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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) A company incorporated under the Companies Act, 2013, being an artificial person, is not entitled to sue a natural person or to sue another company incorporated under the same Act.
- (b) A company incorporated under the Companies Act, 2013 does not have the right to reduce its share capital on selective basis.
- (c) A public limited company incorporated under the Companies Act, 2013 may amend its articles of association so as to confer upon it power to forfeit the shares of those members who have defaulted in the payment of calls made by the company.
- (d) A company incorporated under the Companies Act, 2013 never dies except when it is wound-up as per the law.

(5 marks each)

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

2. Distinguish between the following :

- (a) 'Company' and 'limited liability partnership'.
- (b) 'Preference shares' and 'equity shares'.
- (c) 'Memorandum of association' and 'articles of association'.
- (d) 'Red-herring prospectus' and 'abridged prospectus'.

(4 marks each)

OR (Alternate question to Q.No. 2)

- 2A. (i) Explain clearly the meaning of 'lifting of corporate veil' in relation to a company incorporated under the Companies Act, 2013. Examining the judicial decisions, state whether 'corporate veil' can be lifted in the following cases :
- (a) Where the corporate veil has been used for improper conduct; and
 (b) Where the acts of a company are opposed to workmen ?

(4 marks)

- (ii) As the Company Secretary of Joy Ltd., what steps would you take in case the scheduled Board meeting could not complete the agenda slated thereat. The items of business left untransacted are of extreme importance for the company's growth and the same cannot be deferred until the next Board meeting because of urgency. Advise the Board about the steps to be taken to get the untransacted items passed.

(4 marks)

- (iii) ABC Ltd. is a company incorporated under the Companies Act, 2013. The paid-up share capital of the company is held as under :

— Government of India	20%
— Government of Andhra Pradesh	20%
— Government of Tamil Nadu	10%
— Government of Maharashtra	10%

Explaining the provisions of the Companies Act, 2013, state whether the said company be called a 'Government company' and also state whether the employees of a Government company can claim their salaries from the Government of India.

(4 marks)

- (iv) Reliable Ltd. holds 75% of the paid-up share capital in Trust Ltd. Board of directors of Trust Ltd. decides and resolves to hold 10% of the paid-up share capital in Reliable Ltd. The Board's proposal was also approved by Trust Ltd. in its general meeting. However, certain members of Trust Ltd. objected to the decision on the ground that both the Board's proposal and the resolution of the general meeting are in violation of the provisions of the Companies Act, 2013. Examine.

(4 marks)

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

3. (a) Referring to the provisions of the Companies Act, 2013, state as to when shall a company incorporated outside India be considered as a 'foreign company' within the meaning of the Companies Act, 2013. Also examining the provisions of the Act, state whether in the following cases, the company shall be considered as a 'foreign company' :
- (i) A company incorporated outside India has a representative in India, who on behalf of the company merely receives orders from the customers.
- (ii) A company incorporated outside India holds its Board meetings and general meetings in India.

(4 marks)

- (b) Net profits of PQR Ltd. during the following years as disclosed in the statement of profit and loss are as under :

<i>Financial year ended</i>	<i>Net profits (₹ in crore)</i>
31 st March, 2013	10
31 st March, 2014	12
31 st March, 2015	08

The Board of directors of the company at its meeting decides to contribute to a charitable organisation, for charitable purposes, a sum of ₹3 crore out of the net profits of the financial year ended 31st March, 2015. This contribution has been made by the Board without seeking approval of shareholders in general meeting.

In the light of the provisions of the Companies Act, 2013, examine the validity of the contribution made by the company. What shall be your answer in case the Board decides to contribute ₹1 crore only ?

(4 marks)

- (c) A group of persons wants to form a company for a future project and acquire the status of a 'dormant company'. The group seeks your advice about the procedure and the conditions to be complied with. State the privileges and exemptions available to such a company under the provisions of the Companies Act, 2013.

(4 marks)

- (d) Manohar, the auditor of Belle Ltd. appointed by the company in its last general meeting has resigned from the office of auditor of the company for some personal reasons. Referring to the provisions of the Companies Act, 2013, answer the following :
- (i) Who is the competent authority to accept and approve the resignation ?
 - (ii) State the manner in which the vacancy caused by Manohar's resignation shall be filled in.

(4 marks)

OR (Alternate question to Q.No. 3)

- 3A. (i) Board of directors of Divine Ltd. decides to enter into a contract whereby Manish, a director of the company shall acquire certain assets from the company for consideration other than cash, without seeking approval of the company in its general meeting. Certain shareholders of the company object to the said decision of the Board. Referring to the provisions of the Companies Act, 2013, examine the validity of the Board's decision and state whether the contention of the shareholders shall be tenable.

(4 marks)

- (ii) Surprise Ltd. was incorporated under the Companies Act, 2013. The memorandum of association of the company in its objects clause stated that the company was established to make and sell or to carry on the business of mechanical engineers and general contractors. The company entered into a contract with Prominent Ltd., a firm of railway contractors to finance the construction of a railway line in Mumbai. The contract was ratified by the shareholders in general meeting. Subsequently, the contract was repudiated by the company on the ground that the contract was *ultra vires* the objects clause. Prominent Ltd. filed a suit claiming damages for the breach of contract.

Explaining the meaning of doctrine of *ultra vires*, decide whether Prominent Ltd. will succeed.

(4 marks)

- (iii) Explain the provisions of the Companies Act, 2013 relating to shifting of the registered office of a company from one State to another.

(4 marks)

- (iv) Adorable Ltd., incorporated under the Companies Act, 2013 has on its Board, 5 directors and a Managing Director. The company has also appointed a Company Secretary. The financial statements of the company, *viz.*, balance sheet and statement of profit and loss for the year ended 31st March, 2015, were authenticated under signatures of one director and the Company Secretary.

Referring to the provisions of the Companies Act, 2013, examine the validity of authentication. What shall be your answer in case the company in question is a 'one person company' ?

(4 marks)

4. (a) In view of the provisions of the Companies Act, 2013 relating to 'securities premium', state whether the amount lying in securities premium account of a company can be used :
- For issuance of bonus shares; and
 - For payment of dividend declared by the company at its general meeting.

(4 marks)

- (b) Board of directors of Pious Ltd. gives you the following information extracted from the company's financial statements as at 31st March, 2015 :

		₹
Authorised equity share capital	10 crore
<i>(1 crore shares of ₹10 each)</i>		
Paid-up equity share capital	5 crore
General reserve	5 crore
Debenture redemption reserve	2 crore

Board of directors by a resolution passed at its meeting decides to go for buy-back of shares to the extent of 20% of the company's paid-up share capital and free reserves. Examine the validity of the Board's resolution with reference to the provisions of the Companies Act, 2013.

(4 marks)

- (c) Explain clearly the meaning of the terms 'fixed charge' and 'floating charge'. State the circumstances under which a 'floating charge' automatically becomes 'fixed'.
(4 marks)
- (d) Examine the validity of transfer and transmission of shares in favour of a minor under the provisions of the Companies Act, 2013.
(4 marks)
5. (a) In Bright Ltd., vacancy of a director is caused by the death of Mohan, a director of the company, after three months of his joining the company as director. The Board of the company, therefore, appointed Sumit in his place but did not seek approval of the company in general meeting. Referring to the provisions of the Companies Act, 2013, examine the validity of Sumit's appointment.
(4 marks)
- (b) Johnson, a director in Disha Ltd. proceeds on leave for 8 months to France for personal reasons. Board of directors at a meeting appoints Peter for a period of two months, as an alternate director. Articles of association of the company do not confer upon the Board of directors any such power to appoint anyone as alternate director. Referring to the provisions of the Companies Act, 2013, examine the validity of the above appointment. What shall be your answer in case the Board appoints Peter for the entire period of Johnson's leave ?
(4 marks)
- (c) Examining the provisions of the Companies Act, 2013, relating to the constitution of a 'Nomination and Remuneration Committee' and 'Stakeholders Relationship Committee', answer the following :
- (i) Is it mandatory for a listed company to constitute such committees ? Also state whether it is mandatory for a non-listed public company having paid-up share capital of ₹5 crore to constitute such committees ?
- (ii) What shall be the composition of the committees in case the company is required to constitute such committees ?
(4 marks)

(d) In terms of the provisions of the Companies Act, 2013, answer the following :

- (i) Which companies are required to have independent directors ?
- (ii) What is the tenure of independent directors and the number of terms for which such a director can be appointed ? Are independent directors required to hold meetings of their own without the presence of non-independent directors ?

(4 marks)

6. (a) Explain with reference to the provisions of the Companies Act, 2013, the meaning and importance of 'secretarial audit'. Which companies are required to get the 'secretarial audit' conducted ?

(4 marks)

(b) Who are key managerial personnels (KMPs) ? State the manner in which they can be appointed in a company.

(4 marks)

(c) Ms. Jyoti is the Managing Director of Wise (India) Ltd., incorporated under the Companies Act, 2013. Board of directors of the company presents the following financial data extracted from the company's financial statements as at 31st March, 2015 :

<i>Particulars</i>	<i>₹ (in crore)</i>
Authorised equity share capital ..	60
Paid-up equity share capital ..	10
Debenture redemption reserve ..	10
Securities premium account ..	20
Profit and loss (<i>loss</i>) ..	(10)
Revaluation reserve ..	20

Due to losses in the financial year 2014-15, the company is not in a position to pay any remuneration to Ms. Jyoti, Managing Director of the company. As per the agreement of service between Ms. Jyoti and the company, in case of losses or inadequacy of profits in any financial year, she is to be paid remuneration on the basis of 'effective capital' of the company.

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Based on the provisions of the Companies Act, 2013, decide the maximum remuneration payable to Ms. Jyoti for the financial year 2014-15 without the approval of the Central Government.

(4 marks)

- (d) Referring to the provisions of the Companies Act, 2013, state the grounds on which the Registrar of Companies can file a petition for winding-up of a company.

(4 marks)

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