

2 MAY 2024

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination May-June - 2024

Semester: LL.M. II Semester (Corporate Laws)

Subject: Corporate Reconstruction

Marks: 100

Time: Three Hours

Instructions:

- (1) The question paper contains six (06) questions out of which the student must attempt any four (04).
- (2) No materials, aids and instruments are permitted, in this examination.
- (3) Students must start each answer by clearly identifying to which question they are responding.
- (4) All questions carry equal marks

Q.1) X GmbH (hereinafter, 'X') is a private company headquartered in Germany. It is a 50-50 Joint venture between Y A.G. (a public limited German Company) and DC Ltd. (a U.S. public company). The X Group is a global leader in production of superhero toys and has its manufacturing sites in 80 countries across various continents. In India, the Group operates through B (India) Ltd., (hereinafter 'BIL', a public limited company incorporated under the Companies Act, 1956 with its registered office located in Surat, Gujrat and the shares of the company are listed on both NSE and BSE) and another company named, C (India) Ltd., (hereinafter, 'CIL' a public company incorporated under the Companies Act, 1956 with its registered office located at Hyderabad, Telangana and its shares listed on BSE and Surat Stock Exchange). The issued and paid up share capital of BIL and Iron Man is 1,00,000 equity shares each.

Pursuant to some understanding reached between Y A.G. and DC Ltd., it has been decided that an internal restructuring of business units spread across various jurisdictions must be undertaken to streamline the functioning of the Group. Thereafter, Z Pvt Ltd (hereinafter, 'Z', company incorporated in Singapore), a wholly owned subsidiary by X, was identified as the regional headquarters for the Asia-Pacific business operations of the X. It is also proposed that the shareholding held by H Pvt Ltd (hereinafter, 'H', a wholly owned subsidiary of X and incorporated under the laws of United Kingdom) in BIL and CIL as a part of promoter group, which is 55,000 equity shares and 50,000 equity shares respectively, be transferred to Z.

Give your opinion on the fate of the proposed transaction after examining the applicability of SEBI (SAST) Regulations, 2011 in the light of decided case laws.

(Marks: 25)

Q. 2) There are two brothers, Mr. X and Mr. Y who hold 23% and 1%, of voting rights respectively (as on 1st April 2022) in Z Ltd. whose shares are listed on Bombay Stock Exchange. Ms. T, a director in D Pvt Ltd, has 10% voting right in Z Ltd. On 25th August 2023, Mr. X has transferred his entire shareholding of 20% in D Ltd to Z Ltd. Analyse the consequences of the following transactions under the SEBI SAST 2011 in the event of:

- a) Mr. X acquiring 1 % of additional voting rights in Z Ltd. on 27th September 2022.
- b) Post the above acquisition, another acquisition of 2 % of voting rights by Mr. Y on 1st January 2023.



- c) Post the above acquisition, Mr. X acquired 2% of additional voting rights on 2nd February 2023.
- d) Lastly, Mr. Y acquired 3% of OFCDs and 2% American Depository Receipts (ADR) on 20th February 2023.

(Marks: 07+07+07+04 = 25)

- Q. 3) "Anchit" is a promoter in X Ltd., a public limited company (registered in Singapore) which has its shares listed on BSE and NSE in India. As on 31st March, 2021, Anchit held 90 equity shares (and some FCCB's) in X out of its total equity of 200 shares. However, due to conversion of FCCBs into equity shares the total share capital of "Pranay" and shareholding of Anchit increased in the Financial Year 2021-22. The pattern of increase is as follows:

Date	Share capital of "X"	Promoter's shares (in numbers)
31 March 2021	200	90
16 April 2021	200	91
01 August 2021	210	91
22 December 2021	210	94
05 February 2022	220	94
1 March 2022	220	95

On the basis of above data calculate whether Anchit has breached the "creeping threshold" limit for the Financial Year 2021-22 and therefore cannot make any further acquisition of shares in X without making a public announcement of Mandatory open Offer under the SEBI SAST (Takeover) code, 2011? If not, then how many shares can Anchit still acquire in X without triggering the mandatory open offer?

(Marks: 25)

- Q. 4) The Judicial pronouncements have not only added new concepts to the definition of "Control" under Competition Act 2002 but also have determined its distinctiveness from the meaning of 'control' under other laws in India. With the help of relevant cases, examine the different categories of "Control" under Takeover Regulation and Competition Act 2002.

(Marks: 25)

- Q. 5) Chapter XV of the Companies Act, 2013 has witnessed enough controversies in a short span of three years of enforcement. The complex interface with the IBC 2016, introduction of objection threshold, allowing the promoters to further maim and maul the already bruised minority shareholders in name of "fast-track" merger, inchoate cross-border merger provisions, confusion over "compulsory" acquisition, etc. have earned it the epithet of "*pro-businessmen but anti-business*" from various stakeholders. Analyse the veracity of above-mentioned position with help decided case laws

(Marks: 25)

Q. 6) Write short notes on:

a) Difference between Section 235 and Section 236 of Companies Act 2013.

b) Mandatory Open Offer under Takeover code

(Marks: 12.5 + 12.5 = 25)

