

MOCK TEST PAPER 1
INTERMEDIATE (IPC): GROUP – I
PAPER – 2: BUSINESS LAWS, ETHICS AND COMMUNICATION
ANSWERS

Division A

1. (i) (b)
(ii) (d)
(iii) (b)
2. (i) (c)
(ii) (a)
3. (d)
4. (c)
5. (d)
6. (a)
7. (b)
8. (c)
9. (d)
10. (d)
11. (d)
12. (b)
13. (a)
14. (c)
15. (b)

Division B

1. (a) Sweat Equity Shares are governed by section 54 of the Companies Act, 2013 and Rule 8 of Companies (Share capital and debentures) Rules, 2014. According to section 54, the company can issue sweat equity shares to its director and permanent employees of the company.

According to proviso to rule 8 (4), a start up company, [as defined in notification number G.S.R.127(E), dated 19th February 2019 issued by the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry, Government of India], may issue sweat equity share not exceeding 50% of its paid up share capital up to 10 years from the date of its incorporation or registration.

According to Rule 8(5), the sweat equity shares issued to directors or employees shall be locked in/ non- transferable for a period of three years from the date of allotment.

Hence in the above case, the company can issue sweat equity shares by passing special resolution at its general meeting. The company as a startup company is right in issue of 10% sweat equity share as it is overall within the limit of 50% of its paid up share capital. But the lock

in period of the shares is limited to maximum three years period from the date of allotment (as not five years, as given in the question).

- (b) (i) **The Fairness or Justice Approach:** Aristotle and other Greek philosophers have contributed the idea that all equals should be treated equally. Today we use this idea to say that ethical actions treat all human beings equally-or if unequally, then fairly based on some standard that is defensible. We pay people more based on their harder work or the greater amount that they contribute to an organization, and say that is fair. But there is a debate over CEO salaries that are hundreds of times larger than the pay of others; many ask whether the huge disparity is based on a defensible standard or whether it is the result of an imbalance of power and hence is unfair.
- (ii) **The Common Good Approach:** The Greek philosophers have also contributed the notion that life in community is a good in itself and our actions should contribute to that life. This approach suggests that the interlocking relationships of society are the basis of ethical reasoning and that respect and compassion for all others-especially the vulnerable-are requirements of such reasoning. This approach also calls attention to the common conditions that are important to the welfare of everyone. This may be a system of Laws, effective police and fire departments, health care, a public educational system, or even public recreational areas.
- (c) Oral Communication is a face to face communication with others. Oral communication is characterized by seven Cs – Candidness, Clarity, Completeness, Conciseness, Concreteness, Correctness, and Courtesy. These act as principles for selecting the mode of oral communication. In addition to above seven principles it has its own benefits as under:
- (i) More personal and informal.
 - (ii) Make immediate and impact.
 - (iii) Provides opportunity for interaction and feedback.
 - (iv) Helps us to correct ourselves (our message according to the feedback and non-verbal cues received from the listener).
 - (v) Better for conveying feelings and emotions.
 - (vi) More effective because one can understand the message better by observing facial expressions, eye contact, tone of voice, gestures, postures etc of the sender.

It is said that it does not matter what you say, what matters is how you say it. Your way of saying includes your choice of words, your confidence and sincerity.

2. (a) **Entitlement to Gratuity:** According to Section 4 (1) of the Payment of Gratuity Act, 1972, gratuity shall be payable to an employee on the termination of his employment after he has rendered continuous service for not less than five years on his superannuation, or, on his retirement or resignation or on his death or disablement due to accident or disease.

The proviso to the said section states that the condition of the completion of five years of continuous service is not essential in case of the termination of the employment of any employee due to death or disablement for the purpose of this section.

Disablement has been explained as such disablement which incapacitates an employee for the work which he was capable of performing before the accident or disease resulting in such disablement.

Further, by the change of ownership, the relationship of employer and employees subsists and the new employer cannot escape from the liability of payment of gratuity to the employees; it was held in the case of *Pattathurila K. Damodaran Vs M. Kassim Kanju* (1993) 1 LLJ 1211 (Ker).

The given problem fulfils all the above requirements as stated. Therefore, Mr. X is entitled to recover gratuity after becoming permanently disabled and continuous service of five years is not required in this case. Hence, the company cannot refuse to pay gratuity on the ground that he has served only for a year.

- (b) **Meaning of Stakeholders:** The traditional governance model positions management as accountable solely to investors or shareholders. But an increasing number of corporations accept that constituents other than shareholders are affected by corporate activity, and that the corporation must therefore be answerable and accountable to them. The word stakeholders describes such constituents of an organization – the individuals, groups or other organization(s) which are affected by, or can affect the organization in pursuit of its goals. A typical list of stakeholders of a company would be employees, trade unions, customers, shareholders and investors, suppliers, local communities, government and competitors.
- (c) (i) **Spirit of Conformity:** Individual members soon come to realize that in order to gain recognition, admiration and respect from others they have to achieve a spirit of conformity. Our beliefs, opinions, and actions are influenced more by group opinion than by an individual's opinion, even if it is an expert's opinion.
- (ii) **Respect for group values:** Any working group is likely to maintain certain values and ideals which make it different from others. In order to deal effectively with a group we must understand its values which will guide us in foreseeing its programmes and actions.
3. (a) Under section 7 of the Payment of Bonus Act, 1965 in calculating the direct tax payable by an employer (excluding a religious or a charitable institution or an individual or HUF) for any accounting year, no account shall be taken on the following, namely:
- (i) *any loss incurred by the employer in respect of any previous accounting year and carried forward under any law for the time being in force relating to direct taxes;*
 - (ii) *any arrears of depreciation* which the employer is entitled to add to the amount of the allowance for depreciation for any following accounting year or years under Section 32(2) of the Income-tax Act;
 - (iii) *any exemption* conferred on the employer under Section 84 of the Income Tax Act or of any deduction to which he is entitled under Section 101(1) of the Income-tax Act, as in force immediately before the commencement of the Finance Act, 1965.
- (b) **Where the instrument or deed relates solely to the property situated outside India**, the copy of every instrument creating (or modifying) any charge and required to be filed with the Registrar shall be verified by a certificate issued either-
- under the seal, if any, of the company, or
 - under the hand of any director or company secretary of the company, or an authorised officer of the charge holder, or
 - under the hand of some person other than the company who is interested in the mortgage or charge.
- (c) **Incorrect:** Company management is responsible not only to the shareholders, but also to other stakeholders i.e. people who have an interest in the conduct of the business of the company. These include employees, customers, vendors, the local community and even society as a whole. These stakeholders have certain rights with regard to how the business operates.
- (d) **Types of Groups in Organization:**
1. **Self directed teams** – autonomous and self regulated groups of employees empowered to make decisions.

2. **Quality Circles** – Quality Circle has been defined “as a group of workers from the same area who usually meet for an hour each week to discuss their quality problems, investigate causes, recommend solutions and take corrective actions when authority is in their purview. In other words, Quality Circle is a small group to perform voluntarily quality control activities within their work area.
 3. **Committees** – are of various types (a) Standing Committee which are permanent in nature and highly empowered. (b) An advisory Committee comprises of experts in particular fields (c) An adhoc committee is setup for a particular purpose and after the goal is achieved, it is dissolved
 4. **Task Force** – Task force is like Committee but it is usually temporary. Task force has wide power to take action and properly fix responsibility for investigation, results and proper implementation of decisions
4. (a) Problem as asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in section 2(d) and on the principle ‘privity of consideration’. Consideration is one of the essential elements to make a contract valid and it can flow from the promisee or any other person. In view of the clear language used in definition of ‘consideration’ in Section 2(d) “.... the promisee or any other person.....”, it is not necessary that consideration should be furnished by the promisee only. A promise is enforceable if there is some consideration for it and it is quite immaterial whether it moves from the promisee or any other person. The leading authority in the decision of the *Chinnaya Vs. Ramayya (1882) 4 Mad 137.*, held that the consideration can legitimately move from a third party and it is an accepted principle of law in India.

In the given problem, Mr. Vikram has entered into a contract with A, but Mr. B has not given any consideration to A but the consideration did flow from Mr. Vikram to A and such consideration from third party is sufficient to enforce the promise of A, the daughter, to pay an annuity to B. Further the deed of gift and the promise made by A to B to pay the annuity were executed simultaneously and therefore they should be regarded as one transaction and there was sufficient consideration for it.

Thus, a stranger to the contract cannot enforce the contract but a stranger to the consideration may enforce it.

- (b) (a) **Advantages of Ethical Communication:** Ethical communication promotes long-term business success and profit. However, improving profits isn't reason enough to be ethical, as soon as the cost of being ethical outweighed the benefits, ethical choices would no longer be possible. One advantage of ethics long-term integrity. Surveys report that all employees want to work for organizations with high ethical standards. Competent people are likely to search for organizations that maintain high ethical standards. When competent people migrate toward ethical firms, everyone benefits because both competence and ethics are perpetuated.
- (b) **Organization Values:** Values are the principles and ideas that people or organizations strongly believe in and consider important. When people are in doubt about decisions, they frequently rely on deep-seated values to help them make the right choice. In organizations, reliance on shared values makes setting goals easier in the face of the competing ideas, desires, and objectives of individual employees.

One can get a good idea about the values of an organization by examining its vision and mission statement. These statements are short descriptions of the purpose of organizations and the directions they try to take to achieve success. Many organizations post their vision and mission statements in several places so that employees know what the organization values are.

(c) The important components in general are as following:

- Heading of the document
- Date and place of execution of the document
- Names & description of Parties
- Recitals
- Terms and condition
- Special rules
- Jurisdiction
- Signature of the parties
- Signature of the witnesses

5. (a) According to section 103 of the Companies Act, 2013, unless the articles of the company provide for a larger number, the quorum for the meeting of a Public Limited Company shall be 5 members personally present, if number of members is not more than 1000.

(i) (1) P1, P2 and P3 will be counted as three members.

(2) If a company is a member of another company, it may authorize a person by resolution to act as its representative at a meeting of the latter company, then such a person shall be deemed to be a member present in person and counted for the purpose of quorum. Hence, P4 and P5 representing ABC Ltd. and DEF Ltd. respectively will be counted as two members.

(3) Only members present in person and not by proxy are to be counted. Hence, proxies whether they are members or not will have to be excluded for the purposes of quorum. Thus, P6 and P7 shall not be counted in quorum.

In the light of the provision of the Act and the facts of the question, it can be concluded that the quorum for Annual General Meeting of Kavita Ltd. is 5 members personally present. Total 5 members (P1, P2, P3, P4 and P5) were present. Hence, the requirement of quorum is fulfilled.

(ii) The section further states that, if the required quorum is not present within half an hour, the meeting shall stand adjourned for the next week at the same time and place or such other time and place as decided by the Board of Directors.

Since, P4 is an essential part for meeting the quorum requirement, and he reaches after 11:30 AM (i.e. half an hour after the starting of the meeting), the meeting will be adjourned as provided above.

(iii) In case of lack of quorum, the meeting will be adjourned as provided in section 103.

In case of the adjourned meeting or change of day, time or place of meeting, the company shall give not less than 3 days' notice to the members either individually or by publishing an advertisement in the newspaper.

(b) The objectives of the Central Consumer Protection Council in India are to promote and protect the rights of the consumers such as:-

- (i) the right to be protected against the marketing of goods and services which are hazardous to life and property;
- (ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods/services so as to protect the consumer against unfair trade practices;

- (iii) the right to be assured, whichever possible, access to a variety of goods and services at competitive prices;
 - (iv) the right to be heard and to be assured that consumers interest will receive due consideration at appropriate terms;
 - (v) the right to seek redressal against unfair trade practices;
 - (vi) the right to consumer education.
- (c) **Corporate Culture:** Corporate Culture is described as the personality of an organization, or simply as “how things are done around here.” It guides how employees think, act, and feel. Corporate culture is a broad term used to define the unique personality or character of an organization, and includes such elements as core values and beliefs, corporate ethics, and rules of behavioral norms that are shared by people and groups in an organization and that control the way they interact with each other and with stakeholders outside the organization.

Organizational values are beliefs and ideas about what kinds of goals members of an organization should pursue and ideas about the appropriate principles of behaviour, organizational members should use to achieve these goals. From organizational values develop organizational norms, guidelines or expectations that prescribe appropriate kinds of behaviour by employees in particular towards one another.

6. (a) The parties to a bill of exchange are:
1. **Drawer:** The maker of a bill of exchange.
 2. **Drawee:** The person directed by the drawer to pay is called the 'drawee'. He is the person on whom the bill is drawn. On acceptance of the bill, he is called an acceptor and is liable for the payment of the bill. His liability is primary and unconditional.
 3. **Payee:** The person named in the instrument, to whom or to whose order the money is, by the instrument, directed to be paid.
- (b) **Exceptions to Doctrine of Indoor Management (Applicability of doctrine of constructive notice)**
- (i) **Knowledge of irregularity:** In case an ‘outsider’ has actual knowledge of irregularity within the company, the benefit under the rule of indoor management would no longer be available. In fact, he/she may well be considered part of the irregularity.
 - (ii) **Negligence:** If with a minimum of effort, the irregularities within a company could be discovered, the benefit of the rule of indoor management would not apply. The protection of the rule is also not available where the circumstances surrounding the contract are so suspicious as to invite inquiry, and the outsider dealing with the company does not make proper inquiry.
 - (iii) **Forgery:** The rule does not apply where a person relies upon a document that turns out to be forged since nothing can validate forgery. A company can never be held bound for forgeries committed by its officers.
- (c) **Safeguards created by the profession, legislation or regulation are as follows:**
- i. Educational, training and experience requirements for entry into the profession.
 - ii. Continuing professional development requirements
 - iii. Corporate governance regulations
 - iv. Professional standards
 - v. Professional or regulatory monitoring and disciplinary procedures.

- vi. External review by a legally empowered third party of the reports, returns, communications or information produced by concerned professionals.

(d) Indemnity Bond

Mr. Rohit S/o X resident of Mumbai do hereby agree to indemnify the Prateek Limited for any loss that may occur for seeking release of Bonus Share Certificate in duplicate of 50 equity shares of Rs.10 each fully paid. I further declare that personally I have not received the Bonus Share Certificate issued by the company for which the company is claiming that it has already been dispatched.

Date.....

Place:

Mumbai
Signature
(Mr. Rohit)