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FOR CA FINAL EXAM PREPARATION

CA Final 2020 Question Paper · Paper 4 Corporate and Economic Laws

EXAM	YEAR	TYPE	SUBJECT
CA Final	2020	Question Paper	Paper 4 Corporate and Economic Laws

DATE

November 2020

Final New Syllabus
Paper - 4
Corporate and Economic Laws

MAS2

NOV 2020

Roll No. .....

Total No. of Printed Pages – **16**

Total No. of Questions – **6**

Maximum Marks – **70**

GENERAL INSTRUCTIONS TO CANDIDATES

1. The question paper comprises two parts, Part I and Part II.
2. Part I comprises Multiple Choice Questions (MCQs).
3. Part II comprises questions which require descriptive type answers.
4. Ensure that you receive the question paper relating to both the parts. If you have not received both, bring it to the notice of the invigilator.
5. Answers to Questions in Part I are to be marked on the OMR answer sheet only. Answers to questions in Part II are to be written on the descriptive type answer book. Answers to MCQs, if written in the descriptive type answer book, will not be evaluated.
6. OMR answer sheet will be in English only for all candidates, including for Hindi medium candidates.
7. The bar coded sticker provided in the attendance register, is to be affixed only on the descriptive type answer book. No bar code sticker is to be affixed on the OMR answer sheet.
8. You will be allowed to leave the examination hall only after the conclusion of the exam. If you have completed the paper before time, remain in your seat till the conclusion of the exam.
9. Duration of the examination is 3 hours. You will be required to submit (a) Part I of the question paper containing MCQs, (b) OMR answer sheet thereon and (c) the answer book in respect of descriptive type answer book to the invigilator before leaving the exam hall, after the conclusion of the exam.
10. The invigilator will give you acknowledgement on Page 2 of the admit card, upon receipt of the above-mentioned items.
11. Candidate found copying or receiving or giving any help or defying instructions of the invigilators will be expelled from the examination and will also be liable for further punitive action.

PART – II

70 marks

1. Question paper comprises **6** questions. Answer Question No. **1** which is compulsory and any **4** out of the remaining **5** questions.
2. Working notes should form part of the answer.
3. Answers to the questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be evaluated.

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PART – II

1. (a) You are a young women Chartered Accountant from India, having graduated from a top notch business school in India and later on became a Certified Public Accountant (CPA) from USA. You have a special acumen for providing scratch to end business advisory and regulatory related solutions. Your client, M/s. New Tech Software Solutions Limited (NTSSL) is a listed entity engaged in developing customised software packages for two and three wheeler automobile manufacturers in India and abroad. The Company follows strict corporate governance norms in letter and spirit and has the following composition of Board of Directors : **8**

NAME	DESIGNATION /CATEGORY
Mr. X	CEO and Managing Director
Mr. Y	Non-independent and Non-Executive Director
Mr. A, Mr. B, Mr. C and Mr. D	Independent Directors
Mrs. E	Independent , Women Director

During the financial year 2019-2020, the Company made the following remuneration to its Directors :

Name	Amount (in ₹)
Mr. X - CEO & MD	Monthly remuneration of ₹ 50,000 + Commission of ₹ 1,50,000 calculated as a percentage of net profits
Mr. Y	Commission at the rate of 1% of the net profit.

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Others

(i) Mr. Y was paid a fee ₹ 1,00,000 for the services rendered by him as a graduate civil engineer for valuing the assets of the Company. Though he is not a Registered Valuer, he carried out the valuation on the assumption that, valuation can be done by a person having such qualifications and experience for registered valuers.

(ii) Payment of ₹ 5,00,000 insurance premium towards Directors and Officers Liability Policy to protect the Company against any negligence on the part of Mr. X, the Managing Director. A claim of ₹ 1,00,000 was lodged with the Insurance Company as a result of guilty of negligence of Mr X.

With the above information, the said Company approached you seeking certain clarifications. Clearly explaining the relevant provisions of the Companies Act, 2013 and the Rules made there under, provide your professional advise to the following questions as raised by the Company:

(i) Whether the payments made to Mr. X and Mr. Y forms part of an overall maximum managerial remuneration ?

(ii) Whether payment of insurance premium towards Directors and Officers Liability Policy form part of remuneration of Mr. X ?

(iii) Who is the approving/recommending authority for the payments made to Mr Y ?

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(b) You are the CFO and in-charge of compliances of a listed entity. The Company is professionally managed and has earned a niche in the market for its robust management practices. Mr. Edward, an eminent American business man, currently living in Germany, joined the Company as an Executive Director. On assuming his mantle, he being a foreign director residing abroad, approached you to specifically understand the relevant provisions of the Companies Act, 2013 relating to participation of directors in Board Meetings conducted through Video Conferencing in respect of the following matters : **6**

(i) What shall be the venue of Board Meeting through video conference ?

(ii) How the statutory registers placed at the scheduled venue of the meeting shall deemed to have been signed by the directors participating through electronic mode ?

(iii) Whether meetings can be convened through audio/ teleconferencing i.e. without video facility ?

You are required to provide correct legal-position to the above queries after examining and evaluating the provisions of the Companies Act, 2013.

2. (a) RMP Limited was facing acute financial difficulties as operations were continuously disrupted and the Company was facing the brunt of : **4**

(i) Non-Availability of Raw Materials,

(ii) Loss of demand for the Company's products,

(iii) Frequent lockdown due to workmen's unrest.

On the verge of liquidation, the Management proposed one last arrangement between creditors and the Company, whereby, the creditors will have to forego 50% of their dues to the Company. This has evoked strong protest from some of the creditors who may block the arrangement.

Examine the arrangement in the light of the Companies Act, 2013 and advice the course of action / procedure to be adopted by the company to implement the arrangement.

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(b) As a part of amalgamation, Harsha Limited acquired 90% of the issued capital of Ananya Limited. The issued, subscribed and paid up capital of Ananya Limited is ₹ 100 Crores. Out of remaining minority shareholding of Ananya Limited, ₹ 8 Crores are held by Mr. Raju. Mr. Raju was not satisfied with the amount decided under the scheme and therefore negotiated for a higher price. As a result, he received an extra amount of ₹ 10 Lacs. The other minority shareholders claim that Mr. Raju is not entitled to the entire extra amount of ₹ 10 Lacs. Examine the validity of claim made by other minority shareholders under the relevant provisions of the Companies Act, 2013. 4

(c) Under the auspicious of the Foreign Exchange Management Act, 1999, (the Act) examine whether the given situations fall under "Current Account Transactions" or not as defined in the Act ? 3

(i) Mr. S, a resident in India, imports machinery from a vendor in UK for installing in his factory.

(ii) An Indian resident imports machinery from a vendor in US for installing in his factory on a credit period of 3 months.

(iii) An Indian resident transfers US$ 1,000 to his NRI brother in New York as "gift". The funds are sent from resident's Indian Bank account to the NRI brother's Bank account in New York.

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(d) Glow Bright Limited, engaged in business of printing of advertisement material, took a term loan of ₹ 5 Crores from a Bank against security created as first charge on its printing machines. Glow Bright Limited made default in re-payment of term loan to the Bank. Consequently, the Bank issued notice to the Company under SARFAESI Act, 2002 to discharge its liabilities. Answer the following with reference to provisions of SARFAESI Act, 2002 : 3

(i) What is the maximum period within which Glow Bright Limited must pay its liabilities ?

(ii) What if Glow Bright Limited failed to discharge its liabilities within the specified time limit ?

3. (a) Digital Era Limited (DEL), is a start-up Company, incorporated in the year 2017 under the provisions of the Companies Act, 2013. The main object of the Company is to manufacture and market two wheelers adopting a new technology of using hydrogen as a fuel to run the vehicle in lieu of petrol. Despite several experiments, the technology of hydrogen fuelled engine for the two wheelers was not successful. As per the requirements of the Companies Act, 2013, no business was commenced and no financial statements were filed with the Registrar of Companies (RoC). Eventually the Board of Directors of the Company resolved to apply to the RoC for getting the name of the Company struck-off from the Register of Companies. 8

The RoC, after satisfying that all the compliances specified under Section 248 of the Companies Act, 2013 have been met by the

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Company and after publishing a notice for general public and also in the official gazette, the name of the Company was struck-off from the Register of Companies w.e.f 7th January,2020.

Earlier in the year 2018, Mr. Amrit, had supplied certain spares to the Company for ₹ 2,50,000 and despite his several requests, the amount was not settled by the Company. In September 2020, he came to know from his close aides that DEL has some assets available with them. Thereafter, with a view to recover his dues from the Company, he approached you seeking your professional guidance. As a competent professional, advise Mr. Amrit, the following, in the light of the provisions of the Companies Act, 2013 :

(i) Whether the assets of the Company shall be made available for the discharge of its liabilities even after the date of the order removing the name of the Company from the Register of Companies ?

(ii) Can an aggrieved person file an appeal against the order of the RoC ? If so, state the legal provisions in this regard.

(iii) When and under what circumstances can the RoC restore the name of the Company ?

(iv) State the circumstances and the time frame within which the Tribunal can order the name of the Company to be restored to the Register of Companies ?

(v) Can the name of a Company registered under Section 8 of the Companies Act, 2013 be removed from the Register of Companies ?

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(b) Three Companies belong to Gopal group based out of Bengaluru. Each of the three companies are into businesses as under : 6

Company A	Chit Funds
Company B	Housing Finance
Company C	Payment System Operator

In the light of the relevant provisions of the Prevention of Money Laundering Act, 2002, examine the following :

(i) Who is a "beneficial owner" under the Prevention of Money Laundering Act, 2002 ?

(ii) Whether each of the above businesses fall within the definition of "Financial Institution" ?

(iii) What are the obligations of a financial institution regarding maintenance of records ?

(iv) Whether a Civil Court have jurisdiction to entertain any suit or proceeding in respect of any matter which the Appellate Tribunal is empowered by or under this Act ?

(v) Can an injunction be granted by any Court or other Authority in respect of any action taken or to be taken in pursuance of any power conferred on the Appellate Tribunal ?

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4. (a) As at 01.04.2019, the composition of the Board of Directors of M/s. Apex Ltd, an unlisted, Public Limited Company comprised of 7 directors as under : **4**

S. No	Name	Designation
01	Mr. X	Executive Chairman (Executive and Non-Independent)
02	Mr.Y	Managing Director and CEO (Executive and Non-Independent
03	Mrs. Z	Women Director (Non-Independent)
04	Mr. A	Independent
05	Mr. B	Independent
06	Mr. C	Independent
07	Mr. D	Independent

As at 01.04.2019, the constitution of the Audit Committee comprised of the following Directors :

Name	Designation
Mr. Y	Chairman
Mr. X	Member
Mrs. Z	Member
Mr. Y	Member

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The majority of the members of the Audit Committee have the ability to read and understand the financial statements but none of them have accounting or related financial management expertise. During January, 2020, the Company went for an Initial Public Issue (IPO) and got its shares listed on a recognized Stock Exchange. Referring to SEBI (Listing Obligations and Disclosure Requirements), Regulations, 2015 :

(i) State, how a qualified and an independent Audit Committee should be constituted ?

(ii) Whether the present constitution of the Audit Committee is in order and whether it can continue post listing of its securities in the Stock Exchange ?

(b) MNK Limited has incurred heavy losses during the preceding 3 consecutive financial years and has a negative net worth of ₹ 525 crore as at 31st March, 2020. Trading in securities of Company has remained suspended for a period of more than 9 months. CSE, a recognized-Stock Exchange, delisted the securities of MNK Limited. Mr. Y was having 25,000 shares of MNK Limited, purchased at ₹ 100 per share, aggrieved against the decision of the Stock Exchange to delist the securities of MNK Limited. Referring to the provisions of the Securities Contracts (Regulation) Act, 1956 examine : 4

(i) Whether CSE, a recognized Stock Exchange can delist the securities of MNK Limited ?

(ii) If yes, state the grounds for delisting.

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(c) Mr. Soumak is an editor of a daily business news on BNN TV. He received a salary of US $ 1,80,000 from Mr. Bob. Mr. Bob is a US citizen resident in India and operates BNN TV business operations in India. Mr. Bob received such payment i.e. salary given to Mr. Soumak from his parent Company BNN Inc. of USA. Examine under the provisions of the Foreign Contribution (Regulation) Act, 2010. whether receipt of salary by Mr. Soumak is prohibited ? **3**

(d) Shyam started a fresh juice shop and contacted Naresh for supply of fruits and vegetables. Most of the communication between them happened over email. On the email, they decided the payment, terms and other conditions of service. For initial 5 months, Shyam was regular in making payment to Naresh for the fruits bought, but later on stopped making payments. Naresh filed a suit against Shyam in a Magisterial Court but Shyam contended that the matter should be settled through Arbitration. Referring to provision of the Arbitration and Conciliation Act, 1996, state whether the contention of Shyam is correct. **3**

5. (a) By an order dated 25th June, 2020, NCLT had ordered for winding up of Kamath Trading Limited. Consequently, Official Liquidator took control for the assets and other records of the Company. During the winding up proceedings, the Official Liquidator came across a transaction where some of the properties of the Company was sold to a small Private Company. Mr. Nag, who was interested in that small Private Company happened to be the brother of Director of Kamath Trading Limited. The sale of the said properties took place on 20th March, 2020 at a price which was ₹ 58 Lacs less than the market price. In the light of the facts given above, examine, with reference to relevant provisions of the Companies Act 2013, what action the Tribunal can take in this regard ? **4**

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(b) In the annual general meeting of XYZ Ltd. held on 28th May, 2020, while discussing on the matter of retirement and reappointment of director Mr. X, allegations of fraud of ₹ 20 lakhs in Bombay branch of the Company were marked against him by some members. This resulted into disorder and confusion in the meeting. The Chairman declared initiating an inquiry against the director. Mr. X, however, could not be re-appointed in the meeting. The matter was published in the newspapers next day. On the basis of such news, examine whether the Court can take cognizance of the matter and take action against the Director on its own ? Justify your answer with reference to the provisions of the Companies Act, 2013. **4**

(c) Pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) a liquidation order was passed against Luci Soya Limited (LSL) (Corporate Debtor) by the Adjudicating Authority (NCLT). Mr. Solanki, was appointed as the liquidator by the NCLT. Upon resuming his mantle, Mr. Solanki started collecting claims from all the creditors within the time frame as prescribed in the IBC, 2016. While initiating the liquidation process as per provisions of the IBC, 2016, Mr. Solanki proposed to include the equity shares of one of its subsidiary as part of the liquidation estate in relation to the corporate debtor. Besides this, one of the unsecured financial creditor demanded that, at the time of distribution of liquidation proceeds, his dues may be paid before the government dues are paid. Mr. Solanki also observed that pending legal proceedings against the corporate debtor, 'A' Ltd, an operational creditor, has filed a case with the Arbitral Tribunal praying for an arbitral award against LSL. **6**

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On the basis of the above information and in the light of the Insolvency and Bankruptcy Code, 2016, answer the following :

(i) Whether the proposal of Mr. Solanki to include the equity shares of the subsidiary Company of LSL as part of liquidation estate tenable ?

(ii) How should Mr. Solanki deal with the demand of the unsecured financial creditor ?

(iii) Whether 'A' Ltd will succeed in its prayer for an arbitral award against LSL ?

6. (a) Excel Limited is a listed Company with a turnover of ₹ 60 crores in the FY 2016-2017. The Company appoints Ms. R as the women director on 1st March, 2017. Ms. R is already a director in twelve companies including ten public companies. Also, Ms. R is a Chartered Accountant in practice. Further, also, Ms. R, is a Director in Supreme Ltd. where she is acting in a professional capacity. Since lots of proposal for the holding of directorship in various companies are lined up before Ms. R, so in order to retain her, the Remuneration and Nomination Committee proposed to enhance the remuneration of Ms. R from 4 Lacs per month to 6 Lacs per month. However, Supreme Limited was running in losses in the last 2 years. **4**

Evaluate in the light of the given facts, the following with reference to the provisions of the Companies Act, 2013 :

(i) The validity of appointment of Ms. R in Excel Limited.

(ii) Analyse the proposition of enhancement of remuneration of Ms. R in Supreme Ltd.

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Evaluate the following cases of appointment of Director(s), with reference to the relevant provisions of the Companies Act, 2013 :

(i) Ms. Nisha was appointed as director of LMN Limited on 10th October, 2020 in place of Ms. Rachna, who resigned from her office on 31st May, 2020 six months before expiry of term of her office. LMN Limited had its Board meeting on 31st July 2020. Whether appointment of Ms. Nisha is valid ?

(ii) The Board of Directors of a Company appointed Mr. Sarvesh as an additional director on 30th July, 2020. Mr. Sarvesh continued to hold his office till 15th October, 2020. The Company had its annual general meeting on 30th October, 2020 which should have held on 30th September, 2020. Whether Mr. Sarvesh can hold office till 15th October, 2020 ?

(b) Eighty-two shareholders of Perish Limited, a listed Company holding shares of nominal value of ₹ 19,000 each proposed Mr. Babulal as a Director on the Board. The paid-up share capital of Perish Limited is ₹ 6.2 Crores (6,20,000 equity shares of ₹ 100 each). The Company has 800 such shareholders, who are holding shares of nominal value of ₹ 19,000 or less. Examine with reference to relevant provisions of the Companies Act 2013, whether Mr. Babulal can be appointed as a Director of Perish Limited ? 4

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(c) The Adjudicating Authority under the Prevention of Money Laundering Act, 2002 (the Act) made an order under Section 8(3), confirming the provisional attachment of property made under Section 5(1) of the said Act. Mr. Rana, owner of the attached property, aggrieved by the order, wanted to make an appeal to the Appellate Tribunal. However, before making an appeal Mr. Rana is adjudicated as an insolvent. Explain, with reference to the relevant provisions of the said Act, whether appeal could be made to Appellate Tribunal in the present case ? 3

(d) Abhi Limited entered into an agreement with Atulya Gas Limited for purchase of natural gas, which is not specified as an essential supply. On failure of Abhi Limited to make payments, Atulya Gas Limited issued notice to Abhi Limited that further supply of gas would be stopped if payments are not made immediately. On further non-payment, Atulya Gas Limited filed a petition before NCLT for initiating Corporate Insolvency Resolution process against Abhi Limited. On 15th March, 2020 the petition was admitted. On 30th April, 2020, Atulya Gas Limited disconnected gas supply to Abhi Limited for non-payment. As a result of disconnection of gas supply, operations of Abhi Limited came to a halt. The Resolution professional filed a petition to NCLT seeking Atulya Gas Limited to resume the supply of natural gas, as natural gas was an important material for production of electricity by Abhi Limited. 3

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Referring to the provisions of Insolvency and Bankruptcy Code, 2016, answer the following :

(i) When the moratorium period will expire in this case ?

(ii) Whether Resolution Professional will be successful in his petition filed with NCLT ?

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