

### Answer 1 (a)

The problem as asked in the question is based on the provisions of the Indian Contract Act 1872, as contained in Section 130 relating to the revocation of a continuing guarantee as to future transactions which can be done mainly in the following two ways:

1. By Notice: A continuing guarantee may at any time be revoked by the surety as to future transactions, by notice to the creditor.
2. By death of surety: The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions. (Section 131).

The liability of the surety for previous transactions however remains.

Thus applying the above provisions in the given case, Ramesh is discharged from all the liabilities to Kamlesh for any subsequent loan.

Answer in the second case would differ i.e. Ramesh is liable to C for ₹ 35,000 on default of Suresh since the loan was taken before the notice of revocation was given to Kamlesh.

### Answer 1 (b)

(1) Section 63 says that a company may issue fully paid-up bonus shares to its members, in any manner whatsoever, out of—

- (i) its free reserves;
- (ii) the securities premium account; or
- (iii) the capital redemption reserve account:

Provided that no issue of bonus shares shall be made by capitalising reserves created by the revaluation of assets.

(2) No company shall capitalise its profits or reserves for the purpose of issuing fully paid-up bonus shares unless—

- (a) it is authorised by its articles;
- (b) it has, on the recommendation of the Board, been authorised in the general meeting of the company;
- (c) it has not defaulted in payment of interest or principal in respect of fixed deposits or debt securities issued by it;
- (d) it has not defaulted in respect of the payment of statutory dues of the employees, such as, contribution to provident fund, gratuity and bonus;
- (e) the partly paid-up shares, if any outstanding on the date of allotment, are made fully paid-up;
- (f) it complies with such conditions as may be prescribed.

(3) The bonus shares shall not be issued in lieu of dividend.

It can only be done if the articles of the company contain provisions in regard thereto. It means that profits which otherwise are available for distribution among the members, are not divided among them in cash, but the shareholders are allotted further shares (bonus shares). Capital profits, shares premium and capital redemption reserve account can also be used for the purpose of issuing fully paid bonus shares.

According to the proviso to Section 123(5) of the Companies Act, 2013, it is permissible for a company to capitalise its profits or reserves for the purpose of issuing fully paid up bonus shares or paying up any amount for the time being unpaid on any shares held by the members of the company.

### Answer 1 (c)

**Not agree**, because Ethics programs help to manage values associated with quality management, strategic planning and diversity management. Ethics programs help identifying preferred values and ensuring that organizational behaviors are aligned with those values. This includes recording the values, developing policies and procedures to align behaviours with preferred values, and then training all personnel about the policies and procedures. This overall effort is very useful for several other programs in the workplace that require behaviors to be aligned with values, including quality management, strategic planning and diversity management. For example, Total Quality Management initiatives include high priority on certain operating values, e.g., trust among stakeholders, performance, reliability, measurement, and feedback.

### Answer 1 (d)

Negotiation occurs when two or more parties—either individuals or groups discuss specific proposals in order to find a mutually acceptable agreement. Whether it is with an employer, family member or business associate, we all negotiate for things each day like higher salary, better service or solving a dispute with a co worker or family member.. Negotiation is a common way of settling conflicts in business. When handled skilfully, negotiation can improve the position of one or even both but when poorly handled; it can leave a problem still unsolved and perhaps worse than before.

Negotiations can be approached in four ways. Each of these approaches produces a different outcome.

**Win-Lose Orientation:** This is the approach taken by competitive communicators. The win-lose orientation is based on the assumption that only one side can reach its goals and that any victory by that party will be matched by the other's loss. Despite the fact that it produces losers as well as winners, a win-lose orientation can sometimes be the best approach to negotiating.. For example, in a one-time commercial transaction (the sale of a car, for instance), your concern for helping the other party may take a back seat to getting the best possible deal for yourself, without violating your ethical

**Lose-Lose Orientation:** With a lose-lose orientation, a conflict plays out in a way that damages both parties to such a degree that everyone feels like a loser. Nobody starts out seeking a lose-lose outcome, of course; but sometimes when people feel that a negotiating partner is blocking them, they wind up seeking revenge. For example, if customers feel cheated, they are likely to tell others about their dissatisfaction, costing the company future business.

**Compromise:** Sometimes it seems better to compromise than to fight battles in a competitive manner and risk a lose-lose outcome. There are cases in which compromise is the best obtainable outcome—usually when disputed resources are limited or scarce. Example, if two managers each need a full-time secretary but budget restrictions make this impossible, they may have to compromise by sharing one secretary.

**Win-Win Orientatio:** A win-win approach differs significantly from the preceding negotiating styles. It is a collaborative approach to negotiation and assumes that solutions can be reached that satisfy the needs of all parties. Most important, it looks beyond the conflicting means of both parties (my way versus your way) and focuses on satisfying the ends each is seeking. . The key is to avoid taking polar positions (arguing over means) and instead to identify the ends or goals of both parties

### **Answer 2 (a)(i)**

In terms of section 20(2), the provisions of the Payment of Bonus Act, 1965 do not apply to an establishment in public sectors, except as provided under sub section 1 of section 20.

Section 20 of the Payment of Bonus Act, 1956 provides that, if in any accounting year, an establishment in public sector sells any goods produced or manufactured by it or if it renders any services in competition with an establishment in private sector and if the income from such sale or service or both is not less than 20% of the gross income of such establishment, then the provisions of the Payment of Bonus Act, 1956 shall apply in relation to establishment in private Sector.

In the given problem therefore, the demand of the employees is tenable in first case but it is not tenable in second case.

### **Answer 2 (a)(ii)**

**Forfeiture of Gratuity:** In accordance with the provisions of Section 4(6) of the Payment of Gratuity Act, 1972, if the services of any employee have been terminated for any act, willful omission, or negligence causing any damage or loss to or destruction of, property belonging to the employer, the gratuity shall be forfeited to the extent of the damage or loss so caused.

Further, if the services of such an employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment, the gratuity payable to the employee may be wholly or partially forfeited.

Under section 4(1) of the Payment of Gratuity Act, 1972 gratuity is payable to an employee on termination of employment provided he completes five years of continuous service with the employer. The condition of the completion of five years' continuous service is not essential in case of the termination of the employment of any employee due to death or disablement.

The gratuity payable is an obligation of the employer and any forfeiture in full or part of the gratuity payable to an employee can be made only in terms of section 4(6). In *K. C. Mathew vs. Plantation Corporation of Kerala Ltd.* 2001 LLR (2) (Ker), it was held that withholding of gratuity is not permissible except under those circumstances enumerated in Section 4(6) and that the right to gratuity is a statutory right and none can be deprived of it except as provided by the law.

The correctness of the decision taken by Artha Steels Ltd. in the given case, regarding forfeiture of the gratuity to its employees A and C may be tested in the light of Section 4(6) of the Payment of Gratuity Act, 1972 as referred above.

- (i) A, has it appears from the facts given, illegally occupied the land of the company and hence has deliberately caused loss to the company by wrongfully appropriating its property. Hence, his gratuity may be forfeited by the company under section 4(6). This may also be termed as disorderly conduct on the part of A.
- (ii) C had wrongfully occupied the company's quarter after the termination of his employment for six months. C may have caused a deliberate loss to the company by his wrongful occupation for 6 months as the quarter could not be given to another employee and the company may have incurred the cost of rent in such case. Hence, the company is entitled to charge the rent from him and after adjusting other dues the remaining amount of gratuity may be paid [relevant case is *Wazir Chand vs. Union of India* 2001, LLR172 (SC)]

### Answer 2 (b)

- (1) **Codes of Conduct and Ethics:** A code of ethics specifies the ethical rules of operation in an organization. Codes of conduct specify actions in the workplace and codes of ethics are general guides to decisions about those actions, *Examples* of topics typically addressed by codes of conduct include: preferred style of dress, avoiding illegal drugs, following instructions of superiors, being reliable and prompt, maintaining confidentiality, not accepting personal gifts and so on
- (2) **Appointing an ombudsperson:** The ombudsperson is responsible to help coordinate development of the policies and procedures to institutionalise moral values in the workplace. This establishes a point of contact where employees can go to ask questions in confidence about the work situations they confront and seek advice.

### Answer 2 (c)

- (i) **The Caux Round Table (CRT):** promotes principled business leadership and the belief that business has a crucial role in identifying and promoting sustainable and equitable solutions to key global issues affecting the physical, social and economic environments. The CRT is comprised of senior business leaders from Europe, Japan and North America, and is based in Caux, Switzerland. The CRT has produced "Principles for Business," a document which seeks to express a worldwide standard for ethical and responsible corporate behaviour for dialogue and action by business and leaders worldwide. The principles include the social impact of company operations on the local community, a respect for rules and ethics, support for multilateral trade agreements that promote the "judicious liberation of trade," respect for the environment and "avoidance of illicit operation," including bribery, money laundering, and other corrupt practices.
- (ii) **Euphemisms:** By definition, a euphemism is using a less offensive expression instead of one that might cause distress. For example using the expression "passed away" instead "died" is one of the more common examples. This usage is understandable. However, people frequently use these terms to obscure the truth. For example a purchasing agent has a far easier time accepting a "consideration fee" than a "bribe." Petty office theft gets passed off as merely "permanently borrowing" the item instead of "stealing."

### Answer 3 (a)(i)

The problem as asked in the question is based on the provisions of the Indian Contract Act, 1872 as contained in Section 133. The section provides that any variance made without the surety's consent in the terms of the contract between the principal debtor and the creditor, discharges the surety as to transactions subsequent to the variance. In the given problem all the above requirements are fulfilled. Therefore, A is not liable on his guarantee for the fruits supplied after this new arrangements. The reason for such a discharge is that the surety agreed to be liable for a contract which is no more there and he is not liable on the altered contract because it is different from the contract made by him.

### Answer 3 (a)(ii)

We have in previous para learnt in detail about the contract of indemnity and a contract of guarantee. Now let us analyse the differences between the two.

- (i) **Number of parties:** In a contract of indemnity there are only two parties namely the indemnifier [promisor] and the indemnified [promisee]. In a contract of guarantee there are three parties creditor, principal debtor and surety.
- (ii) **Extent of liability:** The liability of the indemnifier is primary and independent. The liability of the surety is secondary as the primary liability is that of the principal debtor.
- (iii) **Time of liability:** The liability of the indemnifier arises only on the happening of a contingency. In the case of guarantee, liability is already in existence but specifically crystallizes when principal debtor fails.
- (iv) **Time to Act:** The indemnifier need not necessarily act at the request of indemnified. In case of guarantee surety must act by extending guarantee at the request of debtor.
- (v) **Right to sue third party:** In case of contract of indemnity, indemnifier cannot sue a third party for loss in his own name as there is no privity of contract. Such a right would arise only if there is an assignment in his favour. On the other hand in the case of contract of guarantee surety can proceed against principal debtor in his own right because he gets all the right of a creditor after discharging the debts.

### Answer 3 (b)

**Conflict Resolution:** While evaluating compliance with the fundamental principles, a finance and accounting professional may be required to resolve a conflict on the application of fundamental principles. The following need to be considered, either individually or together with others, during a conflict resolution process:

- (a) Relevant facts
- (b) Ethical issues involved
- (c) Fundamental principles related to the matter in question
- (d) Established internal proceedings and
- (e) Alternative course of action

Having considered these issues, the professional should determine the appropriate course of action that is consistent with the fundamental principles identified. The professional should weigh the consequences of each possible course of action. If the matter remains unresolved, the professional should consult other appropriate persons within the firm or employing organization for help in obtaining resolution. During times where a matter involves a conflict with or within an organization, the finance and accounting professional should also consider consulting those charged with governance of the organisation, such as the Board of Directors.

It may be in the best interests of the professional to document the substance of the issues and details of any discussions held or decisions taken, concerning that issue.

If a significant conflict cannot be resolved, a professional may also obtain professional advice from the relevant professional body or legal advisors and thereby obtain guidance on ethical issues without breaching confidentiality.

If, after adopting all strategies, the ethical conflict still remains unresolved, a professional should try to disassociate from the matter causing the conflict or even from the organization, if need be.

### Answer 3 (c)

#### **1. Every Communication Decision has some Ethical Aspect to it, Acknowledged or Not.**

There are countless complexities involved in the communication process, but communicators initially face three simple choices: to speak, to listen, or to remain silent. Each choice implies an ethical decision.

In a message the sender chooses to disclose information, motives, or feelings to others. That choice inevitably involves an ethical element. Clearly, some messages should not be sent, such as those involving "insider information." To do so gives certain people an unfair advantage in the marketplace. But should one share a rumour about an organizational change with a colleague? Such actions are commonplace and appear to be less objectionable than insider trading.

The timing and mode of communication add another layer of complexity to the ethical dimension.

Remaining silent might seem like the safest way to avoid ethical dilemmas. But even here there is no safe haven. Remaining silent in the face of unlawful behavior or a potentially harmful situation presents a serious ethical decision. Silence signals consent or perhaps tacit agreement,

#### **2. The Ethical Nature of Communication must be Considered within the Context of Who, What, When, and Where.**

Suppose fellow employees discussed a project they were working on. This may seem perfectly ethical on the surface. After all, such discussions actually foster effective interdepartmental relationships; a worthy goal indeed. The problem may be that the discussion took place in a crowded restaurant and a competitor overheard the conversation. When the employees are confronted, they may reply, "What did we say that was wrong? We were not talking to a competitor." But this is, of course, the wrong question. The issue does not concern what was said or even who they were talking to. The ethical issue revolves around where the conversation took place. Herein lies the complexity of ethical issues-evaluations must be made on more than one dimension. Ethical communicators are not concerned with just who or what or where or when, but with all four dimensions simultaneously.

### Answer 4 (a)(i)

**Alteration of Capital [Section 61 (1) read with section 13 of the Companies Act, 2013]:** Under section 61 (1) a limited company having a share capital may, if authorized by its Articles, alter its Memorandum in its general meeting as under:

- (i) it may increase its authorized share capital by such amount as it thinks expedient;
- (ii) it may consolidate and divide all or any of its share capital of a larger amount than its existing shares
- (iii) convert all or any of its paid up shares into stock and reconvert that stock into fully paid shares of any denomination
- (iv) sub-divide the whole or any part of its shares into shares of smaller amount than is fixed by the Memorandum
- (v) cancel those shares which, at the time of passing of the resolution in that behalf have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

Further, under section 64 where a company alters its share capital in any of the above mentioned ways, the company shall file a notice in the prescribed form with the Registrar within a period of thirty days of such alteration or increase or redemption, as the case may be, along with an altered memorandum.

Section 13 provides for the procedure to be followed for alteration of the Memorandum, as under:

- a. A special resolution must be passed to effect the alteration. For this purpose a Board Meeting must be held to convene a general meeting of the members and all legal provisions in this behalf followed including the circulation of a detailed explanatory note on the proposed change alongwith the notice for the general meeting;
- b. The company must file with the Registrar the special resolution passed by the company to effect an alteration in the capital clause of the Memorandum;
- c. No alteration to the Memorandum will have effect unless it has been registered with the Registrar as above.

**After following the above mentioned procedure A ltd. can alter its share capital.**

#### **Answer 4 (a)(ii)**

**'PariPassu':** *PariPassu* clause in a debenture means that all the debentures of that particular series are to be paid rateably, if, therefore, security is insufficient to satisfy the whole debts secured by the series of debentures, the amounts of debentures will abate proportionately. If this clause is not included, the debentures will rank in priority for payment in accordance with the date of issue, and if they are all issued on the same date they will be payable according to their numerical order. A company, however, cannot issue a new series of debentures so as to rank '*paripassu*' with any prior series unless the power to do so is expressly reserved and contained in the document of offer.

**Registration of charge:** Under section 77 (1) of the Companies Act, 2013, it shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation.

In terms of Rule 3 of the Companies (Registration of Charges), Rules 2014 for the registration of charge in respect of debentures the following documents should be submitted to the Registrar:

- a. The particulars of charge;
- b. Instrument for the creation or the modification of the charge;
- c. Application in prescribed Form

#### **Answer 4 (b)**

Corporate Social Responsibility (CSR) is a concept that organizations, have an obligation to consider the interests of customers, employees, shareholders, communities, and ecological considerations in all aspects of their operations. This obligation is seen to extend beyond their statutory obligation to comply with legislation. CSR is closely linked with the principles of Sustainable Development, which argues that enterprises should make decisions based not only on financial factors such as profits or dividends, but also based on the immediate and long-term social and environmental consequences of their activities, especially taking into consideration the needs of future generations. It is an integrated combination of policies, programs, education, and practices which extend throughout a corporation's operations and into the communities in which they operate, about how companies voluntarily manage the business processes to produce an overall positive impact on society. CSR can mean different things to different people:

- for an employee it can mean fair wages, no discrimination, acceptable working conditions etc.
- for a shareholder it can mean making responsible and transparent decisions regarding the use of capital.
- for suppliers it can mean receiving payment on time.
- for customers it can mean delivery on time, etc.
- for local communities and authorities it can mean taking measures to protect the environment from pollution.
- for non-governmental organisations and pressure groups it can mean disclosing business practices and performance on issues ranging from energy conservation and global warming to human rights and animal rights, from protection of the rainforests and endangered species to child and forced labour, etc.

For a company, however, it can simply be seen as responding to the needs and concerns of people who can influence the success of the company and/or whom the company can impact through its business activities, processes and products.

#### Answer 4 (c)

A number of elements that can be used to describe or influence Organizational Culture and they are :-

- ◆ **The Paradigm:** What the organization is about; what it does; its mission; its values.
- ◆ **Control Systems:** The processes in place to monitor what is going on
- ◆ **Organizational Structures:** Reporting lines, hierarchies, and the way that work flows through the business.
- ◆ **Power Structures:** Who makes the decisions and how power is distributed across the organization.
- ◆ **Symbols:** These include the logos and designs, but would extend to symbols of power, such as car parking spaces and executive washrooms.
- ◆ **Rituals and Routines:** Management meetings, board reports and so on may become more habitual than necessary.
- ◆ **Stories and Myths:** build up about people and events, and convey a message about what is valued within the organization.

Communicating the corporate culture effectively is paramount. For example, at General Electric (GE), corporate values are so important to the company that Jack Welch, the former legendary CEO of the company, had them inscribed and distributed to all GE employees at every level of the Company.

#### Answer 5 (a)(i)

According to Section 130 of the Negotiable Instruments Act, 1881 a person taking cheque crossed generally or specially bearing in either case the words 'Not Negotiable' shall not have or shall not be able to give a better title to the cheque than the title the person from whom he took it had. In consequence, if the title of the transferor is defective, the title of the transferee would be vitiated by the defect.

Thus based on the above provisions, it can be concluded that if the holder has a good title, he can still transfer it with a good title, but if the transferor has a defective title, the transferee is affected by such defects, and he cannot claim the right of a holder in due course by proving that he purchased the instrument in good faith and for value. As Mr. K in the case in question had obtained the cheque fraudulently, he had no title to it and could not give to the bank any title to the cheque or money; and the bank would be liable for the amount of the cheque for encashment. (*Great Western Railway Co. v. London and Country Banking Co.*)

The answer in the second case would not change and shall remain the same for the reasons given above.

Thus Sumit in both the cases shall be successful in his claim from XYZ bank.

#### Answer 5 (a)(ii)

Discharge of endorser's liability (Section 40): Where the holder of a negotiable instrument, without the consent of the endorser, destroys or impairs the endorser's remedy against a prior party, the endorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity. Any party liable on the instrument may be discharged by the intentional cancellation of his signature by the holder. In this question E is the holder of a bill of exchange which are payable on F's order is the payee and it contains the following endorsement in blank:

First endorsement, "F"

Second endorsement, "G"

Third endorsement, "H"

Fourth endorsement, "I"

E, the holder, may intentionally strike out the endorsement by H and G; in that case the liability of H and G upon the bill will come to an end. But if the endorsements of H and G are struck out without the consent of I, E will not be entitled to recover anything from I the reason being that as between H and I, H is the principal debtor and I is surety. If H is released by the holder under Section 39 of the Act, I, being surety, will be discharged. The rule may be stated thus: when the holder without the consent of the endorser impairs the endorser's remedy against a prior party, the endorser is discharged from liability to the holder.

#### Answer 5 (b)

##### **Holding, subsidiary relationship:**

Section 2 (87) of the Companies Act 2013 lays down the circumstances under which a company becomes a subsidiary company of another company which becomes its holding company. These circumstances are as under:

- (a) When the holding company controls the composition of Board of Directors of the subsidiary company or companies, or
- (b) When the holding company exercises or controls more than one half of the total share capital either on its own or together with one or more of its subsidiary companies, or
- (c) Where a company is the holding company of the company which fulfils any of the above conditions, e.g., if A Ltd is the holding company of B Ltd, but C Ltd is the holding company of A Ltd, then B Ltd will automatically become a subsidiary of C Ltd.

Meaning of total share capital: Here total share capital means Equity share capital or Convertible Preference share capital. In this case JVN Pvt. Ltd. and SARA Pvt. Ltd. together hold a majority of equity shares in SAB Pvt Ltd. and both these companies are subsidiaries of PQR Pvt. Ltd, so after applying the above mentioned provisions In the first case PQR Pvt. Ltd. will be the holding of SAB Ltd. because it's have more than half of total share capital.

In the second case our answer remain same because it have a majority stake in the composition of the Board of Directors of SAB Pvt. Ltd. Hence, PQR Pvt, Ltd will be treated as the holding company of SAB Pvt Ltd.

### Answer 5 (c)

A finance and accounting professional has a professional obligation to comply with certain fundamental principles which have been detailed below. There may be times, however, when their responsibilities to an employing organization and the professional obligations to comply with the fundamental principles are in conflict. Ordinarily, a finance and accounting professional should support the legitimate and ethical objectives established by the employer and the rules and procedures drawn up in support of those objectives. Nevertheless, where compliance with the fundamental principles is threatened, a finance and accounting professional must consider a response to the circumstances. As a consequence of responsibilities to an employing organization, a finance and accounting professional may be under pressure to act or behave in ways that could directly or indirectly threaten compliance with the fundamental principles. Such pressure may be explicit or implicit; it may come from a supervisor, manager, director or another individual within the employing organization. A finance and accounting professional may face pressure to:

- ◆ Act contrary to law or regulation.
- ◆ Act contrary to technical or professional standards.
- ◆ Facilitate unethical or illegal earnings management strategies.
- ◆ Lie to, or otherwise intentionally mislead (including misleading by remaining silent) others, in particular:
  - ◆ The auditors of the employing organization; or
  - ◆ Regulators.
- ◆ Issue, or otherwise be associated with, a financial or non-financial report that materially misrepresents the facts, including statements in connection with, for *example*:

The financial statements; Tax compliance; Legal compliance; or Reports required by securities regulators.

### Answer 6 (a)

**Acceptance of deposits from public by certain companies:** According to section 76. of the Companies Act, 2013 –

- (1) A public company, having such net worth of not less than one hundred crore rupees or turnover of not less than five hundred crore rupees, may accept deposits from persons other than its members subject to compliance with the requirements provided in sub-section (2) of section 73 and subject to such rules as the Central Government may, in consultation with the Reserve Bank of India, prescribe:

Provided that such a company shall be required to obtain the rating (including its networth, liquidity and ability to pay its deposits on due date) from a recognised credit rating agency for informing the public the rating given to the company at the time of invitation of deposits from the public which ensures adequate safety and the rating shall be obtained for every year during the tenure of deposits:

Provided further that every company accepting secured deposits from the public shall within thirty days of such acceptance, create a charge on its assets of an amount not less than the amount of deposits accepted in favour of the deposit holders in accordance with such rules as may be prescribed.

- (2) The provisions of this Chapter V (acceptance of deposits) shall, mutatis mutandis, apply to the acceptance of deposits from public under this section.

**In this question ABC Limited is not entitled to accept deposit from public because it is not fulfilled the above mentioned criteria.**

### Answer 6 (b)

- (i) Incorrect
- (ii) Correct
- (iii) Correct
- (iv) Correct

**Answer 6 (c)**

**Drafting of Gift Deed:**

This Deed of gift is made of.....on this.....day of.....2007. Between Ram Prasad an Indian.....inhabitant residing at House No., Cooperative Housing Society Ltd.....(city), hereinafter called 'The Doner' of the one part and , also an Indian inhabitant of (City).....Residing at ..... at.....(city) herein after called there 'Donee of the other part. Whereas the Donee .....is the..... of donor.....and whereas the Doner is the member of ..... society which is duly registered under Maharashtra Cooperative Societies Act, 1960. The donor has acquired a House No. .... on the .....floor and measuring:.....sqr. mtr. In the building situated at..... (city)

Whereas the Donor has full right title and in last in their said House more particularly described in this schedule.

And whereas the donor desired to gift his right, title and interest in the said share/flat in the said building of the said society described in the schedule hereunder written to the Donee hereto.

The Donor out of natural love and affection for the Donee hereby transfer by way of gift his right title and interest in the said shares and the House absolutely forever.

The Donee accept the gift and agrees to hold that right title and interest of the Donor in said House of the societies. In the interest whose of the parties hereto have here under set and subscribed their respective hands on the day and the year.

Signed and Delivered

In the presence of.....

- 1. ....
- 2. ....

Signed and Delivered:

By the named Donee.

In the presence of.....

- 1 .....
- 2. ....

**Answer 7 (a)(i)**

As per the provisions of section 17 B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Accordingly where an employer in relation to an establishment, transfers that establishment in whole or in part by sale, gift, lease or license or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall be jointly or severally liable to pay the contribution and other sums due from the employer under the provisions of this Act of the Scheme or Pension Scheme, as the case may be, in respect of the period upto the date of such transfer. It is further provided in the Proviso to the said section that the liability of the transferee shall be limited to the value of the assets obtained by him on such transfer.

**Answer 7 (a)(ii)**

**Priority of Payment of Contribution over other debts(Section 11):** If the employer is adjudged an insolvent or if the employer is a company and an order for winding thereof has been made, the amount due from the employer whether in respect of the employee's contribution or the employer's contribution must be included among the debts which are to be paid in priority to all other debts under Section 49 of the Presidency-Towns Insolvency Act, Section 61 of the Provincial Insolvency Act, Section 327 of the Companies Act, 2013(i.e., section 530 of the Companies Act, 1956), in the distribution of the property of the insolvent or the assets of the company. In other words, this payment will be a preferential payment provided the liability there for has accrued before this order of adjudication or winding up is made.

**Answer 7 (b)**

**Issue of Shares to Non-Member:** As per the provisions of the Companies Act, 1956 contained in section 62 (1) (a) (iii), (b) and (c) further shares in a company limited by shares may be issued to non members under certain circumstances. These are as explained below:

- (a) Under section 62 (1) (b) issue of further shares may be offered to employees under a scheme of

employees' stock option subject to a <sup>12</sup>special resolution passed by the company and subject to such conditions as may be prescribed.

- (b) Under section 62 (1) (c) such shares may be offered to any persons, if it is authorised by a special resolution, either for cash or for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer subject to such conditions as may be prescribed.
- (c) if any equity shareholder to whom the shares are offered in terms of section 62 (1) (a) as described above, declines such offer, the Board of Directors may dispose of the shares in such manner as is not disadvantageous to the shareholders or to the company.

**After following the above mentioned procedure Shyam Dairy Ltd. can issue new shares to XYZ Ltd.**

#### **Answer 7 (c)**

Section 100 (2) of the Companies Act, 2013 makes it obligatory on the Board of Directors to convene an extra ordinary meeting of members if requisitioned by the stipulated number of members. 40% of members constitute the required number and the board of directors have violated the provisions of law by not calling the meeting.

However, section 100 (4) of the Companies Act, 2013 provides that if Boardfail to proceed to call a meeting within 21 days from the date of receipt of a valid requisition for a date within 45 days of the receipt of the requisition, the requisitionists may themselves call a meeting within 3 months of the date of the requisition.

Moreover, where a meeting is called by the requisitionists and the registered office is not made available to them, it was decided in *R. Chettiar v. M. Chettiar* that the meeting may be held any where else.

Further, resolutions properly passed at such a meeting, are binding on the company.

Thus, in the given case, since all the above mentioned provisions are duly complied with. Hence the meeting with the resolution removing the managing director shall be valid.

#### **Answer 7 (d)**

*Intimidation threat for finance and accounting professionals working as consultants or auditors*

- ◆ Being threatened with dismissal or replacement.
- ◆ Being threatened with litigation.
- ◆ Being pressured to reduce inappropriately the extent of work performed in order to reduce fees.

*Intimidation threat for finance and accounting professionals working as employees*

- ◆ Threat of dismissal or replacement of the finance and accounting professional or a close or immediate family member over a disagreement about the application of an accounting principle or the way in which financial information is to be reported for external use as well as for decision making purposes.
- ◆ A dominant personality attempting to influence the decision making process, for *example* with regard to the exclusion of irrelevant costs from projected cost estimates.

#### **Answer 7 (e)**

- (i) **Situational context** deals with the "psycho-social-where" one is communicating. For example, an interaction that takes place in a classroom will be very different from one that takes place in a Board room.
- (ii) **Cultural context** includes all the learned behaviours and rules that affect the interaction. If you come from a culture (foreign or within your own country) where it is considered rude to make long, direct eye contact, you will out of politeness avoid eye contact. If the other person comes from a culture where long, direct eye contact signals trustworthiness, then we have in the cultural context a basis for misunderstanding.