

Indicative Model Question Paper
Professional Programme
New Syllabus 2022
Corporate Restructuring, Valuation & Insolvency

Time allowed: 3 hours

Maximum marks: 100

NOTE: Answer ALL Questions

PART-I

Question No. 1

Kumar Farms Private Limited (hereinafter referred to as “KFPL” and/or “Transferee Company”) is a private limited company incorporated and existing under the provisions of the Companies Act, 2013. The entire shareholding (100%) of KFPL is held by the Singhanian Family comprising Mr. Ajay, Mrs. Vinay and Mr. Abhishek. KFPL and the Singhanian Family are part of the Promoter and Promoter Group of PPAP Limited (hereinafter referred to as "PPAP / Target Company"), a company whose shares are listed on the Stock Exchanges i.e., BSE and NSE. The entire Promoter and Promoter Group holding in PPAP is 64.52% as of June 30, 2023. Copy of Shareholding Pattern of PPAP as disclosed under Regulation 31 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as “SEBI (LODR) Regulations, 2015”) for the Quarter ending 30th June 2023.

Out of the Promoter and Promoter Group shareholding of PPAP, KFPL holds 13.28% and shareholders of KFPL viz. Mr. Ajay (27.62%), Mrs. Vinay (3.81%) and Mr. Abhishek (7.16%) are also classified as "Promoter" for more than 3 years. Their consolidated/aggregate shareholding in the PPAP/Target Company is 51.87%. Presently, KFPL is in the process of considering a Scheme of Amalgamation and Arrangement ("Scheme") of below mentioned 10 entities ("Transferor Companies") with KFPL i.e., the Transferee Company:

S. No.	Name	Shareholding Percentage in PPAP/Target Company as of June 30, 2020	Current Shareholding Percentage in	Shareholder whether classified as
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			PPAP/Target Company	"Promoter" or not
1	NiFoods Private Limited	1.03%	1.05%	Promoter
2	Advance Private Limited	1.56%	1.58%	Promoter
3	Dealtrade Private Limited	1.04%	1.06%	Promoter
4	Littlestar Private Limited	1.39%	1.41%	Promoter
5	Sri Lehra Private Limited	3.91%	3.98%	Promoter
6	Commosales Limited	NIL	NIL	Promoter
7	Icon Private Limited	NIL	NIL	Promoter
8	Ginius Private Limited	NIL	NIL	Promoter
9	Arhaan Private Limited	NIL	NIL	Promoter
10	Ajay Holdings Private Limited	NIL	NIL	Promoter
	Total	8.93%	9.08%	

100% of the shareholding of all the aforesaid companies is directly or indirectly held by Mr. Ajay, Mrs. Vinay and Mr. Abhishek. Furthermore, all the aforesaid 10 entities are included in the Promoter and Promoter Group of PPAP. With a view to consolidate the entities so as to eliminate the chain holdings and attain a leaner and more efficient structure from a long-term perspective it is proposed to merge the 10 Transferor Companies with the Transferee Company i.e., KFPL through a Scheme of Amalgamation and Arrangement ("Scheme") under section 230 to 232 of the Companies Act, 2013 ("Act") read with applicable provisions of the Act.

All the Transferor Companies shall stand dissolved pursuant to the proposed Scheme and the entire business and whole of the undertaking of the Transferor Companies, including, without any limitation all the assets and properties of the Transferor Companies, including but not limited to all stocks, assets, investments of all kinds (including shares, scrips, stocks, bonds, debenture stocks, units) shall get transferred to KFPL. Thus the 9.08% shares held by the Transferor Companies in PPAP will stand transferred to KFPL. The same will result in an increase in the holding of KFPL in the Promoter capacity in PPAP from 13.28% to 22.36%. Pursuant to the Scheme, there will be no change in the shareholding percentage of the Singhania Family in KFPL,

who will continue to hold 100%. Further, there will be no change in the percentage of Promoter and Promoter Group shareholding of PPAP, which will remain at 64.52%.

As per the Scheme, the entire consideration paid for the amalgamation would be discharged by KFPL by way of the issue of its shares to Mr. Ajay, Mrs. Vinay and Mr. Abhishek. No portion of the consideration would be discharged in the form of cash/cash equivalent.

In view of the above facts, answer the following with reasons:

(i) Whether the proposed transfer of shares from one promoter entity to another, qualifies as normal transfer within the 5% limit as well as inter se transfer not amounting to seeking exemption under Regulation 10 of the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011?

(ii) Whether normal disclosures under Regulations 29 any other compliance have to be made by the Promoter while filing of forms under Regulation 10 of SEBI (SAST) Regulations, 2011.

(iii) The inter-se transfer of shares among promoter groups though permitted under SEBI (SAST) Regulations, 2011, will it be affecting the proposed preferential offer under SEBI (ICDR) Regulations, 2018?

(iv) Discuss whether the threshold limits for acquisition of shares / voting rights, beyond which an obligation to make an open offer is triggered?

(5 marks each)

Attempt all parts of either Q.No.2 or Q.No.2A

Question No. 2.

(a) Mr. "X" a member of ABC Limited holding 8% of shareholding in the company raised several legal issues pertaining to methodology of the valuation of concerned companies, adequacy of swap ration of 15:1, violation of Section 230 of Companies Act, 2013 in the scheme of amalgamation, challenged to market approach method of valuation and other illegalities which tantamount to Oppression & Mis-Management of the Appellants minority shareholders. Discuss whether Mr. "X" is eligible to raise objection in the scheme of amalgamation.

(b) Every scheme of amalgamation of a Bank is sanctioned under the Banking Regulation Act and aims at securing larger public interest and health of the banking industry. Comment.

(c) Amalgamation is unlike the winding up of a corporate entity, in the case of amalgamation, the outer shell of the corporate entity is undoubtedly destroyed; it ceases to exist. Comment.

(d) Whether Companies Act, 2013 empowers the National Company Law Tribunal to dispense with the meeting of shareholders in Amalgamation? Discuss the scope and ambit of the jurisdiction of the Tribunal while exercising its power in sanctioning the scheme of amalgamation.

(5 marks each)

OR (Alternate question to Q.No.2)

Question No. 2A

(a) PCBL Limited (“Acquirer”) is a public listed company. The Acquirer is currently engaged in the following businesses: (i) manufacture and sale of carbon black, and (ii) manufacture of green power. The Acquirer is one of the largest manufacturers of carbon black in India and is a strong global player with a significant customer base in over 50+ countries.

ACP Private Limited (“Target”) is a private limited company, with its registered office located in Pune, Maharashtra. The Target is a leading specialty chemicals company, engaged in the manufacture of: (i) water treatment chemicals with key products such as: (a) phosphonates, (b) biodegradable chelating agents, (c) polymers, (d) biocides; and (ii) water treatment chemicals used for scale and corrosion control such as: (i) imidazolines, and (ii) quats, used in oil and gas production.

The Acquirer proposes to acquire 100% equity share capital of the Target from the existing shareholders of the Target. Post the Proposed Combination, the Target will be a wholly-owned-subsiary of the Acquirer. The Proposed Combination is notifiable to the Hon’ble Competition Commission of India under Section 5(a) of the Competition Act, 2002.

The Proposed Combination will enable the Acquirer to enter the global specialty segments of (i) water treatment chemicals, and (ii) oil and gas chemicals. The Proposed Combination will result in the Target becoming a part of the PCBL Limited, allowing it to access a larger pool of resources, aiding its expansion and growth strategies. Additionally, the Proposed Combination will provide the existing shareholders of the Target an attractive exit opportunity. The Acquirer & Target

activities do not exhibit any horizontal, vertical, or complementary overlaps in any of the plausible relevant markets in India.

In view of the above, answer the following:

(i) Whether the Proposed Combination is required to be notified under the green channel route in terms of Regulation 5A and Schedule III of the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011? Discuss briefly the Green Channel Route.

(ii) In accordance with international best practices, the Competition Commission of India allows for informal and verbal consultation with its staff/ case team prior to filing of notice for a proposed combination in terms of sub section (2) of section 6 of the Competition Act, 2002 (“Act”) read with regulations 5 and 5A of Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011. Discuss briefly the Pre-Filing Consultation with Competition Commission of India.

(iii) Discuss the factors that the Competition Commission of India may be taken into account while deciding whether any combination is Appreciable Adverse Effect in Competition (AAEC).

(5 marks each)

(b) The Board of directors of ABC Ltd., a small company is considering to merge with BRQ Ltd., another small company. The Board wants the merger to be fast and seeks your opinion about the conditions to be complied in this respect. Render your opinion based on the provisions of Companies Act, 2013.

(5 marks)

PART- II

Question No. 3

(a) Assume ABC Manufacturing Company is projected to generate the following cash flows over the next five years:

Year 1: 500,000

Year 2: 600,000

Year 3: 700,000

Year 4: 800,000

Year 5: 900,000

The discount rate for ABC Manufacturing Company is determined to be 10%.

Calculate the Present Value (PV) of Cash Flows & Determine the Terminal Value

(b) ABC Tech Solutions is a fast-growing technology company specializing in software development and IT services. The company was founded five years ago and has experienced rapid revenue growth and a strong customer base. The management team is exploring options for fundraising and needs to determine the valuation of the business.

Key Information:

1. Financial Performance:

Year 1: Revenue - \$2 million, Net Income - \$500,000

Year 2: Revenue - \$3 million, Net Income - \$800,000

Year 3: Revenue - \$5 million, Net Income - \$1.2 million

Year 4: Revenue - \$7 million, Net Income - \$1.8 million

Year 5: Revenue - \$10 million, Net Income - \$2.5 million

2. Industry Analysis:

Comparable companies in the same industry are trading at an average Price-to-Earnings (P/E) ratio of 15x.

The average Enterprise Value-to-Revenue (EV/Revenue) multiple is 2.5x.

3. Discount Rate:

10% The discount rate represents the required rate of return considering the risk associated with the investment.

Calculate Average Net Income & Present Value (PV) of Earnings Value.

(5 marks each)

Question No. 4

(a) Discuss the Core Principles of Valuation needs to be followed by Valuers in the process of Amalgamation.

(b) Examine the three Principal Business Valuation Approaches such as Market Approach, Income approach & Asset Approach.

(5 marks each)

PART-III

Question No. 5.

(a) Mr. “A”, Mr. “B” & Mr. “C” are home buyers, who had opted for allotment in a real estate project of the XYZ Limited. Aggrieved by the delay in the completion of the project, Mr. “A”, Mr. “B” & Mr. “C” approached the State Real Estate Regulating Authority (RERA) which by its orders upheld this entitlement to refund amounts deposited by the, together with interest. In the meantime, proceedings under the Insolvency and Bankruptcy Code, 2016 were initiated against XYZ Limited. In the course of proceedings after due consultations by the Committee of Creditors, a resolution plan was presented to the Adjudicating Authority. In that plan, a distinction was made between home buyers, who had opted or elected for other remedies such as i.e., applying before the RERA and having secured orders in their favor, and those who did not do so. Home buyers who did not approach authorities under RER Act were given the benefit of 50% better terms than that given to those who approached RERA or who were decree holders. Mr. “A”, Mr. “B” & Mr. “C” appeal before the Adjudicating Authority; their applications were rejected by the adjudicating authority. Their appeals too were unsuccessful before the NCLAT. Consequently, they have approached Supreme Court.

In view of the above facts, answer the following with reasons:

- (i)** Whether home buyers are financial creditors under the IBC?
- (ii)** Whether a single homebuyer has the right to initiate an insolvency process against the defaulting builder company under IBC?

(5 marks each)

- (b)** Discuss the parameters to be met with respect to Group Insolvency Approach in Corporate Insolvency Resolution Process (CIRP) Framework.
- (c)** Section 95 to Section 100 of the Insolvency and Bankruptcy Code, 2016 are unconstitutional as they violate Article 14 and Article 21 of the Constitution. Comment.

(5 marks each)

Attempt all part of either Q. No. 6 or Q. No. 6A

Question No. 6

(a) The statutory obligation and duty of the resolution professional and liquidator is very clear in the IBC(Code). Section 30 of the Code mandates a resolution professional to examine every resolution plan to be in compliance with the requirements mentioned therein and section 25(2)(i) cast upon him the duty to present all resolution plans at the meetings of the committee of creditors. While during the liquidation process, Regulation 33(3) of the Liquidation Regulations casts an obligation on the liquidator not to proceed with sale of assets and approach AA for necessary directions, if he is of the opinion that there is possible collusion. Resolution Professional and Liquidator should not draw a parallel between the process of submission of resolution plans in the insolvency resolution process with the e-auction process during the liquidation process.

In view of the above, answer the following:

- (i)** An insolvency professional must not conceal any material information to the IBBI or to the Adjudicating Authority. Critically examine.
- (ii)** An insolvency professional or liquidator should not itself acquire, directly or indirectly, any of the assets of the debtor, nor knowingly permit any relative to do so. Critically examine.
- (iii)** When can a liquidator apply for avoidance of preferential transaction?

(5 marks each)

(b) Commercial Wisdom of Committee of the Creditors (CoC) is paramount under the Insolvency and Bankruptcy Code, 2016. Comment.

(5 marks)

OR (Alternate question to Q. No. 6)

Question No. 6A

(a) For the purposes of the Indian insolvency ecosystem, the possibility of cross border insolvency arises when an Indian company has foreign liabilities, assets or operations or when a foreign company has Indian liabilities, assets or operations. For assets, the term “foreign” generally indicates the presence of assets and operations in a foreign jurisdiction. For instance, cash holdings in a bank account in a foreign country, a production facility or an office in a foreign country and so on. However, foreign assets may also take intangible forms, not always be linked with physical presence or human interventions.

In view of the above, answer the following:

(i) How IBC enables Liquidator to relies the assets in a foreign jurisdiction. Discuss.

(ii) Discuss the scope of UNCITRAL Model Law on cross border insolvency.

(5 marks each)

(b) State the eligibility criteria for Pre-packaged Insolvency Resolution Process under IBC.

(c) Discuss the procedure to be followed by Registrar of Company for striking of the name of the company sue motu basis.

(5 marks each)
