

## Law Paper

## Actual Exam Asked Questions

**1) Moon limited is a company incorporated on 01/02/2023 having two subscriber at the incorporation Mr X and Mr Y both contributing Rs 20 lakh each they also become the first director with Mr M . After that they want to purchase a property from Mr Y which is related to setting up a unit with Mr Y . Mr Joe is appointed as a registered valuer of the property the valuation is done by Mr Joe . After that it is find that the the property valuation is incorrect and it is also find that Mr Y is committed fraud of Rs 5 lakhs (this fraud does not involve public interest) and the company did not file FS of 31/03/2024. After that Mr X passed(death) away and his share is getting up by Mr N and Mr N submit the application for winding up**

## Question

1. Is N is eligible for submitting the winding up application
2. Is Mr Joe is liable if it is then penalty and the impressment
3. Penalty and Impressment for Mr Y
4. Can company apply for dormant status

1. Is Mr. N eligible for submitting the winding up application?

Answer: Yes, Mr. N is eligible.

Legal Provision: Section 272(5) of the Companies Act, 2013.

Analysis: A contributory (shareholder) is generally entitled to present a petition for winding up only if they have held the shares for at least 6 months during the 18 months immediately preceding the commencement of the winding up.

Exception: This restriction does not apply if the shares have devolved on the person through the death of a former holder.

Conclusion: Since Mr. N acquired the shares via transmission due to the death of Mr. X, the 6-month holding period condition is waived. Mr. N can file the petition immediately.

2. Is Mr. Joe liable? If so, what are the penalty and imprisonment?

Answer: Yes, Mr. Joe is liable under Section 247.

Mr. Joe, as a Registered Valuer, is required to make an impartial, true, and fair valuation. Since the valuation was found to be "incorrect," he has contravened Section 247.

**Liability & Penalties (Section 247(3) & (4)):**

**If the incorrect valuation was due to negligence (No intent to defraud):**

**Fine: Minimum ₹25,000 to Maximum ₹1,00,000.**

**Civil Liability: He must refund the remuneration received and pay damages to the company or members for any loss caused.**

**If the incorrect valuation was done with "Intent to Defraud" or Collusion:**

**Imprisonment: Up to 1 year.**

**Fine: Minimum ₹1,00,000 to Maximum ₹5,00,000.**

**Civil Liability: Refund remuneration + Pay damages.**

**Note: Since the problem states Mr. Y committed fraud, if Mr. Joe colluded with him, the harsher penalty (Point 2) applies. If it was pure error, the lighter penalty (Point 1) applies.**

**3. Penalty and Imprisonment for Mr. Y**

**Answer: Penalty under the Proviso to Section 447 (Small Fraud).**

**Legal Provision: Section 447 (Punishment for Fraud).**

**Analysis:**

**Fraud Amount: ₹5 Lakhs.**

**Threshold: The amount is less than ₹10 Lakhs (and likely less than 1% of turnover, assuming turnover isn't massive given the capital).**

**Public Interest: The question explicitly states the fraud "does not involve public interest."**

**Conclusion: This falls under the specific exception (proviso) for smaller frauds.**

**Penalty:**

**Imprisonment: Term which may extend to 5 years.**

**OR Fine: Which may extend to ₹50 Lakhs.**

**OR Both.**

**(Note: The mandatory minimum imprisonment of 6 months applicable to larger frauds does NOT apply here.)**

#### 4. Can the company apply for dormant status?

**Answer:** No, the company cannot apply for dormant status.

**Legal Provision:** Section 455 of the Companies Act, 2013.

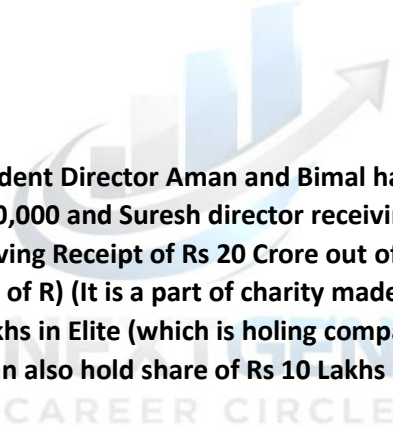
**Reasoning:** To apply for "Dormant Status," a company must be an "Inactive Company."

**Significant Accounting Transaction:** An inactive company cannot have any "Significant Accounting Transaction" in the last 2 financial years. The purchase of a property to set up a unit is considered a Significant Accounting Transaction.

**Filing Default:** Alternatively, a company is "inactive" if it has not filed financial statements/annual returns for two consecutive financial years. Here, the company only failed to file for one year (31/03/2024).

**Investigation:** Furthermore, a company cannot apply for dormant status if any investigation or prosecution is pending (likely given the fraud and winding up petition).

**Conclusion:** Moon Limited fails the criteria and cannot apply for dormant status.



R limited having two Independent Director Aman and Bimal having one Female WD Sneha which is receiving a setting fee of Rs 60,000 and Suresh director receiving a setting fee of 50,000 Aman step sister Nita is CEO of a NPO having Receipt of Rs 20 Crore out of which 50 Lakhs is contributed by Prashant and Priya (Promoter of R) (It is a part of charity made by them). Bimal wife Pooja is holding share worth Rs 50 Lakhs in Elite (which is holding company of R) (Having Paid up Share Capital of Rs 200 Crore) . Aman also hold share of Rs 10 Lakhs in R limited.

#### Question

1. Can Aman is appointed as ID think that Nita is not his step sister.
2. Is Pooja Share effect Bimal appointment
- 3 What is Pooja held share of worth Rs 51 Lakh is there any change is Bimal appointment
4. Is Aman appointment is correct

There is Two company Great and Best . The Government is found something about Great and they want to cancel the registration of Great the order was passed on 18/06/2023 which was received by Great on 22/06/2023 . Great is having asset worth of Rs 20 Lakhs . Best wants to surrender the registration and application was made on 20/04/2023 which was received by government on 23/04/2023 the order was passed on 15/06/2023 and the order received by Best on 18/06/2023 . Best is having 8 Lakhs in Bank of Fcra account

#### Question

1. The effective date of cancellation of registration of Great
2. The effective date of cancellation of registration of Best
3. Can the Government use the asset and bank balance of both Great and Best

#### Question

1. Initial Time for Fast Track Insolvency
2. Maximum Days for Fast Track Insolvency
- 3 Resolution Plan was Approved by how many votes

