



(2)

LXC2

PART - II

Compiler page 10
Define Sⁿ 2(68)
Private Co

1. (a) MNP Limited is a registered public company having the following members :

3+3
=6

i	Directors and their Relatives	18
ii	Employees	26
iii	Ex - Employees (Shares were allotted during employment)	15
iv	Members holding shares jointly(7 × 2)	14
v	Other Members	137

The Board of Directors of MNP Limited proposes to convert the company into a private limited company. Referring the provisions of the Companies Act, 2013, advise :

mention changes reqd →

18 + 7 + 137 = 162

Obtain approval of Regional Director
change name, Alter AOA, Reduce members if reqd.

- i. Whether the company can be converted into a private company ?
- ii. Whether existing number of members need to be reduced for the proposed private company ?

increase min. members to 7 (if reqd) (NOT reqd)

(b) (i) SKIP Limited (the Company) was incorporated on 01.04.2019. The balances extracted from its audited financial statement are as given below :

3

Financial Year (FY)	Net Profit before tax	Net Profit after tax (Ignore Income Tax computation)
---------------------	-----------------------	--

→ to be used for computation

$\left[\frac{5+7}{2} \right] = 6$

2019-20	₹ 5.00 crore	₹ 3.75 crore
2020-21	₹ 7.00 crore	₹ 5.25 crore

2% of 6cr

= 12 lakhs

↑ CSR Spending

The Company proposes to allocate the minimum required amount for CSR Activities to be undertaken during FY 2021-22, if it is mandatory. You are requested to advice the Company in this regard and compute the minimum amount to be allocated, if so required, taking into account the relevant provisions of the Companies Act, 2013.

Whether CSR provisions apply to a company that has not completed the period of three financial years since its incorporation?

Yes. If the company has not completed three financial years since its incorporation, but it satisfies any of the criteria mentioned in section 135(1), the CSR provision including spending of at least two per cent of the average net profits made during immediately preceding financial year(s) are applicable.

Example: Company A is incorporated during FY 2018-19, and as per eligibility criteria the company is covered under section 135(1) for FY 2020-21. The CSR spending obligation under section 135(5) for Company A would be at least two per cent of the average net profits of the company made during FY 2018-19 and FY 2019-20.

LXC2

Read this →

3.0	CSR Expenditure
3.1	How is average net profit calculated for the purpose of section 135 of the Act? Whether 'profit before tax' or 'profit after tax' is used for such computation?

The average net profit for the purpose of determining the spending on CSR activities is to be computed in accordance with the provisions of section 198 of the Act and will also be exclusive of the items given under rule 2(1)(h) of the Companies (CSR Policy) Rules, 2014. Section 198 of the Act specifies certain additions/deletions (adjustments) to be made while calculating the net profit of a company (mainly it excludes capital payments/receipts, income tax, set-off of past losses). Profit Before Tax (PBT) is used for computation of net profit under section 135 of the Act.

(3)

LXC2

(75%)
• consent of 3/4th in value of pref shs.
• approval of Tribunal

My text book
Pg 163

(ii) SKS Limited issued 8%; 1,50,000; Redeemable Preference Shares of ₹ 100 each in the month of May, 2010, which are liable to be redeemed within a period of 10 years. Due to the Covid-19 pandemic, the Company is neither in a position to redeem the preference shares nor to pay dividend in accordance with the terms of issue. The Company with the consent of Redeemable Preference Shareholders of 70% in value, made a petition to the Tribunal [NCLT] to accord approval to issue further redeemable preference shares equal to the amount due. Will the petition be approved by the Tribunal in the light of the provisions of the Companies Act, 2013?

3
• Co can issue further redeemable pref shares
= (amt due + dividend)

Can the company include the dividend unpaid in the above issue of redeemable preference shares? Yes.

compiles Pg 157
text book Pg 118
same eq.

(c) (i) Principal Ramu has given authority to agent Prem to buy certain goods at the market rate. Prem buys the goods at a higher rate than the market rate. [However, Ramu accepted the purchase inspite of higher rate.] Afterwards, Ramu comes to know that the goods purchased belonged to Prem himself. Decide, whether, Ramu is bound by ratification done? No - Sⁿ 198 (Full knowledge) Here knowledge is materially defective

2+2

compiles Q7 Pg 158
substituted agent Sⁿ 195

(ii) Hari, authorises Bharat, a merchant in Mumbai, to recover dues from Bankey & Co., Bharat instructs Deepak, a solicitor, to take legal proceedings against Bankey & Co. for recovery of the money. Explain the legal position of Deepak, referring provisions of the Indian Contract Act, 1872, related to agency. valid

(d) Examine the validity of the following statements with reference to the Negotiable Instruments Act, 1881.

3

Yes Sⁿ 78

(i) When payment on an instrument is made in due course, both the instrument and the parties to it are discharged.

It is a material alt

(ii) Alteration of rate of interest specified in the Promissory Note is not a material alteration.

alt Allowed by Act and does not require authentication

(iii) Conversion of the blank indorsement into an indorsement in full is not a material alteration and it does not require authentication.

LXC2

P.T.O.

(4)

LXC2

<http://www.thwww.theorymasterslearning.com>

2. (a) (i) Beauty Limited obtained a working capital loan from a Nationalized Bank against the hypothecation of Stocks & Accounts receivable of the Company. An instrument creating the charge was duly signed by the Company and the Bank. The Company is not willing to register the charges with the Registrar of Companies. In the light of the provisions of the Companies Act, 2013, discuss :

Section 78
Pg 194

- (i) Is there any provision empowering the Nationalized Bank (charge holder) to get the charges registered ?
- (ii) When can the Registrar refuse to register the charges in the present scenario ?

the company itself registers the charge or shows sufficient cause why such charge should not be registered,

- (ii) ABC Ltd. has declared dividend of ₹ 2/- per equity share in the general meeting. Mr. Suresh is holding 5000 equity shares of ₹ 10 face value each, on which ₹ 10,000 towards call money is due. Whether the dividend amount payable to him be adjusted against such dues as per the provisions of the Companies Act, 2013 ? Give reasons for your answer.

Yes
S 127
(Exemption from punishment)

- (b) XYZ Ltd. received a communication from Central Government for preparation of periodical financial results and complete audit or limited review of such periodical financial results. The Board of Directors have raised an objection on the ground that as, it is an unlisted company, periodical financial results need not to be prepared. Examine, referring the provisions of the Companies Act, 2013, in this regard.

will have to comply

Section
129A.

Text book
Pg 253

Periodical Financial Results [Section 129A]

The Central Government may, require such class or classes of unlisted companies, as may be prescribed, (a) to prepare the financial results of the company on such periodical basis and in such form as may be prescribed; (b) to obtain approval of the Board of Directors and complete audit or **limited review** of such periodical financial results in such manner as may be prescribed; and (c) file a copy with the Registrar within a period of 30 days of completion of the relevant period with such fees as may be prescribed.



(c) Examine the validity of the following statements under the provisions 4
of the Indian Contract Act, 1872.

(i) Creditor should proceed legal action first against the Principal Debtor and later against the surety.

NO. Creditor can sue surety directly w/out first proceeding against p.dr.

(ii) A guarantee which extends to a single debt / specific transaction is called ~~continuing~~ ^{specific} Guarantee.

(iii) Variation which is not material and beneficial to the surety will not discharge him of his liability.

Yes. valid.

Module Pg 1.16.

(iv) If the bailee does not use the goods according to the terms and conditions of bailment, the contract of bailment becomes void.

void. voidable

Module Pg 1.35

(d) Healthcare Services Limited (the Bidder), bids the tender floated by 3

Super Care Hospital (the Tenderer), attaching a cheque dated 01.04.2021 for ₹ 5,00,000/- towards earnest money deposit. Since the

tender process was extended, the Tenderer returned the cheque expiring on 30.06.2021 to the Bidder for its resubmission after having revalidated by changing the date of the cheque to 01.07.2021.

Accordingly, the revalidated cheque was resubmitted by the Bidder to the Tenderer. The cheque presented by the Tenderer to the banker. It

was dishonoured by the bank. Exam with a new date shall be deemed a valid payment as per The Negotiable Instru

Yes

By material alteration the identity of original instrument is destroyed and those parties who had agreed to be liable on the original instrument cannot be made liable on the new contract contained in the altered instrument to which they never consented (*Gour Chandra vs Prasanna Kumar 33 Cal 872*). It makes no difference whether the alteration is made by a party who is in possession of the same, or by a stranger while the instrument was in the custody of a party, because the party in custody of instrument is bound to preserve it in its integrity. The rule is defended on the ground that no man shall be permitted to take the chance of committing a fraud without running any risk of loss by the event when it is detected.

The party who consents to the alteration as well as the party who makes the alteration are disentitled to complain against such alteration e.g. the drawer of the cheque himself altered the date of the cheque for validating or re-validating the same instrument, he cannot take advantage of it by saying that the cheque becomes void as there was a material alteration thereto. It is

© The Institute of Chartered Accountants of India

3. (a) As per the financial statement as at 31.03.2021 the Authorized and Issued share capital of Manorama Travels Private Limited (the Company) is of ₹ 100 Lakh divided into 10 Lakh equity shares of ₹ 10 each. The subscribed and paid-up share capital on that date is ₹ 80 Lakh divided into 8 Lakh equity shares of ₹ 10 each. The Company has reduced its share capital by cancelling 2 Lakh issued but unsubscribed equity shares during the financial year 2021-22, without obtaining the confirmation from the National Company Law Tribunal (the Tribunal). It is noted that the Company has amended its Memorandum of Association by passing the requisite resolution at the duly convened meeting for the above purpose. While filing the relevant e-form the Practicing Company Secretary refused to certify the form for the reason that the action of the Company reducing the share capital without confirmation of the Tribunal is invalid. 5

State provisions
of S'n 66
Pg 180
required

In light of the above facts and in accordance with the provisions of the Companies Act, 2013, you are requested to (i) examine, the validity of the decision of the Company and contention of the practicing company secretary and (ii) state, the type of resolution required to be passed for amending the capital clause of the Memorandum of Association. Ordinary resoluⁿ.

- (b) The Board of Directors of ABC Limited are proposing to raise funds from the public through issue of equity shares. However due to volatile financial markets, the price per share and the number of shares to be issued are left open and to be decided post closure of the issue. As a financial advisor of the company, what would you suggest to the Board in this regard as per the provisions of the Companies Act, 2013 ? 5

Red herring
prospectus
Pg 145

S'n 84 of NI Act
Pg 86.

- (c) 'A' draws a cheque for ₹ 5,000 in favour of 'B'. 'A' had sufficient funds in his bank account to meet it, when the cheque ought to be presented in the bank. The bank fails before the cheque is presented. 'B' wants to claim it from 'A'. Decide, whether 'A' is liable as per the Negotiable Instruments Act, 1881. 4

text book
Pg 100

- (d) Explain the provision related to 'Effect of Repeal' as per the General Clauses Act, 1897. 3

(7)

LXC2

4. (a) (i) ABC Private Ltd. has two wholly owned subsidiary companies, **3+3**
D Private Limited and E Private Limited. Examine, whether, D
Private Limited and E Private Limited will be treated as related
party as per the provisions of the Companies Act, 2013 ?

Module
Pg 1-20

(ii) Sapphire Private Limited has registered its articles along with
memorandum as on 1st July 2021. The directors of the company
seeks your advice regarding effect of registration of the company
on the company itself and on its members.

Module
Pg 2-15

(b) ABC Limited is an unlisted company, having its registered office at **2+2**
Kolkata. The Annual General Meeting was held at Goa on 1st July
2021 at 3.00 PM and concluded at 8.00 PM. Consent of all the
members to conduct AGM at Goa were received by 24th June 2021 by
Email.

can be held at any place in India
if consent of all members is
obtained in
advance

text book
228

(i) Examine the validity of the meeting as per the provisions of the
Companies Act, 2013. **Valid**

(ii) State, the consequences if a
meeting, without sufficient dis
director.

(Provided that where any item of special business to be transacted at a meeting of the company relates to or affects any other company, the extent of shareholding interest in that other company of every promoter, director, manager, if any, and of every other key managerial personnel of the first mentioned company shall, if the extent of such shareholding is not less than two per cent of the paid-up share capital of that company, also be set out in the statement)
[Note: In case of non-disclosure or insufficient disclosure in any statement made by the promoter, director, manager or other Key Managerial Personnel which results into any benefit for themselves or their relatives, then the same shall have to be accounted by him]

(c) The Ministry of Corporate Affairs (MCA) published in the Gazette of **4**
India, the proposed draft of Rules further to amend certain rules under
the Companies Act, 2013. The MCA made some modifications in the
draft Rules already published. In the light of the provisions of the
General Clauses Act, 1897, answer the following :

Module
Pg 3-27
Sⁿ 23

My text
book
Pg 103

(i) Is it required for MCA to publish a draft of the proposed Rules ? **Yes**

(ii) In case of any irregularities in the publication of the draft, can it
be questioned ? **Yes**

(iii) Is MCA entitled to make suitable changes in the draft ? **Yes**

(iv) Is it necessary to re-publish the Rules in the amended form
when the changes made are ancillary to the earlier draft ? **NO**

(d) Does an explanation added to a section widen the ambit of a section ? **3**

Pg 115

LXC2

P.T.O.

LXC2

5. (a) HD Software Private Limited is engaged in the business of providing software services. The company appointed its statutory auditors. The engagement letter was signed with a clause that fee to be mutually decided. However, the remuneration was not finalised. Directors of the company seeks your advice for provisions related to remuneration of directors as per the provisions of the Companies Act, 2013. 5

Valid
Pg 278
Module
Pg 10-29

My text bk.
Pg 281

OR

ABC & Co., Chartered Accountants, are statutory auditors of Moon Exports Limited. In an inquiry, it is proved that 'A', one of the partner of the firm has acted in fraudulent manner and colluded in fraud to its partners. Explain the consequences of such act under the provisions of the Companies Act, 2013. *Module Pg 10-47* *Sⁿ 147(5)*

- (b) (i) Mr. Ram, a shareholder of PQR Ltd., has made a request to the company for providing a copy of minutes book of general meeting. Whether, the shareholder of a company is entitled to receive a copy of minutes book ? Explain, provisions of the Companies Act, 2013. 3

Sⁿ 119
My text book
Pg 233

Yes

7 days - hand copy + fees
soft copy - free [3FY]

- (ii) Explain the provision relating to 'Credit Rating' which an 'Eligible Company' should follow to raise public deposits as per the Companies Act, 2013. 2

My text book
Pg 202

- (c) Mr. Truth deposited 100 bags of ground-nut in the factory of Mr. False for safe keeping. Mr. False mixed the ground-nut bags with the other ground-nut bags in the factory with the consent of Mr. Truth and consumed it to produce edible oil. *My text bk*
Pg 32

Yes Sⁿ 155

- (i) Whether Mr. Truth is entitled to claim his share in the edible oil produced under the provisions of the Indian Contract Act, 1872 ?
(ii) What will be the consequences in case the ground-nut bag were mixed without the consent of Mr. Truth under the above said Act ?

Sⁿ 157 - cannot be separated
Bailor can claim compensation

- (d) What is the effect of proviso ? Does it qualify the main provisions of the enactment ? Explain it with reference to Interpretation of Statutes. *too 3*
general

My text book Pg 115

To qualify the preceding enactment which is expressed in terms which are too general
begin with the words 'provided that' Yes.

LXC2

