

MEPL CLASSES

COMPANY LAW – ACCEPTANCE OF DEPOSITS

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(TIME ALLOTTED – 90 MINUTES)

(MARKS ALLOTTED – 50 MARKS)

EACH QUESTION CARRIES 5 MARKS

Question 1.

Excel Pvt. Ltd. received ₹50 lakh from Mr. Giver. Mr. Giver was a director of the company at the time of the transaction. However, Mr. Giver did not submit any written declaration stating that the amount was not given out of borrowed funds. The company utilized the said funds for business expansion and disclosed the receipt of money in the Board's report.

Considering the provisions of the Companies Act, 2013, assess the following situations:

1. Was Excel Pvt. Ltd. compliant with the requirements w.r.t acceptance of the money from Mr. Giver?
2. If Mr. Giver had given the money out of funds borrowed from another person, whether this amount will be considered as deposit?

Question 2.

NOP Limited, since its incorporation in 2002, is engaged in the production of premium quality glass bottles. According to financial results of the company as on 31.3.2023 net worth of the company was ₹ 90 crore and turnover for the year 2022-23 was ₹ 510 crore. The company proposed to accept the deposits as on 1st February, 2024, which would be due for repayment on 30th September, 2028 from the public for expansion and redevelopment programs of company.

Furthermore, the company has accepted a loan of ₹ 1.5 crore from Mr. P Kishore (Director) and the loan was to be repaid after 24 months. Company in its books of account, records the receipt as a loan under non-current liabilities. At the time of advancing loan, Mr. P Kishore affirms in writing that such amount is not being given out of funds acquired by him by borrowing or accepting loans or deposits from others and complete details of such loan transaction is furnished in the boards' report.

On the basis of above facts answer the following questions:

- (i) Whether company was eligible to accept deposit from public? What are the criteria for acceptance of deposit and tenure for which deposit can be accepted? Whether the tenure decided

by company was in accordance with provisions of the Companies Act, 2013?

(ii) With reference to the loan advanced by Mr. P Kishore to company, state whether the same is to be classified as a deposit or not?

Question 3.

Mr. Raj is an employee of DSP Trading Pvt Ltd. As per his contract of employment, his annual salary is ₹ 5,00,000. Mr. Raj paid to the company ₹ 5,30,000 in the nature of non-interest-bearing security deposit. Referring to the provisions of the Companies Act, 2013, define deposit and decide whether this amount received from Mr. Raj will be considered as deposit as per rule 2(1)(c)?

Question 4.

The Board of Directors (BOD) of ABC Ltd., is planning to invite deposits from public for the purpose of meeting its short-term requirements of 20 crore in its scheduled meeting to be held on 1st October, 2023. Deposits will be repayable within 4 months from the date of such deposit. The paid-up share capital and free reserves of ABC Ltd., is 225 crore and 375 crores respectively as per audited accounts as on 31st March, 2023. The Company Secretary of ABC Ltd. opposed the above proposal of BOD with the contention that the Company cannot accept deposits, which is repayable earlier than 6 (six) months from the date of such deposits. Advise BOD of ABC Ltd. as per the provisions of the Companies Act, 2023.

Question 5.

Enumerate the amounts which when received by a company in the ordinary course of business are not to be considered as deposits.

Question 6.

Explain the provisions for 'Appointment of Trustee for Depositors' under the Companies Act, 2013 read with the 'Acceptance of Deposits' Rules, 2014.

Question 7.

What are the provisions relating to 'Credit Rating' which an 'eligible company' must follow if it wants to raise public deposits?

Question 8.

State the procedure to be followed by companies for acceptance of deposits from its members according to the Companies Act, 2013. What are the exemptions available to a private limited company?

Question 9.

Shubhra Chemicals Private Limited (not a start-up company) is desirous of accepting 'deposits' from its members amounting to two hundred percent of aggregate of its paid-up share capital, free reserves and securities premium account. What are the conditions it must fulfill before such acceptance?

Question 10.

Discuss the following situations in the light of 'deposit provisions' as contained in the Companies Act, 2013 and the Companies (Acceptance of Deposits) Rules, 2014, as amended from time to time.

(i) Samit, one of the directors of Zarr Technology Private Limited, a start-up company, requested his close friend Ritesh to lend to the company ₹ 30 lakh in a single tranche by way of a convertible note repayable within a period six years from the date of its issue. Advise whether it is a deposit or not.

(ii) Polestar Traders Limited received a loan of ₹ 30 lakh from Rachna who is one of its directors. Advise whether it is a deposit or not.

(iii) City Bakers Limited failed to repay deposits of ₹ 50 crore and interest due thereon even after the extended time granted by the Tribunal. Is the company or Swati, its officer-in-default, liable to any penalty?

(iv) Shringaar Readymade Garments Limited wants to accept deposits of ₹ 50 lakh from its members for a tenure which is less than six months. Is it a possibility?

(v) Is it in order for the Diamond Housing Finance Limited to accept and renew deposits from the public from time to time?