

**Roll No.....**

**Time allowed : 3 hours**

**Maximum marks : 100**

**Total number of questions : 6**

**Total number of printed pages : 8**

**NOTE :** 1. Answer **ALL** Questions.

2. All references to sections relate to the Companies Act, 2013 unless stated otherwise.

**1.** Comment on the following :

- (a) Ajay, Sanjay & Vijay LLP was formed in 2012. It was observed that the LLP filed Statement of account & Solvency for year ended 31st March, 2013, 31st March 2014, 31st March, 2015 and 31st March, 2016 while filing status of its annual returns are up-to-date since the formation. However, Sanjay and Vijay resigned from the position of partners 4 months ago i.e. on 31st July, 2018. The Tribunal has served a notice on the LLP to wind up its business.
- (b) Banking and insurance companies are exempted from certain financial disclosures under the Companies Act, 2013.
- (c) Aarav Ltd. (a listed company) is having an audit committee consisting of six directors and the Board of Directors of the Company consists of eight directors of which three are independent directors. As a Practising company secretary, clarify whether Aarav Ltd. has complied with the requirement of appointment of independent directors with regard to Audit Committee.
- (d) X is a shareholder of Company A. At the AGM held on 27th Sep. 2018, Company A declared a Dividend of ₹ 20 per equity share. X wrote to the company saying that he does not want to take the dividend and advised the company not to send the dividend amount. Comment whether the waiver of dividend by X is tenable under the provisions of the Companies Act, 2013 ?

*(5 marks each)*

*Attempt all parts of either Q. No. 2 or Q. No. 2A*

2. Distinguish between the following :

- (a) Cyber security *Vs.* Secured system under Companies (Management & Administration) Rules, 2014.
- (b) Deemed prospectus *Vs.* Shelf prospectus.
- (c) Unpaid Dividend Account *Vs.* Consequences of Non-Transfer of Dividend to unpaid dividend account.
- (d) Appointment of Small Shareholders' Director *Vs.* Appointment of Independent Director.

*(4 marks each)*

***OR (Alternate question to Q. No. 2)***

2A. (i) MAA Engineering Works Pvt. Ltd. advanced an amount of ₹ 25 lakh to GP Construction Solutions, a firm in which the Managing Director of MAA Engg. Pvt. Ltd. is a partner in the firm. The paid up capital of MAA Engineering Works Pvt. Ltd. is ₹ 1.06 crore and the company has taken a term loan from a financial institution worth ₹ 10 crore. All the shareholders of the company are individuals and there are no repayment defaults in borrowings. Turnover of the company is ₹ 50 crore during the last year.

Ascertain if the grant of ₹ 25 lakh to GP Construction Solutions is in order under the provisions of the Companies Act, 2013.

*(4 marks)*

(ii) A company registered under section 8 of the Act as "ABC Sports Club" wants to do the following – Advise the company on the course of action.

- (a) ABC Sports Club decided to alter its Articles of Association.
- (b) Decided to admit AB & Co. a partnership firm into the company as members.

*(4 marks)*

: 3 :

- (iii) Arnav is the Senior Manager (Purchase) of Future Products Ltd. The company is not listed in any stock exchange. It took ₹ 7 lakh from Arnav under an employment contract @ 4% interest per annum. Arnav is paid a salary of ₹ 75,000 per month. The auditor of the company has pointed out that there is a non-compliance of provisions of Companies Act, 2013. Examine the observation of the auditor with reference to the provisions of the Companies Act, 2013.
- (4 marks)
- (iv) Swaroop wants to depute his friend Suraj to act as a Proxy in companies he holds shares. Advise him on the following :
- (a) He wants his friend Suraj to speak and vote on his behalf.
- (b) For how many persons, his friend Suraj can act as proxy ?

(4 marks)

*Attempt all parts of either Q. No. 3 or Q. No. 3A*

3. (a) A trade union of auto drivers applied for shares in the fresh issue of a company. The company rejected the application, however, the Company was ready to allot shares in the Joint names of the members of the trade union. But the trade union members wanted the shares to be allotted only in the name of the trade union. Whether the rejection by the company to allot shares in the name of the trade union is justifiable ?
- (4 marks)
- (b) XY Ltd. is a (Unlisted) wholly owned subsidiary of ABC Ltd. (Listed). XY Ltd. annual turnover was ₹ 120 crore as per the last audited balance sheet. The auditor of XY Ltd. is of the opinion that, XY Ltd. is covered under Rule 4 of Companies (Appointment and Qualification of Directors) Rules, 2014 and so it should compulsorily appoint Audit Committee. Whether the observation of the auditor is tenable ?

(4 marks)

- (c) Fireworks Limited had its AGM on 10th August 2018. After completion of all ordinary business as stated in the AGM notice, there was a commotion and disorder at the meeting subsequent to which the Chairman of the meeting adjourned the meeting to 3rd September, 2018 though members present did not agree for such adjournment. The Chairman further said that the unfinished agenda that were listed in the AGM notice alone will be taken up for discussion at the adjourned meeting.

Comment on the action of Chairman with reference to Secretarial Standard 2.

(4 marks)

- (d) Star Ltd. is an Indian company having registered office at Chennai. It has a foreign subsidiary incorporated in Brazil. The accountant of the foreign subsidiary has informed the secretary of Star Ltd. that audit is not necessary as per their local laws in Brazil. Star Ltd. decides to get the accounts of the subsidiary company audited by its own auditor and then file the consolidated accounts with the Registrar of Companies. State if the action of Star Ltd. is valid with reference to the provisions of the Companies Act, 2013.

(4 marks)

**OR (Alternate question to Q. No. 3)**

- 3A. (i) Kamadenu Sugars Ltd. decided to issue Sweat equity shares to its employees for which it has passed the required special resolution and completed other formalities on it. Decide the validity of the following in respect the issue of Sweat equity shares :

(a) Decided to issue the shares to an employee on a discount who is recruited as a temporary employee and joined in the company seven months ago.

(b) Decided to allot shares at discount to a part-time director of the company.

(4 marks)

- (ii) Mr. Y formed a One Person Company (OPC). For the year ending 31st March, 2018, it had clocked an average annual turnover of ₹ 2 crores and its paid up capital was raised from ₹ 5 lakhs to ₹ 50 lakhs. Comment on its conversion and if so, within what period such conversion to take place under the provisions of the Companies Act, 2013.

(4 marks)

: 5 :

(iii) The Board of Directors of Tiny Ltd. passed a resolution in its 70th meeting to issue bonus shares. Can Surajit, a director, certify a copy of the resolution when he did not attend the said meeting ? Can a certified true copy of the resolution be given before the minutes of the meeting are signed ?

(4 marks)

(iv) Metal Industries Ltd. passed a special resolution in the last general meeting to empower the Board of Directors to grant of loan to Subash Finance Ltd. in excess of the 60% of paid-up share capital, free reserves and securities premium account. However, the company auditor took a contrary view to the resolution passed stating that the resolution did not mention the loan amount that can be provided for. Besides, from the minutes of the Board Meeting in which such item was discussed had a dissenting vote by one of the directors of the company. Comment on the issued raised by the auditor.

(4 marks)

4. (a) Following is the balance sheet of Fun Ltd. as on 31st March, 2018 :

<b>Liabilities</b>	(₹)
Equity shares of ₹ 10 each fully paid	12,50,000
Revenue reserve	15,00,000
Securities premium	2,50,000
Profit & loss account	1,25,000
12% debenture	18,75,000
Unsecured loan	10,00,000
Current liabilities	<u>16,50,000</u>
	<u>76,50,000</u>
<b>Assets</b>	
Fixed assets	46,50,000
Current assets	<u>30,00,000</u>
	<u>76,50,000</u>

Assuming the company has obtained necessary authorisation and approval under the Companies Act, 2013, ascertain the maximum number of shares that can be bought back on 1st April, 2018 at ₹ 20 per share.

(8 marks)

- (b) Ganesh and his wife Seema are the shareholders of the XY Company Ltd. holding jointly 3% of equity shares. Ganesh is working in the company as executive vice-president of Operations and he draws a salary of ₹ 8 lakh per month. His son Jackson is a technical specialist and is also employed in the same company drawing a salary of ₹ 9 lakh per month. The managing director of XY Company Ltd., Agarwal is paid an annual salary of ₹ 90 lakh.

Under these circumstances does the Board of Directors have any duty towards these employees under Section 197 of the Companies Act, 2013 ?

(8 marks)

5. (a) Mr. X who is a citizen of Pakistan, is a shareholder of an Indian company. The company held its last AGM on 15 September, 2018. There was a war between India and Pakistan between 10th August, 2018 and 28th September, 2018. Mr. X did not receive the AGM Notice and consequently could not do e-voting. He complained to the Chairman of the Company about non-receipt of AGM Notice resulting in non-exercise of e-voting. Comment on the eligibility and voting by Mr. X under the relevant provisions of the Companies Act, 2013.

(4 marks)

- (b) After a raid conducted by the Chief Commissioner of Income Tax on Mr. Reddy, income tax liability was raised against him to a tune of ₹ 5 crores. Mr. Reddy immediately handed over shares standing in his name in Zinc Ltd. worth of ₹ 5 crores. Chief Commissioner of Income Tax had lodged a share transfer with Zinc Ltd. to transfer the shares in favour of Chief Commissioner of Income Tax as a part of recovery of tax liability. Comment on the possibility of such transfer under the provisions of the Companies Act, 2013.

(4 marks)

(c) SAM & Co. are the auditors of MAS Company Limited appointed at the AGM held in 15 September, 2017 for a period of 5 years. However, due to difference of opinion, SAM & Co. decided not to seek re-appointment as auditors at the AGM held on 28th September, 2018 but failed to inform their unwillingness in writing prior to AGM. Company went ahead and appointed them as auditors at the AGM held on 28th September, 2018. Post AGM (held on 28th September, 2018), SAM & Co. informed their unwillingness to act as auditors. Comment on the validity of such appointment and what steps to be taken by the company under these circumstances.

(4 marks)

(d) Sunny Ltd. is a listed company closed its register of members (Equity) and the register of debenture holders for a period from 1st July to 31st July at one stretch during the financial year 2017-18. During the same financial year, it had closed its register of other security holders for a period of 13 days at a different time. Comment on its validity in your Secretarial Audit report to the Company.

(4 marks)

6. (a) The issued, subscribed and paid up capital of Trustwell HR Solutions Ltd. is ₹ 5 lakh consisting of 45,000 equity shares of ₹ 10 each fully paid up and 5,000 preference shares of ₹ 10 each fully paid up. Out of members of the company, 400 members holding one preference share each and 50 members holding 500 equity shares applied for relief from oppression and mismanagement under the Companies Act, 2013. The company had 300 equity shareholders and 2,500 preference shareholders as per information obtained from its register of members. State if the above petition is maintainable under the Companies Act, 2013.

(4 marks)

- (b) SAM is a Director of a Producer Company. The said Producer Company did not file Annual Accounts and Annual Return for the FY 2013-14, 2014-15 and 2016-17. Comment whether the said director will vacate his office under the provisions of the Companies Act, 2013 ?

The said Producer Company has in its articles to have a minimum of four Directors and a maximum of 16 Directors. Comment whether such provision in its articles is right ?

*(4 marks)*

- (c) Net India Ltd. has been under investigation by the Central Bureau of Investigation (CBI) in the public interest. However the investigation was assigned by central government to Serious Fraud Investigation Office (SFIO). The CBI continued to carry out the investigation contenting that it had superseding powers over the SFIO. Will CBI be justified in its contention ?

*(4 marks)*

- (d) Zinc Ltd. has acquired an immovable property in London and created a Charge in favour of a Bank in UNITED KINGDOM for having availed a loan against the said property under the Companies Act of United Kingdom on September 30th 2018. Advise whether the company has to create a charge under the provisions of the Companies Act, 2013 in India also ?

*(4 marks)*