

Test Series: October 2022

MOCK TEST PAPER
FINAL COURSE: GROUP – II
PAPER – 6D: ECONOMIC LAWS

The Question Paper comprises of five case study questions. The candidates are required to answer any four case study questions out of five.

Time Allowed – 4 Hours

Maximum Marks – 100

CASE STUDY 1

Mr. Madan Mohan Mishra is an Indian resident who migrated to Barnala (Punjab) from Darbhanga (Bihar) around two decades back for employment with Trident India Limited (TIL), after completion of his Master's in Business Management from IIM. During his engineering program, he studied production, operations, and quality. Mr. Mishra joined TIL as an Assistant Manager (Operations) and got numerous promotions based upon his performance. A year ago, Mr. Mishra was elevated from the position of Vice President (Plant Operations) of Barnala Plant and transferred to Sehore district of Madhya Pradesh as a Plant Head of Budhni (Madhya Pradesh) Plant. Mr. Mishra is also a member of Committee on Financial Matters at TIL, as an employee's representative.

TIL is a multi-product manufacturing company headquartered in Ludhiana (Punjab). One of its products – terry towel is in high demand abroad and around 60% of its production is exported majority in Europe followed by the United States. TIL established a branch office in central London recently and is in the process of getting its scripts listed on the LSE (London Stock Exchange). TIL made a bid for a textile plant there, the deal is expected to mature in six months' time. It will be a whole cash deal and the funds will be arranged through ECB (External Commercial Borrowings) in Euro currency. TIL is eligible to receive FDI.

Mr. Mishra after shifting to Budhni stayed at the company's guest house for a couple of weeks and then took an apartment on rent in the nearby area. But the family of Mr. Mishra is looking for purchasing their own house and in that process, they identified the housing project 'Nirmal Awas' in Hoshangabad, on the bank of Narmada River; which is just 8-10 km. away from the Budhni plant. Mr. Mishra applied to Chauhan Developers and Infrastructure Limited (CDIL), the promoter of 'Nirmal Awas' for a 3 BHK apartment. It is the first housing project for CDIL. The project was duly registered with the relevant State Authority under Real Estate (Regulation and Development) Act, 2016 (RERA). The price of the apartment will be calculated based upon the carpet area at a rate of ₹3,000 per square feet. There are 3 categories of apartments developed under 'Nirmal Awas' namely 2BHK, 3BHK floors, and independent villas respectively. Each category has a standard size.

3 BHK apartment is comprising with a gross area of 1200 square feet, including external walls and internal partition walls equal to 3% and 4% of the gross area of the apartment, respectively; and also including a balcony of 24 square feet and an open terrace area of 40 square feet for the exclusive use of allottee of the apartment independently. Allotments of all 140 apartments were done in the month of February 2020 to the respective allottees which included Mr. Nayak who had applied for two apartments and got the same in his own name; and Mr. Gautam who had applied for three apartments, got one in his name, another in the name of his elder son, who is minor and another one in the name of his business firm; which will be used as a guest house for guests related to his business. Rest all had applied for a single apartment or villa. Due to nationwide lockdown, the majority of labour working at 'Nirmal Awas' being casual workers moved back to their villages. CDIL realised that it would be difficult to complete the project by December' 2020 (due-date committed for possession) and after some efforts and waiting for a couple of months, the company decided to transfer the project to Jignesh Shah Estate Developers (JSED), a renowned name for developing residential projects. The allottees of 93 apartments, including Mr. Nayak and Mr. Gautam, agreed for such transfer of the project because they already had put a huge sum for the apartments promised to them and hence the allottees of 93 apartments gave their consent by raise of hands to CDIL to transfer its rights and liabilities in Nirmal Awas to JSED. CDIL notified the said transfer to the relevant State Authority under RERA within 30 days of transferring the project. JSED is willing to re-allot the apartments after taking charge from CDIL and it also filed an application to the relevant State Authority under RERA for an extension of 3 months quoting such transfer of project as a major reason.

In order to fulfill social needs, Mr. and Mrs. Mishra joined the local resident club, which is in the form of association of persons. Individual members have contributed to the expenses of the club and have voluntarily formed an executive committee for the management of the club of which Mr. Mishra is also a part. Such an association owns a resort where the club activities takes place, members can play tennis, swim or read books in the library at the resort. Occasional get-to-gathers and kitty parties are also hosted there by members after prior notice to the Principal Officer of the association who is also the General Secretary of the Executive Committee.

The initiating officer has reasons to believe based upon the evidence available to him that such a property is benami in nature and hence he issued a show-cause notice, served to Mr. Mishra, by post, at his current residential address in Budhni. Mr. Mishra thought, as he is a member of the association, perhaps that's why he got the notice. But another club member who retired from a PSU as a law officer, five years back, suggested that he needs to answer to the officer concerned that the notice is not served properly. He told him that in case of association of persons notice can be addressed and served to the Principal Officer only and that too as a 'dasti notice' as mentioned in Code of Civil Procedure, 1908.

As mentioned earlier that, TIL is planning to raise funds through ECB. TIL figures out that there will be two-three months gap between the flotation of money and packing the deal of acquiring the textile plant in London. Considering the transaction cost involved, TIL decided to park the funds for such time abroad only. TIL is considering various alternatives to park such funds. The Committee on Financial Matters asked Mr. Mishra to present his views on Central Banks' Guidelines.

The Authorised Dealer Category I bank, with whom TIL is maintaining an Exchange Earners' Foreign Currency Account (EEFC), has sought more information than in previous transactions i.e. when-so-ever export proceeds realisation takes place or export-related details and documents are furnished to them under Foreign Exchange Management (Export of Goods & Services) Regulations 2015. TIL finds the same bit irritating, in response to which banker explains to TIL; that they are bound to Enhance Due Diligence, in case of specified transactions.

One of the subsidiaries of TIL was pushed for the Corporate Insolvency Resolution Process by the financial creditors. The decision of the NCLT of admitting the application of financial creditors and appointing of the interim resolution professional was challenged on the grounds that the application of financial creditor under section 7 of IBC, 2016 was made after the expiry of the limitation period. The appellate authority (NCLAT) relying upon the credence that the provisions of the Limitation Act, 1963, is not applicable to the applications made under IBC, 2016, rejected the appeal that challenged the decision of NCLT of admitting the application. In the meantime, the interim resolution professional was appointed as resolution professional under section 22. But later, the committee of creditors found his performance not acceptable, and in one of its meetings passed a resolution with 73% of the voting share of the financial creditors to replace him with another insolvency professional whose consent was taken in writing prior to such meeting and a copy of the resolution along with the proposed name of the insolvency professional was furnished to NCLT.

I. Multiple Choice Questions (2 Marks each)

- 1.1 Since the price of the apartment is based upon the carpet area, it becomes important to correctly measure the same. What shall be the carpet area of the 3 BHK apartment in Nirmal Awas?
- (a) 1164 Square feet
 - (b) 1136 Square feet
 - (c) 1100 Square feet
 - (d) 1052 Square feet

- 1.2 With reference to the explanation given by the banker to TIL with respect to seeking more information, which of the following is not a specified transaction?
- (a) Any transaction in foreign exchange
 - (b) Any transaction in any high-value imports or remittances
 - (c) Any transaction in any high-value exports or remittances
 - (d) Any transaction where there is a high risk or money-laundering or terrorist financing
- 1.3 What shall be the legal validity of the notice issued to Mr. Mishra by the Initiating Officer?
- (a) Valid, because Mr. Mishra is a member of the association, and notice can be served through the post
 - (b) Valid, because Mr. Mishra is part of an executive committee and notice can be served through the post
 - (c) Invalid, because Mr. Mishra is not a principal officer of the association
 - (d) Invalid, because notice is served through the post to Mr. Mishra
- 1.4 Which amongst the following is not a valid alternative available with TIL to park the funds abroad?
- (a) Deposit the funds with a foreign bank rated not less than AA by S&P
 - (b) Deposit the funds with a foreign bank rated not less than Aa3 by Moody
 - (c) Deposit the funds with a foreign branch of an Indian bank abroad
 - (d) Treasury bills of one-year maturity rated not less than A by Fitch
- 1.5 What shall be the validity of the decision taken by the committee of creditors to replace the resolution professional?
- (a) Valid
 - (b) Invalid, because resolution professional once appointed under section 22 can't be replaced
 - (c) Invalid, because resolution professional once appointed under section 22 can be replaced by the committee of creditors with 75% of the voting share.
 - (d) Invalid, because resolution professional once appointed under section 22 can only be replaced by NCLT.

II. Descriptive Questions

- 1.6 (a) Whether the transfer of rights and liabilities in the project 'Nirmal Awas' by CDIL to JSED is legally valid?
- (b) Whether JSED is allowed to re-allocate the allotments already done in the project 'Nirmal Awas' by CDIL?
- (c) Whether the application moved by JSED to seek an extension of time on the grounds of delay on account of transfer of project is maintainable? **(9 Marks)**
- 1.7 (a) With reference to admissibility of application for ongoing CIRP in case of one of the subsidiaries of TIL, state your opinion on whether the credence of NCLAT is correct?
- (b) Will it make any difference if the application is moved by an Operational creditor?

Support your opinion with interpretation and application of the relevant provisions of law and legal precedence. **(6 Marks)**

CASE STUDY 2

Ms. Gurdeep Kaur served the Imperial Bank for 34 years, prior to her retirement from the post of Chief Manager. She joined the bank as a probationary officer. Ms. Gurdeep decided to buy a house in her hometown using the fund out of her retirement benefits and the remaining amount she invested in Sovereign Gold Bond. The house was bought at home-town in the joint name of Ms. Gurdeep and her mother, whereas the registration charges and stamp duty were paid by her father.

Though Ms. Gurdeep largely engaged in Investment Banking and Credit Operations during her tenure at Bank, she also played a pivotal role in the establishment of a training academy for the staff of the bank and successfully implemented the training program for all the officer and clerical staff during the computerization and then during the transaction phase to CBS (core banking solution). After her retirement from the bank, she continued to serve as a trainer (as honorary service) at the training academy of Imperial Bank, apart from conducting guest lectures at academic and professional institutions.

Dr. Manoranjan Bharti who is Director at the University School of Business (USB) of a top-notch private university located in Mohali (Punjab), co-chair one of the guest lecture with Ms. Gurdeep. Dr. Bharti is impressed by the understanding that Ms. Gurdeep possesses in the domain of Investment Banking and the use of IT Solutions in banking operations, hence he offered Ms. Gurdeep to join the USB as Programme Director for MBA in Investment Banking and Fintech Solutions. Ms. Gurdeep gracefully accepted the proposal and decide to relocate to Mohali.

After residing in a rental apartment for a few months, Ms. Gurdeep decided to book the 3BHK flat in Aero City Apartments in Mohali. The construction is in full swing. The Aero City is being developed by Aero Developers and Realtor Private Limited (ADRPL) and the project is duly registered under the Real Estate (Regulation and Development) Act 2016 by State Real Estate Regulatory Authority. 3BHK flats are available in different set-ups with constructed areas ranging from 1410 to 2010 square feet. The price of a 3BHK flat is ranging from ₹ 70.3 to 90.5 lakhs depending upon the constructed area. Ms. Gurdeep booked a flat whose price is negotiated at ₹ 80.4 lakhs. She paid ₹ 12 lakhs as advance at the time of booking the advance, the agreement to sell was also signed on the same day.

Such ₹ 12 lakhs she borrowed from her younger brother Mr. Satbir Singh because all her funds were invested in either gold fund (during lock-in-period) or the house purchased in home town recently. To make the balance payments of the purchase consideration for the flat, Ms. Gurdeep decided to sell the house she bought in her hometown. Ms. Gurdeep sold the house and use the part of sale proceeds for payment to ADRPL. Flat registered in name of Ms. Gurdeep. The balance amount which is equal to somewhat USD 280000, she gave to her younger brother Mr. Satbir Singh. This USD 280000 includes a return of ₹ 12 lakhs which was borrowed by Ms. Gurdeep. Mr. Satbir in turn remits the entire amount (USD 280000) to his son during fiscal 2022-23, who is studying abroad through an authorized agent without prior permission of RBI. The University fee for the same year was only USD 40000.

Mr. Satbir Singh is Insolvency Resolution Professional and is currently engaged as a resolution professional of Cool Tex Industries (CTI) for executing the Corporate Insolvency Resolution Process (CIRP). Mr. Satbir is arguing that officers of the corporate debtor don't assist him in the preparation of the information memorandum. Mr. Satbir also alleges that concerned officers of the corporate debtor don't disclose all the details of the property of the corporate debtor, and details of transactions thereof and also failed to deliver all books and papers in their control or custody belonging to the corporate debtor and which he is required to deliver; hence penalty shall be imposed upon them for misconduct in course of CIRP.

Recently an FIR was registered against the officers and directors of Imperial bank, being suspected of indulging in transactions of money laundering for a sum of INRs 3 crores and failing to adherence the provision of the Prevention of the Money Laundering Act 2002. The name of Ms. Gurdeep is also specified in the report along with another chief manager Mr. Srinivasan Iyer. Both Mr. Iyer and Ms. Gurdeep filed bail applications in the special court.

Imperial Bank is enforcing the security interest as per provisions of sections 12 and 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The imperial bank decided to sell some of such immovable secured assets recently. In one such case, the purchaser pays 23% of the amount of the sale price, in addition to

earnest money paid earlier (equal to 5% of the sale price) as a deposit to the authorized officer conducting the sale.

I. Multiple Choice Questions (2 Marks each)

- 2.1 In context to the allegations made by Mr. Satbir against officers of the corporate debtor, which of the following grounds are not valid grounds of misconduct in course of CIRP?
- I. Officer of the corporate debtor failed to deliver to the resolution professional all books and papers in their control or custody belonging to the corporate debtor.
 - II. Officer of the corporate debtor does not disclose to the resolution professional all the details of the property of the corporate debtor.
 - III. Officer of the corporate debtor does not assist the resolution professional in the preparation of the information memorandum.
- (a) I and II only
(b) III only
(c) All of the above
(d) None of the above
- 2.2 Which of the following statements is correct regarding the sale of immovable secured asset property by imperial bank stated herein the facts of the case;
- (a) Purchaser made a default because 1/3rd of the purchase price shall be deposited.
(b) Purchaser made a default because 25% of the purchase price shall be deposited excluding the earnest money.
(c) Purchaser doesn't make a default, because 25% of the purchase price shall be deposited including the earnest money.
(d) Purchaser doesn't make a default, because 20% of the purchase price shall be deposited.
- 2.3 In light of applicable provisions of law relating to foreign exchange, which of the following statements is correct in regard to remittance made by Mr. Satbir of an amount equivalent to USD 280000 to his son during fiscal 2022-23;
- (a) Mr. Satbir doesn't violate any legal provision
(b) Mr. Satbir violates the law, there will be a penalty of up to USD 30000
(c) Mr. Satbir violates the law, there will be a penalty of up to USD 90000
(d) Mr. Satbir violates the law, there will be a penalty of up to USD 240000

- 2.4 Under the Real Estate (Regulation and Development) Act 2016, while making an application for registration of the project, the Aero Developers and Realtor Private Limited (ADRPL) shall state _____ of apartments for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas appurtenant with the apartment, if any;
- (a) the number and the carpet area
 - (b) the number, type, and the carpet area
 - (c) the number and the floor area
 - (d) the number and the constructed area
- 2.5 In regard to a house bought in her hometown, identify the nature of the transaction and also identify who is benamidar
- (a) Transaction is benami and Ms. Gurdeep is benamidar
 - (b) Transaction is benami and the mother of Ms. Gurdeep is benamidar
 - (c) Transaction is benami and both the parent of Ms. Gurdeep are benamidar
 - (d) Transaction is not benami, hence there is no benamidar

II. Descriptive Questions

- 2.6 With regards to power of special court under the Prevention of Money Laundering Act 2002, you are required to advise;
- (a) Whether special court can take sou-moto cognizance of any offence of money-laundering?
 - (b) Can a special court grant bail application of Mr. Iyer and Ms. Gurdeep? **(5 Marks)**
- 2.7 What shall be the amount of Advance for 3BHK that Aero Developers and Realtor Private Limited (ADRPL) can accept from Ms. Gurdeep? Are there any conditions involved in accepting and utilizing the money received as an advance? Also, state the penalties under the Real Estate (Regulation and Development) Act 2016 for breaching such conditions. **(5 Marks)**
- 2.8 Advice, whether the transaction of booking the 3BHK flat by Ms. Gurdeep by borrowing the money from her younger brother Mr. Satbir is benami? **(5 Marks)**

CASE STUDY 3

Mr. Banarasi Das Mishra is currently working in Bharat Gas (A group company of Bharat Petroleum Corporation Limited, BPCL) in the position of General Manager. Earlier he was representing BPCL at Ujjwala Plus Foundation (UPF). UPF is a Joint Venture Company

among the three PSU Oil Marketing Companies viz BPCL, HPCL, and IOCL in the ratio of 25:25:50 registered under section 8 of the Companies Act, 2013. UPF receives donations from individuals/Corporates/NGOs etc. which shall be utilized for extending financial assistance for making LPG available to economically disadvantaged households who are not covered by Pradhan Mantri Ujjwala Yojana.

A club and community hall surrounded by beautifully landscaped gardens constructed by UPF near Staff Quarters and Officers' Residence. Such properties are registered in name of the association of employees and officers of UPF. Such association is managing the properties and membership fees used to maintain the properties. Mr. Mishra is also a member of this association. Someone from IOCL is designated as the principal officer of this association.

The initiating officer under the Prohibition of Benami Property Transactions Act, 1988 on the basis of information and material in his possession is of opinion that some of the other properties managed by above mention association include Benami properties, hence willing to issue a show-cause notice.

BPCL has to remit the freight of the vessel chartered by it. The departmental head of forex (under the accounts division) planned to use funds out of Exchange Earners Foreign Currency (EEFC) Account. BPCL floated a tender for the purchase of LPG (Liquefied Petroleum Gas) cylinders. An LPG cylinder manufacturer approached the Competition Commission of India (CCI) challenging the tender conditions imposed by BPCL. While disposing of the case, the Director-General noticed a similar pattern in a bid submission by LPG cylinder manufacturers. Resultantly CCI initiate an inquiry, on its own motion, into the alleged cartelization and bid-rigging by LPG cylinder manufacturers.

Based upon findings stated in the investigation report from Director-General, the CCI concluded that 45 out of the 47 LPG cylinder manufacturers which were inquired into, had entered into an anti-competitive agreement in violation of the Competition Act by rigging bids in the BPCL tender. This led to the CCI imposing penalties on those LPG cylinder manufacturers found in contravention. Seven of the cylinder manufacturers filled applications for a reduction in penalties with CCI.

Except for ten parties, 35 parties filed an appeal before the Competition Appellate Tribunal (COMPAT) challenging the CCI order. While the COMPAT upheld the CCI decision as to the existence of the contravention, it ordered a reduction of the penalties on the basis of the principle of relevant turnover.

Mr. Mishra is a father of two daughters and one son. The elder daughter is a civil servant, whereas the younger one establish a tour and travel company Thrill Blazers Limited (TBL), which also offers tracking, camping, and adventure sports. TBL falls under the medium category as per MSME classification and is also registered under said act. The company also accepts event management of cultural programs of Indian singers abroad. One of the employees who manage such cultural programs is involved in Donkey immigration of youth

from Punjab, Haryana, Himachal, and other parts of the nation. Since donkey immigration is the illegal method of entering a foreign country via multiple stops in other countries, hence being a donkey he engaged in making false passports and forged emigration documents for donkers. He took money from the person who was willing to go abroad and make him/her part of a cultural group with a forged name and identity.

For his next tour, he has two such cases, but this time he got caught at the airport with false documents along with both the prospective donkers. Case registered against him under the Emigration Act 1983, The Passport Act, 1967, and The Prevention of Money Laundering Act 2002. He is arrested by the special team of the Deputy Director of Enforcement and the material recovered from him was sent to adjudicating officer in a sealed envelope.

After this episode most hotels, motels, event organizing companies, and singers/celebrities who were earlier either business partners or clients of TBL blacklisted it; hence both top and bottom lines witness a major decline, TBL could not able remain solvent for long with negative profits. Finally, the Pre-packaged insolvency resolution process has been begun in the case of TBL. There was a difference of opinion regarding what shall be included or excluded from the Pre-packaged insolvency resolution process cost.

Earlier, Mr. Mishra used to stay at a residence provided by the company but is now willing to purchase his own. Brother in law of Mr. Mishra working is a banker. He informed Mr. Mishra about a property that his bank going to auction next month. Bank enforced security rights regarding this property under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. He explained the locations and built-in structure, Mr. and Mrs. Mishra seemed satisfied because the brother of Mrs. Mishra assured them about the property and legal clearance.

Mr. Mishra deposited earnest money and later participated in an auction where he was successfully able to bid for the property. On the day of the sale, Mr. Mishra deposited 30% of the amount of sale price after adjusting of earnest money paid earlier. For making payment of the remaining 70%, authorised officer gave him a time of 2 weeks. Mr. Mishra approached the bank through his brother-in-law and it is in writing that the remaining payment shall be made within 8 weeks.

Mrs. Mishra is a member of the State Real Estate Regulatory Authority, recently on 29th March 2022, a draft of the upcoming policy (on the development of affordable housing for all) was sent by the Appropriate Government to such State Real Estate Regulatory Authority for its reference. The chairman of authority advised the secretary to add the same to the agenda for the next meeting. The draft was circulated with the notice of the meeting. Meeting conducted in the second week of April to discuss and record findings on such draft. In the 3rd week of May, the opinion was furnished by the authority with the Appropriate Government.

I. Multiple Choice Questions (2 Marks each)

- 3.1 The person who is designated as the principal officer of the association, is deputed to some other subsidiary of IOCL. Pick the correct option indicating the course of action that initiating officer may take while issuing show cause notice;
- (a) The show-cause notice can only be addressed to the principal officer
 - (b) The show-cause notice can be addressed to the principal officer or any other member
 - (c) The show-cause notice can be addressed to any other member only in the absence or non-availability of principal officer
 - (d) The show-cause notice can be addressed to senior-most (oldest membership in the association) member in the absence or non-availability of the designated principal officer
- 3.2 Regarding the application forwarded by seven cylinder manufacturers for a reduction in penalty to CCI, pick the option that contains incorrect statements out of those given below;
- i. Lesser penalty shall be imposed by the Commission only in respect of a producer, seller, distributor, trader, or service provider included in the cartel, who first made the full, true, and vital disclosures under this section.
 - ii. Lesser penalty may be revoked by the CCI if the person making the disclosure does not continue to cooperate till the completion of the proceedings
 - iii. Lesser penalty may be imposed by the CCI even if the disclosure is made after the receipt of the report of investigation directed under section 26.
- (a) iii only
 - (b) i and ii only
 - (c) i and iii only
 - (d) all i, ii, and iii
- 3.3 Person arrested by the special team of Deputy Director of Enforcement shall be taken to _____ within _____ hours from arrest;
- (a) Judicial Magistrate or Metropolitan Magistrate only; 24 hours excluding the time necessary for the journey from the place of arrest to court of Judicial Magistrate or Metropolitan Magistrate.
 - (b) Judicial Magistrate or Metropolitan Magistrate only; 24 hours including the time

necessary for the journey from the place of arrest to court of Judicial Magistrate or Metropolitan Magistrate.

- (c) Special Court or Judicial Magistrate or a Metropolitan Magistrate; 24 hours excluding the time necessary for the journey from the place of arrest to Special court or court of Judicial Magistrate or Metropolitan Magistrate.
- (d) Special Court or Judicial Magistrate or a Metropolitan Magistrate; 24 hours including the time necessary for the journey from the place of arrest to Special court or court of Judicial Magistrate or Metropolitan Magistrate.

3.4 Regarding remittance of freight of vessel chartered by BPCL. Pick the option that contains the correct statements out of those given below;

- i. Remittance of freight of vessel chartered specified under schedule I, hence prohibited transaction.
 - ii. Remittance of freight of vessel chartered can be made with the prior permission of the Director-General of Shipping
 - iii. Since payment is made out of Exchange Earners Foreign Currency Account, hence no permission is required.
- (a) iii only
 - (b) i only
 - (c) ii and iii only
 - (d) None of i, ii, and iii

3.5 Regarding the pre-packaged insolvency resolution process of TBL. Pick the option that contains correct inclusions into the pre-packaged insolvency resolution process cost;

- i. Any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern pursuant to an order under section 54J(2);
 - ii. The amount of any interim finance and the costs incurred in raising such finance
 - iii. Any costs incurred at the expense of the Government to facilitate the pre-packaged insolvency resolution process.
- (a) i only
 - (b) i and ii only
 - (c) i and iii only
 - (d) All of i, ii, and iii

II. Descriptive Questions

- 3.6 Regarding reference made to state Real Estate Regulatory Authority by Appropriate Government, evaluate, whether the opinion furnished by the authority to the Appropriate Government is within the time limit or not? Is the opinion furnished by authority binding on Appropriate Government? **(5 Marks)**
- 3.7 Regarding the property purchased by Mr. Mishra;
- (a) Whether specifying the time limit for payment of balance amount by authorised officer is valid and from which date same shall be computed.
 - (b) Can the bank can grant an extension for payment of the balance amount, if yes, then what is the maximum limit.
 - (c) What remedy bank have, if Mr. Mishra failed to make payment within the extension period, granted by the bank? **(5 Marks)**
- 3.8 One of the cylinder manufacturers is willing to advance an appeal against the order of COMPAT. The arguments advanced by them are;
- i. Market conditions such as limited buyers and influence of buyers in fixation of prices led to a situation of an oligopsony.
 - ii. LPG cylinder manufacturers had discharged their onus by showing that the parallel behaviour was not a result of concerted practice but due to market conditions (wherein the price is influenced/controlled by buyers)
- You are required to advise what will be the likely outcome of an appeal. Are the arguments legally tenable? **(5 Marks)**

CASE STUDY 4

Mr. Brijesh Lal is a leading real estate developer based in Jaipur. In the last two decades, his company, Satya Sai Developers Pvt. Ltd. has successfully developed many housing projects, which includes three in Jaipur and one each in Delhi, Bhopal, and Mumbai. The apartments which were built in Mumbai and Delhi included all the modern amenities and luxuries. The company is an ISO-certified company having a good reputation for delivering the projects well within the stipulated time and date.

In March 2014, Mr. Lal launched two projects in Jaipur, by the name 'Sun Residency' and 'Lotus Square'. In Sun Residency, 500 residential units consisting of 3BHK apartments were to be developed. This project was to be completed in all respects by November 2019. Lotus square was a small project with only 12 residential units of 4 BHK each to be completed by July 2016.

In January 2016, Mr. Lal transferred his rights in the project, Lotus square, to a third party, BN Housing Developers, as he wanted to concentrate on some other big projects, which he planned to launch by June 2016. But in between, the Real Estate (Regulation and Development) Act, 2016, came into force from 1st May 2016. So, Mr. Lal registered Sun Residency and submitted all the requisite documents with the concerned authorities. As the application for registration was found to be complete in all respects, the project was granted registration by RERA.

BN Housing Developers thought that it is a small project and they didn't find any need to register the project and they were also confident to successfully complete the project on time. As per their commitment, they successfully completed the project on time and all the allottees of apartments got their possessions by the end of July 2016.

According to the specified date for completion, Sun Residency was also completed and all the allottees got their possession by December 2019. But in February, some cracks developed in the walls of the building, and allottees found some quality issues in the construction. The association of allottees tried to bring it to the notice of Mr. Lal who was shocked to hear such complaints as he never compromised on construction quality for any of his projects. He called an urgent meeting of his team to discuss the issue.

Meanwhile, Mr. Lal finalised the land in one of the posh areas of Gurugram, National Capital Territory (NCT). He purchased 1000 square meters of land in that area for twenty crore rupees. He decided to build a project in two phases and so he thought to purchase 600 square meters of the adjoining plot too. The plot belonged to an NRI, Mr. Ranveer, cousin brother of Mr. Lal from whom Mr. Lal wanted to buy that plot for seven crore rupees. But Mr. Ranveer demanded eight crore rupees. Mr. Lal was so desperate and excited to start the project that he accepted his offer and purchased the land. Mr. Lal paid seven crore rupees from his RFC account and the remaining amount he paid as a gift through crossed cheque to Mr. Ranveer which Mr. Ranveer deposited to his NRO account. Mr. Ranveer gave his approval and finalised the deal.

Finally, in September 2016, Mr. Lal was able to launch the project by the name 'Imperial Residency' in which 200 residential units consisting of 3BHK apartments were to be developed. In the first phase, 100 units will be constructed and in the second phase, the next hundred units will be constructed. The date of completion of the project was December 2020.

Mr. Raj Maheswari, manager in KDM Bank wanted to purchase a luxurious flat of his own. As he was in direct contact with Mr. Lal, he called him and asked him about the availability of flats in Imperial Residency. Mr. Lal told him that only two flats were left, as the rest all were booked. Mr. Lal's manager briefed Mr. Raj about the project. Mr. Raj got interested in the information and went to see, Imperial Residency, along with his wife. He liked its strategic

location and all the other amenities offered in the project. He gathered all the information regarding the sanctioned plan, layout plan, and mode of payments from the sales office representative. On the same day, Mr. Raj along with his wife Mrs. Ashima, jointly entered into an agreement for sale with the promoters of the project and made a payment of 10% of the booking amount for the flat. In installments, Mr. Raj paid 70% of the total amount to the builder as the slab got completed and the remaining 30% was to be paid at the time of possession of the flat. Mr. Raj paid 80% of the total amount from his own disclosed sources of income and for the rest 20%, he took a loan.

A company called X-One Company Ltd. bought twenty flats in phase one of Imperial Residency. As of now, all the flats got booked due to the affordability and provision of all the modern amenities in the flats. The project was in its full swing. In January 2020, there was an earthquake in the Delhi NCR area. But there was no damage caused to the existing structure of the building. Although the architect of the project suggested some structural changes in the layout plan of the building, to make the building more resistant to earthquakes, so, in the future, it can withstand the earthquake of a larger frequency that is likely to occur in that location. But X-One Company Limited didn't voted for the need for such changes as it felt there is no such need.

Mr. Lal acquired an old building near Shantivan, Ashram road, Jaipur. It was situated in a good location. Mr. Lal thought of acquiring the building from the existing flat owners. He contacted the secretary of the society. It was a building with 2bhk apartments and had six floors. On each floor, there were 4 flats and on the ground also, the building had four flats. So, in total, the building had 24 flats. The society people agreed to sell their flats if they were paid thirty lakh rupees per flat.

Mr. Lal had a meeting with his architect wherein the architect suggested him to do some structural changes in the existing building layouts and to build car parking by demolishing the flats on the ground floor, as it will increase the flat value and he will be able to earn more profit by selling the flats. As per the architect's advice, Mr. Lal purchased all the flats from existing flats owners. After a year of making all the structural changes and renovation as suggested by his architect, Mr. Lal sold each flat at forty lakh rupees. He renamed the building as 'Premium Heights' and advertise for selling the flats. The building and flats after renovation looked so good, that one third of the previous residents of the building again re-purchased the flats from Mr. Lal. Rest other flats were sold to the new allottees.

Mr. Lal's friend, Mr. Navneet Singh, started a housing project in 2016. The date of completion of the project was November 2019 and the allottees were to get an allotment of flats by December 2019. Mr. Singh wanted Mr. Lal to get associated with the project as a financier. Mr. Lal agreed to finance, one-fourth of the project cost, in return that he will get five percent profits on the sale of each flat. But the project got delayed and by November 2019 only eight

percent of work could have been completed. A meeting was held by Mr. Singh on 5th December 2019 wherein he tried to convince all the allottees that the work will be completed by May 2020 and will start getting possession from June month. But some of the allottees refused to wait for the next six months and demanded a refund, to which Mr. Lal objected. The aggrieved allottees decided to file a complaint against the promoters if their amounts were not refunded.

I. Multiple Choice Questions (2 Marks each)

- 4.1 The allottees wanted a refund of their entire amount from Mr. Singh. Do you think Mr. Lal has a right to raise objections against the refund?
- (a) As being one of the financiers of the project, Mr. Lal has a right to raise the objection.
 - (b) Mr. Lal can raise objections, only when he is one of the promoters of the project.
 - (c) Mr. Lal can raise an objection, only if it is mentioned in the sale deed.
 - (d) The allottees have the right to claim a refund whereas Mr. Lal has no right to raise any objection against the same.
- 4.2 Mr. Lal did renovation and changes in the existing building and re-sold one-third of the flats in Premium Heights to some of the previous owners. With respect to the scope of RERA, which of the following is the correct option?
- (a) RERA is not applicable as the building is not demolished and the only renovation is done with required structural changes.
 - (b) RERA is not applicable as the flats are re-allotted to the existing 1/3rd of the flat owners.
 - (c) RERA is applicable as Mr. Lal purchased more than fifty percent of the flats before their renovation.
 - (d) RERA is applicable as Mr. Lal advertises for selling and flats are resold with new allotments.
- 4.3 The association of allottees of Sun Residency brought the construction defects to the notice of Mr. Lal. After allotting the possession to the allottees and formation of society, is Mr. Lal still liable to the allottees? Identify the correct statement, regarding the liability of Mr. Lal.
- (a) Once the society of allottees is formed, Mr. Lal is not at all liable for any repairs or defects in the buildings.

- (b) Mr. Lal is liable only towards the structural defects in the buildings if such defects bring to his notice within five years from the date of handing over the possession.
 - (c) Mr. Lal is liable towards the structural defects or any other defect in workmanship, quality, or provision of services or any other obligations of the promoter as per the agreement for sale relating to such development in the buildings if such defects occurred within five years from the date of handing over the possession.
 - (d) Mr. Lal is liable for the structural defects in the buildings if such defects bring to his notice within five years from the date of handing over the possession.
- 4.4 Regarding the flat purchased by Mr. Raj jointly along with Mr. Ashima, which of the following is the correct statement?
- (a) Advance in form of deposit shall not be a sum of more than 5% of the cost of the property.
 - (b) Any amount of deposit can be collected by the promoter if a written agreement for sale is entered.
 - (c) Said transaction is a Benami transaction.
 - (d) None of these is a correct statement.
- 4.5 The promoters of Lotus Square didn't register the project with RERA authority as required under RERA, 2016. What will be the consequences they have to bear for it?
- (a) Penalty up to ten percent of the estimated cost of the project.
 - (b) Penalty up to ten lakh rupees or ten percent of the estimated cost of the project, whichever is higher.
 - (c) Penalty of five lakh rupees, which may cumulatively be extended up to ten percent of the estimated cost of the project.
 - (d) Penalty up to ten percent of the estimated cost of the project and imprisonment up to five years.

II. Descriptive Questions

- 4.6 Mr. Ranveer sold his plot to Mr. Lal and out of eight crore rupees receivable, for one crore rupees, he wanted Mr. Lal to transfer him in form of a gift. Examine and analyse the situation. **(8 Marks)**

- 4.7 Due to the earthquake in that area, the architect of the building proposed some alternations in the structure of the layout of the building. As an owner of the maximum apartments in the building do you think, X-One Company Ltd. is in a position to influence the opinion of promoters and the other flat holders? (7 Marks)

CASE STUDY 5

Mr. Aditya Chopra is a renowned industrialist. He is the CEO of Bangalore based Avon Limited. Last year, Mr. Aditya Chopra went to Italy along with his daughter Ruhi for her admission to the Fine Arts College of Italy. Mr. Chopra on 25th April 2019 remitted USD 50,000 from his current account for the education of Ruhi in Italy. Ruhi did shopping for USD 5,000 on the same date. While returning from Italy, Mr. Chopra bought one painting and artefacts of Italian marble worth USD 25,000. All these shopping and purchasing of paintings and artefacts were done via Mr. Chopra's International Credit Card. Ruhi wanted to participate in the famous sweepstake of Italy. To see her daughter happy, Mr. Chopra did a payment of USD 500 via his International Credit Card. After returning to India, Mr. Aditya Chopra transferred USD 150,000 to Ruhi for purchasing a flat in Italy for her comfortable stay. He also remitted USD 25,000 to Ruhi for purchasing a car in Italy. After six months, Ruhi met with an accident in Italy. She was hospitalised in Italy and then Mr. Chopra further remitted USD 80,000 for her medical expenses.

Mr. Aditya Chopra owns a construction company called, Chopra Real Estate Developers Limited (CREDL), which is one of the biggest names among the real estate companies. CREDL is a subsidiary of Avon Limited. The turnover of CREDL is INRs 500 crores. In the last five years, CREDL has completed many successful projects in its name, both for the development of housing plots as well as construction and development projects. In 2014, CREDL won the award for the best Real Estate Company in India.

Mr. Aditya Chopra decided to construct and develop a township on the Bengaluru-Mumbai highway. The land is just 5 km away from Bengaluru city. Mr. Chopra purchased this land at a price of INR 40 crores in the year 2017. Due to a shortage of funds, he was not able to start the project. So, in September 2018, Mr. Chopra thought to start the project with the investment in a Joint venture with a foreign company. He was having talks with foreign-based companies and in the end, two companies were short-listed. One is the Val Group of Companies and the other one is the Aviance Group of Companies. After few rounds of meeting with both the companies, Mr. Chopra finalised a joint venture with Aviance Group of Companies.

Aviance Company is a Swedish company dealing in Steel manufacturing, cable wire manufacturing, and Infrastructure building company. On 3rd October 2018, the joint venture deal was signed between both companies. The Aviance Company agreed to invest USD 5

Million and will hold a 42 percent share in the joint venture. All the necessary work permission approvals had been taken including the building/layout plans, developing internal and peripheral areas and other infrastructures facilities, external development, and other changes and complying with all other requirements as prescribed under applicable rules/ by-laws/ regulation of the State government/ Municipal Bodies/Local body concerned.

Avon Limited wanted to build a world-class facility-based township. For this purpose, it hired "Alex Architectural and landscaping consultancy" a UK-based firm. Alex consultancy will receive USD 200,000 according to the contractual agreement for the project. To facilitate smooth working in India, Alex consultancy planned to open its branch office in India as it will be an ongoing project for 3 to 4 years.

Alex Consultancy was in search of some good property. After few days of search, the company was able to locate a good property which belonged to Mr. Naveen who is working as an IT professional in a company in Mumbai for 5 years. After few talks with Mr. Naveen, Alex Consultancy finalised the lease for four years, with a rent of Rs. 15 Lacs per annum. In July 2019, Mr. Naveen's company gave him a promotion and send him to its U.S.A branch and Mr. Naveen got shifted to the U.S.A. on 1st August 2019.

Mr. James Demello was appointed as head of the team in India to lead the above project by Alex Consultancy. He visited India on 20th April 2019 with his team. He held a joint meeting and discussion with Mr. Chopra and other officials of Aviance Company about the layout plan and the whole look of the project. He went back to the U.K. on 8th May 2019. He again came back to India on 14th June 2019 and decided to stay in India, as the project was in the initial stage and he needed to be at the project site for monitoring all the details of the ongoing construction. Due to some urgent personal work, he went back to the U.K. on 1st September 2019 and returned on 25th September. On 20th December 2019, he went to the U.K. for Christmas and New Year's vacation. After his vacation, Mr. Demello came back to India on 15th January 2020. He went back to London on 28th February 2020.

Meanwhile, Mr. Chopra got an invitation from abroad to attend the International Conference, to be held in London. Mr. Chopra sent one of the company's directors, Mr. Avinash to attend the International Conference. Mr. Avinash was issued a multicurrency forex travel card of value 50,000 USD from the company. Out of USD 50,000, ninety percent of the amount was loaded into the card, and the rest of USD 5,000 was given in cash. After he returned back to India, Mr. Avinash had unspent USD 2,000, left with him, which he kept with himself for future use.

In April 2020, Mr. Demello came back to India to resolve some issues pertaining to the structure of the floors. This time his wife, Mrs. Heena Demello accompanied him who is an NRI. Mrs. Demello with her husband went to see the property in her native place which she inherited from her maternal grandmother. She refreshed and shared some memories of her

childhood with Mr. Demello. Mr. Chopra organised a party for Mr. and Mrs. Demello wherein the cultural group performed the traditional dance on the folk songs. Mr. Demello impressed with the performance, that he invited the cultural group to perform in London on the annual day function of Alex Consultancy. Mr. Demello during this visit bought a 3BHK flat in the same project (in which he is working) jointly with his wife, because of the serene view and lake-facing location. After a couple of weeks, he went back to carry on his employment with Alex Consultancy to work on other projects. Before leaving, he gave necessary instructions to his team for the ongoing construction work.

I. Multiple Choice Questions (2 Marks each)

- 5.1 Mr. Aditya Chopra went to Italy for Ruhi's admission to Fine Arts College. Including the total fees of college, purchase of artefacts and painting, house and car bought by Ruhi in Italy along with all her medical expenses has exceeded the prescribed limit of USD 250,000 during the financial year. Advise Mr. Chopra with the correct course of action
- (a) Mr. Aditya Chopra needs to submit the estimate from the college university and also an estimate from the hospital/doctor abroad, to the authorised dealer.
 - (b) Mr. Aditya Chopra can transfer USD 130,000 in excess of the limit of USD 250,000, without permission of RBI and without submitting any evidence.
 - (c) Mr. Aditya Chopra can transfer any amount to meet expenses abroad.
 - (d) Mr. Aditya Chopra will need RBI approval for remittance beyond USD 250,000.
- 5.2 Presuming in the given case, the Aviance Company has appointed an agent in Sweden for the sale of units in the township near Bengaluru, and commission @ 6% per property sold was agreed with him after deduction of taxes applicable in India. The sale price of each unit is much more than USD 500,000. In light of provisions of the Foreign Exchange Management Act, 1999 is there any prior permission required for his appointment in consideration of the limit of commission to be paid to him? (Ignore the provisions contained under the Real Estate (Regulation and Development) Act 2016)
- (a) No prior approval is required as the property is situated in India.
 - (b) Prior approval of Central Government is required as the commission exceeds limit of five percent.
 - (c) Prior approval of RBI is required as the commission exceeds the limit of five percent.
 - (d) No prior permission is required as agent commission will be remitted after deduction of taxes applicable in India.

- 5.3 Mr. Demello invited the cultural group to perform in the London, Does any prior permission required for drawl of foreign exchange for the same?
- (a) Since it is an unofficial cultural tour they don't require any prior permission.
 - (b) The cultural group will require prior permission from the concerned State government.
 - (c) The cultural group will require prior permission from RBI.
 - (d) The cultural group will require prior permission from the Central Government.
- 5.4 Whether the rental income received by Mr. Naveen can be repatriated outside India to the U.S.A.?
- (a) The lease was finalised when Mr. Naveen was a resident Indian, hence the income cannot be repatriated.
 - (b) The rental income can be freely repatriated outside India subject to payment of applicable taxes.
 - (c) The rental income cannot be repatriated outside India without prior approval of RBI.
 - (d) The rental income can only be repatriated after making an application to AD Bank.
- 5.5 Naveen got a promotion in his company and on 1st August 2019, he went to the USA. Determine his residential status in terms of the Foreign Exchange Management Act, 1999. Pick the correct option out of the following:
- (a) Mr. Naveen shall be a person resident in India for the financial year 2019-20 only.
 - (b) Mr. Naveen shall be a person resident in India for the financial year 2020-21 only.
 - (c) Mr. Naveen shall be a person resident in India for both the financial years, 2019-20 and 2020-21.
 - (d) Mr. Naveen neither a person resident in India for the financial year 2019-20 nor during 2020-21.

II. Descriptive Questions

- 5.6 Enumerate the legal position of the given situations in the light of the Foreign Exchange Management Act, 1999;

- (i) The transaction done by Mr. Chopra using International Credit Card (ICC) for purchase of sweepstake. Also state the consequences of the same, if any.
 - (ii) Mr. Avinash had unspent USD 2,000 with him after he returned to India. He didn't submit the unspent money to the company. **(8 Marks)**
- 5.7 Enumerate the legal position of the given situations in the light of the Foreign Exchange Management Act, 1999:
- (i) Mr. Demello bought a 3BHK flat jointly with his wife. Determine the residential status of Mr. Demello for F.Y. 2020-21 and being a foreign national, whether he is eligible to buy a flat in India jointly with Mrs. Demello?
 - (ii) Mrs. Demello has inherited a property from her grandmother here in India. Justify how being a person resident outside India, she can repatriate the sale proceeds of immovable property outside India? **(7 Marks)**