PG Odd Semester (CBCS) Exam., December—2017

BUSINESS ADMINISTRATION

(3rd Semester)

Course No. : MBACC–302

(Legal Environment of Business)

Full Marks : 70
Pass Marks : 28

Time : 3 hours

The figures in the margin indicate full marks for the questions

1. *(a)* Define 'offer' and 'acceptance'. Who are competent to contract under the Indian Contract Act? State how offer is made, revoked and accepted. 2+4+4=10

(b) *A* a minor entered into a contract for borrowing ₹ 25,000, of which ₹ 10,000 was paid to the minor, who in turn, mortgaged property to the lender. The minor sued the lender to set aside the mortgage.

Discuss the rights of the minor and lender under the Indian Contract Act. 4

OR

2. *(a)* State when a consent is not said to be free. What is the legal remedy available for the victim when the given consent is said to be free? 2+8=10

(b) *B* respondent had undertaken to deliver to the appellant *C* 500 bags cashew nuts and received ₹ 10,000 in part payment of the price. The suit was for the refund of the said amount with interest @6 per annum. *C* rejected the goods on the ground that the bad nuts exceeded the stipulated maximum of 20 percent. The question for consideration is whether he was entitled to reject the goods as he did. Explain. 4

3. Law, unless it put into action, remains a dead letter. A group can make the law to function with clockwork precision. An individual buyer is at mercy of the seller; but if it is a united front of the buyers is definitely king of all the markets that it surveys. Mumbai Grahak Panchayat (MGP) is in the third decade of foundation and has been considered by the International Consumer Forum as an organization whose paradigm is replicable anywhere in the world.

The 1980s were period of shortages. One had to book a two-wheeler at least a decade in advance. The Chetak Scooter of Bajaj was a Status symbol. The rich and the top bureaucrats could bend rules and use influence to lay their hands on it earlier than others. There came to the fore, a two-wheeler manufacturing company called Lohia Machines Limited (LML). In 1983, LML advertised making an offer to put down deposit ₹ 500 to book the scooter. The deposit would earn a 9 percent interest and the amount was to be adjusted against the delivery price.

Cancellation of booking after 6 months was to be returned with 6 percent interest within 60 days. The offer was gobbled up by the public. LML's capital was ₹ 12 crores; the money collected from depositors was a whopping ₹ 160 crores. With a license for only 1 lakh scooters, it would take LML more than two decades to deliver the goods. To make matter worse, LML did not behave responsibly in making refunds. In 1983, when a bank clerk or a teacher's salary barely touched a thousand rupees, ₹ 500 was a lot of money. MGP, which was in its initial years only, dealings with complaints of grocery items, took up the cause on 15 March, 1990, the World Consumer Rights Day. There came 700 LML

depositors for the first meeting. MGP filed a class action against LML before the NCDRC—National Consumer Disputes Redressal Commission. The complaint demanded redressal for not only those who expressly joined MGP but also all the affected, about four lakhs depositors. The Commission demanded the list of the affected and MGP turned the tables on LML to produce the list. The list alone amounted to 23 cartoons that had to be transported on a vehicle. LML was to refund money @18 percent to those who actively complained and @12·5 percent to those who were passive depositors. MGP has been able to deliver not just essentials of life but also costing those that are organically grown, safe, and reasonable to the extent of gaining up to 20 percent less of what rest of the consumers pay. It keeps a close watch of the market. Wholesalers, distributors, and agents take careful note of the proceedings of the association. It has established Caveat Venditor and at the same time helps the consumer to be informed (Caveat Emptor).

(a) Illustrate what is at stake in the principle of Caveat Emptor.

(b) Do you think India is ready for Caveat Venditor? Justify your answer with the help of the above mentioned case.

(c) State the ethical principle to defend Caveat Emptor. Do you believe that Caveat Emptor has declined? Explain with examples. 14

4. Define common carrier. Why do land, sea and air have different laws of carriage? Discuss the rights, duties and liabilities of common carrier. 2+6+6=14

OR

5. State reasons for review of the Companies Act, 1956. Make a comparative analysis of the Provisions of the Companies Act, 2013 with the Companies Act, 1956. 4+10=14

6. Explain the taxonomy of Insurance Act, 1938 as amended by the Insurance (Amendment) Act, 1999. 14

OR

7. Distinguish between (any *two*) : 7×2=14

(a) FERA and FEMA

(b) Holder and Holder in Due Course (HDC)

(c) GIC and LIC

(d) Dissolution of a firm with and without the Court order

8. DLF (Delhi Land and Finance) Housing and Construction Pvt. Ltd. The company is familiar with two types of people; one who love cricket, second the North Indian. Two people Chaudhary Raghvendra Singh and Makhan Lal Jain Gandharwal of Haryana established the company in 1946. On Forbes list 2000 (2013), the public company is close to USD 2 billion whose net income is over USD 220 Million and boasts of its Chairman as one of the richest business tycoons of India. The case began with a complaint to SEBI by one Mr. Kimsuk Singha on 04/06/2007. He claimed that two wholly owned subsidiaries (WOS) of DLF had defrauded him of ₹ 34 crores. Trading of shares of DLF is done on both BSE as well as NSE. He (Mr. Sinha) prayed for action by the market regulator. Problem with the market regulator SEBI that banned the company and some of its directors from seeking to raise capital from the public has hit the investors sentiments. Consequently, trading graph has dipped and the stocks have been reduced by 50%.DLF had applied for an IPO for raising ₹ 9187·5 crores issued the prospectus in May in the same year and filed it to the ROC in June. SEBI investigated the matter and passed an order on 10/10/2014 restricting the company and its

five Directors from accessing the market and prohibited them from dealing with securities for 3 years. Shareholders, bondholders, and above all the home and office buyers are at the receiving end. Company's appeal to the Securities Appellate Tribunal (SAT) has not brought any relief. A shareholder challenges the recent decision by SEBI in May 2013 in the Delhi High Court, to allow DLF to raise money through Qualified Institutional Placement (QIP). It raised ₹ 1,863 crores which was the largest in the financial year 2014. The Delhi High Court has given DLF time till 04/02/2015 to reply.

(a) How could SEBI allow DLF to raise funds against its own banning the same for fraud while the case is still unresolved?

(b) Give SEBI's reason to ban company and its Directors to seek public funding.

(c) Should there be a limitation (period of time) on the market regulator? Illustrate with sound reasons. 14

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