

EXAMINATION OF ARTICLED CLERKS

PAPER II

COMPANY LAW

Wednesday, 9th October, 2019

Time: 3 Hours (1:00 PM to 4:00 PM)

TOTAL MARKS – 100

Notes:

- 1. Read the questions carefully before responding.**
- 2. Answers should be short and precise.**
- 3. Please substantiate your answers, wherever possible, with reference to relevant provisions of law and case law, if any.**

1. Answer in True or False. Please provide one bullet point reason for the same. **20 Marks**

- I. The voting power of a Guarantee Company having share capital is determined by the Guarantee.
- II. A Small Company means a company whose paid up share capital does not exceed One Crore Rupees.
- III. A Small Company includes a Section 8 Company.
- IV. A firm can be a member of a Section 8 company.
- V. The members of an unlimited company are not directly liable to the creditors of the company.
- VI. A subsidiary company can be a member of the holding company.
- VII. A One Person Company may be formed as an unlimited liability company.
- VIII. A Nidhi Company can issue preference shares.
- IX. A company, incorporated to hold the Intellectual Property of Group companies, can obtain the status of a Dormant Company.
- X. A Government company is a company in which not less than fifty per cent of the paid-up share capital is held by Central or State Government or governments or partly by one and partly

by others.

2. Write short notes on any two of the following: **10 Marks**
- I. Declaration in respect of beneficial interest in any shares.
 - II. Calling of Extra Ordinary General Meeting by requisitionists.
 - III. Notice of Meeting and contents of Notice.
3. Write short notes on any two of the following:- **10 Marks**
- I. Terms and conditions for Small Shareholders' Director.
 - II. Disqualification of Directors.
 - III. Independent Directors.
4. Write short notes on any two of the following:- **10 Marks**
- I. Board Meetings through Video Conferencing.
 - II. Resolution by Circulation.
 - III. Vigil Mechanism.
5. Write a brief note on Oppression & Mismanagement and the right to **10 Marks**
apply for prevention of oppression and mismanagement.
6. Write short notes on all 3 of the following: **15 Marks**
- I. Duties and Liabilities of a Promoter.
 - II. Effects of ultra vires transactions by a company.
 - III. Mergers and amalgamation of Companies.
7. M/s. ABC, a proprietary concern, filed a summary suit for recovery of **15 Marks**
amount of Rs. 38,00,000/- against XYZ Pvt. Ltd. being the amount due
for supply of Ferroliquid. XYZ Pvt. Ltd. was granted conditional leave to
defend by furnishing bank guarantee to the tune of the outstanding
amount. XYZ Pvt. Ltd. disputed the payment of the said amount on the
ground that the quality of the material supplied was not satisfactory
and it was substandard. The suit was at the stage of recording of
evidence when the IBC was enacted. State Bank of India being one of
the main creditors of XYZ Pvt. Ltd. filed an application under section 7

of the IBC for initiation of corporate insolvency resolution process. A resolution professional was appointed and requisite public announcements were made. M/s. ABC submitted its application as an operational creditor and was included by the resolution professional in the list of operational creditors. Resolution plan was made, approved by the Committee of Creditors and submitted to the NCLT which granted approval. The Resolution plan in respect of the claim of M/s. ABC had the following Note: *"Claims which are subject to disputes pending before various authorities have been verified with a notional amount of INR 1"*.

XYZ Pvt. Ltd. file an application in the suit filed by M/s. ABC, claiming that the suit was required to be dismissed in view of the aforesaid order of the NCLT under the provisions of the IBC. It was contended that the resolution plan specifically stipulated that no amount was payable to operational creditors like M/s. ABC and that the liability of the petitioner to pay any amount to M/s. ABC stood extinguished.

I. What advise would you give M/s. ABC?

II. Discuss the arguments that could be made to the Court on behalf of M/s. ABC?

8. Write short notes on both of the following:

10 Marks

- i. Fast track corporate insolvency resolution process.
 - ii. Offenses under the IBC.
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