to be of unsound mind by a competent court. As this sub – section provides only for male person ("he"), she would continue as a partner in M/s Aryan & Aryan LLP.
- (c) Following the provisions of the General Clauses Act, 1897 which provides that in all legislations

and regulations, unless there is anything repugnant in the subject or context words importing the



masculine gender shall be taken to include females. Hence, Ms. Shanaya will cease to be a partner M/s Aryan & Aryan LLP.

- (d) She can continue as partner if all other partners agree for that.

**Ans: (c)**

**CS 28**

**(RTP Sep'24) (Chapter 12: The Limited Liability Partnership Act, 2008)**

Greenfield LLP and Bluewave LLP were two thriving businesses operating in the renewable energy sector. Greenfield LLP specialized in solar panel manufacturing, while Bluewave LLP was known for its innovations in wind turbine technology. Both companies saw a strategic opportunity to join forces and create a more comprehensive renewable energy solution provider. They decided to merge into a single entity, to be named Eco Future LLP.

To facilitate this merger, the management of both companies proposed a scheme of compromise and arrangement under Section 60 of the LLP Act. They approached the Tribunal to sanction this scheme, which involved transferring all assets, liabilities, and ongoing legal proceedings of both Greenfield LLP and Bluewave LLP to Eco Future LLP.

The Tribunal reviewed the proposal and found that the merger scheme was designed for the reconstruction and amalgamation of Greenfield LLP and Bluewave LLP. The Tribunal issued an order under Section 62, sanctioning the scheme and setting forth several provisions to ensure a smooth transition:

1. All assets and liabilities of Greenfield LLP and Bluewave LLP were to be transferred to Eco Future LLP.
2. Any ongoing legal proceedings involving either of the original LLPs would continue under the name of Eco Future LLP.
3. Both Greenfield LLP and Bluewave LLP would be dissolved without the need for winding up.

However, a few partners from Greenfield LLP were not in favor of the merger. They dissented from the compromise and arrangement. The Tribunal provided specific directions to ensure that their interests were adequately addressed.

After the order was made, both LLPs had to file a certified copy of the Tribunal's order with the Registrar within 30 days for registration. Unfortunately, due to some administrative delays, this filing was not completed within the stipulated time, leading to penalties for both Eco Future LLP and its designated partners.

**Answer the following MCQs in the light of the Limited Liability Partnership Act, 2008**

- 1. What was the main purpose of the scheme proposed between Greenfield LLP and Bluewave LLP?**

- (a) To dissolve both LLPs.
- (b) To transfer all assets to a third party.
- (c) For the reconstruction and amalgamation of the LLPs.
- (d) To liquidate the companies.

**Ans: (c)**

- 2. What authority does the Tribunal have when it sanctions a compromise or arrangement under Section 60?**

- (a) It can only supervise the arrangement.
- (b) It has no authority after sanctioning the arrangement.
- (c) It can supervise, modify, and give directions for the arrangement.
- (d) It can dissolve the LLPs directly without any conditions.

**Ans: (c)**

- 3. What penalty applies if an LLP fails to comply with the 30-day filing requirement?**

- (a) Immediate dissolution of the LLP.
- (b) A fine of ₹10,000 and additional penalties for continuing contravention.
- (c) Suspension of all business activities.
- (d) Revocation of the Tribunal's order.

**Ans: (b)**

**CS 29**

**(MTP 10 Marks July'24 & SM) (Chapter 12 The Limited Liability Partnership Act, 2008)**

GreenLeaf LLP is a limited liability partnership engaged in the business of eco- friendly product manufacturing. The LLP was initially established with three partners: Priya, Sameer, and EcoCorp Ltd., a corporate entity. Priya



and Sameer are the designated partners, with Priya being a resident in India. EcoCorp Ltd. has appointed Anil, an individual, as its nominee to act on its behalf.

After a few years, Sameer decides to retire, leaving Priya and EcoCorp Ltd. as the remaining partners. Due to some administrative oversight, GreenLeaf LLP continues its operations without appointing a new partner. This situation persists for seven months, with Priya being aware of the reduced number of partners. During this period, GreenLeaf LLP enters into several contracts and incurs significant financial obligations.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008, and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 6-8) given herein under:

1. Given that Sameer retired and GreenLeaf LLP continued with only Priya and EcoCorp Ltd., what should GreenLeaf LLP have done within six months to comply with the LLP Act?

- (a) Dissolved the LLP
- (b) Continue operating with one designated partner
- (c) Appoint at least one body corporate which should be a foreign company
- (d) Appointed at least one more partner who should also be a designated partner, as every LLP should have at least two designated partners

Ans: (d)

2. According to the Limited Liability Partnership Act, 2008, choose the correct statement in relation to who must be a resident in India among the designated partners?

- (a) At least one individual designated partner shall be resident in India
- (b) All designated partners shall only be resident in India
- (c) It is mandatory for only corporate partners to be resident in India
- (d) At least four designated partners shall be resident in India

Ans: (a)

3. In the given case scenario suppose EcoCorp Ltd. also leaves the LLP and the LLP continues business for more than six months with only one partner, who is personally liable for the obligations incurred during that period?

- (a) Priya
- (b) Both Priya and EcoCorp Ltd.
- (c) EcoCorp Ltd.
- (d) Priya, Sameer and EcoCorp Ltd.

Ans: (a)

CS 30 (MTP 4 Marks Aug'24) (Chapter 12 The Limited Liability Partnership Act, 2008)

In 2023, Tech Innovations LLP was established as a Limited Liability Partnership under the Limited Liability Partnership Act, 2008. The LLP was formed with two partners: Alex and Jordan, who contributed equally to the capital. Alex contributed 5,00,000, while Jordan also contributed 5,00,000. The firm was registered with the Registrar of Companies on April 1, 2023.

Tech Innovations LLP's operations focused on software development and technology consulting. As per the LLP agreement, both partners shared profits and losses equally. The LLP agreement also stipulated that any changes in the partnership, such as the addition of a new partner or transfer of interest, required the consent of both existing partners.

In June 2024, Tech Innovations LLP decided to admit a new partner, Priya, who brought in ₹ 2,00,000 as her capital contribution. This change was duly recorded and filed with the Registrar of Companies. Furthermore, the LLP decided to hold an annual general meeting within six months from the end of the financial year to approve financial statements and discuss business matters.

On the basis of above facts and by applying applicable provisions of the Limited liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 6-7 of 2 marks each) given herein under:



2. As per the LLP Act, 2008, what is required for admitting a new partner into the LLP?

- (a) The consent of one existing partner- Only Alex
- (b) A majority vote of existing partners- Either Alex or Jordan
- (c) The consent of all existing partners- Both Alex and Jordan
- (d) Approval from the Registrar of Companies

Ans: (c)

3. When is Tech Innovations LLP required to hold its annual general meeting?

- (a) By 30th April, 2024
- (b) By 30th June, 2024
- (c) By 31st July, 2024
- (d) By 30th September, 2024

Ans : (d)

CS 31

(MTP 6 Marks Mar'24) (Chapter 13 The General Clauses Act, 1897)

LDR

Tech Inspiration Private Limited was incorporated on 30.06.2018. The main object of the company was to provide guidance classes for engineering aspirants. For this purpose, they opened a coaching center at Freedom Plaza, Near Bhagwan Talkies, Bye Pass Road, Agra. The premise was owned by the company. The company also made a "Employee Appointment Committee" for the systematic selection and appointment of employees including faculties for teaching. In the first slab, committee appointed nine teachers, 3 clerical staff and one peon. For the purpose of expansion of business, company decided to open a branch of the company at nearby city of Agra. After the due research, the company decided to open its branch at city "Bharatpur" which was just 50 kilometers far from Agra. The company approached Mr. Raghuram Meena owner of land at Bharatpur suitable for company. Mr. Raghuram Meena leased his land for ten years to Tech Inspiration Private Limited. The land had a small temple of lord Ganpati at its centre. The company constructed the classrooms on the land and many students joined the coaching classes. Besides it, the temple generated some income in the form of "Chadhava" (donation). Mr. Raghuram Meena claimed the income of temple with the contention that he had leased only the land and not the temple.

Further one more problem arose in the company. "Employee Appointment Committee" found that one of the faculties, Mr. Nitesh Gupta was not performing well. He was not justifying his duties. Therefore, "Employee Appointment Committee" decided to terminate him with effect from 31.01.2024 and send him notice of termination by properly addressing and by registered post to Mr. Nitesh Gupta. Mr. Nitesh Gupta refused to accept the notice and returned back it to the postman. After two months, on 01.04.2024, Mr. Nitesh Gupta filed a suit against the company for claiming the salary for the period from 01.01.2024 to 31.03.2024 with the view that his appointment cannot be terminated because of two reasons:

- (i) "Employee Appointment Committee" was established just to appoint the employees. They are not authorised for their termination.
- (ii) Mr. Nitesh Gupta's refused to accept the notice of termination with the contention that it was not properly served to him.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following MCQs given herein under: -

1. Whether Mr. Raghuram Meena is correct in his claim? Whether he may claim the income of temple:

- (a) Yes, Mr. Raghuram Meena was correct in his views as he leased only land not the temple, situated on such land.
- (b) Yes, as temple is a constructed building, not land.
- (c) No. 'Immovable Property' in terms of the General Clauses Act, 1897 includes land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth. So, benefits attached to land and income from temple will be of Tech Inspiration Private Limited.
- (d) No. It is the right of Tech Inspiration Private Limited to decide that who will claim the income of temple.

Ans: (c)

2. Whether "Employee Appointment Committee" may terminate Mr. Nitesh Gupta even the authority letter



given to "Employee Appointment Committee" has no specific clause authorizing it for termination of employees?

- (a) No, as "Employee Appointment Committee" was authorized only for appointment and not for termination of employees.
- (b) Yes, because section 16 of the General Clauses Act, 1897, provides that unless a different intention appears, power to appoint to include power to suspend or dismiss.
- (c) No, because section 16 of the General Clauses Act, 1897, provides that power to appoint does not include power to suspend or dismiss.
- (d) No, It's only board of directors of Tech Inspiration Private Limited who has the right to terminate its employees in board meeting.

**Ans:(b)**

**3. Whether the refusal to accept the notice sent by post, by Mr. Nitesh Gupta would be termed as not serving of notice of termination?**

- (a) Yes, as Mr. Nitesh Gupta had not accepted the notice.
- (b) Yes, refusal to accept the post will always be considered as not served.
- (c) No, because as per section 27 of the General Clauses Act, 1897 the service by post shall be deemed to be effected by properly addressing, pre-paying, and posting by registered post.
- (d) No, Mr. Nitesh Gupta had the information of sending of notice.

**Ans:(c)**

**CS 32**

**(MTP 6 Marks Aug'24, Nov'24) (Chapter 13 The General Clauses Act, 1897)**

In 2024, Global Enterprises Ltd., a company specializing in international trade, needed to send an important notice to one of its clients, Mr. Rajiv Patel, regarding a contractual amendment. According to the company's internal regulations and the contract terms, the notice had to be served by post.

On April 15, 2024, the company's legal department prepared the notice and addressed it to Mr. Patel at his registered address. The notice was properly addressed, prepaid, and sent via registered post with acknowledgment due to ensure the highest level of confirmation for delivery.

A few days later, on April 20, 2024, the notice was returned with a stamp indicating that it was "not claimed" by Mr. Patel. The legal department recorded the return of the notice and noted the endorsement.

The company's legal advisor referred to past case laws for similar scenarios to ensure that the notice was considered legally served under Section 27 of the General Clauses Act, 1897. They reviewed the following precedents:

**United Commercial Bank v. Bhim Sain Makhija:** It was noted that merely sending a notice by registered post without the acknowledgment due did not provide sufficient legal protection for proving service.

**Jagdish Singh v. Natthu Singh:** This case demonstrated that if a notice sent by registered post was returned with a refusal endorsement, it was considered served.

**Smt. Vandana Gulati v. Gurmeet Singh alias Mangal Singh:** It was established that if a notice sent by registered post to a proper address was returned with an endorsement like "not claimed", it was deemed served unless proven otherwise.

On the basis of above facts and by applying applicable provisions of the General Clauses Act, 1897 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions given herein under:

1. **According to Section 27 of the General Clauses Act, 1897, what three conditions must be fulfilled for a service by post to be deemed effective?**
  - (a) Properly addressed, Pre-paid, and Posting by ordinary post
  - (b) Properly addressed, Pre-paid, and Posting by registered post
  - (c) Properly addressed, Pre-paid, and Sending by courier
  - (d) Properly addressed, Pre-paid, and Hand delivery

**Ans: (b)**

2. **In the case of United Commercial Bank v. Bhim Sain Makhija, why was the presumption of service under registered post found to be insufficient?**
  - (a) Because the notice was sent by ordinary post



- (b) Because the notice was sent by registered post but not with acknowledgment due
- (c) Because the address was incorrect
- (d) Because the recipient did not respond

**Ans: (b)**

**3. What does the case of Jagdish Singh v. Natthu Singh demonstrate about the service of notice?**

- (a) Notice sent by registered post without return endorsement is invalid
- (b) Notice sent by registered post and returned with refusal endorsement is deemed served
- (c) Notice sent by ordinary post is deemed served if not returned
- (d) Notice served by hand delivery is always valid

**Ans: (b)**

**CS 33**

**(RTP May '24) (Chapter 15 The Foreign Exchange Management Act, 1999)**

Omx Software Private Limited is a private company and having its registered office in Bangalore and is a wholly owned subsidiary of Omx Software Inc, situated in USA. Mr. Rajat Kapoor, Mr. Shubham and Mr. Peter are directors of Omx Software Private Limited. Mr. Rajat and Mr. Shubham are Indian residents while Mr. Peter is a non-resident and stays in USA. Mr. Peter is also a director in Omx Software Inc. Mr. Rajat left India on 2nd November, 2021 for the purpose of looking after the business of Omx Software Inc. Mr. Rajat came to back to India on 12th February, 2022 to meet his family and left India on 26th February, 2022 and went back to USA to look after the business of Omx Software Inc. Mr. Rajat again visited India on 25th August, 2022 and stays in India for the whole year. Omx Software Private Limited had availed a consultancy service from a company situated in USA for development of software for the purpose of rendering service to its customers situated in India. Mr. Rajat had purchased a residential property in USA on 27th April, 2022 which was self-occupied by him for his residential use.

**1. Considering the provisions of the Foreign Exchange Management Act, 1999, which of the following options correctly determines the residential status of Mr. Rajat Kapoor:**

- (a) Mr. Rajat Kapoor to be treated as resident in India for Financial Year (FY) 2022-2023 and FY 2023-2024 since he stays in India for more than 182 days
- (b) Mr. Rajat Kapoor to be treated as non-resident in India for FY 2022-2023 since he left India for the purpose of carrying business of Omx Software Inc and resident for FY 2023-2024
- (c) Mr. Rajat Kapoor to be treated as non-resident for FY 2022-2023 and FY 2023-2024
- (d) Mr. Rajat Kapoor to be treated as resident in India for FY 2022- 2023 since he stays in India for more than 182 days and non- resident for FY 2023-2024

**Ans: (b)**

**2. Considering the provisions of the Foreign Exchange Management Act, 1999, how much amount can company remit outside India:**

- (a) Permissible amount remitted to US company for obtaining consultancy without obtaining prior approval of RBI is USD 1,000,000 per project
- (b) Permissible amount remitted to US company for obtaining consultancy without obtaining prior approval of RBI is USD 100,000 per project
- (c) Permissible amount remitted to US company for obtaining consultancy without obtaining prior approval of RBI is USD 200,000 per project
- (d) Permissible amount remitted to US company for obtaining consultancy without obtaining prior approval of RBI is USD 2,000,000 per project

**Ans: (a)**

**3. Considering the provisions of the Foreign Exchange Management Act, 1999, in respect of purchase of residential property by Mr. Rajat in USA which of the following statement is correct?**

- (a) Purchase of residential property by Mr. Rajat is a current account transaction
- (b) Mr. Rajat has to sell his property before returning to India permanently as he becomes resident in subsequent years



- (c) Purchase of residential property by Mr. Rajat is neither capital account transaction nor current account transaction
- (d) Purchase of residential property by Mr. Rajat is a capital account transaction

Ans: (c)

CS 34

(MTP 10 Marks July'24 & SM) (Chapter 15 The Foreign Exchange Management Act, 1999)

Amit, an Indian resident during the Financial Year (FY) 2021-2022, decided to pursue higher studies in Biotechnology in Switzerland. On 15th July 2022, he left India to begin his two-year academic program. The determination of Amit's residential status under the Foreign Exchange Management Act (FEMA), 1999, for the Financial Years 2022-2023 and 2023-2024, is crucial to understand his obligations and entitlements concerning foreign exchange transactions.

In terms of financial requirements, Amit needs USD 25,000 annually to cover his tuition fees. Additionally, he requires USD 30,000 annually for incidental expenses and living costs while studying abroad. Thus, his total annual requirement amounts to USD 55,000, making it imperative to assess the provisions under the Foreign Exchange Management Act, 1999, that govern the remittance of foreign. On the basis of above facts and by applying applicable provisions of the Foreign Exchange Management Act, 1999, therein, choose the correct answer (one out of four) of the following MCQs (11-13) given herein under:

1. What would be Amit's residential status for FY 2022-2023 under FEMA, 1999?

- (a) Resident in India
- (b) Non-Resident Indian (NRI)
- (c) Person of Indian Origin (PIO)
- (d) Overseas Citizen of India (OCI)

Ans: (b)

2. What would be Amit's residential status for FY 2023-2024 under FEMA, 1999?

- (a) Resident in India
- (b) Non-Resident Indian (NRI)
- (c) Person of Indian Origin (PIO)
- (d) Overseas Citizen of India (OCI)

Ans: (b)

3. Suppose now Amit wants more money for his living cost abroad. What is the maximum amount that can still be remitted abroad per financial year under the Liberalized Remittance Scheme (LRS)?

- (a) USD 100,000
- (b) USD 195,000
- (c) USD 200,000
- (d) USD 500,000

Ans: (b)

CS 35

(RTP Jan'25)

ABC Limited, was incorporated on 1st January, 2023. It operates in the manufacturing sector and aims to expand its business model to include e-commerce operations. ABC Limited's first financial year ended on 31st March, 2024, and the board is preparing for its first Annual General Meeting (AGM) to present the financial statements and discuss the new business model. ABC Limited's current board consists of five directors, including two independent directors appointed in line with best corporate governance practices.

The company has a wholly owned subsidiary, XYZ Limited, which is primarily involved in research and development for new products. XYZ Limited's financial year also ended on 31st March, 2024. Additionally, ABC Limited has a 30% stake in an associate company, MNO Limited, which provides logistics and distribution services. The board is assessing if it is required to prepare consolidated financial statements (CFS) that combine the financials of ABC Limited, XYZ Limited, and MNO Limited, considering the exemptions available under the Companies Act, 2013.

The AGM agenda includes:



1. Approval of the financial statements for the financial year 2023-24.
2. Discussion of a special resolution to adopt a new e-commerce business model, which requires a threefold majority approval.
3. Approval of consolidated financial statements, if required.
4. Appointment of auditors and other general meeting proceedings.

The board has provided notice to all members about the AGM agenda, including the proposal for the special item requiring special resolution. This notice was sent by email and registered post to ensure compliance with statutory notice requirements. All shareholders, including minority stakeholders, received this notice with proof of delivery available with the company.

Solve the MCQs (1-5) on the basis of the Companies Act, 2013.

1. Given that ABC Limited's first financial year ended on 31st March, 2024, and it was incorporated on 1st January, 2023, what is the latest date by which ABC Limited must hold its first AGM? (Chapter 7: Management & Administration)
  - (a) 30th September, 2024.
  - (b) 31st December, 2024.
  - (c) 31st March, 2025.
  - (d) 30th June, 2025.

Ans: (b)

2. Suppose ABC Limited holds its first AGM on 15th December, 2024. By when must it hold its subsequent AGM to remain compliant? (Chapter 7: Management & Administration)
  - (a) 15<sup>th</sup> December, 2025.
  - (b) 30<sup>th</sup> September, 2025.
  - (c) 30<sup>th</sup> June, 2025.
  - (d) 31<sup>st</sup> March, 2025.

Ans: (b)

3. Under the Companies Act, 2013, does ABC Limited need to prepare consolidated financial statements (CFS) to present at the AGM? (Chapter 9: Accounts of Companies)
  - (a) Yes, because it has one wholly owned subsidiary and an associate company.
  - (b) No, because it qualifies for exemption as a wholly owned subsidiary.
  - (c) Yes, only if XYZ Limited and MNO Limited are listed companies.
  - (d) No, if shareholders provide written consent exempting it from CFS preparation.

Ans: (a)

4. What must ABC Limited ensure to pass the special resolution approving the adoption of a new e-commerce business model at the AGM? (Chapter 7: Management & Administration)
  - (a) The resolution must have more than 50% of votes in favor.
  - (b) The resolution must be stated as special in the notice, and votes in favor must be three times the votes against.
  - (c) The resolution can be passed if votes in favor exceed votes against without being stated as special.
  - (d) The resolution must have unanimous support from the board of directors.

Ans: (b)

5. Under which conditions would ABC Limited be exempt from preparing consolidated financial statements? (Chapter 9: Accounts of Companies)
  - (a) If ABC Limited is a wholly owned subsidiary, all members agree in writing to the exemption, and proof of delivery of this intimation is available.
  - (b) If XYZ Limited's shareholders unanimously agree to waive CFS requirements.
  - (c) If MNO Limited's financials are not significant to ABC Limited's overall financial position.
  - (d) If ABC Limited's board decides to skip CFS preparation with a simple majority vote.

Ans: (a)



ABC Publications Limited accepted deposits from the public to the tune of ₹ 70 Lakh on 1st May 2021, for a period of 36 months at an interest rate of 10% per annum. The repayment would be made on 30th April, 2024. It has complied with all the statutory requirements for the acceptance of deposits by a Public Limited Company. One of the depositors Mr. Y was in urgent need of money as his son wanted to pursue his higher education abroad. His total deposit with ABC Publications Limited was ₹10 lakh. On 1st June 2022, he sent his request to the company asking for premature repayment of his deposit along with interest.

Another depositor, Mr. U had deposited ₹ 6 lakh in his name. On 18th September 2022, he sent an application to the company to change the name on his deposit and make it a joint holding in the names of himself, his wife and two children. The company is contemplating the requests received from its depositors.

In addition to the deposits received from the public, the company had also raised funds by amount received from a Public Sector Bank, by issue of bonds and debentures and amounts against issue of commercial papers which were issued according to the guidelines issued by the Reserve Bank of India.

On the basis of the given facts, and by applying the applicable provisions of the Companies Act, 2013 and the Rules therein, choose the correct answer of the following questions:

1. Advise ABC Publications Limited regarding the amount and the interest that can be repaid to Mr. Y:
  - (a) The company cannot make premature repayment of the deposits.
  - (b) The company can prematurely repay the deposit along with interest@ 10% for a period of 13 months (1<sup>st</sup> May 2021 to 31<sup>st</sup> May 2022)
  - (c) The company can prematurely repay the deposit along with interest@ 9% for a period of 13 months (1<sup>st</sup> May 2021 to 31<sup>st</sup> May 2022)
  - (d) The company can prematurely repay the deposit along with interest@ 9% for a period of 11 months (1<sup>st</sup> May 2021 to 31<sup>st</sup> March 2022)

Ans: (C)

2. Advise ABC Publications Limited regarding the request of Mr. U:
  - (a) Mr. U cannot change his deposit to joint holding.
  - (b) The deposits can be held jointly only by Mr. U and his wife.
  - (c) The deposits can be held jointly by Mr. U, his wife and two children.
  - (d) The deposits can be held jointly by Mr. U and any two members only.

Ans: (d)

3. The Banker of ABC Publications Limited wanted a list of deposits accepted by the company. Advise the company on what among the following constitute deposit:
  - (a) Amount raised through bonds and debentures
  - (b) Any non-interest bearing amount received and held in trust
  - (c) Amount received from Public
  - (d) Amount raised through the issue of commercial paper as per the Reserve Bank of India guidelines and amount raised through bonds and debentures

Ans: (c)

**CS 37 (PYP 6 Marks Sep'24) (Chap-11- Companies Incorporated Outside India)**

Combat Gaming Limited is a company incorporated outside India with a place of business in Rajasthan. To improve its gaming software, the company wanted to apply Artificial Intelligence technology. In order to raise more funds to meet out the investment cost, the company decided to issue shares. It issued prospectus of the company which was properly dated and signed according to the provisions of the Companies Act, 2013 and delivered them to the Registrar of Companies on 16th August 2023. The Registrar on verification of the documents found that the particulars in the prospectus was incomplete and issued a notice to the company saying that the prospectus is invalid. Hence, the directors scrutinized the documents and during the scrutiny it was observed by the CFO that there was a mistake in one of the documents delivered to the Registrar and hence altered that on 29th September 2023. Analyse, based on the above scenario and answer the following questions:

1. According to the Companies (Registration of Foreign Companies) Rules, 2014, of the Companies Act, 2013,



which of the following documents shall not be annexed to the prospectus?

- (a) Any consent to the issue of the prospectus required from any person as an expert;
- (b) Statement of preliminary expenses;
- (c) A copy of contracts for appointment of Managing Director or Manager and in case of a contract not reduced into writing, a memorandum giving full particulars thereof
- (d) A copy of underwriting agreement

Ans: (b)

2. Combat Gaming Limited has made alteration in documents delivered to the Registrar, they shall intimate to Registrar of Companies by

- (a) 29th October
- (b) 13th November
- (c) 28th November
- (d) 9th October

Ans: (a)

3. Combat Gaming Limited has to deliver the required documents along with the appropriate fees to:

- (a) The Registrar of Companies, Rajasthan
- (b) The Comptroller and Auditor General Office, New Delhi
- (c) The Registrar of Companies, New Delhi
- (d) The Company Law Board, New Delhi

Ans: (C)

CS 38

(PYP 6 Marks Sep'24) (Chap -12- The Limited Liability Partnership Act, 2008)

Mr. S is a well experienced technocrat in the field of manufacturing of computer hard discs and motherboard. He resigned from his job and wished to form a Limited Liability Partnership (LLP) with the object of manufacturing and trading of computer hardware. He wanted to include his close friends Mr. A, Mr. B, and Mr. C who are very familiar in the same field and worked in the foreign companies also. All three friends had accepted the invitation of Mr. S to be partners of the LLP. Mr. S wanted to ensure whether all the three friends are resident of India and requested them to provide the details of their stay in India. During the previous financial year, Mr. A has stayed in India for a period of 170 days, Mr. B stayed in India for 110 days and Mr. C stayed in India for 100 days. All the partners had given their consent to act as designated partners. He applied for the reservation of desired name to the Registrar and also paid the prescribed fees.

Based on the above facts, answer the following questions:

1. The name applied for has been approved by the Registrar. The approved name of LLP shall be valid for a period of \_\_\_\_\_ intimation by the Registrar.

- (a) 2 months
- (b) 1 month
- (c) 3 months
- (d) 6 months

Ans: (C)

2. Which of the following combinations of partners, if appointed as designated partners, will not be in accordance with the provisions laid down by Limited Liability Partnership Act, 2008?

- (a) Mr. A, Mr. B and Mr. C
- (b) Mr. B and Mr. C
- (c) Mr. A and Mr. C
- (d) Mr. A and Mr. B

Ans: (b)

3. In how many days, a Limited Liability Partnership shall file with the Registrar, the particulars of every individual who has given his consent to act as designated partner?

- (a) Within thirty days of incorporation of LLP



- (b) Within thirty days of his appointment
- (c) After forty five days of incorporation of LLP
- (d) After sixty days of his appointment

**Ans: (b)**

**CS 39**

**(PYP 6 Marks Sep'24) (Chapter 15: The Foreign Exchange Management Act, 1999)**

Progressive Management College have introduced a Global Management Diploma Course which is of 12 months duration. Out of 12 months, 11 months studies are held in India and rest of 1 month is earmarked for foreign tour. Rudra Pratap is the Principal of the college. After taking requisite permission from the competent Ministry, the cultural tour programme was chalked out and the team visited Malaysia, Singapore, Australia and New Zealand.

Rudra Pratap's daughter Payal got admission in a medical college situated in California, United States of America. For fee and other expenses, Payal needs USD 2,25,000. Rudra Pratap contacted his banker to know the procedure for availing of foreign exchange and the authority to whom he shall apply. His banker properly guided all the relevant procedures for availing of the foreign exchange.

Rudra Pratap's brother Surya Pratap went to UK some years ago, where he joined a company in managerial position. He intermittently visits to India and maintains a Non-Resident Special Rupee Scheme Account (NRSR) in Mumbai. He wanted to make remittance of interest earned in the NRSR Account and asked his bankers for the required formalities.

Based on the above facts, answer the following questions:

**1. For the purpose of cultural tours, approval of which Ministry is required to be obtained ?**

- (a) Ministry of Human Resources Development
- (b) Ministry of External Affairs
- (c) Ministry of Home Affairs
- (d) Ministry of Commerce and Industry

**Ans: (a)**

**2. For availing foreign exchange for studying abroad, which of the following option is correct:**

- (a) The transaction of withdrawal of foreign exchange of USD 2,25,000 for studying abroad is prohibited.
- (b) The transaction of withdrawal of foreign exchange of USD 2,25,000 for studying abroad requires prior approval of Government of India.
- (c) The transaction of withdrawal of foreign exchange of USD 2,25,000 for studying abroad requires prior approval of RBI.
- (d) The transaction of withdrawal of foreign exchange of USD 2,25,000 for studying abroad do not require prior approval of RBI.

**Ans: (d)**

**3. The remittance of foreign exchange for arranging of cultural tour for the students is an example of:**

- (a) Capital Account Transactions
- (b) Current Account Transactions
- (c) Hybrid Transactions
- (d) Amortised Transactions

**Ans: (b)**

**CS 40**

**(MTP 10 Marks Nov'24)**

Prakash Limited and Vasudha Private Limited (VPL) were incorporated in January 1999 by Mr. Vicky Tripathi and his family members. Both the companies are engaged in the business of manufacturing machineries used in agricultural sector. Mr. Vicky Tripathi and his younger brother Vinay Tripathi actively participate in the daily operations of both the companies. Vasudha Private Limited is wholly owned by Tripathi family, while Tripathi family has a majority stake of 51% in Prakash Limited.

Due to the poor economic conditions in the agriculture sector and shifting of the farmers' focus to more advanced farming techniques, the sales of Prakash Limited is dipping and its bottom line has been in the red



for the last couple of years. The unabsorbed loss of Prakash Limited for the current financial year is ₹ 9.8 crore. Prakash Limited didn't pay any dividends during the last four years. Prakash Limited has accumulated profit in the form of free reserves of ₹ 180 crore whereas paid-up share capital is 918 crore as per its latest audited financial statement and loss of ₹ 9.8 crore has not been deducted from such amount of free reserves. Since pressure from shareholders of the free float is mounting, management at Prakash Limited decided to pay dividend this year out of accumulated profit. Finally, the dividend was declared on 31st August 2024. Some of the dividend remained unpaid as on 30th September 2024, on account of operation of law; this was transferred to unpaid Dividend Account and a statement containing only the names of such beneficiaries was hosted on the website of the company on 9th November 2024.

Vasudha Private Limited is a mid-sized unlisted entity, with few branches abroad and is not required to appoint an independent director under section 149(4). During the immediately preceding F.Y., its net worth was ₹ 280 crore, turnover was ₹ 590crore and net profit was ₹ 45.8 crore. The profits and other information for the immediately preceding three years are given below:

Particulars	Year ended 31.3.2024 (₹ in crore)	Year ended 31.3.2023 (₹ in crore)	Year ended 31.3.2022 (₹ in crore)
Net Profit for the year as per section 198 (in accordance with applicable provisions)	41.6	42.9	28

The Board of Directors of Vasudha Private Limited is not clear whether they have to compulsorily form a CSR committee. In order to avoid adverse legal consequences, Vasudha Private Limited constituted a CSR committee comprising of two (2) non-executive directors and one (1) executive director who was appointed as chairperson of the committee.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions given herein under:

1. In case of Prakash Limited, regarding the unpaid dividend, which of the following statements is correct? (Chapter 8: Declaration and Payment of Dividend)
- (a) Prakash Limited is guilty, of non-payment of dividend, because some of the dividends remain unpaid even after 30 days of declaration.
  - (b) Prakash Limited is guilty, because the list of beneficiaries of unpaid dividend is hosted on the website after 30 days from the date it falls inthe category of unpaid dividend.
  - (c) Prakash Limited is guilty, because the list of beneficiaries does not contain the latest known address of beneficiaries and the amount unpaid.
  - (d) Prakash Limited is not guilty, because it has full-filled all the provisionsof law pertaining to unpaid dividend.

Ans: (c)

2. During the current year, is Vasudha Private Limited required to constitute CSR committee under the provisions of the Companies Act, 2013? (Chapter 9: Accounts of Companies)
- (a) No, because it is a private company
  - (b) No, because it is an unlisted company and it has net-worth less than ₹ 500 crore
  - (c) Yes, because despite being unlisted company its turnover is above ₹ 500 crore
  - (d) Yes, because the company meets the threshold criteria having net profits exceeding ₹5 crore in the immediately preceding financial year

Ans: (d)

3. What is the implication of the fact that Prakash Limited has not paid dividends for the last four years while having free reserves? (Chapter 8 : Declaration and Payment of Dividend)
- (a) The company is in violation of the Companies Act, 2013, for not declaringdividends.
  - (b) The shareholders can legally challenge the management for not utilizingfree reserves for dividends.
  - (c) There is no legal obligation to declare dividends even if the company hasfree reserves.
  - (d) The company must now use all of its free reserves to pay dividends tosatisfy shareholder demands.

Ans: (c)



4. Considering the legal provisions regarding the constitution of CSR committee and the one constituted by Vasudha Private Limited, state which of following the statements hold truth? (Chapter 9: Accounts of Companies)
- (a) Constitution of the committee is invalid because it doesn't consist of an independent director.
  - (b) Constitution of the committee is invalid because its chairperson is an executive director.
  - (c) Constitution of the committee is valid because it depends purely upon the discretion of management.
  - (d) Constitution of the committee is valid because company is not required to appoint an independent director.

**Ans: (d)**

5. What is the minimum amount to be spent by Vasudha Private Limited on CSR activities for F.Y. 2024-25? (Chapter 9: Accounts of Companies)
- (a) ₹89.06 Lakh
  - (b) ₹78.20 Lakh
  - (c) ₹75.00 Lakh
  - (d) ₹73.80 Lakh

**Ans: (c)**

**CS 41**

**(MTP 6 Marks Nov'24) (Chapter 12: The Limited Liability Partnership Act, 2008)**

Rahul and Meenakshi, two young entrepreneurs, founded "Educom Innovators LLP" under the Limited Liability Partnership Act, 2008, with a focus on providing digital education solutions. Rahul brought technical expertise, while Meenakshi managed the business operations. According to the LLP Agreement, both contributed equally and shared profits equally. After two years of growth, they decided to admit Anshul, an industry expert, as a partner to expand their reach. Anshul agreed to contribute additional capital and bring industry contacts. However, shortly after joining, Anshul discovered that certain key compliance filings, including Form 11 (Annual Return) and Form 8 (Statement of Accounts and Solvency), were pending. Concerned, Anshul wanted to understand his liability and insisted that the LLP immediately address the compliance issues. Meanwhile, Rahul proposed to amend the LLP Agreement to reflect Anshul's new profit-sharing ratio and allocate specific decision-making powers to him. As they worked through these matters, they consulted a legal advisor to understand how the Limited Liability Partnership Act, 2008, impacted their responsibilities, liabilities, and compliance obligations.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions given herein under:

1. When Anshul joined Educom Innovators LLP, he discovered that key compliance filings, including the Annual Return and Statement of Accounts and Solvency, were pending. What is Anshul's liability as a newly admitted partner concerning these past compliance lapses?
- (a) Anshul has no liability for past compliance lapses since he was not a partner when they occurred.
  - (b) Anshul shares equal liability for past compliance lapses because he is now a partner in the LLP.
  - (c) Anshul is only liable if the LLP Agreement specifically assigns responsibility to him for compliance.
  - (d) Anshul's liability for past compliance is limited to his capital contribution in the LLP.

**Ans: (a)**

2. In light of Anshul's concern about the pending compliance filings, which of the following best describes the responsibilities of the partners in Educom Innovators LLP regarding compliance with the LLP Act, 2008?
- (a) Only the designated partners are responsible for ensuring compliance with filing obligations under the LLP Act.
  - (b) All partners, including new partners like Anshul, are equally responsible for compliance, regardless of the LLP Agreement.
  - (c) Compliance responsibilities can only be assigned to one partner, who will bear full accountability.
  - (d) The legal advisor is responsible for handling compliance, and the partners have no liability once they



hire legal counsel.

**Ans: (a)**

3. Suppose in the given scenario, Educom Innovators LLP fails to file the Statement of Account and Solvency or Annual Return for any five consecutive financial years, which of the following could occur?
- Educom Innovators LLP may be wound up the Tribunal
  - Takeover of Educom Innovators LLP by the persons appointed by the Registrar of Companies
  - Revocation of all partner rights until filings are complete
  - The losses for these 5 consecutive years shall be shared equally by all the partners irrespective of the profit sharing ratio as decided in the LLP agreement.

**Ans: (a)**

CS 42

(MTP 10 Marks Dec'24, RTP Nov'21)

Mr. V started a new venture of on-line business of supply of grocery items at the door- step of consumers. Initially it was having the area of operations of Saharanpur city only. He employed some young boys having their own bikes and allocated the areas which they were accustomed of it, for making delivery of the grocery items as per their orders. He also got developed a website and Mobile App to receive the orders on-line. His friend Sundaram who is a Chartered Accountant, suggested him to corporatize this business form, from proprietorship business to a One Person Company (OPC). Mr. V agreed and a OPC was incorporated in the name of "Ask V Online Grocery (OPC) Pvt Ltd." (for short OPC-1). In this OPC Mr. V became the member and director and Sudha (the mother of Mr. V) was made as nominee.

After a year Mr. V got married with Vani. Since the business of on-line supply of grocery was on rising trend, day by day, he thought to start a new business of supply of Milk and Milk Products and another OPC in the name of "Vani Milk Products (OPC) Pvt Ltd" (for short OPC-2) was incorporated with the help of his professional friend Sundaram. In this OPC-2, Vani (his wife) became the member and director and Mr. V was named as Nominee.

To summarise the position, the information is tabulated as under:

Name of OPC	Ask Mr. V4Online Grocery (OPC) Pvt Ltd [OPC-1]	Vani Milk Products (OPC) Pvt Ltd [OPC-2]
Member and Director	Mr. V	Vani
Nominee	Sudha (Mother of Mr. V)	Mr. V (Husband of Vani)

After some time, Sudha (the mother of Mr. V) passed away. However, before the death, Sudha had made a WILL, in which she mentioned that after her demise, her another son Krishh be made nominee in the OPC-1. When Krishh came to know this fact, he argued with Mr. V to fulfil the wish of Sudha as per her WILL (Mother of Mr. V and Krishh), but Mr. V denied this and appointed Vani (his wife) as nominee.

Aggrieved from the decision of Mr. V for not nominating him (Krishh), Krishh threatened Mr. V to take appropriate legal action against him for not honouring the WILL of Sudha and consulted his lawyer. Meanwhile due to continuous threatening and unpleasant conversation between Krishh and Mr. V, Vani became mentally upset and became insane, as certified by the medical doctor, so lost her capacity to contract. In this situation, Mr. V being the nominee in OPC-2 became member and director of this OPC-2.

One of the friends of Mr. V advised him to do some charitable work of providing free education to the girl children of his native village near by Saharanpur. Mr. V thought about this proposal and asked his professional friend Sundaram to convert this OPC-2 into Section 8 company.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 1-5, of 2 marks each) given herein under:

1. Since Vani, being insane, lost the capacity to contract, Mr. V (who was nominee) became the member of OPC-2. Now who will make nomination for this OPC: (Chapter 2 Incorporation of Company and Matters Incidental Thereto)
- Mr. V in the capacity of husband of Vani can nominate any person as Nominee of OPC-2
  - Mr. V (who was nominee) of OPC-2 has now become member of this OPC and now as a member of this OPC he can nominate any person as per his choice as Nominee for this OPC.
  - When no person is nominated, the Central Govt. will make nomination of such OPC-2.



(d) When no person is nominated the Registrar shall order the company to be wound up.

**Ans : (b)**

**2. Whether conversion of OPC-2 into a company governed by Section 8 is permissible? (Chapter 2 Incorporation of Company and Matters Incidental Thereto)**

- (a) Yes, OPC can be converted into Section 8 company
- (b) No, OPC cannot be converted into Section 8 company
- (c) This OPC-2 can be converted into section 8 company, provided the Central Govt give license
- (d) Providing of free education to girl child do not come under the specified objects mentioned for eligibility incorporation of section 8 company

**Ans : (b)**

**3. Mr. V is a member in OPC-1 and became a member in another OPC-2 (on 2nd April, 2024) by virtue of his being a nominee in that OPC-2. Mr. V shall, by what date, meet the eligibility criteria that an individual can be a member in only one OPC: (Chapter 2 Incorporation of Company and Matters Incidental Thereto)**

- (a) 17<sup>th</sup> May 2024
- (b) 25<sup>th</sup> August 2024
- (c) 26<sup>th</sup> August 2024
- (d) 29<sup>th</sup> September 2024

**Ans : (d)**

**4. After the demise of Sudha (the mother of Mr. V), Vani was nominated by Mr. V for OPC-1 as Nominee. But now Vani has become insane, so what recourse you will suggest to Mr. V: (Chapter 2 Incorporation of Company and Matters Incidental Thereto)**

- (a) Mr. V is required to nominate another person as nominee
- (b) Mr. V should wait till Vani becomes good of her health and able to have the capacity to contract
- (c) Although Vani has become insane, but if she is able to sign, her nomination in OPC-1 may continue
- (d) Sundaram (the Chartered Accountant) who helped in incorporation of OPC-1, may act as legal consultant on behalf of Vani

**Ans : (a)**

**5. Mr. V is preparing the financial statements for "Ask V Online Grocery (OPC) Pvt Ltd" for the financial year. Which of the following statements is correct regarding compliance with section 129 of the Companies Act, 2013? (Chapter 9 Accounts of Companies)**

- (a) Financial statements of OPC-1 must include a cash flow statement.
- (b) The financial statements must be presented and approved by a general meeting of members.
- (c) Mr. V, as the sole director, is responsible for approving the financial statements before filing with the RoC.
- (d) Consolidated financial statements must be prepared for OPC-1.

**Ans : (c)**

**CS 43**

**(MTP 6 Marks Dec'24) (Chapter 12 The Limited Liability Partnership Act, 2008)**

DEF LLP is a well-established limited liability partnership engaged in providing consulting services. It has four partners: A, B, C, and D, each contributing equally to the capital and holding an equal share of the profits and losses, as detailed in the LLP agreement. The partnership operates smoothly until Partner A encounters significant financial difficulties due to personal business losses and decides to transfer his entire share of profits and losses in the LLP to Mr. X, an external investor, in exchange for financial assistance. The decision, although legal as per the LLP agreement, creates a ripple of concerns among the other partners.

After the transfer:

- Partner B argues that the LLP must be dissolved because Partner A's transfer of rights effectively amounts to exiting the partnership, thus impacting the continuity of the LLP.



- Mr. X, being the transferee, demands active participation in DEF LLP's decision-making processes and insists on accessing financial records to monitor his investment, citing the substantial stake he now holds in the LLP.
- Partner C voices concerns about the potential disruption in the LLP's management structure and operations, questioning whether Mr. X's involvement aligns with the LLP's existing framework and the provisions of the Limited Liability Partnership Act, 2008.
- Partner D, on the other hand, adopts a neutral stance but raises the issue of whether the LLP agreement sufficiently addresses such transfers to avoid future disputes.
- The situation creates a complex dynamic within DEF LLP, raising questions about the rights of the transferee, the implications for the partnership's operations, and the legal provisions governing such transfers under the Limited Liability Partnership (LLP) Act, 2008.
- On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions given herein under:

**1. Can Partner A legally transfer their share of profits and losses to Mr. X?**

- (a) No, Partner A cannot transfer their share without the consent of all other partners.
- (b) Yes, Partner A can transfer their share entirely in accordance with the LLP agreement.
- (c) No, such transfers are not allowed under the LLP Act.
- (d) Yes, but only if Mr. X becomes a partner in the LLP.

**Ans : (b)**

**2. Does the transfer of Partner A's share to Mr. X result in the dissolution of DEF LLP?**

- (a) Yes, because transferring all rights indicates Partner A's disassociation.
- (b) No, because the LLP Act, 2008 does not consider such transfers as grounds for dissolution.
- (c) Yes, because all partners must agree to such transfers to avoid dissolution.
- (d) No, unless it is explicitly stated in the LLP agreement.

**Ans : (b)**

**3. Does Mr. X gain any right to participate in DEF LLP's management or access its financial records?**

- (a) Yes, as he now holds Partner A's share in the LLP.
- (b) No, unless expressly allowed by the LLP agreement.
- (c) Yes, because it is essential to safeguard his investment.
- (d) Yes, as external transferees are automatically included in LLP management.

**Ans : (b)**

**CS 44**

**(MTP 6 Marks Dec'24) (Chapter 13 The General Clauses Act, 1897)**

Sunrise Technologies Private Limited ("STPL") was in process of establishing its new software development center in Pune. On 28th February, 2024, the Board of Directors passed a resolution to purchase a property consisting of:

- A three-storey building
- 25 acres of agricultural land adjacent to the building
- 100 motor cars
- An orchard with 100 fruit-bearing trees

The company received a government notification dated 15th March, 2024, requiring all new technology centers to obtain special clearance within 45 days of establishment. The notification mentioned that existing orders under the previous Technology Parks Act (which was repealed and replaced by new legislation) would continue to remain valid. The notification was to be served to all concerned parties through registered post.

The Managing Director has approached you to understand various legal aspects under the General Clauses Act, 1897.

On the basis of above facts and by applying applicable provisions of the General Clauses Act, 1897, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 9-11, of 2 marks each) given herein under:



1. With respect to the property being purchased by STPL, which of the following would not qualify as "immovable property" under the General Clauses Act, 1897?
- (a) The orchard with fruit-bearing trees
  - (b) Motor Cars
  - (c) The three-storey building
  - (d) The agricultural land

**Ans : (b)**

2. The government notification requires clearance "within 45 days". If the notification was received on 20th March, 2024, and the 45th day falls on Sunday, May 4, 2024, what would be the last date for obtaining clearance?
- (a) 3<sup>rd</sup> May, 2024
  - (b) 4<sup>th</sup> May, 2024
  - (c) 5<sup>th</sup> May, 2024
  - (d) 6<sup>th</sup> May, 2024

**Ans : (c)**

3. Concerning the previous orders under the repealed Technology Parks Act, which statement is correct?
- (a) All previous orders automatically become void
  - (b) Previous orders continue to be valid unless explicitly cancelled
  - (c) Previous orders require fresh validation under new law
  - (d) Previous orders are valid for only 6 months after repeal

**Ans : (b)**



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