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**Extra Question For Sept 2025 Attempt****Chapter: 1 - Indian Regulatory Framework**

**08 - Explain in brief the important functions played by the Ministry of Finance, the Ministry of Corporate Affairs and the Ministry of Law and Justice in enforcing the law in India.**

4)c)6m, May2025

**Ans - - The Ministry of Finance**

- The Ministry of Finance (Vitta Mantralaya) is a Ministry within the Government of India concerned with the economy of India, serving as the Treasury of India.
- In particular, it concerns itself with taxation, financial legislation, financial institutions, capital markets, centre and state finances, and the Union Budget.
- One of the important functions of the Finance Ministry is the presentation of the Union Budget. This annual event is eagerly awaited by professionals and the common man as it provides for the rates of taxes and budget allocations for the ensuing year.

**The Ministry of Corporate Affairs - Same as Ans No. 1**

**The Ministry of Law and Justice**

- The Ministry of Law and Justice in the Government of India is a Cabinet Ministry
- It deals with the
  - management of the legal affairs, through the Department of Legal Affairs
  - legislative activities through the Legislative Department
  - administration of justice in India through the Department of Justice
- The Department of Legal Affairs is concerned with advising the various Ministries of the Central Government while the Legislative Department is concerned with drafting of principal legislation for the Central Government.

**07 - What do you understand by Law? Also explain, how is Law enforced in a legal system?**

4)c)6m, MTP1, May2025

**Ans - What is Law is same as Answer No. 5.**

**Enforcement of Law:**

- After a law is passed in parliament it has to be enforced. Somebody should monitor whether the law is being followed. This is the job of the executive.
- Depending on whether a law is a Central law or a State law the Central or State Government will be the enforcing authority.
- For this purpose, government functions are distributed to various ministries. Some of the popular Ministries are the Ministry of Finance, the Ministry of Corporate Affairs, the Ministry of Home Affairs, the Ministry of Law and Justice and so on. These Ministries are headed by a minister and run by officers of the Indian administrative and other services.
- The Government of India exercises its executive authority through a number of Government Ministries or Departments of State. A Ministry is composed of employed officials, known as civil servants, and is politically accountable through a minister.
- Most major Ministries are headed by a Cabinet Minister, who sits in the Union Council of Ministers, and is typically supported by a team of junior ministers called the Ministers of State.

### **Chapter: 2 Unit: 1 - Nature of Contracts**

No Extra Questions

### **Chapter: 2 Unit: 2 - Consideration**

11 - Shri Shivay Temple Trust decided to get renovation of the temple under trust. For this purpose, the President of the trust discussed the budget with contractor. The contractor provided the budget of ` 5,00,000. After gaining enough membership to support the funds required renovating the temple, the committee entered in a contract with contractor for renovation. The plans for the proposed structure were submitted and passed. But as the membership list increased, the plans also expanded. Hence, the expected cost of construction is increased from ` 5,00,000 to ` 7,00,000. Now, increased amount of ` 7,00,000 stayed approved and obligated by the committee and contractor. Renovation work was completed, and contractor demanded the payment from committee. Meanwhile, new members who promised to contribute did not turnout. President had filed the suit against the members who promised to contribute. Members denied on the views that their contract with committee to contribute was without any consideration hence invalid. State with reason whether committee will succeed under the provisions of the Indian Contract Act, 1872?

**RTP, May 2025**

**Ans** - As per Section 25 of the Indian Contract Act, 1872, an agreement made without consideration is void. However, there are certain exceptions to this rule. If a promisee undertakes the liability on the promise of the person to contribute to charity, then the contract shall be valid even without consideration. This was also confirmed in case of *Kedarnath vs. Gorie Mahommed*.

In the instant case, the Committee of Shri Shivay Temple trust entered into contract for renovation of temple for ` 5,00,000. Some members promised to contribute the funds and on the basis of those promises, the committee has extended the work for which cost was increased from ` 5,00,000 to ` 7,00,000. New members who promised to contribute did not turn up. The committee had filed the suit against the members who promised to contribute. But members denied the view that their contract with the committee to contribute was without any consideration, hence invalid.

Hence, on the basis of the above facts and provisions, the promise made by members to contribute is perfectly valid even without consideration. Therefore, the committee will succeed, and members have to pay the promised amount.

### **Chapter: 2 Unit: 3 - Other Essential Elements of a Contract**

No Extra Questions

### **Chapter: 2 Unit: 4 - Performance of Contract**

**25 - Give your opinion with reference to provisions of the Indian Contract Act, 1872:**

- 1. Whether Joint promisor and promisee voluntarily discharge their obligation even after death?**
- 2. In case they won't be able to discharge their obligation, whether any of the joint promisor may be compelled?**
- 3. What would be the situation in case of default by any one of them?** 5)c)i4m, May2025

**Ans** - 1) According to section 42 of the Indian Contract Act, 1872, if two or more persons have made a joint promise, ordinarily all of them during their life-time must jointly fulfil the promise. After death of any one of them, his legal representative jointly with the survivor or survivors should do so. After the death of the last survivor the legal representatives of all the original co-promisors must fulfil the promise.

Hence, the legal representative can jointly discharge the obligations of joint promisor and promisee, after their death.

2) As per section 43, each of two or more joint promisors may compel every other joint promisor to contribute equally with himself to the performance of the promise, unless a contrary intention appears from the contract.

Hence, the joint promisor may be compelled.

3) If any one of two or more joint promisors makes default in such contribution, the remaining joint promisors must bear the loss arising from such default in equal shares.

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**24 - Albert obtained 2 loans of ` 3,00,000 and ` 4,00,000 respectively from a reputed Bank. Out of these 2 loans, loan of ` 3,00,000 was guaranteed by Robert. Albert sent ` 2,00,000 to bank but did not intimate as to how it is to be appropriated towards the loans. The Bank appropriated the whole of ` 2,00,000 to the loan of ` 4,00,000 (the loan not guaranteed). Robert objected on the decision of the Bank. He argued with bank that repayment amount should be first adjusted to the guaranteed loan. State with reasons, whether the Bank was correct in its decision under the Indian Contract Act, 1872?**

**RTP, Sept2025, 1)a)ii)MTP1, May2025**

**Ans -** Section 60 of the Indian Contract Act, 1872 provides, where the debtor does not intimate and there are no circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor. However, it cannot be applied to a disputed debt.

In the instant case, Albert obtained 2 loans of ` 3,00,000 and ` 4,00,000 respectively from a reputed Bank of which loan of ` 3,00,000 was guaranteed by Robert. Albert sent ` 2,00,000 to bank without intimating as to how it is to be appropriated towards the loans. The Bank appropriated the whole of ` 2,00,000 to the loan of ` 4,00,000 (the loan not guaranteed). Robert objected that repayment amount should be first adjusted to the guaranteed loan.

On the basis of provisions and facts of the case, it can be said that in the absence of clear intimation about the appropriation of payment, it is the sole discretion of the Bank to which loan it can appropriate the amount. Hence, the Bank was correct in its decision under the Indian Contract Act, 1872.

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**23 - Nitesh Gupta is constructing his house. For this purpose, he entered in a contract with M/s Baba Brick House to supply of 10,000 bricks on 12th August 2023. M/s Baba Brick House has two Lorries of 5,000 brick capacity. On 12th August 2023, one of the Lorries was not in working condition so M/s Baba Brick House supplied only 5,000 bricks and promised Nitesh Gupta to supply rest 5,000 bricks on next day. Nitesh Gupta wants to cancel the contract, as M/s Baba Brick House did not supply the bricks as per the**

contract. M/s Baba Brick House gave the plea that no fault has been made from its part, hence contract should not be cancelled. In this situation, whether Nitesh Gupta can avoid the contract under Indian Contract Act, 1872?

4)a)i)4m,MDTP1

OR

Rahul is manufacturer of jute bags. He contracted with Sonia to supply raw jute for the purpose of making bags. Rahul informed Sonia that production process of jute bags would start from 27.06.2024 but Sonia must supply raw jute till 25.06.2024 so that quality verifications can be done in next two days. Sonia supplied the jute on 27.06.2024 and informed Rahul that she couldn't supply on 25.06.2024 due to some unavoidable reasons and she also assured that quality measures were not anyway compromised in supplies. But Rahul wanted to avoid the contract as he was not given opportunity to examine the goods. In light of provisions of Indian Contract Act, 1872, state whether Rahul can avoid the contract?

RTP, Sept2025

**Ans** - "Performance of Contract" means fulfilment of obligations to the contract. According to Section 37 of Indian Contract Act, 1872, the parties to a contract must either perform, or offer to perform, their respective promises unless such performance is dispensed with or excused under the provisions of the Contract Act or of any other law. Further, the performance should be for whole obligations. Part delivery cannot be considered as valid performance.

In the instant case, Nitesh Gupta contracted with M/s Baba Brick House to supply of 10,000 bricks on 12th August 2023. M/s Baba Brick House had only two Lorries of 5,000 brick capacity. But on the agreed date one lorry was not in working condition so only 5,000 bricks were supplied on 12th August 2023 and promised to supply rest 5,000 bricks on next day.

After taking into account the above provisions and facts, Plea of M/s Baba Brick House cannot be considered. Performance should be for whole obligation. Hence, part performance by M/s Baba Brick House cannot be taken as valid performance. Nitesh Gupta is right in avoiding the contract.

OR

In the instant case, Rahul, a manufacturer of jute bags entered in a contract with Sonia to supply raw jute with the instructions that he needs raw jute till 25.06.2024 so that quality verifications can be done in next two days. But Sonia supplied the jute on 27.06.2024 with the information that she couldn't supply on 25.06.2024 due to some unavoidable reasons.



On the basis of the facts of the case, Rahul was not given a proper opportunity to examine the goods at the time of performance. This cannot be considered as valid performance by Sonia. Hence, Rahul can avoid the contract entered with Sonia.

### **Chapter: 2 Unit: 5 - Breach of Contract And It's Remedies**

No Extra Questions

### **Chapter: 2 Unit: 6 - Contingent & Quasi Contracts**

12 - Akhil ordered 100 Kgs of wheat to M/s Sahil Kirana Store, and it promised to supply the wheat by the evening. In the evening, the hawker of M/s Sahil Kirana Store comes with 100 Kgs of wheat but mistakenly he delivered it at the house of neighbor of Akhil. Referring to the provisions of the Indian Contract Act, 1872, advice who will be liable to pay the price of wheat? **RTP, Sept2025**

**Ans -** By virtue of provisions of Section 72 of the Indian Contract Act, 1872, a person to whom money has been paid or anything delivered by mistake or under coercion, must repay or return it. Further, as per decision taken in case of Shivprasad Vs Sirish Chandra, every kind of payment of money or delivery of goods for every type of 'mistake' is recoverable.

In the instant case, Akhil contracted M/s Sahil Kirana Store for supply of 100 Kgs of wheat which to be delivered by the evening. In the evening, the hawker of M/s Sahil Kirana Store mistakenly delivered 100 Kgs wheat at the house of neighbor of Akhil.

As the hawker of M/s Sahil Kirana Store mistakenly delivered 100 Kgs wheat at the house of neighbor of Akhil and neighbor accepted the wheat, there is a quasi-contract between M/s Sahil Kirana Store and neighbor. Hence, neighbor will be liable to pay the price of wheat.

### **Chapter: 2 Unit: 7 - Contract of Indemnity & Guarantee**

17 - According to provisions of the Indian Contract Act, 1872, define the following terms with reference to contract of guarantee:

(i) Nature and extent of Surety's Liability

(ii) Discharge of a Contract of Surety by Invalidation of the Contract of Guarantee.

**3)c)6m, May2025**

**Ans - i) Nature and extent of Surety's Liability [Section 128 of the Indian Contract Act, 1872]**

(A) The liability of the surety is co-extensive with that of the principal debtor unless it is otherwise provided by the contract.

- (B) Liability of surety is of secondary nature as he is liable only on default of principal debtor.
- (c) Where a debtor cannot be held liable on account of any defect in the document, the liability of the surety also ceases.
- (D) A creditor may choose to proceed against a surety first, unless there is an agreement to the contrary.

**ii) Discharge of a contract of Surety by the invalidation of the contract of guarantee.**

- (a) Guarantee obtained by misrepresentation [Section 142]: Any guarantee which has been obtained by means of misrepresentation made by the creditor, or with his knowledge and assent, concerning a material part of the transaction, is invalid.
- (b) Guarantee obtained by concealment [Section 143]: Any guarantee which the creditor has obtained by means of keeping silence as to material circumstances is invalid.
- (c) Guarantee on contract that creditor shall not act on it until co-surety joins (Section 144): Where a person gives a guarantee upon a contract that the creditor shall not act upon it until another person has joined in it as co-surety, the guarantee is not valid if that other person does not join.

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**16 - "Explain the circumstances under which a surety may be discharged by revocation of the contract of guarantee under the Indian Contract Act, 1872." 6)b)6m,MTP1,May2025**

**Ans -** A surety is said to be discharged when his liability as surety comes to an end.

The various modes of discharge of surety are as below:

- (i) By revocation of the contract of guarantee.
- (ii) By the conduct of the creditor, or
- (iii) By the invalidation of the contract of guarantee.

**By revocation of the Contract of Guarantee**

- (a) Revocation of continuing guarantee by Notice (Section 130 of the Indian Contract Act, 1872): The continuing guarantee may at any time be revoked by the surety as to future transactions by notice to the creditors. Once the guarantee is revoked, the surety is not liable for any future transaction however he is liable for all the transactions that happened before the notice was given. A specific guarantee can be revoked only if liability to principal debtor has not accrued.
- (b) Revocation of continuing guarantee by surety's death (Section 131): In the absence of any contract to the contrary, the death of surety operates as a revocation of a continuing guarantee



as to the future transactions taking place after the death of surety. However, the surety's estate remains liable for the past transactions which have already taken place before the death of the surety.

(c) By novation [Section 62]: The surety under original contract is discharged if a fresh contract is entered into either between the same parties or between the other parties, the consideration being the mutual discharge of the old contract.

**15 - Mr. R extended a loan to Mr. D with X, Y, and Z as sureties. Each surety executed a bond with varying penalty amounts, X with a penalty of ` 10,000, Y with ` 20,000 and Z with ` 40,000, in the event of Mr. D's failure to repay the borrowed money to Mr. R. Examine the liabilities of the sureties in accordance with the Indian Contract Act, 1872, when Mr. D defaults to the tune of ` 42,000. Additionally, assess the situation, if there is no contractual arrangement among the sureties. 4)a)i)MDTP2,7, 4)a)i)4m,MTP1,Jan2025**

**Ans -** As per section 146 of the Indian Contract Act, 1872, when two or more persons are co-sureties for the same debt either jointly, or severally and whether under the same or different contracts and whether with or without the knowledge of each other, the co-sureties in the absence of any contract to the contrary, are liable, as between themselves, to pay each an equal share of the whole debt, or of that part of it which remains unpaid by the principal debtor.

Section 147 provides that the principle of equal contribution is, however, subject to the maximum limit fixed by a surety to his liability. Co-sureties who are bound in different sums are liable to pay equally as far as the limits of their respective obligations permit.

In the given question, Mr. D makes a default of ` 42,000, and X, Y and Z as sureties have executed the bond with varying penalty amounts. Hence, X is liable to pay ` 10,000, and Y and Z ` 16,000 each.

In the given case, if there is no contractual arrangement among the sureties, they would be liable for equal contribution. Hence, X, Y and Z will be liable to pay ` 14,000 each.

### **Chapter: 2 Unit: 8 - Bailment & Pledge**

**15 - Rahul hired a car for 15 days from M/s Kushwah Travels. After five days, M/s Kushwah Travels demanded back his car from Rahul. He was also agreed to compensate for any loss suffered by Rahul due to such premature return of goods. But Rahul refused to return the car before the period of bailment i.e. 15 days. M/s Kushwah Travels sued Rahul for recovery of car. Referring to the provisions of the Indian Contract Act, 1872, whether M/s Kushwah Travels can recover the car from the Rahul before the time fixed for bailment?**

**RTP, Sept2025**

**Ans** - According to the Section 159 of the Indian Contract Act, 1872, when the goods are lent gratuitously, the bailor can demand back the goods at any time even before the expiry of the time fixed or the achievement of the object. However, due to the premature return of the goods, if the bailee suffers any loss, which is more than the benefit actually obtained by him from the use of the goods bailed, the bailor has to compensate the bailee.

In the given problem, Rahul hired a car for 15 days from M/s Kushwah Travels but just after five days, M/s Kushwah Travels demanded back his car from Rahul. Rahul refused to return the car before the period of bailment, i.e. 15 days. M/s Kushwah Travels filed suit against Rahul for recovery of car.

Premature recovery of goods bailed available only in case of gratuitous bailment. If bailment is for hire, this right is not available to bailor even he is ready to compensate for such premature return. Hence, M/s Kushwah Travels cannot recover back the goods before 15 days.

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**14 - Explain the following terms with reference to the Indian Contract Act, 1872:**

**i) Pledge by mercantile agent**

**6)b)i)3m,May2025**

**Ans - Pledge by mercantile agent:** According to section 178 of the Indian Contract Act, 1872, a mercantile agent, who is in the possession of goods or document of title, with the consent of owner, can pledge them while acting in the ordinary course of business as a Mercantile Agent.

Such Pledge shall be valid as if were made with the authority of the owner of goods. Provided, Pawnee acted in good faith and had no notice that Pawnor has no authority to pledge.

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**13 - X was running a business of Car on lease. One fine day, Y came to hire a car for 10 days for his business tour from Delhi to Amritsar. X offered him a Honda city for ` 50,000/- for 10 days on a condition that petrol and toll expenses will be borne by him. During the journey, engine of car was choked. Y has to spend ` 10,000/- for repair of engine. When he was coming back from Amritsar, brakes of car were not working and a major accident of Y happened due to this. Y was admitted to hospital and paid a bill of ` 50,000 on recovery. Y asked X to compensate him charges for car repair and hospital expenses amounting ` 60,000/-. X denied for compensation by saying that he was not aware about the engine and brakes fault. Y filed a suit against X for recovery of damages. Give your opinion with reference to provisions of the Indian Contract Act, 1872:**

**(i) Whether Y can withheld the amount of hire charges ` 50,000/- on account of non-payment of damages?**

**(ii) Whether Mr. X was liable to pay Damage as he was not aware of the fact of faults in car?** **4)a)7m, May2025**

**Ans - Bailment:** As per Section 148 of the Indian Contract Act, 1872, bailment is the delivery of goods by one person to another for some purpose, upon a contract, that the goods shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them.

Bailor's duty to disclose faults in goods bailed in case of non-gratuitous bailment (Section 150): If the goods are bailed for hire, the bailor is responsible for such damage, whether he was or was not aware of the existence of such faults in the goods bailed.

Duty to pay necessary expenses in case of non-gratuitous bailment [Section 158]: The bailor is liable to pay the extraordinary expenses incurred by the bailee.

Bailor's responsibility to indemnify losses [Section 164]: It is the duty of bailor to indemnify all the losses and expenses, which bailee has to pay on account of defective goods.

In the instant case, Y took a car on lease from X for 10 days for ` 50,000. During the journey, Y has to spend ` 10,000 for repair of engine and paid ` 50,000 for hospital expenses due to accident because of fault in brakes of car. These are the extraordinary expenses and losses and it is the bailor's duty to bear such expenses and losses.

Therefore, the answers are:

- i) Y can withhold the hire charges of ` 50,000 on account of non payment of damages and claim an additional ` 10,000, from X.
- ii) X is liable for the full ` 60,000 (` 10,000 repair + ` 50,000 hospital) as it is the bailor's duty to supply a car fit for the purpose for which it was hired.

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**12 - Explain the circumstances under which a contract of bailment may be terminated under the Indian Contract Act, 1872.** **6)b)6m, MTP2, May2025**

**Ans -** A contract of bailment shall terminate under the Indian Contract Act, 1872 in the following circumstances:

- 1) On expiry of stipulated period: If the goods were given for a stipulated period, the contract of bailment shall terminate after the expiry of such period.
- 2) On fulfillment of the purpose: If the goods were delivered for a specific purpose, a bailment shall terminate on the fulfillment of that purpose.
- 3) By Notice:

- (a) Where the bailee acts in a manner which is inconsistent with the terms of the bailment, the bailor can always terminate the contract of bailment by giving a notice to the bailee.
- (b) A gratuitous bailment can be terminated by the bailor at any time by giving a notice to the bailee. However, the termination should not cause loss to the bailee in excess of the benefit derived by him. In case the loss exceeds the benefit derived by the bailee, the bailor must compensate the bailee for such a loss (Sec. 159).
- 4) By death: A gratuitous bailment terminates upon the death of either the bailor or the bailee.
- 5) Destruction of the subject matter: A bailment is terminated if the subject matter of the bailment is destroyed or there is a change in the nature of goods which makes it impossible to be used for the purpose of bailment.

**11 - In accordance with the provisions of The Indian Contract Act, 1872, Answer the following :**

**i) Rights of Bailor against any wrong doer (Third Party)**

**ii) Duties of Pawnee** 5)c)6m,MDTP8,10, 5)c)6m,MTP2,Jan2025, 4)a)i)4m,Sept2024

**Ans - Suit by bailor & bailee against wrong doers [Section 180 of the Indian Contract Act, 1872]:** If a third person wrongfully deprives the bailee of the use or possession of the goods bailed, or does them any injury, the bailee is entitled to use such remedies as the owner might have used in the like case if no bailment had been made; and either the bailor or the bailee may bring a suit against a third person for such deprivation or injury.

**(ii) Duties of the Pawnee**

**Pawnee has the following duties:**

- Duty to take reasonable care of the pledged goods.
- Duty not to make unauthorized use of pledged goods.
- Duty to return the goods when the debt has been repaid or the promise has been performed.
- Duty not to mix his own goods with goods pledged.
- Duty not to do any act which is inconsistent with the terms of the pledge
- Duty to return accretion to the goods, if any.

**Chapter: 2 Unit: 9 - Agency**

15 - ABC Infrastructure Ltd. was running business successfully from several years. P was the purchase manager of company. He authorized his agent Q to buy Raw Material on his behalf for construction of Roads in Delhi. He instructed Q to buy only Mazboot Brand of Cement @ ` 2,000 - 2,500 per ton to maintain quality of Roads in Delhi. However, Q bought 1,000 tons of Mazboot Brand of cement from Mr. R a very well-known vendor of ABC Infrastructure Ltd. @ ` 3,500/- per ton. Mr. Q has not disclosed the fact to R that he was buying cement for ABC Infrastructure Ltd. When P discovered this aspect, he refused to pay Mr. R and rejects the cement bought by Q on the ground that Q has exceeded the authority. Mr. R suffered a huge loss on account of this transaction. Give your opinion in accordance with provisions from the Indian Contract Act, 1872:

(i) Whether P was bound to pay Mr. R for cement purchased by his agent Mr. Q?

(ii) On the other hand, Q being agent refused to accept any liability to compensate R. In this situation, Whether Mr. R can file a suit against Q? 1)a7m,May2025

**Ans - Principal's liability when agent exceeds authority [Section 227 of the Indian Contract Act, 1872]:**

When an agent does more than he is authorised to do, and when the part of what he does, which is within his authority, can be separated from the part which is beyond his authority, so much only of what he does as is within his authority is binding as between him and his principal.

Principal not bound when excess of agent's authority is not separable [Section 228]: Where an agent does more than he is authorized to do, and what he does beyond the scope of his authority cannot be separated from what is within it, the principal is not bound to recognize the transaction.

When the agent exceeds his authority, misleads the third person in believing that the agent has the requisite authority in doing the act, then the agent can be made liable personally for the breach of warranty of authority.

When the agent does not disclose the name of the principal then there arises a presumption that he himself undertakes to be personally liable.

In the instant case, Q violated the instructions of P by buying cement at ` 3,500 per ton, which is beyond the authorized price limit. Furthermore, Q did not disclose to R that he was buying cement for ABC Infrastructure Ltd.

Therefore, the answers are

(i) No, P was not bound to pay Mr. R, as the agent Q exceeded his authority, and the deviation was inseparable from the authorized act.

(ii) Yes, Mr. R can file a suit against Q, as Q is personally liable for the contract made without disclosing about the ABC Infrastructure Ltd. and exceeding the authority given by the principal.

### **Alternative Answer**

In the light of the given facts in the question, P, the Purchase Manger of the ABC Infrastructure Ltd., authorised Q his agent to buy raw material on his behalf for construction of roads in Delhi. He instructed Q to buy only Mazboot brand of cement @ ` 2000-2,500 per ton. However, Q, violated the instructions of P by buying cement at ` 3,500 per ton. Furthermore, he did not disclose to R that he was buying cement for ABC Infrastructure Ltd.

The stated issue marked in the question is related to the undisclosed principal and exceeding of his authority. Given situation can be dealt with the provisions under section 230, 231 & 233 of the Indian Contract Act.

According to the provision stated in section 230, an agent cannot personally enforce contracts entered into by him on behalf of his principal, nor is he personally bound by them. He can neither sue nor be sued on contracts made by him on his principal's behalf.

However, there are exceptions where the agent is presumed to have agreed to be personally bound.

Where the agent does not disclose the name of his principal or undisclosed principal (Principal unnamed), then there arises a presumption that he himself undertakes to be personally liable. Also, when the agent exceeds his authority, misleads the third person in believing that the agent has the requisite authority in doing the act. In that case the agent can be made liable personally for the breach of warranty of authority.

Further section 231 of the Indian Contract Act specifies rights of third parties to a contract made by undisclosed agent.

As per the provision, if an agent makes a contract with a person who neither knows, nor has reason to suspect, that he is an agent, his principal may require the performance of the contract; but the other contracting party has, as against the principal, the same right as he would have had as against the agent if the agent had been the principal.

Section 233 gives the option to a third person to sue the Agent or the Principal. In cases where the agent is personally liable, a person dealing with him may hold either him or his principal, or both of them, liable.

Therefore, the following are the answers:



(i) No, P was not bound to pay Mr. R for purchase of the cement @ ` 3500/- per ton, as the agent Q does not disclose the name of his principal and also exceeded his authority, thus making himself to be personally bound and liable for the doing of said transaction.

(ii) Yes, in the light of the section 233, Mr. R is given an option to sue the agent or the Principal or both. Yes, R can file a suit against Q, as Q is personally liable for the contract made without disclosing about the ABC Infrastructure Ltd. and exceeding the authority given by the P (principal).

### **Chapter: 3 Unit: 1 - Formation of The Contract of Sale**

No Extra Questions

### **Chapter: 3 Unit: 2 - Conditions & Warranties**

25 - Priyansh ordered 600 tins of apple juice from an American Company Amjuice Ltd. The company informed that tins would be packed in the boxes each containing 50 tins. On delivery, it was found that a substantial part was in boxes containing only 30 tins. Priyansh rejected the whole order as the tins were not packed according to the description given in the contract as the packing of tins was an essential part of the contract. Amjuice Ltd. sued Priyansh for the recovery of price. State with reason whether Priyansh can avoid the contract under the Sale of Goods Act, 1930?

2)a)7m,MTP1,May2025

**Ans** - By virtue of provisions of Section 15 of the Sale of Goods Act, 1930, where there is a contract of sale of goods by description, there is an implied condition that the goods shall correspond with the description. The buyer is not bound to accept and pay for the goods which are not in accordance with the description of goods.

Thus, it has to be determined whether the buyer has undertaken to purchase the goods by their description, i.e., whether the description was essential for identifying the goods where the buyer had agreed to purchase. If that is required and the goods tendered do not correspond with the description, it would be breach of condition entitling the buyer to reject the goods.

In the given case, Priyansh ordered 600 tins of apple juice from an American Company Amjuice Ltd. that would be packed in the boxes each containing 50 tins. Amjuice Ltd. delivered substantial part in boxes containing only 30 tins. Priyansh rejected the whole order while Amjuice Ltd. sued Priyansh for the recovery of price. On the basis of above, the sale of apple juice tins was based on sale by description, but actual delivery was not as per the description given by seller at the time of contract. Hence, Priyansh is correct in rejection of the goods.

### **Chapter: 3 Unit: 3 - Transfer of Ownership & Delivery of Good**

**29 - With reference to provisions of the Sale of Goods Act, 1930, answer the following:**

**What do you mean by Reservation of right of disposal? State the circumstances under which right of disposal may be reserved.**

6)c)i)3m, May2025

**Ans - Reservation of right of disposal:** Section 25 of the Sale of Goods Act, 1930, preserves the right of disposal of goods to secure that the price is paid before the property in goods passes to the buyer.

Where there is contract of sale of specific goods or where the goods have been subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, as the case may be, reserve the right to dispose of the goods, until certain conditions have been fulfilled. In such a case in spite of the fact that the goods have already been delivered to the buyer or to a carrier or other bailee for the purpose of transmitting the same to the buyer, the property therein will not pass to the buyer till the condition imposed, if any, by the seller has been fulfilled.

**Circumstances under which the right to disposal may be reserved:** In the following circumstances, seller is presumed to have reserved the right of disposal:

(1) If the goods are shipped or delivered to a railway administration for carriage and by the bill of lading or railway receipt, as the case may be, the goods are deliverable to the order of the seller or his agent, then the seller will be prima facie deemed to have reserved to the right of disposal.

(2) Where the seller draws a bill on the buyer for the price and sends to him the bill of exchange together with the bill of lading or (as the case may be) the railway receipt to secure acceptance or payment thereof, the buyer must return the bill of lading, if he does not accept or pay the bill.

And if he wrongfully retains the bill of lading or the railway receipt, the property in the goods does not pass to him.

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**28 - S purchased a dress from a reputed showroom and made the payment in cash. The dress she purchased require some alteration. The shopkeeper assured S that it would take just one day to get the dress altered. It was agreed that once the dress was altered the shopkeeper would inform S through phone and she would collect the dress. Next day, by evening the dress was altered and kept ready to be delivered to S. The shopkeeper however forgot to inform S that the dress was ready.**

**In the meantime, a short circuit occurred near the delivery counter of the shop and some packets ready for delivery caught fire. After waiting for 10 days, when, S went to collect**

her dress she was informed that she came late and her dress was burnt in fire. S, then asked for refund of money what she paid. The shopkeeper refused, by saying that the dress was kept ready the very next day of purchase and the loss due to fire occurred after a week. He refused to bear the liability by saying that if S had collected the dress on time, it would not have been burnt. S insisted that she was waiting for a call from the shop and thus, entitled to claim the refund of cost of dress.

Examine, with reference to the provisions of the Sale of Goods Act, 1930, whether shopkeeper will be liable to refund the cost of dress to S?

2)a)7m, May2025

**Ans - Specific goods to be put into a deliverable state (Section 21 of the Sale of Goods Act, 1930):** Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

According to section 26, "unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not".

However, Section 26 also lays down an exception to the rule that 'risk follows ownership.' It provides that where delivery of the goods has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault.

In the instant case, S had paid in full and purchased a specific dress but the dress required alteration, and it was agreed that the shopkeeper would inform S after alteration for collection. The ownership had already passed to S when she paid for the dress, subject to alteration. The delivery was conditional upon the shopkeeper informing S after alteration.

Even though the ownership may have passed to S, the seller (shopkeeper) failed to complete the delivery by not informing S. Under Section 26, when delivery is delayed due to the fault of the seller, the loss falls upon the party at fault.

Therefore, the shopkeeper is liable to refund the cost of the dress to S.

#### **Alternative Answer**

The given problem is based on the concept "Agreement to Sell" under section 4 of the Sale of Goods Act, 1930. The term is defined in Section 4(3) of the Sale of Goods Act, 1930, as - "where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, it is called an agreement to sell." Thus, whether a contract of sale of goods is an absolute sale or an agreement to sell, depends on the fact

whether it contemplates immediate transfer from the seller to the buyer or the transfer is to take place at a future date. Hence, in an agreement to sell, the ownership of the goods is not transferred immediately. It is intending to transfer at a future date upon the completion of certain conditions thereon.

In the instant case, though S had paid and purchased a specific dress, but the dress required alteration. Shopkeeper assured S that it would take just one day to get the dress altered and it was agreed that he would inform S after alteration for collection. This reflects that transfer of property in goods is to be transferred subject to fulfilment of the condition i.e., after the alteration.

Further, Reservation of right of disposal given under Section 25, is applicable here. This section preserves the right of disposal of goods to secure that the price is paid before the property in goods passes to the buyer. Where there is contract of sale of specific goods or where the goods have been subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, as the case may be, reserve the right to dispose of the goods, until certain conditions have been fulfilled. In such a case in spite of the fact that the goods have already been delivered to the buyer, the property therein will not pass to the buyer till the condition imposed, if any, by the seller has been fulfilled.

Therefore, still the ownership lies with the seller on account of non fulfilment of condition as to informing to the S that the dress is altered and is ready.

Further the plea taken by Shopkeeper that 10 days were passed after the alteration done and he is not liable for damage caused, is not justifiable on account of not being a reasonable circumstance and a ground.

Hence, in the light of the given facts, the shopkeeper is liable to refund the cost of the dress to S.

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**27 - "Explain the rules relating to the delivery of goods under the Sale of Goods Act, 1930" with reference to the following:**

**(i) Effect of part delivery**

**(ii) Place of delivery**

**(iii) Delivery of wrong quantity."**

**6)c)MTP1, May2025**

**Ans - i) Effect of part delivery (Section 34 of the Sale of Goods Act, 1930):** A delivery of part of goods, in progress of the delivery of the whole has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the

goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

ii) **Place of delivery [Section 36(1)]**: Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract,

- ♦ goods sold are to be delivered at the place at which they are at the time of the sale, and
- ♦ goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell or
- ♦ if goods are not then in existence, at the place at which they are manufactured or produced.

iii) **Delivery of wrong quantity [Section 37]**: Refer Ans - 22

26 - Saurabh purchased electric scooter of Vivek for ` 5000 only on the gun point. Vivek decided to file the complaint and to avoid the contract on the basis of coercion applied against him by Saurabh. But before he could do that, Saurabh sold the scooter to Vinay who had no idea about the situation on which the scooter was purchased by Saurabh. Vivek sued Saurabh and Vinay for recovery of scooter. Referring to the provisions of the Sale of Goods Act, 1930, whether Vivek was correct in his decision? **RTP, May 2025**

**Ans** - By virtue of provisions of Section 29 of the Sale of Goods Act, 1930, a buyer would acquire a good title to the goods sold to him by a seller who had obtained possession of the goods under a contract voidable on the ground of coercion, fraud, misrepresentation or undue influence provided that the contract had not been rescinded until the time of the sale.

In the instant case, Saurabh purchased electric scooter of Vivek for ` 5000 only by applying coercion. Before Vivek avoid the contract, Saurabh sold the scooter to Vinay who was an innocent buyer. Now, Vivek sued Saurabh and Vinay for recovery of scooter.

According to above provisions, even Saurabh purchased the electric scooter by applying coercion, Vinay got good title as he was an innocent buyer and purchased the scooter before setting aside the contract by Vivek. Hence, Vivek cannot recover the scooter from Vinay. However, Vivek may claim damages from Saurabh.

### **Chapter: 3 Unit: 4 - Unpaid Seller**

No Extra Questions

### **Chapter: 4 Unit: 1 - General Nature of Partnership**

**23 ("OR" Part) - "Partners in a firm may be classified into various types based on the extent of their liability." Describe the following: (i) Dormant Partner (ii) Nominal Partner (iii) Partner in profits only (iv) Partner by holding out** **5)b)7m,MTP1,May2025**

**Ans - i) Sleeping or Dormant Partner:** It is a person who is a partner by agreement, and who does not actively take part in the conduct of the partnership business. They share profits and losses and are liable to the third parties for all acts of the firm. They are, however not required to give public notice of their retirement from the firm.

**iii) Partner in profits only:** A partner who is entitled to share the profits only without being liable for the losses is known as the partner for profits only and also liable to the third parties for all acts of the profits only.

Note: Remaining 2 is already covered in Q.N 23 original question bank.

### **Chapter: 4 Unit: 2 - Relations of Partners**

**42 - "The partner indeed virtually embraces the character of both a principal and an agent. The implied authority of a partner to bind the firm by all acts done by him in all matters connected with business is done in the usual way, not beyond the nature and scope of Partnership." Explain with reference to provisions of the Indian Partnership Act, 1932.**

**5)b)7m,May2025**

**Ans - The partner indeed virtually embraces the character of both a principal and an agent.**

As per Section 18 of the Indian Partnership Act, 1932, a partner is the agent of the firm for the purpose of the business of the firm. So as far as he acts for himself and in his own interest in the common concern of the partnership, he may properly be deemed a principal and so far as he acts for his partners, he may properly be deemed as an agent.

The principal distinction between him and a mere agent is that he has a community of interest with other partners in the whole property and business and liabilities of partnership, whereas an agent as such has no interest in either.

The implied authority of a partner to bind the firm by all acts done by him in all matters connected with business is done in the usual way, not beyond the nature and scope of partnership.

**Sections 19(1) and 22 deal with the implied authority of a partner.** The impact of these Sections is that the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm binds the firm, provided that the act is done in the firm name, or any



manner expressing or implying an intention to bind the firm. Such an authority of a partner to bind the firm is called his implied authority. It is however subject to the following restrictions:

- 1) The act done must relate to the usual business of the firm, that is, the act done by the partner must be within the scope of his authority and related to the normal business of the firm.
- 2) The act is such as is done for normal conduct of business of the firm. The usual way of carrying on the business will depend on the nature and circumstances of each particular case.
- 3) The act to be done in the name of the firm or in any other manner expressing or implying an intention to bind the firm.

Thus, a partner has implied authority to bind the firm by all acts done by him in all matters connected with the partnership business and which are done in the usual way and are not in their nature beyond the scope of partnership.

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**41 - ABC & Co. is a renowned partnership firm doing business in textile industry from last twenty years. But due to technical up-gradation, firm incurred heavy debts of ` 50 lakhs. To maintain the integrity of the firm they introduced Mr. D, as a new partner. Before admission of D, other partners A, B, and C decided on their own and made an agreement with the creditors that the new partner will be liable for existing debt through novation. When D joins, he came to know about the debt of ` 50 lakhs. With reference to the provisions of the Indian Partnership Act, 1932, give your opinion:**

- (i) Whether D would be liable for the debts of the firm incurred prior to his admission by virtue of the agreement between A, B, C and the creditors?
- (ii) Whether your answer will be different if D was minor at the time of admission?
- (iii) Whether D would be liable to pay the debt upon becoming major?

**3)a)7m,May2025**

**Ans - i) Liability of D:** As per section 31 of the Indian Partnership Act, 1932, the liabilities of the new partner ordinarily commence from the date when he is admitted as a partner, unless he agrees to be liable for obligations incurred by the firm prior to the date. The new firm, including the new partner who joins it, may agree to assume liability for the existing debts of the old firm, and creditors may agree to accept the new firm as their debtor and discharge the old partners. The creditor's consent is necessary in every case to make the transaction operative. The mere agreement amongst partners cannot operate as Novation. Thus, an agreement between the partners and the incoming partner that he shall be liable for existing debts will not ipso facto give creditors of the firm any right against him.

In the instant case, D would not be liable for the debts of the firm incurred prior to his admission by virtue of the agreement between A, B, C and the creditors.

**ii) If D was minor at the time of admission:** As per section 30, the liability of the minor is confined only to the extent of his share in the profits and the property of the firm.

Minor has no personal liability for the debts of the firm incurred during his minority.

Moreover, a mere agreement amongst partners cannot operate as Novation. Thus, an agreement between the partners and the incoming partner that he shall be liable for existing debts will not ipso facto give creditors of the firm any right against him.

Hence, D would not be liable in this case also.

**iii) Liability of D upon becoming major:** A minor partner on attaining majority becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership.

Moreover, a mere agreement amongst partners cannot operate as Novation. Thus, an agreement between the partners and the incoming partner that he shall be liable for existing debts will not ipso facto give creditors of the firm any right against him.

Hence, D would not be liable to pay the existing debt upon becoming major.

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**40 - Rahul and Kapil are partners in the firm M/s Saxena Marble House. Rahul purchased 100 shares of a reputed company in his name, but he made the payment from firm's account. Rahul did not consent to Kapil before acquiring of shares. Referring to the provisions of the Indian Partnership Act 1932:**

**(a) Whether the shares purchased by Rahul constitute the property of firm?**

**(b) What would be your answer if Rahul debits himself in the accounts books of firm and became a debtor to the firm?**

3)a)7m,MTP1,May2025

**Ans -** According to section 14 of the Indian Partnership Act, 1932, 'property of the firm' means 'partnership assets', 'joint stock', 'common stock' or 'joint estate' of the firm. The property of the firm includes:

(i) all property, rights and interests which partners may have brought into the common stock as their contribution to the common business;

(ii) all the property, rights and interest acquired or purchased by or for the firm, or for the purposes and in the course of the business of the firm; and

(iii) Goodwill of the business.

Further, if the contrary intension does not appear, the property acquired with the money of the firm is deemed to have been acquired for the firm.

In the instant case, Rahul and Kapil are partners in the firm M/s Saxena Marble House. Without the consent of Kapil, Rahul purchased 100 shares of a reputed company in his name, but he made the payment from firm's account. The answers are:

(a) As shares were purchased from the money of firm, shares will be deemed to be the property of firm.

(b) In case Rahul debits himself in the accounts books of firm as became a debtor of the firm, shares will not be deemed the property of the firm. They will be the personal property of Rahul.

**39 - Amit and Ajay started the business of wholesale trading of sugar. For this purpose, they contributed ` 3,00,000 and ` 1,00,000 respectively. Partnership deed was perfectly prepared but clause regarding share of profit was not mentioned in the deed. Due to the heavy rain, stock of sugar was spoiled, and firm incurred the loss of ` 60,000. Amit asked Ajay to contribute equally to the loss, but Ajay agreed to contribute only 25% to the loss i.e. in the ratio of capital contribution. Referring to the provisions of the Indian Partnership Act, 1932, how much to be contributed by Ajay to firm's loss? RTP, May2025**

**Ans -** Section 13(b) of the Indian Partnership Act, 1932 provides, partners are entitled to share equally in the profits earned and so contribute equally to the losses sustained by the firm. The amount of a partner's share must be ascertained as per the agreement between the partners. If there is no agreement, then every partner is bound to contribute equally for the Firm's business. There is no connection between the proportion in which the partners shall share the profits and the proportion in which they have contributed towards the capital of the firm.

In the instant case, Ajay wanted to contribute only 25% to the loss i.e. in the ratio of capital contribution while Amit requested for equal share in loss.

On the basis of above provisions and facts of the problem given, Ajay must share the loss equally as there was no agreement between partners regarding sharing of profit. Ratio of capital contribution is not related with ratio of sharing profit.

### **Chapter: 4 Unit: 3 - Registration & Dissolution of A Firm**

**19 - Discuss the provisions of the Indian Partnership Act, 1932 regarding the payment of firm debts and separate debts of partners. How are the firm's property and the partners' separate property applied in settling such debts? 1)c)ii)2m, MTP2, May2025**

**Ans - Payment of firm debts and of separate debts (Section 49):** Where there are joint debts due from the firm and also separate debts due from any partner:

(i) the property of the firm shall be applied in the first instance in payment of the debts of the firm, and if there is any surplus, then the share of each partner shall be applied to the payment of his separate debts or paid to him;

(ii) the separate property of any partner shall be applied first in the payment of his separate debts and surplus, if any, in the payment of debts of the firm.

### **Chapter: 5 - Limited Liability Partnership Act, 2008**

**12 - Explain the legal provisions regarding the eligibility of persons to become partners in a Limited Liability Partnership (LLP) under the LLP Act, 2008. What are the consequences if LLP carries on business with less than the minimum number of partners as prescribed?**

**RTP, Sept2025**

**Ans - Part 1 - Refer Ans 1)i**

**Part 2 - Minimum number of partners (Section 6):**

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.

**11 - Raju and his friend Anil have approached you to help them to form a LLP. The object of the proposed LLP is to run a charitable school which provides free education to the poor children. What would be your suggestion in accordance of provisions of The Limited Liability Partnership Act, 2008?**

**2)c)ii)3m, May2025**

**Ans -** The essential requirement for forming LLP is carrying on a lawful business with a view to earn profit. Thus, LLP cannot be formed for charitable or non-economic purpose.

In the instant case, Raju and Anil cannot form LLP to run a charitable school which provides free education to the poor children.

In view of above it is suggested to them that they can form a section 8 company for this purpose.

**10 - Explain the advantages of the LLP form of business. How does its legal structure make it a flexible and preferable business model for entrepreneurs? Also, discuss the legal capacities an LLP acquires upon registration. 2)c)6m,MTP2,May2025**

**Ans - Advantages of LLP form:** LLP form is a form of business model which:

- a) is organized and operates on the basis of an agreement
- b) provides flexibility without imposing detailed legal and procedural requirements.
- c) Easy to form
- d) All partners enjoy limited liability
- e) Flexible capital structure
- f) Easy to dissolve

**Effect of registration:** On registration, a LLP shall, by its name, be capable of

- a) Suing and being sued;
- b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible;
- c) having a common seal, if it decides to have one; and
- d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.

### **Chapter: 6 - The Companies Act, 2013**

**58 - "What documents and information are required to be filed with the Registrar for the registration of a company under the Companies Act, 2013? 2)b)7m,MTP1,May2025**

**Ans - Filing of the documents and information with the registrar:** For the registration of the company following documents and information are required to be filed with the registrar within whose jurisdiction the registered office of the company is proposed to be situated-

- i) the memorandum and articles of the company duly signed by all the subscribers to the memorandum.
- ii) a declaration by person who is engaged in the formation of the company (an advocate, a chartered accountant, cost accountant or company secretary in practice), and by a person named in the articles (director, manager or secretary of the company), that all the requirements of this Act and the rules made thereunder in respect of registration and matters precedent or incidental thereto have been complied with.

iii) a declaration from each of the subscribers to the memorandum and from persons named as the first directors, if any, in the articles stating that-

- he is not convicted of any offence in connection with the promotion, formation or management of any company, or
- he has not been found guilty of any fraud or misfeasance or of any breach of duty to any company under this Act or any previous company law during the last five years,
- and that all the documents filed with the Registrar for registration of the company contain information that is correct and complete and true to the best of his knowledge and belief;

iv) the address for correspondence till its registered office is established;

v) the particulars (names, including surnames or family names, residential address, nationality) of every subscriber to the memorandum along with proof of identity, and in the case of a subscriber being a body corporate, such particulars as may be prescribed.

vi) the particulars (names, including surnames or family names, the Director Identification Number, residential address, nationality) of the persons mentioned in the articles as the subscribers to the Memorandum and such other particulars including proof of identity as may be prescribed; and

vii) the particulars of the interests of the persons mentioned in the articles as the first directors of the company in other firms or bodies corporate along with their consent to act as directors of the company in such form and manner as may be prescribed.

**57 - Ratanmul Milk India Limited is a public company and formed on 01.01.2023. On this date, Mr. Sharman was appointed as Legal Advisor of the company. It was mentioned in the Articles of Association of the company that Mr. Sharman will not be removed from the post of Legal Advisor till 31.03.2027. On 01.07.2024, a Special Resolution was passed for the alteration in Articles of Association and Mr. Sharman was removed from the company. Mr. Sharman filed the suit against Ratanmul Milk India Limited for removal as a Legal Advisor. Referring the provisions of the Companies Act, 2013, whether can company remove Mr. Sharman?**

**RTP, May 2025**



**Ans** - The Articles of Association of a company are its rules and regulations, which are framed to manage its internal affairs. Just as the Memorandum contains the fundamental conditions upon which the company is allowed to be incorporated, so also the Articles are the internal regulations of the company (Guinness vs. Land Corporation of Ireland).

In the instant case, the AOA of Ratanmul Milk India Limited provided that Mr. Sharman will be the Legal Advisor of the company and shall not be removed upto 31.03.2027. But company removed him on 01.07.2024 by passing the Special Resolution in the meeting of members and making the alteration in AOA.

On the basis of above provisions of Law and facts of the case, Mr. Sharman cannot enforce any right against the company. Company had right to remove him by making alteration in AOA.

**28 ("OR" Part) - The paid-up equity share capital of ACD Ltd. is ` 80 crores & preference share capital of ` 20 crores. B Ltd. holds equity shares in ACD Ltd. worth ` 15 crores and preference shares worth ` 10 crores.**

**Can B Ltd. be considered as an Associate Company of ACD Ltd.? 1)b)ii)3m, May2025**

**Ans** - As per Section 2(6) of the Companies Act, 2013, an Associate Company in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

The term "significant influence" means control of at least 20% of total voting power, or control of or participation in business decisions under an agreement.

In the given case, the paid up share capital of ACD Ltd. is ` 80 crores. B Ltd. holds equity share capital of ` 15 crore in ACD Ltd. i.e. less than 20% significant influence. Therefore ACD Ltd. cannot be considered as an Associate Company of B Ltd.

**24 ("OR" Part)- Parasnath Infraheight Limited is a public company and having 215 members of which 20 members were employees in the company during the period 1st June, 2022 to 30th June, 2024. They were allotted shares in Parasnath Infraheight Limited on 1st April, 2018 which are held by them till today i.e. 31st August 2024. Now, the company wants to convert itself into a private company. State with reasons, whether Parasnath Infraheight Limited is required to reduce the number of members under the provisions of the Companies Act, 2013?**

**1)b)7m, MTP1, May2025**

**Ans** - According to Section 2(68) of Companies Act, 2013, "Private company" means a company having a minimum paid-up share capital as may be prescribed, and which by its articles,—

- i) restricts the right to transfer its shares;
- ii) except in case of One Person Company, limits the number of its members to two hundred:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member:

Provided further that—

- A) persons who are in the employment of the company; and
- B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,

shall not be included in the number of members; and

- iii) prohibits any invitation to the public to subscribe for any securities of the company;

In the given problem, Parasnath Infraheight Limited is a public company and wants to convert itself into a private company. It is having 215 members out of which 20 members were employees during the period 1st June, 2022 to 30th June, 2024. These members were members in the company from 1st April, 2018 which are held by them till date i.e. 31st August, 2024.

Following the provisions of Section 2(68) of the Act, 20 members were employees of the company, but they were not employee at the time of getting membership and nor on existing date i.e. 31st August, 2024. Hence, they will be considered as members for the purpose of the limit of 200 members. Therefore, the company is required to reduce the number of members before converting it into a private company.

**11 ("OR" Part) - State with reasons whether the following companies can be treated as Small Companies with reference to the provisions of the Companies Act, 2013:**

**1 - STS Pvt. Ltd., having a turnover of ` 10 crores and the paid-up capital of ` 1 crore (1,00,000 equity shares of ` 100 each). Out of these 60,000 equity shares are held by UV Infratech Pvt. Ltd.**

**2 - ZX Ltd., having a paid-up capital of ` 3 crores and turnover of ` 35 crores.**

**1)b)i)4m, May2025**

**Ans** - As per section 2(85) of the Companies Act, 2013, Small Company means a company, other than a public company:

- i) paid-up share capital of which does not exceed four crore rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees, and
- ii) turnover of which as per profit and loss account for the immediately preceding financial year does not exceed forty crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees

Provided that nothing in this clause shall apply to—

- a) a holding company or a subsidiary company;
- b) a company registered under section 8; or
- c) a company or body corporate governed by any special Act.

1 - In the instant case, (i) STS Pvt. Ltd. though is a small company taking into account its turnover and paid up share capital (i.e. ` 10 crores and ` 1 crore respectively), but since it is the subsidiary c.ompany of UV Infratech Pvt. Ltd. (UV Infratech Pvt. Ltd. holds ` 60,00,000 equity share capital of STS Pvt. Ltd.), hence STS Pvt. cannot be considered as small company.

2 - ZX Ltd. cannot be considered as a small company since it is a public company.

### **Chapter: 7 - The Negotiable Instruments Act, 1881**

26 - Ram purchased a second-hand car from his friend Rohan for 5 lakhs on 10th November, 2022. He paid 4 lakh immediately and promised to pay 1 lakh within a year. But, he could not pay the remaining amount till December-2023. On 5th January, 2024 Ram received an invitation for Rohan's wedding which he could not attend but sent a cheque of 51,000 as gift by post.

When Rohan deposited the cheque, it was returned unpaid due to insufficient balance in the account of Ram. Rohan considered it as an offence under Section 138 of The Negotiable Instruments Act, 1881.

**Advise**

**(i) Whether Ram would be held liable for dishonour of cheque ?**

**(ii) Whether Rohan was justified in considering this as an offence under Section 138 of the Negotiable Instruments Act, 1881.** **6)a)7m, May2025**

**Ans - Ans -** Provision of Sec. 138 will apply as per Answer - 19

i) In the given question, Rohan received a cheque from Ram, for ` 51,000 as a gift for his marriage. In terms of section 138, cheque given as a gift does not fall within this section. Hence, Ram would not be held liable for dishonour of cheque.

ii) The explanation to the section provides that for the purpose of section 138 only a legally enforceable debt or other liability is to be taken into consideration. The cheque of ` 51,000 was issued in the nature of a gift and not as a part of the payment for the balance amount of car. Hence, Rohan was not justified in considering the dishonour of cheque, an offence under section 138 of the Negotiable Instruments Act, 1881.

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**25 - Delivery of an instrument is essential whether instrument is payable to bearer or order for effecting the negotiation. Discuss this statement with reference to provisions of The Negotiable Instruments Act, 1881.** **4)b)i)3m, May2025**

**Ans -** As per Section 46 of the Negotiable Instruments Act, 1881, delivery of an instrument is essential whether the instrument is payable to bearer or order for effecting the negotiation. The delivery must be voluntary, and the object of delivery should be to pass the property in the instrument to the person to whom it is delivered. The delivery can be, actual or constructive. Actual delivery takes place when the instrument changes hand physically. Constructive delivery takes place when the instrument is delivered to the agent, clerk or servant of the indorsee on his behalf or when the indorser, after indorsement, holds the instrument as an agent of the indorsee.

Section 46 also lays down that when an instrument is conditionally or for a special purpose only, the property in it does not pass to the transferee, even though it is indorsed to him, unless the instrument is negotiated to a holder in due course.

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**24 - "Explain the concept of 'presentment for payment' under Section 64 of the Negotiable Instruments Act, 1881. What are the consequences of non presentment?"**

**4)b)7m, MTP1, May2025**

**Ans -** Presentment for payment [Section 64 of the Negotiable Instruments Act, 1881]

Promissory notes, bill of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided.

In default of such presentment, the other parties thereto are not liable thereon to such holder. Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.

**Exception:** Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

Notwithstanding anything contained in section 6, where an electronic image of a truncated cheque is presented for payment, the drawee bank is entitled to demand any further information regarding the truncated cheque from the bank holding the truncated cheque in case of any reasonable suspicion about the genuineness of the apparent tenor of instrument, and if the suspicion is that of any fraud, forgery, tampering or destruction of the instrument, it is entitled to further demand the presentment of the truncated cheque itself for verification.

Provided that the truncated cheque so demanded by the drawee bank shall be retained by it, if the payment is made accordingly.

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**14 - What is a Negotiable Instrument? Explain its meaning and essential characteristics. How does the Negotiable Instruments Act, 1881 classify instruments as payable to order or payable to bearer?** 4)b)7m,MTP2,May2025

Ans - Meaning & Characteristics already covered in same ans.

Part - 2 - **A negotiable instrument is payable to order when:**

- a) It is expressed to be so payable
- b) When it is expressed to be payable to a specified person and does not contain words prohibiting its transfer. (i.e. it is transferrable by indorsement and delivery)

**A negotiable instrument is payable to bearer when:**

- a) When it is expressed to be so payable e.g. pay bearer
- b) When the only or last indorsement (indorsement means signing of the instrument) on the instrument is an indorsement in blank i.e., the person who possesses it can demand payment.

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