

EXAMINATION OF ARTICLED CLERKS
PAPER III

CORPORATE LAW & TAXATION LAW

Friday, 11th November, 2019

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

TOTAL MARKS – 100

PART I

General Instructions:

- (1) Please answer all questions to the point.
- (2) Answers should be reasoned and if possible supported by case law.

1. Please provide reasons for your answers in not more than 3 bullet points for each sub-question. 9 Marks
 - i. Would the Competition Commission of India have the jurisdiction under Section 26 of the Competition Act, 2002 to entertain a complaint of cartelisation by telecom operators despite a complaint having been made with the Telecom Regulatory Authority of India?
 - ii. Is an order passed under Section 26(1) an administrative order or a quasi-judicial order?
 - iii. Can a Writ Petition challenging an order of the CCI under Section 26(1) be entertained by a High Court?

2. Please provide reasons for your answers in bullet points for each sub-question. 6 Marks
 - (i) Are the conditions stipulated in Clauses (a), (b) and (c) of Section 15-J of the Act exhaustive to govern the discretion in the Adjudicating Officer to decide on the quantum of penalty or are the said conditions merely illustrative?
 - (ii) Does the power and discretion vested by Section 15-J of the Securities and Exchange Board of India Act, 1992 on the Board to decide on the quantum of penalty stand eclipsed by the penalty provisions contained in Section 15-A to Section 15-HA of the SEBI Act?

3. i. Define "Material Subsidiary" under LODR Regulations. Is the requirement of appointment of an Independent Director applicable to an unlisted material subsidiary incorporated outside India? 3 Marks
- ii. What is the maximum number of directorships, including alternate directorships that can be held at any point of time? 2 Marks
- iii. What are the obligations with respect to independent directors under the LODR Regulations? 6 Marks
4. i. What are the restrictions on a company to buy-back its shares? 3 Marks
- ii. What are the obligations of a company buying back its shares? 5 Marks
5. i. Write a short note on the mechanisms to prevent Insider Trading. 5 Marks
- ii. Can SEBI / SAT look into circumstantial evidence while deciding a case of insider trading? Why? 3 Marks
6. i. What is a voluntary open offer? What are the restrictions on acquirers making a voluntary open offer? 4 Marks
- ii. Can an acquirer withdraw the open offer once made? Give reasons for your answer. 4 Marks
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PART II

- Note:**
1. **Figures to the right indicate full marks.**
 2. **Answer should be legible and to the point.**
 3. **Answer to every question should be on a fresh sheet of paper.**
 4. **Reference to "the Act" means the Income Tax Act 1961.**
 5. **Please support your answers with the relevant provisions of the Act and case law.**

1. What is meant by the term "Clubbing of Income"? To whom will income arising by virtue of a transfer, without transfer of the asset be chargeable? 5 Marks
2. What are the different classes of residential status prescribed under the Income-tax Act for an individual? How is the residential status determined? 5 Marks
3. Xenon Racing a UK corporation granted the rights to Radon Circuits Pvt. Ltd. to host and promote the Noble Grand Prix annually at Radon's circuit in Mumbai for 10 years. Xenon would have full control of the circuit for the entire week of the race and no other event could be organised at the circuit during the said period. Sales of tickets were to be exclusively handled by Xenon. Will the circuit constitute the PE of Xenon in India? Why? 6 Marks
4.
 - i. Can the expenditure incurred on heart surgery of a lawyer be allowed under section 37 of the Act by treating it as expenditure incurred wholly and exclusively for the purpose of business or profession? Why? 9 Marks
 - ii. Can loss from agricultural activity be set-off against other taxable income? Why?
 - iii. Can depreciation under section 32 be claimed in respect of emergency spares of plant and machinery, which though acquired during the previous year, have not been put to use in that year? Why?

5. Write short notes on any three of the following: 15 Marks
- i. Carry forward and set off.
 - ii. Representative Assessee.
 - iii. Advance payment of Tax.
 - iv. Powers of Income Tax Authorities.
3. Write a detailed note on any one of the following: 10 Marks
- i. Difference between salary and perquisite.
 - ii. Income from house property.
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