

MOCK TEST PAPER 1
FINAL (NEW) GROUP I
PAPER 4: CORPORATE AND ECONOMIC LAWS

Time 3 Hours

(Marks 100)

QUESTIONS

Division A: Multiple Choice Questions (30 Marks)

Case scenario 1

Mr. Sameer, holding 15% shares of Towe Ltd., an unlisted company, since 30th September 2019, is unpaid to the extent of Rs. 10 lakh, filed a petition with Tribunal on 5th April, 2020, for winding up of Towe Ltd. and a copy of the same was filed with Registrar of Companies (ROC).

The Registrar of Companies (ROC) submitted his views to the National Company Law Tribunal (NCLT) on 18th May, 2020. The ROC mentioned in his views that it was just and equitable that Towe Ltd. should be wound up, on analyzing the information available with him with respect to the affairs of Towe Ltd.

The Tribunal appointed provisional liquidator, Mr. Raj, on 20th May, 2020, without giving, notice of the same as well as without affording opportunity for making representations, to the company. Mr. Raj is registered as an insolvency professional under the Insolvency and Bankruptcy Code, 2016 and he filed the declaration with respect to his independence to the Tribunal on 25th May, 2020.

Tribunal passed its order for winding up of Towe Ltd. on 16th June, 2020 and the provisional liquidator, Mr. Raj was appointed as the Company Liquidator. The Tribunal directed Mr. Sameer to deposit an amount of Rs. 1 lakh as security for costs as a precondition to issue directions to Towe Ltd.

The intimation thereof, of passing such order was sent to Mr. Raj as well as to the Registrar of Companies, by the Tribunal. The ROC on receipt of such order from Tribunal made an endorsement to that effect in his records relating to Towe Ltd. and also made a notification in the Official Gazette that such order of winding up has been made by the Tribunal.

Mr. Raj calculated that the outstanding liabilities and debts of Towe Ltd. which amounted to Rs. 70 lakh and the expenses of winding up were estimated at Rs. 3 lakh.

Towe Ltd. has at present 8 members which are holding shares unpaid to the extent of Rs. 40 lakh, in total.

Following were the past members of the company:-

- (1) Mr. Kishan ceased to be member on 23rd March, 2019, from whom Towe Ltd. had unpaid calls on shares amounting to Rs. 8 lakh. At the time when, Mr. Kishan ceased to be a member, the outstanding liabilities of the company were only Rs. 5 lakh.
- (2) Mr. Dhawan ceased to be member on 28th May, 2019, from whom Towe Ltd. had unpaid calls on shares amounting to Rs. 16 lakh. At the time when, Mr. Dhawan ceased to be a member, the outstanding liabilities of the company were only Rs. 13 lakh.
- (3) Mr. Tanmay who ceased to be member on 17th June, 2019, was having unpaid calls on shares of Towe Ltd. amounting to Rs. 15 lakh. At the time when, Mr. Tanmay ceased to be a member, the outstanding liabilities of the company were only Rs. 10 lakh.

Towe Ltd. created a floating charge, as agreed, on the stock of the company on 23rd August, 2019, to secure a current account with Munim Bank which was in debit by Rs. 12 lakh from 1st May, 2019 and thereafter the bank also advanced Rs. 15 lakh on 1st September, 2019, for meeting the operating expenses of the company.

Munim Bank charged Rs. 1,18,500 as interest for financial year ended on 31st March, 2020, by debiting the said current account of Towe Ltd. on the total amount of Rs. 27 lakh (Rs.12 lakh + Rs. 15 lakh). Towe Ltd. remained solvent during the financial year 2019-20.

Multiple Choice Questions (5 questions of 2 Marks each): Total 10 Marks

1. Whether Mr. Sameer was eligible to file petition for winding up against Towe Ltd.?
 - (a) No, as he is not holding fully paid up shares of Towe Ltd.
 - (b) No, as he is not holding shares for 12 months or more prior to presenting such petition for winding up.
 - (c) Yes, as he is a holding not less than 10% of the shares of Towe Ltd.
 - (d) Yes, as he is holding shares for 6 months or more prior to presenting such petition for winding up.
2. What was the last date available with ROC to submit his views to NCLT on the petition filed by Mr. Sameer and with the NCLT to pass order for winding up, respectively?
 - (a) 5th June, 2020 and 5th July, 2020 respectively.
 - (b) 4th June, 2020 and 4th July, 2020 respectively.
 - (c) 5th May, 2020 and 5th July, 2020 respectively.
 - (d) 5th May, 2020 and 4th July, 2020 respectively.
3. Whether the act of Tribunal can be considered valid for not giving notice of appointment of provisional liquidator, Mr. Raj as well as opportunity for making representations, to Towe Ltd.?
 - (a) Partially invalid, as giving notice of appointment of provisional liquidator, Mr. Raj, is mandatorily for the tribunal. However, whether to afford opportunity to Towe Ltd. for making representations is upon the sole discretion of the tribunal.
 - (b) Valid, if in the opinion of the tribunal, there were some special reasons, whether recorded in writing or not, for not giving notice as well as opportunity for making representations, if any, to Towe Ltd.
 - (c) Valid, if in the opinion of the tribunal, there were some special reasons, recorded in writing, for not giving notice as well as opportunity for making representations, if any, to Towe Ltd.
 - (d) Not valid, as giving notice of appointment of provisional liquidator, Mr. Raj as well as opportunity for making representations, to Towe Ltd., is mandatorily required to be given by the tribunal.
4. How much amount, Mr. Kishan, Mr. Dhawan and Mr. Tanmay, would be liable to pay as a contributory, if in case tribunal calls past members to satisfy the contributions?
 - (a) Mr. Kishan shall not be liable to pay any amount, Mr. Dhawan and Mr. Tanmay shall be liable to pay Rs. 16 lakh and Rs. 10 lakh, respectively.
 - (b) Mr. Kishan, Mr. Dhawan and Mr. Tanmay shall be liable to pay Rs.5 lakhs, Rs. 13 lakh and Rs. 10 lakh, respectively.
 - (c) Mr. Kishan shall not be liable to pay any amount, Mr. Dhawan and Mr. Tanmay shall be liable to pay Rs. 13 lakh and Rs. 10 lakh, respectively.
 - (d) Mr. Kishan and Mr. Dhawan shall not be liable to pay any amount and Mr. Tanmay shall be liable to pay Rs. 10 lakh.

5. How much amount of floating charge created on the stocks of Towe Ltd. shall be valid and how much of interest shall be allowed if no other rate is notified by the Central Government, other than the rate of interest prescribed in the Act?
- (a) Rs. 27 lakh and Rs. 1,18,500, respectively.
 - (b) Rs. 15 lakh and Rs. 98,750, respectively.
 - (c) Rs. 27 lakh and Rs. 98,750, respectively.
 - (d) Rs. 12 lakh and Rs. 1,18,500, respectively.

Case scenario 2

An investor filed a complaint to a Recognized Stock Exchange (RSE) against Kalex Ltd. alleging that the company has changed its registered office within Jaipur city itself in contravention of the provisions of the Companies Act, 2013, as no ordinary or special resolution was passed in the general meeting, before such change was made.

Kalex Ltd. had already replied via email to the aggrieved investor by quoting the relevant section, that in case, if the registered office the company is to be changed within the same city, then only passing of board resolution is required, which was duly complied with by Kalex Ltd.

The Recognized Stock Exchange, on receipt of such application from the investor inquired into the details of the company and came to know that the company has been incurring losses for the last 2 consecutive financial years and also it has a negative net worth. In addition to it, the Recognized Stock Exchange got report, from its analysts, that the securities of such company have remained infrequently traded during the preceding 2 years.

The Recognized Stock Exchange after giving an opportunity of being heard, passed an order dated 8th September, 2020, with respect to delisting the securities of Kalex Ltd. from its platform, by recording the reasons of the same in writing.

At the time of aforesaid hearing and on analysis of the information and explanations asked for by the official of Recognized Stock Exchange, he came to know that Kalex Ltd. has been indulged in market manipulation and the said official immediately informed to the Securities Exchange Board of India (SEBI) regarding the same and the SEBI after inquiring into the same, passed a cease and desist order against Kalex Ltd., dated 5th October, 2020, as per section 11D of the SEBI Act, 1992, having reasonable grounds to believe that the company has been indulged in market manipulation.

The aforesaid Recognized Stock Exchange furnished its periodical returns on 10th November, 2020, as required, to SEBI containing the requisite particulars but didn't furnish the details of delisted securities of Kalex Ltd. believing that there is no need to furnish the same as only details pertaining to securities delisted during previous 1 month are required to be furnished and in case of Kalex Ltd., 1 month has already passed, since its delisting.

Along with furnishing of the aforesaid return, it also made an application on the same date to the Securities Exchange Board of India, for renewal of its recognition in Form A, which was about to expire on 15th February, 2021, along with the applicable fees.

Kalex Ltd. was aggrieved with the order passed by Recognized Stock Exchange with respect to delisting as well as with the cease and desist order passed by the Securities Exchange Board of India and due to which it filed appeals with Securities Appellate Tribunal (SAT), in respect of both the orders, within the prescribed time limits.

However, at the time of appellate proceedings by Securities Appellate Tribunal, the Presiding Officer of SAT was removed on 25th February, 2021, by the Central Government, after giving a reasonable opportunity of being heard in the matter, on the grounds that he has abused his position as to render his continuation in office detrimental to the public interest.

The Central Government appointed Justice Ram as the new presiding officer on 25th March, 2021 i.e. on the day of his 62nd birthday, in consultation with the Chief Justice of India.

Multiple Choice Questions (4 questions of 2 Marks each): Total 8 Marks

6. Which of the aforementioned grounds are valid for delisting the securities by RSE?
- (a) The company has incurred losses during the preceding 2 consecutive years and it has negative net-worth.
 - (b) The securities of the company have remained infrequently traded during the preceding 2 years.
 - (c) The company has changed its registered office in contravention of the provisions of Companies Act by not passing ordinary or special resolution in the general meeting.
 - (d) None of the above **(2 Marks)**
7. Whether the aforesaid contention of RSE is valid, that here is no need to furnish the details of delisted securities of Kalex Ltd.?
- (a) No, as it is the duty of RSE to furnish the details of delisted securities during the previous 3 months, to SEBI and 3 months have not passed since delisting of securities of Kalex Ltd.
 - (b) Yes, as it is the duty of RSE to furnish the details of delisted securities only during the previous 1 month, to SEBI and in given case, as 1 month has passed, the contention of RSE is valid.
 - (c) Partially yes, as it is the duty of RSE to furnish the details of delisted securities during the previous 2 months, to SEBI and in given case, as 2 months have passed, the contention of RSE is valid to that extent.
 - (d) No, as it is the duty of RSE to furnish the details of delisted securities during the previous 6 months, to SEBI and 6 months have not passed since delisting of securities of Kalex Ltd. **(2 Marks)**
8. What shall be the last date prior to the expiry of the period of recognition, by which, the RSE, shall make an application to the SEBI for renewal of recognition, in case could not make application on 10th November, 2020, and what shall be fees payable along with such application?
- (a) 15th February, 2021 and applicable fees is Rs. 200
 - (b) 15th November, 2020 and applicable fees is Rs. 200
 - (c) Application for renewal is to be made within 3 months after expiry i.e. by 15th May, 2021 and applicable fees is Rs. 500.
 - (d) 15th December, 2020 and applicable fees is Rs. 500 **(2 Marks)**
9. What shall be the dates on which Kalex Ltd. would have filed appeals against delisting order of RSE as well as cease and desist order of SEBI, respectively, assuming it filed appeals on the last prescribed date against both the orders?
- (a) 23rd October, 2020 and 20th October, 2020.
 - (b) 23rd September, 2020 and 19th November, 2020.
 - (c) 23rd September, 2020 and 20th October, 2020.
 - (d) 23rd October, 2020 and 19th November, 2020. **(2 Marks)**

10. In order to make Robotics Toys Private Limited as its subsidiary, Golden Rays Robots Limited raised its investment in Robotics Toys from 40% to 60% of its paid-up capital. From the options given below, choose the one which correctly indicates as to when the Robotics Toys shall be considered the undertaking of Golden Rays Robots Limited.
- In order that Robotics Toys is considered as one of its undertaking, Golden Rays is required to invest more than 10% of its 'net worth' calculated as per the audited balance sheet of the preceding year or the Robotics Toys must have contributed in generation of 10% of the total income of Golden Rays during the previous Financial Year.
 - In order that Robotics Toys is considered as one of its undertaking, Golden Rays is required to invest more than 20% of its 'net worth' calculated as per the audited balance sheet of the preceding year or the Robotics Toys must have contributed in generation of 20% of the total income of Golden Rays during the previous Financial Year.
 - In order that Robotics Toys is considered as one of its undertaking, Golden Rays is required to invest more than 25% of its 'net worth' calculated as per the audited balance sheet of the preceding year or the Robotics Toys must have contributed in generation of 25% of the total income of Golden Rays during the previous Financial Year.
 - In order that Robotics Toys is considered as one of its undertaking, Golden Rays is required to invest more than 30% of its 'net worth' calculated as per the audited balance sheet of the preceding year or the Robotics Toys must have contributed in generation of 30% of the total income of Golden Rays during the previous Financial Year. **(2 Marks)**
11. Mr. A is an authorized dealer holding a valid Authorization issued by the Reserve Bank of India under section 10 of the FEMA, 1999. During the course of his business, he violated one of the conditions subject to which the Authorization was granted to him. The Adjudicating Authority imposed a penalty of Rs. 1,50,000 under section 13 (being 3 times the amount involved in the violation, i.e. Rs. 50,000). Mr. A accepted the default. State the time limit before which Mr. A should pay the penalty, assuming he does not prefer an appeal to the Appellate Authority:
- Within 30 days from the date of the Order imposing the penalty.
 - Within 45 days from the date of the Order imposing the penalty.
 - Within 60 days from the date of the Order imposing the penalty.
 - Within 90 days from the date of the Order imposing the penalty. **(1 Mark)**
12. A Limited, an Indian company holds a commercial plot in Chennai, India. It intends to sell the same. M/s Super Seller is a real estate broker with Head Office in the USA. M/s Super Seller is appointed to find buyers for the land. A company Glory Inc., based out of USA is identified as a buyer. Glory Inc., is controlled from India and is hence a Person Resident in India under FEMA provisions. Glory Inc., agrees to buy the land for USD 6,00,000 (assume 1 USD = Rs.70). M/s Super Seller is to be paid commission at the rate of 7% of the sale proceeds. The commission is to be paid to the H.O of M/s Super Seller in USA. Decide, in light of the relevant provisions of FEMA, 1999, which of the following is correct (Ignoring TDS implications arising under the Income Tax Act, 1961):
- Prior permission is not required for remittance of commission upto USD 25,000. For balance commission of USD 17,000, permission of RBI is to be sought by A Limited.
 - Prior permission is not required for remittance of commission upto USD 30,000. For balance commission of USD 12,000, permission of RBI is to be sought by A Limited.
 - Prior permission is not at all required for remittance of the entire commission.

- (d) Prior permission is required to be taken from The Reserve Bank of India for the entire amount of commission. **(2 Marks)**
13. Best Nidhi Limited has been incorporated on 01/04/2020 as a Nidhi Company under section 406 of the Companies Act, 2013 with 250 members. Its main object is to accept deposits from members and lend loans to members for the mutual benefit of the members. It also provides locker facilities to members. For FY 2020-2021, the income of the company (before deducting any expense) was Rs. 40,00,000. Expenses incurred during the year amounted to Rs.10,00,000. Calculate the maximum amount of rental income that could have been earned during the FY 2020-2021 by the company.
- (a) Rs. 10,00,000
 (b) Rs. 7,50,000
 (c) Rs. 8,00,000
 (d) Rs. 6,00,000 **(2 Marks)**
14. Mr. Romil was appointed as an IRP during the Corporate Insolvency Resolution Process on 3rd of March, 2019. He can make a Public announcement -
- (a) latest by 6th March 2019
 (b) latest by 7th March 2019
 (c) latest by 10th March 2019
 (d) latest by 14th March 2019 **(1 Mark)**
15. Z Ltd, a Startup is permitted to raise ECB under the automatic route with the minimum average maturity period of :
- (a) 1 years
 (b) 3 years
 (c) 5 years
 (d) 10 years **(1 Marks)**
16. Shivdeep submitted his claim as an operational creditor to the liquidator of Chiranjeevi Food Products Limited, a company under liquidation. If Shivdeep wants to alter his claim, state the time period within which he can do so after its submission.
- (a) Five days
 (b) Ten days
 (c) Fourteen days
 (d) Fifteen Days **(1 Mark)**
17. Ruby Petals Limited, a small company, files an application with the NCLT stating that the fast track corporate insolvency resolution process against it cannot be completed within the prescribed period of 90 days. On being satisfied, NCLT orders to extend the period of such process by 30 days. However, Ruby Petals Limited again initiates an application for further extension of time period of insolvency process by another 10 days. Which of the following option is applicable to such a situation:
- (a) NCLT can extend the period by another 10 days because total extension does not exceed 45 days.
 (b) NCLT is empowered to grant another extension of 10 days if Ruby Petals deposits Rs. 50,000 as penalty.

- (c) NCLT is empowered to grant another extension of 10 days if Ruby Petals deposits Rs. 100,000 as penalty.
- (d) NCLT cannot extend the period by another 10 days because such extension shall not be granted more than once. **(1 Mark)**
18. A valuer in a company will be appointed by the ----- or in its absence, by the -----of that company.
- (a) Board of directors, Shareholders
- (b) Board of Directors, Audit committee
- (c) Shareholders, Audit committee
- (d) Audit Committee, Board of Directors **(1 Mark)**

Division B: Descriptive questions (70 Marks)

1. (a) Mr. Ramakant, the non-independent director of Superb Industries Limited (SIL) is planning to go abroad for 4 months for resolving of some family issues related to her daughter. The Board of Directors of SIL proposed to appoint Mr. Subh as an alternate director in the company in place of Mr. Ramakant.

Following were the legal issues in the given situation:

- (1) Mr. Subh does not satisfy the eligibility criteria to become Independent Director of SIL as given under section 149(6) of the Companies Act, 2013.
- (2) Mr. Ramakant returned to India within 2 months before the scheduled arrival.
- (3) Mr. Subh (in addition to Mr. Ramakant), to be included in the "total number of directors" used for calculating rotational directors under sec 152(6).

Examine in the given scenario, the aforementioned legal issues in the light of the Companies Act, 2013. **(8 Marks)**

- (b) Mr. Ram and Mr. Mohan were appointed as the Whole-Time Director and Managing Director respectively in Gopi Industries Limited (GIL). Raja Limited, a holding company of GIL, was willing to appoint Mr. Ram as its Whole-Time Director and Mr. Mohan as Managing Director. Enumerate the legal provision as regards the holding of office by KMPs and decide on the eligibility of Mr. Ram and Mr. Mohan in Raja Limited as its managerial personnel in terms of the Companies Act, 2013. What if the office of Mr. Ram is vacated due to his sudden resignation given on 1st September 2020 in GIL?

(6 Marks)

2. (a) Doomed Limited wanted to reduce the rank of Mr. happy (the Chief Operations Officer of the company) during the pendency of investigation being conducted on the company on the order of the Tribunal as per the provisions of the Act. Doomed Ltd. made an application to Tribunal regarding the reduction of the rank of the Mr. happy on 2nd May, 2020 and received objection of the Tribunal on 29th May, 2020. What course of action/ remedy is available to Doomed Ltd. and to Mr. happy as per the provisions of the Companies Act, 2013? **(8 Marks)**

- (b) In the case, the Director, on the basis of information in his possession, has reason to believe that Mr. X, is in possession of proceeds of crime involved in money-laundering. He authorised Mr. Y, officer subordinate to him to seize property found as a result of such search. Mr. Y seized the said property on 10.2.2020 and filed an application requesting for retention of such property seized before Adjudicating Authority. Enumerate the law as regards the retention of the seized property and Compute the time period for retention of such seized property by Mr. Y. **(6 Marks)**

3. (a) Insincere Limited on 22nd May, 2020 mortgaged one of the freehold land of the company in the favor of the bank, from which Mr. Daman, a director of the company had taken housing loan for his residential purpose. Since Insincere Ltd. had been running in losses and was unable to honor the liabilities due towards the other creditors. As, the Board of Directors of the company was aware of the financial crisis faced by the Insincere Ltd. and of creation of a mortgage in order to give preference to Mr. Daman over other creditors. On 23rd September, 2020 some creditors of the company filed a petition for the winding up before Tribunal. It passed an order for the winding up of the company on 5th November, 2020. Discuss on the nature of the transaction of mortgage created with bank in the given circumstances in the light of the Companies Act, 2013. **(8 Marks)**
- (b) Perpetual Limited is an Asset Reconstruction Company (ARC) under the SARFAESI Act, 2002. During the financial year 2020-2021, Mr. Param one of the director of the company in urgent need of money transferred 10% of his shareholding to Mr. Shariff (another director of the company) which increased Mr. Shariff's shareholding to 20%. Perpetual Ltd. also appointed Mr. Vikram as CEO for managing the overall operations and resources of a company. However, for the said purposes, Perpetual Limited did not take approval of the Reserve Bank of India. RBI cancelled the certificate of registration granted to Perpetual Limited. Perpetual Ltd. contended that decision of RBI is inappropriate as transfer of shareholding and appointment of CEO is not a substantial change in management. Discussion on the validity of decision of the RBI in the light of the applicable Law. **(6 Marks)**
4. (a) Bharti Limited, a company listed on Bharat Stock Exchange Limited (a recognised stock exchange in India) had been incurring losses continuously during the preceding 3 years but its net worth has not become negative till date. The stock exchange decided to delist the securities of the company after giving an opportunity of being heard to the company. Mr. Binay (the investor) who holds equity shares up to 10% of the total equity share capital of the company has suffered heavy losses due to delisting of securities by the stock exchange. You have been hired by Mr. Binay to consult him regarding the Security Laws. Examine the given situation and mention the various grounds of delisting under SCRA and the remedies available to Mr. Binay in the light of the Securities Contract (Regulation) Act, 1956 [SCRA]. **(8 Marks)**
- (b) Defaulter Limited, an unlisted company registered in India with total assets amounting to Rs. 3 crore and turnover of Rs. 50 lakh as per financial statement immediately preceding the financial year was facing financial crisis. The financial creditors of the firm wanted to file a petition for initiating the insolvency resolution process with the Adjudicating Authority. The financial creditors want an early recovery of their dues. In view of the above position, state whether insolvency process can be initiated under fast track process under the IBC and maximum period for the completion of process? **(6 Marks)**
5. (a) (i) Draft a specimen resolution of approval of Directors' report of the financial year 2020-2021. **(4 Marks)**
- (ii) Earth Developers Private Limited, a Bengaluru based company is regular in filing its annual return as well as financial statements, is having four directors but so far, no Managing Director has been appointed. Due to the manifold increase in the construction work undertaken by the company in the last two years, it is urgently felt that a Managing Director needs to be appointed. Accordingly, Mr. Pranav is appointed as MD by the Board of Directors at its meeting specifying the terms and conditions including monthly remuneration payable to him. Enumerate on the requirement and validity of an appointment of Mr. Pranav in the given scenario in the context of relevant law? **(4 Marks)**
- (b) What is an overseas direct investment? Differentiate between Automatic Route and Approval Route for direct investment? **(6 Marks)**

6. (a) Delegare Limited, incorporated in Singapore desires to establish a place of business at Mumbai. You being a practicing Chartered Accountant have been appointed by the company as a liaison officer, for compliance of legal formalities on behalf of the company. Examining the provisions of the Companies Act, 2013, state the documents you are required to furnish on behalf of the company, on the establishment of a place of business at Mumbai. **(8 Marks)**
- (b) (i) Ever Lasting Ltd. went into liquidation. XYZ Bank Ltd. the secured creditor, decided to realize its security interest by informing liquidator of such security interest and identify assets subject to which such security interest has to be realized. Liquidator denied the XYZ Bank Ltd. to enforce its security interest as said secured creditor is not a part of Committee of creditors. Throw a light on the stated situation and examine on the validity of the stand taken by the Liquidator. **(3 Marks)**
- (ii) State on the nature of liability caused on an offence committed under the Prevention of Money Laundering Act, 2002. **(3 Marks)**