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Question Paper	
Corporate & Economic Laws	Duration: 75
Details: Test – 4	Marks: 40

Instructions:

- All the questions are compulsory
- Properly mention test number and page number on your answer sheet, Try to upload sheets in arranged manner.
- In case of multiple choice questions, mention option number only Working notes are compulsory wherever required in support of your solution
- Do not copy any solution from any material. Attempt as much as you know to fairly judge your performance.

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Q-1: Some applicants consented to become shareholders of a company on the condition that their suggestions should be included in the memorandum and articles of association. Their suggestions, however, were not carried out by the promoters but the applicants signed usual applications for shares allotted to them and thereby become shareholders of the company. The company went into liquidation.

(i) What shall be the fate of the applicants who had consented to become shareholders on certain conditions?

(ii) What shall be the amount to be borne by the secured creditors out of the expenses incurred by the liquidator if:

(a) The value of the security of secured creditors of a company is 1.00 lac.

(b) Total amount of workmen's due is Rs. 1.00 lac and

(c) Debts due from the company to its secured creditors is Rs. 3.00 lacs.

(d) The liquidators incurred Rs. 10,000 for the preservation of the security before it is realized by the secured creditors.

(6 marks)

Q-2. Mr. Janak, a person resident outside India i.e. USA has invested in five residential immovable properties under construction in Mumbai.

Each property was negotiated at Rs. 1.50 crore with the companies owned by builders. This amount was to be paid in two installments i.e. 50% on immediate basis on booking and the balance on possession of properties. The above transaction was done by the companies owned by builders through two brokers from USA on commission basis.

ABC as per term and conditions remitted 50% of the amount of all five immovable properties directly to the Builders.

Answer the following explaining the provisions of the Foreign Exchange Management Act, 1999:

A. Whether investment by Mr. Janak and payment of commission on this transaction is permissible?

B. How much maximum amount of commission can be paid to each broker?

(6 Marks)

Q-3. Mr. R was under investigation in France regarding a smuggling case. His accomplice in India Mr. M was aiding him in this illegal activity. The government of France approached the Government of India, (Contracting State) with which agreement for exchange of information has already been entered into, for assistance to enquire into the activities of Mr. M and for freezing of certain properties in India.

(1) Explain Contracting State

(2) State the procedure to be followed by the Central Government of India in regard to this request under Section 58 of the Prevention of Money Laundering Act, 2002.

(4 Marks)

Q-4. Rajan had filed an appeal before the Appellate Tribunal regarding unlawful attachment of one of his properties. The bench, which was handling the appeal, consisted of 2 members, and both the members were divided in their opinion, on the decision. The matter was referred to a third member of the Appellate Tribunal who gave his opinion. Between the three, the majority decision was that the enactment of Rajan's property was lawful and enforceable.

Rajan contended that when the Bench was divided in its opinion, the matter should be decided by the chairman, with his casting vote and not by any other member of the Appellate Tribunal, and so the decision was not tenable.

State with the reasons whether Rajan's contention is right, under the provisions of Section 38 of the Prevention of Money Laundering Act, 2002.

(4 Marks)

Q-5. Sunita Garments Limited is engaged in the business of exporting leather garments. The company is neither located in a Special Economic Zone, nor has availed any special status like Status Holder Exporter, Export Oriented Unit or a unit under Bio-Technology Park.

The company seeks your advice regarding the time limit within which the company is required to realize and import into India the foreign exchange arising out of export of goods by them and to be paid to the authorized dealer. Referring to the provisions of the Foreign Exchange Management Act, 1999 advise the company.

(5 Marks)

Q-6. Due to an unprecedented flood, all the fixed assets of a company were damaged extensively beyond renovation or repair. The Cost of Replacement of assets were huge and the sum insured on the fixed assets did not cover all the assets. Therefore, the operations of the Company were permanently discontinued. Meanwhile, based on a winding-up petition filed by the secured creditors, the High Court passed a winding-up order. The workers of the Company opposed to the winding-up petition and also filed an appeal against the winding-up order. The workers are not sure whether their appeal would be heard in the winding-up proceedings. Examine, under the provisions of the Companies Act, 2013, whether the appeal filed by the workers would succeed and their dues / interest will be protected in priority?

(5 marks)

Q-7. MCQ

1. Infra Ltd. was wound up by an order of Tribunal dated 10th March, 2019 by the Tribunal. The appointed official liquidator of the company noticed that the MD of the Infra Ltd. had sold certain properties belonging to the company to a Supra Pvt. Ltd. in which his brother was interested on 15th October, 2018. This caused loss to the Infra Ltd. to the extent of INR 60 lakhs. Examine the course of action; the official liquidator can take in this matter.

(1) The official liquidator can recover the sale of assets of the company as per the Section 328 of the Companies Act, 2013.

(2) The transaction made will be regarded as invalid and restore the position of the company.

(3) This transaction made will be regarded as valid as being made under ordinary course of its business.

(a) Only statement (1) is correct

(b) Only statement (2) is correct

(c) Only statement (3) is correct

(d) Statements (1) & (2) are correct

2. Peter a citizen and resident of India, in the year 2011, got a job in a MNC in Germany. He planned to shift. On 23rd March 2017, Peter, along with his wife and daughter reached India from Germany. Due to traveling and shifting, studies of his daughter Lisa were affected a lot, so he decided to admit her into Mayo College at Ajmer for her further studies. On 22nd April 2017, Lisa got admission in the college and since then she is living in India only. Peter and his wife

returned Germany on 1st May 2017. Peter did not visited India during the financial year 2017-18, however his wife was in India from 2nd December 2017 to 2nd January 2018. During the financial year 2018-19, Peter was in India for 185 days due to his deployment and Lisa's ill health. From the following who will be treated as person resident in India for the financial year ended on 2018-19

- (a) Lisa
- (b) Peter
- (c) Peter's wife
- (d) Lisa and Peter's wife

3. Mr. X took multiple loans for the same home from three different banks. The total amount is greatly in excess of the actual value of the property, which is 2 crores. Out of this amount, he invested 50 lakh in shell companies abroad. He bought one property in his son name at Jaipur worth 30 lakh out of which he took loan of 10 lakh. Mr. X gifted a diamond set to his wife worth 10 lakh. Mr. X bought one house in London for 1 crore via Mr. Z a hawala broker. Mr. X gave his driver M, 10 lakh to keep it in safe place. Mr. A, a financial manager of Mr. X knew about all the transactions. Who all are liable in these chains of transactions?

- (a) Mr. X and Mr. Z
- (b) Mr. X, his wife and son, Mr. Z and Mr. A
- (c) Mr. X, Mr. Z, Mr. A and Mr. M
- (d) Mr. X, Mr. Z and Mr. M

(2×3 = 6 Marks)

4. With respect to release of a person on bail, consider the following conditions:

Condition (1): The public Prosecutor has been given an opportunity to oppose the application for release of the accused.

Condition (2): The Special Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of offence and that he is not likely to commit any offence while on bail.

A person accused of an offence punishable under the Prevention of Money Laundering Act, 2002 shall not be released on bail or on his own bond unless _____.

- (a) Condition (1) is satisfied
- (b) Condition (2) is satisfied
- (c) Either Condition (1) or Condition (2) is satisfied
- (d) Condition (1) as well as Condition (2) is satisfied

5. The Government of Gujarat in an initiative to attract foreign investments in Gujarat has put an advertisement in the Wall Street Journal Asia. The sum payable by Gujarat Government is USD 15,000 for publishing the advertisement. You are required to counsel the Government of Gujarat in relation to permissions if any are required for remittance of USD 15,000 considering the provisions of the Foreign Exchange Management Act, 1999 and regulations thereto:

- (a) The permission from the Ministry of Finance, Department of Economic affairs will be required as the sum of remittance involved is more than USD 10,000.
- (b) The permission from the Ministry of Finance, Department of Economic affairs will not be required as the sum of remittance involved is less than USD 100,000.

(c) The permission from the Ministry of Finance, Department of Economic affairs will be required as the purpose involved is promotion of foreign investments through foreign print media irrespective of the amount of remittance of foreign exchange is involved.

(d) The permission from the Ministry of Finance, Department of Economic affairs will not be required as State government are exempted for the remittance in foreign print media if the purpose involved is promotion of foreign investments.

6. When can an application be made to Tribunal for constitution of a winding up committee to assist and monitor the progress of liquidation proceedings by the Company Liquidator in carrying out the function?

- (a) Within two weeks from the date of passing of winding up order
- (b) Within three weeks from the date of passing of winding up order
- (c) Within four weeks from the date of passing of winding up order
- (d) Within six weeks from the date of passing of winding up order

7. Mr. Ram gave two of his friends' cash amount of two lakh each in case of dire necessity for their business purposes. Later at the time of return, he asked both of them, in lieu of the same, to buy his product via credit card and online transfers in installments through next couple of months' time for which he issued bills to adjust the amount in his account books.

Does this payment system through credit card and online transfer mode are covered under money laundering Act?

- (a) No, payments are made through credit cards & online transfers hence all the transactions are genuine.

(b) Yes, money laundering transactions done via credit card and online payments comes under the Prevention of Money Act

(c) No, it is not money laundering as none of Mr. Ram friends are benefiting from this transaction.

(d) No, because the transactions are not done with shell companies.

(1×4 = 4 Marks)

