

The Question Paper comprises five case study questions. The candidates are required to answer any four case study questions out of five.

Case Study 1

ABC Limited is a company engaged in the business of cement exports and it is also specialized in the area of Enterprise Resource Planning (ERP) implementation offering their services to domestic and overseas customers.

Enforcement Directorate under Foreign Exchange Management Act (FEMA) carried out the investigation against the ABC Limited. The investigation also centered around the details of the Promoters and their shareholdings; how many subsidiaries companies were formed by the appellants in India and abroad for doing business; details of the share transactions between the promoters of the Company and Non-Resident Indian(NRI) and the details of loans raised by the ABC Limited for their business purpose etc.

The investigation carried out by Enforcement Directorate has clearly made out a case against ABC Limited of violation of Section 8 and Section 42 of Foreign Exchange Management Act as well as Foreign Exchange Management (Realization, Repatriation and Surrender of Foreign Exchange) Regulations, 2015.

A complaint has been made by the Enforcement Directorate before Special Director. Special Director allowed the complaint and held that ABC Limited has contravened the provisions of FEMA as prayed in the complaint and accordingly imposed a penalty of Rs. 5 crores on the Company.

ABC Limited felt aggrieved by the aforementioned order of Special Director and contemplates to file an appeal.

ABC Ltd has Subsidiary M/s Jooly Private Limited is a company incorporated on 01.01.2005 under the provisions of Companies Act, 1956, having its registered office at Mumbai. The Authorised Share Capital of the company is Rs. 100, 00, 00,000/- and Paid up Share Capital of the company is Rs. 99, 00, 00,000/-.

M/s Jemmy Private Limited (Operational Creditor) is a company incorporated on 01.01.2006 under the provisions of Companies Act, 1956 having its registered office at Kolkata.

M/s Jooly Private Limited approached M/s Jemmy Private Limited for purchase of inputs for his production. It was specifically agreed that upon procuring the inputs by M/s Jooly Private Limited and raising of invoices by M/s Jemmy Private Limited, the entire payment for such invoices shall be made in a timely manner. As per the arrangement, the M/s Jooly Private Limited placed various purchase orders for supply of inputs. M/s Jemmy Private Limited supplied the goods as per the orders placed by M/s Jooly Private Limited and raised invoices against the said supply.

The invoices were duly acknowledged by M/s Jooly Private Limited and an amount as part payments were also made. But thereafter, inspite of various requests made and reminders sent by M/s Jemmy Private Limited, the M/s Jooly Private Limited had neither responded nor repaid the remaining claim.

On failure to pay the outstanding dues by the M/s Jooly Private Limited, the M/s Jemmy Private Limited sent a demand notice dated 01.01.2019 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the respondent asking them to make the entire outstanding payments of Rs. 10,00,000/- (Rupees Ten Lakhs), failing which the M/s Jemmy Private Limited shall initiate the Corporate Insolvency Resolution process against the M/s Jooly Private Limited.

Despite the demand notice, the M/s Jooly Private Limited did not pay the amount demanded, neither raised any notice of dispute nor replied to the said notice. As a next action M/s Jemmy Private Limited filed an application before National Company Law Tribunal (NCLT), seeking to unfold the process of Corporate Insolvency Resolution Process (CIRP).

Multiple Choice Questions

(2 x 5 = 10 Marks)

1. Which of the following is a capital account transaction under Foreign Exchange Management Act, 1999?
 - (a) Investment in shares of company in India.
 - (b) Payment of export commission.
 - (c) Payment towards consultancy services.
 - (d) None of the above

2. Mr. X is deputed to India by his company to develop a strategic software for a period of five years from 1st January, 2015. He is paid salary to his Indian bank account. On 1st May, 2017 he wants to remit his entire salaries ended till 30th April, 2017 to his home country USA. Mr. X can _____.
 - (a) remit the salary after payment of applicable taxes and contribution to applicable social security schemes
 - (b) cannot remit any amount as salary is credited to his bank account in India
 - (c) remit gross salary before taxes and can make payment of taxes at the year end
 - (d) remit salary only upon completion of assignment after payment of taxes and filing of Income tax return

3. Mr. X migrated to UK 20 year ago. He later on acquired UK citizenship. He inherited 50 acres of agricultural land in Maharashtra which has an inbuilt Farm House. Mr. Kale intends to gift or sell this property to his only son who has UK citizenship, but settled in India. Mr. X _____.
 - (a) can gift this property to his son but cannot sale it
 - (b) can neither gift nor sale this property to his son
 - (c) can sale this property to his son but cannot gift it
 - (d) can do both, gift as well as sale this property to his son

4. In the above situation what is the earliest date upto which M/s. Jemmy Private Limited can file an application to NCLT?
- (a) 01.01.2019 (b) 11.01.2019
(c) 15.01.2019 (d) 20.01.2019
5. Which of the following are not functions of Insolvency Professional Agencies (IPAs)?
- (a) Monitoring, Inspecting and Investigating members.
(b) Recommending Insolvency Professionals to Committee of Creditors.
(c) Drafting detailed standards and code of conduct for insolvency professionals.
(d) Addressing grievances, hearing complaints and taking suitable action.

Descriptive Questions

(Total 15 Marks)

Q.1(a) Who can make application before the Adjudicating Authority on behalf of 1. Operational Creditor and where to file such application to initiate the Corporate Insolvency process in the given case and also state the documents needs to be attached with such application under Insolvency and Bankruptcy Code, 2016.

(3 Marks)

(b) Who can appoint Interim Resolution Professional in case Resolution Professional is not appointed by the Operational Creditor? State the moratorium as envisaged under the provisions of Section 14(1) to (4) of the Insolvency and Bankruptcy Code, 2016 in relation to the Corporate Debtor.

(3 Marks)

Q.2 As in the above case as ABC Ltd is under Investigation, state the procedure of Adjudication and Appeal under Foreign Exchange Management Act, 1999.

(3 Marks)

Q.3 (a) State the Duty of persons to realise foreign exchange due and Manner of Repatriation as well as Period for surrender of realised foreign exchange under Foreign Exchange Management (Realization, Repatriation and Surrender of Foreign Exchange) Regulations, 2015.

(4 Marks)

(b) Consequence of contravention of provisions of Foreign Exchange Management Act, 1999 and Rules and Regulation made thereunder by a company.

(2 Marks)

Case Study 2

The present information has been filed by India Glycols Ltd. ('the Informant') against Indian Sugar Mills Association ("Opposite Party-1"/ OP-1/ ISMA), National Federation of Cooperative Sugar Factories Ltd. ("Opposite Party-2"/ OP-2/ NFCSF), Indian Oil Corporation Ltd. ("Opposite Party-3"/ OP-3/ IOCL), Hindustan Petroleum Corporation Ltd. ("Opposite Party-4"/ OP-4/ HPCL) and Bharat Petroleum Corporation Ltd. ("Opposite Party-5"/ OP-5/ BPCL) (collectively, "the OPs") alleging contravention of the provisions of the Act.

As per the Informant, OP-1 and OP-2 hold the entire market for sugar mills in India and supply ethanol to chemical industries and to OP-3 to OP-5. It has been alleged that OP-1 is forcing the PSU OMCs to purchase ethanol at an artificially higher price and the same amounts to violation of Section 4 of the Act. It has also been alleged that the role of OP-2 is equally anti-competitive since it has colluded with OP-1 in artificially raising the price of ethanol in contravention of the provisions of Section 3 (3) (a) of the Act.

The Informant is also aggrieved at the mandatory Ethanol Blending Programme (EBP) promulgated by the Ministry of Petroleum and Natural Gas ('MoPNG') vide its notification dated 02.01.2013 whereby the OMCs were directed to sell only petrol blended with ethanol with percentage of ethanol upto 10%. It is alleged that such a programme has created anti-competitive conditions in the market for supply of ethanol by encouraging members of OP-1 and OP-2 to rig bids and to artificially increase the prices of ethanol. Thus, while seeking discontinuance of such a programme, the Informant has sought that joint tender mechanism of PSU OMCs be scrapped and the same be replaced by independent tendering by all the OMCs including private OMCs for procurement of ethanol at market-driven prices so that proper competition amongst all the OMCs is ensured and the Informant and other buyers of ethanol are also benefited by fair competition in the market for sale and purchase of ethanol.

Another sister concern of Hindustan Petroleum, Poor Ltd., now is in default in repayment of mainly on account of the General slowdown in construction activities resulting in low capacity utilization and inadequate cash generation for timely repayment of dues to all concerned. Repeated follow-up by the Financial Institutions with the corporate debtor, 'Poor' Ltd., for submitting its specific plan of action for repayment of dues did not evoke any meaningful response. Therefore, after a joint lenders' meeting, all the financial creditors unanimously decided to apply under the provisions of the Insolvency and Bankruptcy Code, 2016 to the National Company Law Tribunal (NCLT) for starting the process of insolvency resolution in respect of corporate debtor, 'Poor' Ltd'. Financial Creditors filed an application before NCLT which was admitted by NCLT on 20th May, 2018 and orders issued for commencement of a moratorium period of 180 days, appointment of Mr. Ram, an Interim Resolution Professional and for his making a public announcement inviting claims from all concerned. With the advent of the public announcement the following creditors were identified:

- (1) Financial debts owed to unsecured creditors (D1)-Rs. 10 crores.
- (2) Workmen's dues for the period of 24 months preceding the liquidation commencement date (D2)-Rs. 30 crores.
- (3) Debts owed to a secured creditor who has relinquished his security (D3)-Rs. 60 crores.
- (4) Debts owed to the Central Government (D4)-34 Crores.
- (5) Debts owed to a secured creditor for an amount unpaid following the enforcement of security interest (D5)-Rs. 52 Crores.

Mr. Ram who has been appointed as Interim Resolution Professional wants to know the functional responsibilities of Insolvency Professional Agency (IPA).

Mr. Ram, in the last financial year, has given some legal opinions on financial matters to 'Poor' Ltd. and has charged fees.

Smart was the statutory auditor of the corporate debtor. Mr. Shantanu is the whole time member of the Competition Commission of India and has been identified as a relative of Mr. Dull, present Managing Director of 'Poor' Ltd. Mr. Dull is not dear on the provisions of Insolvency and Bankruptcy Code, 2016 (IBC) and requested Company Secretary to advise him on the vital objectives which are intended to be achieved with the Code and also whether the initiation of insolvency resolution process can be done by creditors only or by debtor also.

Multiple Choice questions:

(2 Marks each for 5 questions) Total 10 Marks

1. The management of the affairs of 'Poor' Ltd., the corporate debtor undergoing corporate insolvency resolution process vests in the_____.

- (a) Mr. Ram, Interim Resolution Professional
- (b) Board of Directors
- (c) Committee of Creditors
- (d) Insolvency and Bankruptcy Board of India

(2 Marks)

2. Any agreement under the Competition Act, 2002 shall be presumed to have an appreciable adverse effect on competition, which:

- (a) directly or indirectly determines purchase or sale prices.
- (b) limits or controls production, supply, markets, technical development, investment or provision of services.
- (c) directly or indirectly results in bid rigging or collusive bidding.
- (d) All of the above

(2 Marks)

3. The NCLT rejected the resolution plan for want of compliance with the Insolvency and Bankruptcy Code, accordingly the proceeds from the sale of liquidation shall be distributed in the following order of priority, what will be the first priority : **(2 Marks)**

- (a) D2- D1-D3-D4 & D5 (ranked equally).
- (b) D2 & D4 (ranked equally).
- (c) D2 & D5 (ranked equally).
- (d) D3 & D2 (ranked equally).

4. Mr. Ram who has been appointed as the resolution professional can take the following actions without the approval of the Committee of Creditors: **(2 Marks)**

- (a) Undertake transactions with Mr. Shantanu.

- (b) Make changes in the appointment of Smart, the statutory auditor.
 - (c) File applications for avoidance of preferential or undervalued transactions.
 - (d) Record any change in the ownership interest of 'Poor' Ltd.
5. The Competition Commission of India, if on receipt of an information under section 19 from a consumers' association for alleged contravention of section 3 (1) by the opposite party, is of the opinion that there exists a prima facie case, it shall direct the to cause an investigation into the matter.
- (a) President of the association giving information;
 - (b) Director General appointed under section 16;
 - (c) Representative of the opposite party;
 - (d) Managing Director.

Descriptive questions

(Total 15 Marks)

- Q.1** Whether the process of mandatory EBP notified by MoPNG as well as procurement of ethanol by the OMCs at fixed notified prices contravene any provision of the Act?
(5 Marks)
- Q.2** Whether OP-1 has abused its dominant position in the market for supply of ethanol to the PSU OMCs in violation of the provisions of Section 4 of the Act?
(5 Marks)
- Q.3** Answer the following based on the facts given in the question with reference to the provisions of the Insolvency and Bankruptcy Code, 2016 (Code):
- (A)** Advise Mr. Ram on the functional responsibilities of Insolvency Professional Agencies (IPA).
(2 Marks)
 - (B)** Advise Mr. Ram on the independence with the Corporate Debtor.
(2 Marks)
 - (C)** Advise 'Poor' Ltd. whether the initiation of insolvency resolution process can be done by creditor only or by corporate debtor also.
(1 Marks)

Case Study 3

Kanzra Kysco, a company incorporated and listed in South Korea, is inter-alia engaged in the business of manufacturing and sale of steel products, automotive parts and fuel cell systems. Kanzra Kysco present in India through its subsidiaries, i.e. Kanzra Kysco India Private Limited. Kanzra Kysco India Private Limited a company incorporated in India, is engaged in the business of supply/distribution of processed steel sheets to automobile original equipment manufacturers (OEMs), or their vendors.

Kanzra Steel, a company incorporated and listed in South Korea, is an integrated iron and steel mining company inter-alia engaged in manufacture and sale of various steel products such as steel bars, steel beams, hot and cold rolled steel and plates. Kanzra Steel's presence

in India is largely limited to the supply of certain raw materials to Kanzra Kysco India Private Limited.

Kanzra Kysco and Kanzra Steel contemplates a merger. The proposed combination under Section 5 of the Competition Act, 2002 relates to the merger of Kanzra Kysco into Kanzra Steel as a result of which Kanzra Kysco would cease to exist and Kanzra Steel will be the surviving company. Both Kanzra Kysco and Kanzra Steel belong to the Kanzra Automobiles Group of South Korea.

Mr. Inder and Mr. Sunder are promoter directors of India Exports Limited (another Subsidiary of Kanzra Kysco), having registered office in Jammu, is engaged in the export of software products to various countries in the world. One of the customer in U.S. to whom the company exported certain products failed to pay the amount due for these exports resulting into non-repatriation of amount to India. The Adjudicating Authority on coming to know about this, levied a penalty on the company under the provisions of the Foreign Exchange Management Act, 1999. The Company has sought advice on the followings:

- (a) Relevant provisions for realization of export amount and its timeline.
- (b) Timeline to surrender the realized foreign exchange under the Act.
- (c) Cases where realization and repatriation enjoy exemption.

Later, the company settled the amount for 50% with the customer and the amount was transferred through Hawala to India. The money so received was partly used by the company to part finance its office building in Mumbai. During search in the premises of Hawala businessman, some documentary evidence was captured by the search officer and based on which, the Adjudicating Authority appointed under the Prevention of Money Laundering Act, 2002 issued an order attaching the office of the company alleged to be involved in scheduled offence of money laundering. Mr. Prabhat, one of the employees was sent to Japan to develop a software program on deputation for 2 years. He earned a sum of US\$ 3000 as a honorarium.

Ms. Lilly, the daughter of Mr. Inder is an air hostess with the British Airways and flies for 12 days in a month and thereafter takes a break for 18 days. During the break, she accommodated at 'base', which is normally the city, outside India where the airways are headquartered. However, for security considerations, she was based in Mumbai, during the current financial year and was accommodated in Mumbai for more than 182 days.

Multiple Choice Questions

(2 x 5 = 10 Marks)

1. The residential status of Ms. Lilly for the current financial year under FEMA would be:
 - (a) Non-Resident irrespective of her citizenship.
 - (b) Resident irrespective of her citizenship.
 - (c) Non-Resident since she is British citizen.
 - (d) Resident though she is British citizen.
2. Mr. Prabhat can retain the honorarium earned by him on deputation to the extent of US \$:

(a) 3000	(b) 2000
(c) 1000	(d) Nil

3. Which of the following as per the Competition Act, 2002 refers to any agreement to sell goods on condition that the prices to be charged on the resale by the purchaser shall be the prices stipulated by the seller unless its clearly stated that the prices lower than those prices may be charged?
- (a) exclusive distribution agreement
 - (b) exclusive supply agreement
 - (c) resale price maintenance
 - (d) tie-in arrangement
4. Abuse of dominance by a dominant enterprise arises_____.
- (a) if the enterprise imposes unfair or discriminatory condition in purchase or sale of goods or service
 - (b) if the enterprise imposes discriminatory condition or price to meet competition
 - (c) if the enterprise makes a sizeable profit in its activities
 - (d) if the enterprise is a price leader
5. Two Enterprises _____.
- (a) can be in a dominant position at the same time
 - (b) cannot be in a dominant position at the same time
 - (c) can be dominant only if they merge
 - (d) can be dominant only if one acquires the other

Descriptive Questions

(Total 15 Marks)

- Q.1** As Legal Advisor of Kanzra Kysco India Private Limited, advise the Chairman of your Company, who is seeking your advice, regarding threshold of combination as prescribed under Competition Act, 2002. **(5 Marks)**
- Q.2** Merger notice under Section 6(2) of the Competition Act, 2002 has been received by Competition Commission of India. Assuming yourself as the Chairman of Competition Commission of India, state the factors that need to be considered while determining the above combination whether such merger is likely or not likely to have an appreciable adverse effect on competition in India? **(5 Marks)**
- Q.3** Answer the following with reference to the provisions of the Foreign Exchange Management Act, 1999 (FEMA):
- (a) The FEMA extends to the whole of India. Examine and advise India Export Ltd. as they have registered office in Jammu. **(2 Marks)**
 - (b) The realized foreign exchange is to be surrendered within the period specified under the Act. Examine and advise India Export Ltd. **(2 Mark)**
 - (c) The realization and repatriation in certain cases enjoy exemption. Examine and advise India Export Ltd. **(1 Mark)**

Case Study 4

Sharma's were a famous business class family living in Delhi. Mr. Sharma was involved in diversified businesses like property, shares, money lending, hotels etc. He had three children, one daughter and two sons named Anand and Tushar. His daughter Anahika was the eldest one and after completing her graduation went to London to pursue her ACCA. After completion of her course she came back to Delhi and got engaged to Dheeraj. Dheeraj was a Pune based Civil Engineer involved in construction business.

Anahika's wedding was fixed for April 17; 2017. Shopping of jewellery and clothes was also in full swing. Payment for both jewellery and clothes were made mostly in cash. During these preparations one of the jeweler from whom some jewellery was purchased in cash was raided by the Income Tax Department over cash sale of Gold and jewellery and deposition of high amounts of cash in banks in different accounts during the period of demonetization.

During this raid information/details pertaining to Sharma family's cash purchase also revealed. This information worked as evidence against Sharma's as the Department was already keeping an eye on Mr. Sharma. Mr. Sharma too had done cash purchases of gold and jewellery during the period of demonetization and was also involved in deposition of cash in bank during that period. Apart from that the Department was also having a tip about Mr. Sharma's some other business transactions.

After that jeweler, a raid was also conducted at Mr. Sharma's house on 23rd March. As they were preparing for Anahika's marriage a lot of cash and jewellery was lying in the house. Besides cash in Indian currency around 25000 US \$ were also found. Cash amounting to Rs. 2550000/-, jewellery worth Rs. 5 crores, flats and some fixed deposit receipts were seized. A diary consisting of many details of Mr. Sharma's various cash transaction was also found.

In May 2017 Anand got admission in a management school in US and for the purpose Mr. Sharma remitted 20000 US \$ as his admission fee to the institute. In August 2017 Anand went to USA for pursuing his studies. Mr. Sharma gave him 2000 US \$ for his petty expenses. Mr. Sharma opened a foreign currency account with a bank in USA for making remittances to Anand to meet his different expenses there under Reserve bank of India's Liberised Remittance Scheme and further a sum of US \$ 50000 was deposited in the same.

Mr. Sharma had asked Dheeraj to look for a land upon which he wanted to construct a small residential tower with all the modern amenities and facilities. Dheeraj contacted some property dealers of Pune for the land. One of the dealers told him about a land situated in nearby areas of Pune. After having a meeting with the land owner deal of the land was finalized for Rs. 1.5 crore. Mr. Sharma decided to pay Rs. One crore through cheque and balance in cash. To arrange for the said transaction of Rs. 1.5 crore Mr. Sharma decided to sell one of his inherited properties.

Since it was intended that the said land will be used for building a residential tower consisting of 12 units and the area of land was more than 500 square meters a registration under The Real Estate (Regulation and Development) Act, 2016 was necessary. Dheeraj and Anand were given the full charge of the land and construction upon it. On 1st July 2017, an online application was submitted to MAHA RERA for project registration along with all the necessary documents. The project was named as DEVALAYA and Mr. Sharma and Dheeraj were named as the Promoters.

On 14th July the project got its registration and after that the marketing of the project started. Due to unique project buyers took a great interest in the project and all the 12 units were sold out within few months of publication of the advertisement. The construction work started on a promised date i.e. 1st August 2017 and it was promised that by 31st December 2017, 80% of construction work will be completed. All the formalities related to

agreement of sale with prospective buyers were duly fulfilled. The selling price of each flat was fixed at Rs. One crore and a legitimate signing amount was received from the prospective buyers.

Project completion period was 06 months with a grace period of one month. Buyers were required to pay the amounts as per the stages of completion of the project .As promised by the promoters by 31st December project was 80% complete and all the buyers except one Mr. Abhijit, paid the amount dues as per schedule. Flats were ready for possession by 15th February 2018.All the buyers paid the full amount towards their flats ,but Mr. Abhijit for one or other reason did not pay more than 60% i.e. 60 lacs towards his flat.

The promoters of the Devalaya got completion certificate and occupancy certificate in due time and handed over the possession to the buyers along with all the necessary documents related to the title and ownership of the flats; except Mr. Abhijit, as he had not made full payment towards his flat, despite sending him reminders for payment. When Mr. Abhijit came to know about the possession of the flats he contacted Dheeraj and demanded for possession. Dheeraj asked Mr. Abhijit to pay the balance amount together with interest for delay period to get the possession. Mr. Abhijit rejected Dheeraj's demand of paying the interest saying that he is ready to pay the balance amount but not the interest as he is legally not bound to do so. Dheeraj tried to convince him to pay the interest but he continuously refused so after due discussion with Mr. Sharma, Dheeraj handed over the possession to Mr. Abhijit also when he released the full and final payment towards the flat purchased by him.

Multiple Choice questions:

(2 Marks each for 5 questions) Total 10 Marks

1. How much foreign exchange in the form of coins can be held by a resident individual in India?
 - (a) 2,000 US \$
 - (b) 5,000 US \$
 - (c) None of the above
 - (d) Without any limit

2. Suppose in the given case if any real estate project was under construction/on going on the date of commencement of RERA (for which occupancy /completion certificate was not received) by which date that project should have get its RERA registration?
 - (a) By 1st August 2016
 - (b) By 29th July 2017
 - (c) By 1st May 2017
 - (d) By 29th July 2016

3. With reference to the RERA; which of the following sentence/s are correct?
 - (a) The appropriate Government shall, within a period of one year from the date of coming into force of this Act, establish an Authority
 - (b) The appropriate Government of two or more states or Union territories can not establish one single Authority, even if it deems fit
 - (c) The appropriate Government may not establish more than one Authority in a state or Union territory, even if it deems fit
 - (d) The appropriate Government shall establish authority after 1year from the date of enforcement of the Act.

4. Disputes related to real estate projects covered by the vicinity of RERA can be heard in which of the following hierarchy-
- (a) RERA Authority→Appellate Tribunal→High Court
 - (b) RERA Authority→Central Advisory Council→Appellate Tribunal
 - (c) Central Advisory Council→RERA Authority→Appellate Tribunal→High Court
 - (d) RERA Authority→Central Advisory Council→Appellate Tribunal→High Court
5. For any contravention of FEMA Regulations under section 13 of the Act, where the sum involved is quantifiable, the quantum of penalty would be _____.
- (a) three times of sum involved
 - (b) rupees two lacs only
 - (c) upto Rupees five thousand per day of the offence in continue
 - (d) Both (a) and (c) above

Descriptive questions

(Total 15 Marks)

- Q.1** In the given case of a housing project in Pune City State Which key factor required to be checked before granting any registration. **(5 Marks)**
- Q.2** A raid was conducted at Mr. Sharma's residence in relation to cash purchase of jewellery.
- During the raid some documents were found and seized by the authorities. Supposing you are an authority who is examining the case under the respective Act. Examine in the given situations your power regarding seizing of those documents and papers. **(5 Marks)**
- Q.3** Examine with reference to the provisions of the Foreign Exchange Management Act, 1999 whether there are any restriction in respect of the following:
- (i) Drawal or Foreign Exchange for payments due on account of Amortization of loans in the ordinary course of business.
 - (ii) A person, who is resident of U.S.A. for several years, is planning to return to India permanently. Can he continue to hold the investment made by him in the securities issued by the companies in U.S.A.?
 - (iii) A person resident outside India proposes to invest in the shares of an Indian company engaged in plantation activities.
- (5 Marks)**

Case Study 5

Speciality Vehicles Limited (SVL) is a manufacturer of passenger cars and commercial vehicles in India. It sells the cars through single brand dealerships across prominent cities. The dealerships are separate for passenger cars and commercial vehicles. SVL is lagging behind the competitors in the passenger car segment due to its cost structure and is losing market share for the last 3 years.

With no revival in sight, the company has decided to exit the passenger car segment and notified its dealers about shutdown of passenger car manufacturing and sales in India. The service centers for passenger cars will continue its operations for the next 3 years. Perfect Vehicles Ltd. (PVL) is a passenger car dealer for SVL in Bhopal with an office cum showroom and no service center.

PVL has bank loans from Bank X and Bank Y for Rs. 15 crore and, Rs. 10.5 crore respectively. Both the banks have pari-passu charge on the office premise cum showroom. PVL has expressed its inability to repay its financial obligations to the bankers. One of the bankers, Bank X has filed an application for Insolvency Resolution Process (IRP) against PVL under IBC, 2016, which is admitted by the adjudicating authority (NCLT) and consequently appointed Interim Resolution Professional.

SVL has an interest free dealership security deposit of Rs. 2.25 crore since 2010 from PVL with a right to set-off against any receivables pending from PVL towards SVL. Mr. Right, the nephew of the promoter of PVL had given a loan of Rs. 0.75 crore to PVL in the last 3 months to pay the utility bills and office expenses.

SVL in its claims has demanded Rs. 5.25 crore from PVL against pending receivables. PVL has not paid wages to the tune of Rs. 0.75 crore to its workmen and statutory employer contributions to the tune of Rs. 0.3 crore.

As per valuers' report, approximated realizable value of office cum showroom is Rs.18 crore. Value of furniture and equipment is Rs. 0.075 crore. The current receivables on books are Rs. 2.25 crore of which 50% is doubtful. PC has a general purpose' current account with Bank X having current balance of Rs. 0.225 crore.

After admission of the application of Bank X by NCLT, PVL approached one of the Insolvency Professional to know the applicability of IBC, Infrastructure of Insolvency and Bankruptcy and also the persons who can not initiate Corporate Insolvency Resolution Process.

PVL also sought opinion on the duties of its officers and employees.

Mr. Right has recently been appointed as one of the member in CCI by the Central Government for 5 years within the maximum limit of members to be appointed by the Central Government, where a case is pending against SVL for entering an agreement to limit, restrict or withhold the output or supply of cars or allocate area or market for the disposal or sale of cars, which was classified as anti-competitive agreement by the commission and initiated enquiry. Later in view of above, Mr. Right decides to resign from CCI.

Mr. Left, the brother of Mr. Right approached him to have his views on the nature of agreement which he proposes to enter to sell goods on condition that the prices to be charged on the resale by the purchasers shall be the prices stipulated by him and also on the number of days notice is to be given to CCI while an enterprise proposes to enter into a combination, as per the Competition Act, 2002.

Mr. Left also approached the expert to know the procedure for investigation of combinations and the action by commission after investigation.

Multiple Choice questions:

(2 Marks each for 5 questions) Total 10 Marks

1. SVL has a net claim of rupees against PVL.
 - (a) 5.25 crore
 - (b) 3.00 crore

- (c) 18.00 crore
(d) 28.50 crore **(2 Marks)**
2. SVL is a/an _____ for its claims against PVL.
(a) A financial creditor
(b) An operational creditor
(c) A financial as well as an operational creditor
(d) Corporate Guarantor **(2 Marks)**
3. The committee of creditors will constitute of:
(a) Banks X and Y
(b) Banks X, Y and SVL
(c) Banks X, Y, SVL, Nephew of the promoter
(d) Banks X, Y, SVL, Nephew of the promoter, Workmen **(2 Marks)**
4. Which of the following creditors / groups of creditors cannot reject a proposed resolution plan?
(a) Bank X
(b) SVL
(c) Bank X and Y together
(d) Bank Y **(2 Marks)**
5. Who proposes the name of the new resolution professional, if the interim resolution professional appointed by NCLT referred in the case study, is being replaced by the Committee of Creditors?
(a) Adjudicating Authority
(b) Interim resolution professional
(c) Insolvency and Bankruptcy Board of India
(d) Committee of Creditors **(2 Marks)**

Descriptive questions

(Total 15 Marks)

- Q.1** Referring the case study, answer the following as per the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC):
- (a) To whom the IBC is applicable? **(2 Marks)**
- (b) Who are involved in the Infrastructure of Insolvency and Bankruptcy Process under IBC?
(3 Marks)

Q.2

- (a) What are duties of officers, employees, managers, etc. to report to the Resolution Professional? What are the consequences if they do not support? **(3 Marks)**
- (b) What is Financial Debt? **(2 Marks)**

Q.3 Referring the facts provided in the case study, answer the following as per the provisions of the Competition Act, 2002:

- a) What constitutes competition law and policy? **(3 Marks)**
- b) What is an anti-competitive agreement? **(2 Marks)**