Mock Test Paper - Series I: July, 2025

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INTERMEDIATE COURSE: GROUP – I

PAPER – 2: CORPORATE AND OTHER LAWS

ANSWER TO PART – I CASE SCENARIO BASED MCQS

1. (c)

2. (b)

3. (a)

4. (c)

5. (b)

6. (b)

7. (c)

8. (b)

9. (c)

10. (d)

11. (b)

12. (b)

13. (c)

14. (a)

15. (d)

ANSWERS OF PART – II DESCRIPTIVE QUESTIONS

1. (a) According to section 2(52) of the Companies Act, 2013, listed company means a company which has any of its securities listed on any recognised stock exchange.

According to Rule 2A of the Companies (Specification of definitions details) Rules, 2014, the following classes of companies shall not be considered as listed companies, namely:-

(a) Public companies which have not listed their equity shares on a recognized stock exchange but have listed their –

(i) non-convertible debt securities issued on private placement basis in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008; or

(ii) non-convertible redeemable preference shares issued on private placement basis in terms of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013; or

(iii) both categories of (i) and (ii) above.

(b) Public companies which have not listed their equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in sub-section (3) of section 23 of the Act.

In view of the above provisions of the Act:

(i) ABC Limited is an unlisted company.

(ii) XYZ Limited is an unlisted company.

(iii) RAM Limited is an unlisted company.

(b) As per section 123(3) of the Companies Act, 2013, the Board of Directors of a company may declare an interim dividend at any time during the period from the closure of the financial year till the holding of the Annual General Meeting out of the surplus in the profit and loss account or out of profits of the financial year for which the interim dividend is sought to be declared or out of the profits generated in the financial year till the quarter preceding the date of declaration of the interim dividend, provided that in case the company has incurred loss during the current financial year up to the end of the quarter immediately preceding the date of declaration of the interim dividend, such interim dividend shall not be declared at a rate higher than the average dividends declared by the company during the immediately preceding three financial years. Further, as per the third proviso to section 123(1), the company shall not declare dividends unless the carried over previous losses and depreciation are set off against the profits of the current year.

Accordingly, it may be inferred that while declaring the interim dividend, the company has complied with the provisions of section 123 and rules made thereunder for calculating the amount of interim dividend, then there is no contravention of the provisions of the Act, even if the company incurs losses in the succeeding quarters of its financial year leading to overall losses for the financial year. As the dividend includes interim dividend, it is essential under section 123(2) of the Companies Act, 2013 for a company to provide depreciation for the whole of the year and not proportionately for any fraction of the year before

declaring an interim dividend. This is because the provision for depreciation is a condition precedent for the declaration or payment of any dividend, and all provisions which apply to the payment of dividends shall also apply in the case of an interim dividend. Thus, the company has not erred.

(c) In terms of section Section 2(w) of the Foreign Exchange Management Act, 1999, Lalji being a Singapore based company would be person resident outside India.

Section 2 (u) defines 'person' under clause (viii) thereof, as person would include any agency, office or branch owned or controlled by such person. The term such person appears to refer to a person who is included in clause (i) to (vi). Accordingly, Lalji unit in Pune, being a branch of a company would be a 'person'.

Section 2(v) defines a person resident in India. Under clause (iii) thereof person resident in India would include an office, branch or agency in India owned or controlled by a person resident outside India. Lalji's unit in Pune is owned or controlled by a person resident outside India, and hence it, would be a 'person resident in India.'

However, Dubai Branch though not owned but is controlled by the Computer chips unit in Pune which is a person resident in India. Hence, the Dubai Branch is a person resident in India.

2. **(a)** Section 118 of the Companies Act, 2013 requires a company to make entries of resolutions passed by means of postal ballot in the minutes book.

Rule 25 of the Companies (Management and Administration) Rules, 2014 states that in case of every resolution passed by postal ballot, a brief report on the postal ballot conducted including the resolution proposed, the result of the voting thereon and the summary of the scrutinizer's report shall be entered in the minutes book of general meetings along with the date of such entry within thirty days from the date of passing of resolution.

Accordingly, the directors of Blue Limited are advised to keep following points under consideration while entering resolutions passed by means of postal ballot in the minutes book of general meetings:

(i) there should be entered a brief report on the postal ballot conducted including the resolution proposed.

(ii) there should be entered the result of the voting made by the shareholders in respect of resolution.

(iii) there should be entered the summary of the scrutinizer's report.

(iv) there should be entered the date of making entry.

Further, the directors must ensure that the entries in respect of resolutions are made within thirty days from the date of passing of resolution by means of postal ballot.

(b) Whether Mr. Nick has any Remedy?

Under section 35(1) of the Companies Act 2013, where a person has subscribed for securities of a company acting on any statement included in the prospectus which is misleading and has sustained any loss or damage as a consequence thereof, the company and every person including an expert shall be liable to pay compensation to the person who has sustained such loss or damage.

In the present case, Mr. Nick purchased the shares of Aarna Limited on the basis of the expert's report published in the prospectus. Mr. Nick can claim compensation for any loss or damage that he might have sustained from the purchase of shares. Since, Mr. Nick did not suffer any loss due to purchase of such shares, he cannot claim any compensation for any loss or damage.

Section 35(2) of the Companies Act, 2013, provides the instances when a person shall not be held guilty under section 35 of the Act, if he proves:

a. He withdrew his consent to be a director of company and prospectus issued without his consent and authority.

b. He has given reasonable public notice to effect, that prospectus was issued without his knowledge and consent.

c. He made the statement on the authority of an expert whom he believed to be competent and that the expert had given his consent and had not withdrawn it.

d. He had reasonable ground for believing the statement to be true and that he did believe it to be true up to the time of allotment.

e. The statement was a correct copy of some extract from an official document and that he had in fact believed.

(c) "Meaning of Service by post": 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.

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.

3. **(a)** As per section 5 of the Companies Act, 2013 the article may contain provisions for entrenchment to the effect that specified provisions of the articles may be altered only if more restrictive conditions than a special resolution, are met.

The provisions for entrenchment shall only be made either on formation of a company, or by an amendment in the articles agreed to by all the members of the company in the case of a private company and by a special resolution in the case of a public company.

Where the articles contain provisions for entrenchment, whether made on formation or by amendment, the company shall give notice to the Registrar of such provisions in prescribed manner.

In the present case, Shubhkamna Private Limited is a private company and wants to protect provisions of articles regarding forfeiture of shares. It means it wants to make entrenchment of articles, which is allowed. But the company will have to pass a resolution taking permission of all the members and it should also give notice to Registrar of Companies regarding entrenchment of Articles.

(b) According to section 100 of the Companies Act, 2013, in the case of company having a share capital, the Board of Directors at the requisition such number of members who hold, on the date of receipt of requisition, at least 1/10th of such paid-up share capital of the company as on that date carries the right of voting, call an extraordinary general meeting.

In the given question, the application for requisition of EGM was placed by Mr. A and Mr. B who jointly held 5,000 equity shares (i.e. 12.5% of the share capital). Hence, these joint holders could validly requisition for calling of EGM as they hold more than 1/10th of the share capital.

Thus, the Board of Directors refusal to call the EGM was not valid.

(c) **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.

4. (a) (i) As per section 142(1) of the Companies Act, 2013, the remuneration of the auditor of a company shall be fixed in its general meeting or in such manner as the general meeting may determine.

Accordingly, the shareholders, through a resolution in the general meeting, may delegate the authority to fix the auditor's remuneration to the Managing Director or any other person, provided this is done in accordance with the prescribed procedures under the Act.

(ii) Under the Companies Act, 2013, there is no requirement for shareholders to ratify the appointment of auditors at every Annual General Meeting.

(iii) In case the change in the constitution of the firm (in this case M/s AT & Co.) is taking place, the company shall treat it like an appointment of a new auditor and accordingly file the ADT-1 Form after the conclusion of the (forthcoming) AGM to be held for the year 31.03.2023.

(b) 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.

(c) 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. Sodra Devi (1957) 32 ITR 615 (SC)].*

5. **(a)** **(i)** As per section 134(1) of the Companies Act, 2013, the financial statement, including consolidated financial statement, if any, shall be approved by the Board of Directors before they are signed on behalf of the Board by the chairperson of the company where he is authorised by the Board or by two directors out of which one shall be managing director, if any, and the Chief Executive Officer, the Chief Financial Officer and the company secretary of the company, wherever they are appointed, for submission to the auditor for his report thereon.

The pre-requisite conditions under section 134(1) of the Companies Act, 2013, is that the financial statements shall be approved by the Board of Directors before they are signed on behalf of the Board for submission to the auditor for his report thereon. In this case, there is no approval obtained in a board meeting, and merely signing the financial statements is held to be invalid under the provisions of the Companies Act, 2013.

(ii) Section 141 of the Companies Act, 2013 outlines the eligibility, qualifications and disqualifications of auditors. It specifies that only a Chartered Accountants in practice can be appointed as an auditor of a company. When a firm is appointed as the auditor, it is the authorised partners who are also Chartered Accountants who can sign on behalf of the firm. So, Mr. Amaan, a CA and a partner in the firm, can sign the audit report.

(b) As per Rule 2(1)(e) of the Companies (Acceptance of Deposit) Rules, 2014, "eligible company" means a public company as referred to in section 76(1), having a net worth of not less than one hundred crore rupees or a turnover of not less than five hundred crore rupees and which has obtained the prior consent in general meeting by means of a special resolution and also filed the said resolution with the Registrar of Companies before making any invitation to the public for acceptance of deposits:

However, an eligible company, which is accepting deposits within the limits specified under section 180(1)(c), may accept deposits by means of an ordinary resolution.

A public company is 'eligible' to accept deposits from the public at large only if it meets the above-mentioned criteria.

According to Rule 3(1), a company is not permitted to accept or renew deposits (whether secured or unsecured) which is repayable on demand or in less than six months. Further, the maximum period of acceptance of deposit cannot exceed thirty six months.

However, as an exception to this rule, for the purpose of meeting any of its short-term requirements of funds, a company is permitted to accept or renew deposits for repayment earlier than six months subject to the conditions that:

(1) such deposits shall not exceed ten per cent. of the aggregate of the paid-up share capital, free reserves and securities premium account of the company; and

(2) such deposits are repayable only on or after three months from the date of such deposits or renewal.

(i) In the given question, Play World Ltd., has turnover of ₹ 510 crore, hence, it is an eligible company.

Further, the duration of deposit is 36 months. Hence, Play World Ltd. can accept deposit from the public other than its members after passing an ordinary resolution, if the amount of ₹ 50 crore is within the limits specified under section 180(1)(c) of the Companies Act, 2013.

(ii) The company can accept ₹ 5 crore of funds as the amount of deposit is within the prescribed limit (10% of 60 crore). Further, the tenure of deposit is 5 months i.e. it is repayable only after 3 months from the date of such deposits and it is required to meet company's short term requirements. Hence, the company can raise such deposits.

(c) 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".

In the given case, the company is required to transfer the unpaid/unclaimed dividend to the Unpaid Dividend Account within 7 days. Accordingly, 30th October, 2024 (the date of declaration) shall be excluded, and 6th November, 2024 shall be included in the computation. Therefore, the period shall be from 31st October, 2024 to 6th November, 2024 (both days inclusive).

6. **(a)** **(i)** **Maintenance of the Register of Members etc.**: As per section 94(1) of the Companies Act, 2013, the registers required to be kept and maintained by a company under section 88 and copies of the annual return filed under section 92 shall be kept at the registered office of the company.

Provided that such registers or copies of return may also be kept at any other place in India in which more than one-tenth of the total number of members entered in the register of members reside, if approved by a special resolution passed at a general meeting of the company.

So, Tulip Ltd. can also keep the registers and returns at Kolkata after compliance with the above provisions, provided more than one-tenth of the total number of members entered in the register of members reside in Kolkata.

(ii) As per section 94(2) of the Companies Act, the registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.

Accordingly, a director Mr. Rich, who is a shareholder of the company, has a right to inspect the Register of Members during business hours without payment of any fees, as per the provisions of this section.

(b) According to section 138 of the Companies Act, 2013, read with Rule 13 of the Companies (Accounts) Rules 2014, every unlisted public company is required to appoint an internal auditor if it satisfies any of the following conditions of having:

i. Paid up share capital of fifty crore rupees or more during the preceding financial year; or

ii. Turnover of two hundred crore rupees or more during the preceding financial year; or

iii. Outstanding loans or borrowings from banks or public financial institutions exceeding one hundred crore rupees or more at any point of time during the preceding financial year; or

iv. Outstanding deposits of twenty-five crore rupees or more at any point of time during the preceding financial year.

In the given question, Raysun Limited has turnover of ₹ 210 crore and it also has outstanding deposit amounting to ₹ 28 crore in the financial year 2023-24. Hence, it will be required to appoint an internal auditor for the financial year 2024-25.

(c) As per section 6(4) of the Foreign Exchange Management Act (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.

The RBI vide A.P. (DIR Series) Circular No. 90 dated 9thJanuary, 2014 has issued a clarification on section 6(4) of the Act. This circular clarifies that section 6(4) of the Act covers the following transactions:

(i) Foreign currency accounts opened and maintained by such a person when he was resident outside India.

(ii) Income earned through employment or business or vocation outside India taken up or commenced which such person was resident outside India, or from investments made while such person was resident outside India, or from gift or inheritance received while such a person was resident outside India.

(iii) Foreign exchange including any income arising therefrom, and conversion or replacement or accrual to the same, held outside India by a person resident in India acquired by way of inheritance from a person resident outside India.

(iv) 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 them and the transactions is not in contravention to extant FEMA provisions.