

K. J. SOMAIYA INSTITUTE OF MANAGEMENT STUDIES AND RESEARCH,
Vidyavihar, Mumbai- 400077

Program: PGDM (FS) (Batch2017-19), Trim-II
Subject: Legal Aspects of Business
(End Term Examination)

Maximum Marks: 50
Duration: 3 Hours

Date: 4th January, 2018

QUESTION 1

- **Think critically and comment on the following statements.**
 - **3x7Marks =21 Marks**
1. “What is sought to be prohibited is gaining an unfair advantage by the insider over the public investors at large. If an insider has dealt in securities without any intention of gaining an unfair advantage then the charge of insider trading would not be sustainable.”
 2. “Any civilized system of law is bound to provide remedies for cases of what has been called unjust enrichment or unjust benefit, that is, to prevent a man from retaining the money of another which is against conscience that he should keep. However if money is advanced by way of capital for carrying on illegal partnership, such advance is not recoverable having regard to the principle, *exturpi causa non oritur actio*. “
 3. “External Commercial Borrowings allow companies, access to funds in foreign currencies which may not be that easy to avail from domestic market. Since ECB involves exchange of money in foreign currency, the funds availed in the form of ECB are highly under the control of the RBI. And the Enforcement Directorate has an emerging role in tracking all economic offences involving ECBs.”
 4. “Questions as to whether a company is subsidiary of other company cannot be decided merely on the basis of the fact that one of the directors is common to the said companies.”

QUESTION 2

- **Substantiate your answers with reasons.**
 - **3x7 Marks =21 Marks**
1. Prince, an assessee, was a wealthy man earning huge income by way of dividend and interest. He formed three private companies and agreed with each to hold a block of investment as an agent and the dividend and interest income received by the company was handed back to Prince as a pretended loan. This way, Prince divided his income into

three parts in a bid to reduce his tax liability.

- A. Decide, whether the legal personality of all the three companies may be disregarded?
- B. What do you understand by the 'Unlawful Association'?
- C. Why is it necessary for a company to have a registered office?

2. Anish promises to pay Rs. 15,000 to the Management Committee of a school by way of donation. The Management Committee on the basis of Anish's promise gets a water purifier system installed in the school at the cost of Rs. 20,000/- on credit. Now Anish refuses to pay the donation.

- A. Is there any remedy available to the Management Committee of the school?
- B. What is a counter offer?
- C. When is consent said to be free?

3. As per the deed of settlement, the Directors were authorised to borrow money with the prior resolution of the General body meeting. For the resolution some preliminaries had to be followed. The resolution was passed without observing such preliminaries. So, the director's borrowing power was found to be ultra vires. The company contended that it was not liable for the repayment of the loan.

- A. Can the creditors recover the loan from the company?
- B. Do entrenchment provisions facilitate minority shareholder protection?
- C. What is unrestricted object clause?

4. X transferred his house to his daughter M by way of gift. The gift deed executed by X contained a direction that M shall pay a sum of Rs. 5, 0000/- per month to N (Sister of M). Consequently, M executed an instrument in favour of N agreeing to pay the said sum. Afterwards, M refused to pay the sum to N saying that she is not liable to N because no consideration had moved from her.

- A. Decide whether M is liable to pay the said sum to N.
- B. What is discharge by agreement?
- C. A long silence implies a rejection of an offer. Do you agree?

QUESTION 3

- **Write short notes.**
- **2x4 Marks =8 Marks**

1. Invitation to treat
2. Layering rule
3. Private placement

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