



CA FINAL
SUBJECT- ECONOMIC LAW

Test Code –
(Date :)

(Marks - 100)

Attempt any four Case Studies out of Five. Each case study carries 25 marks.

Case Study 1

Mr. Amanat Ali is an information technology professional and currently residing in Mumbai. He first came to Mumbai around 25 years back to join 'Terabyte Consultancy Limited (TCL)', as an Assistant Manager - Business Development. At that time, TCL was in its early years of operations, but over the period of time, it expanded its product/service range and market reach apart from a significant improvement in customer response time through the introduction of innovative techniques. TCL's ethical work culture and employee-friendly policies allow it to retain the employees for a longer duration. Mr. Ali is still serving TCL as a Vice President - Branding & Innovation. TCL is famous for its office utility software, which is also in high demand at abroad. Around 40% of the top-line is contributed by export. TCL exported one of its software, which was transmitted over the electronic media on 30th June, 2020, for which invoice was issued dated 25th June, 2020.

Mr. Ali and his team developed a software, couple of years back, which was capable to act as a testing portal to conduct online exams. The software with the help of artificial intelligence automatically generated pop-up at the screen of candidates' device that he/she is not viewing towards the camera and similar pop-up also gets generated at the screen of the invigilator (who invigilate digitally from the control room, through the camera of candidates' device and control of screen). In this manner software actually reduced the scope of using unfair means to a large extent during the online exam, even for candidates appearing in online exams from remote locations. The said software passed the QC test and performance during dry-run at Quick-fix, was found acceptable and was finally launched. This was the first time TCL has developed any testing software.

Mr. Murthy, Vice President-Strategy & Marketing at TCL, appreciated the usage of the software in the lights of the changing scenario in the education sector, considering the need for such testing software in the times of digital education. But he also witnessed the presence of many active players in the market who were (at then) already rendering service of conducting the online exam for testing agencies either at their own location (test centres) or remote location; hence, it was not easy for TCL to penetrate in the market and capture reasonable share.

TCL entered 'usage-based fee agreement' with the leading colleges in different cities to use their respective computer lab facilities. In this manner, TCL also got equipped with testing centres in different cities. Against the competitors, they had the leverage of AI-equipped testing software. TCL, against the prevailing market prices of Rs. 600/- and Rs. 320/- per candidate for conduct of online tests at the centre and remote respectively, offered and charged the price of Rs. 500/- and Rs. 250/- respectively.

Since, TCL has its own server and other IT facilities including human resources, hence, even after covering the specific and shared costs, it earned profits at a tiny rate only, which is substantially lesser than the TCL's average rate of earning. After 2 years of the grand success of testing software in the market, TCL market share reached 54% in online testing segment. Many small and immature players had to quit during this period. Only those who reduced their prices and were able to cover their operating costs with the reduced prices, were able to survive.

Current VP-Marketing of TCL decided to shoot-up prices to Rs. 580/- and Rs. 300/- per candidate for online tests at the centre and remote respectively. TCL successfully managed to retain 47% market share. The loss of market share was compensated by high profits due to enhanced prices, hence the bottom line improved a bit.

Mr. Liaquat Ali, the younger son of Mr. Amanat Ali, who holds an Indian passport moved abroad for higher studies and research in the field of building 'things' (generally materials and devices) on the scale of atoms and molecules (nano-technology) and molecular biology. After completing his studies, he was offered a role as a teaching assistant in the prestigious University of Cambridge, which he gratefully accepted. There he met Ms. Nusrat, a research scholar in data science who is a British resident. Both got married to each other during the calendar year just ended.

Family of Mr. Liaquat basically belongs to Hyderabad. Despite the fact, Ms. Nusrat never has been to India, she was tempted by the Indian culture and traditions and wanted to settle in India. Mr. Liaquat purchased an apartment in Hyderabad in the joint name of himself and his Khatoon-E-Khanah (wife), after 3 months of their marriage. The payment is made through a debit entry to non-resident account maintained by Mr. Liaquat. This apartment is their first owned immovable property.

The apartment is in Deccan Residency Towers - II, which is currently under construction. Deccan Residency Towers are promoted and developed by Deccan Real Estate and Infra Limited (DREIL). DREIL decided to develop the Deccan Residency Towers in three separate phases. DREIL registered the project with state RERA authority while planning for Deccan Residency Towers - I (which is currently on the verge of completion).

The MD at DREIL is very enthusiastic about branding and digital marketing. He is of the opinion that DREIL is eligible to advertise and accept the applications for allotment of flats and apartments at Deccan Residency Towers - II either themselves or through real estate agents, without fresh registration, hence starts marketing in full force. Mr. Liaquat booked an apartment through Mr. Miraj who is a registered real estate agent under RERA and he charged a lump-sum amount as the commission which is equal to 1.25% of the cost of the apartment.

The payments which DREIL received from allottees against the flats and apartments at Deccan Residency Towers - I were kept in a separate bank account in schedule co-operative bank, to the extent of 85% only (because due to recent lock-down, the remaining amount is used by DREIL to meet general expenditure) and as such the deposited amount was

gradually used to meet the construction cost and cover the land cost of Deccan Residency Towers - I.

Ms. Saba, who is the daughter of Mr. Amanat Ali, is working as a medical professional in AIIMS Rishikesh. Mr. Amanat Ali visited her daughter on her birthday and finds the PG house where her daughter is staying is not fully equipped. Considering an investment prospective (including possibility and price of resale) and comfort of her daughter, he bought the studio apartment by making payment of Rs. 19.99 lakhs, registered in the name of Ms. Saba. Price of the apartment is equal to the fair market value. Mr. Amanat Ali purchased another house in Hyderabad in the name of his mother, because after retirement he also wishes to settle in Hyderabad. This house is on walking distance from Deccan Residency Towers - II. The deal of the house was negotiated for Rs. 1.25 crores, due to mild recession whereas the fair market value of such house is Rs. 1.40 crores on the date of registration, but now the same has fallen to 1.30 crores.

Recently an operational creditor, with whom dispute existed due to breach of confidentiality clause (of a non-disclosure agreement, signed between such creditor and TCL) of TCL, send a demand notice under section 8 of IBC, to which TCL responded stating that there is existence of a dispute. Such operational creditor move to NCLT with the application of initiation of corporate insolvency resolution process against TCL, stating that no suit is filled yet and hence no dispute exists and also stated that breach of confidentiality clause is a valid merit to raise a dispute. But NCLT relying upon the response letter from TCL, in which reference of e- mail is given where TCL has notified the operational creditor regarding breach of confidentiality clause & dispute, rejects the application of the operational creditor. Operational creditor decided to appeal against the decision of the adjudicating authority to the appellat authority.

I. Multiple Choice Questions (2X 5 = 10 Marks)

1. With respect to the payments received from allottees against flats and apartments at Deccan Residency Towers - I, DREIL is –
 - (a) Guilty, because the separate account shall be maintained with a commercial bank
 - (b) Guilty, because less than 90% amount is deposited to such separate account
 - (c) Guilty, because amount so deposited in a separate account is also used to coverland cost
 - (d) Not guilty
2. The real estate agent, Mr. Miraj, is -
 - (a) Guilty, because he facilitated the sale of apartment in a non-registered project
 - (b) Guilty, because the commission charged by him is more than 1% of the cost ofthe apartment.
 - (c) Not Guilty, because he is registered under RERA
 - (d) Not Guilty, because he facilitated the sale of apartment in a registered project

3. Whether the price of Rs. 500/- and Rs. 250/- respectively charged by TCL can be considered as a predatory price?
- (a) Yes, because these are lower than the prevailing market price
 - (b) Yes, because these are lower in comparison to prices it started charging two years later
 - (c) Yes, because these contribute a tiny rate of profits which is lesser than the average rate of return of TCL
 - (d) No, because these are more than the costs
4. Whether the immovable property acquired by Mr. Liaquat Ali, in the joint name of himself and his wife is valid?
- (a) The acquisition is valid because payment is made through a debit entry to a non-resident account maintained by Mr. Liaquat.
 - (b) The acquisition is valid because property is acquired jointly
 - (c) The acquisition is valid because it's the single immovable property they own
 - (d) The acquisition is invalid
5. By which date TCL must realise the full export value of software and repatriate same to India with respect to export of software which was transmitted over the electronic media?
- (a) 25th March, 2021
 - (b) 30th March, 2021
 - (c) 25th September, 2021
 - (d) 30th September, 2021

II. Descriptive Questions (Total 15 Marks)

6. (a) Which amongst the following persons, is a benamidar:-
- (i) Ms. Saba
 - (ii) Mr. Amanat Ali
 - (iii) Mother of Mr. Amanat Ali **(3 Marks)**
- (b) If anyone amongst the aforementioned persons is a benamidar, then what shall be the quantum of penalty leviable and upon whom it shall be levied? **(4 Marks)**
7. (a) Whether TCL holds a dominant position in the relevant market of online testing? **(5 Marks)**
- (b) If yes, does it amount to abuse of dominant position? **(3 Marks)**

Case Study 2

IOWE Ltd., engaged in the business of real estate, is under corporate insolvency resolution process commenced from 15.09.2020, in which Mr. Tapan, has been appointed as the resolution professional, who is conducting the entire resolution process and managing the entire operations of the corporate debtor.

Mr. Tapan made an invitation for the names of prospective resolution applicants under clause (h) of sub-section (2) of section 25 pursuant to which the candidates who submitted their names, are as follows:

Name	Status of the person
Tryl ARC Ltd.	An asset reconstruction company registered with the Reserve Bank of India under section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which is managing one of the receivable accounts of IOWE Ltd. classified as NPA since 05.08.19 and also possesses 21% equity shares of IOWE Ltd obtained against convertible debentures of IOWE Ltd. prior to 31.03.2020.
Raj	He is a brother in law of Mr. Deepak who shall be the managing director of IOWE Ltd. during the time of implementation of the resolution plan and Mr. Raj, himself is disqualified to act as a director under the Companies Act, 2013
Prem	He was CEO of IOWE Ltd. when the adjudicating authority under section 44 of the Code passed an order requiring the resolution professional, Mr. Tapan, to release the security interest created in favour of one of the operational creditors on 25.02.2020.
Bhavesh	He is a spouse of sister of Mrs. Asmita who shall be the woman director, going to be involved in the management of IOWE Ltd. during the time of implementation of the resolution plan and Mr. Bhavesh, being a person resident in India was convicted under the provisions of FEMA Act, 1999, with imprisonment for 2 years and only 1 year has expired from the date of his release of imprisonment, for not paying penalty arose due to retaining possession of foreign currency notes of USD 560,000 for more than the prescribed period acquired as a payment of services provided in USA.
Jayesh	He was an ex-director of IOWE Ltd., convicted under the provisions of the Prohibition of Benami Property Transactions Act, 1988, as he was a beneficial owner of a property in which his friend, an ex-employee of IOWE Ltd., Mahesh, was made benamidar of the property, with imprisonment for 3 years and only 6 months have expired from the date of his release of imprisonment.
Urmila	She is a spouse of nephew of Mr. Raman, who shall be the promoter of IOWE Ltd. during the time of implementation of the resolution plan and Mrs. Urmila, herself, was convicted under the provisions of the Competition Act, 2002, for violating the order of the commission by re- entering into an agreement of anti-competitive nature on behalf of PKC Pvt. Ltd. in which she was the managing director, with imprisonment for 2.5 years and 2 years have expired from the date of her release of imprisonment.

Mr. Tapan rejected few of the prospective applicants candidature as they were not found to be eligible under section 29A of the Insolvency and Bankruptcy Code, 2016 and few were not

satisfying the criteria laid down by him i.e. were not having experience in the real estate industry for minimum 2 years.

Mr. Tapan provided the eligible resolution applicants with the access to all the relevant information including the financial position of IOWE Ltd. as follows:

Share Capital/ Liabilities	Rs. (In lakhs)	Assets	Rs. (In lakhs)
Equity Share Capital		Fixed Assets:	
Preference Share Capital		Land & Building	
Financial Creditors (Secured)		Plant & Machinery	
Operational Creditors (Unsecured)		Current Assets:	
Government Dues		Stocks	
Workmen's Dues pending for 27 months before 15.09.2020		Trade Receivables	
Employees' Dues		Other current Assets	
		Cash & Cash equivalents	

Based on the information provided, Mr. Tapan, received 3 resolution plans from the approved resolution applicants wherein all the 3 plans provided for:

1. The insolvency resolution process costs, estimated at Rs.40 lakhs,
2. Payment of the debts of operational creditors at Rs. 38 lakhs provided by Plan no. 1 and Plan no. 2 respectively whereas Plan no. 3 provided at Rs.28 lakhs only.
3. All the plans included the provisions for matters such as payments of debts to financial creditors who do not vote in favour of the plan as per the priority order mentioned in section 53 of the code, management of the affairs of the Corporate debtor after approval of the resolution plan, implementation and supervision of the resolution plan and conformed to such other requirements as may be specified by the Board.
4. With regards to the comment on the contravention with any of the provisions of the law for the time being in force in the plan, in plan no. 2, it was mentioned that as one of the mortgaged properties which was in favour of a financial creditor of IOWE Ltd. got provisionally attached under section 5 of the Prevention of Money Laundering Act, 2002 after the insolvency commencement date, but the proceedings of which were going on before the insolvency commencement date, that particular financial creditor would be treated as unsecured. In Plan no. 1 and Plan no. 3, it has been considered that attachment of property under section 5 of PMLA Act, 2002 will not have effect during the IBC proceedings and that financial creditor will continue to be a secured creditor.

It is also to be noted that the aforementioned mortgaged property was not purchased from "proceeds of crime". It was purchased and mortgaged in favour of financial creditor prior to the crime period.

Prior to the insolvency commencement date, Mr. Jayesh who was a past director in IOWE Ltd., purchased a property out of the cash money earned by him, which were not disclosed anywhere in order to avoid Income tax, registered in the name of Mahesh, an ex-employee of IOWE Ltd., after making an oral agreement with him in exchange of some commission in cash.

In the proceedings under the Prohibition of Benami Property Transactions Act, 1988, it was held that the property is benami in nature after which the shareholders of IOWE Ltd. in the general meeting removed Jayesh and Mahesh from the company and IOWE Ltd. filed a suit against Jayesh and Mahesh claiming that the property purchased by Jayesh in the name of Mahesh was from the cash illegally earned by Jayesh from the company and so IOWE Ltd. being the real owner of property be given the title and possession of the property.

I. Multiple Choice Questions (2X 5 = 10 Marks)

1. If Mr. Prem had created security interest in favour of one of the operational creditors to substitute its existing operational debt with financial debt then whether it can be considered as preferential transaction and within what time Mr. Prem should have entered into such transaction?
 - (a) Yes, during the period of two years preceding the insolvency commencement date
 - (b) No
 - (c) Yes, during the period of one year preceding the insolvency commencement date
 - (d) Cant' say, it depends
2. By the decision of which authority, Mrs. Urmila would have been convicted with imprisonment for 2.5 years under the provisions of the Competition Act, 2002?
 - (a) Competition Commission of India
 - (b) Chief Metropolitan Magistrate
 - (c) Director General
 - (d) The Central Government
3. Which of the following relations, between persons mentioned hereunder, will not fall under the meaning of relative as per the provisions of the Insolvency and Bankruptcy Code, 2016?
 - (1) Raj and Deepak
 - (2) Bhavesh and Asmita
 - (3) Urmila and Raman
 - (4) Jayesh and Mahesh
 - (a) 1,3 & 4
 - (b) 3 & 4
 - (c) 4
 - (d) 2 & 4
4. Had IOWE Ltd. filed a suit or claim, prior to the initiation of proceedings under the Prohibition of Benami Property Transactions Act, 1988, that it is the real owner of the property purchased by Jayesh, then to whom notice was required to be issued for

adjudication of benami property and by which authority?

- (a) Initiating officer shall issue notice to Jayesh, Mahesh and IOWE Ltd.
 - (b) Adjudicating authority shall issue notice to Jayesh and Mahesh
 - (c) Initiating officer shall issue notice to Jayesh and Mahesh
 - (d) Adjudicating authority shall issue notice to Jayesh, Mahesh and IOWE Ltd.
5. How much amount of foreign currency, Mr. Bhavesh, ought to have surrendered to the authorized dealer to avoid the penalty under the FEMA Act, 2002, assuming that Bhavesh had received USD 290,000 out of USD 560,000 in India, in rupees (INR) from a bank account in US, maintained with an authorised dealer?
- (a) \$ 270,000
 - (b) \$ 268,000
 - (c) \$ 560,000
 - (d) \$ 290,000

II. Descriptive Questions (Total 15 Marks)

6. Who among the candidates as named above are eligible to be resolution applicant to submit a resolution plan and also mention the reasons for their eligibility or ineligibility in the lights of the provisions of the Insolvency and Bankruptcy Code, 2016? **(5 Marks)**

7. (A) You are the resolution professional and need to comment that which of the resolution plans as aforementioned in the case study according to you confirms to the requirements as per the provisions of the Insolvency and Bankruptcy Code, 2016.

To support your answer, please prepare an estimated calculation showcasing the priority with respect to payments as per Section 53 of the Code, based on the balance sheet as provided above, assuming the estimated value that can be realized from the sale of assets, if sold, is Rs. 180 lakhs. (Ignore the fact that plan no. 2 has considered certain amount of financial creditors as unsecured.) **(3 Marks)**

- (B) How the commission would have come to know about the violation of the order by the company in which Mrs. Urmila was a managing director and what penalty could have been imposed on her? **(2 Marks)**

8. (A) Whether the provisional attachment under section 5 of the PMLA Act, 2002, of property of IOWE Ltd. could be justified considering the fact that it was mortgaged in the favour of one of the financial creditor and that it was purchased and mortgaged prior to the crime period? Provide your answer based on the decision of a relevant case law. **(3 Marks)**

- (B) Whether the act of IOWE Ltd. of filing suit against Jayesh and Mahesh claiming that the company is the real owner of property and be given the title and possession of the property is valid in the lights of the provisions of the Prohibition of Benami Property Transactions Act, 1988? **(2 Marks)**

Case Study 3

Mr. Hardeep Suri is a renowned businessman from Indore. He worked as a senior manager in a company for 7 years. After that, he thought to establish his own company. He established Exotic Ltd. in the year 1995. Mr. Suri has two sons, Sanjay and Sagar. His wife, Mrs. AshimaSuri, is a socialite and philanthropist.

Mr. Hardeep Suri started manufacturing paper with startup capital of Rs. 30 lakhs. He took Rs. 15 lakhs loan from the bank. Initially, like any other company there were so many ups and down. However, after 5 years of running the company, profits started pouring in. Around 2005, the company became a household name. The company had it's head office in one of the best locations in Mumbai at Nariman point. The shareholders of the company include Mr. Suri, his wife Mrs. Suri, both his sons, Sanjay and Sagar, and 3 other persons. Mr. Suri and his family held 90% of the total shares of the company.

After some time, he started acquisition of couple of companies. As a result, his business started growing up globally. Mr. Suri now owes an empire worth Rs. 500 crores. He wanted to earn more and more money and he also started export-import business. His business started flourishing in a year. Out of greed, Mr. Suri thought to take loan from the banks to expand his business. His management contacted some of the nationalized banks for approval of the loan. After several rounds of meetings with Mr. Suri, five national banks agreed for lending him money, based on letter of credit, export contract and copy of purchase order.

A number of front and fictitious companies were formed, to carry out illegal activities by the company, which submitted forged documents to obtain the money from the banks. The amount sanctioned for a particular export order was diverted to a different offshore company and later the money was remitted back into Mr. Suri's company without executing an export order.

Further, Mr. Suri and his son, Mr. Sanjay, started taking orders from other Asian countries for supply of pulses and wheat. Some genuine transactions were also done to hide other fractious transactions. The credit sanctioned for export order received from Malaysia for the supply of pulses and wheat was diverted to a Malaysian based firm but the money was later remitted back to Exotic Industries Ltd. So, most of the transactions of the company was done with a limited number of buyers, sister companies and sellers. As Mr. Suri frequently needed to travel to Malaysia, so, he bought a flat there. It was purchased with transmittals beyond the permissible limit under the Liberalized Remittance Scheme.

Further, Mr. Suri registered one more company in the name of his son, Sagar. It was an iron bar manufacturing company. It is a sister concern to Exotic Ltd. In order to show that the company is genuine, initially it manufactured some goods and exported to the other Asian countries for around a year's duration. After 1 year, Sagar's company approached a consortium of banks to sanction 100 crore rupees as a loan. The bank credited the loan on basis of the performance evaluation of its sister concern, Exotic Ltd. The money disbursed by the bank for procurement of goods and some other export materials, was not utilized for the said purpose and no export order was executed by Sagar's company.

Mr. Hardeep Suri's maternal uncle resided in London since 2005. He expired in the year 2018. But in the year 2017, out of natural love and affection, he gifted his eastern London house worth USD 150,000 to Mr. Suri. Mr. Suri family felt rejoiced, to hear that, they now have a home in London too. In 2019, Mr. Suri's cousin residing in London, contacted him to buy a new mansion, built on the side of a river bank. The cost of the mansion was USD 4,00,000. His cousin advised him to buy the mansion jointly with him. Mr. Suri followed his cousin's advice and sold the property, which his uncle gifted him. He sold the property at USD 2,00,000 and with that amount, he jointly bought that new mansion with his cousin.

In between, Mr. Sagar went on a vacation to Hungary. He took USD 7,000 along with him. On returning back, he had USD 3,300 unspent with him. Out of this amount, he gave USD 1,000 to his friend, who is going abroad next month.

Mr. Sagar during his visit to Hungary came to know from one of his friends about a Hungary based company known as Ozone Sportswear which is a subsidiary of Ozone Group of Companies. The net worth of the company is USD 45,000. Ozone Sportswear wanted to start its business operations in India by incorporating a company, through a Joint Venture, with Indian company. Sagar approached the company and held meetings with its management. The company agreed for the startup but before starting the joint venture, it wanted to study the market of India. The company wanted to study policies regarding exports and imports from/to India and other technical /financial collaborations between both the companies. For that purpose, the company opened its liason office in India after obtaining all the necessary permissions. The company submitted its profit-making track records of the preceding two immediate financial years done in its home country, Hungary. All the expenses of the company would be met by inward remittance.

One day, Mr. Sagar met Mr. Rudra, his childhood friend who owes a big real estate company. He suggested him to invest in real estate business as it gives good financial returns within couple of years. Out of Rs. 100 crores amount received by Mr. Sagar, he invested Rs. 20 crores into his business and from the remaining amount, he bought 50 acres farm house worth Rs. 50 crore in a lush green vicinity near Noida. Mr. Sagar also bought two flats in the new project started by Mr. Rudra in Khar, Mumbai, for Rs. 10 crores, in the name of his two company employees. He planned to get it transfer to his name later on. The left- over amount was transferred through a mediator to the shell companies abroad.

Mr. Suri was interested in building assets as he was having a huge amount of bank loans in his hand. One of his friends advised him to buy a zinc mine which was going to be auctioned by the Government of Rajasthan. Mr. Suri bought this mine by paying a sum of Rs. 30 crores, near Udaipur, Rajasthan to extract zinc. To earn more profit, Mr. Suri agreed to source zinc from other mines as well, from some associates like Shiv Kumar and Ramesh Shetty, whose job was to illegally mine zinc from mines. The job of these associates was to create layers to mask the actual source, for which, they were paid the money.

Zinc was sold to exporters, who deposited the money in one of the five bank accounts of Mr. Suri's company. Exotic Ltd. transferred money to Mr. Shiv Kumar and Mr. Ramesh. In one of the five Exotic Ltd.'s bank accounts, there was a combined credit and debit of 64 crore rupees between 2015 to 2017.

Mr. Shiv and Mr. Ramesh issued cheques to persons who may be either fictitious or under benami names or unregistered dealers of zinc. These individuals make withdrawals on the same date, in most cases in denominations of Rs 6 lakh. The same happens on the credit side.

Exotic Ltd. exported 9520 tons of zinc at below market price to A.S Trading International, a Hong Kong registered company. Mr. Suri is the director of A.S Trading International which is owned by his wife, Mrs. Ashima, a company registered in Isle of Man. A.S Trading International in return sold the zinc to outside party at market price. So now it can move the profit to its companies in tax havens, which are owned by Mr. Suri's family members.

The CBI registered a case after receiving a complaint from one of the consortium banks against Exotic Limited, its director, Mr. Suri, his wife Ashima Suri, son Sanjay and Sagar and unidentified other persons. It is alleged that the accused had cheated a consortium of five banks by siphoning off bank loans to the tune of Rs.600 crores.

The ED, also registered a case against the promoters of Exotic Ltd. In their investigation, it has been found that the proceeds of the crime were subsequently used by the accused to create illegal assets and black money. In further investigation by ED, they found there is large increase in cash turnover and sales. No commercial reasons were mentioned for money inflows. Most of the transactions didn't have supporting documents, and don't fit the company's profile.

I. Multiple Choice Questions (2X 5 = 10 Marks)

1. On returning from Hungry, Sagar had unspent \$ 3300. He gave \$ 1000 to his friend who was leaving for abroad next month. Is he permitted to do so?
 - (a) Sagar needs to give declaration to the authorized agent that he gave \$ 1000 of the amount remaining with him to his friend.
 - (b) Sagar cannot do so, as he needs to deposit the amount exceeding beyond \$2000 to AD within specified days.
 - (c) Sagar needs to surrender all the remaining \$ 3300 to the AD within specified days.
 - (d) Sagar can do so, as he bought this amount from AD.
2. Assuming that Exotic Ltd. procured consultancy services from abroad for his export and import of grains business and paid them USD 12,00,000 from its current account. Choose the correct answer.
 - (a) Since it is a current account transaction, Exotic Ltd. needs no prior approval of Reserve Bank of India.
 - (b) Exotic Ltd. requires prior approval of Reserve Bank of India before remittance of the said amount.
 - (c) The service is covered under schedule II of FEMA, so Ministry of Finance (Department of Economic Affairs) permission is required
 - (d) Central Government prior permission is required before remittance of the said amount.

3. Mr. Suri's residential flat in Malaysia was bought in contravention of FEMA regulations. Fearing of legal action against him, he wants to gift the same to his nephew, Mr. Udav, who is residing in Malaysia for last 15 months with him.
- (a) Since Mr. Udav is a resident of India, so Mr. Suri can gift him the flat.
 - (b) Mr. Suri can only transfer it to Udav via inheritance.
 - (c) Mr. Suri cannot gift it to Mr. Udav as it was bought in contravention of FEMA provisions.
 - (d) Mr. Suri can gift it to Mr. Udav as FEMA provisions are not applicable to a property located in Malaysia
4. In case, the ED after investigation finds that an offence is committed under PMLA, then for what time limit can the records or property be seized as per section 17 and 18 and whether the said time limit be extended?
- (a) 150 days and it cannot be extended
 - (b) 180 days and can be extended by order of Adjudicating Authority.
 - (c) 180 days and can be extended by enforcement directorate.
 - (d) 150 days and can only be extended in case offence committed comes under schedule I of PMLA.
5. The flat purchased by Sagar in the name of his company's employees, was sold to third party via registry. What will be the consequences of such sale?
- (a) Such a sale shall be valid as it is done through registry.
 - (b) Such a sale shall be valid provided the company's employees were aware that the property was registered in their name
 - (c) Such a sale shall be null and void.
 - (d) Such a sale shall be voidable at the option of third party to whom property is sold

II. Descriptive Questions (Total 15 Marks)

6. (i) Mr. Suri jointly bought a mansion with his cousin in London. Evaluate on the validity of the acquisition of the said immovable property outside India by Mr. Suri and is there any legal consequences according to the provisions of FEMA? **(4 Marks)**
- (ii) Exotic Ltd. exported zinc to A.S Trading International. The profit earned by the company was never brought back to India. According to the provisions of PMLA, advise the company as to what nature of crime it is and the legal consequences to be faced by him under the said Act? **(3 Marks)**
7. Mr. Suri bought a flat in Malaysia beyond the permissible limit of transmission of amount under Liberalized Scheme. So, in context to the fact given in the case study, answer the following-
- (i) What legal consequences Mr Suri will have to face under the provisions of the Act? **(4 Marks)**
 - (ii) What remedy can Mr. Suri seek to safeguard himself from any legal action that can be taken against him for the aforesaid offence? **(4 Marks)**

Case Study 4

In coordinated raids, more than 100 income tax sleuths (apart from police personnel) swooped down on the total of 25 premises linked to the Yashraj family. The family runs the Vidyanand Group of Institutions (VGI), established by Late Shri Ramraj 4 decades ago. Ramraj is the grandfather of Yashraj, the present CMD of the group. Besides raiding the office, residence, and institutions belonging to Yashraj, the IT officials also searched the residences of his two brothers and some of their close aides.

The VGI is mainly into running educational and also coaching Institutes for different competitive examinations in various states. The VGI comprised three (3) private limited companies, four (4) partnership firms, and a trust, controlled by a close-knit group of individuals. The annual revenue of VGI was Rs. 105 Crores as per the latest available audited financial statements.

The raids at the premises belonging to Yashraj and others were in connection with a multi-crore tax evasion case. The search was undertaken on the basis of intelligence outputs that VGI was indulged in substantial tax evasion through the following mentioned three ways:

- (a) By the suppression of fee receipts received from students.
- (b) There was also an allegation of forgery/impersonation in a competitive examination and
- (c) Illegal payments- "cash for seat"- to secure seats in the educational institutions.

The modus operandi was as below:

- (a) To receive a part of the fees (40%) through bank transfers and balance (60%) in cash;
- (b) Such cash receipts were invariably not entered into a regular accounting system. Instead, the receipts were maintained in a separate set of manual accounts handled by a lone close associate of the Yashraj family;
- (c) Cash received from some of the students, education Institutions permitting illegal impersonation during competitive examinations;
- (d) Cash received from students to secure seats, though the Institution managed a network of brokers.

Incriminating evidence of such suppression of receipts was found during the search in the form of separate manual accounts, electronic storage devices, huge sums of unaccounted cash, and some other properties. It was found that:

- (a) Cash was kept in bank lockers in the names of some of the long-serving employees on behalf of the Yashraj family.
- (b) A significant amount of cash was also found in a secret safe inside an auditorium on the main premises of the educational institution.
- (c) Huge amount of cash was also found in the residences of the family members of Yashraj, their close aids.

The unaccounted cash receipts were deployed for

- (a) acquiring immovable properties as personal investments in different places in India and abroad,

- (b) The immovable properties were then leased for long terms to the Trust for expansion of business in other towns. The documents evidencing the acquisition of immovable properties were showing lesser values, but actual market prices were much higher.
- (c) Well qualified and highly-priced faculty were hired and employed in the educational and in the coaching institutes. They were paid outside the books.
- (d) Luxury vehicles, highly priced jewellery, etc. were purchased for the promoters.
- (e) Shares, Debentures, Properties, Fixed Deposits, and Bank Accounts of the family members of Yashraj were held in the names of some of the long-serving employees and close aids.

Investigating Authorities found that there are highly sophisticated acts to cover up or camouflage the identity or origin of illegally obtained earnings so that they appear to have derived from lawful sources.

Based on the preliminary findings, the undisclosed income of the VGI was estimated at over Rs.175 crores. Unaccounted cash of Rs. 30 crores, jewellery worth Rs. 12 Crores, and 2 new luxury cars value at Rs. 2 crores each were seized. During the search, even some of the students, who impersonated could be traced, who accepted their crimes, along with some of institution managed brokers. Two of the 3 private limited companies were found to have existed only on papers.

Some of the close aides, who held some of the shares and debentures of the Yashraj family tried to re-transfer them to the Yashraj family fearing actions by the investigating officials. Some of the employee's en-cashed fixed deposits held in their names and immediately tried to transfer the proceeds to the bank accounts of the Yashraj family.

I. Multiple Choice Questions (2X 5 = 10 Marks)

1. The unaccounted cash receipts were deployed for acquiring immovable properties as personal investments in different places in India and abroad. The immovable properties were then leased for long terms to the Trust for expansion of business in other towns. The documents evidencing acquisition of immovable properties were showing lesser values, but actual market prices were much higher. In the context of an investigation of concealment of the proceeds of crime relating to the value of any property, value means:
 - (a) The Actual cost price at which the immovable properties were acquired by Yashraj Family as on the date of acquisition or possession;
 - (b) The Actual Value as per the Title Deeds, based on which the immovable properties were acquired by Yashraj Family;
 - (c) The Fair market value of the immovable properties acquired by Yashraj Family as on the date of acquisition or if the date cannot be determined, as on the date of possession;
 - (d) The Value as in the Title Deeds relating to the immovable properties acquired by Yashraj Family, suitably adjusting the Cost Inflation Index as on the date of acquisition or possession.

2. Shares, Debentures, Properties, Fixed Deposits and Bank Accounts of Yashraj Family were held in the names of some of the long-serving employees and their close aides. In this context, which of the following statements is not correct?
 - (a) A transaction in respect of a property, where the person providing the consideration is unknown at the time of sale but can be traced is not valid.
 - (b) A transaction in respect of a property carried out or made in a fictitious name is not valid.
 - (c) A transaction in respect of a property, where the person providing the consideration is fictitious is not valid.
 - (d) A transaction or arrangement in respect of a property, where the owner of the property is not aware of such ownership is not valid.
3. Some of the close aides, who held some of the shares and debentures of Yashraj Family, tried to re-transfer them to Yashraj Family fearing actions.
 - (a) Such retransfer is a valid transaction
 - (b) Such transactions are voidable at the option of the Adjudicating Authority
 - (c) Such transaction and retransfer shall be deemed to be null and void.
 - (d) Such transaction and re-transfer shall be valid in case transferred to any other person, acting on behalf of Yashraj Family.
4. Some of the employees encashed the fixed deposits held in their names on behalf of Yashraj family and immediately after raids tried to transfer the proceeds to the bank accounts of Yashraj family. In this context;
 - (a) Once transferred, such property becomes the property of the real owner Yashraj family and the said employees are relieved from liability.
 - (b) The proceeds from the properties are also illegal and consequently, such employees of Yashraj family are also liable
 - (c) Fixed deposits of Yashraj family, if not transferred, becomes the property of such employees and they are not liable.
 - (d) Transactions in fixed deposits in the above case held in other names are valid transactions.
5. Cash receipts were invariably not entered into the regular accounting system. Instead, the receipts were maintained in a separate set of manual accounts by a lone close associate of Yashraj family. Pick the correct statement regarding records, out of following statements;
 - (a) Only accounts made through regular accounting system shall be considered as a record.
 - (b) Separate manual accounts may be considered as a record for the purpose of investigation at the will of investigating officers.

- (c) Separate manual accounts shall also include apart from accounts made through regular accounting system considered as a record for the purpose of investigation.
- (d) Separate manual accounts may be considered as records only if maintained directly by one of the family members of Yashraj for the purpose of investigation.

II. Descriptive Questions (Total 15 Marks)

6. Prima facie various offences have been committed by Yashraj family and VGI. There are highly sophisticated acts to cover up or camouflage the identity or origin of illegally obtained earnings so that they appear to have derived from lawful sources. Answer the following:
- (A) What should be established by the Government to bring a successful prosecution of the concerned in Yashraj Family and their close aides?
(3 Marks)
 - (B) Illegal payments such as cash for the seat to secure seats in the educational institutions; education institutions permitting illegal impersonation during competitive examinations; the unaccounted cash receipts were deployed for acquiring immovable properties. What is the punishment for such type of offences under the Indian Laws when the crime involves disguising financial assets so that they can be used without detection of the illegal activity that produced them? **(2 Marks)**
7. It was found that Cash was kept in bank lockers in the names of some of the long- serving employees. "All cases of transactions or arrangements may not be illegal or unlawful, where the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration". Elucidate. **(5 Marks)**
8. The unaccounted receipts were deployed for acquiring immovable properties as personal investments in different states. Based on the preliminary findings, the undisclosed income of the group was estimated at over Rs 175 Crores, while unaccounted cash of Rs.30 Crores, Jewellery valued Rs. 12 Crores, 2 Luxury Cars value Rs 2 Crores each was seized.
- What are the wide powers to the concerned authorities to attach such properties suspected to be involved in covering up the origin of illegally obtained earnings? **(5 Marks)**

Case Study 5

The production of sugarcane is reasonably good in Uttar Pradesh from the point of view of both quality and quantity. The cause of worry, however, is the non-receipt of timely payments by the sugarcane-growers from the sugar mills. A common platform, therefore, is an essential requirement to provide a solution to this impending problem. Keeping this prerequisite in view, the sugarcane cultivators came together and formed a co-operative society known as Northwest Agro Produce Cooperative Society (NWAPCS) under the U.P. Co-operative Societies Act, 1965.

The main objective of forming the society was to ensure the timely collection of sale proceeds from the domineering sugar mills. However, the Cooperative Society also developed a Charter, in the form of a memorandum for its members, to regulate and control the supply, price, terms of sale of sugarcanes, collection of sale proceeds, and also recovery, if required. This Charter was binding on all the members of the Society.

In order to extend its support to the sugarcane-growers, the NWAPCS asked them to sell their entire farm produce of sugarcane to the Society at a mutually agreed price. The selling of entire farm produce to the Society was rather a pre-condition, because the farmers who wanted to avail the services of NWAPCS were under an obligation not to sell any portion of their farm produce in the open market. The Society, in turn, would sell the sugarcanes so procured from the farmers to the sugar mills.

In order to trade with the sugar mills and to deal with the regulatory authorities, financial institutions, etc., NWAPCS, in accordance with its memorandum, promoting a company called Northwest Agro Limited. Over a period of time, Northwest Agro Limited transformed itself into a significant company, playing its role as an intermediary to augment the process of the sale of sugarcanes.

The extracts from the latest audited financial statements of Northwest Agro Limited are as follows:

S. No.	Particulars	Amount (Rs.in crores)
	Authorised Share Capital	500
	Paid-up Share Capital	489
	Sale proceeds (net of taxes) from the sale of sugarcanes	4200
	Operating Assets	728
	Net Profit	96

Mr. Vijendra Narang, CEO of Northwest Agro Limited, had heard about forward integration as a strategy of expansion and growth. Based on his research work in this direction, he prepared a proposal to takeover Sun Sugar Limited having registered office at Lucknow, which was duly approved by the Board of Directors and thereafter, by the members of the company at an extraordinary general meeting. The strategy adopted by Northwest Agro Limited was to acquire a controlling stake in Sun Sugar Limited from the open market. To recount, Sun Sugar Limited is running a number of sugar mills, with a global presence.

Around 60% of the total sales made by Sun Sugar Limited constitutes export of raw sugar; the majority of which is exported to Iran. It may be noted that in order to settle the trade balance, Iran had started buying sugar from India because it has been blocked from the global financial system (including using USD) to transact its oil business.

During the last FY, the turnover of Sun Sugar Limited was recorded at Rs. 2200 crores while the operating assets were to the tune of Rs. 470 crores. The paid-up share capital stood at Rs. 126 crores against the Authorised share capital of Rs. 150 crores. It is noteworthy that even after the acquisition, Northwest Agro Limited and Sun Sugar Limited were not merged but maintained respective identities.

Sun Sugar Limited has a strong domestic network with retail shops and stores through which the company sells its sugar under the brand name 'Meetha'. The domestic sale constitutes around 40% of the total turnover. The retail shops and stores which sell 'Meetha' are given instructions by Sun Sugar Limited not to charge a price that is more than what is suggested by it though a lower price may be charged.

Mr. Abhishek Nair, head of the marketing department at Northwest Agro Limited was also given the responsibility to look after the marketing department of Sun Sugar Limited and to suggest ways to acquire substantial market share. After his thorough research, Mr. Nair concluded that the substantial market share in terms of new customers could be captured only if Sun Sugar Limited sold its 'Meetha' brand sugar at a price lower than the cost. Accordingly, a new pricing policy for 'Meetha' was implemented and the retail price was brought down from Rs.40 per kilogram to Rs. 35 per kilogram. However, in order to restrict loss on account of selling sugar at a price lower than the cost incurred in its production, Sun Sugar Limited asked all the shopkeepers and stores who sold 'Meetha' brand of sugar, not to bill at a time more than 2 kilograms of 'Meetha' per purchaser.

With a view to expanding the business, the directors of Northwest Agro Limited are contemplating to add another segment in the form of 'development and production of seeds' for a variety of crops. For the purpose of financing the current project, the company, in addition to availing of funds from the domestic market, is also hopeful of borrowing foreign currency funds in US dollars from a commercial bank situated in Chicago (USA).

NWAPCS undertook to promote another company called Southwest Agro Limited, whose object clause, *inter-alia*, included -

- ◆ To conduct weather research and provide forecast reports;
- ◆ To provide necessary technical knowledge/guidance to the members of NWAPCS;
- ◆ To conduct market research for Northwest Agro Limited and Sun Sugar Limited.

According to the detailed market research conducted by Southwest Agro Limited, it was found that Moon Sugar Limited held a major stake in the retailing of packaged sugar under the brand name 'Aur' and covered around 30% market across the whole country at a retail price of Rs. 40 per kilogram. This was a worrying factor as Moon Sugar Limited posed stiff competition among the players who sold packaged sugar in the retail sector. Keeping in view that the acquisition of Sun Sugar Limited by Northwest Agro Limited proved largely a successful event, a bear-hug letter was sent to the senior management of Moon Sugar Limited for its acquisition. For the immediately previous FY, the turnover of Moon Sugar Limited was recorded at Rs. 2800 crores whereas its operating assets were to the tune of Rs. 568 crores. Its Authorised capital was Rs. 400 crores and its paid-up share capital stood at Rs.364 crores.

Undeniably, Moon Sugar Limited was already an undisputed market leader; and therefore, it refused the bear-hug offer. However, Northwest Agro Limited along with Southwest Agro Limited performed hostile acquisitions and each of the companies acquired a 25.5% stake in the voting rights respectively by 'tender notice' over the stock exchange. The governing body of Moon Sugar Limited was restructured completely. Post-acquisition, Northwest Agro Limited got dominance over the market.

In order to obtain the benefit of 'dominance', a new pricing policy was introduced by Northwest Agro Limited. Accordingly, the new price was fixed at Rs. 45 per kilogram and the packaged sugar was renamed as 'Aur Meetha'. To support the price rise, Northwest Agro Limited started restricting the supply to the market.

Northwest Agro Limited also entered into a Memorandum of Understanding (MOU) with Star Ethanol Limited, which is a US\$ 30 million company considering the value of its assets, for transfer of technology by the latter.

I. Multiple Choice Questions (2X 5 = 10 Marks)

1. When the merger of Sun Sugar Limited with Northwest Agro Limited, can be considered as 'combination':
 - (a) When the value of assets of the enterprise created after the merger is more than Rs. 1000 crores or the turnover after the merger is more than Rs. 3000 crores.
 - (b) When the value of assets of the enterprise created after the merger is more than Rs. 1000 crores and the turnover after the merger is more than Rs. 3000 crores.
 - (c) When the value of assets of the enterprise created after the merger is more than Rs. 2000 crores or the turnover after the merger is more than Rs. 6000 crores.
 - (d) When the value of assets of the enterprise created after the merger is more than Rs. 2000 crores and the turnover after the merger is more than Rs. 6000 crores.
2. When a notice has been given to the Commission in respect of a 'combination' but the Commission has not passed any order in this respect, such 'combination' shall come into effect after the passing of how many days from the day of giving the notice to the Commission?
 - (a) 90 days
 - (b) 180 days
 - (c) 210 days
 - (d) 270 days
3. With a view to adding another segment in the form of 'development and production of seeds' for a variety of crops, Northwest Agro Limited is contemplating to finance the project partly by borrowing foreign currency funds in US dollars from a commercial bank situated in Chicago (USA). Any such foreign currency borrowing availed by the company shall be:

- (a) A current account transaction
 - (b) A capital account transaction
 - (c) Neither a current account transaction nor a capital account transaction
 - (d) Either a current account transaction if the funds to be borrowed are less than 1 million US \$ or a capital account transaction if the funds to be borrowed are 10 million US \$ or more.
4. In terms of the decision of Northwest Agro Limited, Sun Sugar Limited, through some agreement, asked all the shopkeepers and stores, who sold the 'Meetha' brand of sugar, not to sell more than 2 kilograms of sugar per purchaser. Such agreement can be categorised as:
- (a) Exclusive supply agreement
 - (b) Exclusive distribution agreement
 - (c) Refusal to deal
 - (d) None of the above
5. The Commission is empowered to direct that the 'combination' shall not take effect if it is of the opinion that the 'combination' has, or is likely to have a certain kind of 'effect' on the competition. By choosing the correct option, name that 'effect'
- (a) A severe adverse effect on competition
 - (b) An appreciable adverse effect on competition
 - (c) A significant adverse effect on competition
 - (d) A considerable adverse effect on competition

II. Descriptive Questions (Total 15 Marks)

6. From the given case study, is it justifiable to consider Northwest Agro Produce Cooperative Society (NWAPCS) as a 'cartel'? **(5 Marks)**
7. Does Northwest Agro Limited hold dominance over the market? If yes, mention the instances under which it abuses its dominant position. **(5 Marks)**
8. In the context of Northwest Agro Limited, explain briefly the regulatory aspects of 'combination' as mentioned in the Competition Act, 2002. (Presuming South-west Agro Limited has a relevant turnover of Rs. 500 crores and assets of Rs. 200 crores) Also, explain how the 'combination' is regulated. **(5 Marks)**