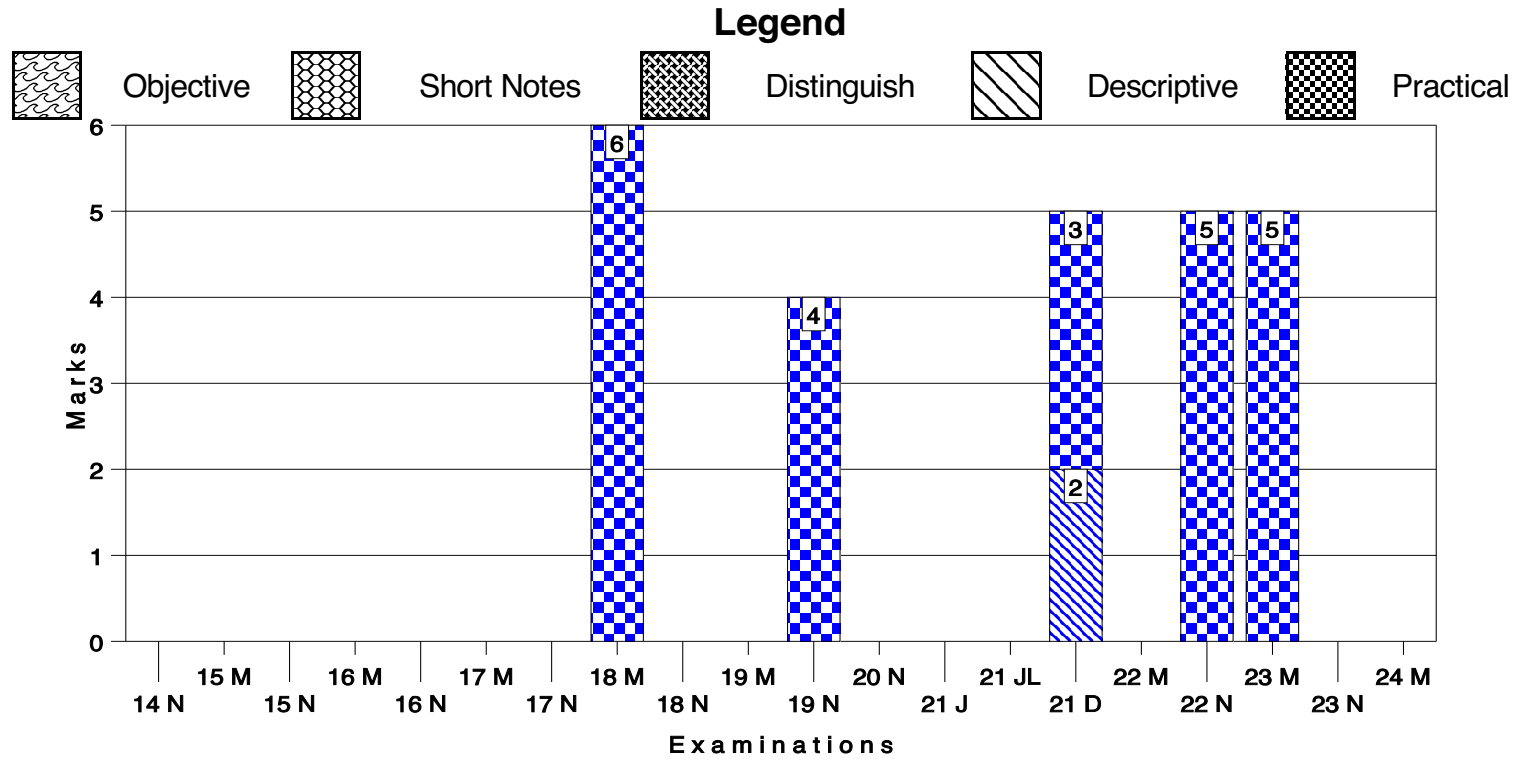


THE GRAPH

Trend Analysis

Marks of Objective, Short Notes, Distinguish Between, Descriptive & Practical Questions



CHAPTER	Preliminary
1	
This chapter covers: Study's Chapter: 1	
Topic Number	Name of the Topic
1.	Short Title, Extent , Commencement And Application
2.	Definition

TIME MANAGER		<i>Plan and Manage your Time</i>						
Time	First In-depth learning	Instant Revision (in hours)		Periodic Revision (in hours)				
	i.e..... Day 1	Next day i.e.... Day 2	After 7 days i.e. on Day 8	After 30 days i.e. on Day 30	After 60 days i.e. on Day 60	After 90 days i.e. on Day 90	Fix as per your need.	
	1. Budgeted							
2. Actual								
3. Variance (1-2)								

DESCRIPTIVE QUESTIONS

2021 - Dec [3] (a) (ii)	Topic 2
Define "Small Company".	(2 marks)

Answer:

As per Sec. 2(85) of the Companies (Amendment) Act, 2017, small company means a company, other than a public company whose:

1. paid-up share capital of which does not exceed four crore rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees and
2. turnover of which as per profit and loss account for immediately preceding financial year does not exceed forty crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees.

Provided that nothing in this clause shall apply to –

- (A) a holding company or a subsidiary company;
- (B) a company registered under Section 8; or
- (C) a company or body corporate governed by any special Act.

Section 2 (85) of Companies Act, 2013 defines limits for the identification of Small Company. Limits are as follows:

Paid-up Capital: 50 lac to 10 Crore

Turnover: 2 Cr to 100 Crore.

AND Gives power to Government to prescribe such higher amount within the specified limits.

By using aforesaid power (powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013), Central Government has prescribed limit by inserting new clause (t) under Rule 2(1) in the Companies (Specification of definition details) Rules, 2014.

Now the new limit for Small Company effective from 01/04/2021 is Paid-up Capital NOT EXCEED ₹ 4 Cr. AND Turnover NOT EXCEED ₹ 40 Cr. (as per profit and loss account for the immediately preceding financial year) (vide GSR 700LE) dated 15th September, 2022).

PRACTICAL QUESTIONS

2018 - May [1] {C} (a)	Topic 2
<p>MNP Private Ltd. is a company registered under the Companies Act, 2013 with a Paid Up Share Capital of ₹ 45 lakh and turnover of ₹ 3 crores. Explain the meaning of the “Small Company” and examine the following in accordance with the provisions of the Companies Act, 2013:</p> <p>(i) Whether the MNP Private Ltd. can avail the status of small company?</p> <p style="text-align: right;">[Modified] (6 marks)</p>	

Answer:**Meaning of a Small Company**

As per Sec. 2(85) of the Companies (Amendment) Act, 2017, small company means a company, other than a public company whose:

1. paid-up share capital of which does not exceed four crore rupees or such higher amount as may be prescribed which shall not be more than ten crore rupees and
2. turnover of which as per profit and loss account for immediately preceeding financial year does not exceed forty crore rupees or such higher amount as may be prescribed which shall not be more than one hundred crore rupees.

Provided that nothing in this clause shall apply to —

- (A) a holding company or a subsidiary company;
- (B) a company registered under Section 8; or
- (C) a company or body corporate governed by any special Act;

<p>Section 2 (85) of Companies Act, 2013 defines limits for the identification of Small Company. Limits are as follows:</p>

<p>Paid-up Capital: 50 lac to 10 Crore</p>
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<p>Turnover: 2 Cr to 100 Crore.</p>

<p>AND Gives power to Government to prescribe such higher amount within the specified limits.</p>

By using aforesaid power (powers conferred by sub-sections (1) and (2) of section 469 of the Companies Act, 2013), Central Government has prescribed limit by inserting new clause (t) under Rule 2(1) in the Companies (Specification of definition details) Rules, 2014.

Now the new limit for Small Company effective from 01/04/2021 is Paid-up Capital NOT EXCEED ₹ 4 Cr. AND Turnover NOT EXCEED ₹ 40 Cr. (as per profit and loss account for the immediately preceding financial year) (vide GSR 700LE) dated 15th September, 2022)

Present Case:

1. MNP Private Ltd. can avail the status of small company as its turnover does not exceeds forty crore rupees.

2019 - Nov [1] {C} (a)	Topic 2
<ol style="list-style-type: none"> 1. Herry Limited is a company registered in Thailand. It has no place of business established in India, yet it is doing online business through telemarketing in India having its main server for online business outside India. State the status of the Company under the provisions of the Companies Act, 2013. (2 marks) 2. SKP Limited (Registered in India), a wholly owned subsidiary company of Herry Limited decided to follow different financial year for consolidation of its accounts outside India. State the procedure to be followed in this regard. (2 marks) 	

Answer:

1. According to Section 2 (42) of the Companies Act, 2013 “Foreign Company” means any company or body corporate incorporate outside India which –
 - (a) Has a place of business in India whether by itself or through an agent, physically or through electronic mode; and
 - (b) Conducts any business activity in India in any other manner

According to Rule 2 of the Companies (Registration of Foreign Companies) Rules, 2014 “electronic mode” means carrying out

electronically based, whether main server is installed in India or not, including, but not limited to –

- (a) Business to business and business to consumer transactions, data interchange and other digital supply transactions;
- (b) Offering to accept deposits or inviting deposits or accepting deposits or subscriptions in Securities in India or from Citizens of India;
- (c) Financial statements, web based marketing, advisory and transactional services, data base services and products, supply chain management;
- (d) Online services such as tele-marketing, tele-commuting, tele-medicine, education and information research; and
- (e) All related data communication services whether conducted by e-mail, mobile devices, social media, cloud computing, document management, voice or data transmission or otherwise.

Explanation: For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centres set up under Section 18 of the Special Economic Zones Act, 2005 (28 of 2005) shall not be construed as electronic mode for the purpose of clause (42) of Section 2 of the Act.

[Companies (Specification of definitions details) Third Amendment Rules, 2021]

Present Case:

Looking to the above description, it can be said that being involved in business activity through tele-marketing, Herry Limited will be treated as foreign company.

2. Where a company or body corporate, which is a holding company or a subsidiary or associate company of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Central Government may, on an application made by that company or body corporate in such form and manner as may be prescribed, allow any period as its financial year, whether or not that period is a year.

Any application pending before the Tribunal as on the date of commencement of the Companies (Amendment) Act, 2019, shall be disposed of by the Tribunal in accordance with the provisions applicable to it before such commencement.

Also, a company or body corporate, existing on the commencement of this Act, shall, within a period of two years from such commencement, align its financial year as per the provisions of this clause.

⇒ SKP Ltd., as per above shall require to apply to Central Government to follow different financial year for consolidation of its accounts outside India.

2021 - Dec [4] (a) (i)	Topic 2
Diya Limited, incorporated under the provisions of the Companies Act, 2013, has two subsidiaries-Jai Limited and Vijay Limited. All the three companies have prepared their financial statements for the year ended 31 st March, 2021. Examining the provisions of the Companies Act, 2013, explain in what manner the subsidiaries-Jai Limited and Vijay Limited shall prepare their Balance Sheet and Statement of Profit & Loss? (3 marks)	

Answer:

According to Sec. 129(3) of the Companies Act, 2013, where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement (CFS) of the company and of all the subsidiaries and associate companies in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statement under subsection (2).

Provided that the company shall also attach along with its financial statement, a separate statement containing the salient features of the financial statement of its subsidiary or subsidiaries and associate company or companies in Form AOC-1 as per Rule 5 of the Companies (Accounts) Rules, 2014.

Provided further that the Central Government may provide for the consolidation of accounts of companies in such manner as may be prescribed under Rule 6 of the Companies (Accounts) Rules, 2014.

Present Case:

Since, consolidation of accounts is to be done by the holding company (i.e. Diya Limited), Jai Limited and Vijay Limited shall prepare their financial statement normally following the relevant provisions of the Companies Act, 2013 compliant with the applicable Accounting Standards.

2022 - Nov [3] (a)	Topic 2
<p>Referring the relevant provisions of the Companies Act, 2013, examine, whether following companies will be considered as listed company or unlisted company :</p> <ol style="list-style-type: none"> 1. ABC Limited, a public company, has listed its non-convertible Debt securities issued on private placement basis in terms of SEBI (Issue and Listing of Debt Securities) Regulations, 2008. 2. CHG Limited, a public company, has listed its non-convertible redeemable preference shares issued on private placement basis in terms of SEBI (Issue and Listing of Non-Convertible Redeemable Preference Shares) Regulations, 2013. 3. PRS Limited, a public company, which has not listed its equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in sub-section (3) of section 23 of the Companies Act, 2013. <p style="text-align: right;">(5 marks)</p>	

Answer:

As per the Sec. 2(52) of the Companies Act, 2013, the listed company means a company that has any of its securities listed on any recognized stock exchange.

Provided that such class of companies, which have listed or intend to list such class of securities, as may be prescribed in consultation with the securities and exchange board, shall not be considered as listed companies.

According to Rule 2A of the Companies (Specification of definition details) Rules, 2014 the following classes of companies shall not be considered as listed companies namely:

- (a) Public companies which have not listed their equity shares on a recognized stock exchange but have listed their:

1. Non-convertible debt securities issued on a private placement basis in terms of SEBI (Issue and listing of Debt Securities) Regulations, 2008; or
 2. Non-convertible redeemable preference shares issued on a private placement basis in terms of SEBI (Issue and listing of Non-convertible Redeemable preference shares Regulations, 2013 or
 3. Both categories of (i) and (ii) above.
- (b) Private companies which have listed their non-convertible debt securities on a private placement basis on a recognized stock exchange in terms of SEBI (Issue and Listing of Debt Securities Regulations, 2008.
- (c) Public Companies which have not listed their equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in Section 23(3) of the Act.

Facts & Conclusion:

1. ABC Ltd., a Public co., has listed its non-convertible Debt securities issued on a private placement basis in terms of SEBI (Issue and Listing of Debts Securities) Regulations, 2008. It has complied with the requirements as per Rule 2A (a)(I) of the companies (Specification of definitions details) Rules, 2014. **So, it is not a listed company.**
2. CHG Ltd., a public co., has listed its non-convertible redeemable preference shares issued on a private placement basis in terms of SEBI (Issue and Listing of Non-convertible Redeemable preference shares) Regulations, 2013. It has complied with the requirements as per Rule 2A (a) (ii) of the companies (Specification of definition details) Rule, 2014. **So, it is not a listed company.**
3. PRS Ltd., is a public company which has not listed its equity shares on a recognized stock exchange but whose equity shares are listed on a stock exchange in a jurisdiction as specified in **sub-section (3) of Section 23 of the Companies Act, 2013**. It has complied with the requirements as per Rule 2A (c) of the companies (Specification of definition details) Rules, 2014. **So, it is not a listed company.**

2023 - May [4] (a)	Topic 2
<p>H Ltd. is the holding company of S Pvt. Ltd. As per the last profit and loss account for the year ending 31st March, 2022 of S Pvt. Ltd., its turnover was ₹ 1.80 crores; and paid up share capital was ₹ 80 lakhs. The Board of Directors wants to avail the status of a small company. The company secretary of the company advised the directors that the company cannot be categorized as a small company. In the light of the above facts and in accordance with the provisions of the Companies Act, 2013, you are required to examine whether the contention of practicing company secretary is correct, explaining the relevant provisions of the Act.</p> <p style="text-align: right;">(5 marks)</p>	

Answer:

A company which is a sub of a company not being a private company, shall be deemed to be a public company even where such subsidiary company continues to be a private company in its articles.

A small company means a company other than public company whose:

- Paid-up share capital of which does not exceed ₹ 4 crores and
- T/o of which as per its last profit & loss account immediately preceding F.Y. does not exceed ₹ 40 crores.

Fact:

H Ltd. is a holding of S Ltd. As per P & L for 31.3.22 of S Pvt. Ltd. its turnover was ₹ 1.80 crores & paid-up share capital was ₹ 80 lakhs. The BOD wants to avail the status of small company.

Conclusion:

Yes, the contention of CS is correct. As per given fact, S Ltd. is sub company of H Ltd. So, S Pvt. Ltd. shall be deemed to be a public company & hence, can't be categorized as a small company.

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