

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

Question No.1 is compulsory.

Attempt any five questions from the remaining six questions.

Question 1

- (a) X sent a consignment of mobile phones worth Rs. 60,000 to Y and obtained a railway receipt therefore. Later, he borrowed a loan of Rs. 40,000 from Star Bank and endorsed the railway receipt in favour of the Bank as security. In transit the consignment of mobile phones was lost. The Bank files a suit against the railway for a claim of Rs.60,000, the value of the consignment. The railway contended that the Bank is entitled to recover the amount of loan i.e. Rs. 40,000 only. Examining the provisions of the Indian Contract Act, 1872, decide, whether the contention of the railway is valid. (5 Marks)
- (b) (I) State with reasons whether the following statements are correct or incorrect.
- (i) A promissory note duly executed in favour of minor is void.
 - (ii) No consideration is necessary to create an Agency. (2`1 Marks)
- (II) Choose the correct answer from the following and give reasons (3`1 Marks)
- (i) Where both the parties to an agreement are under mistake as to a matter of fact, which is essential to the agreement, the agreement is:
 - (a) Valid
 - (b) Voidable
 - (c) Void
 - (d) Illegal.
 - (ii) In a Contract of Guarantee there is/are :
 - (a) One contract
 - (b) Two contracts
 - (c) Three contracts
 - (d) Four contracts.
 - (iii) Cash is withdrawn by the customer of a bank from the automatic teller machine is an example of:
 - (a) Express contract
 - (b) Void contract
 - (c) Tacit contract
 - (d) Illegal contract.
- (c) RSP Limited, allotted 500 fully paid-up shares of Rs. 100 each to Z, a minor, in response to his application without knowing that he was a minor and entered his name in the

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

Register of Members. Later on, the company came to know of this fact. The company cancelled the allotment and struck-off his name from the Register of Members and also forfeited his entire share money. He filed a suit against the action of the company. Decide whether Z would be given any relief by the court under the provisions of the Companies Act, 1956. (5 Marks)

- (d) (I) State with reasons whether the following statements are correct or incorrect.
- (i) A company should file its annual return within six months of the closing of the financial year.
 - (ii) If a company does not receive the minimum subscription, it should refund money received from applicants within 120 days of issue of prospectus.
- (2 × 1 Marks)

(II) Choose the correct answer from the following and give reasons:

- (i) An index of members must be maintained by a company when its membership exceeds:
 - (a) 20
 - (b) 50
 - (c) 70
 - (d) 80
 - (ii) Unless the Articles provide for a large number, the quorum for a General Meeting for a public limited company is:
 - (a) 1/3rd of the member
 - (b) 5 members personally present
 - (c) 2 members
 - (d) 7 members
 - (iii) Sources of funds for buy back of shares are:
 - (a) Free reserves or securities premium account
 - (b) The proceeds of any shares or other specified securities
 - (c) (a) and (b) both
 - (d) None of the above.
- (3 × 1 Marks)

Answer

- (a) The given problem is based on the case of *Morvi Mercantile Ltd. Vs. Union of India*. As stated by the Court, the deposit of title deed with the Bank as security against an advance constitutes a Pledge. As per Sections 178 and 178A of the Indian Contract

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

Act,1872 the deposit of title deeds with the Bank as a security against advance constitutes a pledge.

As a Pledgee, a banker's rights are not limited to his interest in the goods pledged. In the case of injury to the goods or their deprivation by a third party, the Pledgee would have all such remedies that the owner of the goods would have against them.

In this case the Supreme Court also held that the Bank (Pledgee) was entitled to recover not only the amount of the advance due to it, but also the full value of the consignment. However, the amount over and above his interest is to be held by him in trust for the Pledger.

Thus, the Star Bank will succeed in recovering the claim of Rs.60,000 against the railway.

(b) (I) (i) **Incorrect:** As per the Indian Contract Act,1872 ,minor is not competent to contract, but he can be a beneficiary. In this case, the minor is a beneficiary. Hence the Promissory Note is not void and the minor at his option can enforce it.

(ii) **Correct:** Unlike other regular contract, a Contract of Agency does not need consideration. In other words, the relationship between the Principal and Agent need not be supported by consideration as per Section 185 of the Contract Act, 1872.

(II) (i) **Answer (c)**

Reason: If both the parties to an agreement are under a mistake (i.e. the mistake is bilateral) regarding a matter of fact, which is essential to the agreement, the agreement is void (*Couturiers Vs. Hasite*).

(ii) **Answer (c)**

Reason: In a Contract of Guarantee there are three contracts arising between the Creditor & Principal debtor, Creditor and Surety and Principal debtor and Surety. However, the contract is primarily between Principal debtor & Creditor whereas the other two contracts are ancillary.

Alternate Answer

[As per the definition given under Section 126 of the Indian Contract Act,1872, it states that a 'Contract of Guarantee' is a contract to perform the promise, or discharge the liability, of a third person in case of his default.

Therefore, Contract of Guarantee is a single contract primarily between Principal Debtor and the Creditor with Surety standing as collateral only. The liability of Surety will occur when there is default of the Principal Debtor.

So , Contract of Guarantee is a single contract with the three parties.]

(iii) **Answer (c)**

Reason: Tacit Contracts are those that are inferred through the conduct of parties. Hence, this is a tacit contract.

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

- (c) A minor being incompetent to contract, cannot be member of a company. It is true that the Companies Act, 1956 prescribes no qualification for membership but membership entails an agreement and this agreement can be enforced in the Court. Therefore, the contractual capacity as envisaged by the Indian Contract Act, 1872 should be taken into consideration. It has been held in *Mohri Bibi vs. Dharmadas Ghose (1930)* that since a minor has no contractual capacity, the agreement with a minor is void. Therefore, a minor or a lunatic cannot enter into an agreement to become a member of a company.

In the case *Palaniappa vs Official Liquidator AIR 1942*, it was observed that if the directors allot share to a minor in response to his application, without knowing that he was a minor and enter his name in the Register of Members. As soon as the company comes to know of this fact, it can eschew the allotment and strike the name of the minor off the Register of Members. But the company must refund the entire money to the minor, which it obtained in relation to the shares allotted.

On the basis of above decision the contention of Z is not valid. The company is empowered to cancel the allotment and strike the name of Z off the Register of Member. But the decision of the company to forfeit the entire share money of Z is wrong. The company must refund the money to the Z.

- (d) (I) (i) **Incorrect:** Section 159 of the Companies Act, 1956 states that a company should file its annual return within sixty days from the date of holding the Annual General Meeting.
- (ii) **Correct:** As per Section 69 of the Companies Act, 1956 if the applications are not received by the company for such quantum of shares for making the minimum subscription, within 120 days of the issue of prospectus, all moneys received from the applicants for shares shall be repaid without interest. If any such money is not repaid within 130 days after the issue of prospectus, moneys will be repaid with interest at the rate of 6% p.a. from the expiry of 130 days.
- (II) (i) **Answer (b)**
Reason: As per Section 151 of the Companies Act, 1956 every company having more than 50 members must maintain an index of members except where the Register of Members in itself constitutes an index.
- (ii) **Answer (b)**
Reason: As per Section 174 of the Companies Act, 1956 unless the Articles provide for a large number, the quorum for a General Meeting of a public company is 5 members personally present.
- (iii) **Answer (c)**
Reason: As per Section 77A of the Companies (Amendment) Act, 1999 a company can purchase its own shares or other specified securities. The purchase should be out of:
- (i) its free reserves; or

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

- (ii) the securities premium account; or
- (iii) the proceeds of any shares or other specified securities.

Question 2

- (a) *X was an employee of Universal Limited. He retired from the company on 31st March, 2010 and died after few months. Y, the heir of X, applied within the prescribed time to the company for payment of due bonus of X. The company refused to pay the bonus. Examine the validity of the company's refusal and also state the procedure to recover the bonus under the provisions of the Payment of Bonus Act, 1965. (8 Marks)*
- (b) *Explain the Social Sins listed by Mahatma Gandhi. (4 Marks)*
- (c) *MNP Limited was incorporated in September, 2010. Now the company wants to hold its first meeting of the Board of Directors. Draft a notice of the said meeting along with agenda. (4 Marks)*

Answer

- (a) As per Section 21 of the Payment of Bonus Act, 1965 it may so happen that an amount of bonus is due to an employee from his employer under a settlement or an award or agreement and it is not paid. In such a case, the employee is to make an application for the recovery of the amount to the Appropriate Government. Even his assignee or heirs can make this application when the employee is dead. The application is to be made within one year from the date on which the bonus becomes due but it may be entertained even after the expiry of the said period of one year, if the Appropriate Government is satisfied that the application had sufficient cause for not making the application within the said period.

In the given problem, the Universal Limited's action is not valid. Y is entitled for payment of bonus as per above provision. Y should apply for the payment of bonus to the Appropriate Government within one year from the date on which bonus becomes due. On the receipt of the aforesaid application for the recovery of the bonus amount, the Appropriate Government or such authority as it may specify in this connection is to be satisfied that the money is so due. On being thus satisfied, it must issue a certificate for that amount to the Collector. There upon, Collector shall proceed to recover the same in the same manner as an arrear of land revenue.

- (b) Mahatma Gandhi, Father of India, promoted non-violence, justice and harmony between people of all faiths. He stressed that people follow ethical principles and listed following seven Social Sins:
 - (i) Politics without Principles
 - (ii) Wealth without Work
 - (iii) Commerce without Morality
 - (iv) Knowledge without Character
 - (v) Pleasure without Conscience

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

(vi) Science without Humanity

(vii) Worship without Sacrifice.

The first deals with the political field. The Kings in Indian tradition were only the guardian executors and servants of 'Dharma'. For Gandhi, Rama was the symbol of a king dedicated to principles. The second dictum deals with the sphere of Economics. Tolstoy and Ruskin inspired Gandhi on the idea of bread-labour. Gandhiji developed the third maxim into the idea of trusteeship. A businessman has to act only as a trustee of the society for whatever he has gained from the society. Everything, finally, belongs to the society. The fourth dictum deals with knowledge. Education stands for the all round development of the individual and his character. Gandhi's system of basic education was the system for development of one's character. In this maxim, Gandhi emphasized on conscience. He said that pleasure without conscience is a sin. In sixth maxim, Gandhi held that science without the thought of the welfare of humanity is a sin. Science and humanity together pave the way for welfare of all. In religion, we worship, but if we are not ready to sacrifice for social service, worship has no value, it is a sin to worship without sacrifice.

(c) **Notice of the First Meeting of the Board of Directors**

To,
(Director)

Dear Sir/Madam,



Date

This is to inform you that the first meeting of the Board of Directors will be held at the Registered Office of the company on 15th September, 2010 at 3 p.m. to transact the business as per the enclosed agenda.

You are requested to please attend the meeting.

Yours faithfully,

Secretary

For and on behalf of the

Board of Directors

Place :

Date

Agenda:

(i) Election of the Chairman of the Meeting.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

- (ii) To produce the Certificate of Incorporation, the Memorandum and the Articles of Association.
- (iii) Election of the Chairman of the Company.
- (iv) Appointment of Managing Director.
- (v) Appointment of Secretary.
- (vi) Appointment of Auditors.
- (vii) Appointment of Bankers and approval of the opening of a Bank Account and its operation.
- (viii) Adoption of the company's seal.
- (ix) Approval of the statement of preliminary expenses by the promoters and adoption of the preliminary contracts and underwriting contracts.
- (x) Any other business with the permission of the chairman.

Question 3

- (a) *K is an employee of RST Limited, a software company which works five days, in a week. K was not in continuous service during the financial year 2009-10. However, she worked only for 150 days because she was on maternity leave with full pay for 50 days. Referring to the provisions of the Payment of Gratuity Act, 1972 decide, whether K is entitled to gratuity payable under the Act? Would your answer remain the same in case RST Limited works six days in a week?* (8 Marks)
- (b) *Explain the fundamental principles relating to ethics.* (4 Marks)
- (c) *A, B and C are partners of a firm. A retires from the firm by mutual consent due to sickness. Remaining partners (B and C) decide to admit D as a new partner in their firm. Draft a deed for reconstitution of partnership.* (4 Marks)

Answer

- (a) As per Section 2 A of the Payment of Gratuity Act, 1972 an employee shall be said to be in continuous service for a period if he has, for that period, been in uninterrupted service, including service which may be interrupted on account of sickness, accident, leave, lay-off, strike or a lockout or cessation of work not due to any fault of an employee.

Where any employee (not being an employee employed in a seasonal establishment) is not in continuous service, for any period of one year he shall be deemed to be in continuous service under the employer for the said period of one year, if the employee during the period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than (i) one hundred and ninety days, in the case of any employee employed below the ground in a mine or in an establishment which works for less than six days in a week, and (ii) two hundred and forty days, in any other case.

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

For the purposes of calculating the number of days on which an employee has actually worked under an employer shall include the days on which in the case of a female, she has been on maternity leave, so, however, that the total period of such maternity leave does not exceed twelve weeks.

Thus, as per the above provisions-

In the first case, K is entitled for gratuity because she was in continuous service (150+50 days) more than 190 days in 2009-10.

In second case, she (K) is not entitled for gratuity because RST Limited works for 6 days in a week and she worked only for 200 days less than prescribed limits (240 days).

(b) The fundamental principles relating to ethics may be summarized as under:

1. **The Principle of Integrity:** It calls upon all accounting and finance professionals to adhere to honesty and straightforwardness while discharging their respective professional duties.
2. **The Principle of Objectivity:** This principle requires accounting and finance professionals to stick to their professional and financial judgment.
3. **The Principle of Confidentiality:** This principle requires practitioners of accounting and financial management to refrain from disclosing confidential information related to their work.
4. **The Principle of Professional Competence and due care:** Finance and accounting professionals need to update their professional skills from time to time in order to provide competent professional services to their clients.
5. **The Principle of Professional Behaviour:** This principle requires accounting and finance professionals to comply with relevant laws and regulations and avoid such actions which may result in discrediting the profession.

(c) **Deed for Reconstitution of Partnership**

This Deed of Reconstitution of Partnership executed on this ----- day of -----, 2010 Between B, S/o-----, Aged----- residing at -----(hereinafter called the first party), C, S/o----, Aged----- residing at-----, (hereinafter called the second party), and D, S/o-----, Aged----- residing at-----, (hereinafter called the third party).

Whereas the parties B and C were working in partnership along with another partner A, a business under the name and style of A B C constituted under an instrument of partnership the last of which is dated ----- ; and whereas the said partner A retired from the old partnership by mutual consent due to sickness allowing the other partners to continue the partnership business in the same name with all its assets and liabilities, and whereas the parties B and C invited D to join them in the partnership to carry on the said business for which he has assented, the terms and conditions of the reconstituted partnership are hereby agreed to as follows:

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

1. The business under the name and style of A B C carried on by the erstwhile partnership will continue with all its assets and liabilities as the business of this reconstituted partnership.
2. The name on which the partnership business shall continue to be A B C and such other name as the parties may from time to time determine. Other clauses as in the partnership deed.

Question 4

- (a) *Unique Builders Limited, decides to pay 2.5 percent of the value of debentures as underwriting commission to the underwriters but the Articles of the company authorize only 2.0 percent underwriting commission on debentures. The company further decides to pay the underwriting commission in the form of flats. Examine the validity of the above arrangements under the provisions of the Companies Act, 1956. (4 Marks)*
- (b) *State some examples of ethical issues faced by an individual at the workplace. (4 Marks)*
- (c) *Explain the various forms of formal communication. (4 Marks)*

Answer

- (a) As per Section 76 of the Companies Act, 1956 the amount of underwriting commission should not exceed, in the cases of shares, 5 percent of the price at which the shares have been issued and in the case of debentures it should not exceed 2 1/2 percent or the amount or rate authorized by the Articles whichever is less.
 - (i) Hence the decision of Unique Builders Limited, to pay underwriting commission exceeding the percentage prescribed under Articles is not valid.
 - (ii) The company may pay the underwriting commission in the form of flats as decided in the *Booth Vs New Afrikander Gold Mining Co. (1903)* case. Underwriting commission may be paid in cash or kind or as lump sum or by way of percentage but in no case can it go beyond the statutory limits of 5% or 2 ½ % as the case may be.
- (b) Some examples of ethical issues faced by an individual at the workplace are:
 - (i) Relationship with suppliers and business partners:
 - Bribery and immoral entertainment
 - Discrimination between suppliers
 - Dishonesty in making and keeping contracts
 - (ii) Relationship with customers:
 - Unfair pricing
 - Cheating customers
 - Dishonest advertising
 - Research Confidentiality

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

- (iii) Relationship with employees:
- Discrimination in hiring and treatment of employees,
 - Lack of good behaviour with employees
- (iv) Management of resources:
- Misuse of organizational funds
 - Tax evasion
- (c) A formal communication flows along prescribed channels which all organizational members desirous of communicating with one another are obliged to follow. Every organization has built-in hierarchical system, communication in an organization is multidirectional. On the basis of various directions in which communications are sent, we can classify formal communication in these forms:
- (i) Downward Communication
 - (ii) Upward Communication
 - (iii) Horizontal or Lateral Communication
 - (iv) Diagonal or Crosswise Communication

Communication generally flows from top to bottom. Downward communication means communication from superior to subordinate in the hierarchical system of the organization. It includes orders and instructions. In upward communication, message flows from the subordinate to superior in the form of request, reports, instructions complaints and suggestions. Communication between co-workers with different areas of responsibility is called horizontal (lateral) communication. Communication among the functional managers of a company is the best example of horizontal communication. Diagonal communication means communication among the various Department/employees of the organization without any hierarchical system in case of emergency.

Question 5

- (a) *P draws a bill on Q for Rs.10,000. Q accepts the bill. On maturity the bill was dishonored by non-payment. P files a suit against Q for payment of Rs. 10,000. Q proved that the bill was accepted for value of Rs. 7,000 and as an accommodation to the plaintiff for the balance amount i.e. Rs.3,000. Referring to the provisions of the Negotiable Instruments Act, 1881 decide whether P would succeed in recovering the whole amount of the bill?*
(8 Marks)
- (b) *State with reasons whether the following statements are correct or incorrect.*
- (i) *Business and industry are closely linked with environment and resource utilization.*
 - (ii) *Trusteeship provides a means of transforming the present capitalist order of society into an egalitarian one.*
(2`2 Marks)

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

(c) *State the reasons for acceptance of change in an organisation.* (4 Marks)

Answer

(a) As per Section 44 of the Negotiable Instruments Act, 1881, when the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

[Explanation- The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the endorser with his endorsee. Other signers may be agreement stand in immediate relation with a holder].

On the basis of above provision, P would succeed to recover Rs. 7,000 only from Q and not the whole amount of the bill because it was accepted for value as to Rs.7,000 only and an accommodation to P for Rs.3,000.

(b) (i) **Correct:** Business and industry are closely linked with environment and resource utilization. Production process and strategy for eco-friendly technologies throughout the product life cycle and minimization of waste play a major role in the protection of the environment and conservation of resources. Business, industry and multinational corporations have to recognize environmental management as the priority area and a key determinant to sustainable development.

(ii) **Correct:** Commerce without morality was developed into the idea of Trusteeship by Gandhiji. A businessman has to act only as a trustee of the society for whatever he has gained from the society. Everything, finally, belongs to the society. Hence, "Trusteeship provides a means of transforming the present capitalist order of society into an egalitarian one."

(c) Generally, people resist change in an organization. Even after there are some people who accept or welcome change due to the following reasons:

1. **Personal Gain:** People will be more likely to accept change when they see the possibility that they will gain in some of the following areas:-

- Increased security
- Money
- More authority
- Status/Prestige
- Better Working Conditions
- Self-Satisfaction

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

- Better Personal Contracts
- Less time and efforts

2. Other factors:

- Provide a new challenge
- Respects/like the source
- Likes the way change is being communicated
- Reduces boredom
- Provides opportunity for input
- Improve future
- Perception, that the change is necessary

Question 6

- (a) *In a General Meeting of PQR Limited, the Chairman directed to exclude certain matters detrimental to the interest of the company from the minutes. M, a shareholder contended that the minutes of the meeting must contain fair and correct summary of the proceedings thereat. Decide, whether the contention of M/s is maintainable under the provisions of the Companies Act, 1956?* (8 Marks)
- (b) *State the objectives of the Central Consumer Protection Council in India.* (4 Marks)
- (c) *Explain the basic principles of interpersonal communication.* (4 Marks)

Answer

- (a) Under Section 193 (5) of the Companies Act, 1956 any matter which in the opinion of the Chairman of the meeting:

- (i) is or could reasonably be regarded as defamatory of any person;
- (ii) is irrelevant or immaterial to the proceeding; or
- (iii) is detrimental to the interests of the company;

The chairman shall have the discretion in regard to the inclusion or non inclusion of any matter in the minutes on the grounds specified above.

The Chairman enjoys an absolute discretion in the regard.

Hence, the contention of M, a shareholder of PQR Limited is not valid because the Chairman has discretion on the inclusion or exclusion of any matter in the minutes for aforesaid reasons.

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

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

- (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) The basic principles of interpersonal communication are as follows:
- (i) Interpersonal Communication is Inescapable: It is a continuous process. We constantly communicate to others and also receive communication from others through not only words but through tone of voice and through gesture, posture, facial expressions etc.
 - (ii) Interpersonal Communication is Irreversible: It deals with proper speaking. "Once a word goes out your mouth, you can never swallow it again." The effect will inevitably remain for ever.
 - (iii) Interpersonal Communication is Complicated: It is extremely complicated. A message or communication may be simple but it involves a number of variables.
 - (iv) Interpersonal Communication Contextual: In other words, communication does not happen in isolation. There are so many contexts in communication such as psychological context, relational context, situational context, environmental context and cultural context etc.

Question 7

- (a) *S retired from the services of PQR Limited, on 31st March, 2009. He had a sum of Rs. 5 lac in his Provident Fund Account. It has become due for payment to S on 30th April, 2009 but the company made the payment of the said amount after one year. S claimed for the payment of interest on due amount at the rate of 15 percent per-annum for one year. Decide, whether the claim of S is tenable under the provisions of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952. (4 Marks)*
- (b) *RSP Limited, with a limited liability of its members by guarantee of Rs. 10 lac to each member. The company increases the liability of the members from Rs.10 to 15 lac by an alteration made in the liability clause of the Memorandum of Association. Referring to the provisions of the Companies Act, 1956 decide, whether the members of the company are liable for the increased liability. (4 Marks)*

OR

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

The Board of Directors of XYZ Private Limited, a subsidiary of SRN Limited, decides to grant a loan of Rs.2.00 lac to P, the Finance Manager of the company getting salary of Rs.30,000 per month, to buy 400 partly paid-up equity share of Rs. 1,000 each of XYZ Limited. Examine the validity of Board's decision with reference to the provisions of the Companies Act, 1956. (4 Marks)

- (c) *Explain briefly the key strategies which can be used at the time of implementation of Corporate Social Responsibility policies and practices in a company. (4 Marks)*

OR

Write a note on harassment at workplace. (4 Marks)

- (d) *State reasons for selecting the oral mode of communication instead of the written mode of communication. (4 Marks)*

OR

X desires to gift his flat to Y. Draft a gift deed. (4 Marks)

Answer

- (a) According Section 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 the employer shall be liable to pay simple interest @ of 12% per annum or at such higher rate as may be specified in the Scheme on any amount due from him under this Act from the date on which the amount has become so due till the date of its actual payment:

Provided that higher rate of interest specified in the Scheme shall not exceed the lending rate of interest charged by any scheduled bank.

As per above provision, S can claim for the payment of interest on due amount @ 12 percent per annum or at the rate specified in the Scheme, whichever is higher, for one year. Here in the absence of specified rate he(S) can claim only 12 percent per annum interest on the due amount.

Hence claim of S for interest rate of 15% is not tenable.

- (b) According Section 38 of the Companies Act, 1956, no member of a company shall be bound by an alteration made in the Memorandum or Articles after the date on which he become a member, if such an alteration requires him to take or subscribe for more shares should then the number held by him as the date of alteration or in any way increase his liability. But the section will not apply where the member agrees in writing either before or after a particular alteration is made, so as to bind by the alteration.

Hence, the members of RSP Limited are not bound by any alteration made in the liability clause without obtaining their written permission.

OR

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

According to Section 77 of the Companies Act, 1956 no public company and no private company (being subsidiary of a public company) can give financial aid to any person (either directly or indirectly) and whether by way of loan, guarantee or surety or otherwise, for, or in connection with, purchase or subscription made or to be made of any shares of its own or of its holding company. But there are few exceptions of the Section 77 of the above Act, out of them one exception is as under.

The company may advance a loan to a person bonafide in its employment (other than directors, or managers) to enable them to purchase or subscribe for fully paid shares for an amount not exceeding their salary or wages for a period of six months.

On the basis of above provisions, the proposals of the Board of Directors of XYZ Limited is not valid because P is a Finance Manager and he wants to purchase partly paid up shares of the company. The amount of loan is also higher than the six months salary of P.

- (c) Each company differs in how it implements Corporate Social Responsibility (CSR). The distinction depends on such factors as the company's size, sector, culture and the commitment of its leadership. Below are some key strategies that companies can use when implementing CSR policies and practices in a company.
- (i) Mission, Vision and Value Statements
 - (ii) Cultural Values
 - (iii) Management Structures
 - (iv) Strategic Planning
 - (v) General Accountability
 - (vi) Employee Recognition and Rewards
 - (vii) Communications, Education and Training
 - (viii) CSR Reporting

OR

Harassment is "tormenting by subjecting to constant interference or intimidation". Law prohibits harassing acts and conduct that "creates an intimidating hostile or offensive working environment," which could be a term or condition of an individual's employment, either explicitly or implicitly or such conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Another type of harassment is sexual harassment – situations in which an employee is coerced into giving in to another employee's sexual demands by the threat of losing some significant job benefit, such as a promotion, raise or even the job. Sexual harassment is prohibited and an employer is held responsible for all sexual harassment engaged in by employees, "regardless of

PAPER – 2 : BUSINESS LAWS, ETHICS AND COMMUNICATION

whether the employer knew or should have known" the harassment was occurring and regardless of whether it was "forbidden by the employer."

- (d) 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.

OR

Gift Deed

This Deed of Gift is made at---- (city) on this ----- day of ----- 2010 between X and Y an Indian inhabitant residing at flat No. -----, Floor -----, Coop. Housing Society Ltd. ---- (city) hereinafter called "THE DONOR" of the ONE PART and ----- also an Indian inhabitant of----- (city), residing at flat no. -----, floor -----, Coop. Housing Society Ltd. -----(city), hereinafter called" THE DONEE" of the OTHER PART.

WHEREAS the Donee Y is the ----- (Relative) of Donor X .

AND WHEREAS the Donor is the member of ----- society which is duly registered under the Maharashtra Coop. Societies Act 1960, (hereinafter referred to as "the said society"). The donor has five fully paid up shares of the said society. The donor has acquired a flat No. ----- on the ----- floor and measuring ----- sq. meters. In the building known as "-----" (hereinafter referred to as the "said building") situate at ----- (City), (hereinafter referred to as "the said flat") more particularly described in the Schedule hereunder written "said society").

WHEREAS the Donor has full right title and interest in the said shares/flat more particularly described in the Schedule hereunder written.

INTEGRATED PROFESSIONAL COMPETENCE EXAMINATION : NOVEMBER, 2010

AND WHEREAS the Donor desires to gift his right, title and interest in the said shares/flat in the said building of the said society more particularly described in the Schedule hereunder written to the Donee hereto.

NOW THIS DEED OF GIFT WITNESSETH AS FOLLOWS:

The donor out of natural love and affection for the Donee, hereby transfers by way of gift his right, title and interest in the said shares and the said flat more particularly described in the Schedule hereunder written to the Donee absolutely for ever.

The Donee accepts the gift and agrees to hold the right, title and interest of the donor in the said shares/flat in the said building of the said society more particularly described in the Schedule hereunder written of the said flat from the Donor.

Schedule of property above referred to:

IN WITNESS WHEREOF the parties hereto have hereunder set and subscribed their respective hands on the day and the year first herein above written.

SIGNED AND DELIVERED

By the within named "Donor"

In the presence of -----

1) -----

2) -----

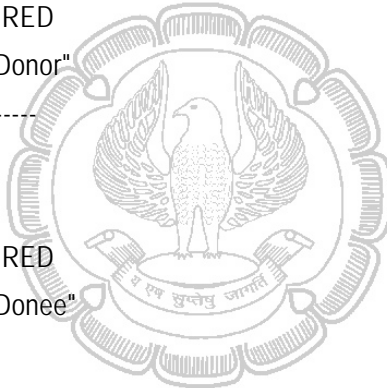
SIGNED AND DELIVERED

By the within named "Donee"

In the presence of

1) -----

2) -----



A Suggestive Simple Format of the Gift Deed

KNOW ALL MEN BY THESE PRESENTS that I, ----S/o ---- R/o -----, transfers voluntarily, the flat no. -----situated at -----, the estimated value of which is Rs ----- (Rupees -----only) to ----- S/o of -----R/o----- . To hold the same to the donee absolutely for ever, I further declare that the said gift has been made by me out of my natural love and affection for the donee and the same has been accepted by the donee.

IN WITNESS WHEREOF, I have executed this ----- day of -----.

Witness:

1. -----

2. -----

DONOR: -----

DONOR: -----