Business Laws PYQ 2021

Q.1. "A mere mental acceptance, not evidenced, by words or conduct is, in the eyes of law, no acceptance." Explain by giving examples.

Ans1 In contract law, acceptance refers to the manifestation of assent or agreement to the terms of an offer made by one party to another. It is an essential element in the formation of a contract. Mere mental acceptance without any outward expression of acceptance is not considered valid acceptance in the eyes of law.

For instance, if a person receives a job offer via email and reads it but does not respond or communicate his acceptance, there is no valid acceptance. Similarly, if a person is offered a product or service at a certain price and he nods his head in agreement without saying anything, it would not be considered as a valid acceptance.

However, acceptance can be evidenced by words or conduct, such as signing a contract or making a payment. If a person receives a job offer via email and responds with an email stating "I accept the offer," there is valid acceptance. Similarly, if a person is offered a product or service at a certain price and he pays for it, it would be considered as a valid acceptance.

In conclusion, a mere mental acceptance is not considered as a valid acceptance in the eyes of law. Acceptance should be evidenced by words or conduct to establish a binding agreement between the parties.

Q.2. Explain the nature of the bailee's particular lien. How does it differ from the general lien of bankers and factors?

Ans2 A bailee is a person who has been entrusted with the possession of goods by the owner or another person who has the authority to do so. The bailee has certain rights over the goods in their possession, one of which is the right to retain them until their lawful charges are paid by the owner. This right is known as a particular lien.

The nature of the bailee's particular lien is that it is a right of the bailee to retain possession of the goods until the charges owed to the bailee for the storage, repair, or other services rendered to the goods are paid by the owner. This right is limited to the goods in question and does not extend to any other property of the owner. The bailee's particular lien is a possessory right and cannot be exercised by the bailee if they have given up possession of the goods to the owner or another person authorized by the owner.

On the other hand, the general lien of bankers and factors is a right of the banker or factor to retain possession of all goods and securities of their customer in their possession until all debts owed by the customer are paid. This right is not limited to a particular set of goods or services rendered and can be exercised by the banker or factor over any property of the customer in their possession. This right is also not limited to charges for storage or other services rendered but extends to any debt owed by the customer to the banker or factor.

In summary, the bailee's particular lien is a limited right of the bailee to retain possession of the goods until the charges owed for specific services rendered to the goods are paid, while the general lien of bankers and factors is a broader right to retain possession of any property of the customer until all debts owed to them are paid.

Q**.3. "It is the duty of seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the agreement." Elucidate.**

Ans3 The statement highlights the basic duties of a seller and a buyer in a contract of sale. According to this statement, it is the responsibility of the seller to deliver the goods to the buyer in accordance with the terms of the agreement. The delivery of goods can be physical or constructive, depending on the type of goods and the agreement between the parties. Physical delivery means handing over the goods to the buyer, while constructive delivery means doing something that puts the buyer in possession of the goods, such as giving the buyer the key to a warehouse where the goods are stored.

On the other hand, it is the responsibility of the buyer to accept the goods and pay for them in accordance with the terms of the agreement. Acceptance of goods means that the buyer has received the goods and is satisfied that they are in the condition as described in the contract. Payment means that the buyer has paid the price for the goods in accordance with the terms of the agreement, which can be in the form of cash, cheque, or other means of payment as agreed by the parties.

The duties of the seller and buyer are interconnected, meaning that the seller cannot deliver the goods until the buyer accepts them, and the buyer cannot pay for the goods until they have been delivered. Therefore, it is important for both parties to fulfill their respective duties in a timely and efficient manner to ensure a smooth transaction.

It should be noted that failure to fulfill these duties can result in a breach of contract, which can lead to legal consequences. For example, if the seller fails to deliver the goods as agreed, the buyer may have the right to terminate the contract and claim damages for any losses suffered as a result. Similarly, if the buyer fails to pay for the goods, the seller may have the right to sue for the price of the goods and claim damages for any losses suffered as a result of the buyer's failure to pay.

Q.4. "The statement of account and solvency is one of the most important disclosures made by a Limited Liability Partnership annually." Comment on the statement.

Ans4 The statement of account and solvency is a mandatory disclosure required from every Limited Liability Partnership (LLP) registered in India. This statement provides a snapshot of the LLP's financial position, including its assets and liabilities, as well as its solvency status.

The statement of account and solvency is crucial because it provides stakeholders with critical information about the LLP's financial health. For instance, creditors, investors, and lenders may use the statement to evaluate the LLP's creditworthiness and determine whether they are willing to extend credit or invest in the LLP. Similarly, regulators and tax authorities may use the statement to monitor the LLP's compliance with various legal and regulatory requirements.

The statement of account and solvency must be prepared by the designated partners of the LLP and signed by at least two of them. The statement must be filed with the Registrar of Companies within six months from the end of the financial year. Failure to file the statement can result in penalties and fines for the LLP and its designated partners.

In summary, the statement of account and solvency is a critical disclosure required from every LLP in India. It provides stakeholders with important information about the LLP's financial position, creditworthiness, and compliance with legal and regulatory requirements.

Q.5 Distinguish between winding up and dissolution of a LLP. State the circumstances under which an LLP can be wound up by the tribunal.

Ans. Winding up and dissolution are two different legal concepts related to Limited Liability Partnerships (LLPs) in India.

Winding up refers to the process of closing down the operations of an LLP and selling its assets to pay off its debts and liabilities. It can be initiated voluntarily by the partners or by an order of the National Company Law Tribunal (NCLT) in certain circumstances. Winding up can be either a voluntary process, in which the partners agree to wind up the LLP, or a compulsory process, which is initiated by the court.

On the other hand, dissolution refers to the legal ending of an LLP's existence. Once an LLP is dissolved, it no longer has the legal capacity to carry on its business or enter into any contracts. Dissolution can occur in various ways, including by mutual agreement of the partners, by the expiry of the LLP's term, or by an order of the NCLT.

The circumstances under which an LLP can be wound up by the tribunal are as follows:

1. If the LLP has acted against the interests of the sovereignty and integrity of India, the security of the state, public order, decency or morality;
2. If the LLP has not commenced business within one year of its incorporation, or has suspended its business for a continuous period of one year;
3. If the number of partners of the LLP has reduced to less than two;
4. If the LLP is unable to pay its debts;
5. If the tribunal is of the opinion that it is just and equitable that the LLP should be wound up.

In summary, winding up and dissolution are two distinct legal concepts related to the closure of an LLP. While winding up involves the sale of assets to pay off debts, dissolution marks the legal end of the LLP's existence. The circumstances under which an LLP can be wound up by the tribunal are limited and must be proven before a court.

Q.6. Discuss the powers and duties of "Certifying authority" under the Indian IT act 2000.

Ans. Under the Indian IT Act 2000, a Certifying Authority (CA) is a trusted entity that is responsible for issuing, revoking, and managing digital certificates that are used to secure electronic transactions. The CA plays a crucial role in enabling secure electronic transactions by verifying the identity of users and the authenticity of electronic documents. The powers and duties of a Certifying Authority under the Indian IT Act 2000 are as follows:

1. Issuance of Digital Certificates: A Certifying Authority is authorized to issue digital certificates that are used to authenticate the identity of users and secure electronic transactions. The digital certificates issued by a CA are based on a public key infrastructure (PKI) and contain the user's public key, identity information, and other relevant details.

2. Revocation of Digital Certificates: A Certifying Authority has the power to revoke digital certificates that have been issued by it in case of any misuse or compromise of the certificates. The revocation of certificates is necessary to prevent fraudulent activities and to maintain the integrity of the electronic transactions.

3. Management of Key Pairs: A Certifying Authority is responsible for managing the key pairs used for digital signatures. The CA ensures that the private keys are kept secure and confidential and that the public keys are widely available for verification purposes.

4. Compliance with Standards: A Certifying Authority must comply with the standards and guidelines specified by the Controller of Certifying Authorities (CCA). The CCA is responsible for regulating the activities of Certifying Authorities in India and ensuring that they follow the best practices for issuing and managing digital certificates.

5. Protection of Privacy: A Certifying Authority must take appropriate measures to protect the privacy and confidentiality of the information collected from users during the issuance of digital certificates. The CA must ensure that the information is not disclosed or misused for any unauthorized purposes.

Under the Indian IT Act 2000, a Certifying Authority can be held liable for any unauthorized disclosure or misuse of digital certificates issued by it. The Act also provides for the appointment of an Adjudicating Officer who has the power to adjudicate on disputes related to digital certificates and impose penalties on the Certifying Authority for any non-compliance with the provisions of the Act.