

NATIONAL LAW UNIVERSITY, DELHI
B.A.LLB.(Hons.): IV-YEAR, VIII-SEMESTER
Special Repeat Examinations, September--2016

Paper 8.1: Corporate Laws-II

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper except your Roll No.
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Q.1 NLU Limited was incorporated on 1st April, 2012. The Company got its shares listed at Bombay Stock Exchange on 30th September, 2013. The Company at an Extra-Ordinary General Meeting held on 31st October, 2015, decided to go for public issue of equity shares to an extent of Rs. 300 crores. The net worth of the Company as per the audited Balance sheets in the financial years 2013-14 and 2014-15 was Rs.50 crores and 60 crores respectively. During the financial year 2015-16 the Company had already issued equity shares amounting to Rs. 20 crores. There is no change in the name of the Company or its business activities during the financial year 2015-2016. Referring to the guidelines issued by Securities and Exchange Board of India, advise the Company on the following:

- (i) Whether the Company can go ahead with the public issue of equity shares as stated above. **(5 Marks)**
- (ii) What would be your advice in case the net worth of the Company as per audited balance sheets in the financial years 2013-14 and 2015-16 was Rs. 20 crores and 30 crores respectively? **(5 Marks)**
- (iii) What would be the position in case the Company in question changed its name to DLU Limited during the year 2015-16, three months before filing the offer document and the revenue due to change of business activity suggested by the new name during the financial year 2015-16 was less than 40% of the total revenue for the financial year 2014-15 reckoned from the date of filing the offer document? **(5 Marks)**

Q.2 PCK Ltd., a giant real estate company, launched a project called 'Himalayan Heights' a new generation project in RCN, Delhi in 2010. PCK Ltd. promised to deliver the possession in five years, i.e. 2015. However, it failed to do so and the project got delayed due to multiple irregularities. One of the main reasons for the delay was that PCK had accepted the bookings without getting appropriate approvals from the concerned authorities. Later on, the developer arbitrarily raised the number of floors from 10, as contemplated in the original agreement, to 20 without taking the prospective buyers into confidence. The original agreement had several clauses that empowered PCK Ltd. to make changes without buyer's consent.

Decide whether the conduct of PCK Ltd. is arbitrary and anti-competitive or not. Substantiate your answer with the help of provisions of the Competition Act and relevant case laws. **(15 Marks)**

Q.3 Primark is a banking company in India. It has a bad debt or non-performing assets of Rs 4 crores and receivables of 3 crores respectively. Primark wants to move for securitisation process to improve liquidity. In view of these facts:

- a. Advise Primark about the feasibility of securitisation for its debts and assets explaining the concept of securitisation. **(5 marks)**
- b. Formulate the securitisation process for Primark step by step. **(5 marks)**

Q.4a. What do you understand by the term 'derivatives'? Discuss different types of derivative instruments and their regulation by SEBI. **(7.5 Marks)**

- b. Explain anti-competitive agreements which are likely to have adverse effect on competition citing relevant case. **(7.5 Marks)**

Q.5 ABC Ltd is a listed company. It wants to raise funds through private placement of securities. Explain the important aspects of such issue which the company should comply with in reference to the relevant regulations. **(15 Marks)**

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Paper 8.2: Taxation Laws

Time: 3.00 Hours

Total Marks: 70

Instructions:

1. Read the questions carefully and answer.
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- Q.1 Mr. Mohan was engaged in business of financing films, producing Films and distributing Films. Under an agreement he had advanced certain amount to Mr. Kalyan for distribution of a film, namely KABAB, and there was a stipulation in agreement that if KABAB was not released within specified time, Mr. Kalyan (distributor) would refund all amounts advanced to him by Mr. Mohan with interest (15% per annum). However, Mr. Kalyan failed to exhibit KABAB film with specified date and when film was ultimately released it was a big flop and certain amount of advance given by Mohan was found irrecoverable. In the light of the above facts:
- (a) Explain with the help of cases, whether in view of agreement it could be said that there was a contract of loan between parties and principal amount became payable from said stipulated date with interest. And, **(10 Marks)**
 - (b) Explain whether, therefore, Mohan was entitled to claim said irrecoverable amount as bad debt under Income Tax Act, 1961. **(10 Marks)**
- Q.2 A search was conducted at Neeraj's business and residential premises on the day of Diwali (when he was not present at his home, and only his wife, son and grandfather was present), under section 132 of Income Tax Act, 1961 and various articles consisting of account books, documents, cash, jewellery and other valuables were seized by the income-tax authorities. Neeraj had filed a writ petition before the Supreme Court challenging the Constitutional validity of section 132 (1) of Income Tax Act 1961 and Rule 112A of Income Tax Rules on the ground that these provisions are violative of the fundamental rights guaranteed by articles 14 and 19(1)(g) of the Constitution.
- In the light of the above facts:
- (a) Explain whether the Tax officials can raid the residential and business premises of Neeraj on Diwali day and, **(10 Marks)**
 - (b) Explain whether provisions of section 132 of Income Tax Act 1961 are violative of Article 14 of the Constitution of India 1950 or not. **(10 Marks)**
- Q.3 Ascertain the tax liability of the incomes given below:
- (i) Dividend of Rs 40,000 received by Aditya from an Indian company. **(2 ½ Marks)**
 - (ii) A sum of Rs 90,000 received by Dev from his friend on his birthday. **(2 ½ Marks)**
 - (iii) A sum of Rs 9,00,000 received by David from a reality show in television. **(2 ½ Marks)**
 - (iv) Gold worth Rs 5,00,000 received by Vijay from his uncle on his wedding. **(2 ½ Marks)**
- Q.4(i) The Assessee Rajat owned a law firm which specialized in intellectual property law practice. His wife Ria was in the final year of her LL.B. course. As she had an impressive understanding and knowledge of legal matters he hired her as a consultant in his firm. Apart from looking after some basic secretarial work she counselled the clients on basic law matters on a routine basis. In lieu of this service, the assessee paid her a sum of Rs.90,000 per month as salary. For the financial year 2015-16 the Income Tax Officer clubbed this salary income to Ria in the hands of Rajat. The assessee has objected to this assessment asserting that his wife is a strong independent person and the income is her separate income. Therefore it is desirable that it should be assessed separately in her hands. Decide citing relevant case laws. **(7 Marks)**
- (ii) Dev decided to transfer Rs 5,00,000 in the account of this wife Aditi in the January of 2015. Aditi bought 500 shares of a mutual fund at a sum of Rs 4,00,000 from that amount. In the assessment year 2015-16 the fund paid her sum of Rs 70,000 in lieu of her investment. The Income Tax officer wants to assess the interest income in the hands of the assessee. Decide his tax liability for this sum of money. **(3 Marks)**

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Special Repeat Examinations, September-2016

Paper 8.3: Cyber Laws

Time: 3.00 Hours

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Each Question carries 10 Marks.

Elaborate your answers with help of judicial pronouncements & Illustrations.

- Q.1 Discuss the relevance of technology and surveillance in information society.
- Q.2 Explain data principles and give an account relating to data protection.
- Q.3 Explain the nature and forms of computer frauds with reference to legal response to it.
- Q.4 Explain the requirement for entering in to electronic contract with reference to the provisions of Information Technology Act 2000.
- Q.5 Discuss the nature and importance of digital signature in with reference to legal response to it.
- Q.6 In the age of Information Technology, Internet service providers play a very important role. Elaborate about internet service providers and their liabilities.
- Q.7 What do you understand by domain name? Explain domain name disputes and their resolution with reference to concerned instruments.

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Paper 8.4: Clinic-II

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Q.1(a) The object of pleadings is to assist the court and the parties to the dispute in its adjudication. Explain.

(b) Discuss the essentials of a suit.

(10+5=15 Marks)

Q.2 A and B are owners of adjacent house. A's house is higher than that of B. Through a window in a room on the upper storey on his house A has enjoyed without interruption light and air for 30 years peaceably as an easement. B starts to raise his house. A apprehends that the light and air enjoyed by him through the window will be cut off, if B is allowed to raise his house. A files a suit against B claiming a right of easement of light and air through the window and an injunction restraining B from raising his house or interfering with his light and air in any manner. A wants to apply for an interim injunction against B pending the suit.

Draft the necessary application u/o. 39 R1, 2 CPC r/w Section 151 of CPC.

(10 Marks)

Q.3 By a notification published in the Government Gazette Extraordinary specially issued for the purpose at 12 noon on the 21st August, 2014, the Government promulgated the Conservation of Foreign Exchange (Prohibition) Ordinance and thereby declared smuggling illegal and soon thereafter, the Government arrested and detained Rakesh Kumar in the Tihar Prison alleging that he deals in foreign goods.

In these circumstances, he says that his arrest and detention were illegal. He wants to apply for a writ of Habeas Corpus and instructs you to draft the necessary petition.

Draft the petition on behalf of Rakesh Kumar.

(15 Marks)

Q.4 Asha Kumari, D/o. Desh Raj, R/o. House No.07, Sector-90, Gurgaon married Arun Kumar, S/o. Jai Singh, R/o. House No.67, Sector-6, Hissar about one year back, but the relations between the parties were never cordial because Asha Kumari had an extra marital affair with Anil Kumar who had been working as an Inspector with Panipat Police. When Arun Kumar objected to such affair and did not permit her to go out of the house, Anil Kumar implicated Arun Kumar in a case for selling opium. Now Arun Kumar is apprehending his arrest and approaches you for securing bail.

Draft a suitable application for bail under the relevant provisions of law.

(15 Marks)

Q.5(a) What are the components of a deed? Explain.

(b) Ram Lal has let out his House No.10 in Sector-10, Dwarka on rent to Ashok Kumar on a monthly rent of Rs.40000/-. Both the parties want that the lease deed be got prepared incorporating the usual terms and conditions.

Draft the lease deed.

(7.5+7.5=15 Marks)