

MOCK TEST PAPER 1
FINAL (NEW) COURSE GROUP I
PAPER 4: CORPORATE AND ECONOMIC LAWS

Time Allowed: 3 Hours

Maximum Marks-100 Marks

Division A: Multiple Choice Questions (30 Marks)

Case Scenario 1

The NCLT made an order in favour of a company named as Ananya Computers Ltd (plaintiff company) on 5th March, 2020. He received the order on 7th March 2020. However, there was some clerical mistake, which can apparently be seen by reading few lines of the order mentioned at the last page under the head 'Conclusion and decision'.

The Plaintiff company approached the NCLT on 10th April, 2021 for rectification of such mistake. However, Sunayana Electronics Ltd (the defendant company) had already made an appeal before the NCLAT on 25th March, 2020.

The Appellate Tribunal gave a decision in favour of the Sunayana Electronics Ltd and reversed the decision given by the Tribunal.

Ananya Computers Ltd is now planning to move to the Supreme Court, since the matter involves the question of law.

Based on the above scenario, answer the following questions:

(5 x 2 = 10 Marks)

1. There was an apparent mistake in the order given by the Tribunal in favour of Ananya Computers Ltd., which was brought in the notice of the Tribunal. Whether Tribunal can amend its order passed on 5th March, 2020:
 - (a) Once the order has been made Tribunal cannot amend it.
 - (b) Only the Appellate Tribunal can amend or rectify the order made by the Tribunal.
 - (c) The Tribunal may amend / rectify its own order, which is apparent from the record within a period of two years from the date of the order.
 - (d) Only the High Court have to powers to amend/ rectify the orders passed by the Tribunal
2. As the order of the Tribunal has been appealed by before the NCLAT on 25th March, 2020 under dispute by Sunayana Electronics Ltd, whether such apparent mistake can be rectified by the NCLT:
 - (a) Yes, since it is a mistake apparent so it can be rectified at any time
 - (b) Yes, with the permission of the Appellate Tribunal at any time
 - (c) No, such apparent mistake can not be rectified, as appeal has been already been preferred in this case.
 - (d) No, neither the Tribunal nor the Appellate Tribunal can rectify such mistake
3. The appeal of the order of the Tribunal can be made before the Appellate Tribunal latest by _____
 - (a) Latest by 4th April, 2020
 - (b) Latest by 6th April, 2020
 - (c) Latest by 7th April, 2020
 - (d) Latest by 21st April, 2020

4. What can be the time period for disposal of the appeal filed by defendant in the given case scenario:
 - (a) the appeal should be disposed of as expeditiously as possible latest by 25th May 2020 months from the date of its presentation
 - (b) the appeal should be disposed of as expeditiously as possible latest 25th June 2020 from the date of its presentation
 - (c) the appeal should be disposed of as expeditiously as possible latest 25th July 2020 from the date of its presentation
 - (d) the appeal should be disposed of as expeditiously as possible latest 25th August 2020 from the date of its presentation
5. Ananya Computers Ltd aggrieved from the order of the Appellate Tribunal can file appeal to the Supreme Court -
 - (a) within 30 days from the date of receipt of the order of the Appellate Tribunal
 - (b) within 60 days from the date of receipt of the order of the Appellate Tribunal
 - (c) within 75 days from the date of receipt of the order of the Appellate Tribunal
 - (d) within 90 days from the date of receipt of the order of the Appellate Tribunal

Case Scenario 2

Rashiq Dior SE is a French Company. The company is engaged in the business of selling branded garments for all seasons.

The company decided to open its outlet in Mumbai-India for which it filed the necessary papers with the Registrar. After having obtained the necessary permission, it opened its business outlet in Mumbai. The signboard displayed outside the showroom shows the company's brand name of garments in French and the name of the company is displayed in French and in Marathi.

The members have the limited liability. The company has filed Annual Return with delay of 30 days from the due date.

Based on the above scenario, answer the following questions:

6. A company incorporated in French and establishing its business outlet in Mumbai shall display its name and the country where it was incorporated, at its business place in:
 - (a) English language
 - (b) French & Marathi Languages
 - (c) Hindi & English Languages
 - (d) English & Marathi languages
7. In how many days, Rashiq Dior SE, a French company, shall submit the necessary papers / documents with the Registrar:
 - (a) Within 15 days of its place of business in India
 - (b) Within 30 days of its place of business in India
 - (c) Within 45 days of its place of business in India
 - (d) Within 60 days of its place of business in India
8. Rashiq Dior SE, a French company, shall in every calendar year, make out a balance sheet and profit and loss account of its Indian Business operations in accordance with:
 - (a) French Companies Act
 - (b) Schedule III of the Companies Act, 2013

- (c) International Standards of Accounting
 - (d) Usage and practices prevailing in the country of incorporation
9. Rashiq Dior SE, shall be required to file Annual Return:
- (a) Within a period of 60 days from the last day of its financial year
 - (b) Within a period of 60 days from the last day of its calendar year
 - (c) Within a period of 90 days from the last day of its financial year
 - (d) Within a period of 90 days from the last day of its calendar year
10. The Annual Return was filed by the company with delay of 30 days from the due date. Penalty of continuing default on the company shall be of:
- (a) ₹ 3 lakh
 - (b) ₹ 4.50 lakh
 - (c) ₹ 10 lakh
 - (d) ₹ 15 lakh

Independent MCQS

11. During the investigation, Inspector has reasonable ground to believe that the books and papers of a company, are likely to be destroyed. He filed application for the same to the special court and seized such books and papers. State which of the following statement is valid in terms of the returning of such books and papers of a company by the Inspector:
- (a) It can returned any time after the investigation is over
 - (b) within 180th day after such seizure
 - (c) After 180th day any time
 - (d) Anytime once the inspector is satisfied that no such the books and papers are likely to be destroyed. **(1 Mark)**
12. An amalgamation has been proposed between Magnum Limited and Micro Limited. A meeting of members of Micro Limited was convened under the orders of the Tribunal for the purpose of considering the scheme of amalgamation. The company has a paid up share capital of ₹ 1.50 crore consisting of 15,00,000 shares of ₹ 10 each. The meeting was attended by 500 members holding 10,00,000 shares. 300 members holding 7,00,000 shares in the aggregate voted for the scheme. 150 members holding 2,00,000 shares in aggregate voted against the scheme. 50 members holding 1,00,000 shares walked out of the meeting in protest from voting. Choose the correct statement regarding the validity of the approval of the Scheme based on the provisions of the Companies Act, 2013.
- (a) The scheme has not been validly approved because the requisite majority in number has not voted in favour of the scheme
 - (b) The scheme has not been validly approved because the members who voted in favour of the scheme do not hold 7,50,000 shares (3/4ths in value)
 - (c) The scheme has not been validly approved because 50 members walked out in protest
 - (d) The scheme has been validly approved. **(2 Marks)**
13. Mr. Rashtra, one of the parties to the proceedings applied to the Tribunal, for referring the matter pertaining to such proceedings to the Mediation and Conciliation Panel. The Mediation and Conciliation Panel shall dispose of the matter referred to it within a period of -----
- (a) two months from the date of such reference
 - (b) three months from the date of such reference

- (c) three months from the date applied to the Tribunal for reference
- (d) Six months from the date of applied to Tribunal **(1 Mark)**
14. The Adjudicating Authority may allow the withdrawal of application admitted under section 7 or section 9 or section 10, on an application made:
- (a) By the Interim Resolution Professional
- (b) By the applicant with the approval of sixty-six per cent voting share of the committee of creditors.
- (c) By the applicant with the approval of seventy-five per cent voting share of the committee of creditors.
- (d) By the applicant with the approval of ninety per cent voting share of the committee of creditors. **(1 Mark)**
15. Dhruv, is a pilot in Bangkok airways. He flies for 15 days in a month and thereafter takes a break for 15 days. During the break, he is accommodated in 'base', which is normally the city where the Airline is headquartered. However, for security considerations, he was based at Delhi. During the financial year, he was accommodated at Delhi for 182 days. Determine the legal position as regards the residential status of Dhruv under the given situation:
- (a) Dhruv cannot be considered to be a Person Resident in India.
- (b) Dhruv can be considered to be a Person Resident in India due to her stay for 182 days in India
- (c) Dhruv cannot be considered to be a Person Resident in India due to her stay for less than 183 days in India.
- (d) Dhruv can be considered to be a Person Resident in India due to her stay in Delhi for security consideration. **(2 Marks)**
16. The Arbitral award against Mr. X was rendered on 1st January 2021. Mr. X, the party wants to challenge the award. It can be challenged latest by :
- (a) 31st March 2021
- (b) 30th April 2021
- (c) 30th June 2021
- (d) Arbitral award is final and cannot be further challenged **(1 Mark)**
17. The dealers in precious metals/ precious stones, can be considered as persons carrying on designated businesses or professions, when-
- (a) they engage in any cash transactions with a customer of Rupees ten lakhs, carried out in a single operation
- (b) they engage in any cash transactions with a customer of Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked.
- (c) they engage in any cash transactions with a customer of equal to or above Rupees ten lakhs, carried out in a single operation or in several operations that appear to be linked
- (d) they engage in sale or purchase of precious metal/precious stones and having annual turnover of Rupees twenty lakhs or above **(1 Mark)**
18. State amongst the following options, the correct composition of the Board of Directors of ABC Ltd, the Listed entity:
- (a) Combination of executive and non-executive directors.
- (b) Combination of executive and non-executive directors with not less than 50% of the BOD
- (c) Executive directors with at least one-woman director

- (d) Executive and non-executive directors (not less than 50% of the BOD) with at least one-woman director. **(1 Mark)**

Descriptive question (70 Marks)

Question 1 is compulsory. Attempt 4 out remaining 5 questions.

1. (A) Rich Fragrance Ltd., produces fragrance related products, which are very much popular among the young generation. Anwasha, is the Managing Director of the company. She is drawing a monthly salary of ₹ 5 lakh.

Anwasha booked a flat in Mumbai and paid ₹ 5 lakh as booking amount. The cost of the flat is ₹ 85 lakhs. Anwasha have its savings of ₹ 50 lakh and want to avail a loan of ₹ 30 only from the company.

The company do not have any policy of giving loans and advance to staff. Further, at the time of appointment of Anwasha, as Managing Director, the grant of loan was not part of the terms and conditions of her appointment.

Anwasha thought that if the company give her 6 months' salary as an advance, she can use it in purchasing the flat.

Based on the captioned facts, answer the following questions in the light of the Companies Act, 2013:

- (I) Whether a company may grant loan to Anwasha?
 (II) If giving of loan is not permissible to the managing director, whether she can be given 6 months advance salary (6 month * ₹ 5 lakh salary per month = ₹ 30 lakh)?
 (III) What would have been your answer, if the status of the company is of Private Limited?
 (IV) If in the appointment letter to Anwasha, as managing director, there would have been a clause that the candidate may avail house loan facility up to Rs 50 lakh and its notional interest would be considered as an allowance and part of the salary. **(8 Marks)**

- (B) Rainbow Industries Ltd. is a listed entity. It has one Managing Director (MD) and one Whole Time Director (WTD) in the Board. There are 15 directors in the Board including the MD and WTD.

(₹ in crores)

| S. No. | Particulars | 31.03.2020 | 31.03.2021 |
|--------|---------------|------------|------------|
| 1. | Net Profit | 50 | 10 |
| 2. | Share capital | 75 | 75 |

The remuneration of the directors from the respective financial year, has not been deducted from the gross profits.

The Company wants to give maximum remuneration to the MD, WTD and other directors as prescribed under the Companies, Act, 2013.

Based on the above facts:

- (i) Determine the remuneration payable to MD for the financial year ended on 31.03.2020 and 31.03.2021. **(5 Marks)**
 (ii) Is it permissible if the company wants to pay remuneration over and above the maximum ceiling prescribed under the Company Act, 2013? **(1 Marks)**
2. (A) The Senior Ltd. has acquired 92% shareholding in the Junior Ltd. Both the companies are un-listed entities. Now, the Senior Ltd. wants to acquire the rest of 8% shareholding and accordingly informed the Junior Ltd. to buy the remaining shareholding.

The Senior Ltd. wants to determine the price to be paid to the remaining equity shareholders. The price to be arrived shall be on the basis of the valuation for which the Senior Ltd. has appointed Mr. Sameer, a famous Chartered Accountant, who is also in the panel with the Income Tax Dept., to make out the valuation and determine the price to be paid to the remaining shareholders of the Junior Ltd.

The Senior Ltd. also deposited an amount equal to the value of shares to be acquired by it in a separate bank account, operated by the Junior Ltd. However, all the remaining shareholders of the Junior Ltd. did not turned up to accept the price / offer.

Based on the above facts, answer the following questions:

- (i) Evaluate on the validity of the valuation of the shares of the Junior Ltd. done by the Chartered Accountant. In the given circumstances, who is authorised to do valuation? **(6 Marks)**
 - (ii) A person who is already in the panel with the Income tax Dept, can do the valuation as required under the Companies Act, 2013? **(2 Marks)**
- (B) Superb manufacturing Ltd. was incorporated in January, 2021. In the month of May 2021, it came out with its first IPO. The company's shares were listed on the two recognised stock exchange after successful completion of the IPO and allotment of equity shares made to the investors.

There are 14 directors in the BoD, out of which one is woman director, whereas the Chairperson is a non-executive director.

Based on the stated facts in the light of the relevant law, evaluate the given situations:

- (i) After listing of the shares, the total number of directors on the Board are 14 including a woman director. What shall be the required number of independent directors in the company?
 - (ii) If the Board of directors do not have regular non-executive director, then what shall be the required number of independent directors in the Board? **[6 Marks]**
3. (A) Ariana Credit and Thrift (Nidhi) Ltd., was incorporated in December 2018 and want it to operate as a Nidhi Company. The company has established its registered office in Jaipur, Rajasthan.

The company started its operations from the April 2019.

The company's main function was to collect deposits from its members on monthly basis and to lend the members in case of need. The company pays interest @10% p.a. on quarterly basis on the deposits and charge interest @12% p.a. on monthly basis. The loan to its members is granted for the working capital of the business only and for which the member borrower has to give guarantee of two members, against whom no loan is outstanding.

For the financial year ended on 31st March 2020, the company's paid-up equity share capital was ₹ 15 lakh and for the year ended on 31st March 2021, the capital remained as ₹ 15 lakh and reserves were ₹ 5 lakh.

Based on the captioned facts, answer the following questions:

- (i) What are the criteria for declaration of any company as Nidhi Company by the Central Government? **(6 Marks)**
 - (ii) For the year ended on 31st March 2021, company's capital was ₹ 15 lakh and reserves were ₹ 5 lakhs. How much deposit the company can accept from its member in the FY 2021-22? **(2 Marks)**
- (B) The Adjudicating authority under FEMA Act, 1999 based on the complaints received in writing from the officer authorized by the Central Government, had issued show cause notice to following persons accused of committing contravention under the Act, to show cause as to why an inquiry should not be held against them as follows:-

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

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

(6 Marks)

4. (A) Mr. Vasumadan Lal, one of the directors of Florence Shares (P) Ltd., was found to be guilty of contravention under the SEBI Act, 1992, under section 27 and was imposed a penalty of ₹ 70 lakhs vide order of SEBI dated 14th April, 2021. SEBI issued notice to Mr. Vasumadan for paying the penalty amount but he refrained from doing so and unfortunately, he passed away on 25th May, 2021 without paying the penalty amount.

His estate worth ₹ 60 lakhs was inherited by his son, Mr. Rajgopal Lal, which included a property worth ₹ 25 lakhs which was mortgaged by him for taking a bank loan. Recovery proceedings under section 28A were initiated against Mr. Rajgopal by the Recovery Officer for recovering the penalty amount payable by Mr. Vasumadan.

In the context of aforesaid case-scenario, please answer to the following questions:-

- (i) Whether it was valid to initiate the recovery proceedings against Mr. Rajgopal?
(ii) What shall be the liability of Mr. Rajgopal in such recovery proceedings? **(8 Marks)**

- (B) The resolution plan of Ankush Ltd. was approved by the Adjudicating Authority under the provisions of the Insolvency and Bankruptcy Code, 2016. As a result of the implementation of the resolution plan, there was change in the entire management of Ankush Ltd. and its control has been handed over to persons who have not been its related parties and against whom no legal proceedings are going on under any statute.

Ankush Ltd. was liable for an offence committed under the provisions of the Prevention of Money Laundering Act, 2002, prior to the commencement of corporate insolvency resolution process, due to which one of its properties was liable to be attached by the Enforcement Director (ED) under the said Act. Such property has been covered under the resolution plan approved by the Adjudicating Authority.

Also, one another property of Ankush Ltd. was liable to be seized under the provisions of the Foreign Contribution Regulation Act, 2010, prior to the commencement of corporate insolvency resolution process. However, such property was acquired by Lavan Ltd. through the corporate insolvency resolution process, covered in the resolution plan.

In the context of aforesaid case-scenario, enumerate whether any actions can be taken against the two aforesaid properties of Ankush Ltd., one of which has been acquired by Lavan Ltd.?

(6 Marks)

5. (A) Datavision Ltd. was ordered for winding up by the Tribunal. Raman, a provisional liquidator was appointed by the Tribunal amongst the panel of the insolvency professionals registered with the Insolvency and Bankruptcy Board of India (IBBI). Raman was supposed to file a declaration disclosing a conflict of interest or lack of independence in respect of his appointment, if any within the prescribed time. However, Raman deliberately did not file such declaration.

Actually Raman was having interest in the company, since his wife is holding the position of Whole Time Director in that company.

Answer the following questions:

- (i) After appointment as a provisional liquidator, in what time, he is required to file a disclosure of conflict of interest/ lack of independence, if any? **(3 Marks)**
- (ii) To whom such disclosure is required to be filed by the provisional liquidator? **(3 Marks)**
- (iii) What are the consequence, if the provisional liquidator do not submit such disclosure?

(2 Marks)

- (B) Sabina took a flat on rent from Kishori Lal in Mumbai introducing that she is engaged in the business of trading of commodities and goods used to be transported from Chittorgarh-Rajasthan to Mumbai. Infact, Sabina was involved in trading of opium. Different persons used to visit her flat in odd hours either for selling or purchasing of the opium. Gradually Kishori Lal understood what is going on in the name of trading of commodities, but Sabina paid one lakh rupees to Kishori Lal and promised to pay every month in addition to the rent and not to disclose the matter to anyone.

This activity came in to radar of the Narcotics Dept, and it sent a bogus customer to her flat. After finalisation of the deal, the bogus customer gave a miss call to his team and the Dept. caught red handed Sabina. Around 100 kg of opium was found in her possession and cash of around 100 lakh rupees. From the Sabina's possession five property related documents were also found. When the sources of the purchase value were interrogated from Sabina, she was unable able to give any satisfactory respond.

Based on the above facts, answer the following questions:

- (i) Whether the business of trading of opium comes within the ambit of Prevention of Money Laundering Act, 2002.
- (ii) Whether Kishori Lal can also be made culprit in the case. **(6 Marks)**

6. (A) Clause 36 of the Articles of Association of Swasth Medical Pharmacy Limited (SMPL) states the dates on which the Board Meetings shall be held every year and therefore, if Board Meetings are held as scheduled, there is no need to send notice of such meeting to every director. The notice of the meeting shall be sent to every director only if a particular Board Meeting is held on a date which is otherwise than that mentioned in Clause 36. Raghav, one of the directors of the company, feels that it is mandatory to send notice of every Board Meeting to all the directors otherwise it shall be violative of the relevant provisions of the Companies Act, 2013.

Analyse the contention of Raghav with reference to the applicable provisions of the Companies Act, 2013. **(8 Marks)**

- (B) A dispute has been aroused between the management of Paras Furnishing Ltd. and its labours. The dispute was to provide the basic facilities at the workplace, air-conditioning environment and hours of work. The management of the company sent an invitation to leader of the labour union to conciliate on the issues raised by the labours. The union leader accepted the invitation. It was decided between the parties that each one of them shall appoint one conciliator.

In the given case, explain how the two conciliators, appointed by each of them will address the matter under the Arbitration and Conciliation Act, 1996 and the procedure of conciliation?

(3 Marks)

- (C) Financial creditor initiated CIRP which was admitted by the NCTL. Interim Resolution Professional was appointed. The Interim Resolution Professional (IRP) after collation of all the claims, constituted the Committee of Creditors (CoC) and meeting of the CoC was called on. The expression of interest was called on from the prospective resolution applicants.

One Resolution Applicant named ABC Ltd, expressed its interest in owning the company. The IRP observed that ABC Ltd. is in the array of defaulters as announced by the RBI.

Meanwhile the CoC thought to replace the IRP, since the present IRP was not able to invite sufficient number of prospective resolution applicants.

Based on the above facts, whether CoC can replace the existing IRP with another Resolution Professional (RP)? Also state the manner of replacement of IRP with another RP. **(3 Marks)**