

CA – Inter (New Syllabus)
Paper – 2 “Corporate and Other Laws”

M.M.: 35**Time allowed: 60 Mins.****Instructions: All Questions of Division A are compulsory.**

Division A – Multiple Choice Questions		Marks
Case Scenario 1		
Q.1	(c) Register of members can be kept at Nainital liaison office, after passing a special resolution, because more than 1/10th of the total members entered in the register of members reside there.	2
Q.2	(d) Acceptance of deposits by DBSL would be in violation of provisions of law, because the maximum period of acceptance of deposit cannot exceed 36 months.	2
Q.3	(b) The charge can be registered, if registrar permits with payment of ad-valorem fees	2
General MCQs		
Q.4	(d) No, the signing is not in order, since in case the Chairman is unable to sign, the report shall be signed by any two directors of the company, one of whom shall be the Managing director, if there is one and company secretary of the company.	1
Q.5	(c) Registered office of the company Yellow Limited.	1
Q.6	(c) Eight years from the financial year in which the latest entry is made in the Register.	1
Q.7	(c) 18%	1

DIVISION B – DESCRIPTIVE QUESTION

Q. No. 1 is compulsory. Attempt any four questions from the Rest

- Q.1 (a) Validity of EGM called by Members:**
- Sec. 100 of the Companies Act, 2013 provides that the Board shall, in the case of a company having a share capital, at the requisition made by such number of members who hold, on the date of the receipt of the requisition, not less than 1/10th of such of the paid-up share capital of the company as on that date carries the right of voting, call an extraordinary general meeting of the company within 21 days from the date of receipt of a valid requisition. 2
 - The requisition shall set out the matters for the consideration of which the meeting is to be called and shall be signed by the requisitionists and sent to the registered office of the company. 1
 - If the Board does not proceed to call a meeting for the consideration of that matter on a day not later than 45 days from the date of receipt of such requisition, the meeting may be called and held by the requisitionists themselves within a period of 3 months from the date of the requisition. 1

- Resolutions properly passed at such a meeting, are binding on the company.

Conclusion: If the conditions as stated u/s 100 are complied with, the resolution removing the managing director passed in EGM called by the requisitionists shall be valid.

1

(b) Creation of Security:

- As per Rule 6 of Companies (Acceptance of Deposit) Rules, 2014, for the purposes of providing security, every company inviting secured deposits shall provide for security by way of a charge on its assets excluding intangible assets of the company for the due repayment of the amount of deposit and interest payable thereon.

2

- The security shall be created in favour of a trustee for the depositors on specific movable and immovable property of the company.

- In the present case, amount of secured deposit is ₹ 100 crores and interest payable thereon is 12% p.a. for 3 years. Total amount of deposit and interest payable will be ₹ 136 crores. Hence, company is required to create charge for ₹ 136 crores. Value of tangible assets on which charge is created is ₹ 100 crores. Charge created on trade mark and goodwill will not be considered for this purpose.

1

Conclusion: Charge created by the company is not valid as charge created by the company is on tangible as well as intangible assets and value of tangible assets is less than ₹ 136 crore.

1

Q.2 Creation of charge for Working Capital Loan:

- As per Sec. 2(16) of the Companies Act, 2013, “charge” means an interest or lien created on the property or assets of a company or any of its undertakings or both as security and includes mortgage.

- Whenever a company borrows money by way of loans including term loans or working capital loans from financial institutions or banks or any other persons, by offering its property or assets, as security a charge is created on such property or assets in favour of the lender. Such a charge is compulsorily registrable under the provisions of the Companies Act, 2013.

2

- Thus, when Krish (Private) Limited obtains working capital loans from financial institutions by offering stock and Accounts Receivables as security, it is required to create a charge on such property or assets in favour of the lender. Hence, for ₹ 25 Lakh working capital loan, it is required to create a charge on it.

1

- Krish (Private) Limited is not required to create a charge for ₹ 5 Lakh adhoc overdraft on the personal guarantee of a director. Since, charge is always created on the property or assets of a company and personal guarantee of director is not a property or asset of company.

1

Q.3 Deposits:

- As per Rule 2(1)(c)(viii) of the Companies (Acceptance of Deposits) Rules, 2014, any amount received from a person who, at the time of the receipt of the amount, was a director of the company or a relative of the director of the private company, is not considered as deposit.

1

- The director of the company or relative of the director of the private company, as the case may be, from whom money is received, is required to furnish to the company at the time of giving the money, a declaration in writing to the effect that the amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others and the company shall disclose the details of money so accepted in the Board's report.

1

- ₹ 3,00,000 received by Sasha Private Limited, from one of the relatives of a Director. When the relative furnishes a declaration that the said amount was received by him from his mother as a gift, then it will not be considered as deposit in terms of sub-clause (viii) of Rule 2 (1) (c).

2

Conclusion: Amount given to the private company out of gifted money by one of the relatives of a director is not a 'deposit'. As an additional requirement, the company shall disclose the details of money so accepted in the Board's report.

Q.4 Voting in case of joint Shareholders:

- The voting in case of joint shareholders is done in the order of seniority, which is determined on the basis of the order in which their names appear in the register of members/ shareholders. The joint- holders have a right to instruct the company as to the order in which their names are to appear in the register.

1

- As per Rule 21 of the Companies (Management and Administration) Rules, 2014, the Scrutinizers shall arrange for Polling papers and distribute them to the members and proxies present at the meeting; in case of joint shareholders, the polling paper shall be given to the first named holder or in his absence to the joint holder attending the meeting as appearing in the chronological order in the folio.

2

Conclusion: In the given case, 'A' or his wife 'B', whosoever names appear first in chronological order in the register of members/ shareholders shall be entitled to vote.

1

Q.5 Registration of Charge:

As per the provisions of Section 77 of the Companies Act, 2013, in case the charge was not registered within 30 days of creation of the charge, the Registrar may, on an application by the company, allow such registration to be made within a period of 60 days of such creation (i.e. another 30 days are granted after the expiry of original 30 days), on payment of additional fees as prescribed.

2

Procedure for Extension of Time Limit:

For seeking extension of time, the company is required to make an application to the Registrar in the prescribed form. It should be supported by a declaration from the company signed by its company secretary or a director that such belated filing shall not adversely affect the rights of any other intervening creditors of the company.

2

The application so made must satisfy the Registrar that the company had sufficient cause for not filing the particulars and the instrument of charge, if any, within the original period of thirty days. Only then he will allow registration of charge within the extended period. Further, requisite additional fee or advalorem fee, as applicable, must also be paid.

Q.6 Requirement of Quorum:

- As per Sec. 103 of the Companies Act, 2013, unless the articles of the company provide for a larger number in case of a public company, 5 members personally present if the number of members as on the date of meeting is not more than 1,000, shall be the quorum. 0.5
 - In this case the quorum for holding a general meeting is 7 members to be personally present (higher of 5 or 7). For the purpose of quorum, only those members are counted who are entitled to vote on resolution proposed to be passed in the meeting. 0.5
 - Again, only members present in person and not by proxy are to be counted. Hence, proxies whether they are members or not will have to be excluded for the purposes of quorum. 0.5
 - If a company is a member of another company, it may authorize a person by resolution to act as its representative at a meeting of the latter company, then such a person shall be deemed to be a member present in person and counted for the purpose of quorum. Where two or more companies which are members of another company, appoint a single person as their representative then each such company will be counted as quorum at a meeting of the latter company. 0.5
 - Further the President of India or Governor of a State, if he is a member of a company, may appoint such a person as he thinks fit, to act as his representative at any meeting of the company. A person so appointed shall be deemed to be a member of such a company and thus considered as member personally present. 0.5
 - In view of the above there are only 3 members personally present.
 - ‘A’ will be included for the purpose of quorum. B & C have to be excluded for the purpose of quorum because they represent the preference shares and since the agenda being the appointment of Managing Director, their rights cannot be said to be directly affected and therefore, they shall not have voting rights. D will have two votes for the purpose of quorum as he represents two companies Green Limited and Blue Limited. E, F, G and H are not to be included as they are not members but representing as proxies for the members. 1
- Conclusion:** It can be said that the requirement of quorum has not been met and it shall not constitute a valid quorum for the meeting. 1
