

Business Laws & Taxation

Summer-2022

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Q.1.

06 Marks

A. Rights where partnership contract is rescinded for fraud or misrepresentation.

Where a contract creating partnership is rescinded on the ground of the fraud or misrepresentation of any of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled

(a) to a lien on, or a right of retention of, the surplus or the assets of the firm remaining after the debts of the firm have been paid, for any sum paid by him for the purchase of a share in the firm and for any capital contributed by him;

(b) to rank as a creditor of the firm in respect of any payment made by him towards the debts of the firm; and

(c) to be indemnified by the partner or partners guilty of the fraud or misrepresentation against all the debts of the firm.

B. Application for registration.

20 Marks

(1) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating

(a) the firm name,

(b) the place or principal place of business of the firm,

(c) the names of any other places where the firm carries on business,

(d) the date when each partner joined the firm,

(e) the names in full and permanent addresses of the partners, and

(f) the duration of the firm. The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

(2) Each person signing the statement shall also verify it in the manner prescribed.

(3) A firm name shall not contain any of the following words; namely: - Government, Jinnah, Quaid-i-Azam, or words expressing or implying the sanction, approval or patronage of the Federal Government or any Provincial Government of the Quaid-i-Azam, except when the Provincial Government signifies its consent to the use of such words as part of the firm name by order in writing.]

(3A) A firm name shall not contain the name of the United Nations or its abbreviations through the use of its initial letters or of any subsidiary body set up by that body unless it has obtained the previous authorisation of the Secretary-General of the United Nations in writing.

(3B) A firm name shall not contain the name of the World Health Organisation or its abbreviations through the use of its initial letters unless it has obtained the previous authorisation of the Director-General in writing.

(3C) A firm name shall not contain any word which may be declared by the Provincial Government, by notification in the official Gazette, to be undesirable: Provided that firm which has as part of its name any word declared by the provincial Government to be undesirable shall, within one month of such declaration, alter its name and send a statement to this effect to the Registrar.

Q 2

A. What is included Federal Consolidated Fund and Public Account 04 Marks

(1) All revenues received by the Federal Government, all loans raised by that Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Federal Consolidated Fund.

(2) All other moneys

(a) received by or on behalf of the Federal Government; or

(b) received by or deposited with the Supreme Court or any other court established under the authority of the Federation; shall be credited to the Public Account of the Federation.

B. How Federal Consolidated Fund and Public Account is regulated 05 Marks

79. The custody of the Federal Consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Federal Government, their payment into, and withdrawal from, the Public Account of the Federation, and all matters connected with or ancillary to the matters aforesaid shall be regulated by Act of 1 [Majlis-e-Shoora (Parliament)] or, until provision in that behalf is so made, by rules made by the President.

C. How Federal Consolidated Fund is included in the Annual Budget Statement 06 Marks

(1) The Federal Government shall, in respect of every financial year, cause to be laid before the National Assembly a statement of the estimated receipt and expenditure of the Federal Government for that year, in this Part, referred to as the Annual Budget Statement.

(2) The Annual Budget Statement shall show separately

(a) the sums required to meet expenditure described by the Constitution as expenditure charged upon the Federal Consolidated Fund; and

(b) the sums required to meet other expenditure proposed to be made from the Federal Consolidated Fund; and shall distinguish expenditure on revenue account from other expenditure.

D. How Authentication of schedule of authorized expenditure is done 06 Marks

(1) The Prime Minister shall authenticate by his signature a schedule specifying

(a) the grants made or deemed to have been made by the National Assembly under Article 82, and

(b) the several sums required to meet the expenditure charged upon the Federal Consolidated Fund but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the National Assembly.

(2) The schedule so authenticated shall be laid before the National Assembly, but shall not be open to discussion or vote thereon.

(3) Subject to the Constitution, no expenditure from the Federal Consolidated Fund shall be deemed to be duly authorised unless it is specified in the schedule so authenticated and such schedule is laid before the Provincial Assembly.

Q3. A.

i. Proposal

02 Marks

When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal.

ii. Promise

02 Marks

When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted becomes a promise;

B. How a surety go for Revocation of continuing guarantee. 03 Marks

A continuing guarantee may at any time be revoked by the surety, as to future transactions, by a notice to the creditor

C. Time of performance of promise where no application is to the made and no time is specified. 04 Marks

Where, by the contract, a promisor is to perform this promise without application by the promise, and no time for performance is specified, the engagement must be performed within a reasonable time. The reasonable time in each particular case is a question of fact

Q4. Keeping in view the Sales Tax Act 1930, answer the following questions:

i. What Conditions implied in a contract of sale by sample. 03 Marks

In the case of a contract for sale by sample there is an implied condition

- a. bulk shall correspond with the sample in quality;
- b. buyer shall have a reasonable opportunity of comparing the bulk with the sample;
- c. that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

ii. What are Rules of Delivery under a Contract whereby Buyer to apply for delivery:

Rules as to delivery.

- i. Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract, express or implied, between the parties. Apart from any such contract, goods sold are to be delivered at the place at which they are at the time of the sale, and goods agreed to be sold are to be delivered at the place at which they are at the time of the agreement to sell, or if not then in existence, at the place at which they are manufactured or produced.
 - ii. Where under the contract of sale the seller is bound to send the goods to the buyer, but no time for sending them is fixed, the seller is bound to send them within a reasonable time.
 - iii. Where the goods at the time of sale are in the possession of a third person, there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf: Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.
 - iv. Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.
 - v. Unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.
- iii. **Who is called / deemed to be unpaid Seller:**

Unpaid seller''

- (a) The seller of goods is deemed to be an "unpaid seller" within the meaning of this Act:
 - i. When the whole of the price has not been paid or tendered;
 - ii. When a bill of exchange or other negotiable instrument has been received as conditional payment, and the condition on which it was received has not been fulfilled by reason of the dishonor of the instrument or otherwise.
- (b) The term "seller" includes any person who is in the position of a seller, as, for instance, an agent of the seller to whom the bill of landing has been endorsed, or a consignor or agent who has himself paid, or is directly responsible for, the price. 46.

iv. What are the rights of unpaid seller of the Goods.

- (a) Subject to the provisions of the Act and of any law for the time being in force, the unpaid seller of goods, as such, has by implications of law:
 - i. a lien on the goods for the price while he is in possession of them;
 - ii. in case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them
 - iii. a right of re-sale as limited by this Act.
- (b) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transit where the property has passed to the buyer. Unpaid Seller's Lien