

## CA FINAL ELECTIVE PAPER 6D : Economic Laws

### 15 Important Case Laws : KEY TAKEAWAYS

**Note :** Refer Economic Laws Case Laws “detailed and summary files” available on Telegram channel for better understanding) The important case laws are given here for quick revision only although it is highly recommended to read at least **summary file**) Here, Case Laws are numbered according to as given in Summary File.

Chapter & Relevant Section	Case Law no.	Name & Ruling Authority	Key Takeaways
Competition Act,2002  Section 2(r) Relevant Market	5	Re: House of Diagnostics LLP and Esaote Asia Pacific Diagnostic Pvt. Ltd  Competition Commission of India	Relevant market was in question as CCI majority and CCI Chairperson has different opinions ,although the majority view will prevail but dissenting opinion is also published .CCI found the relevant market to be the ‘market for dedicated standing/tilting MRI machines in India’ (‘Relevant Market’) whereas CCI Chairperson considered the market to be all MRI Machines. Abuse of dominance is to be checked upon How the relevant market has been defined.
Competition Act,2002	9	CCI vs Bharti Airtel Ltd  Supreme Court	The Supreme Court clarified that the jurisdiction of the CCI is not excluded by the TRAI Act. <b>The Supreme Court grants to the CCI a ‘follow- on’ jurisdiction.</b> CCI could exercise jurisdiction only after proceedings under the TRAI Act had concluded/attained finality
RERA,2016	1	M/s M3M India Pvt. Ltd. & Anr. v. Dr. Dinesh Sharma & Anr  Delhi High Court	The RERA and Consumer Protection Act,1986 <b>are concurrent</b> . It means that home buyers can commence proceedings under CPA,1986 against developers even after commencement of RERA.
RERA,2016	5	Simmi Sikka v. M/s Emaar MGF Land Ltd.  Haryana RERA	RERA is applicable to all the projects whether registered or unregistered, <b>it’s just that few are not required to be registered but</b>

			<p><b>these are within the ambit of the Act.</b></p> <p>All real estate projects are covered for land title defect liability.</p>
<p><b>Insolvency and Bankruptcy Code,2016</b></p> <p><b>Section 8</b> Insolvency resolution by operational creditor</p>	3	<p><b>Macquarie Bank Limited vs Shilpi Cable Technologies Ltd</b></p> <p><b>Supreme Court</b></p>	<p>“An operational creditor may on the occurrence of a default deliver a demand notice” under Section 8 of the Code must be read <b>as including an operational creditor’s authorized agent and lawyer.”</b></p> <p>Hence, the court concluded that a lawyer on behalf of the operational creditor can issue a demand notice of an unpaid operational debt.</p>
<p><b>Insolvency and Bankruptcy Code,2016</b></p> <p><b>Section 14 - Moratorium</b></p>	5	<p><b>State Bank of India vs. V. Ramakrishnan</b></p> <p><b>Supreme Court</b></p>	<p><b>Section 14</b> of the Insolvency and Bankruptcy Code, 2016, which provides for a moratorium for the limited period, on admission of an insolvency petition, <b>would not apply to a personal guarantor of a corporate debtor. <i>Personal guarantor has to pay for debts due without any moratorium applying to save him.</i></b></p>
<p><b>Insolvency and Bankruptcy Code,2016</b></p> <p><b>Section 24-</b> Meetings of CoC</p>	7	<p><b>K. Sashidhar vs. Indian Overseas Bank &amp; Ors</b></p> <p><b>Supreme Court</b></p>	<p>It clearly means that amendment made by way of reducing the voting share to 66% from 75 % while passing of a resolution plan by CoC is not applicable for the decisions made by CoC earlier. (before the amendment came.) <b><i>NCLAT could not have examined the case on the basis of the amended provision.</i></b></p>

Prevention of Money Laundering Act, 2002	2	M/s. PMT Machines Ltd. vs The Deputy Director, Directorate of Enforcement, Delhi  Appellate Tribunal	The attachment order was passed in relation to <b>mortgaged properties in favour of banks, which were not purchased from "proceeds of crime"</b> , as they were purchased and mortgaged with the banks prior to the crime period. <b>ED is allowed to attach other private properties and all other assets of the alleged accused.</b> The Appellate Authority of the Prevention of Money Laundering Act, 2002 (PMLA) <b>has upheld the prevalence of the IBC over the provisions of PMLA.</b>
Prevention of Money Laundering Act, 2002	4	Chhagan Chandrakant Bhujbal vs. Union of India and Ors  Bombay High Court	No authorization of the Central Government is required for <b>Directors, Deputy Directors and Assistant Director</b> whereas, in respect of other officers, such authorization may be necessary. They are authorised to arrest and initiate proceedings for attachment of property and to launch prosecution in the designated Special Court for the offence of money laundering, if they have reasonable belief to do so based upon the material in their possession.
FEMA,1999 Section 13 -Power to impose fine	5	Mr. S. Bhaskar vs Enforcement Directorate FEMA  Karnataka High Court	The power of confiscation conferred under 13 (2) is in addition to the power to impose penalty under 13(1).It means penalty and <b>confiscation of currency/security/money or property can be done by AA simultaneously.</b>
FEMA,1999	7	Vodafone International Holding (VIH) v. Union of India (UOI)  Supreme Court	The Supreme court held that in Indian revenue authorities <b>do not have jurisdiction to impose tax on an offshore transaction between two non-residents companies</b> where in controlling interest in a (Indian) resident company is acquired by the non-resident company in the transaction.

FEMA,1999	8	Kanwar Natwar Singh vs Director of Enforcement & Anr.  Supreme Court	The noticee is not entitled to demand to furnish all the documents in possession of the Adjudicating Authority including those documents upon which no reliance has been placed. Supply of relied upon documents would serve the purpose of principles of natural justice.
Prohibition of Benami Property Transactions Act, 1988 Section 2(9) - Benami Transaction	2	Smt. P.Leelavathi vs V. Shankarnarayana Rao  Supreme Court	<b>Only financial assistance by the father in purchasing of the property will not confer it to be a benami transaction.</b>
Prohibition of Benami Property Transactions Act, 1988  Section 2(9) - Benami Transaction	7	Bhim Singh v. Kan Singh  Supreme Court	The intention of the transferor matters .An order is passed directing the defendant to deliver possession of the suit house to plaintiff No. 2 (Bhim Singh Son) as <b>Bharat Singh who purchased the property and handed the pattas (title deeds) to Bhim Singh,his intentions were clear to give property to Bhim Singh's Son.</b>
Prohibition of Benami Property Transactions Act, 1988	9	Niharika Jain W/o Shri Andesh Jain Vs Union of India  Rajasthan High Court	The Rajasthan High Court threw the entire transactions entered by the petitioner before 2016 amendment out of the purview of Benami Act. <b>A legislation is presumed and intended to be prospective.</b>