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PART - II

1. (a) Amrish after completing his post-graduate degree in mechanical engineering from the United Kingdom returned back to India. Although he got a good placement in a UK based company but he thought to build his own business empire in India. Amrish belongs to Barmer district (Rajasthan) where his parents have agricultural land of 20 acres. He planned to manufacture commercial drones for the use of agricultural harvesting and assist in supply chain process. For this purpose, he planned to incorporate a private limited company having the following persons as the first subscribers to the Memorandum and Articles of Association :

- (i) Amrish (himself)
- (ii) Robert (He is a college friend of Amrish. He is a Citizen of UK. He has technical expertise and in order to incorporate the company visited India on a valid Business Visa).
- (iii) Eliza (She is college friend of Amrish. She is a Citizen of Netherlands and has good business contacts in European Countries which will be immensely useful in marketing of the company's products).
- (iv) Goma Devi (Mother of Amrish, who is illiterate. She has recently sold part of her agricultural land and has received ₹ 15 crores, out of which she agreed to subscribe ₹ 5 crores in the share capital of the proposed company).

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(v) Goodwork Technologies LLP (A Limited Liability Partnership having the expertise in the field of remote sensing devices).

(vi) Mohit Electronics Private Ltd. (A Private Limited Company having expertise in the field of providing Electronics and Electricals).

Amrish planned to have the Registered Office of the proposed company at Jaipur while the factory and works office shall be at the Barmer.

For incorporation of a company, an application for registration is to be filed with the Registrar. In the given case, the initial subscribers to the company consists of one illiterate person, two foreign nationals, one LLP and one Private Limited Company.

Discuss the procedure, how these persons shall subscribe to the Memorandum of Association and Articles of Association.

(b) Sangeeta was appointed as Statutory Auditor of ABC Ltd. in the Annual General Meeting (AGM) of the shareholders held on 20th August, 2023. 5

However, Sangeeta met with an accident on 23rd December, 2023 and died. The Board of Directors of the ABC Ltd. filled up the casual vacancy caused by the sudden death of Sangeeta and appointed Keshav as the Statutory Auditor. The next AGM of the Company was scheduled for 28th August, 2024 in which the Board of Directors recommended for appointment of Aashish as Statutory Auditors before the shareholders. Keshav objected for the appointment of Aashish and gave representation

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to the Company Secretary mentioning therein that his (Keshav) appointment was approved by the Board of Directors after the demise of Sangeeta thus can continue as Statutory Auditor of the Company till the conclusion of the next 6th Annual General Meeting and also threatened to report the matter to the Registrar and the NCLT.

Based on the above facts answer the followings :

- (i) Explain the procedure to fill up the casual vacancy of the office of Statutory Auditor. 131(8)
- (ii) Whether the contention raised by Keshav is justified as per the provisions of the Companies Act, 2013 ? 140(1)
- (iii) What shall be your answer, if the casual vacancy in the office of the Statutory Auditor in the company was caused by resignation of Sangeeta ? 140(2) & 3)

(c) Mr. V is a person of Indian origin who had moved to USA along with his wife in the year 1998 and had been living there until 2024. He was holding joint bank accounts with his wife in USA since 1998. On the demise of his wife on 17th November, 2024, he had returned permanently to India on 24th November, 2024. He also inherited his wife's money after her death, which got transferred to his bank account in USA. After few days of his return to India, he has paid premium from his bank account in USA of his insurance policy, which he had taken when he was in USA. 4

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Referring to the provisions of the Foreign Exchange Management Act, 1999, examine whether Mr. V is permitted to carry out the above transactions.

2. (a) Referring to the provisions of the Companies Act, 2013, state whether the following amounts received by the company constitutes a deposit or not : 5

- (i) IQ Books Limited received share application money of ₹ 50 crores from investors on 8th December, 2024. As the issue was under subscribed, the company refunded the amount to the investors on 20th February, 2025.
- (ii) Suraj, Raj and Tejas are the promoters of Precious Jewellers Limited. They borrowed a sum of ₹ 200 crores from ABC Bank Limited for its working capital purpose. The Bank imposed a stipulation that the promoters should contribute at least 20% of the amount borrowed. Hence, Suraj brought in ₹ 10 crores, Raj brought in ₹ 15 crores and Mr. K, father of Tejas brought in ₹ 15 crores.
- (iii) Pretty Cosmetics Limited issued non-convertible debentures for ₹ 125 crores and listed it on a recognized stock exchange adhering to SEBI rules and regulations. The company created a charge on its assets in favour of the debenture holders and duly registered the charge.

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(b) Spark Services Limited issued a prospectus inviting public offer of securities on 18th June, 2024. The prospectus mentioned that Mr. T is one of the Directors of the Company. Mr. T is a famous social worker who helps in educating the poor children in Rajasthan. The prospectus also mentioned that a certain percentage of funds raised will be utilized towards that community service.

Mr. C was impressed by these statements and subscribed to the shares of the company. He was allotted 1000 shares of the company. He subsequently sold 250 shares to Mr. D. On 15th December, 2024, he came to know that Mr. T was not a director and the company never had any intention of doing community service.

Mr. C and Mr. D want to rescind the contract. Referring to the provisions of the Companies Act, 2013, examine whether Mr. C and Mr. D can rescind the contract.

(c) Purva Buildcon Ltd. (PBL) is a public company having two subsidiary companies namely Arihant Cements Ltd. (ACL) and Siddharth Bricks Ltd. (SBL). Purva is a Chief Financial Officer of PBL.

Ashish and Mrinal, who were the CFO's of ACL and SBL resigned from their respective companies and Purva was offered to take charge of the office of CFO in ACL and SBL, which she accepted.

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Whether Purva can be designated as CFO simultaneously in two subsidiaries (i.e. in SBL and ACL) besides being CFO of PBL ? Examine the matter with reference to the provisions contained in the Companies Act, 2013 as well as in the General Clauses Act, 1897.

3. (a)

Comment on the following :

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(i) Disclosure required to be made on the face of the Prospectus.

(ii) Conditions in regard to Experts' Statement. 2(38)

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(iii) Date of publication of prospectus.

(b)

Vital Pharmacy Limited is engaged in the manufacturing of medicines to cure skin diseases. It has established a unit in Germany. It registered few patents in Germany and raised funds by creating a charge on its stock in Germany and the patent rights. The company registered the charge created on its stock but did not register the charge created on the patent rights.

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The Company received a notice from the Registrar of Companies for not filing the particulars of charge created by the Company on the property or assets situated outside India. The Company wants to defend the notice on the ground that it shall not be the duty of the company to register the particulars of the charge created on the patents obtained outside India and also as they are intangible in nature.

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Referring to the provisions of the Companies Act, 2013, examine the validity of the company's claim.

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(b) What do you mean by Floating Charge and when it converts into a Fixed Charge? 5

(c) 'The meaning of a word is to be judged by the company it keeps.' 4
Explain the concept of 'Noscitur A Sociis'.

4. (a) XYZ Ltd., uses an Accounting Software for recording its financial transactions. 5

The statutory auditor of the company while auditing finds the following issues :

- Some journal entries were altered without creating edit logs for all, such changes.
- The audit trail feature was disabled for certain modules (e.g., inventory adjustments, inter-company transactions).

Keeping in view of the above issue, advice the company on the followings :

- (i) Audit trail and Edit Log requirements
- (ii) The back-up of books of accounts.

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(b) Sun Roofings LLP has 6 partners. Mr. K, a partner is in-charge for the marketing division of the firm. He is literally the face of the firm and due to his acumen the business was doing very well. Mr. W is one of the senior most partner and a major investor in the firm. Mr. K met with a sudden demise. The LLP however continued its operations without dissolving the LLP. The firm incurred huge losses after his death and Mr. K's share in the firm was also utilised to repay the debts.

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Mr. W transferred his share to his son M who has previous experience in marketing. M wanted to take active part in the business but the remaining partners did not allow him. Referring to the provisions of the Limited Liability Partnership Act, 2008 state whether;

- (i) Mr. K's share can be used to repay the firm's debts after his death
- (ii) The remaining partners of Sun Roofings can forbid M to take part in the business.

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(c) Whether Illustrations will have effect of modifying the language of the section in connection with Interpretation of Statutes ? Explain with the help of an example.

5. (a) Write down functions and duties of the National Financial Reporting Authority. 5

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(b) Write down any five points on the distinction between LLP and Limited Liability Company. 5

(c) Dream Builders Limited was engaged in the activity of building and selling budget friendly apartments. It recently started a new project at Noida. Pending approval, the builders started the construction work. On verification of documents, the Corporation of Noida refused to sanction the permission and the Assistant Commissioner Mr. S issued a demolition order, signed by him under his authority. 4

The builders filed an appeal at the court and stayed the demolition. After 6 months of court trials, the verdict was announced in favour of the Corporation of Noida. Mr. G, the present Assistant Commissioner initiated the demolition process.

The builders argued that the order was passed by Mr. S and since he is no longer in the authority, the order stands cancelled and Mr. G cannot demolish the construction.

Referring to the provisions of the General Clauses Act, 1897, determine the validity of the claim of the builders.

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(15) DNC Hydro Limited, obtained a loan of ₹ 3,000 crores from SPM Bank in April, 2023 to finance its hydropower generation project. To secure the loan, the company created a charge on its assets including land, plant and machinery. The charge was registered with the ROC in form CHG-1.

In September, 2024, DNC Hydro Limited fully repaid the loan and SPM Bank issued no dues certificate to the company.

However, due to internal compliance oversight, DNC Hydro Limited failed to file form CHG-4 within the 30 days prescribed limit under Section 82 of the Companies Act, 2013.

In January, 2025, RTS Bank approved a loan for ₹ 1,000 crore to DNC Hydro Limited for acquiring new plant and machinery.

During the due diligence, RTS Bank discovered that the old charge was still active in the ROC records, thereby creating problems for the disbursement of the new loan.

As a Financial Advisor of the company, advise what are the legal and procedural steps DNC Hydro Limited should follow to remove the old charge from ROC records.

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- (b) ABC Inc., a company based in USA, develops cyber security software and sells it to its Indian clients.

ABC Inc. has entered into service agreement with PQR Private Limited, a company incorporated in India. PQR Private Limited provides support to the Indian customers for the software installation and after sale services. PQR Private Limited also holds 50% of shares of ABC Inc.

Explain whether ABC Inc. is required to comply with the provisions of chapter XXII of the Companies Act, 2013.

- (c) Define "Foreign Exchange" and "Foreign Security" as per the provisions of the Foreign Exchange Management Act, 1999.

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