Mock Test Paper - Series I: March, 2024

Date of Paper: 7 March, 2024

Time of Paper: 2 P.M. to 5 P.M.

INTERMEDIATE COURSE: GROUP – I

PAPER – 2: CORPORATE AND OTHER LAWS

Time Allowed – 3 Hours **Maximum Marks – 100**

1. *The question paper comprises two parts, Part I and Part II.*
2. *Part I comprises Case Scenario based Multiple Choice Questions (MCQs)*
3. *Part II comprises questions which require descriptive type answers.*

PART I – Case Scenario based MCQs (30 Marks)

Part I is compulsory.

Case Scenario 1

Silver Private Limited was incorporated in 2016 having its registered office at Gurugram, Haryana. It is registered with an authorised share capital of ₹ 10 crore divided into 1 crore equity shares of ₹ 10/- each. The paid-up share capital of the company is ₹ 50 lakh divided into 5 lakh equity shares of ₹ 10/- each. The company is in manufacturing of rubber parts to be used in manufacturing of parts of passenger vehicles.

Mr. Raj and Mr. Pawan are directors of the company. Mr. Siddharth (son of Mr. Raj) on January 8, 2022 had advanced a loan of ₹ 50 lakh at an interest rate of 8% p.a. and the loan is expected to be repaid after a period of thirty six months.

Silver Private Limited intends to accept deposits of ₹ 60 lakh from its members for the purpose of expansion of its business. The financial particulars of the company are as below mentioned: -

S. No.	Particulars	Amount (₹)
1	Paid-up share capital	50 lakh
2	Free Reserves	20 lakh
3	Security premium	10 lakh
4	Borrowings from banks	65 lakh
5	Turnover	200 lakh

As on the date of acceptance of deposits, the company has not defaulted in repayment of borrowings along with interest thereon.

The Company Secretary of the company informed Board of Directors of the company that they need to appoint an internal auditor for audit of the company. The Board stated that statutory auditor is already performing audit function and there is no need to appoint internal auditor as it causes additional burden on the company.

The company require funds for the purpose of meeting working capital requirements. The company has approached the bank for meeting working capital requirements and has availed a loan of ₹ 65 lakh from bank. The loan is secured by the personal guarantee of the directors of the company.

On the basis of above facts and by applying applicable provisions of the Companies Act, 2013 and the applicable Rules therein, choose the correct answer (one out of four) of the following Multiple Choice Questions (MCQs 1-5) given herein under: -

1. With respect to loan advances by Mr. Siddharth to Silver Private Limited, whether the same can be classified as deposit or not?

   (a) It will be treated as deposit as the loan is advanced by Mr. Siddharth who is neither director nor shareholder of the company.

   (b) It will be treated as deposit as the loan is given by relative of the director.

   (c) It will not be treated as deposit as Mr. Siddharth has given loan to the company at an interest rate of 8% p.a.

   (d) It will not be treated as deposit if Mr. Siddharth gives a written declaration to the effect that loan is advanced by him from his own source of funds, not from borrowings or accepting loans or deposits from others and the company shall disclose the details of money so accepted in the Board's Report.

2. With respect to acceptance of deposits from members, which of the below mentioned statement is correct:

   (a) Silver Private Limited cannot accept deposits of more than paid-up share capital which is ₹ 50 lakh.

   (b) Silver Private Limited can accept deposits of ₹ 60 lakh from members, as it is less than twice of its paid up share capital or ₹ 50 crore, whichever is less.

   (c) Silver Private Limited cannot accept deposits of more than higher of aggregate of paid-up share capital and free reserves which is ₹ 70 lakh and borrowings which is ₹ 65 lakh.

   (d) Silver Private Limited cannot accept deposits of more than aggregate of paid-up share capital and free reserves, which is ₹ 70 lakh.

3. Is Silver Private Limited required to appoint internal auditor in accordance with the provisions of the Companies Act, 2013?

   (a) Silver Private Limited is not required to appoint internal auditor as private companies are not required to appoint internal auditor.

   (b) Silver Private Limited is required to appoint internal auditor as borrowings is below prescribed limited.

   (c) Silver Private Limited is required to appoint internal auditor as aggregate of paid-up share, free reserves and security premium is more than prescribed limited.

   (d) Silver Private Limited is not required to appoint internal auditor as turnover is less than prescribed limited.

4. Which of the following statement is correct in respect of loan of ₹ 65 lakh availed by the company?

   (a) Silver Private Limited needs to create and register charge within 30 days from the date of sanction of loan.

   (b) Silver Private Limited is not required to create and register charge as the loan is against the personal guarantee of directors.

   (c) Silver Private Limited needs to create and register charge within 15 days from the date of sanction of loan.

   (d) Silver Private Limited needs to create and register charge within 60 days from the date of sanction of loan.

5. The management of Silver Private Limited for ease of doing business and reduce compliance burden, proposed, it to be registered as a small company. Within the provided information and the legal requirements under the Companies Act, 2013, recommend on the validity of the said proposal:

   (a) Proposal is valid, as any private limited company can apply for the status of small company.

   (b) Proposal is invalid, as the Silver Private Limited is not fulfilling the requirement of turnover of ₹ 400 crore.

   (c) Proposal is valid, as the Silver Private Limited is fulfilling the requirement of paid up share capital and turnover which is within the prescribed limits.

   (d) Proposal is invalid, as Silver Private Limited is fulfilling the requirement of paid up share capital.

6. The financial particulars of ABC Limited in respect of immediately preceding financial year are as under:

S. No.	Particulars	Amount in ₹ crore
1	Net worth	280
2	Turnover	550
3	Net Profit	5.50
4	Borrowings	60

   Choose the correct option in terms that whether the provisions of Corporate Social Responsibility are applicable to ABC Limited.

   (a) No, as ABC Limited is having net worth of more than ₹ 250 crore in the immediately preceding financial year.

   (b) Yes, as ABC Limited is having turnover of more than ₹ 500 crore but less than ₹ 800 crore in the immediately preceding financial year.

   (c) Yes, as ABC Limited is having net profit of more than ₹ 5 crore in the immediately preceding financial year.

   (d) Yes, as ABC Limited is having loans and borrowings of more than ₹ 50 crore in the immediately preceding financial year.

7. Under what circumstances is the requirement for constituting a Corporate Social Responsibility (CSR) Committee waived, and who is responsible for discharging the functions of the CSR Committee in such cases?

   (a) When the amount to be spent by a company does not exceed fifty lakh rupees; the Board of Directors assumes the responsibility of the CSR Committee's functions.

   (b) When the amount to be spent by a company exceeds fifty lakh rupees; the Board of Directors assumes the responsibility of the CSR Committee's functions.

   (c) When the amount to be spent by a company does not exceed fifty lakh rupees; the shareholders assume the responsibility of the CSR Committee's functions.

   (d) When the amount to be spent by a company exceeds fifty lakh rupees; the shareholders assume the responsibility of the CSR Committee's functions.

Case Scenario 2

Vidhya Masterminds LLP was incorporated on 15th April, 2023. Sagar, Manthan, Vishnu and Vasuki were partners in the firm. Sagar and Manthan were also the designated partners in this firm. The firm was incorporated with the object of manufacturing and trading of cycles. The business was going too smoothly.

But on 30th April, 2023, some Mr. Vidhyaram Tolaramani filed an application to registrar that he has a registered trademark in the name of “Vidhya Masters” which he has got registered before 15.04.2023. Therefore, the LLP “Vidhya Masterminds LLP” should change its name. On the basis of basic investigation, registrar found that Mr. Vidhyaram Tolaramani was correct in contention. The registrar sent a direction to Vidhya Masterminds LLP to change its name as it too nearly resembles with the trademark of Mr. Vidhyaram Tolaramani i.e. “Vidhya Masters”. The notice was issued by the registrar on 5th May, 2023 by post but due to some internal problem of postal department, notice reached the LLP on 10th May, 2023. Vidhya Masterminds LLP ignored the notice and continued working under the same name. On 15th August, 2023 the registrar *suo-moto* allotted the LLP a new name “Sahitya Masterminds LLP” and entered this new name in the register of LLP and also issued a fresh certificate of incorporation to Vidhya Masterminds LLP with new name. Vidhya Masterminds LLP, now “Sahitya Masterminds LLP” was not comfortable with new name. It started the process to change the name allotted by the registrar.

Meanwhile, Vishnu was appointed as designated partner in Vidhya Masterminds LLP on 25th July, 2023 but this information was not sent to the registrar. On 20th June, 2023, Mr. Vasuki had given a written notice to the LLP that he could not continue as a partner in LLP with effect from 22nd July, 2023. This cessation from the LLP was also not informed by either LLP or Mr. Vasuki, to the Registrar.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following MCQs (8- 10) given herein under: -

8. When the registrar directed Vidhya Masterminds LLP to change its name, by which date the LLP should have changed the name of LLP?

   (a) By 5th August, 2023 i.e. within a period of 3 months from the date of issue of such direction by registrar.

   (b) By 10th August, 2023 i.e. within a period of 3 months from the date of receiving of such direction by the firm.

   (c) By any time according to the convenience of Vidhya Masterminds LLP.

   (d) Vidhya Masterminds LLP is not liable to change its name.

9. Vishnu was appointed as designated partner in the Vidhya Masterminds LLP on 25th July, 2023. By what time limit the LLP should have informed the registrar?

   (a) 9th August, 2023 i.e. within 15 days of appointment

   (b) 24th August, 2023 i.e. within 30 days of appointment

   (c) 25th August, 2023 i.e. within 1 month of appointment

   (d) 25th October i.e. within 3 month of appointment.

10. Whether Mr. Vasuki will be liable for penalty for not intimating the registrar about the appointment of Mr. Vishnu as designated partner?

   (a) No, as he was not partner in LLP on the date of appointment of designated partner.

   (b) Yes, as former partner is to be regarded still being a partner of the LLP unless a notice has been delivered to the Registrar by former partner or LLP.

   (c) Yes, even if a notice has been delivered to the Registrar by LLP about his retirement.

   (d) No, in any case Mr. Vasuki will not be liable.

Case Scenario 3

Tech Inspiration Private Limited was incorporated on 30.06.2018. The main object of the company was to provide guidance classes for engineering aspirants. For this purpose, they opened a coaching center at Freedom Plaza, Near Bhagwan Talkies, Bye Pass Road, Agra. The premise was owned by the company. The company also made a “Employee Appointment Committee” for the systematic selection and appointment of employees including faculties for teaching. In the first slab, committee appointed nine teachers, 3 clerical staff and one peon. For the purpose of expansion of business, company decided to open a branch of the company at nearby city of Agra. After the due research, the company decided to open its branch at city “Bharatpur” which was just 50 kilometers far from Agra. The company approached Mr. Raghuram Meena owner of land at Bharatpur suitable for company. Mr. Raghuram Meena leased his land for ten years to Tech Inspiration Private Limited. The land had a small temple of lord Ganpati at its centre. The company constructed the classrooms on the land and many students joined the coaching classes. Besides it, the temple generated some income in the form of

“Chadhava” (donation). Mr. Raghuram Meena claimed the income of temple with the contention that he had leased only the land and not the temple.

Further one more problem arose in the company. “Employee Appointment Committee” found that one of the faculties, Mr. Nitesh Gupta was not performing well. He was not justifying his duties. Therefore, “Employee Appointment Committee” decided to terminate him with effect from 31.01.2024 and send him notice of termination by properly addressing and by registered post to Mr. Nitesh Gupta. Mr. Nitesh Gupta refused to accept the notice and returned back it to the postman. After two months, on 01.04.2024, Mr. Nitesh Gupta filed a suit against the company for claiming the salary for the period from 01.01.2024 to 31.03.2024 with the view that his appointment cannot be terminated because of two reasons:

(i) “Employee Appointment Committee” was established just to appoint the employees. They are not authorised for their termination.

(ii) Mr. Nitesh Gupta’s refused to accept the notice of termination with the contention that it was not properly served to him.

On the basis of above facts and by applying applicable provisions of the Limited Liability Partnership Act, 2008 and the applicable Rules therein, choose the correct answer (one out of four) of the following MCQs (11-13) given herein under: -

11. Whether Mr. Raghuram Meena is correct in his claim? Whether he may claim the income of temple:

    (a) Yes, Mr. Raghuram Meena was correct in his views as he leased only land not the temple, situated on such land.

    (b) Yes, as temple is a constructed building, not land.

    (c) No. ‘Immovable Property’ in terms of the General Clauses Act, 1897 includes land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth. So, benefits attached to land and income from temple will be of Tech Inspiration Private Limited.

    (d) No. It is the right of Tech Inspiration Private Limited to decide that who will claim the income of temple.

12. Whether “Employee Appointment Committee” may terminate Mr. Nitesh Gupta even the authority letter given to “Employee Appointment Committee” has no specific clause authorizing it for termination of employees?

    (a) No, as “Employee Appointment Committee” was authorised only for appointment and not for termination of employees.

    (b) Yes, because section 16 of the General Clauses Act, 1897, provides that unless a different intention appears, power to appoint to include power to suspend or dismiss.

    (c) No, because section 16 of the General Clauses Act, 1897, provides that power to appoint does not include power to suspend or dismiss.

    (d) No, It’s only board of directors of Tech Inspiration Private Limited who has the right to terminate its employees in board meeting.

13. Whether the refusal to accept the notice sent by post, by Mr. Nitesh Gupta would be termed as not serving of notice of termination?

    (a) Yes, as Mr. Nitesh Gupta had not accepted the notice.

    (b) Yes, refusal to accept the post will always be considered as not served.

    (c) No, because as per section 27 of the General Clauses Act, 1897 the service by post shall be deemed to be effected by properly addressing, pre-paying, and posting by registered post.

    (d) No, Mr. Nitesh Gupta had the information of sending of notice.

14. Mr. Amar (a resident individual) want to remit US$ 60,000 to his son in the USA after winning a big lottery. Considering the provisions of the Foreign Exchange Management Act, 1999, choose the correct action which Mr. Amar would take to remit the said amount to his son in the USA.

    (a) Visit a local bank and request a direct transfer to his son's US bank account.

    (b) Cannot remit the said amount as remittance out of lottery winnings is prohibited.

    (c) Travel to the USA personally with the cash winnings, to give it to his son.

    (d) Convert the US Dollar winnings into a different currency before sending it to his son.

15. Mr. Prakhar, an Indian Resident individual, wishes to obtain Foreign Exchange for a gift remittance totaling US$ 50,000. Which of the following statements accurately reflects the regulatory requirement under the Foreign Exchange Management Act, 1999 (FEMA)?

    (a) Mr. Prakhar can freely remit US$ 50,000 for the gift as it is a current account transaction and the amount of gift remittance is less than US$ 2,50,000.

    (b) Mr. Prakhar must seek prior approval from the RBI for the remittance exceeding US$ 50,000.

    (c) Mr. Prakhar must seek prior approval from the RBI for any gift remittance, regardless of the amount.

    (d) Mr. Prakhar does not need to comply with any FEMA requirements as gift remittance does not fall under the purview of the FEMA 1999.

PART – II DESCRIPTIVE QUESTIONS

Question No.1 is compulsory. Candidates are required to answer any four questions from the remaining five questions.

Wherever necessary, suitable assumptions may be made and disclosed by way of a note.

Working notes should form part of the answers.

Maximum Marks – 70 Marks

PART II- Descriptive Questions (70 Marks)

*Question No.**1** is compulsory.*

*Attempt any **Four** questions out of the remaining **Five** questions.*

1. (a) The information extracted from the audited Financial Statement of Resolution Private Limited as on 31st March, 2023 is as below:

(1) Paid-up equity share capital ₹ 50,00,000 divided into 5,00,000 equity shares (carrying voting rights) of ₹ 10 each. There is no change in the paid-up share capital thereafter.

(2) The turnover is ₹ 2,00,00,000.

It is further understood that Yellow Limited, which is a public limited company is holding 2,00,000 equity shares, fully paid-up, of Resolution Private Limited. Resolution Private Limited has filed its Financial Statement for the said year with the Registrar of Companies (ROC) excluding the Cash Flow Statement within the prescribed time line during the financial year 2023-24. The ROC has issued a notice to Resolution Private Limited as it has failed to file the cash flow statement along with the Balance Sheet and Profit and Loss Account. You are to advise on the following points explaining the provisions of the Companies Act, 2013:

(i) Whether Resolution Private Limited shall be deemed to be a small company whose significant equity shares are held by a public company?

(ii) Whether Resolution Private Limited has defaulted in filing its financial statement? **(5 Marks)**

(b) The balances extracted from the financial statement of Pacific Limited are as below:

Sr. No.	Particulars	Balances as on 31-03-2023 as per Audited Financial Statement (₹ in crore)	Balances as on 30-09-2023 (Provisional ₹ in crore)
1.	Net Worth	100.00	100.00
2.	Turnover	500.00	1000.00
3.	Net Profit	1.00	5.00

Explaining the provisions of the Companies Act, 2013, you are requested to examine whether Pacific Limited is required to constitute 'Corporate Social Responsibility Committee' (CSR Committee) during the second half of the financial year 2023-24. **(3 Marks)**

(c) Smart Limited declared dividend at its Annual General Meeting held on 31-07-2023. The dividend warrant to Mr. A, a shareholder was posted on 22nd August, 2023. Due to postal delay Mr. A received the warrant on 5th September, 2023 and encashed it subsequently. Can Mr. A initiate action against the company for failure to distribute the dividend within 30 days of declaration under the provisions of the Companies Act, 2013? **(2 Marks)**

(d) Mr. Pravesh, an Indian National desires to obtain Foreign Exchange for the following purposes:

(i) US$ 140,000 for studies abroad on the basis of estimates given by the foreign university.

(ii) U.S. $ 10,000 for remittance towards hiring charges of transponders.

Advise him whether he can get Foreign Exchange, as per the provisions of the Foreign Exchange Management Act, 1999. **(4 Marks)**

2. (a) Samayak Limited is a company engaged in the business of manufacturing papers. Kindly explain the provisions related to quorum in meeting as per the provisions of the Companies Act, 2013.

(5 Marks)

(b) "The offer of buy-back of its own shares by a company shall not be made within a period of six months from the date of the closure of the preceding offer of buy-back, if any and cooling period to make further issue of same kind of shares including allotment of further shares shall be a period of one year from the completion of buy back subject to certain exceptions." Examine the validity of this statement by explaining the provisions of the Companies Act, 2013 in this regard. **(5 Marks)**

(c) Mr. Rachit purchased a new house and after some time he shifted to his new house. He was regularly filing his Income Tax Return but he did not update his address with the Income Tax Department. The Income Tax department sent a show cause notice to Mr. Rachit whereby the time limit for reply was 15 days from service of notice. The notice was properly sent by registered post to his address which was in the records of the Income Tax Department. The notice reached at old house and present owner of that house refused to accept that notice. After a certain period, the Income Tax Department took a penal action against Mr. Rachit. He requested the department, that he should not be charged as he did not receive the said notice. Advise in terms of the provisions of the General Clauses Act, 1897, whether sending of the show cause notice by the Income Tax Department would be considered proper service of notice?

Give your answer with reference to the provisions of the General Clauses Act, 1897. **(4 Marks)**

3. (a) Explain the provisions of the Companies Act, 2013 relating to the 'Service of Documents' on a company and the members of the company? **(5 Marks)**

   (b) The Promoters of J Limited contributed in the shape of unsecured loan to the company in fulfilment of the margin money requirements stipulated by State Industries Development Corporation Ltd. (SIDCL) for granting loan. In the light of the provisions of the Companies Act, 2013 and Rules made thereunder whether the unsecured loan will be regarded as Deposit or not. What will be your answer in case the entire loan obtained from SIDCL is repaid? **(5 Marks)**

   (c) Explain the impact of the two words "means" and "includes" in a definition, while interpreting such definition. **(4 Marks)**

4. (a) The Companies Act, 2013 has prescribed an additional duty on the Board of directors to include in the Board's Report a 'Directors' Responsibility Statement'. Briefly mention any four matters to be furnished in the said statement. **(5 Marks)**

   (b) Mohan and Rakul are college friends and intend to do trading in musical instruments. They have met Mr. John and Ms. Kate who are non-resident Indian and they all have decided to form a Limited Liability Partnership (LLP) under the name and style of Mohan John LLP with an initial capital contribution of ₹ 1,00,000 each. The LLP was incorporated on October 15, 2020. The LLP intends to appoint Mr. John and Ms. Kate as designated partners and consults same with its Company Secretary. You as the Company Secretary advise the LLP on the appointment of Mr. John and Ms. Kate as the only designated partners of the LLP.

   (5 Marks)

   (c) In what way are the following terms considered as external aid in the interpretation of statutes:

   (i) Historical Setting

   (ii) Use of Foreign Decisions **(4 Marks)**

5. (a) "LLP is an alternative corporate business form that gives the benefits of limited liability of a company and the flexibility of a partnership". Explain.

   (5 Marks)

   (b) ABC & Associates, a firm of Chartered Accountants was re-appointed as auditors at the Annual General Meeting of X Ltd. held on 30-09-2022. However, the Board of Directors recommended to remove them before expiry of their term by passing a resolution in the Board Meeting held on 31-03-2023. Subsequently, having given consideration to the Board recommendation, ABC & Associates were removed at the general meeting held on 25-05-2023 by passing a special resolution but without obtaining approval of the Central Government. Examine the validity of

removal of ABC & Associates by X Ltd. under the provisions of the Companies Act, 2013. **(5 Marks)**

(c) A confusion regarding the meaning of 'financial year' arose among the financial executive and accountant of a company. Both were having different arguments regarding the meaning of financial year & calendar year. What is the correct meaning of the financial year under the provision of the General Clauses Act, 1897? How it is different from calendar year? **(4 Marks)**

6. (a) What is 'Floating Charge'? When does it get crystallised? **(5 Marks)**

OR

(a) Discuss the provisions of the Companies Act, 2013 regarding the time limit for holding the first annual general meeting of a company. Also, state the power of the Registrar to grant extension of time for the First Annual General Meeting. Explain with the help of an example.

(5 Marks)

(b) Gato Limited dealing in coloured contact lenses, is a company incorporated in Singapore. The said company is operating in India through its branch office in Kolkata. The company has approached its legal department to state the relevant provisions of the Companies Act, 2013 and rules made thereunder relating to preparation and filing of financial statements in case of such a company. **(5 Marks)**

(c) Ms. Prabha, a classical dancer of Bharatnatyam, wants to go to the USA for a performance. In this connection she requires foreign exchange drawal of US$ 50,000. Explain Ms. Prabha, the provision of the Foreign Exchange Management Act, 1999, in respect of permission required for such drawal of foreign exchange. **(4 Marks)**