

Test Series: April 2022

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

Time Allowed: 4 Hours

Maximum Marks-100 Marks

**Attempt any 4 case studies out of 5 case studies****Case Study 1**

Mr. Surjit, aged 52 years and a neuro surgeon by profession, went to USA for the first time on 15<sup>th</sup> February, 2021, for assisting in the operation of nervous system of his nephew, Mr. Ashok, who was unable to travel to India. His period of stay in USA was for an uncertain period as it was dependent on the recovery by Mr. Ashok.

During his stay in USA, he contracted with a local furniture dealer on 5<sup>th</sup> April, 2021 and imported furniture worth \$ 130,000 for a new tenement home bought by him in New Delhi.

Mr. Ashok was able to recover fast and so, Mr. Surjit was able to leave for India on 20<sup>th</sup> April, 2021. At the time of leaving, Mr. Ashok gave \$ 6,000 currency notes as well as ₹ 80,000 as a gift to Mr. Surjit and his family for helping him in his tough times.

Mr. Surjit used letter of credit drawn from SBI bank for the purpose of making payment in respect of the imported furniture but provided false declaration in the customs regarding the type of imports made because of which there was invasion of customs duty of ₹ 25,00,000. However, such an act was unrevealed by the Customs Authority and Mr. Surjit was held punishable for such an offence under section 135 of the Customs Act, 1962.

The Director under the Prevention of Money Laundering Act, 2002, got information of such an act by Mr. Surjit and accordingly on the basis of such information, the Director after recording the reasons in writing, passed an order of provisional attachment of the imported furniture for a maximum period as prescribed on 25<sup>th</sup> June, 2021. The Director then on 5<sup>th</sup> July, 2021 filed a complaint with the Adjudicating Authority against Mr. Surjit and the said Authority served a show cause notice to Mr. Surjit on 10<sup>th</sup> July, 2021, as to why the imported furniture should not be declared as a property involved in money laundering.

Mr. Surjit duly replied to such notice. The Adjudicating Authority heard Mr. Surjit as well as the Director and after taking into account all relevant materials, passed an order confirming the provisional attachment of the imported furniture on 30<sup>th</sup> September, 2021. Mr. Surjit aggrieved by the same filed an appeal with the Appellate Tribunal on 30<sup>th</sup> October, 2021.

During the appellate proceedings, the Tribunal requisitioned from the Customs Authority, the records pertaining to Mr. Surjit and after considering all facts, passed an order in favour of Mr. Surjit. Aggrieved by the same, the Director filed an appeal with the High Court which was based on factual grounds.

Further, during the F.Y. 2021-22, Mr. Surjit had used his two international debit cards, one associated with his Resident Foreign Currency Account and other associated with his SBI Bank Account for making payment of \$ 80,000 and \$ 195,000, respectively for certain prescribed current account transactions. As per Mr. Surjit, the payment of \$ 195,000 pertained to remitting foreign exchange for the purpose of his daughter's education in the University of Chicago, USA but the said University had provided an estimation fees certificate of only \$ 35,000.

The father of Mr. Surjit, who had recently passed away, intended Mr. Surjit to buy a home from the will money he inherited and donate it to an orphanage and accordingly, Mr. Surjit had bought the said tenement home in New Delhi in the name of his childhood friend, Mr. Mangal who is a trustee of an orphanage, so that, later on it can be easily transferred to the orphanage. However, the Initiating Officer under the Prohibition of Benami Property Transactions Act, 1988 initiated an inquiry in respect of such tenement home and during the inquiry

issued a show cause notice to Mr. Surjit and Mr. Mangal that why the tenement home should be not treated as benami property.

Mr. Surjit had bought an apartment in the real estate project named 'Nivas' by SPL (P) Ltd. in the city of Greater Noida, the completion of time which got extended by 3 months on an application made by SPL (P) Ltd. for the same with the authority under RERA due to occurring of certain riots in the said city. Earlier, also the authority under RERA had granted extension of time in completion of 'Nivas' by 2 months, after recording the reasons in writing. Accordingly, Mr. Surjit and his family has decided to stay in the said tenement home till the time their newly bought apartment in the Greater Noida got ready for physical possession.

#### I. Multiple Choice Questions (2 Marks each)

- 1.1. Whether the Authority under RERA can be rightly said to have granted extension of time in completion of 'Nivas' and in case if SPL (P) Ltd. again makes an application for extension of time, then how much maximum time can be granted by Authority under RERA, once again?
- No, as opportunity of being heard should have been given to SPL (P) Ltd. and the Authority under RERA can again grant extension of time for 1 year.
  - No, as riots in the city cannot be considered as 'force majeure' and the Authority under RERA can again grant extension of time to SPL (P) Ltd. for maximum 1 year.
  - Yes, as it appears that there is no default on the part of SPL (P) Ltd. and the Authority under RERA can again grant extension of time to SPL (P) Ltd. for maximum 7 months.
  - Yes, as it is upon the discretion of the Authority under RERA to grant of extension of time and it can again grant extension of time to SPL (P) Ltd. for maximum 6 months.
- 1.2 How much excess Indian currency can be said to have been brought by Mr. Surjit into India from USA and whether any declaration needs to be given in case of the USD currency notes brought into India by Mr. Surjit to the Custom Authorities?
- Mr. Surjit has brought in excess ₹ 55,000 in India and in case of USD currency notes brought into India, he is not required to provide declaration to the Custom Authorities but to the Authorised Dealer.
  - Mr. Surjit has brought such amount of Indian currency which is within the limits in India and in case of USD currency notes brought into India, he is not required to provide declaration to the Custom Authorities.
  - Mr. Surjit has brought in excess ₹ 30,000 in India and in case of USD currency notes brought into India, he is not required to provide declaration to the Custom Authorities but to the Authorised Dealer.
  - Mr. Surjit has brought in excess ₹ 55,000 in India and in case of USD currency notes brought into India, he needs to provide declaration to the Custom Authorities.
- 1.3 What shall be duty of director on confirming the attachment order by the Adjudicating Authority and till what maximum time period such order should have continued if Mr. Surjit had not filed appeal against the same and there were no proceedings pending before the Special Court under the Prevention of Money Laundering Act, 2002 in case of Mr. Surjit?
- The director shall forthwith take the possession of the imported furniture of Mr. Surjit on confirming the attachment order by the Adjudicating Authority and such order should have continued till the date of 29<sup>th</sup> March, 2022.
  - The director shall forthwith make an application to the Special Court to take the possession of the imported furniture of Mr. Surjit on confirming the attachment order by the Adjudicating Authority and such order should have continued till the date of 22<sup>nd</sup> December, 2021.

- (c) The director shall initiate investigation unless stayed by court on confirming the attachment order by the Adjudicating Authority and such order should have continued till the date of 29<sup>th</sup> March, 2022.
- (d) The director shall forthwith take the possession of the imported furniture of Mr. Surjit on confirming the attachment order by the Adjudicating Authority and such order should have continued till the date of 30<sup>th</sup> September, 2022.
- 1.4 Whether the Appellate Tribunal was having the authority to requisition the records pertaining to Mr. Surjit from the Customs Authority and whether the appeal filed by the Director can be entertained by the High court?
- (a) Yes, as the Appellate Tribunal has the same powers as are vested in a civil court under the Code of Criminal Procedure, 1973 for such matter and the appeal filed by the Director can be entertained by the High court.
- (b) Yes, as the Appellate Tribunal shall not be bound by the procedure laid down under the Code of Civil Procedure, 1908 for such matter and the appeal filed by the Director cannot be entertained by the High court.
- (c) Yes, as the Appellate Tribunal has the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 for such matter and the appeal filed by the Director can be entertained by the High court.
- (d) No, as the Appellate Tribunal has the power to only requisition any public record and the appeal filed by the Director can be entertained by the High court.
- 1.5 Whether the Initiating Officer under the Prohibition of Benami Property Transactions Act, 1988 had the authority to initiate inquiry in respect of the tenement home and whether such inquiry can be continued after the issue of show cause notice by the Initiating Officer?
- (a) Yes, provided the Initiating Officer had obtained previous sanction of the 'competent authority' as explained, and such inquiry shall be deemed to cease on issue of show cause notice by the Initiating Officer.
- (b) Yes, provided the Initiating Officer had obtained previous approval of the Approving Authority and such inquiry shall be deemed to cease on issue of show cause notice by the Initiating Officer.
- (c) Yes, provided the Initiating Officer had obtained previous sanction of the Adjudicating Authority and such inquiry can be continued on previous approval of the Approving Authority after issue of show cause notice by the Initiating Officer.
- (d) Yes, provided the Initiating Officer had obtained previous approval of the Approving Authority and such inquiry can be continued on previous approval of the Approving Authority after issue of show cause notice by the Initiating Officer.

## II. Descriptive Questions

- 1.6 Whether the Director under the Prevention of Money Laundering Act, 2002, can be considered to have been properly passed the order of provisional attachment of the imported furniture by Mr. Surjit? **(5 Marks)**
- 1.7 (i) What shall be the residential status of Mr. Surjit for F.Y. 2020-21 as per FEMA, 1999? **(3 Marks)**  
 (ii) Whether Mr. Surjit has properly availed the foreign exchange facility under the Liberalised Remittance Scheme (LRS) during F.Y. 2021-22 and if not, what could be the amount of penalty that could be levied upon him for contravention of the same? **(2 Marks)**
- 1.8 Whether the tenement house bought in New Delhi by Mr. Surjit in the name of Mr. Mangal can be considered as a benami transaction? **(5 Marks)**

## Case study 2

Mr. Tansen Malhotra is the chairman and founder of Malhotra Group which consists of five companies engaged in the sectors of hospitality, medical devises, media & entertainment, property management & redevelopment and tourism, respectively.

Due to the reason of Covid-19 hospitality industry boomed and in order to expand its market share, after finalizing deal with the shareholders of Life & Care Hospital Ltd., a board resolution was passed by the board of Malhotra Hospital Ltd. on 15<sup>th</sup> June, 2021 for acquiring 49% equity shares in Life & Care Hospital Ltd.

In that relation, following information is produced from the audited financial statements of Malhotra Group Companies and Life & Care Hospital Ltd., respectively, for year ended on 31<sup>st</sup> March, 2021:

Particulars	Malhotra Group	Life & Care Hospital Ltd.
Assets (in India)	₹ 8000 crore	₹ 400 crore
Turnover	₹ 23000 crore	₹ 950 crore

Malhotra Hospital Ltd. and Life & Care Hospital Ltd. gave notice of such combination to the Competition Commission of India on 20<sup>th</sup> August, 2021, respectively. The commission on receipt of such notice formed a prima-facie opinion about adverse effect of such combination on the competition and issued show cause notices which was received by Malhotra Hospital Ltd. and Life & Care Hospital Ltd. on 5<sup>th</sup> September, 2021, respectively.

After considering response from both the parties received, the commission called for a report from the Director General, for the discussion of which and some other matters, a meeting was held by the commission which was attended by 5 members.

The chairperson of the commission was affected by Covid-19 and he was unable to attend the meeting, so the senior-most member presided at the meeting. For a particular matter, there was of equality of votes amongst the members.

One matter that was discussed in the said meeting was relating to the ongoing investigation in respect of a cartel by the Director General wherein one of the parties to the said cartel had made full disclosure about such cartel with the CCI which was vital to its findings. However, later it was founded by CCI that such disclosure contained false evidences submitted by the said party.

The chairperson was adversely affected by Covid-19 because of which he became incapable of acting as a member of the commission and was ordered to be removed by the Central Government. The Central Government then referred to the Selection Committee on 15<sup>th</sup> October, 2021, for recommending names of persons for filling up the vacancy in the office of chairman of the CCI. The said Committee on 12<sup>th</sup> December, 2021, recommended 2 names for filling up the said vacancy.

Meanwhile, the CCI after following the due procedure passed an order for combination of both the parties i.e. Malhotra Hospital Ltd. and Life & Care Hospital Ltd. However, aggrieved by the same, Long Life Hospital Ltd. instituted a suit with the City Civil Court against the said order of combination. In the said suit, apart from other grounds, it also alleged that the CCI did not invite any person or member of the public, affected or likely to be affected by the said combination to file written objections against it at the time when the details of such combination were published in the newspapers by the said parties.

Before 18 months, the authority under RERA had passed an order against Malhotra Estate Ltd. in which there was a mistake in calculating the interest amount payable to the allottees by the promoter which was apparent from the record, so, the said allottees filed an application for rectifying the same on 12<sup>th</sup> November, 2021.

However, Malhotra Estate Ltd. had filed an appeal against the said order with the Appellate Tribunal and the decision pronounced by the said Tribunal was against it. Hence, against the said decision, it filed an appeal with the High Court of Gujarat as Malhotra Estate Ltd.'s head office was situated in Gujarat.

But the said appeal was filed after the expiry of 60 days from the date of decision of Appalled Tribunal. However, the real estate project in relation to which decision was given by the Appellate Tribunal was situated in Bombay.

Malhotra Estate Ltd. paid rent for a property used by it to the daughter in law of Mr. Tansen Malhotra, Mrs. Urmila Malhotra as the said property had been purchased by Mr. Tansen in the name of Mrs. Urmila. However, the said rent money was transferred by Mrs. Urmila in cash to Mr. Tansen, which was not accounted by him.

Proceedings under the Prohibition of Benami Property Transactions Act, 1988, were initiated in respect of such property whereby the case was referred by the Initiating Officer to the Adjudicating Authority. Mr. Tansen by exercise of his personal influence made a private arrangement with the said Adjudicating Authority because of which the case was settled by it by passing an order in favour of Mr. Tansen in exchange of some gratification money.

### I. Multiple Choice Questions (2 Marks each)

- 2.1 Due to what reason it can be said that combination has taken place between Malhotra Hospital Ltd. (Malhotra Group) and Life & Care Hospital Ltd. as per the provisions of the Competition Act, 2002?
- Malhotra Hospital Ltd. has acquired equity shares in excess by 23% in Life & Care Hospital Ltd. and also the assets of Life & Care Hospital Ltd. are excess in value by ₹ 50 crores, from prescribed limits of exemption, respectively, due to which combination has taken place between them.
  - The assets of Life & Care Hospital Ltd. are excess in value by ₹ 50 crores, from prescribed limit of exemption, due to which combination has taken place between them.
  - The assets of Life & Care Hospital Ltd. are excess in value by ₹ 50 crores and also the joint assets of Malhotra Group and Life & Care Hospital Ltd. are excess in value by ₹ 400 crores, from prescribed limits of exemption, respectively, due to which combination has taken place between them.
  - Malhotra Hospital Ltd. has acquired equity shares in excess by 23% in Life & Care Hospital Ltd. from prescribed limit of exemption, due to which combination has taken place between them.
- 2.2 How many members of CCI in excess attended the meeting from the required quorum and how many further name(s) could have been recommended by the Selection Committee for filling up the vacancy in the office of chairman of the CCI?
- One member of CCI in excess attended the meeting from the required quorum and further three more names could have been recommended by the Selection Committee.
  - Three members of CCI in excess attended the meeting from the required quorum and further three more names could have been recommended by the Selection Committee.
  - No member(s) of CCI in excess attended the meeting from the required quorum and further one more name could have been recommended by the Selection Committee.
  - Two members of CCI in excess attended the meeting from the required quorum and further one more name could have been recommended by the Selection Committee.
- 2.3 Whether notice for the combination was filed properly by the parties with CCI and till what last date CCI needs to pass an order for such combination?
- No, the notice for the combination was filed by the parties with the CCI beyond the prescribed time limit and CCI needs to pass an order for such combination by 11<sup>th</sup> January, 2022.
  - Yes, the notice for the combination was filed properly by the parties with the CCI and the CCI needs to pass an order for such combination by 18<sup>th</sup> March, 2022.

- (c) No, the notice for the combination was filed by the parties with the CCI beyond the prescribed time limit and the CCI needs to pass an order for such combination by 16<sup>th</sup> February, 2022.
- (d) Yes, the notice for the combination was filed properly by the parties with the CCI and the CCI needs to pass an order for such combination by 11<sup>th</sup> January, 2022.
- 2.4 How much further time was available with allottees for filing the rectification application with the authority under RERA if they could not have filed the same on 12<sup>th</sup> November, 2021 and whether the appeal filed by the Malhotra Estate Ltd. can be entertained by the High court of Gujarat?
- (a) The said allottees were having further time of 30 months to file the rectification application with the authority under RERA and the said appeal can be entertained by the High court of Gujarat if sufficient cause is shown for not filing the appeal within 60 days.
- (b) The said allottees were having further time of 42 months to file the rectification application with the authority under RERA and the said appeal cannot be entertained by the High court of Gujarat as it is not having jurisdiction for the same.
- (c) The said allottees were having further time of 6 months to file the rectification application with the authority under RERA and the said appeal can be entertained by the High court of Gujarat if sufficient cause is shown for not filing the appeal within 60 days.
- (d) The said allottees were having further time of 6 months to file the rectification application with the authority under RERA and the said appeal cannot be entertained by the High court of Gujarat as it is not having jurisdiction for the same.
- 2.5 Whether the property that had been purchased by Mr. Tansen in the name of Mrs. Urmila can be considered as 'benami transaction' if the rent money was kept by Mrs. Urmila with herself only?
- (a) Yes
- (b) No
- (c) Partially Yes, partially No
- (d) Can't say in absence of adequate facts

## II. Descriptive Questions

- 2.6 What penalty may be imposed upon the cartel member who made disclosure with the Competition Commission of India? **(3 Marks)**
- 2.7 (i) Whether the suit instituted by Long Life Hospital Ltd. can be entertained by the City Civil Court? **(2 Marks)**
- (ii) Irrespective of the fact whether such suit can be entertained by the City Civil Court or not, whether the allegation made by Long Life Hospital Ltd. against CCI can be considered as valid? **(2 Marks)**
- 2.8 What decision would be taken by the authority under RERA in respect of the application received from the allottees and till what time such decision needs to be communicated by the authority under RERA to such allottees? **(4 Marks)**
- 2.9 (i) What action can be taken against such biased order passed by the Adjudicating Authority under the Prohibition of Benami Property Transactions Act, 1988? **(2 Marks)**
- (ii) Under what other statute(s), the private arrangement made by Mr. Tansen with the Adjudicating Authority can be considered as an offence? **(2 Marks)**



### Case study 3

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 280,000, she gave to her younger brother Mr. Satbir Singh. This USD 280,000 includes a return of ₹ 12 lakhs which was borrowed by Ms. Gurdeep. Mr. Satbir in turn, remits the entire amount (USD 280,000) 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 40,000.

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 lodged against the officers and directors of Imperial bank, being suspected of indulging in money laundering transactions 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. Mr. Iyer is still serving the bank but is suspended from the service till the inquiry is complete. Ms. Gurdeep got the bail from the session court.

Mr. Iyer also moved an application under Section 439 of CrPC read with Section 45 of the Prevention of Money Laundering Act, 2002 seeking release on bail in an offence registered against him. The Sessions

Court, by an order, allowed the bail application of Mr. Iyer on medical grounds by taking note of the first proviso to Section 45 (1) of the Prevention of Money Laundering Act, 2002; without discussing the merits of the allegations made against him.

The Directorate of Enforcement challenged the order of session court in the High Court. The High Court disposed of the application filed by the Directorate of Enforcement by keeping the order granting bail to the petitioner in abeyance and after a detailed consideration of the report of the medical board (constituted at the order of the High Court to examine Mr. Iyer), the High Court was of the considered view that Mr. Iyer was not entitled to grant of permanent bail. However, temporary bail for six months was granted to enable Mr. Iyer to receive treatment for his ailments.

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)

- 3.1 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 ground I, II, and III
  - (d) II and III only
- 3.2 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 1/3<sup>rd</sup> 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.
- 3.3 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 280,000 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 30,000



- (c) Mr. Satbir violates the law, there will be a penalty of up to USD 90,000
- (d) Mr. Satbir violates the law, there will be a penalty of up to USD 240,000
- 3.4 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
- 3.5 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

- 3.6 The Counsel for Mr. Iyer, has contended that the High Court committed a serious error in interfering with the order passed by the Sessions Court, without taking into consideration the first proviso to Section 45(1) of the Prevention of Money Laundering Act, 2002.

The matter moves to the Hon'ble Apex Court. The Counsel submitted that the medical record which was placed before the High Court clearly shows that Mr. Iyer has to be under constant treatment aside from the several procedures he has to undergo, including spinal surgery.

On the other hand, the Additional Solicitor General referred to the medical record relied upon by Mr. Iyer and argued that the surgical interventions required are all minor and the petitioner is not entitled to be released on permanent bail.

You are required to advise;

- (i) Whether High Court committed any error by interfering with the order passed by the session court?  
(2 Marks)
- (ii) Can bail application be granted on medical grounds by taking note of first proviso to Section 45(1) of the Prevention of Money Laundering Act, 2002, without discussing the merits of the allegations made?  
(3 Marks)
- 3.7 What shall be the amount of Advance for 3BHK that Aero Developers and Realtor Private Limited (ADRPL) can accept from Ms. Gurdeep?  
(2 Marks)
- Are there any conditions involved in accepting and utilizing the money received as an advance?  
(2 Marks)
- Also, state the penalties under the Real Estate (Regulation and Development) Act 2016 for breaching such conditions.  
(3 Marks)
- Assess the facts stated in the case in the light of the legal provisions quoted in the answer.

- 3.8 Advice, whether the transaction of booking the 3BHK flat by Ms. Gurdeep by borrowing the money from her younger brother Mr. Satbir is benami? **(3 Marks)**

#### Case study 4

The foundation of Zenith Holdings was laid by the late sh. Durga Dutt Agnihotri along with his brother-in-law, Mr. Parshottam Nadar around six decades ago, earlier they were into steel and cement manufacturing only but later when children of both families joins the different business verticals, Zenith Group spread its business interests into Pharmaceuticals, Real Estate, and Motors. Zenith Group has a presence in all parts of India with a few liaison offices and drug stores (pharmaceutical drugs) in foreign as well.

The motor business of Zenith Group performed nearly a dozen of M&A transactions in the last decade. It deals in Motor Vehicles and Spare Parts. Recently, Zenith Motor Limited finalise the acquisition of 60% of the equity stake in Blitz Motor Corp (BMC) and 100% stake in Mobil Motors and Parts Limited (MMPL). The integration with BMC is horizontal in nature and results in a total share of 18% of the relevant market, whereas the combination with MMPL is vertical Integration and results in a 22% share of the relevant market. The document for acquisition is executed on 18.03.2022 and 30.03.2022 in the case of BMC and MMPL respectively.

The elder daughter of Mr. Nadar who looks after the Pharmaceutical and Real-estate business actively, recently set up a university after her father's name wherein specialized courses in Pharma Sciences, Civil Construction, and Architect Sciences are offered. She also establish a company that is an SME concern (registered under the Micro, Small, and Medium Enterprises Development Act, 2006) that deals in the manufacturing and sale of Dhoop and Agarbattis, etc. to ensure employment for spouses of workers working in their real estate and construction businesses.

Though the university is doing well. But SME concern is struggling amid financial crisis even after a series of efforts such SME concern failed to take off and finally became debt-ridden venture. It is decided that an application for initiation of the Pre-packaged Insolvency Resolution Process for such SME concern shall be made. One of the secured creditors enforced security interest in regard to one of the properties of such SME concern under section 13 (1) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Such secured creditor issued a notice under section 13(2). SME Concern has objected to this and is willing to raise the objections and make representation.

Zenith Group has attained the recognition of society and established itself as an ethical and responsible corporate citizen. It complies with the legal provisions both in words and spirits, hence never required to pay any penalty or fine; except once i.e. under the Real Estate (Regulation and Development) Act, 2016 for non-compliance by Zenith Realtor Limited (ZRL). Such penalty was levied by the Appellate Authority in the context of a residential project undertaken in Haryana. In the same non-compliance case, another allottee of residential apartments developed by ZRL is willing to seek legal remedy under the Consumer Protection Act, 2019 in addition to one provided under the Real Estate (Regulation and Development) Act 2016.

Mr. Vinayak Agnihotri, the only grandson of late sh. Durga Dutt Agnihotri returned to India after completing his master's in Hotel Management from Ecole Hoteliere de Lausanne (EHL) situated in Switzerland. Although he joined the family business but wanted to establish a hotel chain. He buys a Casino in Goa, and soon after he buys a floating restaurant with a pub and bar. He is planning to hire a Cruz ship to offer vocation and party packages. Mr. Vinayak Agnihotri knew that owning and operating a casino business may harm the reputation of other businesses, hence he register the assets of the Casino business in an anonymous name. He is also neither director nor employee of such a business, he controls the business through his trustworthy friends.

Two friends of Mr. Vinayak, out of those who manage his casino and restaurant business has evil intention and are willing to make money quickly. They get involved in illegal and unethical transactions, say hawala, drug dealing, etc. because they too often come across the persons who are deep into these at Cruz or restaurant parties. Even some foreign nationals are also involved in their intrigue cabal.

One among such friends was caught red-handed. From his possession of drugs, foreign currency (beyond the quantum allowed) and gold jewellery, and bullion recovered. Drugs are way more than the commercial quantity allowed to carry and trade, even if he doesn't hold any commercial license in that regard. He failed to explain the sources of foreign currency, jewellery and bullion too. An FIR was lodged against him for violating the provision of different statutes and taken into custody. Article found from him were also confiscated under provisions of different acts including the Prevention of Money Laundering Act, 2002. A penalty under section 13 of the Foreign Exchange Management Act, 1999 was also imposed upon him which he failed to pay paying.

Since agencies are doing an investigation to reveal all the evil minds, hence in process of investigation it was also discovered that person who has the title of owner of the casino, is the younger brother of his driver, who is employed as a mason in ZRL and bribed as well as forced to be part of Benami transaction. An order of confiscation in respect of casinos is passed thereafter under the Prohibition of Benami Property Transactions Act, 1988.

### I. Multiple Choice Questions (2 Marks each)

- 4.1 For filling of an application for initiating the Pre-packaged Insolvency Resolution Process, approval from financial creditors is required. Identify the correct statement out of following in the context of SME concern that deals in the manufacturing and sale of Dhoop and Agarbattis;
- corporate debtor shall obtain approval from its financial creditors, representing not less than sixty-six percent in value of the financial debt due to such creditors
  - corporate debtor shall obtain approval from its financial creditors, not being its related parties, representing not less than sixty-six percent in value of the financial debt due to such creditors
  - corporate debtor shall obtain approval from its financial creditors, not being its related parties, representing not less than sixty-six percent of the financial creditors in numbers
  - corporate debtor shall obtain approval from its financial creditors, representing not less than sixty-six percent of the financial creditors in numbers
- 4.2 The penalty paid to ZRL under the Real Estate (Regulation and Development) Act, 2016 shall be credited to;
- Consolidated Fund of India.
  - Account specified by the State Government
  - Real Estate Regulatory Fund
  - Any of these at the order of authority who impose a penalty
- 4.3 Regarding failure to make payment of the penalty imposed under section 13 of the Foreign Exchange Management Act, 1999, which of the following statements are/is incorrect;
- Adjudicating Authority may, by order in writing, authorise an officer of Enforcement not below the rank of Assistant Director to recover any arrears of penalty
  - Order of recovery shall be issued if the person upon whom penalty is imposed failed to make full payment within a period of sixty days from the date on which the notice for payment of such penalty is served on him.
  - Such authorised officer of enforcement has all the like power which are conferred on the land revenue collector.
- (a) I only

- (b) III only
- (c) II and III only
- (d) I and III only
- 4.4. In respect of an order of confiscation of Casino, the administrator shall proceed to take possession by serving a notice in writing and allowing \_\_\_\_\_ days to surrender or deliver possession in favour of him.
- (a) Five days
- (b) Seven days
- (c) Ten days
- (d) Fifteen days
- 4.5 The articles/property confiscated under the Prevention of Money-Laundering Act 2002, includes foreign currency, jewellery, and bullion. For safe custody same shall be deposited at;
- I Government Treasury
- II Branch of the Reserve Bank of India
- III Branch of the State Bank of India
- (a) At I only
- (b) At either I or II, but not at III
- (c) At either I or III, but not at II
- (d) At any among I, II, and III

## II. Descriptive Questions

- 4.6 With reference to two acquisitions performed by Zenith Motor Limited (ZML) notices under section 6(2) of the Competition Act 2002 are required to be served to the Competition Commission of India to seek its approval under section 31(1) of the Act. You are required to advise ZML, on the manner (timing and form) of serving notice for both the combination arrangements (with BMC and MMPL)? **(6 Marks)**
- 4.7 Can SME concern rather than responding to notice served under section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by a secured creditor, seek legal remedy from High Court (writ petition) or Supreme Court (special leave petition)? Will it make any difference if it responded to the notice and then seek a parallel legal remedy from High Court or Supreme Court? Advice. **(4 Marks)**
- 4.8 Whether an allottee seeks legal remedy under both the statutes, the Real Estate (Regulation and Development) Act, 2016 and the Consumer Protection Act, 2019, or does the former hold primacy over the latter? **(5 Marks)**

### Case study 5

Mr. Vijay Kapur is working as Zonal Head of recovery cell in a reputed public sector bank. The state of Haryana, Punjab, and the region of NCT falls under his zone. This role was assigned to Mr. Vijay recently, considering his better understanding of the provisions of the DRTs, SARFAESI, and IBC. Mr. Vijay decided to review each case and the progress that has been made so far. He comes across a loan case of ESKAY enterprises. The security interest was enforced by the bank against the secured immovable asset (one of the residential properties of the owner, located in Faridabad, Haryana) of ESKAY enterprise under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Later, the bank has given the advertisement for a public auction in two newspapers (one was Economics Time and

another was Rashtriya Sahara) and conducted an auction for the sale of the secured immovable assets. The ESKAY enterprise was not satisfied with the process of advertisement, including the selection of two newspapers that have low circulation in relevant areas; hence they advance a writ petition to the high court for declaring the auction sale invalid.

During the Initial years, ESKAY enterprises show ethical commitment through their conduct and active choices, but later maintaining profit become difficult especially due to cut-through competition; hence ESKAY enterprises started adopting anti-competitive measures to keep their profit intact. Competition Commission of India found the ESKAY enterprises guilty of being the party to anti-competitive agreements hence issues cease and digest notice against ESKAY enterprises. This incident gave a jolt to the brand equity of ESKAY; thereafter it become difficult for to ESKAY maintain its market share resultantly it lands in financial distress.

Mr. Vivek Kapur, a younger brother of Mr. Vijay, is a personal finance advisor. In order to promote his investment advisory firm, he migrates to Chandigarh from Jalandhar. There he booked a 3BHK flat by making the advance payment and agreed to pay the rest of the consideration as per the specified schedule. He made payment of instalments as scheduled. But for the purpose of making such payment, he took some of the money from his aunty and also took the help of his mother. Property is duly registered in name of Mr. Vivek only. The authorities under the Prohibition of Benami Property Transactions Act 1988 mark the transaction as Benami considering the fact that the property is registered in name of Mr. Vivek whereas the title deed (documents of registration) found in the custody of the aunty of Mr. Vivek during a search that was conducted in some other reference.

Ms. Anaya Vaishnava of Delhi who is a renowned architect and interior designer gets the projects and engagement from all across the globe, especially in the Middle East. She developed healthy contacts there and frequently visit there for the work but had the permanent establishment of his firm in New Delhi only. Ms. Anaya resides outside India from 15th May 2021 to 12th July 2021 for the interior decoration of the mansion and stately home. Mr. Anaya is a common friend of Mr. Vivek Kapoor and Mr. Gourav Taneja.

Ms. Anaya used to travel through some specific airline company hence crew members and pilot staff turned acquaintances with her. Mr. Gourav Taneja was one such pilot. With help of some crew members and the knowledge of the pilot (Mr. Gourav), Ms. Anaya smuggled 20 bars of gold into India. Further with help of Mr. Vivek, the same is converted into cash and then integrated into the formal financial system as untainted money. Later the enforcement directorate discovered the transaction, and hence booked Mr. Gourav and some other crew members under the provision of the Prevention of Money-Laundering Act, 2002. Where Mr. Kapoor and Ms. Anaya managed to escape.

Ms. Anaya has flown away to the Maldives on 11th December 2021 as India has no Extradition Treaty with the Maldives, She decided to settle there and started practicing her profession of the interior designer there and never returned back to India thereafter. Employees working for Ms. Anaya lost their job as firms were seized and confiscated.

The housing project in which Mr. Vivek booked a flat comprises flats, floors, and an independent villa. The promoter of the project is Kailash Realtor Private Limited (KRPL), which is renewed for timely possession and state of art outlook of the common area. The Gross floor area of 3BHK flats, one such booked by Mr. Vivek is 1600 sq. ft. The area of the internal and external walls amounted to 180 sq. ft and 112 sq. ft respectively. There are two exclusive balconies and the total area of both of them is 60 sq. ft. Each allottee is granted a smart card that will help them to access the facilities at the gym, club, swimming pool, community hall, and some other miscellaneous services. Landscapes are developed as part of the project and these are capable to attract every passer-by.

Being true to the repute of KRPL, the construction was completed on the time, and possessions were given to respective allottees. For upkeep and maintenance of the common area, an association of allottees has been formed, which is yet to be registered under the concerned act. In absence of local laws, the promoter handed over the documents and plans, including that of common areas, to the association of allottees.

**I. Multiple Choice Questions (2 Marks each)**

5.1 Mr. Gourav Taneja is guilty of committing an offence under section 3 of the Prevention of Money-Laundering Act, 2002 which is punishable under section 4. The nature of the offence of money laundering is;

- (a) Cognizable, Bailable
- (b) Cognizable, Non-bailable
- (c) Non-cognizable, Bailable
- (d) Non-cognizable, Non-bailable

5.2 Regarding anti-competitive agreements stated in the Competition Act, 2002 pick the option that depicts the correct match of the followings.

A. resale price maintenance	1. Agreement to limit, restrict or withhold
B. exclusive supply agreement	2. Restricts, or is likely to restrict, to whom goods are sold or from whom goods are bought
C. tie-in arrangements	3. Agreement restricting dealing in any goods other than those of the seller
D. refusal to deal	4. A condition that the prices to be charged
E. exclusive distribution agreement	5. Condition to purchase some other goods

- (a) A – 2, B – 3, C – 4, D – 5, E – 1
- (b) A – 4, B – 1, C – 5, D – 2, E – 3
- (c) A – 4, B – 3, C – 5, D – 2, E – 1
- (d) A – 2, B – 1, C – 5, D – 4, E – 3

5.3 Identify the correct carpet area of the 3 BHK flat purchased by Mr. Vivek out of the option given below;

- (a) 1248 sq. ft
- (b) 1428 sq. ft
- (c) 1560 sq. ft
- (d) None of the above

5.4 Promoter shall handover the necessary documents and plans, including common areas, to the association of the allottees within;

- (a) 30 days after obtaining the occupancy certificate
- (b) 30 days after obtaining the completion certificate
- (c) 1 month after obtaining the occupancy certificate
- (d) 3 months after obtaining the occupancy certificate

5.5 Ms. Anaya returned back to India in July 2021, state the maximum date by which she must surrendered the unspent/unused foreign exchange.

- (a) 10<sup>th</sup> October 2021
- (b) 9<sup>th</sup> November 2021
- (c) 11<sup>th</sup> December 2021



(d) 8<sup>th</sup> January 2022

## II. Descriptive Questions

5.6 Regarding the purchase of a 3BHK flat for Mr. Vivek, you are required to advise on following issues pertaining to the said transaction;

(a) Can the authorities under the Prohibition of Benami Property Transactions Act 1988 based upon the fact that property is registered in the sole name of Mr. Vivek whereas the title deed (documents of registration) found from the custody of the aunty of Mr. Vivek during a search, mark the transaction of purchase of 3BHK flat as Benami? **(2 Marks)**

Is there any circumstantial evidence that can be used as a litmus test for determining the nature of the transaction as Benami or Not? **(3 Marks)**

(b) Will it make any difference if the title deed is also in possession of Mr. Vivek? **(2 Marks)**

Providing support to your answer/opinion.

5.7 Regarding the sale of immovable secured assets of ESKAY enterprises by the bank (the secured creditor) under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, you are required to advise;

(a) Procedure to be followed for the advertisement the sale of the immovable secured assets along with content that it must comprise of; **(4 Marks)**

(b) Can an auction conducted by a bank in case of ESKAY enterprises be declared invalid?

**(4 Marks)**