



Time Allowed: 3 Hours

Full Marks: 100

The figures in the margin on the right side indicate full marks.
Where considered necessary, suitable assumptions may be made and
clearly indicated in the answer.

SECTION – A (Compulsory)

1. Choose the correct alternative: [2 × 15 = 30]
- (i) The term 'family' as defined in ESI Act, 1948 does not include:
- a. a spouse
 - b. a minor adopted child
 - c. a dependent unmarried daughter
 - d. an independent married sister
- (ii) Sec. 56 talks about the _____ under the Code on Wages Act, 2019:
- a. Composition of offences.
 - b. Offences by Companies.
 - c. Penalties for Offences.
 - d. Power of Officers.
- (iii) The Constitution of India describes India as:
- a. A federation.
 - b. Quasi-federal.
 - c. A Union of states.
 - d. None of the above.
- (iv) Which one of the following is not the feature of “agreement to sale” under the Sale of Goods Act, 1930?
- a. It is an executor contract.
 - b. Sales takes place for existing and specific goods.
 - c. The seller can sue for damages only in case of breach by the buyer.
 - d. It gives a right to the buyer against the seller to sue for damages.
- (v) Which one cannot be transacted through postal ballot?
- a. Appointment of auditor.
 - b. Election of a Director.
 - c. Buy back of shares by a company.
 - d. Change in place of registered office outside the local limits of any city, town or village.



- (vi) The minimum number of designated partners in an LLP shall:
- 1
 - 2
 - 7
 - 15
- (vii) Under the Negotiable Instruments Act, 1881, whether acceptance of a bill of exchange in the following situation shall be treated as qualified acceptance where the acceptor
- undertakes to pay only ₹10,000 for a bill drawn for ₹15,000.
 - declares the payment to be independent of any other event.
 - writes, 'Accepted, payable at ABC Bank'.
 - writes, 'Accepted, payable at Delhi'.
- (viii) What is the paid up share capital fixed for the appointment of a woman director?
- ₹ 100 crores;
 - ₹ 300 crores.
 - ₹ 500 crores.
 - None of the above.
- (ix) Which one of the following will not include in the definition of basic wages under Employee's Provident Funds and Miscellaneous Provisions Act, 1952?
- 25%.
 - 50%.
 - 75%.
 - None of the above.
- (x) Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with the property of the firm without any final settlement of accounts as between them and the outgoing partner or his estate, then, in the absence of a contract to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since he ceased to be a partner as may be attributable to the use of his share of the property of the firm or to interest at the rate of on the amount of his share in the property of the firm:
- 9% p.a.
 - 18% p.a.
 - 6% p.a.



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- d. 12% p.a.
- (xi) Which one of the following is not a quasi-contract?
- Claim for necessities supplied to person incapable of contracting, or on his account.
 - Reimbursement of persons paying money by another, in payment of which he is interested.
 - Uncertainty and futurity of the event to which it is related.
 - Responsibility of finder of goods.
- (xii) The relationship between laws and ethics is:
- Complex;
 - Simple;
 - Inexplicable;
 - None of the above;
- (xiii) A factory employs 250 workers. All the workers including workers above 60 years of age and below 15 years of age went on strike. The employer.
- can deduct fine from all the workers
 - cannot deduct fine from workers who are under the age of 15
 - no fine can be imposed from workers who are 60 years and above
 - cannot deduct any fine from any worker.
- (xiv) In case of e-voting, notice shall be sent as attachment in
- PDF file
 - Word file
 - Excel file
 - Access file
- (xv) Where a company issues shares with differential right, the should be maintained under Section 88 of Companies Act, 2013.
- List of share-holders
 - Register of shares
 - Register of Members
 - List of shares



Answer: (1)

(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)	(x)
(d)	(a)	(c)	(b)	(a)	(b)	(a)	(b)	(d)	(c)
(xi)	(xii)	(xiii)	(xiv)	(xv)					
(c)	(a)	(b)	(a)	(c)					

SECTION - B

(Answer any five questions out of seven questions given. Each question carries 14 marks.)

2. (a) Analyze the legal provisions relating to competence of parties to enter into a valid contract under “The Indian Contract Act 1872”.
- (b) Examine the circumstances under which a surety in a contract of guarantee stands discharged from the liability, by the conduct of the creditor and also by invalidation of contract. [7+7=14]

Answer:

2.(a)

The law of Contract in India is contained in the Indian Contract Act, 1872 and it is mainly based on English common law consisting of judicial precedents. The Act ensures that the rights and obligations arising out of the contract are honoured and the promises are kept. It provides for the appropriate legal remedies to the aggrieved party in case of breach of the contract.

- (i) *Proposal (Section 2 (a))*: When one person signifies to another his willingness to do or to abstain from doing anything to obtain the assent of that other to such act or abstinence, he is said to make a proposal
- (ii) *Agreement (Section 2(e))*: Every promise and every set of promises forming consideration for each other is called an agreement
- (iii) *Contract (Section 2(h))* → An agreement enforceable by Law [iii]:
Offer + Acceptance = Promise
Promise + consideration = agreement
Agreement + enforceability = Contract

Every contract is an agreement, but every agreement is not a contract. An agreement becomes a contract when the essentials mentioned in Section 10 and other sections of the Indian Contract Act, 1872 are fulfilled, as then only an agreement becomes enforceable by law and the law will protect the parties to the contract against any breach of the terms and conditions of such contract.

Essentials of a valid contract

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Section 10 of the Act lays down the following essentials which are required to make an agreement into a valid contract.

1. They are made with free consent
2. Made between two or more competent parties.
3. Made for lawful consideration.
4. Made with a lawful object.
5. Not expressly declared to be void.

Some other essentials of a valid contract are:

1. **Offer and acceptance:** - The first essential for creating a contract is an offer. The person making the proposal is called an offeror or promisor and the person accepting the offer is called the offeree or promisee
 - Essentials of a valid offer:
 - An offeror expresses his willingness to do or abstain from doing with a view to obtain the assent of the offeree
 - Intention to create a legal relation.
 - A valid offer could be in expressed form i.e in words either written or spoken or implied form i.e by conduct.
 - The terms of the offer must be certain and not ambiguous.
 - The offer must be clearly communicated to the other party
 - When the proposal is accepted by the offeree it results in an agreement. Acceptance is the assent given to the proposal.
 - Essentials of a valid acceptance: -
 - The acceptance must be communicated to the offeror by the offeree -. Communication of acceptance by post, Communication of acceptance by telephone
 - The acceptance must be unconditional and absolute

The contract is completed when the offeror had heard the acceptance at his end rather than when the acceptor has spoken the words of acceptance unlike the case when the letter of acceptance is posted and it gets completed the moment is posted.

2. **Intention to create a legal obligation:** - Agreements made by the parties without an intention to create a legal obligation are not enforceable by law. The law presumes that the parties in case of domestic and social agreements do not have an intention to create a legal obligation.
3. **The terms contained in an agreement must not be vague or uncertain:** - Lawful Consideration, Lawful Object, Free consent, Two or more competent parties, Terms of the agreement must be certain.
4. **The agreement must be capable of performance:** - According to Section 56 of the Contract Act, any agreement made to do an impossible or unlawful act is itself a void agreement.



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When a contract is made and afterward, it becomes impossible or unlawful to perform due to some reason which the promisor could not prevent, the contract becomes void. Here, the section provides for the subsequent or supervening impossibility which made the performance of the contract impossible. This is also known as the Doctrine of frustration.

5. **Other legal formalities:** - A contract can be in written form or can be entered orally. In certain cases, it is given under the Act that the contract must be in writing, registered or there must be witnesses, etc. All these legal formalities also decide the validity of a contract.

2.(b)

A. By conduct of creditor –

- i. *By Variance in terms of contract (Section 133)* - Any variance, made without surety's consent, in the terms of the contract between the principal (debtor) and the creditor, discharges the surety as to transactions subsequent to the variance.
- ii. *By release or discharge of principal debtor (Section 134)* - The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.
- iii. *When creditor compounds with, gives time to, or agrees not to sue, principal debtor (Section 135)* - A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such -contract.
- iv. *Discharge of Surety by Creditor's Act or Omission Imparting Surety's Eventual Remedy (Section 139)* - If the creditor does any act which is inconsistent with the rights of the surety, or omits to do any act which his duty to the surety requires him to do, and the eventual remedy of the surety himself against the principal debtor is thereby impaired, the surety is discharged.

B. By invalidation of contract:

- i. *Guarantee Obtained by Misrepresentation Invalid (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 and thus discharge the surety to that extent.
- ii. *Guarantee Obtained by Concealment Invalid (Section 143)* - Any guarantee which the creditor has obtained by means of keeping silence as to material circumstances is invalid and thus discharge the surety to that extent.
- iii. *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

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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.

iv. If there is failure of consideration between creditor and principal debtor.

3. (a) **Demonstrate the procedure to form a partnership under “The Partnership Act. 1932”.**
(b) **Examine the validity of the acceptance by the term-**
(i) **“Acceptance by mere signature of the drawee without the addition of the word ‘Accepted’ on the negotiable instrument”.**
(ii) **“An Oral Acceptance”.** [7+7=14]

Answer:

3.(a)

Partnership is one of the modes of business. It is governed under the Indian Partnership Act, 1932. For constituting a partnership, the following ingredients are necessary-

- There should be an agreement between the parties;
- The agreement must be to share the profits of the business and the business must be carried on by all or any of them acting for all;
- The existing of an agency between the concerned persons inter-se. All the above ingredients must exist before a partnership come into existence. Actual starting of business to registration is not a condition precedent.

Procedure to form a partnership

The first step is to decide the number of partners of a firm. The law provides for minimum 2 number of partners. The upper limit is 10 in case of banking business and 20 in respect of other business.

- First decide to who are the partners of the firm, considering the limit envisaged in the Act;
- The name of the partnership firm is selected subject to the provisions of the partnership Act;
- Select the business to be done by the partnership and object of the business;
- Decide the capital to be brought by each and every partner;
- Prepare the agreement deed of the firm – the deed is the vital and most significant document. The deed shall contain all aspects of the partnership firm. This documents prescribes the ‘a to z’ of the partnership firm to be formed;
- The agreement should invariably in writing and signed by all partners;
- The provisions contained in the agreement are binding all partners;
- The partnership firm is to be registered. According to the Act the partnership firm may be registered or may not be registered. Unregistered firms have no legal protection and therefore registration of partnership firm is to be preferred.
- Open bank account in the name of the partnership firm;



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- In the present scenario obtaining PAN is necessary and get the PAN from the Income Tax Authority;
- Acquire all mandatory licenses from the respective authorities for the conduct of the business;
- Registration with required tax authorities i.e., direct tax as well as indirect tax such as central excise, service tax, VAT etc.,
- The Registration certificate is the conclusive evidence of the formation of the partnership firm.

3.(b)

Following are the essentials of a valid acceptance:

- Acceptance may be oral or in writing;
- It may be expressed or implied;
- If a particular method of acceptance is prescribed, the offer must be accepted in the prescribed manner;
- It must be unqualified and absolute and must correspond with all terms of the offer;
- The conditional acceptance will amount to rejection of offer;
- A counter offer for acceptance will also amount to reject of offer but the counter offer may be accepted or rejected by the other party;
- It must be communicated to the offerer, since acceptance is completed the moment it is communicated;
- Mere silence on the part of the offeree does not amount to acceptance;
- The acceptance should be given if there is a time limit is fixed or otherwise at a reasonable time and before he offers lapses or is revoked.

The given problem is answered as follows:

- 1) An oral acceptance is not valid since the acceptance must be in writing and signed.
- 2) Although it is usual to accept the bill by writing the word ‘accepted’, yet it is not a necessary condition to make the acceptance valid. In other words, signature made by the drawee on the bill amounts valid acceptance even though such signature is not accompanied by the word ‘Accepted’. Therefore, the acceptance in the given case is valid.

4. (a) **Discuss the applicability of ‘Eligibility for Bonus’ under the act “The Code on Wages, 2019”.**
- (b) **Inspect whether an employee can be dismissed or punished during sickness under “Employees State Insurance Act, 1948”?** [7+7=14]

Answer:

4(a)



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Section 26 onwards the code talks about provisions relating to payment of bonus:

Eligibility for Bonus:

1. There shall be paid to every employee, drawing wages not exceeding such amount per mensem, as determined by notification, by the appropriate Government, by his employer, who has put in at least thirty days work in an accounting year, an annual minimum bonus calculated at the rate of eight and one-third per cent. of the wages earned by the employee or one hundred rupees, whichever is higher whether or not the employer has any allocable surplus during the previous accounting year.
2. For the purpose of calculation of the bonus where the wages of the employee exceed such amount per mensem, as determined by notification by the appropriate Government, the bonus payable to such employee under sub-sections (1) and (3) shall be calculated as if his wage were such amount, so determined by the appropriate Government or the minimum wage fixed by the appropriate Government, whichever is higher.
3. Where in respect of any accounting year referred to in sub-section (1), the allocable surplus exceeds the amount of minimum bonus payable to the employees under that sub-section, the employer shall, in lieu of such minimum bonus, be bound to pay to every employee in respect of that accounting year, bonus which shall be an amount in proportion to the wages earned by the employee during the accounting year, subject to a maximum of twenty per cent. of such wages.
4. In computing the allocable surplus under this section, the amount set on or the amount set off under the provisions of section 36 shall be taken into account in accordance with the provisions of that section.
5. Any demand for bonus in excess of the bonus referred to in sub-section (1), either on the basis of production or productivity in an accounting year for which the bonus is payable shall be determined by an agreement or settlement between the employer and the employees, subject to the condition that the total bonus including the annual minimum bonus referred to in sub-section (1) shall not exceed twenty per cent. of the wages earned by the employee in the accounting year.
6. In the first five accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, bonus shall be payable only in respect of the accounting year in which the employer derives profit from such establishment and such bonus shall be calculated in accordance with the provisions of this Code in relation to that year, but



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without applying the provisions of section 36.

7. For the sixth and seventh accounting years following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 36 shall apply subject to the following modifications, namely:
- for the sixth accounting year set on or set off, as the case may be, shall be made, in the manner as may be prescribed by the Central Government, taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth and sixth accounting years;
 - for the seventh accounting year set on or set off, as the case may be, shall be made, in the manner as may be prescribed by the Central Government, taking into account the excess or deficiency, if any, as the case may be, of the allocable surplus set on or set off in respect of the fifth, sixth and seventh accounting years.

8. From the eighth accounting year following the accounting year in which the employer sells the goods produced or manufactured by him or renders services, as the case may be, from such establishment, the provisions of section 36 shall apply in relation to such establishment as they apply in relation to any other establishment.

Explanation 1: For the purpose of sub-section (6), an employer shall not be deemed to have derived profit in any accounting year, unless: (a) he has made provision for depreciation of that year to which he is entitled under the Income-tax Act or, as the case may be, under the agricultural income tax law; and (b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against his profits.

Explanation 2: For the purposes of sub-sections (6), (7) and (8), sale of the goods produced or manufactured during the course of the trial running of any factory or of the prospecting stage of any mine or an oil- field shall not be taken into consideration and where any question arises with regard to such production or manufacture, the appropriate Government may, after giving the parties a reasonable opportunity of representing the case, decide upon the issue.

9. The provisions of sub-sections (6), (7) and (8) shall, so far as may be, apply to new departments or undertakings or branches set up by existing establishments.

4.(b)

Section 73 provides that no employee shall dismiss, discharge or reduce or otherwise punish an employee during the period the employee is in receipt of sickness benefit or maternity benefit, nor shall be, except as provided under the regulations, dismiss, discharge or reduce or

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otherwise punish an employee during the period which he is in receipt of disablement benefit for temporary disablement or is under medical treatment for sickness or is absent from work as a result of illness duly certified in accordance with the regulars to arise out of the pregnancy or confinement rendering the employee unfit for work.

5. (a) Describe the provisions relating to registration of an Association not for profit under Sec.8 of the Companies Act ,2013.

(b) Analyse the procedure for rotation of directors and re-appointment of directors.

[7+7=14]

Answer:

5. (a)

Section 8 of the Companies Act, 2013 lays down provisions relating to companies that do not have a share capital. the section talks about the formulation of companies with charitable objects, where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company -

- a) has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object;
- b) intends to apply its profits, if any, or other income in promoting its objects; and
- c) intends to prohibit the payment of any dividend to its members, the Central Government may, by licence issued in such manner as may be prescribed, and on such conditions as it deems fit, allow that person or association of persons to be registered as a limited company under this section without the addition to its name of the word “Limited”, or as the case may be, the words “Private Limited”, and thereupon the Registrar shall, on application, in the prescribed form, register such person or association of persons as a company under this section.

Such a company registered under this section enjoys all the privileges and is subject to all the obligations of limited companies. A company registered under this section shall not alter the provisions of its memorandum or articles except with the previous approval of the Central Government. Also, among other provisions, the Central Government may, by order, revoke the licence granted to a company registered under this section if the company contravenes any of the requirements of this section or any of the conditions subject to which a licence is issued or the affairs of the company are conducted fraudulently or in a manner violative of the objects of the company or prejudicial to public interest, and without prejudice to any other action against the company under this Act, direct the company to convert its status and change its name to add the word “Limited” or the words “Private Limited”, as the case may be, to its name.

In India, a non-profit organization can be registered as Trust by executing a Trust deed or as a Society under the Registrar of Societies, or as a private limited non-profit company under Section 8 Company under the Companies Act, 2013. A Section 8 Company is the same as the

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popular Section 25 of the old Companies Act, 1956, which was one of the most popular forms of Non-Profit Organizations in India.

There are many exemptions that a Section 8 company enjoys, such as, appointment of a qualified company secretary is not mandatory in such companies. Moreover, a general meeting of a Section 8 company can be held by giving 14 days' notice instead of the mandatory 21 days' notice, also, the provisions relating to appointment of directors under Section 149 regarding maximum and minimum number of directors is not applicable to such companies. Multiple compliance aspects have also been relaxed for such companies under the Companies Act, 2013.

5.(b)

If the articles of association provided for retirement of all directors in the annual general meeting, then all the directors are liable to retire. According to sec 152(6) of the Companies Act, 2013, 2/3rd of the total number of directors are liable to retire by rotation and those directors are called as retiring directors. Out of the retiring directors (2/3rd of total number of directors) 1/3rd of directors is liable to vacate the office. The directors who were in the office for the longer period is liable to retire first. However, if the two or more directors have been appointed on the same day then directors will retire based on the mutual understanding between them and when mutual understanding is not available then they retire based on draw by lots. Section 152(6) provides that unless the articles provides otherwise for the retirement of all directors at every annual general meeting, not less the two-third (2/3rd) of the total number of directors (excluding independent directors, whether appointed under this act or under any other law) of a public company shall:

1. be persons whose period of office is liable to determination by retirement of directors by rotation; and
2. save as otherwise expressly provided in this Act, be appointed by the company in general meeting. The remaining directors (i.e. non-rotational/non-retiring/permanent directors) in the case of public company shall be appointed as per provisions contained in the articles of the company. Where a director retires by rotation at the annual general meeting of a company, the company at the same meeting may appoint: i. the retiring director; or ii. some other person in the vacancy.

6. (a) Demonstrate the functions of audit committee are contained in Sec. 177 of the Companies Act 2013.

(b) Analyse the powers and restrictions of board of directors under Companies Act, 2013.

[7+7=14]

Answer:

6.(a)



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1. The Board of Directors of [every listed public company] and such other class or classes of companies, as may be prescribed, shall constitute an Audit Committee.
2. The Audit Committee shall consist of a minimum of three directors with independent directors forming a majority: Provided that majority of members of Audit Committee including its Chairperson shall be persons with ability to read and understand, the financial statement.
3. Every Audit Committee of a company existing immediately before the commencement of this Act shall, within one year of such commencement, be reconstituted in accordance with sub-section (2).
4. Every Audit Committee shall act in accordance with the terms of reference specified in writing by the Board which shall, inter alia, include, –
 - i. the recommendation for appointment, remuneration and terms of appointment of auditors of the company;
 - ii. review and monitor the auditor's independence and performance, and effectiveness of audit process;
 - iii. examination of the financial statement and the auditors' report thereon;
 - iv. approval or any subsequent modification of transactions of the company with related parties;

Provided that the Audit Committee may make omnibus approval for related party transactions proposed to be entered into by the company subject to such conditions as may be prescribed;

Provided further that in case of transaction, other than transactions referred to in section 188, and where Audit Committee does not approve the transaction, it shall make its recommendations to the Board:

Provided also that in case any transaction involving any amount not exceeding one crore rupees is entered into by a director or officer of the company without obtaining the approval of the Audit Committee and it is not ratified by the Audit Committee within three months from the date of the transaction, such transaction shall be voidable at the option of the Audit Committee and if the transaction is with the related party to any director or is authorised by any other director, the director concerned shall indemnify the company against any loss incurred by it:

Provided also that the provisions of this clause shall not apply to a transaction, other than a transaction referred to in section 188, between a holding company and its wholly owned subsidiary company.

- v. scrutiny of inter-corporate loans and investments;
- vi. valuation of undertakings or assets of the company, wherever it is necessary;
- vii. evaluation of internal financial controls and risk management systems;



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- viii. monitoring the end use of funds raised through public offers and related matters.
5. The Audit Committee may call for the comments of the auditors about internal control systems, the scope of audit, including the observations of the auditors and review of financial statement before their submission to the Board and may also discuss any related issues with the internal and statutory auditors and the management of the company.
 6. The Audit Committee shall have authority to investigate into any matter in relation to the items specified in sub-section (4) or referred to it by the Board and for this purpose shall have power to obtain professional advice from external sources and have full access to information contained in the records of the company.
 7. The auditors of a company and the key managerial personnel shall have a right to be heard in the meetings of the Audit Committee when it considers the auditor's report but shall not have the right to vote.
 8. The Board's report under sub-section (3) of section 134 shall disclose the composition of an Audit Committee and where the Board had not accepted any recommendation of the Audit Committee, the same shall be disclosed in such report along with the reasons therefor.
 9. Every listed company or such class or classes of companies, as may be prescribed, shall establish a vigil mechanism for directors and employees to report genuine concerns in such manner as may be prescribed.
 10. The vigil mechanism under sub-section (9) shall provide for adequate safeguards against victimisation of persons who use such mechanism and make provision for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases.

6.(b)

As per Company law powers of Company are exercise either by Board of Directors or by Shareholders. The relationship of Board of Directors and Shareholders is like federation. Some powers are exclusively reserved for Board of Directors and some are exercise by board of directors after the approval of shareholders either by Ordinary resolution or by Special Resolution. Section 180 of the Companies Act, 2013 talks about the restriction on the Powers of Board of Directors.

As per the provisions of Section 179(1) Board of Directors are entitled to exercise all such powers, and to do any act or thing on behalf of Company, as the company is authorised to exercise and do, provided:

1. Exercising such power or doing such act or thing, the Board shall be subject to the provisions contained in that behalf in Companies Act, or in the memorandum or articles, or in any regulations duly made thereunder, including regulations made by the company in general meeting:

It means such powers should be well in the limits of Companies act, Memorandum of Association, Article or Association or any regulation or rule made under Companies Act or any regulation made by company in General Meeting. Board cannot exercise any



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power which is in contradiction to Act, MOA, AOA or any regulation under Companies Act or any regulation made by company in general meeting.

2. Board shall not exercise any power or do any act or thing which is directed or required, whether under this Act or by the memorandum or articles of the company or otherwise, to be exercised or done by the company in general meeting. It means that Board of Directors cannot exercise those powers on its own which are required to be exercised by the shareholders in general meeting, whether under this Act or any other act or by the memorandum or articles of the company or otherwise.

Restriction on the power of board are imposed under various sections of Companies Act, 2013 such as Section 62,42,152,180,13,66,188,149 and under many other sections under Companies Act, 2013. It may be noted that restriction can be imposed by any other Act also. (Here we can say that board of directors have restricted powers on those matters in which approval of shareholders is required).

So now it is very much clear that in order to exercise any such power of the company which requires the approval of shareholders in that matter then Board shall obtain the approval of shareholders by way of Ordinary Resolution or Special Resolution, as the case may be, before using such power.

Section 180 of Companies Act, 2013 prescribed certain matters for which Shareholders approval by way of Special Resolution is necessary before exercising such power by Board of directors. Here we can say that Section 180 imposed the restrictions on the general powers of the Board of directors. In order to achieve the matters of Section 180, Board of Directors require the approval of Shareholders approval by way of Special Resolution.

1. To sell, lease or otherwise dispose of the whole undertaking or substantially the whole of the of the company or where the company owns more than one undertaking, of the whole or substantially the whole of any of such undertakings.
2. To invest otherwise in trust securities, the amount of compensation received by it as a result of any merger or amalgamation.
3. To borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital, free reserves and securities premium, apart from temporary loans obtained from the company's bankers in the ordinary course of business.
4. To remit, or give time for the repayment of, any debt due from a director.

7. (a) Explain the nature of ethics and its importance in business



(b) Summarize the concept of emotional intelligence.

[7+7=14]

Answer:

7.(a)

Several factors play a role in the success of a company that is beyond the scope of financial statements alone. Organizational culture, management philosophy and ethics in business each have an impact on how well a business performs in the long term. No matter the size, industry or level of profitability of an organization, business ethics are one of the most important aspects of long-term success.

The management team sets the tone for how the entire company runs on a day-to-day basis. When the prevailing management philosophy is based on ethical practices and behavior, leaders within an organization can direct employees by example and guide them in making decisions that are not only beneficial to them as individuals, but also to the organization as a whole. Building on a foundation of ethical behavior helps create long lasting positive effects for a company, including the ability to attract and retain highly talented individuals and building and maintaining a positive reputation within the community. Running a business in an ethical manner from the top down builds a stronger bond between individuals on the management team, further creating stability within the company.

When management is leading an organization in an ethical manner, employees follow in those footsteps. Employees make better decisions in less time with business ethics as a guiding principle; this increases productivity and overall employee morale. When employees complete work in a way that is based on honesty and integrity, the whole organization benefits. Employees who work for a corporation that demands a high standard of business ethics in all facets of operations are more likely to perform their job duties at a higher level and are also more inclined to stay loyal to that organization.

The importance of business ethics reaches far beyond employee loyalty and morale or the strength of a management team bond. As with all business initiatives, the ethical operation of a company is directly related to profitability in both the short and long term. The reputation of a business from the surrounding community, other businesses and individual investors is paramount in determining whether a company is a worthwhile investment. If a company's reputation is less than perfect based on the perception that it does not operate ethically, investors are less inclined to buy stock or otherwise support its operations. With consistent ethical behavior comes increasingly positive public image, and there are few other considerations as important to potential investors and current shareholders. To retain a positive image, businesses must be committed to operating on an ethical foundation as it relates to treatment of employees, respect to the surrounding environment and fair market practices in terms of price and consumer treatment, business ethics is an applied ethics.



7.(b)

Emotional intelligence also known as emotional quotient or EQ, is the ability to understand, use, and manage your own emotions in positive ways to relieve stress, communicate effectively, empathize with others, overcome challenges and defuse conflict. Emotional intelligence helps you build stronger relationships, succeed at school and work, and achieve your career and personal goals. It can also

help you to connect with your feelings, turn intention into action, and make informed decisions about what matters most to you.

Emotional intelligence is commonly defined by four attributes

- Self-management – You're able to control impulsive feelings and behaviors, manage your emotions in healthy ways, take initiative, follow through on commitments, and adapt to changing circumstances.
- Self-awareness – You recognize your own emotions and how they affect your thoughts and behavior. You know your strengths and weaknesses, and have self-confidence.
- Social awareness – You have empathy. You can understand the emotions, needs, and concerns of other people, pick up on emotional cues, feel comfortable socially, and recognize the power dynamics in a group or organization.
- Relationship management – You know how to develop and maintain good relationships, communicate clearly, inspire and influence others, work well in a team, and manage conflict.

Emotional intelligence is important -

As we know, it's not the smartest people who are the most successful or the most fulfilled in life. You probably know people who are academically brilliant and yet are socially inept and unsuccessful at work or in their personal relationships. Intellectual ability or your intelligence quotient (IQ) isn't enough on its own to achieve success in life.

Emotional intelligence affects: -

Your performance at school or work: High emotional intelligence can help you navigate the social complexities of the workplace, lead and motivate others, and excel in your career. In fact, when it comes to gauging important job candidates, many companies now rate emotional intelligence as important as technical ability and employ EQ testing before hiring.

Your physical health: If you're unable to manage your emotions, you are probably not managing your stress either. This can lead to serious health problems. Uncontrolled stress raises blood pressure, suppresses the immune system, increases the risk of heart attacks and strokes, contributes to infertility, and speeds up the aging process. The first step to improving emotional intelligence is to learn how to manage stress.

Your mental health: Uncontrolled emotions and stress can also impact your mental health, making you vulnerable to anxiety and depression. If you are unable to understand, get

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comfortable with, or manage your emotions, you'll also struggle to form strong relationships. This in turn can leave you feeling lonely and isolated and further exacerbate any mental health problems.

Your relationships: By understanding your emotions and how to control them, you're better able to express how you feel and understand how others are feeling. This allows you to communicate more effectively and forge stronger relationships, both at work and in your personal life.

Conclusion

Business ethics is important to practice good ethical behavior. One of the most formidable challenges is avoiding immoral management, and transitioning from an amoral to a moral management mode of leadership, behavior, decision making, policies and practices. Moral management requires ethical leadership. It entails more than just 'not doing wrong'.

Moral management requires that managers search out of those vulnerable situations in which amorality may reign if careful, thoughtful reflection is not given by management. Moral management requires that managers understand, and be sensitive to, all the stakeholders of the organization and their stakes. If the moral management model is to be achieved, managers need to integrate ethical wisdom with their managerial wisdom and take steps to create and sustain an ethical climate in their organizations.

8. (a) **Miss Chitra, a singer, enters into a contract with the manager of Bangalore Gate Club, to sing in the Club for two concerts every week during the next two months and the club agrees to pay her at the rate ₹ 15000 for each concert. On the seventh concert Miss Chitra wilfully absents herself. With the assent of the manager of the club, Miss Chitra sings for eighth concert. But on the following day, the club, puts an end to contract. Can Miss. Chitra claim damages for breach of contract? advise**
- (b) **A Ltd. Issued a notice for holding of its AGM on 7th November 2022. The Notice was posted to the members on 16th October, 2022. Some of the members alleged that the company had not complied with provisions of the Act with regard to the period of notice and such the meeting was not validity called. Decide.**
- (i) **Whether the meeting has been validly called?**
- (ii) **If there is a shortfall in the number of days by which the notice falls short of statutory requirement, explain by how many days the notice falls short of statutory requirement?**
- Can the shortfall, if any, condoned? [7+7=14]**

Answer:



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8.(a) On the seventh Concert when Miss Chitra wilfully absents herself, the club is at liberty to put an end to the contract, if Miss. Chitra sings on the eighth Concert with the consent of the club. The club is entitled to compensation for the damage sustained because of Miss. Chitra's failure to sing on the seventh concert. If the club puts an end to the contract, Miss Chitra can claim damages for breach of contract [sec. 39 of the The Indian Contract Act, 1872].

8.(b)

Day of holding the AGM 7th November, 2022.

Day of despatch of notice 16th October, 2022.

Days to be excluded

- Day of holding the AGM (i.e., 7th November, 2022)
- Day of despatch of notice (16th October, 2022)
- 2 days for service of notice (i.e., 17th and 18th October, 2022).
-

Number of days' notice given = 19 days.

Number of days' notice required u/s 101 = 21 days.

(a) AGM has not been validly called - since 21 days' notice of the AGM has not been given to the members.

(b) The notice is short - by 2 days.

(c) The shortfall may be condoned - if consent is given for such shorter notice by at least 95% of the members entitled to vote at such AGM.