



The Institute of Chartered Accountants of India

Code: FN6EL565894
Subject : Economic Laws

Total Marks: 60
Marks Obtained : 36

Subject Economic Laws
 Number of Answer Books used : Main + 1 additional sheets

For use by ICAI only

565894-6D



02 DEC 2020

Q.No.	To be ticked (✓) by the candidate against the Questions answered	Marks Awarded (To be filled by Examiner)					Total
		a	b	c	d	e	
1	✓						
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Use only Blue / Black Ball Point Pen to write and shade the circles.
AVOID RED PEN.
 Write the marks in the boxes before shading the respective circles.

Total Marks awarded

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Total Marks awarded (in words) _____

Examiner's Signature _____



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INSTRUCTIONS TO THE CANDIDATE

Answers are not to be written on this page

- Answers should be written in figures and words in the allotted space at the right hand corner of the answer book and nowhere else including additional answer book/s and graph paper.
- Roll number should be written in the box in numbers and darken the appropriate circles of the OMR bubbles provided in the right hand corner of the cover page with **Black / Blue** ball point pen.
- Write all particulars such as name of Examination, Group No., Paper No. and subject at the appropriate space at the left hand upper corner.
4. Remove the Bar Code sticker of the particular paper from the Attendance sheet and affix the same on the box provided in the right hand corner of the cover page.
5. Since a machine will read the Roll no., please check and ensure that Roll number written in numbers, words and circles darkened are correct. In case any candidate fills this information wrongly, Institute will not take any responsibility for rectifying the mistake.
6. The answers should be written neatly and legibly
7. The answer to each question must be commenced on a fresh page and question number prominently written at the top of each answer. Alternatively, the question number should be distinctly written in the margin.
8. The answer to each question in all parts should be fully completed in one page or in a consecutive set of pages, before the next question is taken up.
9. Writing of Roll number in place/s other than the space provided for the purpose or writing distinguishing mark, symbols like "OM", "Sri", "Jesus", "786", etc., will tantamount to adoption of "unfair means"
10. Before submission of answer book to the invigilator take care to score out (X) blank pages, if any, that you might have left.



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Case Study 1 :-

1.6 As per Section 3 of Prohibition of Benami Property Transactions Act, 1988, whoever enters into any benami transaction on or after the commencement of Benami Transactions (Prohibition) Amendment Act, 2016 shall be punishable in accordance with provisions contained in Chapter VII (Section 53).

As per Section 53 of the Act, whoever is found guilty of offence of benami transaction shall be punishable with rigorous imprisonment for a term which may not be less than one year but which may extend to seven years and shall also be liable to fine which may extend to 25% of fair market value of property.

2 1.6 Step 1 Thus, penalty as per Sec 53 would be levied -

2 1.6 provisions ?

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1.7 As per Section 9 of PBPT Act, 1988,
A person shall not be qualified for appointment as chairperson or Member of the Adjudicating Authority unless he

(a) has been a member of Indian Revenue Service and has held the post of Commissioner of Income-tax or equivalent post in that service (or)

(b) (i) has been a member of Indian Legal Service and has held the post of Joint Secretary or equivalent post in that service or

(ii) is qualified for appointment as District Judge.

1.7 Step 1 The Chairperson and Members shall be appointed by Central Government and senior-most member shall be the Chairperson.

1.7



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1.8

As per [Section 3] of Real Estate (Regulation and Development) Act, 2016 ("RERA"),

the promoter shall make an application to the RERA Authority for registration of project that is ongoing on the date of commencement of this Act for which completion certificate has not been issued within a period of 3 months from date of commencement of Act.

Also, no registration of real estate project shall be required where the area of land proposed to be developed does not exceed 500 sq. metres or no. of apartments does not exceed 8 inclusive of all phases

⇒ Analysis:

- In the given case, M/s JV Realty limited (Developer) was developing a project of 15000 sq. metres having 100 office units.

- Till April 2017 (when all sections of RERA came into force), the developer has failed to provide possession and had not completed the project.

- The date of launching the project is



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irrelevant.

⇒ Conclusion:
The contention of developer is not correct and M/s Sun Energy (Pte) Ltd can initiate legal proceedings against developer under said Act since the completion certificate was not issued on date of commencement of Act and [the Act becomes applicable] by virtue of section 3.

1.8Step2

2

1.8

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1.9 As per Section 18 of RERA, 2016,
if the promoter fails to complete or
is unable to give possession of an apartment,
plot or building -

(a) in accordance with terms of the
agreement for sale or

1.9Step1 (b) due to discontinuance of his business
as a developer,
he shall be liable on demand to the allottees,
in case the allottee wishes to withdraw from
the project, to return the amount received
by him in respect of apartment with interest
as prescribed including compensation as
provided under the Act.

— If an allottee does not intend to withdraw,
he shall be paid interest for every month
1.9Step2 of delay till handing over possession.

— If the promoter fails to discharge any other
obligations under the Act, he shall be
liable to pay compensation in the manner
provided under the Act.

— As per Section 71 of the Act, for the
purpose of adjudging compensation, ^{inter-alia} vs 18 of
the Act, the appropriate Government

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shall appoint an 'Adjudicating officer' who shall determine compensation after taking several factors into consideration.

⇒ In the given case,
The developer has failed to complete project and is unable to hand over possession as per agreement for sale.



Also, he is not respond to complaints of allottees.

⇒ Conclusion :
The company can seek refund of entire amount paid to developer with interest and can also seek compensation as per section 18 of the Act.

1.9 Step 3

5 1.9

13 C1

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Case Study 4

4.6 (I) The various judicial pronouncements on tests for determination of a benami transaction ^{by Supreme Court} are :-

- a) Bhim Singh & Anr vs Kan Singh AIR 727 :
The Honible Supreme Court observed that the principle governing the determination of question on benami transaction may be summed up as :-
- (a) the burden to prove that a transaction is a benami transaction lies on person who asserts so;
 - (b) if it is proved that purchase money came from person other than person in whose name property is transferred, the purchase is prima facie assumed to be for benefit of person who supplied money unless contrary proved;
 - (c) the true character is governed by intention of person who contributed money.
 - (d) the intention has to be decided on -
 - (i) basis the surrounding circumstances
 - (ii) relationship of parties
 - (iii) motives governing their action
 - (iv) subsequent conduct.



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(ii) OP Sharma vs Rajendra Prasad Shewda 90s:
The four factors determined above must be considered 'cumulatively'.

(iii) Sat Surasaibalini vs Phanindra Mohan Majumdar:
The proposition as to onus to establish benami transaction was reiterated.

(iv) Valliammal (D) by LRS v. Subramaniam and Others -

The Hon'ble Supreme Court observed that -
'The essence of benami transaction is the intention of parties and such intention is shrouded in a thick veil which cannot be easily pierced through.'

(v) Mangathai Ammal through Lrs v. Rajeswari:
The Apex Court held that to hold a particular transaction benami, the six circumstances can be taken as guide :-

- (i) source from which purchase money come
- (ii) nature and possession of property after purchase;
- (iii) Motive
- (iv) Position of parties and relationship between them;
- (v) Custody of title deeds after sale
- (vi) Conduct of parties after sale.

5 4.6iStep1

5 4.6i



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4.6 (II)

The facts in the given case are similar to the facts in case of Supreme Court judgement in 'G. Mahalingappa v. G.M. Savitha' (SC)

In the aforesaid case :- (Facts)

- (i) The father of respondent purchased property in name of daughter when she was seven years old.
- (ii) The daughter filed a suit for recovery of property since it was held in her name.

- (*) It was (held) by Supreme Court that the essential features of Benami transaction can be noted as under:-
- The real owner must have purchased property in name of ostensible owner
 - The property must be purchased by beneficial owner for own pro benefit.
 - The fact that father had mortgaged property to raise loan supported that it was for his own benefit.
 - The fact that he let out property also shows his 'control' over same.

- The court concluded that -
- the circumstances surrounding transaction
 - relationship of parties



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1

4.6iiStep1

subsequent conduct of appellant showed that transaction was Benami.

Section 4 of the Act states that -
No suit, claim to enforce any right in respect of property held benami against the person in whose name the property is held or on behalf of person claiming to be real owner of property.

1

4.6iiStep2



In view of above judgement and provisions of Act,
Selva's contention that the property was a [benami property] where Mr. Venkat was benamidar and he was rightful owner was correct.
However, Mr. Selva cannot recover property from Mr Venkat by virtue of Section 4.

2

4.6ii

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4.6 (III)

Legal position?

- As per Section 3 of Competition Act, 2002, it shall not be lawful for any enterprise to enter into an agreement which causes an 'appreciable adverse effect on competition within India.

- Directly or indirectly determining purchase or sale prices and;
- limiting or controlling any provision of service

by enterprises engaged in identical or similar trade of goods or services shall be presumed to have appreciable adverse effect on competition within India.

- Section 2(b) of the Act defined 'Agreement' to include any arrangement or understanding

- whether or not it is formal or in writing

3

4.6iiiStep1 - whether or not it is intended to be enforceable by legal proceedings.

- Section 32 of the Act states that the Commission shall, notwithstanding that -

- (a) an agreement referred to in Section 3



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has been entered into outside India (b) any party to such agreement is outside India have the power to inquire into such agreements if it has or is likely to have an appreciable adverse effect on competition within India.



⇒ In view of above :

→ The proposal from other real estate developers for raising prices of apartments and charging separately for open car parking (even though unwritten) shall be presumed to be anti-competitive and in violation of section 3.

→ The intention to extend the understanding to infrastructure projects in UAE is also not valid and the Competition Commission of India shall have the power to inquire into such understandings if they are anti-competitive by virtue of Section 32.

0 4.6iiiStep2

3 4.6iii

10 C4



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Case Study 2

2.6 As per Section 6(2) of the Foreign Exchange Management Act, 1999 read with foreign [Schedule I] of Foreign Exchange Management (Permissible Capital Account Transactions), 2000,

The following capital account transactions are inter-alia allowed by person resident in India:-

(i) Investment by a person resident in India in foreign securities.

(ii) Transfer of immovable property outside India

(iii) Export, Import and holding of currency notes.

- As per ODI Regulations, a resident individual can make overseas investment in equity shares or CCPS of a JV/WOS outside India within overall limit of LRS.

- As per 'Acquisition or Transfer of Immovable property outside India'
- a PRI may purchase immovable property outside India jointly with a relative provided there is no outflow from India.



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In view of above :-

- (i) - Mr. Kamal can invest in equity shares of M/s P Homes Ltd (presumed to be a JV outside India) within the overall limit of LRS.
- (ii) He cannot buy agricultural farm in his individual capacity.
- (iii) He can make payment through foreign currency notes.

Note :-

The question does not clearly state whether the transaction is to be conducted by Kamal directly or he has to fund vital to undertake transaction.

The permissible capital account transactions can be validly undertaken provided it is within limits specified by LRS i.e. \$ 250000 each financial year.

In view of above :-

- Kamal can undertake transactions within limit of LRS.
- If the limits are exceeded, prior



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approval of RBI would be required in this regard.

Note:
There are multiple ambiguities in the question and solution is given after taking certain valid assumptions.

2.6 Step 3

2.6

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2.7
①

As per Section 69 of Prevention of Money Laundering Act, 2002,
where any fine or penalty imposed on any person u/s 13 or section 63 is not paid within 6 Months from the date of imposition of fine or penalty, the Director or any other person authorised by him to recover amount from said person in same manner as prescribed in Schedule II of Income-tax Act and shall have all powers of Tax Recovery officer.

②

⇒ As per Section 14A of Foreign Exchange Management Act, 1999,
the Adjudicating Authority may authorise an officer to recover any arrears of penalty from any person who fails to make payment of penalty u/s 13 within a period of 90 days from date on which notice is served on him.

The officers shall exercise all like powers which are conferred on Income-tax Authority in relation to recovery of tax under 'Income-tax Act'.



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Thus, Kamal has to pay penalty within 90 days fail from date of notice served on him i.e from 31st January 2018 failing which recovery can be made u/s 14A of FEMA.

2.7Step1

2.7

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2.8

- As per Section 11 of Foreign Exchange Management Act, 2002,
the RBI may for the purpose of ensuring compliance with provisions of Act and rules, direct any authorised person to furnish such information as it deems fit.



~~When~~ Where the authorised person fails to file any return as directed, a penalty from ₹ 10,000 to can be imposed.

- As per Section 12 of Act, the RBI can cause an inspection to be made by an officer if it appears necessary and expedient for purpose of :-
- verifying correctness of statement/information
 - obtaining any information that A.P. has failed to furnish.
 - securing compliance with provisions of Act.



2.8 Step 1

In view of above,



2.8

if T2B Bank Ltd does not comply with notice of RBI, it can exercise powers of 11 and 12 and impose penalty or conduct inquiry



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Q.9 (I)

Significance / Aim of PMLA, 2002 :-

The Act was legislated to serve twin purposes :

- to prevent money laundering &
- provide for confiscation of property derived from money laundering &
- to ensure curbing of tendency of committing scheduled offences.

→ The cycle of money laundering can be broken down in 3 distinct stages :

(i) Placement :

Injecting of crime money in the system.

(ii) Layering :

Spreading the money in different accounts and different countries.

(iii) Integration :

Money enters in such a way that original association with crime is obliterated.

2.9Step1



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Q.9 (II)

As per Section 26 of PMLA 2002,
The Director or any person aggrieved
by an order made by Adjudicating Authority
may prefer an appeal to Appellate
Tribunal within a period of 45 days
from date on which copy of order is
received by it.

1 2.9Step2

Thus, Mr. Kamal can prefer an appeal
with the Adjudicating Authority against the
attachment order.

Q.9 (III)

As per Section 9 of PMLA 2002,
where an order of confiscation has
made in respect of property, all
the rights and titles shall vest absolutely
in Central Government free from all encumbrances.

As per Section 10 of the Act, the Central Govt.
shall appoint officers to perform functions
of an Administrator (District Judge)

The Administrator shall take measures to manage
and dispose of the property which is vested
in CA u/s 9.



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1 2.9Step3

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4 2.9

6 C2

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Thus, the statement 'Properties confiscated shall be available for disposal by Ministry of Finance as & when necessary' is not correct.

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Case Study 5

5-6 (I)

As per Section 5 of PMLA, 2002, when the Director (not below rank of Deputy Director) has reason to believe on basis of material in possession that -

(a) any person is in possession of proceeds of crime &

(b) such proceeds are likely to be concealed, transferred to frustrate proceedings, he may provisionally attach property for a period not exceeding 180 days

- No order of attachment shall be made unless a report -

- has been forwarded to Magistrate

- complaint has been filed before Magistrate

- complaint has been filed under corresponding law of another country.

- Attachment can be made without complying with above if non-attachment would frustrate proceedings under the Act.

The Director or any of officer who provisionally attaches the property shall file complaint before Adjudicating Authority within 30 days




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As per Section 8, on receipt of complaint u/s 5, if the Adjudicating Authority has reason to believe that offence u/s 3 has been committed,

he shall serve notice of at least 30 days calling upon him to indicate sources of income, evidence and to show cause why property should not be held in money laundering.

The Adjudicating Authority, ^(AA) after considering the reply and taking into account all information on record, order whether all or any properties are involved in money laundering.

Where AA decided decides that any property is involved in money laundering, he shall by order in writing confirm the attachment of property which shall continue during investigation for a period not exceeding 365 days and become final after order of confiscation passed by Special Court.

As per Section 4 of the Act, whoever commits the offence of money laundering shall be punishable with rigorous

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imprisonment for a term which shall not be less than 3 years but may extend to 7 years and with fine.

Where proceeds of crime relate to offence under Narcotic Drugs and Psychotropic Substances Act, 1985, the maximum punishment may extend to 10 years.

2 5.6iStep2 Thus, the powers to attach properties are enumerated ups 5 and Section 8 of the Act.

5 5.6i Punishment is prescribed ups 4 of the Act.

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5.6 (II)

As per Section 23 of PMCA, 2002, where money laundering involves two or more inter-connected transactions and one such transaction is proved to be involved in money laundering, then for purpose of adjudication or confiscation of ~~it~~ it shall be presumed that the remaining transactions form part of such inter-connected transactions.

5.6iiiStep1

It was held by Andhra Pradesh HC in case of 'B. Rama Rao vs. Union of India') that

A property owned or in possession of person, other than person charged of having committed a scheduled offence was equally liable to attachment and confiscation proceedings.

In view of above,

Since Raghu had obtained the proceeds used to facilitate purchase farm house via illegitimate imports, it was scheduled offence under PMCA.

The purchase of farm house in name of Anu is a part of inter-connected transaction.

⇒ Conclusion :-

In view of Sec 23 and judgement of



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ADDL. BOOK

ADDL. Book No. 1

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ADDITIONAL ANSWER BOOK

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1 5.6ii Step 2

1 5.6ii

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High Court, the contention of Raghav is not valid and the farm house in possession of Anu can be attached and confiscated.

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5-6 (IT)

As per Section 7 u/w Regulation 9 of FEMA (Export of Goods and Services) Regulations 2015,

The amount representing the full export value shall be realised and repatriated to India within 9 months from date of export.

As per Section 13 of FEMA, if any person contravenes provisions of the Act, shall be liable to a penalty upto thrice the sum involved.

Where such contravention is a continuing one, further penalty which may extend to ₹ 5000/day shall be imposed.

As per Section 15, any contravention u/s 13 may be compounded on a application by officers of RBI or ED within 180 days from receipt of application.

⇒ In view of above, WWL was unable to realise EUR 4 million till the expiry of



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9 months from date of export i.e. by 31 December 2015

- ∴ Quantum of non-compliance is Euro 4 million.

- Penalty u/s 13 shall be upto 3 times the amount of contravention
i.e. € 4 mn x 3 = € 12 mn.

5.6iii Step 1 The future course of action for WWL would be to file a compounding application u/s 15 before RBI or ED.

5.6iii

C5

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Result Overview

Awarded Marks: 36

Max Marks:60

NA Not Attempted

○ Optional

M Marked

Case Study (Score: 36/60)

Question No	Awarded Marks	Maximum Marks	Status
C1	13	15	M
1.6	2	3	M
1.7	2	2	M
1.8	4	5	M
1.9	5	5	M
C2	6	15	M
2.6	0	3	M
2.7	0	3	M
2.8	2	3	M
2.9	4	6	M
C3	0	15	○
3.6i	0	4	○
3.6ii	0	5	○
3.6iii	0	6	○
C4	10	15	M
4.6i	5	6	M
4.6ii	2	4	M
4.6iii	3	5	M
C5	7	15	M
5.6i	5	7	M
5.6ii	1	4	M
5.6iii	1	4	M

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