

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

**Time Allowed – 4 Hours**

**Maximum Marks – 100**

**Case study 1**

Mr. Pushpendra Meena is a popular name and face among the farmers of the region. He is a big name in local politics and considered as farmer's leader. He usually raises his objections to government policies, which are detrimental to the interest of farmers. He is news because he is critically resisting the recently promulgated ordinances by the government regarding the farm, farmer and agriculture produce. These ordinances are severe jolt for farmers and middle-class house-holds of the country as per Mr. Meena, he also highlighted the remarks of the competition commission which indicates the possible adverse effect on fair competition and unfair price which may prevail due to limit-less hoarding. Such remarks is part of the opinion furnished by the commission in the last week of August 2020 in response to the reference made to them during 3 week of July 2020 (the week when ordinances were promulgated). He alleged that the government is ignoring the opinion of the commission while enacting the legislation based upon these ordinances.

Mr. Ramesh Kataria is a renowned name in the business world, he is engaged in the business of agro-product, real-estate, and transport. The agro-product business, Kataria Agro Limited (KAL) has a presence all across the globe. Considering the afore-mentioned ordinances, the management at KAL which largely rest in the hand of Mr. Kataria, because he is CMD (Chairman-cum-Managing Director); decided to acquire land for establishing large cold-storage facilities. Mr. Ramesh Kataria along with other designated officer of KAL while searching the land for a cold storage facility, come across a piece of land which he finds suitable for his farmhouse. Such land is owned by Mr. Noor Mohamad Khan. Another piece of land selected for cold-storage facilities.

The piece of land which Mr. Kataria selected for his farmhouse, was actually purchased for INR 4.12 crores in name of his wife Mrs. Pushpa Kataria, from Mr. Noor Mohamad Khan; out of the fund diverted from KAL. Through annual information return of high value financial transactions, such deal come into the knowledge of the Assistant Commissioner of Income Tax (ACIT) of the range in the jurisdiction of which Mr. and Mrs. Kataria reside. Such ACIT issue the show cause notice to Mr. and Mrs. Kataria under 'the Prohibition of Benami Property Transaction Act 1988', further based upon the response submitted, ACIT issue another notice to him and Mrs. Kataria to appear at his office. ACIT also compel to produce books of accounts and record evidence on affidavit.

Just a week prior to, aforementioned show-cause notice was issued by ACIT, the land purchased in name of Mrs. Kataria was sold for INRs 4.20 crores; because Mr. Kataria is in immediate need of money to pump its transport business. Part of the consideration is paid by the buyer in cash too. Out of sale proceed, INRs 2 crores injected into the transport business. The increased cost operation makes the transport business unprofitable. The transport business fails to revive despite the injunction of INR 2 crores. After several occasions of defaults in payment and repayment to financial creditors, finally collapsed. An application for a fast track corporate insolvency resolution process was duly filled with authority, and a resolution professional was appointed for the same. The resolution professional finds it difficult to complete the resolution process within the prescribed time limit, hence share the issue with the creditor in a committee meeting. In the same meeting of the committee of creditors, he was instructed to seek extension from adjudicating authority; and

resolution to give effect to instruction was also passed with 68% of voting right by creditors who represent the majority in numbers too.

Out of sale proceed of INRs 4.20 crores, an amount equivalent to USD 280,000 also remitted to Mr. Prince Kataria (son of Mr. and Mrs. Kataria), who is going abroad for employment, in foreign currency. The remaining amount of around INRs 14 lacs, which is in cash kept by Mrs. Kataria in her possession at home. Since in meantime, they receive the notice from ACIT, hence in anticipation of the search they settle the cash by making advance payment of INRs 12 lacs in cash to Impax Elevators, who will install the lift in their current house and remaining INR 2 lacs deposited in the bank account of their driver directly as an advance salary for 10 months.

Mr. Kataria found indulged in Hawala, as per the reliable and conclusive pieces of evidence available with the assistant director, Mr. Kataria was part and party of a series of transactions involving significant amounts of illicit money in foreign currency and support in the integration phase too. The assistant director doesn't have an arrest warrant against Mr. Kataria, but in the belief that Mr. Kataria may become untraceable later, he arrested Mr. Kataria on 21<sup>st</sup> September at 10.30 in the morning. Instead of taking him to judicial magistrate, the Assistant commissioner took Mr. Kataria to special court on 22<sup>nd</sup> September at 4.15 PM; after traveling for 6 hrs.

Pushpa Builder and Infra Limited (PBIL) is the company promoted by Mr. Kataria in the early 2000s. Since then PBIL delivers many world-class residential housing projects. Presently 3 projects are on-going. One among them is 'Green Valley Apartments' which was started 10 years earlier. Green Valley Apartments are located near hills and facing the lake. The location made the project Green Valley Apartments big hit. The application received for allotment is three times to the apartments. The allottees of Green Valley Apartments were given apartments not under a transaction of 'sale', but under 'agreements of lease' wherein the apartments were leased out to the allottees for the period of 499 years. Mr. Meena is one among the allottee, like the other allottees, Mr. Meena also paid consideration equal to 99.99% of the sale price of the apartment to get the lease. It was also agreed as per terms of agreements of the lease, that each year INRs 12/- will be paid to PBIL as lease rental, which is obviously a negligible amount.

As per the 'Agreements of Lease' executed between the allottees and PBIL, the project was to be completed and the possession of the apartments was to be handed over to the Allottees within a period of 24 months. However, the same did not happen because some legal issue regarding the heights and dimension of approved projects arises after complaint registered action initiated by the green tribunal. Allottees hold their nerves and waited for the dispute to be resolved; because their financial interest in the project is huge as all the consideration is already paid. Final that issue was resolved and thereafter multiple rounds of communication from allottees took place, but largely remain unanswered. Around 6 years passed since the date of allotment when the Real Estate (Regulation and Development) Act 2016 (RERA) came into force. PBIL was also bound to register Green Valley Apartments as per the provision of RERA. Soon after PBIL register the project with the state RERA authority, the allottees approached the 'Adjudicating Authority' with an application, under Section 18 of the RERA, for compensation with interest for every month of the delay in handing over possession of the apartments and for various other reliefs. PBIL defends the claim of allottees, by arguing that section 18 is applicable to 'promoter' not 'lessor'; since apartments in Green Valley Apartments are allotted as lease hence relief prescribed under RERA is not completely available to allottees (lessee).

**Answer the following Multiple Choice Questions (10 Marks)**

1. Evaluate the legal validity of the arrest of Mr. Kataria by Assistant Commissioner by selecting correct option out of the following:
  - (a) The arrest is not valid because the assistant commissioner is not empowered to arrest without a warrant

- (b) The arrest is not valid because Mr. Kataria took to special court rather judicial magistrate
  - (c) The arrest has a flaw, failure to present the accused to special court within 24 hours.
  - (d) The arrest is legally valid in all aspects.
2. Shall adjudicating authority grant extension to Resolution Professional in the present case?
    - (a) Yes, adjudicating authority is bound to grant the extension
    - (b) Yes, because resolution professional is instructed to do so by the committee of creditors, with resolution supported by creditors are in majority
    - (c) Yes, because resolution professional is instructed to do so by the committee of creditors, with resolution supported by creditors holding voting share more than sixty-six percent.
    - (d) No, the extension shall not be granted.
  3. Regarding INR 2 lacs which was deposited in the bank account of the driver directly as advance salary for 10 months, who is a beneficial-owner?
    - (a) KAL
    - (b) Mr. Kataria
    - (c) Mrs. Kataria
    - (d) Driver
  4. The piece of land which was purchased for INR 4.12 crores from Mr. Noor Mohamad Khan; out of the fund diverted from KAL who is benamidar?
    - (a) Mr. Kataria
    - (b) Mrs. Kataria
    - (c) Mr. Noor Mohamad Khan
    - (d) KAL
  5. Regarding the enactment of the legislations, based upon the promulgated ordinances by the government, evaluate the importance of commissions' opinion; by selecting correct option out of the followings;
    - (a) Its discretion of government to make reference to the commission prior to make any law or policy on competition.
    - (b) The commission in the present case fails to furnish its opinion to reference within the prescribed period, hence opinion become time-barred and irrelevant
    - (c) Government, if in any case make the reference, then bound by the opinion furnished by the commission in that case.
    - (d) The Commission can furnish its opinion suo moto.

**Descriptive questions (15 Marks)**

1. Mr. Kataria is doubtful regarding the powers of Assistant Commissioner of Income Tax (ACIT). Explain the powers of ACIT to him and also decide whether ACIT is authorised under the Prohibition of Benami Property Transaction Act 1988 to -
  - (a) Enforce Mr. and Mrs. Kataria to appear in front of his office,
  - (b) Compel to produce books of accounts, and

- (c) Receive and record evidence on affidavits. **(4 Marks)**
2. You are required to decide (opinion must be supported by legal provision and precedence)
- (a) The nature of the transaction took place in the present case, which causes contravention under Foreign Exchange Management Act and regulation issued there-under, along with the amount involved in contravention **(2 Marks)**
- (b) What will be the amount of maximum penalty for contravention identified in part (a) above? Is there any minimum limit too? **(2 Marks)**
- (c) Can offence committed in part (a) above is compoundable in nature, if yes state the authority who is authorised to do so. **(2 Marks)**
3. Regarding the argument advanced by PBIL to defend the claim of allottees, you are required to decide (opinion must be supported by legal provision and precedence)
- (a) Whether an 'Agreement to Lease' with the structure (High amount charged upfront, followed by negligible lease rental for exceptionally long lease period) explained in the present case amount to 'sale'?
- (b) Whether the 'Allottee' in the present case can claim a remedy under section 18 of the RERA through adjudicating authority? **(5 Marks)**

### **Case Study 2**

Mr. Prem Mehra is an Indian businessman. He is the chairman of Premium Group (also known as P. G. Company), which was created in July 1984 by Mr. Prem Mehra's father Mr. D.D. Mehra. After his father's death in 2004, Mr. Prem Mehra became the chairman of the Company. He leads a number of stock listed corporations including Premium Capital and Finance, Premium Infrastructure, and Premium Communications.

Mr. Prem Mehra's wife name is Mrs. Ashima Mehra. Mr. Prem Mehra has three children. His children's name are Mr. Aditya Mehra, Mr. Akhil Mehra and Ms. Kaira Mehra. Amongst the three, Mr. Aditya is the eldest son of Mr. Prem Mehra and Ms. Kaira is the youngest amongst the three siblings. Mr. Prem Mehra mother's name is Mrs. Anuradha Mehra and she is a 10% shareholder in the company. Mrs. Ashima Mehra is a philanthropist and also a Director in P.G. Company.

Premium Communications was founded in India on 3rd June 2004, with nationwide CDMA 2000 service. The company introduced its GSM service in 2009. The Company with a Japanese company introduced their co-branded Android smartphones in India in 2014.

In the year 2005, Mr. Prem Mehra started acquisition of couple of companies. In 2007, he acquired a controlling stake Ganesham Film and after some time bought all the stakes in Ganesham Films. Subsequently, Mr. Prem Mehra changes the name of the company to Premium Mediatek Networks.

On 11th March 2016, Premium Communications announced that it had acquired Z-Fone Tele Services Limited (ZTSL). Premium Communications agreed to pay dues of ZTSL amounting to ₹292 crore, every year for next 5 years. As a result of the deal, Premium Communications acquired ZTSL India's subscribers and its spectrum.

To pay the existing debts and to make the company work efficiently, Mr. Prem Mehra took bank loans from consortium of Indian banks. The P.G Company wanted to expand its telecoms business and DTH services in India. So this time the Company approached foreign banks for the loan. Being one of the pioneer Company of India and on its credibility all the three Foreign banks which includes Global Bank of America, Exim Bank of Scotland and Chartered Bank of London, sanctioned the required loans.

Amongst the Indian lenders of P.G. Company include ABD State Bank with an exposure of over ₹ 1,245 crore followed by Bank of Rajasthan (₹ 1090 crore), P&G National Bank (₹ 810 crore) and JV National Bank (₹ 792 crore). Among overseas lenders, Global Bank of America has an exposure of over ₹ 700 crore, followed by Exim Bank of Scotland (over ₹ 430 crore) and Chartered Bank of London (₹ 350 crore). The consortium bank of India sanctioned the above mentioned loans in the year 2012. P.G. Company assured the bank to pay all the instalments in time. The company as per their commitment paid instalments on time.

Everything went well but from August 2017, due to heavy losses the Company defaulted in paying instalments to all the Nationalised as well as foreign banks. Due to tough competition in telecommunications market and entry of new giant in the market, the rates of voice call and data plan reduced considerably. The Bank started sending reminders to the P.G. Company to clear all its dues.

The JV National Bank had a warehouse in Mumbai which it seized in the insolvency proceedings of a PQR Company. After many attempts the bank was not able to recover its loan by selling the property at the expected market price. So the bank decided to lease the premises. P.G. Company came to know about it and they approached the bank in May 2016 to take the premises on lease. The annual rent of the premises was fixed at ₹ 1.5 Crores. As the Company went in losses the company defaulted in paying rent for last two years, which amount to ₹ 3 Crores. Due to non-payment of loans by some other companies, which include P.G. Company, NPA of JV National Bank rise by sixty-five percent. The JV National Bank, has been grappling with mounting bad loans since last two years.

Mr. Prem Mehra started real estates projects across different cities of Maharashtra. He announced four real estate projects in Mumbai, Nagpur, Pune and Nashik on 21st November 2019. The details of the project were as follows:

- Premium Serene in Vashi Mumbai, where the proposed project includes area of four hundred fifty square meters and the number of proposed apartment will be six.
- Premium Codename in Nagpur, where the proposed project includes area of fifty thousand square meters and the number of proposed apartments include eighty.
- Premium lifestyle in Pune, where the proposed project area includes five thousand square meters and the number of proposed apartment includes eighty.
- Premium Royal serenity in Nashik, where the proposed project area includes five thousand square meters and the proposed apartment includes one hundred.

The Company decided that the booking of the apartments in all the projects will start after 24th December 2019, after obtaining all the legal permission from the prescribed authority. A board meeting was held on 5th December 2019. The board of directors were of view that there is shortage of funds with the Company. Ultimately with a unanimous decision the budget of two projects was reduced. The Company decided to reduce the number of apartments in two projects. Now the Company will build only five apartments in Premium Serene in Vashi Mumbai and in case of Premium Codename in Nagpur, the construction will take place in two phase. In the first phase twenty-five thousand square metres area will be developed with construction of forty flats and in second phase another twenty-five thousand square metres area will be developed for constructing remaining forty flats. As per the Act all the required documents were than submitted by the company for RERA registration.

From 25th December 2019 the Company started the bookings of flats in all the four projects. As a Christmas day offer Company gave an extra two lakh rupees discount on the booking of the flats for first fifty buyers in each project. People started booking flats in all the four projects. The cost of the flats in all the four project are starting from rupees three crore to seven crore. The Company started all project in full swing after getting commencement of work certificate from the authority.

Mr. Harshit khana, a registered real estate agent, is owner of a firm called Harshit Homez. He wanted to associate with P.G. Company for selling the flat in Mumbai as well as Nagpur projects. Mr. Harshit gave an advertisement in the newspaper for the sale of flats along with an offer that whosoever booking any flats via his firm will get extra one percent discount in booking amount without company's knowledge.

The company overall got a good response for the three projects except the Nashik project. It got only seventy percent booking till mid of February. A board meeting was held on 26th February. It was decided at the meeting that due to losses in other businesses of the company and heavily in debt to the Creditors, the company will sell its Nashik project to a third party XYZ Infrastructure Company. After overtaking the project, XYZ Infrastructure Company made certain changes in the layouts of the project.

P.G. Company tried to sell their assets to various companies, including its rival Tele Tones Company, to clear the debt but the deals did not crystallise. Later, the insolvency proceedings against P. G. Company started on a plea filed by Japanese telecom gear maker after the company failed to clear its dues.

The board of ABD State Bank has accepted the resolution plan for sale of Mr. Mehra's bankrupt telecom Premium Communications. The lenders are expected to recover around ₹ 6,110 crore from the sale of assets of the Premium Communications and its subsidiaries Premium Telecom and Infratel. Two companies have reportedly emerged as the highest bidders in the Committee of Creditors' (CoC) meeting. Premium Communications secured debt has been pegged at around ₹ 6,217 crore.

The CoC final meeting was to be held on 25<sup>th</sup> march 2020, but amidst the nation-wide lockdown it got cancelled. According to the order of National Company Law Tribunal, CoC needs to complete the entire process by 30th March 2020. The Resolution Professional, Legal Hawk, as per order is needed to file a resolution plan with the NCLT Mumbai by 2<sup>nd</sup> April 2020.

#### **Multiple Choice Questions (10 Marks)**

1. In which of the four projects started by Mr. Prem Mehra, registration of the project is not mandatory: –
  - (a) Premium Serene
  - (b) Premium Codename
  - (c) Premium lifestyle
  - (d) Premium Royal Serenity
2. Mr. Harshit has himself announced that any person making bookings via their agency will be given extra discount. In regards to the provisions of RERA this announcement can be deemed as
  - (a) voidable at the option of the Premium Company.
  - (b) misleading the buyers for services that are not intended to be offered.
  - (c) correct and to be intended to be offered by the Company.
  - (d) to be reliable as made by registered agent of the company.
3. The Company decided to construct the Nagpur project in two different phases due to shortage of funds. Examine the impact of decision on the project.
  - (a) Both the phases are part of one project and so no separate registration is required for each phase.
  - (b) The separate registration of the project is required only in case where it is developed by two different promoters.
  - (c) Each phase will be considered as a stand alone phase and separate registration is required for both the phase.

- (d) If the second phase is immediately started after completion of first phase than no separate registration of the phases is required.
4. The XYZ Infrastructure Company after takeover of the projects did changes in the layouts of the project. Are they authorised to do the changes in the ongoing projects?
- (a) Before doing any changes in the projects they had to take prior approval of the Authority
- (b) As a new promoter of the project they are authorised to make necessary changes.
- (c) With the permission of the two-third allottees of the flats they can make necessary changes.
- (d) The new promoters are required to carry forward the project on the condition entered by erstwhile promoter.
5. The Committee of Creditors final meeting was to be held on 25<sup>th</sup> March 2020. Is it necessary to held the meeting in person or can it be arranged otherwise?
- (a) Since it is a final meeting everyone needs to be present in person.
- (b) In person meeting is not necessary and it can be held via video conferencing.
- (c) Only resolution plan can be discussed via video conferencing and voting needs to be done in person.
- (d) With prior permission of The Tribunal, Resolution Professional can held meeting via video conferencing.

### **Descriptive Questions (15 Marks)**

1. Answer the following questions related to the constitution of Committee of Creditors.
- (a) All the four Indian banks, as a consortium gave the loan to Premium Company. Who do you think will represent them in the meetings?
- (b) JV National bank is financial as well as operational creditor of the Premium Company. Can JV National Bank club both the debts and claim it as financial debt? **(7 Marks)**
2. In context with the Competition Act answer the following:
- (a) What procedure do P.G. Company and Z-Fone Company need to follow to get approval from Competition Commission of India?
- (b) In case the Commission is suspicious about merger of both the companies, than what measures will the Commission take before issuing the approval order? **(8 Marks)**

### **Case study 3**

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

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

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

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

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

Meanwhile, Mr. Lal also finalised the land in one of the posh area of Gurugram, Haryana. He purchased 1000 square meter of land in that area for twenty crore rupees. He decided to build the project in two phases so he thought to purchase 600 square meters of the adjoining plot too. The plot belonged to NRI, Mr. Ranveer, cousin brother of Mr. Lal. Mr. Lal wanted to buy that plot in ₹ Seven Crore rupees. But Mr. Ranveer demanded eight crores. Mr. Lal was so desperate and excited to start the project that he accepted his offer and purchased the land. Mr. Lal paid seven crore rupees by cheque payable to Mr. Ranveer's NRO account and remaining amount he paid in cash as a gift to Mr. Ranveer. Mr. Ranveer gave his approval and finalised the deal.

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

Mr. Raj Maheswari, manager in a KDM Bank wanted to purchase a luxurious flat of his own. As he was in direct contact with Mr. Lal, he called him and asked him about the availability of flats in Imperial Residency. Mr. Lal told him that only two flats are left, as rest all are booked. Mr. Lal's Manager briefs Mr. Raj about the project. Mr. Raj got interested in the information and went to Imperial Residency along with his wife. He liked its strategic location and all the other amenities offered in the project. He gathered all the information regarding sanctioned plan, layout plan and mode of payments from the sales office representative. Same day Mr. Raj along with his wife Mrs. Ashima, jointly entered into an agreement for sale with the promoters of the project and made the payment of ten percent of the booking amount for the flat. In instalments Mr. Raj paid 70% of the total amount to the builder as the slab got completed and remaining 20% to be paid at the time of possession of the flat. Mr. Raj paid 80% of the total amount from his known source of income and rest 20% he will take loan from his friend. Unfortunately, Mr. Raj got divorced from his wife Mrs. Ashima in January 2017. Mr. Raj again got remarried in March 2017.

A Company called X-One Ltd, bought twenty flats in phase one of Imperial Residency. As of now all the flats got booked due to the affordability and provision of all the modern amenities in the flats. The project was in its full swing. In January 2020 there was an earthquake in Delhi NCR area. But there was no damage cause to the existing structure of the building. The Architect of the project suggested some structural changes in the layout plan of the building, to make the building more resistant earthquake so in future it can withstand the largest earthquake of a certain probability that is likely to occur in that location. But X-One Ltd. opposed the changes as they felt there is no such need.

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

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

Mr. Lal friend's Mr. Navneet Singh started a housing project in 2016. The date of completion of the project was November 2019. The allottees was to get allotment of flat by December 2019. Mr. Singh wanted Mr. Lal to associate with the project as a Financer. Mr. Lal agreed to finance the one fourth of the project cost in return he will earn five percent profit on selling of each flat. But the project got delayed and by November 2019 only eight percent of work could have been completed. A meeting was held by Mr. Singh on 5th December 2019, he tried to convince all the allottees that the work will be completed by May 2020 and will start getting possession from June. But some of the allottees refused to wait for next six months and demanded refund on which Mr. Lal objected. The aggrieved allottees decided to file complaint against the promoters if their amount is not refunded.

#### **Multiple Choice Questions (10 Marks)**

1. The allottees wanted refund of their entire amount from Mr. Singh. Do you think Mr. Lal has a right to raise objection against the refund?
  - (a) As a financer of the project Mr. Lal has a right to raise the objection.
  - (b) Mr. Lal can raise objection only when he is one of the promoter of the project.
  - (c) Mr. Lal can raise an objection only if it is mentioned in the sale deed.
  - (d) The allottees as of right claim their refund as Mr. Lal has no right to raise any objection.
2. Mr. Lal did renovation and changes in the existing building and re-sold one third of the flats in Premium Heights to some of the previous flats owners of the building. As per the scope of RERA chose the correct option?
  - (a) RERA is not applicable as building is not demolished and only renovation done with required structural changes.
  - (b) RERA is not applicable in this case as the flats are re-alloted to the existing 1/3rd of the flat owners.
  - (c) RERA is applicable as Mr. Lal purchased more than fifty percent of the flats before renovation.
  - (d) RERA is applicable as the previous society is renamed and flats are resold to new allottees, making registration mandatory.
3. The association of allottees of the Sun Residency brought the construction defects to the notice of Mr. Lal. After allotting the possession to the allottees and formation of society, is Mr. Lal still liable to the allottees?

- (a) Once the society of allottees is formed, Mr. Lal is not at all liable for any repairs or defects in the buildings.
  - (b) Mr. Lal is only liable toward the structural defects in the buildings, if any, after handing over of possession till one year.
  - (c) Five years from the issue of the occupancy certificate, Mr. Lal will be liable for all the material and structural defects.
  - (d) Five years from the issue of completion certificate, Mr. Lal will be liable for all the material and structural defects.
4. The flat purchased by Mr. Raj jointly along with his ex-wife Ms. Ashima would be held as 'benami transaction' post his remarriage under the Prohibition of Benami Property Transactions Act, 1988 after their divorce. Choose the correct Statment.
- (a) Yes, as they are no longer stand in fiduciary capacity for the benefit of each other.
  - (b) No, as they purchased the flat while they were married to each other.
  - (c) Yes, as Mr. Raj remarried to another women and his name is not on the sale agreement.
  - (d) No, as Mr. Raj ex-wife has not paid any amount from his account it can be deemed as a benami property
5. The promoters of Lotus Square didn't registered the project with RERA authority as required under RERA. What will be the consequences they have to bear for it?
- (a) Penalty upto ten percent of the estimate cost of the project.
  - (b) Penalty upto ten lakh rupees or ten percent of the estimate cost of the project whichever is higher.
  - (c) Penalty of five lakh rupees, which may cumulatively extended upto ten percent of the estimate cost of the project.
  - (d) Penalty upto ten percent of the estimate cost of the project and imprisonment of five years.

#### **Descriptive Question (15 Marks)**

1. Mr. Ranveer sold his plot to Mr. Lal and took seven crore rupees via cheque and remaining one crore rupees he wanted Mr. Lal to transfer him in form of a gift. Examine and analyse the situation and how will it effect your conclusion? **(8 Marks)**
2. Due to earthquake in that area the Architect of building proposed some alternation in the structure of the lay out of the building. As an owner of maximum apartments in the building do you think X-One Company is in a position to influence the opinion of promoters and other flat holders? **(7 Marks)**

#### **Case Study 4**

Mr. Nitin Bakhshi and Mr. Manish Mehra were good friends. While Nitin was a judge in the NCLT court, Manish had his own business. They met in college, had studied together, and life took different turns for both. They would always try to meet up regularly and seek each other's advice.

After a long tiring day at work, Manish called Nitin and offered to meet him at a nearby café. Nitin instantly agreed. They were very happy to see each other and started discussing what was happening in their work life. Nitin shared a case which he has recently received. The fact of the case which he narrated to Manish was as follows:

"Mr. Arjun Malhotra is the Chairperson of the Malhotra Group; the Group has many entities under its umbrella. The Group's operations were wide and had a presence in various sectors. One such group company was

Malhotra Entertainment Limited (hereinafter referred to as “MEL”) whose line of business consist of making web series and various other shows. MEL wanted to expand its operations in the space of technology and media, for starting its very own streaming service to air the web series and shows produced by them directly to the viewers. But the new venture required funding. Arjun thought of increasing the debt ratio of MEL for this purpose and approached the Project Finance Unit of the Universe Bank Limited (hereinafter referred to as “Bank”). The Bank referred to the proposal of the proposed ventures and found it promising. But set forth a condition for Arjun to give his personal guarantee for this purpose. Arjun was confident that his venture would flourish and agreed to do so. He signed a Deed of Guarantee in favour of the Bank. The Bank sanctioned MEL a loan of ₹ 100 crores for the venture for a term of 10 years to be repaid in a phased manner as per the terms of the Loan Facility Agreement. Arjun was very happy, and he instructed his team to start with the activities.

Two years passed by. Walky Talky Limited (hereinafter referred to as “WTL”), another group entity of the Malhotra Group, was engaged in the business of manufacturing and selling cellphones. WTL was at a phase where technology of the competitors was rapidly upgrading, and the only way to survive its business was to revamp its product. Arjun thought about it and approached the Bank for funds for WTL. The Bank agreed again, subject to Arjun giving his personal guarantee for the transaction. The Bank wanted to secure the funding. Arjun had no choice but to agree. The Bank sanctioned ₹ 50 crores via a Loan Facility Agreement to WTL and also received a Deed of Guarantee executed by Arjun in its favour.

Arjun thought it would be best to tie-up with some entities for support services. In the course of its business, MEL and WTL engaged services of various companies for the purpose of their operations, one such entity was Limered Pvt. Ltd (hereinafter referred to as “LPL”). LPL was a well-known company which provided software technology services. Arjun thought the tie-up with LPL would be beneficial for both MEL as well as WTL. LPL would be paid for the services provided to both companies independently.

Time went on, the market trends were ever changing. MEL and WTL (collectively referred to as “the companies”) were constantly adapting their business plan to sustain and thrive in the market. Unfortunately, the companies could not cope up with the recent environmental changes and started sustaining losses. The situation was such that the companies could not pay the dues it owed to LPL and defaulted in the repayment of the loan taken from the Bank. Arjun was very upset that the tables had turned so drastically. His plans were that the companies would grow and emerge as the number one player in the market, but unfortunately, things did not work out in the same manner. The losses were increasing; the companies were unable to even pay the employee salaries. LPL could not bear the debts anymore and decided to submit an application to the NCLT for the recovery of its dues. The application was duly submitted, and the Corporate Insolvency Resolution process had begun.

MEL and WTL had continued defaulting their loan repayment to the Bank. The Bank had classified the account as a Non-Performing Asset (NPA). The Bank discussed the matter with its legal counsel, Ms. Saniya Sharma. She suggested that the Bank should enforce the personal guarantee which it had availed in its favour from Arjun, for the loan facility given to MEL and WTL. The Bank issued a demand notice to Arjun Malhotra to pay the loan to the outstanding balance. Arjun, upon receiving the notice, discussed the same with his lawyer, Mr. Rohan Kumar, who advised him to respond to the Bank stating that the Corporate Insolvency Resolution process has begun, and pending the consideration of the Resolution Plans against the companies, it would be prudent for the Bank not to proceed against Arjun. Since the efforts were underway to cure the defaults in terms of monetization, the Bank was requested to withdraw the demand notice. The Bank referred Arjun’s response to Ms. Saniya Sharma.

Meanwhile, Mr. Rajesh Panchal was appointed as the Resolution Professional for the MEL and WTL. Mr. Rajesh Panchal immediately took custody and control, including the business record of the companies. The creditors of the companies included the Bank, LPL, Orange Rock Limited (hereinafter referred to as

“ORL”) who had given a loan to the companies for the purpose of its venture and raw materials to the companies on credit, which remain unpaid. Mr. Rajesh Panchal, keeping the facts and circumstances in mind, formed the Committee of Creditors (“COC”). Mr. Panchal also invited prospective lenders, investors and other people to put forward the resolution plan. He received a resolution plan from Athens Global Pvt. Ltd. (hereinafter referred to as “AGPL”), a global leader in the field of technology solutions. AGPL offered to infuse an upfront payment of ₹ 90 crores and takeover the company. The resolution plan included preference payment to the Bank and other financial institutions. However, LPL was aggrieved for not being given preference in the resolution plan. It submitted the plea to the NCLT to make necessary amendments in the resolution plan. LPL said that on the grounds of equity and fairness, it must be paid in the same proportion as the Bank and other financial institutions.”

Manish Mehra listened to each and every detail attentively. Nitin told him that he was presiding the bench which had to decide on the matter. Nitin realized that something is bothering Manish. They were close friends, hence, he could tell the difference. He couldn't take it any longer and confronted Manish. He asked Manish to share his problems and promised him that he would help him in whatever way he could. Manish took the opportunity and narrated the following to Nitin.

Manish had a son Jubin who was residing in the USA. Manish had saved some money over the years and decided to invest. He purchased a flat in Mumbai in the name of his son, Jubin. He thought he would give a surprise to Jubin when he returned to India with his family. But unfortunately, before I could tell him about the property, he was confronted by the Income tax officers. Since Jubin had no idea about that property, he upfront denied the ownership of the flat. He said that he has been in the USA for the past few years and has no idea of the flat.

Another issue was Manish entered into a Memorandum of Understanding (“MoU”) for an apartment situated on the outskirts of Mumbai, in a place called Malshej (hereinafter referred to as the “Premises”), with Thanos Builders and Makers Pvt. Ltd (hereinafter referred to as “TBPL”). The term of the MoU was a period of 99 years effective from the date of signing. He paid TBPL a consideration of ₹ 50 lakhs for the purpose of the arrangement and they agreed to keep the occupancy fee as ₹ 500 per month. The document was duly stamped with the applicable stamp duty and was duly registered. As per the terms of the MoU, TBPL was to hand over the Premises, which was in development then, to Manish within a period of 5 years. Once handed over the terms of the MoU allowed Manish to make structural changes and alter the Premises as Manish would deem fit without any prior approval of TBPL. It would be Manish's onus to pay the electricity, water and related charges. The term of 5 years was coming to an end, but the Premises was not even near completion.

Manish was in a state of breakdown, but Nitin consoled him and offered his help.

#### **Multiple choice questions (10 Marks)**

1. ORL had given a loan to the MEL and WTL for to the purpose of its venture and had also given some raw materials to the companies on credit, which remain unpaid. Hence for the purpose of the Insolvency and Bankruptcy Code, 2016, it can be said that ORL:
  - (a) Is an operational creditor
  - (b) Is a financial creditor
  - (c) Is partly an operational creditor as well as a financial creditor
  - (d) ORL has to option to classify itself as either a financial creditor or an operational creditor

2. Assume Mr. Nitin Bakhshi and Mr. Manish Mehra were partners in a partnership firm named "N&M", and N&M failed to repay the debts of ORL, their creditor. In this case ORL can make an application for initiation of corporate insolvency resolution process against:
  - (a) Mr. Nitin Bakhshi
  - (b) Mr. Manish Mehra
  - (c) N&M
  - (d) Mr. Nitin Bakhshi and/or Mr. Manish Mehra or N&M
3. Mr. Rajesh Panchal, keeping the facts and circumstances in mind, formed the Committee of Creditors ("COC"). The COC would consist of:
  - (a) Bank and LPL
  - (b) LPL and ORL
  - (c) Bank and ORL
  - (d) Bank, LPL and ORL
4. Manish Mehra purchased a flat in Mumbai in the name of his son Jubin from his savings. Jubin upfront denied the ownership of the flat. This transaction is:
  - (a) A Benami transaction
  - (b) A valid transaction
  - (c) A voidable transaction
  - (d) None of the above
5. Mr. Manish Mehra had entered into an MoU for the Malshej Premises with TBPL, but on account of lack of funds and financial difficulties TBPL could not complete the construction and handover the premises to TBPL within the time specified in the MoU. In this case Manish has recourse under:
  - (a) Real Estate (Regulation and Development) Act, 2016 ("RERA")
  - (b) The Insolvency and Bankruptcy Code, 2016
  - (c) Consumer Protection Act, 1986
  - (d) All of the above

**Descriptive questions (15 Marks )**

1. Examine the facts pertaining to the Premises situated at Malshej and suggest a suitable course of action to Mr. Manish Mehra considering the fact that at that time the Real Estate (Regulation and Development) Act, 2016 ("RERA") is in force and TBPL is registered thereunder.
2. The Bank decided to enforce the personal guarantee given by Mr. Arjun Malhotra. But he responded that the demand is not maintainable in pretext of the ongoing Corporate Insolvency Resolution Process for MEL and WTL. Consider yourself in the position of the Bank's legal counsel Ms. Saniya Sharma and advise.
3. LPL is aggrieved as it was not given preference in the resolution plan and submitted its plea to the NCLT to make necessary amends to the resolution plan. LPL is of the view that on the grounds of equity and fairness it should must be paid in the same proportion as the Bank and other financial institutions. Considering yourself in the position of Mr. Nitin Bakhshi, judge hearing the case, please suggest.

## Case Study 5

Vikas Kapoor is an aspiring Bollywood actor. With all his dreams and aspirations, he comes to Mumbai in the year 2010 to try his luck. Blessed with a charming personality and being hardworking, he is offered his 1st break by a small-time producer. He is offered to play the best friend of the main lead. The opportunity is not to die for Vikas, but there will definitely be an option to take a chance. After all, he had nothing to lose. The movie was released on October 29, 2011 and was a hit. Vikas received recognition for his work and was soon signed up for some other movie projects. Vikas thought it would be a good time to take it to the next level and to start his own production house. He met his friend Ms. Shaira and told her about his business plan. She liked the idea and encouraged him to pursue it, offering him her full support. On February 16, 2013 he incorporated his company known as VK Films Pvt. Ltd (“VFPL”). The company was incorporated with a share capital of ₹ 10 lakhs. The vision of the company was to be a premier production house, and the mission of the company was to provide quality entertainment.

VFPL started working on its first ever film ‘Dil se Dil tak’.

Vikas was in New York shooting an item number of his upcoming film when he remembered Shaira’s birthday was coming. Vikas was in love with her and wanted to propose her on her birthday. He thought what could be a better way to do that and to gift her some jewelry. He took the opportunity to stop by Gazelle, a famous jewelry store. The price of Gold on that day was US\$ 50 per gram, which was higher than prevailing rates in India. Moreover, the rupee was depreciated to US\$ 1 = ₹ 80 in that particular week. But he did not want to compromise and settle. Vikas brought a necklace made of 80 grams of gold. While standing in the payment queue, his eyes struck a rose made up of silver weighing 30 grams. The rate of silver on that day was US\$ 20 per gram. He wanted to buy something for himself, after all, he has never been overseas before. He has always dreamed of buying a branded watch with a platinum finish, and so he brought one worth US\$550, along with the silver rose. He thought of wearing it, but he was already wearing a watch. He thought that he should not wear it as there is a risk of damage while in transit. Vikas arrived in India and walked through the green channel instead of the red channel.

Meanwhile in India Dreamland Reels Pvt. Ltd (DRPL), one of the oldest companies in Bollywood that is engaged in the production and distribution of films all over India. The film making process involved production, distribution and exhibition. Exhibition is when people see a movie in the theatre. For the exhibition DRPL would tie up with various Multiplexes and Single Screen theatres, collectively referred to as the ‘Exhibitors’. With the rise of Multiplexes, Single Screen Theaters’ market share has come down to 35%. DRPL is all set to release its mega starrer film ‘Hero no 1’ on December 25, 2015. While ‘Hero no 1’ is going to release soon, DRPL has another project which is nearing completion, and they wish to release the same on February 14, 2016 with the title ‘Love Tales’. What could be a better occasion than valentine’s day to release a film with a plot on modern romance. DRPL called for a meeting with all the Exhibitors to discuss the release of ‘Hero no 1’. DRPL put forth a condition before the Single Screen Theatres that if they want to purchase the rights of the film ‘Hero no 1’ they also have to purchase the rights of the film ‘Love Tales’ to be released and exhibited on Valentine’s day. DRPL kept that as a non-negotiable condition. Some of the Single Screen Theatres agreed to the condition, some did not find it lucrative and hence declined. Unfortunately, the ones who declined did not get the rights to exhibit both, ‘Hero no 1’ and ‘Love Tales’.

Vikas had just returned to India, time has come. VFPL was ready with its film ‘Dil se Dil tak’ and wanted to release the same on February 14, 2016. VFPL invited Exhibitors and observed that various Single Screen theatres had declined its invitation. Vikas then learnt that the same was due to the condition of DRPL to release its film ‘Love Tales’. Vikas was taken aback, DRPL was a well-known banner, but how could they do that. He taugth of this as an extremely unfair move on DRPL’s part. He decided that he had to do something about this. He appointed a lawyer, Rohan Kumar. Rohan heard the case and advised Vikas to report the same, DRPL contravened the provisions of the Competition Act, 2002.

It was December 2016, Vikas' movie 'Dil se Dil tak' released, and managed to do reasonably well. Not a big hit, not a flop either. VFPL made a profit of ₹ 80 lakhs from the movie. Vikas earned a remuneration of ₹ 40 lakhs. Vikas decided to purchase a house, now that he had the funds, it would be a good move, he thought. He contacted Mr. Kataria, a broker. Mr. Kataria showed Vikas some options in South Mumbai, but they were beyond his budget. Mr. Kataria then showed him a beautiful farmhouse in Panvel for ₹ 30 lakhs. It was so beautiful, Vikas thought it would be good for throwing some parties and immediately agreed to seal the deal. The farm house was purchased in the name of his mother, Mrs. Shanti Kapoor. Vikas paid the money from the remuneration he earned and also paid Mr. Kataria his brokerage fees of ₹ 5 lakhs. Mrs. Shanti Kapoor then retransfers the property in the name of Vikas.

Shaira was thrilled to see the gifts Vikas brought for her. He proposed to her, and she accepted. They got engaged. Vikas was so happy that everything in his life was finally headed in the right direction. He visited his rapper friend who goes by the name, "KingStar". KingStar told Vikas of his upcoming rap-song 'Dance Trance' and made Vikas listen to it. Vikas was so impressed, he wanted to purchase the copyright of the song. He offered KingStar ₹5 lakhs from the remuneration he earned. KingStar was ready to sign the papers, and Vikas made him sign the copyright in favour of Shaira.

Mr. Katria was glad he could earn ₹ 5 lakhs from Vikas, quite an achievement. His nephew Ranjan pleaded him to lend him some money. Mr. Katria gave him the ₹ 5 lakhs as loan, and Ranjan signed a document to return it to Mr. Kataria. Ranjan used that money his uncle gave him and some additional 3 lakhs he had from unaccounted money sourced to purchase a garage in Nagpur in his own name. Ranjan was happy, finally he could start his two, three and four wheeler services centre.

Give answers to following questions:

#### **Multiple choice questions (10 Marks)**

1. DRPL had kept a condition in front of the Exhibitors who were Single Screen Theatres to purchase rights of exhibiting both the movies 'Hero no 1' to be released on December 25, 2014 and 'Love Tales' to be released on February 14, 2015. Though there was no written document in that regard, some Single Screen Theatres accepted the condition and purchased rights of both the movies. Therefore, the understanding is:
  - (a) A Valid Agreement only if all the parties involved therein confirm the same in writing at a later date
  - (b) Is not Valid
  - (c) Is a Voidable Agreement
  - (d) Is a Valid Agreement
2. DRPL is one of the oldest companies in Bollywood that is engaged in the production and distribution of films all over India. Its film 'Hero no 1' is a mega starrer. Hence it can be said that:
  - (a) DRPL enjoys dominant position in the market, it is quite old in the system
  - (b) DRPL enjoys dominant position in the market, it's film is a mega starrer one
  - (c) It is not certain if DRPL has a dominant position
  - (d) DRPL enjoys monopoly in the market, it is one of the oldest companies, its film is mega starrer one and its reach is all over India
3. Is Mr. Katria liable for committing a Benami Transaction?
  - (a) No, because he is not a party to the crime
  - (b) Yes, because his money has been channelized

- (c) Both Mr. Katria and Ranjan are jointly liable for committing the crime
  - (d) Mr. Katria is liable, Ranjan is not liable
4. Shaira wishes earning royalty by assigning the copyright of the rap-song dance trance. The same is:
- (a) Possible if she obtains consent of KingStar
  - (b) Not possible
  - (c) Possible if she obtains consent of Vikas Kapoor
  - (d) Not sure, depends on the terms of assignment
5. Under which Section of the Competition Act 2002, should Vikas file the case and to whom:
- (a) To Competition Commission of India (CCI) under Section 3(4), 4 and 19 of the said Act
  - (b) To Competition Commission of India (CCI) under Section 6 and 19 of the said Act
  - (c) To the High Court for contravention of the said Act and unfair trade practice
  - (d) To the High Court as a writ petition

**Descriptive questions (15 Marks)**

1. Evaluate the Panvel farmhouse transaction done by Mr. Vikas Kapoor and Mrs. Shanti Kapoor. If the transaction is valid, justify with reasons. In the event the transaction is not valid, suggest the proper course of action.
2. Is Vikas Kapoor guilty of an offence under the Prevention of Money Laundering Act, 2002? Explain.
3. VFPL has reported DRPL for contravention of the Competition Act, 2002. Please examine the case and elaborate your findings in terms of the said Act.