

Test Series: May, 2020

MOCK TEST PAPER 1
FINAL (NEW) COURSE GROUP – II
ELECTIVE PAPER 6D: ECONOMIC LAWS

Time Allowed – 4 Hours

Maximum Marks – 100

Attempt any four Case Studies out of five. Each Case Study carries 25 Marks.

Case study 1

JAYESH has 3 sons, **SUBHASH**, **GIRISH** and **RAJESH**. The eldest son **SUBHASH** runs a Sugar Mill taken over from his father **JAYESH**, as a family business.

RAJESH, the third son of **JAYESH**, always feels ignored by his family, looking for some fast easy money, joins hands with **MOHAN**, a Real Estate Agent, who promises to pay **RAJESH**, a commission in cash, if he helps **MOHAN** to buy 25 Acres of Land and hold the land in his name on behalf of one of his customers **MANU** in good trust and in good faith.

RAJESH agrees and a Purchase Agreement for 25 Acres of Land was registered in the name of **RAJESH** and one **MADHAV**. Subsequently, **RAJESH** entered into several similar agreements in his name on behalf of others.

In due course of time, **RAJESH** also formed a Company **JEEVAN JYOTHI PVT LTD (JJPL)**, primarily for the hotel business, but the source of funding was secret drug dealings.

Following was his modus operandi reflecting the conduct of business:

- (A) **JJPL** accepted illegal monies in cash as legitimate business transactions with fake income and receipts.
- (B) The monies were then deposited into the Bank accounts of **JJPL** as clean money.
- (C) **RAJESH** also kept fraudulent records, which did not demonstrate the current state of his businesses.
- (D) Monies in the Bank Accounts of **JJPL** were also often transferred as legitimate business transactions, to the Bank Accounts of **RD Pvt. Ltd (RDPL)**, which is also in the similar businesses like **JJPL**. Original source of money was thus disguised.
- (E) **JJPL** also mobilized funds from various investors, but were never utilized for which they were collected. .
- (F) **RAJESH** also created a complex structure of Group Companies, subsidiaries and associate Companies, which were mainly paper /shell companies.
- (G) **JJPL** also took loans from various banks and financial institutions. The Funds were diverted and transferred to bank accounts of group companies, from where they were systematically siphoned off and were used for purchase of various properties in India and abroad.

RAJESH led a lavish lifestyle. He also utilized the illegal cash for lavish stays in various hotels and in night clubs in India and abroad. **RAJESH** also held some properties purchased in the name of his wife **SUGUNA** from his known income from legal sources i.e. from his share of income from the Sugar Mill.

MAHESH, a friend of **GIRISH** is the Company Secretary of a listed Public Limited Company **BBC Ltd**.

- (a) **MAHESH** gives Rs. 5 lacs loan to **GIRISH**, who in his turn gives loan of Rs. 5 Lacs to his friend **RAGHU** for investment in the shares of **BBC Ltd**. **RAGHU** trades in shares of **BBC Ltd** on behalf of **MAHESH**.
- (b) **MAHESH** also ensures that some money is passed on to various legitimate Companies to buy the shares of **BBC Ltd** so that it results in increase in the price of shares.
- (c) Intention is to show higher valuation of shares before proposing to the investors or to discourage the shareholders from applying to the buyback scheme.

RAGHAV is the brother in law of **SUBHASH**, employed in UAE and a non resident Indian.

- (a) **RAGHAV** purchased some properties in Mumbai for Rs. 75 Lacs. He paid Rs. 40 Lacs through his NRE Account, Rs. 10 Lacs through direct transfer from his salaries account in UAE to the sellers account as advance through normal banking channels, complying with all the procedural requirements, but balance Rs. 25 Lacs payment was made through some unknown sources.
- (b) **RAGHAV** also invested in Equity shares of various Listed Companies in India in the name of his wife **DIVYA**, who is a Resident in India and himself as joint holders from an account not disclosed to tax authorities in India.
- (c) **RAGHAV** also purchased a Flat in Mumbai in the name of **DIVYA** and himself as joint holders from his NRE Account.

SUBHASH has a married daughter **MANGALA**, who is a UK resident. **SUBHASH** invested Rs. 1.50 Crores in a Bank Fixed deposit in the name of **MANGALA** without her knowledge. Later during the course of enquiries by Tax officials **MANAGALA** denies ownership of Bank Fixed Deposit.

The Enforcement Directorate (ED) conducted raid operation against **RAJESH** and his associates, after his office obtained some inputs on the purported dubious financial transactions. ED seized incriminating documents, emails and What's App Chats during raids.

Your professional advice is sought, by answering the following:

Multiple Choice questions (MCQs): (2 Marks each for 5 questions) Total 10 Marks

1. Raghav purchased some properties in Mumbai for Rs. 75 Lacs. He paid Rs. 40 Lacs through his NRE Account, Rs. 10 Lacs through direct transfer from his salaries account in UAE to the sellers account as advance through normal banking channels, complying with all the procedural requirements, but balance Rs. 25 Lacs payment was made through some unknown sources. The purchase of properties here :
 - (A) Is a Fully valid transaction
 - (B) Is valid to the extent of Rs.40 lacs
 - (C) Fully invalid transaction under Indian law
 - (D) May be Invalid under Indian law to the extent of Rs. 25 lacs, since made through some Unknown sources.
2. Which one of the following transactions of Rajesh is Valid and lawful?
 - (A) Transaction in respect of a property, where the person providing the consideration to Rajesh is not traceable.
 - (B) An arrangement by Rajesh in respect of a property made in a fictitious name

- (C) Property held by Rajesh in the name of his spouse and consideration paid out of known legal sources
- (D) A transaction by Rajesh in respect of a property where the owner is unaware of or denies knowledge of the ownership
3. Mahesh gives Rs. 5 lacs loan to Girish, who in his turn gives loan of Rs. 5 Lacs to his friend Raghu for investment in the shares of BBC Ltd. Raghu trades in shares of BBC Ltd on behalf of Mahesh. Share Trading by Raghu on behalf of Mahesh is:
- (A) Valid transaction since he is not at all connected with BBC Ltd
- (B) Can be proved as unlawful trading in stock markets by Mahesh, the Company Secretary, who has insider price sensitive information
- (C) The transaction is not at all to be considered unlawful or invalid
- (D) Valid transaction if Girish does the share trading on behalf of Mahesh, out of the loan of Rs. 5 Lacs given by Mahesh
4. JJPL also took loans from various banks and financial institutions. The Funds were diverted and transferred to bank accounts of group companies, from where they were systematically siphoned off and were used for purchase of various properties in India and abroad. Proceeds of crime is projected or attempted to be projected as untainted property. Which one among the following statement is correct?
- (A) Such offenses are non-cognizable
- (B) Such offenses are always bailable
- (C) Such offenses are cognizable and always non-bailable
- (D) Such offenses are cognizable and non bailable, however bailable only subject to certain conditions
5. Monies in the Bank Accounts of JJPL were also often transferred as legitimate business transactions, to the Bank Accounts of RDPL, which is also in the similar businesses like JJPL. In respect of transactions done by JJPL, the crime money injected into the formal financial system is layered, moved or spread over various transactions in different accounts. This step under the relevant law is referred to as:
- (A) Smurfing
- (B) Integration
- (C) Layering
- (D) Placement

Descriptive questions (Total 15 Marks)

1. Also citing the incidence/s in the aforesaid case, name the relevant applicable Act and critically analyze the statement “the provisions of the Act need not necessarily applicable only to persons , who try to hide their properties , but may also sometimes apply to genuine properties acquired out of disclosed funds” **(5 Marks)**
2. Rajesh formed a Company JJPL, primarily for the hotel business, but the source of funding was secret drug dealings.

- (A) Is secret drug dealings and then disguising that original source of money a predicate offence? Is there any difference between a Scheduled Offence and a Predicate Offence? **(2 Marks)**
- (B) Who investigates predicate offences? **(1 Mark)**
- (C) What are the possible actions that can be taken against Rajesh or JJPL or other concerned persons in the above case for their offences? **(2 Marks)**
3. The Enforcement Directorate (ED) conducted raid operation against Rajesh and his associates, after it obtained some inputs on the purported dubious financial transactions.
- (A) What are the rights of Rajesh and his associates, being searched during search? **(3 Marks)**
- (B) What are the rights of Rajesh during his arrest, in case arrested? **(2 Marks)**

Case study 2

Mr. Mohit Agarwal is an engineering graduate from one of IITs in civil stream. He has high dream about his career and started his own business in the form of private limited company named 'Sweet Homes Private Limited' in association with one of his class mate and best buddy Mr. Rohit. Both Mr. Mohit and Mr. Rohit were the directors of said company.

Mr. Rohit was responsible for administration of company and for raising the finance. On behalf of Sweet Homes Private Limited, he met various Angle Investors and Venture Capitalists to raise requisite amount for funding initial projects. Sweet Homes Private Limited was formed to offer affordable housing for lower income group through its initial project 'Hamara Ghar'. Elevator pitch by Mr. Rohit convinced Mr. Kapil Shangito to fund seed capital of INR 1.5 crore in Sweet Homes Private Limited.

Project 'Hamara Ghar' although is located in outskirts of city, but surrounded by greenery and approach from national highway is pretty well. Railway station is just 1.5 kilometers away. It comprises of 18 apartments in total area of 500 Square Meters in form of 6 legs of 3 floors each (including ground floor).

Land for project 'Hamara Ghar' purchased from Mr. Verma (Renowned and influential industrialist who invest in real estate sector as well) on 3rd October 2019 for INR 90 lakhs. Mr. Verma through his influence tried to take Mr. Mohit under pressure to make half of payment in cash and remaining half in form of account payee cheque, in order to reduce his capital gain liability, to which Mr. Mohit not agreed at all and mentioned that payment will be made entirely through account payee cheque only.

Mr. Mohit also did not wish to loose deal from his hand, hence agreed at second request from Mr. Verma, to make payment of INR 90 lakhs entirely by account payee cheque in favour of M/s Verma Spun Private Limited (One Person Company); instead of Mr. Verma. After few days, Mr. Verma received the show cause notice from office of Assistant Commissioner of income tax, to show cause why should provision of Prohibition of Benami Property Transaction Act, 1988 not applied to him.

'Hamara Ghar' is innovative project of its own type. Under this project, affordable housing will be made and architected in such a manner that there will be fresh air ventilation and rooms will remain largely unaffected by external weather, especially in summers and will also be in accordance to vastu requirements. For expertise on space management, 'Perfect Square Consultancy' an Italy based architect firm was hired. Perfect Square Consultancy raised a bill of US \$ 4000 on Sweet Homes Private Limited.

Each apartment is comprising of gross area of 70 Square Meters, including internal partition walls (which amounts to 3% of gross area of apartment); and also including exclusive balcony of 2 Square Meters. Since said apartments are part of affordable housing scheme, hence sale price of each apartment will be kept at INR 30,000 per Square Meter of super build-up area, which is relatively much lower than prevailing market prices of INR 45,000-50,000 per Square Meter. The estimated cost as of now of entire project will be about INR 3 crores.

Soil testing, legal aspects in reference to Municipal Corporation of city, agreement with fund provider, maintaining escrow account and selection of vendors etc. had been done in mean time, in order to meet expected project delivery date 12th May 2020.

Home Advisor is famous property advisor of city who has been hired for the Project 'Hamara Ghar'. Hence, Home Advisor was appointed as authorized real estate agent for project Hamara Ghar, on 11th November, 2019. Home Advisor is registered with Real Estate Regulatory Authority of state in which it's having registered office situated.

Home Advisor started advising their clients about the affordable houses from Sweet Homes Private Limited and within first five days identified 4 clients, who offered advance to book the apartments under Project 'Hamara Ghar'. Advance collected was deposited into current account of Sweet Homes Private Limited.

Application for project approval was moved to Real Estate Regulatory Authority on 15th November, 2019 along with necessary details and prescribed fees, by Sweet Homes Private Limited. Project Hamara Ghar got nod from Real Estate Regulatory Authority on 2nd December, 2019.

Sweet Homes Private Limited began the construction from 20th December, 2019. By 25th, December, all the apartments booking reaches to 100%. Allottee/buyers were provided with the estimated layout and other specification which was earlier provided to Real Estate Regulatory Authority. But on 20th January, 2020, Sweet Homes Private Limited made certain changes in specification on advice of site engineer. Such changes is not alteration to major layout, but significant in nature. Majority of allottee didn't wish to accept the proposed changes. Allottee making argument that they took the decision of purchase based upon initially specified promises after which changing specification was ethically incorrect.

Multiple Choice Questions (2 Marks each: Total 10 Marks)

1. Carpet Area for each of apartment offered under project 'Hamara Ghar' as per applicable provisions of RERA is:
 - (A) 70 Square Meters
 - (B) 67.9 Square Meters
 - (C) 68 Square Meters
 - (D) 69.9 Square Meters
2. Out of the following, who can be initiating officer apart from Assistant Commissioner for attachment of the property?
 - i. Income Tax Officer
 - ii. Deputy Commissioner
 - iii. Joint Commissioner
 - (A) Only i above
 - (B) Only ii above
 - (C) Both i and ii above
 - (D) Both ii and iii above
3. Changes proposed by Sweet Homes Private Limited need to be approved through written consent by:
 - (A) All 18 allottees
 - (B) Atleast 14 allottees

- (C) Atleast 12 allottees
 (D) Atleast 10 allottees
4. How much can be the maximum amount of consultancy charges which can be remitted by Sweet Homes Private Limited without RBI approval, presuming it is infrastructure project:
- (A) US \$ 1,000
 (B) US \$ 10,000
 (C) US \$ 100,000
 (D) US \$ 10,000,000
5. Real Estate Regulatory Authority (RERA) must approve or reject the application for registration of Sweet Homes Private Limited maximum by
- (A) 30th November, 2019
 (B) 15th December, 2019
 (C) 30th December, 2019
 (D) 14th January, 2020

Descriptive Questions (15 Marks Total)

1. Is act of Sweet Homes Private Limited, was offering apartments at prices lower then prices prevailing in market. Examine whether the said situation will be considered as predatory bidding under the Competition Act, 2002. **(5 Marks)**
2. In response to the notice issued from Assistant Commissioner of Income Tax (ACIT), Mr. Verma appeared in office of ACIT. ACIT compelled Mr. Verma to produce books of accounts and record evidence on affidavits, to which Mr. Verma tried to avoid by stating, the same could not come within powers of ACIT. Explain powers of authorities and state whether ACIT is justified or not. **(5 Marks)**
3. (a) Sweet Homes Private Limited offered the apartment at price of INR 30,000 per Square Meter of super build-up area. Is this correct method of pricing under the Real Estate (Regulation and Development) Act, 2016? What can be the price of apartment and how much should be advance or booking money? **(3 Marks)**
- (b) The Real Estate (Regulation and Development) Act, 2016 imposes certain responsibilities/functions on registered Real Estate Agents. Explain the legal position of 'Home Advisor' and is there any act of 'Home Advisor' constitute an offence. **(2 Marks)**

Case study 3

Mr. Mukesh Shroff is one of the biggest business tycoons of Delhi. His wife name is Mrs. Sanjana Shroff. They got married in the year 1989. At that time Mr. Shroff was working as a Manager in Finance Department. After his marriage, Mr. Shroff decided to quit his job. He decided to start his business on his own. He laid the foundation of the Shroff Ltd, in the year 1990. He registered his company with Registrar of Companies at Dwarka, Delhi.

Mr. and Mrs. Shroff have two sons and a daughter. His elder son name is Anuj. He has pursued his MBA (Finance) degree from Stanford, America. His wife name is Amrita. They both have two children Somya and Ronit.

Mr. Mukesh Shroff daughter name is Ranjana. She got married in the year 2014 to a foreign national. His husband name is Mr. George Samuel, a citizen of London, United Kingdom. Mr. Mukesh Shroff's youngest son is Rohit and his wife's name is Ashima. They have one child who is four years of age and his name is Anshul.

Mr. Mukesh Shroff's Company has become a leading company and a well-known brand. One of the unit of his company manufactures cement in India. Since 2002, Mr. Shroff's company became the second largest company of India in the field of cement manufacturing. The other five top companies of India includes, Rajasthan Cement, Alen Cement, Rudra Cement and J.V.P. cement company. Jointly all these five companies (including Shroff Company) owns 82% of market shares in cement manufacturing in India. All these companies are not only leading manufacturers, but they also directly deals in distribution and selling of cement in India. In the year 2013 all these five companies raised cement price by 2%. All the companies restricted the production and supply of cement as against the available capacity of production.

Again in the year 2014 the above mentioned Companies raised the sale price of cement by 1.5%. Despite the increase in prices the production never increased. As a result the building cost went high. The real estate business got affected terribly. The "All Indian Builders Association" raised their objections on the constant rise in the prices. They concluded it to be a monopolistic and restrictive trade practice. They all decided to file a complaint with CCI.

Mr. Anuj is a Director of the Shroff Company. Mr. Anuj has a huge passion for the investment in good properties. In the year 2014, he wanted to invest in two flats located near lush green vicinity of Noida. The project in which he wants to buy the two flats is constructed by Rainbow Estate Construction company. The area in which the building is going to be constructed is 700 Square meters. The project is registered with the authority as per the provision of RERA. He made all the enquiries regarding the project details, sanctioned plans, and plan layouts. He also cross checked all the listed details on the Authorized website of RERA.

The stage wise schedule for completion of the work, was listed date wise in the plan. The work commencement certificate was issued in February 2014. The carpet area of the 3BHK flat was 1340 Sq meters with modular kitchen. The agreement of sale was signed between the builder and Mr. Anuj. Mr. Anuj paid ten percent of the total amount via cheque. The proposed date for the completion of the project was December 2019. But the builder was not able to complete the work according to the mentioned dates, slab wise. The builder due to some unavoidable circumstances unable to complete the project on time. The builder held the meeting of all the allottees to intimate them about such delay and also apologized for it.

Whereas in "Z" state, there are eight sugar mills. The State Government was of the view that they made various attempts for rehabilitation but it did not yield any positive results, therefore it took a decision to disinvest in the Sugar corporation and to sell all its shares. But that strategy did not work out and the State Government decided to sell it to Private companies. The government of "Z" state published an "Expression of interest cum request" for qualification as well as a "Request for proposal" inviting bids for sale from different companies. Mr. Mukesh Shroff submitted the tender and got qualified as a bidder for four of such Mills. There were in total 8 sugar Mills.

The bidding took place on the scheduled date. Mr. Shroff also participated in the bidding. Out of total 8 bids, Mr. Chopra has two bids finally in his name. Including Mr. Shroff there were three other bidders. It included Sakshi Sugar Mill, Triveni Company and Amar Sugar Company. Against the total expected price of Rs. 370.30 Crore, only Rs. 183.80 crore were realized resulting in a short realization of Rs. 186.5 Crore. Only one bid was submitted at a time for the particular Mill means one bid has been received for each of the 8 Mills. It was found that 5 of the Directors were common in the 3 companies i.e. Triveni, Sakshi and Shroff Company. Amar Sugar Manufacturing Company is the holding company of Triveni Company. So the correspondence address, email id and contact numbers of both Triveni Company and the Amar Sugar

Company were the same. Amar Sugar Manufacturing Company held 79.6% of the equity shares in the Triveni Company. A writ petition was filed by the Union of workers of two mills challenging the privatization policy of the State Government. The CCI on report published by CAG, Suo moto initiated investigation on the slump sale and found that there were serious irregularities in the process.

Mrs. Ranjana, daughter of Mr. Mukesh Shroff who is married to Mr. George Samuel visited India last year in January 2018 to meet her family. She was very keen in making investments in India. On the recommendation of his father she decided to invest in the shares of the Indian companies. As the Indian share market was giving good return on the long-term investments, she purchased Rs. 15,00,000 shares in the ten different listed companies with BSE. Mrs. Ranjana wanted to invest in a farmhouse near Guru gram. The lush green farmhouse is widespread having a total area of 25 acres. Both Mr. George and Mrs. Ranjana agreed to buy the farm house as it deemed to be a fruitful investment. An agreement to Sale was signed between the farm house owner and Mr. & Mrs. Samuel. The property got registered in the name of Mr. & Mrs. Samuel. They organized a grand party there and flew back to London after a month. In December 2019, Mrs. Ranjana and Mr, George visited back to India as Mr. Shroff met with an accident. While there visit to India they came across a very lucrative deal. A 4BHK was available in Mumbai at a cost of Rs. 8 Crore. The property was sea facing and in one of the posh localities of Mumbai. They met the promoter and finalized the deal. The flat was jointly registered in the name of Mr. & Mrs. Samuel.

Mr. Mukesh Shroff last year started one more company which manufactured mobile phones in India. The mobile company got registered as "S-plus Mobile Company". The company was managed by Mr. Mukesh Shroff's youngest son Mr. Rohit Shroff. Mr, Rohit Shroff became the CEO of this company. For acquiring the technology for this new business, the company approached one of the international company called "Zebrotonic". Mr. Shroff Company took a global patent from the Zebrotonic, under which it paid the royalties to the Swedish telecom gear maker on every mobile phone they will sell in India and overseas that uses 2G, 3G or 4G technology. The company agreed to pay 2 percent of the sale price of devices to Zebrotonic. Mr. Rohit on 20th November 2019, signed an agreement with one of the leading e-commerce giant in India to sell the mobile phones. One of the consumers, who wanted to purchase this phone made a complaint to CCI that these e-commerce websites have been indulging in anti-competitive practices in the nature of exclusive agreement with the seller of good/services. The informant further stated in his application that the consumer was let with no option and was bound to either purchase the product as per the terms of the website or not to purchase the same.

Multiple Choice Questions (2 marks each with total 10 marks)

- All the five Companies including Mr. Shroff's Company twice raised the price of cement by 3.5%.The All India builders Association filed a complaint with CCI against it. Determine the correct statement according to the provisions of the Competition Act, 2002? .
 - The Companies marginally increased the price so it doesn't affected competition in India
 - Their is no such written agreement between the Companies, by which it can be proved that had adversely affected the market.
 - The raise in price by all the five Companies will adversely affect competition in India and is void.
 - Only the cement manufacturing company, which is affected with such increase in price can file a complaint.
- As alleged by the informant that exclusive agreement for sale of goods, by manufacturer with the e-commerce website is violating the provisions of Competition Act. According to the provisions of the Competition Act, choose the correct statement.

- (A) Exclusive agreement between both e-commerce company and Manufacturer violates the provision of section 3(4)
- (B) Exclusive agreement between both e-commerce Company and Manufacturer is not violating Section 3.
- (C) Under section 3(1) the exclusive agreement in respect of manufacturing, supply, and sale via e-commerce platform, will cause an appreciable adverse effect on competition within India.
- (D) The e-commerce company is misusing its position under section 4 of the Competition Act.
3. Mr. George Samuel, is a foreigner, as per the provisions of FEMA can he acquire any property in India?
- (A) A foreign national needs prior approval of RBI to purchase property in India.
- (B) Only an NRI or an OCI can purchase property in India.
- (C) Mr. George can purchase any property in India under the provisions of FEMA.
- (D) Mr. George can only purchase a joint property with his spouse
4. Mr. George and his wife Mrs. Ranjana purchased a farm house near Gurugram. According to the provisions of FEMA is it a legal transaction. Choose the correct option?
- (A) An NRI can co-jointly buy a farm house in India with any resident Indian.
- (B) An NRI can co-jointly purchase farm house even when his/her spouse is an NRI.
- (C) An NRI is not eligible to purchase any farm house in India.
- (D) An NRI cannot purchase a farm house, co-jointly with his/her spouse being of foreign national
5. All The four Companies seems to doing some settlement within themselves for sugar mill tenders and acquisition process. In what perspective will you view this transaction. State the correct option.
- (A) The agreement between the Companies may be viewed as a partial agreement of understanding.
- (B) The agreement between the Companies can be viewed as an exclusive agreement, adversely affecting the process and manipulating the bidding completely.
- (C) The agreement between the Companies was to shares the market or source of production by way of allocation of geographical area of market after bidding.
- (D) The agreement between the Companies can be viewed as an collateral agreement only to restrict the price of each mill before bidding.

Descriptive Questions (15 Marks)

1. The Rainbow Estate construction assured the allottees of the flat that they will be given possession on time. But they are unable to complete their construction on time. What remedy will you suggest? Explain as per the terms of the relevant Act, the remedies available to Rainbow Estate construction in the said situation. **(7 Marks)**
2. The Competition Commission of India on its own motion, issued a notice to all the bidders under Section 41(2) and Section 36 (2) of the Competition Act regarding entire tendering process. All the bidder didn't reply to the notice, as they took a plea that a civil case is pending, and matter is sub-judice. Analyse the given situation according to the provisions of Competition Act, 2002 whether the commissioner has the power to investigate the matter or not? **(8 Marks)**

CASE STUDY 4

Mr. Rajeev was born in 1988 in a small village in Gujarat. His father Mr. Raju was a farmer. He used to cultivate paddy, jowar and ragi crops in a plot of land which was owned by him. He had bought the agricultural plot of land at Warna with his hard earned money. Since Mr. Rajeev was the only child of Mr. Raju, Mr. Raju ensured to fulfil all his wishes. Mr. Raju's brother Mr. Suresh was a graduate in Science and sister Ms. Alka was a graduate in Economics, were settled in South Africa. Mr. Raju's brother and sister used to help Mr. Raju with his farming in India by sharing with him skills that were undertaken in South Africa. Mr. Raju was very keen to learn these techniques and ensured its effective implementation on its field. As of results, he used to gain profits in the productivity of the crops. Because of their regular support, to oblige them Mr. Raju always thought to send gifts or do some favour for them and the families members. But the officers in the village used to haunt him by stating that the legal laws relating to foreign exchange are draconian.

Mr. Rajeev was a bright student and through scholarships, earned a graduate degree from a foreign university. Mr. Rajeev was very good at sports activities, extra-curricular activities in the school. He used to participate in interschool chess and football competition and win accolades for his school. By god grace, he is well established man working in MNC.

On 10th June, 2002, Mr. Rajeev acquired 4 BHK residential house in Maharashtra for a value of Rs.2 crore from a widow who was in dire need of money and one commercial property in Kerala for Rs.3 crores. He acquired both these properties through his earned money. He had two saving bank accounts, one in Bank of Baroda and the other in Canara Bank. Both the bank accounts together had a balance of Rs.10 lakhs. On 10th April, 2018, he left to South Africa for better career opportunity. He got married there with a foreign national, Loreana D'costa. Loreana has obtained Master's degree from Stanford University and works in a Fortune 500 company at South Africa as Head-Product Marketing. On 28th April, 2018, Mr. Raju remitted USD 25000 and on 29th April, 2018, another USD 25000 through Liberalised remittance Scheme to his son to meet out his expenses there. Soon he opened his own company there.

On 28th November, 2019, Mr. Rajeev visited his village with his wife. Loreana was fascinated of Indian culture since from her childhood. She always had a dream of getting married in India as per the Hindu Rituals. Thus, Mr. Rajeev and Loreana again got married in India as per the Hindu Traditions. They undertook various rituals in India related to wedding which lasted for 10 days.

Mr. Rajeev have come with a start of business idea in India. He opened a Liaison Office in India by the name "Shiv Shakti Trading Inc". The Liaison Office in India transferred funds to Mr. Rajeev's company in South Africa, as it was in immediate need of funds. Further, it received back the said funds after six months. The auditor of the Liaison Office pointed out to the Authorised Representative that the aforesaid transfer of funds is not in line with the RBI policies. The Authorised Representative of the Liaison office is totally shocked by seeing the auditors remarks. He is completely unaware about the RBI policies pertaining to Liaison Office. The Liaison Office was planning to open more bank account of the liaison office to route all the salary payments through the new account.

Since Mr. Rajeev was a rich man and a foreign return with love for his village where he was born and bought up, he was invited as the guest speaker in a function organised by the Gram Panchayat.

He addressed the crowd with warm greetings and gave following speech:

"I, Mr. Rajeev, son of a farmer is enthralled to address my fellow mate and my elders. With the divine blessings of my father, I am capable to stand in front of you all!

It was my father's dream to see his village progress in all the directions- be it cleanliness, modern techniques of farming, educationI will try my best to fulfill his wish. Thus, I have prepared a model plan for this year as under:

- To set up five schools in the village where education is compulsorily to be taken by all the boys and girls.
- To ensure that there is a toilet in every 500 metres and all the villagers will compulsorily have to use the toilets only.
- To undertake agriculture through modern techniques-Intensive tillage, monoculture, application of inorganic fertilizer, irrigation, chemical pest control and genetic manipulation of crop plants.

I shall call a famous agriculturist Mr. Parekh who will visit each and every farm in our village and examine the land in detail and guide the farm owners on how to maximise the cultivation and ensure effective use of land.

I have created a blog “My village –My Dream”, request you all to give your views on the activities to be undertaken in our village.”

After the function got over, he gave donations to various NGO’S which were engaged in the various activities for the improvement of living of the peoples in the various villages as mentioned hereunder:

- Swatch Bharat Mission- Rs. 1 Lakh
- Development of schools in villages under Saksharta Mission - Rs.10 lakhs
- Organisation of cultural festivals-Rs.5 lakhs

All these donations were made through the funds lying in his foreign banks accounts which he had earned in South Africa.

Since Mr. Rajeev generously contributed to various charitable activities, he in turn got a favour done from the head of the Panchayat of his village. On December 30,2019, he paid Rs. 50 lakhs in cash to buy a house in Gujarat, however, the house was bought in the name of the head of the Panchayat, Mr. Babubhai.

Further, his wife Mrs. Loreana also bought one agricultural land of measuring 1000 Sq Metre in Wada in her own name though her foreign funds. Mrs. Loreana also wished to buy a residential house on the outskirts of Gujarat. However, one local consultant advised her that she cannot buy a residential property as she is a foreigner. Mrs. Loreana without looking into the gravity of the situation visited the brokers on her own to buy the residential house. Mr.Chadha, the broker suggested her to buy the property in joint name with her husband. Further, Mr. Chadha recommended her to submit her visa, her foreign debit cards, her Aadhar and also insisted that her name should be in the ration card records. Mr. Chadha informed her that as a foreign national she is supposed to send all the above documents to buy a property in India. Whereas, Mr. Rajeev bought an agricultural land at Jalol of measuring 2000 Square Metres through his funds lying in his saving account in India.

Mr. Rajeev transferred the agricultural plot of land at Warna received by him through inheritance, to his wife Loreana as a gift. He got all the relevant documents in her name to ensure that she received a proper title in the agricultural land at Warna.

There were news of devastating floods in Kerala which would trash the state. There were also news that the economy of Kerala would go down as the effects of floods would have far reaching impact on all the sectors. Thus, Mr. Rajeev immediately called a real estate agent in Kerala and asked him to sell the property at Kerala. He was ready to sale the property at less than the market price also. His close friend introduced him to one Mr. Akbar. Mr. Rajeev had many rounds of meeting with Mr. Akbar. The deal did not materialise. Then finally, Mr. Rajeev sold the commercial property in Kerala for a value of Rs. 5 crore in the month of January 2020 to Mr. Ajay, resident of India. Then, he got in touch with a relationship manager at HDFC Bank who assisted him in opening an NRO Account in HDFC Bank. He completed all the documental procedures and deposited the sale value of the property in HDFC Bank.

Mr. Rajeev and Loreana left India on 3rd March, 2020 to South Africa. They were happy with their Indian trip and decided that every year they will visit India. In fact, Mrs. Loreana has decided to write a book on the villages in India. She has also decided to market the products of her company in India. She had a word with the CEO of her company and both have decided to explore the possibility. If need be, they shall plan a trip to India in the first week of April itself to finalise the strategies. Mrs. Alka's son who stays in India visited South Africa on 6th March, 2020 for 15 day trip to stay with his cousin Mr. Rajeev and his family. He had carried with him International credit card to meet his expenses. Mrs. Alka's son shall inherit his mother's assets in South Africa. She has following assets in South Africa:

- Two bank accounts –one in Barclays Bank and another in Deutsche Bank
- \$15000 to be received from Google Inc, where Mrs. Alka used to work in South Africa.

Multiple questions

1. After becoming an NRI, Mr. Rajeev can validly transfer inherited agricultural land in India to -
 - (A) Person resident in India
 - (B) Person resident outside India
 - (C) Non-resident which is person of Indian Origin
 - (D) Cannot sell
2. Examine in the light of the given facts whether Mr. Raju can transfer funds under Liberalised remittance Scheme to his grandson, brother's wife and sister's husband?
 - (A) Yes to all the three transferee
 - (B) No, not to all the three transferee
 - (C) Transfer can be made to grandson only and not to brother's wife and sister's husband
 - (D) Transfer can be made to grandson, brother's wife and not to sister's husband.
3. What are the conditions subject to which Loreana can acquire a residential property in India?
 - I. Consideration for transfer should be made from inward remittance from any place outside India.
 - II. The marriage should have been registered
 - III. The marriage should last not for more than two years preceding the acquisition of property.
 - IV. The property should be bought jointly with Mr. Rajeev
 - (A) I & II
 - (B) I,II,III
 - (C) I, II, III and IV
 - (D) I & IV
4. Usage of International Credit Card by Mrs. Alka's son in South Africa requires approval of
 - (A) Reserve Bank of India
 - (B) Government of India
 - (C) None
 - (D) Both Reserve Bank of India and Government of India

5. Can Mrs. Alka's son utilise her assets lying in South Africa in India?
- (A) Mrs. Alka's son can only utilise the funds lying in her Bank accounts.
- (B) Mrs. Alka's son can only utilise the funds to be received from Google Inc.
- (C) Mrs. Alka's son shall require approval of RBI to inherit the funds from her mother.
- (D) Mrs. Alka's son can inherit both the assets of her mother and utilise the same in India.

Descriptive questions:

1. The Initiating Officer issued notice dated 01st Feb, 2020 to Mr. Babubhai to show cause why the Gujarat house should not be considered a Benami property. On 14th April, 2020, the Initiating Officer passed an order provisionally attaching the property with the prior approval of the Approving Authority. On receipt of reference from the Initiating Officer on 14th May, 2020, the Adjudicating Authority issued notice on 24th May 2020 to Mr. Babubhai to furnish the necessary papers of the agreement within 10 days from the date of this notice. After taking into all the materials furnished, Adjudicating Authority passed an order holding the property to be a Benami property. The Adjudicating Authority after giving Mr. Babubhai an opportunity of being heard made an order for confiscating the Benami property.
- (a) Whether the steps followed by Initiating Officer is correct. If not, then kindly provide the correct steps which need to be undertaken by him.
- (b) Mr. Babubhai's contention was that the Adjudicating Authority provided such a short span of time to furnish the necessary papers. Is Adjudicating Authority wrong in providing such a short span of time to furnish the information?
- (c) Mr. Babubhai after receiving the order for confiscating the property, decided to sell the property to a villager for Rs. 10 lakhs. Kindly guide Mr. Babubhai on the same.
2. I. What are the formalities Mr. Raju would have to follow for remitting the funds through Liberalised Remittance Scheme?
- II. Mr. Raju was insisting the banker to undertake the remittance without furnishing the PAN. He was constantly nagging with Bank officials that none of the authorities would come to know about it and he is ready to submit the self-declaration. Kindly inform Mr. Raju about the provisions of the Act read with rules and regulations.

Case study 5

Delight Business Solution (DBS) was established by Mr. Madan Shukla around 20 year back. DBS was constituted essentially in form of proprietor-ship concern and later converted into private limited company and Mr. Shukla & Mrs. Mamta Shukla (Wife of Mr. Madan Shukla) became the subscriber and member. Company is famous for high performance desktop based personnel computer, but as the Information Technology (IT) industry grows the technique developed over the period; resultantly prices starts declining; and the big fat profits which earlier DBS used to earn; starts eroding.

DSB was primarily dealing in computers, spares and accessory thereto. DBS entered into trading and repair of laptops, and start offering maintenance services to small and medium entities in regards to IT equipment and infrastructure; in form of Annual Maintenance Contract (AMC) at just INRs 999 per equipment and per year with plan called 'AMC@999'. 'AMC@999' makes DBS famous among corporate houses also. Since the price charged (INRs 999) is pretty much less then what other are charging and even below the cost incurred by DBS; but in few days DBS start getting contracts from larger clients and become famous for its AMC deals. After few months when DBS acquired significant market share; the prices of AMC increased from INRs 999 to INRs 1499.

In order to diversify DBS entered into two another sectors, one being information technologies enables services (ITeS) in which it offers customized software's (ranging from accounting packages to human resources solutions) and business process outsource (BPO) services in form of private company 'DBS Consultancy Services Private Limited (DBSCS)'; and other being development of real estate in form of private company 'DBS Realtors and Developers (DBSRD)'

Minister of urban local bodies in one its press conference gave hint about Governments' intention to remove prohibition on Foreign Direct Investment (FDI) in real estate sector. Various trade group through trade association reach to government with their concern (adverse effect on domestic industry & competition) and request not to launch FDI in real estate, since election are due in major states in year or two to come, hence Central Government send matter for reference to Competition Commission(in order to give assurance to such trade groups that anything which detrimental to their concern will not be turn-up) to assess the validity of concern shown by different trade group. Competition commission gave its opinion to the government regarding prospective effect on competition but Central Government not considers the advice or opinion of Competition Commission and said change in FDI policy is essential part of government plan.

BPO business of DBS is not doing well, Hence Mr. Shukla decided to wind-up the BPO business, but concerned about the realization of huge investment done in building and furniture. Such building is structured in such a way that can't be converted into residential property and situated in industrial area too. Mr. Shukla consults his legal advisor for identifying DBSCSs' eligibility for moving the application for initiation of insolvency process of DBSCS, to adjudicating authority.

First real estate project of DBS is big hit, because government announces the list of 100 cities selected for mission smart city and city in which DBS started its first project is one among them. All the apartment were booked in the first week of opening of booking after the advertisement. Cost of each apartment is INRs 70 lacs. Advance of INRs 10 lacs collected from all the allottees and allotment letter issue in their name. Agreement for sale for few apartment are still pending to be entered, and some are pending for registration.

Mr. & Mrs. Shukla plan to visit New-Zealand for holidays. There they met Mr. Binni who is cousin of Mrs. Shukla. He was settled in Christchurch since 1990 although from Indian origin & was in the business of manufacturing and trading of food and beverages. Presently the business of Mr. Binni is in flourish status and he planned to open a branch office at India, for which he asked Mr. Shukla to help him in identifying suitable property. Mr. and Mrs. Shukla convert Indian rupees of worth USD 500,000 through authorized dealer. While on foreign tour Mr. and Mrs. Shukla repatriate and spent amount equal to USD 450,000.

Mr. Shukla told Mr. Binni about his building in BPO business. Mr. Binni agrees and finally same building sold to him after making certain changes in structure of building for INRs 3 Crores in equal NZD terms. INRs 1 crore repatriated into India and proceed is deposited into personal account of Mrs. Shukla and her mother equally. Remaining INRs 2 crores is not repatriated into India same is invested in business of Mr. Binni and shown as loan/advance given in the books of accounts of DBS.

With, INRs 1 crore which was deposited into; Mrs. Shukla's and her mothers' account; a plot is purchased and same is registered in name of Ms. Rinki (daughter of Mr. and Mrs. Shukla). Ms. Rinki received a notice from office of Deputy Commissioner of Income Tax (DCIT), to present in his office with the fact. DCIT himself initiated the inquiry. Post conducted by such DCIT and based upon re-presentation by Ms. Rinki and document furnished, she was held Benamidar and penalty imposed on her, she wish to file an appeal against the order received from office of DCIT.

Multiple Choice Questions

1. Is charging INRs 999 for plan AMC@999, can be considered as the predatory price-
(A) No, charging INRs 999 for AMC Can't be considered as a predatory price.

- (B) Yes, at the discretion of competition commission
- (C) Yes, because the price charged is lesser than other players in market
- (D) Yes, because price charged is less than cost as well.
2. DBSRD is in contravention of the Real Estate (Regulation and Development) Act 2016 due to -
- I. Advance or booking fee collected more the 10%
 - II. Advance or booking fee collected without entering written agreement for sale
 - III. And some of written agreement for sale (referred in point 2 above) are not registered
- (A) Point I and II
- (B) Point II and III
- (C) Point I and III
- (D) All, Point I, II and III
3. If DBSCS furnish an application for initiation of insolvency resolution process, then adjudicating authority within _____ days from date of application; either accept the application or reject the same; but in case of rejection a notice to rectify the defects in is application within _____days from receipt of such notice shall be given.
- (A) 7, 7
- (B) 14, 7
- (C) 7, 14
- (D) 14, 14
4. Which of following statement is true regarding validity of inquiry against Ms. Rinki regarding benami transaction or benami property by DCIT office;
- (A) DCIT can conduct the inquiry him-self, without any approval
- (B) DCIT can conduct inquiry with approval of approving authority
- (C) DCIT can conduct inquiry with prior approval of approving authority only
- (D) No DCIT is not allowed to conduct the inquiry despite permission
5. Mr. and Mrs. Shukla shall surrender unused/unspent foreign exchange within a period of _____ days from date of his return to India
- (A) 60
- (B) 90
- (C) 120
- (D) 180

Descriptive Questions (Total 15 Marks)

1. Legal advisor while explaining the process and eligibility of DBSCs for making application to adjudicating for initiating insolvency application, also explained certain case where one can't initiate insolvency process. In the Light of the Insolvency and bankruptcy Code, Specify the mentioned requirements-

- (a) Person who can't move application of insolvency. **(2 Marks)**
- (b) What are documents that need to support application. **(1 Mark)**
2. (a) Can a person of Indian origin who is resident outside India buy the property in India? **(2 Marks)**
- (b) Proceed from sale of BPO Business's Building is not fully recovered and the repatriated by Mr. Shukla on behalf of DBSCs. Explain legal duties of DBSCS under Foreign Exchange Management Act. **(4 Marks)**
3. (a) Does the increase of price by DBS for AMC contract from INRs 999 to INRs 1499, constitute as abuse of dominance; explain with reason. **(2½ Marks)**
- (b) Role of competition commission is vital in order to ensure healthy competition in market. In the present case, determine the legal validity of government action in term of 'making reference to' & 'refusal to consider the opinion' furnished by competition commission. **(3½ Marks)**