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NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination November— 2024

Semester: LL.M-I Semester (Corporate Law Honours)

Subject: Advanced Corporate Law

Marks:100

Time: Three Hours

Instructions:

1. Attempt any four questions
2. All questions carry equal marks
3. The question paper consists of four pages

Q1). Mr. Mohan incorporates **Mohan Industries Pvt. Ltd.**, a company through which he conducts a wide range of manufacturing activities. Mohan is the sole shareholder and managing director, exercising complete control over the company's operations. Despite the company's formal incorporation and distinct legal identity, Mohan treats the company as his personal asset, regularly using corporate funds to finance his lifestyle and making unilateral decisions without regard to corporate governance. Mohan has also used the company's resources to finance ventures that fall outside of the company's stated objectives in its Memorandum of Association, such as investing in real estate, an area completely unrelated to its manufacturing focus. Separately, Mohan owns and controls **Mohan Agro Ltd.**, a farming enterprise where he serves as both majority shareholder and Managing Director. In this capacity, Mohan directly oversees the technical farming operations and physically participates in crop cultivation. One day, while performing these duties, Mohan sustains a serious injury and succumbs to that injury. His family subsequently files a claim against **Mohan Agro Ltd.**, seeking compensation, arguing that Mohan was an employee of the company despite being the sole shareholder and director.

Addressed the following issues raised in this scenario, focusing on the doctrine of corporate personality.

- 1) Should **Mohan Industries Pvt. Ltd.** be held accountable for the action of Mohan, given Mohan's mixing of personal and corporate interests, and his unauthorized use of company funds for activities that exceed the company's stated objectives?
- 2) examine the claim against **Mohan Agro Ltd.** in light of Mohan's dual role as a shareholder-director and worker, and determine whether his family's argument that he was an employee of the company holds merit under the corporate personality doctrine. Furthermore, assess how Mohan's use of the company's resources for activities outside its agricultural objectives (*ultra vires* acts) affects the validity of the company's corporate status and his family's compensation claim.

(Marks 12.5+12.5=25)

Q2). **Global Dynamics Pvt. Ltd.** is an innovative company engaged in renewable energy solutions, focusing on solar panel manufacturing and installation. Founded by **Mr. Karan Malhotra**, who serves as the Managing Director, the company has gained significant traction in the market, attracting several high-profile clients and securing government contracts for large-scale solar projects. After years of consistent growth and profitability, Global Dynamics is preparing for an Initial Public Offering (IPO) to raise capital for further expansion and research into new technologies. The company has completed most of the necessary regulatory steps, including a favourable review from the Securities and Exchange Board of India (SEBI) regarding its draft prospectus. However, a sudden and alarming event unfolds when it is reported that Mr. Karan's father, **Mr. Raj Malhotra**, a prominent businessman and former politician, has been implicated in a serious money laundering case. The Enforcement Directorate (ED) has launched an extensive investigation into Mr. Raj's financial dealings, revealing that he has allegedly been involved in a scheme that funnelled illicit funds through various businesses and offshore accounts. Following these revelations, SEBI has announced that Mr. Raj is barred from accessing the securities market for five years due to his involvement in these illegal activities. This debarment raises immediate concerns among the board of directors of Global Dynamics Pvt. Ltd. regarding the potential implications for the company's IPO. While Mr. Raj has never had an official role within Global Dynamics, the connection to his alleged criminal activities casts a shadow over the company's reputation.

In light of this situation, the board seeks your expert advice on the potential fate of the IPO. You are required to analyze the conditions and eligibility criteria set forth by SEBI for a company to proceed with an IPO and evaluate whether Global Dynamics can meet these requirements in light of the current circumstances. As you evaluate these factors, you must provide the board with a comprehensive recommendation on whether to proceed with the IPO, considering the implications of Mr. Raj's actions on the company's reputation and the overall market sentiment. Your analysis should highlight the conditions and eligibility criteria necessary for the IPO's success while advising on strategies to mitigate the risks associated with the negative publicity stemming from Mr. Raj's involvement in the money laundering case. Ultimately, you will guide the board in determining the most prudent course of action regarding Global Dynamics Pvt. Ltd.'s IPO amidst this challenging scenario.

(Marks 25)

Q3). Explain the key differences between the alteration and reduction of capital in a company. Provide examples to illustrate each concept and discuss how the legal provisions governing these processes impact shareholder rights and the overall financial structure of the company. Additionally, analyze the implications of these processes on creditor protection and the company's obligations during execution.

(Marks 25)

Q4). **Vertex Corp Ltd.** is a major technology firm, known for its cutting-edge artificial intelligence (AI) software. After months of confidential negotiations, Vertex is on the verge of acquiring **Microbyte Solutions Pvt. Ltd.**, a smaller company with patented technologies that are highly complementary to Vertex's AI development. This acquisition, once publicly announced, is expected to significantly increase Vertex's market share and boost its stock price. The deal has been kept under wraps and only a handful of senior executives at both companies are privy to the discussions. **Mr. Arvind Desai**, the Chief Financial Officer (CFO) of Vertex, is closely involved in the financial negotiations of the acquisition. He knows that the official announcement is scheduled for next week and will have a significant positive impact on Vertex's stock price. A few days before the public announcement, **Arvind Desai** discreetly

informs **Digital Hedge Investments Ltd.**, an investment firm where his close friend, **Mr. Naveen Batra**, is a partner. Digital Hedge Investments Ltd., has previously worked with Vertex as a consultant, but it is not involved in the acquisition discussions. Acting on this tip, Mr. Batra, through Digital Hedge, purchases a large number of shares in both Vertex Corp and Microbyte Solutions, anticipating that the share prices of both companies will soar once the acquisition is made public.

Unbeknownst to Mr. Desai, one of his colleagues in the finance department, **Ms. Priya Khanna**, accidentally stumbles upon confidential acquisition documents while reviewing Vertex's financials for an unrelated project. Ms. Khanna immediately realizes the impact the acquisition will have on Vertex's stock price. Without disclosing this information to anyone, she quietly purchases shares in Vertex through her personal brokerage account, planning to sell them after the public announcement for a profit. A week later, Vertex Corp publicly announced the acquisition of Microbyte Solutions, causing both companies' stock prices to surge. Digital Hedge Investments makes substantial profits by selling the shares of Vertex and Microbyte at a significant gain. Similarly, Ms. Khanna sells her shares shortly after the announcement, making a considerable profit. However, the trades conducted by both Digital Hedge and Ms. Khanna came under scrutiny during a routine review by market regulators.

Based on this factual matrix, analyze whether the actions of Mr. Arvind Desai, Digital Hedge Investments (through Mr. Naveen Batra), and Ms. Priya Khanna amount to insider trading. Identify whether each individual or entity involved breached insider trading laws, and explain why. Additionally, discuss under what circumstances an insider, such as Mr. Desai or Ms. Khanna, would be legally allowed to trade shares in their company. Substantiate your reasoning by citing relevant case law and statutory provisions governing insider trading. (Marks 25)

Q5). **OmniCorp Ltd.** is a large conglomerate with a diverse portfolio of companies operating in various industries. Among its key subsidiaries are **EcoTech Solutions Ltd.** (focused on renewable energy technologies) and **MedBio Innovations Ltd.** (a pharmaceutical and biotech company). OmniCorp holds a controlling interest in both companies, owning 75% of EcoTech and 70% of MedBio, with the remaining shares held by minority shareholders. Recently, EcoTech Solutions has developed cutting-edge solar battery technology that has garnered significant market attention. However, EcoTech lacks the necessary capital to scale its operations and bring its products to market on a global scale. To address this, the board of directors at EcoTech, led by CEO **Mr. Sameer Sharma**, proposes acquiring MedBio Innovations as a strategic move. The acquisition would allow EcoTech to diversify into the biotech sector while also leveraging MedBio's strong financial position to fund EcoTech's technology roll-out.

However, the acquisition has raised concerns due to potential conflicts of interest. **Ms. Riya Mehta**, the **Chief Financial Officer (CFO)** of OmniCorp, serves as a board member in both EcoTech and MedBio, and **Mr. Dev Kapoor**, the **Chairman of OmniCorp**, also sits on the boards of both subsidiaries. Additionally, **Mr. Vikram Sinha**, a senior executive at OmniCorp, holds significant stock options in both companies and has been actively involved in negotiating the terms of the acquisition. The proposed deal involves a stock swap, where EcoTech will issue new shares to MedBio's shareholders in exchange for MedBio's shares. The valuation of MedBio is set at a 15% premium over its market price, justified by the strategic benefits of combining renewable energy technology with biotechnology to create sustainable health solutions. However, minority shareholders in both companies argue that the deal

disproportionately benefits OmniCorp as the parent company, as it will strengthen its consolidated position without necessarily benefiting the individual subsidiaries. Mr. Amit Desai, a minority shareholder in MedBio, has raised objections to the acquisition, claiming that it constitutes a **related party transaction**. He points out that several key figures, including Ms. Mehta and Mr. Kapoor, have conflicts of interest, as they hold positions on both boards and have financial interests in both companies. Mr. Desai believes the transaction is not being conducted at arm's length and that the premium being paid for MedBio is excessive and not backed by an independent valuation.

Based on the above factual matrix, assess whether the proposed acquisition between EcoTech Solutions Ltd. and MedBio Innovations Ltd. amounts to a **related party transaction**. Discuss the legal elements of related party transactions and analyze the role of the shared directors, the influence of OmniCorp as the parent company, and the potential conflicts of interest. Further, explain under what circumstances this transaction would not amount to a related party transaction. Also, explicate in this regard whether the aggrieved minority shareholder can file for relief under the oppression and mismanagement provision. Substantiate your analysis with relevant legal provisions and case law on related party transactions.

(Marks 25)

Q6). Write notes on the following topics:

1. Corporate criminal liability
2. Various grounds for mandatory winding up of the company.

(Marks 12.5+12.5=25)