

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Corporate Law II
Semester-VII (Batch: 2017-22)

End Semester Online Examination: December 2020

Date: 19th December, 2020

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.
- Answer the questions of the two parts (A and B) separately with appropriate numbers.
- Word Limit: 2 Marks: 50 words, 3-4 Marks: 100 words, 5 Marks and above: 150- 200 words.

PART A

Marks

- Q.1 Read the annexed NCLT order 'In the Matter of Scheme of Amalgamation: GlaxoSmithKline Consumer Healthcare Limited with Hindustan Uni Lever Limited' (Annexure I) and Scheme of arrangement of Amalgamation (Annexure II) and answer the following questions.
- | | |
|--|-----------|
| a) Decide the jurisdiction to file the application u/s 230 & 232 of the Companies Act, presuming that the registered offices of the companies are situated in the states of Rajasthan and Andhra Pradesh respectively, | (2 Marks) |
| b) What kind of Merger/Amalgamation is this? Give 3 examples of such mergers of India. | (1 Mark) |
| c) What was the direction of the NCLT after filing the first application by the parties? | (2 Marks) |
| d) Which meeting was dispensed with by the NCLT? When does the NCLT has power to dispense with meeting/s? Explain with the analysis of relevant provisions. | (2 Marks) |
| e) What is the share exchange ratio in the said Amalgamation? Is it unfair? | (2 Marks) |
| f) Suppose you are appointed as the chairman of the different meetings by the direction of the NCLT in the said Merger, what would be your role in the procedure of approval of the scheme by the Tribunal? | (3 Marks) |
| g) Presuming that the Employees Union of the Transferor company has challenged the order of the NCLT, Chandigarh, decide the validity of the scheme being a member of NCLAT with the analysis of appropriate provisions and decided cases. | (4 Marks) |

- h) Whether any material fact has not been disclosed in the said Merger? If so, explain with the analysis of appropriate provisions of the Companies Act, 2013. (2 Marks)
- i) Compare the objections and representations of the said Merger (GlaxoSmithKline) with the objections and representations in the scheme in Vodafone India and Idea Cellular Merger. (4 Marks)

Q.2 Being the Corporate advocate, advise the Board of Director of the company VODAFONE-IDEA Ltd about the procedure to convene the Annual General Meeting. Is there any relaxation to the statutory compliances related to the A.GM during COVID-19 crisis? (3)

OR

The members of a company with (share capital) have made requisition on 16/12/2020 to convene one Extra Ordinary General Meeting. Advise the procedural requirements to convene the EGM.

OR

I make a statement, 'It is advisable to file a petition for winding up in the ground of 'Special Resolution' but not 'voluntary Liquidation'. Do you agree? Analyse your argument (agreement/Disagreement) with the analysis of appropriate provisions.

PART B

Q.3 The operational creditor (M/S DDK Ltd.) of a company M/S STK Ltd. filed a petition in the NCLT, Mumbai under section 9 of the IBC on 17th March 2020 with a default amount of 50 Lacs. According to the Petitioner company M/S DDK Ltd, they have provided a residential complex to the corporate debtor on lease. The corporate debtor has not paid the agreed amount for the complex since January, 2020. Due to the COVID 19 lockdown in India, the application /petition could not be heard by the NCLT. Subsequently the amount of default was enhanced to 1 Crore by a Government notification. The Corporate Debtor is arguing that the default amount is enhanced to 1 Crore. So, the petition should be rejected. (4+4+4+3=15)

- a) Whether the petition filed by M/S DDK Ltd is admissible? Make your arguments with analysis of appropriate provisions and decided cases. (4 Marks)
- b) Presuming that the M/S DDK Ltd is a Financial Creditor, explain the procedure for filing the petition for CIRP analysing appropriate provisions and decided cases. (4 Marks)
- c) Presuming that the M/S DDK Ltd is a home buyer, decide whether M/S DDK Ltd is a financial creditor or Operational Creditor with appropriate provisions and decided cases. Is there any jurisprudence developed by Judicial intervention? (4 Marks)
- d) If the petitioner wants to withdraw the petition, can it be withdrawn? Explain. Which amendment speaks about the withdrawal of application? (3 Marks)

Q.4 Answer any five:

- a) Whether the Limitation Act is applicable for filing the petitions under the provisions of the IBC? (2x5=10)

- b) Write the key amendments (Any 3) to the IBC since 2017 and impact analysis.
- c) What are the flexibilities/amendments (Any two) made to IBC during COVID19 crisis in India?
- d) Which kind of entities are eligible for Fast Track CIRP?
- e) Whether the NCLT can pass a liquidation order during the CIRP?
- f) Write any two examples of financial and operational debt.
- g) Whether a pending proceeding u/s section 138 of the NI Act is prohibited during Moratorium?
