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FOR CS EXECUTIVE EXAM PREPARATION

CS Executive 2023 Question Paper · Setting Up of Business, Industrial and Labour Laws

EXAM
CS Executive

YEAR
2023

TYPE
Question Paper

SUBJECT
Setting Up of Business, Industrial and Labour Laws

DATE
December 2023

NEW SYLLABUS

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Roll No. .....

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

Total number of questions : 6 ***Total number of printed pages : 8***

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

PART–I

1. R is carrying on the business of trading of readymade garments as a sole proprietor in Delhi. He wants to diversify his business by opening the branches in other cities across the country. Due to shortage of funds and other resources, he approaches his friend K, who is a Practicing Company Secretary (PCS) for seeking his advice on the form of business organisation which may be more beneficial for him. K advises him to convert his sole proprietorship form of business into a private company by involving his friends and relatives as the directors and members of the private company. He describes the characteristics of a private company under the Companies Act, 2013. K further advises R that the conversion of his existing form of business into a private company would provide him easy access to capital needed for diversifying his business.

In accordance with the advice of K, R decided to convert his sole proprietorship business into a private company with the proposed name, R Holding Pvt. Ltd. He makes an application to the Registrar of Companies (RoC), Delhi for reservation of the proposed name of the company, R Holding Pvt. Ltd. However, the proposed name is rejected by RoC, Delhi citing the common reasons for rejection of the proposed name. R makes a fresh application for reservation of the proposed new name of the company, R Cloth Trading Pvt. Ltd. and the name is reserved by RoC, Delhi. After filing the necessary e-forms and documents with RoC, Delhi, the company, R Cloth Trading Pvt. Ltd. is incorporated under the Companies Act, 2013.

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K informs R about the utility of the Permanent Account Number (PAN) and accordingly, R obtains PAN in the name of the company. K also helps him in getting the GST registration in the name of the company and advises him to go for "Composition Scheme" under the GST Act, 2017. R approaches the banks for sanctioning loan for his business to enable him to open branches in the State of Uttar Pradesh. However, due to stringent loan sanctioning process of the banks, R fails to get loan from the banks for his business. R approaches K for seeking his help to arrange the required funds for the business and K helps R in getting loan for his business from, ST Finvest Ltd., a Non-Banking Financial Company (NBFC). The loan is processed quickly by ST Finvest Ltd. to R Cloth Trading Pvt. Ltd. at a very competitive rate of interest.

In view of the above, answer the following :

(*a*) Write down the characteristics of a private company under the Companies Act, 2013 as described by K to R.

(*b*) Describe the common reasons on the basis of which RoC, Delhi has rejected the name reservation application of R with the proposed name, R Holding Pvt. Ltd.

(*c*) State the utility of PAN for R Cloth Trading Pvt. Ltd.

(*d*) Why does K advise R to go for "Composition Scheme" under the GST Act, 2017 ?

(*e*) Discuss the privileges available to ST Finvest Ltd. to process loan to R Cloth Trading Pvt. Ltd. quickly at a very competitive rate of interest as compared to the banks.

(*3 marks each*)

2. (*a*) Aniket wishes to incorporate a company under section 8 of the Companies Act, 2013 for the purpose of promotion of education, research and social welfare. He approaches you to seek your advice on eligibility to apply for section 8 company license. Advise Aniket.

(*3 marks*)

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(*b*) YZ Ltd. desires to form a Special Purpose Vehicle (SPV) to start a new project. Brief the company on the benefits of forming a SPV.

(*3 marks*)

(*c*) S&T Corp. is a company registered in Germany. The company desires to open a Branch Office in India. Advise S&T Corp. the activities permitted for a branch office in India of a person resident outside India under the Foreign Exchange Management Act, 1999 read with Foreign Exchange Management (Establishment in India of a branch office or a liaison office or a project office or any other place of business) Regulations, 2016.

(*3 marks*)

(*d*) Ratan has started the business of handicraft items in Chandni Chowk, Delhi. One of his friends advised him to obtain the license under the Shop and Establishment Act, 1948. He approaches you to seek your advice on the contents of application for license under the Shop and Establishment Act, 1948. Advise Ratan.

(*3 marks*)

(*e*) A, B and C are the partners in the partnership firm registered under the Partnership Act, 1932 in the name of ABC Traders. Considering the benefits available to Limited Liability Partnership (LLP) under the Limited Liability Partnership Act, 2008, the partnership firm is converted into LLP with the name ABC LLP and the same is registered. The Department of State Revenue issues a notice to the LLP to pay stamp duty and registration charges for transferring the assets of the erstwhile partnership firm to LLP. It is contended by the Department that the LLP is a separate distinct entity from that of its partners and hence the conversion amounts to change of legal rights. In the light of the decided case law, examine the validity of the contention of the Department of State Revenue.

(*3 marks*)

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3. (*a*) MS Appliances, a small enterprise having investment in plant and machinery of ₹ 8.00 crores and turnover of ₹ 45.00 crores approaches you to seek your advice on Micro & Small Enterprises Cluster Development Programme (MSE-CDP) Scheme of the Government of India for MSMEs. Draft a brief note on MSE-CDP Scheme.

(*b*) TKM Ltd. is a section 8 company registered under the Companies Act, 2013. The company desires to operate the educational institutes in the State of Madhya Pradesh. The company approaches you to seek your advice on the role of Incubators for assisting entrepreneurs in building and launching their start-ups. Draft a brief note on 'Incubators' as a mode of financing.

(*c*) BN Ltd. and PL Ltd. desire to form a Joint Venture for setting-up a new infrastructure project in the State of Karnataka. Both the companies approach you to seek your advice on the Joint Venture Agreement to be entered into between them. Advise them the essential components of a Joint Venture Agreement.

(*d*) A group of farmers desires to start the business of organic farm produce by opening branches in different districts and States of the country. The farmers have approached you to seek your advice on formation of a Multi State Co-operative Society under Multi State Cooperative Societies Act, 2002. Brief them on the documentary requirements for formation of Multi State Co-operative Society and the Authority with whom the application needs to be filed.

(*e*) ABC Ltd. has been converted into a private limited company with the name ABC Pvt. Ltd. Brief the company on the major compliances that need to be followed by it after conversion into a private limited company.

(*3 marks each*)

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

4. (*a*) Explain the characteristics of a Nidhi Company under the Companies Act, 2013 and the Nidhi Rules, 2014.

(*b*) Payment banks is a new model of banks conceptualised by the Reserve Bank of India (RBI). Elucidate.

(*c*) Briefly state the types of FSSAI License under the Food Safety and Standards Act, 2006.

(*d*) What do you mean by 'Other Service Providers' (OSP) under New Telecom Policy, 1999 ?

(*e*) Explain in brief the eligibility criteria for obtaining Housing Finance Company Registration under the National Housing Bank Act, 1987.

(*3 marks each*)

OR (Alternate question to Q. No. 4)

4A. (*i*) Write down the procedure to apply for Industrial License under Industries (Development and Regulation) Act, 1951 ?

(*ii*) Describe in brief the compliances under Environment Laws.

(*iii*) Discuss in brief the eligibility for referring any entity as 'Indian Entity' under the new regime as per the provisions of Foreign Exchange Management Act, 1999.

(*iv*) Explain in brief the objectives of Foreign Collaboration.

(*v*) What are the restrictions imposed by the Reserve Bank of India on Chit Fund business ?

(*3 marks each*)

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PART–II

5. Reena has joined as the Management Trainee in the Company Secretary department of PP Ltd. in the month of September, 2022. The Company is a listed company. Apart from passing CS Professional examination, Reena has also completed her MBA (Finance) from a reputed Management Institute. She is passionate to learn the compliances under the Companies Act, 2013, the SEBI Act, 1992 and other laws applicable to the company. On the request of Reena, the Company Secretary of the company advises Reena to meet Sanjeev, who is the senior partner of AB Solicitors, the legal consultants of the company, for understanding the compliances under the various laws.

On 10th July 2023, Reena visits the office of Sanjeev. During the discussion, Sanjeev highlights that in the CS department of PP Ltd., the male CS trainees are getting higher stipend as compared to the stipend of female CS trainees. Sanjeev explains her about the reforms proposed by Code on Social Security, 2020, which amends and consolidates the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors or for matters connected therewith or incidental thereto. He also mentions that in order to ensure security for all workers, the Central Government has subsumed nine Labour Laws into the Social Security Code to secure the rights of workers for insurance, pension, gratuity, maternity benefit etc. Further, the Government can fund the contribution of workers from disadvantaged section. He also informs that being a cotton textile unit, there are some restrictions for PP Ltd. on engagement of women and children near cotton openers, but the company is not following the prescribed rules.

After the meeting, Sanjeev advises Reena to come again to his office on the next day so that he may explain her about the pending legal cases. She returns back to the office of PP Ltd. and prepares a detailed report on equal pay for equal work and laws which are proposed to be merged in Social Security Code and restriction on employment of women and children. She sends the said report to the Managing Director of PP Ltd. through email with a copy to the senior partner of the legal consultants of the company.

As per the advice of Sanjeev, Reena visits the office of AB Solicitors, legal consultants, again on 11th July 2023. On reaching the office of legal consultants, she is informed that

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Sanjeev is on leave for the day due to urgent personal work. Mukesh, who is the junior partner in the legal consultancy firm, tells her that he is preparing replies in respect of various legal cases of the company and she should also learn how to prepare such replies. Reena being excited to learn new things enters into the chamber of Mukesh. Mukesh tells Reena that he may provide very useful case studies to her for her learning and starts making physical contact and advances with her. Being aggrieved by the behaviour of Mukesh, Reena returns to the office of PP Ltd. and makes a complaint before the internal complaints committee of the company for sexual harassment. Reena wants that her identity, address and contents of her complaint should not be published, communicated or made known to the public. In view of the above, answer the following :

(*a*) In the light of a decided case law, examine whether PP Ltd. is violating the rule of Equal Pay for Equal Work ?

(*b*) What are the nine Labour Laws that have been subsumed by the Social Security Code by the Central Government ?

(*c*) Examine whether PP Ltd. is contravening the provisions of law regarding prohibition of employment of women and children near cotton openers ?

(*d*) Briefly state the provisions regarding prohibition of publication or making known contents of complaint and inquiry proceedings under Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(*5 marks each*)

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

6. (*a*) Arun was working in a factory from 1st October 2020. He met with an accident while working in the factory on 30th June 2023 which resulted into his permanent disablement. His services were terminated by the owner of the factory. The owner also denied to pay gratuity to Arun on the ground that he had not rendered continuous service of five years. Referring the provisions of Payment of Gratuity Act, 1972, examine the correctness of the decision of the owner of the factory for non-payment of gratuity to Arun.

(*5 marks*)

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(*b*) Define the term 'Adolescent' under the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986. Also explain the provisions regarding hours and period of work of an adolescent in any establishment under the Act.

(*5 marks*)

(*c*) Explain in brief the provisions regarding payment of Subsistence Allowance under the Industrial Employment (Standing Orders) Act, 1946.

(*5 marks*)

(*d*) What are the obligations of Employers and Apprentice under the Apprentices Act, 1961 ?

(*5 marks*)

OR (Alternate question to Q. No. 6)

6A. (*i*) Describe in brief the specific responsibility of the occupier in relation to hazardous processes under the Factories Act, 1948.

(*ii*) Write down the benefits available to the insured persons or their dependants under the Employees' State Insurance Act, 1948.

(*iii*) Distinguish between 'Lay off ' and 'Lock out' under the Industrial Disputes Act, 1947.

(*iv*) Explain in brief the classes of employees to whom the provisions of the Payment of Bonus Act, 1965 are not applicable.

(*5 marks each*)

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