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FOR CS PROFESSIONAL EXAM PREPARATION

# CS Professional 2024 Question Paper · Drafting, Pleadings and Appearances

EXAM
**CS Professional**

YEAR
**2024**

TYPE
**Question Paper**

SUBJECT
**Drafting, Pleadings and Appearances**

DATE
**June 2024**

**NEW SYLLABUS**

# 532

***Roll No. .....***

***Time allowed : 3 hours*** ***Maximum marks : 100***

***Total number of questions : 6*** ***Total number of printed pages : 7***

***NOTE :*** *Answer* ***ALL*** *Questions.*

## PART–I

**1.** XYZ Ltd., a multinational conglomerate operating across various sectors, faces a critical decision regarding a strategic partnership proposal with a promising tech start-up. With 12 directors on the board, the urgency of the matter, coupled with the diverse locations of its board members, poses a challenge in convening an in-person meeting. Consequently, the company seeks an alternative method to pass the resolution.

W acted as a director on the Board of Directors of XYZ Ltd. between 2016 and 2018. He is also a shareholder in the said company, owning approximately 25.66% equity shares, and drew a salary of ₹ 2.50 lakh per month. The Commissioner of Central Goods and Service Taxes, based on the information received indicating that XYZ Ltd. was availing Input Tax Credit (ITC) against fake/ineligible invoices, commenced an investigation under section 67 of the Central Goods and Services Tax Act, 2017, against XYZ Ltd. W, as per the commissioner's statement, admitted to the fact that he had acted as a director of the company between 2016 and 2018, and since then, he has been working in the company in the capacity of a mentor/advisor. Furthermore, W also stated to the CGST Department that, in his capacity as the mentor/advisor to the company, he received ₹ 30 Lakh in the concerned FY i.e., 2019-2020, from the company. According to W, this money was given as he had been providing "strategic guidance" to the Company. The bank accounts of W have also been attached to the CGST Department.



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XYZ Ltd. enters into a contract with B, a logistics provides, to deliver a shipment of newly manufactured electronic gadgets to various retail stores across the country. The contract specifies a delivery deadline crucial for the upcoming Deepawali season sales. However, due to B's negligence, the delivery is delayed by two weeks, causing significant financial losses to XYZ Ltd. As a result of the delay, XYZ Ltd. misses the peak sales window, leading to decreased revenue and tarnished brand reputation. The company is contemplating seeking legal remedy for the loss caused.

The Ministry of Road Transport and Highways of India has announced a significant infrastructure project for the construction of Megha Highway. This highway project aims to connect various cities and towns, boosting transportation and economic development in the region. To execute this project, the ministry has initiated a tendering process inviting bids from qualified construction firms. XYZ Ltd., which is also engaged in construction activity, is contemplating participating in the tendering process for construction of the Megha Highway. As a major player in the construction industry, XYZ Ltd. sees this project as lucrative opportunity to showcase its expertise, expand its portfolio, and contribute to the nation's infrastructure development.

XYZ Ltd. wants to enter into e-contracts across the country for the sale of their various products. The company's counsel is considering the fact that conventional contract law may not be sufficient to address all the issues arising in electronic contracts. The Information Technology Act (IT Act) addresses some of the peculiar issues arises in the formation and authentication of electronic contracts. The Indian Evidence Act, 1872, deals with the presumption as to e-records, providing electronic records as evidence in disputed matters (Sections : 85A, 85B, 88A, 85C).

Based on the facts of above case study, answer following questions :

(*a*) You are required to guide XYZ Ltd. on the alternative method under the Companies Act, 2013, to pass the resolution for the strategic partnership with the tech start-up. What requirements will the company have to fulfil ?



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(*b*) W has approached you to seek your opinion on the matter of attaching his bank accounts. Write an opinion.

(*c*) Advise XYZ Ltd. on the remedies available to them under the Indian Contract Act, 1872 for the loss caused.

(*d*) What considerations XYZ Ltd. should take into account, while preparing a tender document for the Megha Highway project ?

(*e*) What prohibitions must specifically be included in e-contracts ? Furthermore, how shall the limitation of liability of XYZ Ltd. be addressed under e-contracts ?

(*5 marks each*)

**2.** (*a*) Bharathi, by a deed of gift made over certain property to her daughter, Narmadha, and directing her to pay an annuity to the donor's brother, Ram, as she had promised her brother Ram before gifting the said property. On the same day, Narmadha executed a deed, in writing, in favour of the donor's brother (Uncle) agreeing to pay the annuity. Afterwards, Narmadha declined to fulfil her promise to pay her uncle saying that no consideration had moved from him. Is the contention of Narmadha tenable ?

(*5 marks*)

(*b*) In a simple mortgage, the security for the debt is two-fold. Elucidate and cite case law, if any.

(*5 marks*)

(*c*) Amalgamation is basically a merger of two or more companies into one another company and the shareholders of each merging company becomes the shareholders in that another company. It may be either by :

(*i*) the transfer of two or more companies into one another new company, or

(*ii*) the transfer of one or more companies into one existing company



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In light of the above, when a transferor company stands dissolved due to amalgamation, explain the status of legal proceedings pending before the court, in which the transferor company was a party.

(*5 marks*)

**3.** (*a*) A competent jurisdictional authority has issued a show cause notice to Abdul Rehman. He has sought your advice for replaying the same. What are the points that he must consider while replying to the show cause notice ?

(*5 marks*)

(*b*) X, with the intention of disposing of his old stock of outdated machines, requested Y to place them in his shop for sale. Y handed over a blank cheque to X to be used only upon his instructions, after sold out of all those machines. However, since the machines were outdated and faulty, they could not be sold. Despite this, X lodged the cheque in the bank, which was subsequently dishnonoured. Y received a notice under section 138 of the Negotiable Instruments Act, 1881, from X's advocate, demanding payment. You are required to draft a reply to the above notice, assuming the necessary facts.

(*5 marks*)

(*c*) Draft a resolution for approval and adoption of CSR policy.

(*5 marks*)

***Attempt all parts of either Q. No. 4 or Q. No. 4A***

**4.** (*a*) Explain the conditions which are required to be fulfilled under section 70 of the Indian Contract Act, 1872 for a court to allow compensation under the principle of *Quantum meruit*.

(*5 marks*)



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(*b*) What do you understand by Alternate Dispute Resolution (ADR) Mechanisms ? Elucidate its different types.

(*5 marks*)

(*c*) As per The Company Secretaries Auditing Standard (CSAS-3), how the auditor should deal, if, after accepting the audit engagement, the appointing authority imposes a limitation on the scope of the audit.

(*5 marks*)

***OR (Alternative question to Q. No. 4)***

**4.A.** (*i*) Whether the licence as defined under The Indian Easements Act, 1882, is transferable ?

(*5 marks*)

(*ii*) While forming an opinion, comment on "reliance put by opinion giver on the certificates of public official" while understanding the facts of a case.

(*5 marks*)

(*iii*) Explain E-stamping. Enumerate its benefits.

(*5 marks*)

**PART–II**

**5.** Sharma, a resident of Delhi, filed a revision petition before the Delhi High Court challenging an order passed by the subordinate court in a property dispute case. The order had gone against him, as instead of filing appeal before appellate court, he sought relief under section 115 of the Civil Procedure Code (CPC).



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Sharma has been embroiled in a property dispute for several years. Frustrated by the delays and complexities of the traditional court system, he seeks a more efficient resolution to his case. Upon hearing about the e-Courts Project, Mr. Sharma decides to explore its services. The e-Courts Project was conceptualized on the basis of the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary—2005" submitted by e-Committee, Supreme Court of India with a vision to transform the Indian Judiciary by ICT enablement of Courts. The e-Courts Mission Mode Project, is a Pan-India Project, monitored and funded by Depatment of Justice, Ministry of Law and Justice, Government of India for the District Courts across the country.

Furthermore, Sharma had advanced a sum of ₹ 5 Lakh to Mr. T on 1st November 2023, with an agreed rate of interest @12 percent per annum and repayment within three months. He recovered ₹ 5 Lakh with in time from T but could not recover the agreed interest even after repeated reminders. He wants to file suit against T for recovery of interest.

Based on the facts of the above case study, answer the following questions :

(*a*) The e-Courts Project, initiated and based on the National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the judiciary, aims to transform the Indian judiciary through ICT enablement of courts. State the objective of the e-Courts mission project. What services are available to litigants through the e-Courts Project ?

(*b*) What are the grounds upon which the High Court can intervene in revision proceedings ? Whether it can interfere, if it differs from the conclusions of the subordinate court on questions of fact or law ?

(*c*) Sharma approaches you seeking guidance on filing a suit against T. Advise him on the necessary facts to include in the suit for the recovery of interest from T.

(*5 marks each*)



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***Attempt all parts of either Q. No. 6 or Q No. 6A***

**6.** (*a*) Sudharshini approaches the National Company Law Tribunal in some matter and submits a document in Tamil. The Registry of the NCLT refuses to accept the document as it is in Tamil. Is the refusal of the Registry tenable ? Explain.

(*5 marks*)

(*b*) The registered office of Poornabodha Limited is located in the city of Udupi in Karnataka. In a matter pertaining to the removal of a director, a notice was despatched by the company from a post office in Hassan in Karnataka. A shareholder has contended that the notice is not valid. Explain if the contention of the shareholder is correct.

(*5 marks*)

(*c*) Explain the nature of offences, which can be compounded under the Companies Act, 2013. Specify the jurisdiction for compounding such offences.

(*5 marks*)

***OR (Alternative question to Q. No. 6)***

**6.A** (*i*) Examine the role of Adjudicating Officers under the SEBI Act, 1992 to determine the quantum of fine when any provisions specified in the SEBI Act or SCRA, 1956 are not been complied with.

(*5 marks*)

(*ii*) Explain the objectives of the ICSI (Guidelines for Attire and Conduct of Company Secretaries), 2020.

(*5 marks*)

(*iii*) Explain Appellate Authorities under the Competition Act, 2002.

(*5 marks*)

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