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SUBJECT- ECONOMIC LAW

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Case Study 1

Multiple Choice Questions

1. (a)
2. (a)
3. (a)
4. (b)
5. (b)

Descriptive Answers

Answer : 1

(a)

As per Section 6 of the Insolvency and Bankruptcy Code, 2016, where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under Chapter II of the Part II of the Insolvency and Bankruptcy Code, 2016. It may be noted that in terms of Section 5(20) of the Insolvency and Bankruptcy Code, 2016 operational creditor means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred;

(1 Mark)

Application to initiate the Corporate Insolvency process may be filed before the Adjudicating Authority. In terms of Section 5(1) of the Insolvency and Bankruptcy Code, 2016, Adjudicating Authority means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013.

According to Section 9 of the Insolvency and Bankruptcy Code, 2016, Application for initiation of corporate insolvency resolution process by operational creditor shall be filed in such form and manner and accompanied with such fee as may be prescribed. The operational creditor shall, along with the application furnish following documents-

- A copy of the invoice demanding payment or demand notice delivered by the operational creditor to the corporate debtor;
- An affidavit to the effect that there is no notice given by the corporate debtor relating to a dispute of the unpaid operational debt;
- A copy of the certificate from the financial institutions maintaining accounts of the operational creditor confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available;
- A copy of any record with information utility confirming that there is no payment of an unpaid operational debt by the corporate debtor, if available; and
- Any other proof confirming that there is no payment of any unpaid operational debt by the corporate debtor or such other information, as may be prescribed.

(2 Marks)

(b)

Adjudicating Authority(National Company Law Tribunal) appoint Interim Resolution Professional in case Resolution Professional is not appointed by the Operational Creditor.

Section 14 of the Insolvency and Bankruptcy Code, 2016 deals with Moratorium.

Section 14(1) provides that subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: -

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor. **(2 Marks)**

Section 14(2) states that the supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

As per Section 14(3) the provisions of sub-section (1) shall not apply to-

- (a) such transaction as may be notified by the Central Government in consultation with any financial regulator;
- (b) a surety in a contract of guarantee to a corporate debtor.

Section 14(4) provides that the order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process. It may be noted that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be. **(1 Mark)**

Answer : 2

Chapter V (Section 16 to 35) of the Foreign Exchange Management Act, 1999(FEMA) deals with the provisions of Adjudication and Appeal as under:

Adjudicating Authority

For the purpose of adjudication under Section 13 of FEMA (dealing with Penalties), the Central Government may, by an order published in the Official Gazette, appoint as many officers of the Central Government as it may think fit, as the Adjudicating Authorities for holding an inquiry in the manner prescribed after giving the person alleged to have committed contravention under Section 13, against whom a complaint has been made. Adjudicating Authority shall not hold an enquiry except upon a complaint in writing made by any officer authorised by a general or special order by the Central Government.

Appeal to Special Director (Appeals)

Central Government shall, by notification, appoint one or more Special Directors (Appeals) to hear appeals against the orders of the Adjudicating Authorities. Every appeal shall be filed within forty-five days from the date on which the copy of the order made by the Adjudicating Authority is received by the aggrieved person and it shall be in such form, verified in such manner and be accompanied by prescribed fee. **(1 Mark)**

Appeal to Appellate Tribunal

Central Government or any person aggrieved by an order made by an Adjudicating Authority, or the Special Director (Appeals), may prefer an appeal to the Appellate Tribunal.

Every appeal shall be filed within a period of forty-five days from the date on which a copy of the order made by the Adjudicating Authority or the Special Director (Appeals) is received by the aggrieved person or by the Central Government and it shall be in such form, verified in such manner and be accompanied by such prescribed. **(1 Mark)**

Appeal to High Court

Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order. **(1 Mark)**

Answer :3

(a)

Duty of persons to realise foreign exchange due:

A person resident in India to whom any amount of foreign exchange is due or has accrued shall, save as otherwise provided under the provisions of the Foreign Exchange Management Act, 1999, or the Rules and Regulations made thereunder, or with the general or special permission of the Reserve Bank of India, take all reasonable steps to realise and repatriate to India such foreign exchange, and shall in no case do or refrain from doing anything, or take or refrain from taking any action, which has the effect of securing -

- a. that the receipt by him of the whole or part of that foreign exchange is delayed; or
- b. that the foreign exchange ceases in whole or in part to be receivable by him.

(1 Mark)

Manner of Repatriation:

- (1)** On realisation of foreign exchange due, a person shall repatriate the same to India, namely bring into, or receive in, India and -
 - a. sell it to an authorised person in India in exchange for rupees; or
 - b. retain or hold it in account with an authorised dealer in India to the extent specified by the Reserve Bank; or
 - c. use it for discharge of a debt or liability denominated in foreign exchange to the extent and in the manner specified by the Reserve Bank.

- (2)** A person shall be deemed to have repatriated the realised foreign exchange to India when he receives in India payment in rupees from the account of a bank or an exchange house situated in any country outside India, maintained with an authorised dealer. **(1 Mark)**

Period for surrender of realised foreign exchange:

A person not being an individual resident in India shall sell the realised foreign exchange to an authorised person, within the period specified below :-

- i. foreign exchange due or accrued as remuneration for services rendered, whether in or outside India, or in settlement of any lawful obligation, or an income on assets held outside India, or as inheritance, settlement or gift, within seven days from the date of its receipt;
- ii. in all other cases within a period of ninety days from the date of its receipt.

(b)

According to Section 42 of the Foreign Exchange Management Act, 1999, where a person committing a contravention of any of the provisions of the Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

It may be noted that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention.

Where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

For the purposes of section 42 of the Act, "Company" means anybody corporate and includes a firm or other association of individuals; and "director", in relation to a firm, means a partner in the firm.

(2 Marks)

Case Study 2

Multiple Choice Questions

1. (a)
2. (d)
3. (d)
4. (c)
5. (b)

Descriptive Answers

Answer: 1

It needs no emphasis that a policy or pricing strategy of the Government cannot be examined in abstract by the Commission unless the same falls within the framework of the Act. The Commission observes that policy formulation is the prerogative of the Government. It is in its domain to effect a change in the extant policy by shifting the focus or changing the economic policies. No doubt, such changes could result in adversely affecting some of the existing interests, yet the same cannot be a ground to challenge them before the Commission. It is not for the Commission to consider the relative merits of different economic policies or the pricing mechanisms of the Government and decide as to whether a more wise or a better alternative can be evolved. The Commission is of the considered opinion that formulation of policies falls in the domain of the Executive and the Commission is not the appropriate forum to sit in appeal over such decisions unless such policies contravene any provision of the Act and can be examined within the existing regulatory framework.

Answer: 2

The primary activities of ISMA are to provide a platform to its constituent members to discuss matters of common interest relating to the sugar industry besides making representations to the government authorities and agencies to espouse the cause of its members in respect of the matters of policy and procedures governing the sugar industry. Since ISMA is not undertaking any activity which is economic or commercial activity pertaining to production and supply of ethanol, allegations made by the Informant in this regard do not survive. As a result, question of ISMA being dominant in such a market does not arise. The argument of the Informant that ISMA is involved in business of 'provision of services' to its members to bring it within the scope of 'enterprise' is disingenuous. It needs no further analysis as the allegations made by the Informant are in respect of production and supply of ethanol and not in respect of the alleged services provided by ISMA to its members. It would indeed be a subversion of law if ISMA is held to be an 'enterprise' for providing its platform to the members as 'services' and to hold it guilty for altogether different activity i.e. production and supply of ethanol.

(3 Marks)

In view of the above, the Commission is of the considered opinion that ISMA cannot be considered to be an 'enterprise' within the meaning of the term as defined in Section 2 (h) of the Act and as such, the issue of abuse of dominant position by ISMA in respect of production and supply of ethanol does not arise.

(2 Marks)

Answer : 3

(A) Functional responsibilities of Insolvency Professional Agencies (IPA):

It will perform three key functions:

(i) Regulatory functions

- drafting detailed standards and codes of conduct through bye laws, that are made

public and are binding on all members

(ii) Executive functions

- monitoring, inspecting and investigating members on a regular basis
- gathering information on their performance, with the over-arching objective of preventing frivolous behaviour, and
- malfeasance in the conduct of IP duties

(iii) Quasi-judicial functions

- addressing grievances of aggrieved parties, hearing complaints against members and taking suitable actions

(B) Eligibility of an insolvency Professional to be appointed as a Resolution Professional: As per Regulation 3 of the Insolvency and Bankruptcy (Insolvency Resolution process for Corporate Persons) Regulation, 2016, an insolvency professional shall be eligible for appointment as a resolution professional for a corporate insolvency resolution process if he and all partners and directors of the insolvency professional entity of which he is partner or director are independent of the corporate debtor:-

- (a) He is eligible to be appointed as an independent director on the board of the corporate debtor under section 149 of the Companies Act, 2013, where the corporate debtor is a company.
- (b) He is not a related party of the corporate debtor.
- (c) He is not an employee or proprietor or a partner of a firm of auditors or company secretaries in practice or cost auditors of the corporate debtor in the last three financial years.
- (d) He is not an employee or proprietor or a partner of a legal or consulting firm that has or had any transaction with the corporate debtor amounting to five per cent or more of the gross turnover of such firm in the last three financial years.

(C) As per Section 6 of the IBC, 2016, where any corporate debtor commits a default, a financial creditor, an operational creditor or the corporate debtor itself may initiate corporate insolvency resolution process in respect of such corporate debtor in the manner as provided under this Chapter (Chapter II of part II). Therefore, Insolvency resolution process can be initiated by creditor as well as by the corporate debtor.

Case Study 3

Multiple Choice Questions

1. (a)
2. (b)
3. (c)
4. (a)
5. (b)

Descriptive Answers

Answer : 1

The thresholds for the combined assets/turnover of the parties to a combination prescribed under the Competition Act, 2002 are as follows:

At Enterprise level: The value of combined assets of the combining enterprises exceeds INR 2,000 crores or the combined turnover of the combining enterprise exceeds INR 6,000 crores, in India. In case either or both of the combining enterprises have assets / turnover outside India also, then the combined assets of the combining enterprises value exceeds US\$ 1000 million, including at least INR 1000 crores in India, or combined turnover exceeds US\$ 3000 million, including at least INR 3000 crores in India.

At Group level: The group to which the combining enterprise whose control, shares, assets or voting rights are being acquired, would belong after the acquisition, or the group to which the combining enterprise remaining after the merger or amalgamation, would belong has either assets of value of more than INR 8000 crores in India or turnover more than INR 24000 crores in India. Where the group has presence in India as well as outside India then the group has assets more than US\$ 4 billion including at least INR 1000 crores in India or turnover more than US\$ 12 billion including at least INR 3000 crores in India.

(5 Marks)

The term 'Group' has been explained in the Act. Two enterprises belong to a "Group" if one is in position to exercise at least 26 per cent voting rights or appoint at least 50 per cent of the directors or controls the management or affairs in the other.

The above thresholds are presented in the form of a table below:

	APPLICABLE TO	ASSETS		TURNOVER	
In India	Individual Parties	Rs. 2,000 cr.		Rs. 6,000 cr.	
	Group	Rs. 8,000 cr.		Rs. 24,000 cr.	
In India and outside		ASSETS		TURNOVER	
		Total	Minimum Indian Component out of Total	Total	Minimum Indian Component out of Total
	Individual parties	US\$ 1 bn.	Rs. 1,000 cr.	US\$ 3 bn.	Rs. 3,000 cr.
	Group	US\$ 4 bn.	Rs. 1,000 cr.	US\$ 12 bn.	Rs. 3,000 cr.

Answer : 2

The Competition Act, 2002 envisages appreciable adverse effect on competition in the relevant market in India as the criterion for regulation of combinations. In order to evaluate appreciable adverse effect on competition, the Act empowers the Commission to evaluate the effect of Combination on the basis of factors mentioned in Section 20(4) of the Competition Act, 2002.

Factors to be considered by the Competition Commission of India while evaluating appreciable adverse effect of Combinations on competition in the relevant market, are as under:

- (a) Actual and potential level of competition through imports in the market;
- (b) Extent of barriers to entry into the market;
- (c) Level of concentration in the market;
- (d) Degree of countervailing power in the market;
- (e) Likelihood that the combination would result in the parties to the combination being able to significantly and sustainably increase prices or profit margins;
- (f) Extent of effective competition likely to sustain in a market;
- (g) Extent to which substitutes are available or are likely to be available in the market;
- (h) Market share, in the relevant market, of the persons or enterprise in a combination, individually and as a combination;
- (i) Likelihood that the combination would result in the removal of a vigorous and effective competitor or competitors in the market;
- (j) Nature and extent of vertical integration in the market;
- (k) Possibility of a failing business;
- (l) Nature and extent of innovation;
- (m) Relative advantage, by way of the contribution to the economic development, by any combination having or likely to have appreciable adverse effect on competition;
- (n) Whether the benefits of the combination outweigh the adverse impact of the combination, if any.

(Every 3 Points consist of 1 Mark)

Answer : 3

- a)** Extent and Application [Sections 1 of FEMA, 1999]

FEMA, 1999 extends to the whole of India. In addition, it shall also apply to all branches, offices and agencies outside India owned or controlled by a person resident in India and also to any contravention thereunder committed outside India by any person to whom this Act applies.

Accordingly, FEMA does not apply to citizens of India who are outside India unless they are resident of India. The scope of the Act has been further extended to include branches, offices

and agencies outside India. The scope is thus wide enough because the emphasis is on the words "Owned or Controlled". Even contravention of the FEMA committed outside India by a person to whom this Act applies will also be covered by FEMA.

(2 Marks)

- b)** Period for surrender of received/ realised/ unspent/ unused foreign exchange by Resident individuals [Regulation 5 of Foreign Exchange Management (Realisation, repatriation and surrender of foreign exchange) Regulations, 2000]: A Person being an individual resident in India shall surrender the received/realised/unspent/ unused foreign exchange whether in the form of currency notes, coins and travellers cheques, etc. to an authorised person within a period of 180 days from the date of such receipt/realisation/purchase/acquisition or date of his return to India, as the case may be.

(2 Marks)

- c)** Exemption from realisation and repatriation in certain cases [Section 9 of FEMA, 1999]

The provisions of sections 4 and 8 shall not apply to the following, namely:

- (a) possession of foreign currency or foreign coins by any person up to such limit as the Reserve Bank may specify;
- (b) foreign currency account held or operated by such person or class of persons and the limit up to which the Reserve Bank may specify;
- (c) foreign exchange acquired or received before the 8th day of July, 1947 or any income arising or accruing there on which is held outside India by any person in pursuance of a general or special permission granted by the Reserve Bank;
- (d) foreign exchange held by a person resident in India up to such limit as the Reserve Bank may specify, if such foreign exchange was acquired by way of gift or inheritance from a person referred to in clause (c), including any income arising there from;
- (e) foreign exchange acquired from employment, business, trade, vocation, service, honorarium, gifts, inheritance or any other legitimate means up to such limit as the Reserve Bank may specify; and
- (f) such other receipts in foreign exchange as the Reserve Bank may specify.

(1 Mark)

Case Study 4

Multiple Choice Questions

1. (d)
2. (a)
3. (a)
4. (a)
5. (a)

Descriptive Answers

Answer : 1

As a Real Estate Regulatory Authority While checking any application for registration provisions of Section 4 of the Real Estate Regulatory Act (RERA) must be kept in mind. The different provisions of the Section 4 are as under-

- (1)** This section provides that every promoter shall make an application to the Authority for registration of the project in such form, manner, within such time and accompanied by such fee as maybe prescribed. (1 Mark)
- (2)** The promoter shall enclose the following documents along with the application referred to in sub-section(1), namely-
 - (a)** a brief details of his enterprise including its name, registered address ,type of enterprise(proprietorship, societies, partnership, companies, competent authority), and the particulars of registration, and the names and photographs of promoter:
 - (b)** a brief detail of the project launched by him, in the past five years, whether already completed or being developed, as the case may be, including the current status of the said projects, any delay in its completion, details of cases pending, details of type of land and payments pending;
 - (c)** an authenticated copy of the approvals and commencement certificate from the competent authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases.
 - (d)** The sanctioned plan, layout plan and specification of the proposed project of the phase thereof, and the whole project as sanctioned by the competent authority.
 - (e)** The plan of development works to be executed in the proposed project and the proposed facilities to be provided thereof including fire fighting facilities, drinking water facilities, emergency evacuation services, use of renewable energy.
 - (f)** The location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the latitude and longitude of the end points of the project;
 - (g)** Proforma of the allotment letter, agreement for sale, and the conveyance deed proposed to be signed with the allottees;
 - (h)** The number , type and the carpet area of apartment for sale in the project along with the area of the exclusive balcony or verandah areas and the exclusive open terrace areas apartment with the appurtenant , if any;
 - (i)** The number and area of garage for sale in the project;
 - (j)** The names and address of his real estate agents, if any, for the proposed project;
 - (k)** The names and address of the contractors, architect, structural engineer, if any and other persons concerned with the development of the proposed project;

(2 Marks)

- (I) A declaration, supported by an affidavit, which shall be signed by the promoter or any person authorized by the promoter, stating :--
- (A) that he has a legal title to the land on which development is proposed along with legally valid documents with authentication of such title, if such land is owned by another person;
 - (B) that the land is free from all encumbrances, or as the case may be details of the encumbrances on such land including any rights, title, interest or name of any party in or over such land along with details;
 - (C) the time period within which he undertakes to complete the project of phase thereof, as the case may be;
 - (D) that 70% of the amount realized for the real estate project from the allottees , from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for the purpose;
The promoter shall withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project.

The amounts from the separate account shall be withdrawn by the promoter after it is certified by an architect, an engineer, and a chartered accountant in practice that the withdrawal is in proportion to the percentage of the project.

The promoter shall get his accounts audited within six months after the end of every financial year by a chartered accountant in practice, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amount collected for a particular project have been utilized for that project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.
 - (E) that he shall take all the pending approvals on time, from the competent authorities;
 - (F) that he has furnished such other documents as may be prescribed by the rules or regulations made under this Act; and
 - (G) such other information and documents as may be prescribed. **(2 Marks)**

Answer : 2

As an Authority acting under the provisions of the Prohibition of Benami Property Transaction Act, 1988, the Act has provided with power to impound documents as per the provisions of Section 22 of the Act. This Section provides for as under-

Where any books of accounts or other documents are produced before the authority in any proceedings under this Act and the authority in this behalf has reason to believe that any of the books of accounts or other documents are required to be impounded and retained for any inquiry under this

Act, it may impound and retain the books of accounts or other documents for a period not exceeding three months (3 months) from the date of order of attachment made by the adjudicating Authority.

Provided that the period for retention of the books of accounts or other documents may be extended beyond a period of three months from the date of order of attachment made by the Adjudicating Authority where the authority records in writing the reasons for extending the same. **(2 Marks)**

Where the Authority impounding and retaining the books of accounts or other documents, under the aforesaid is the Initiating Officer, he shall obtain approval of the Approving Authority within a period of fifteen (15) days from the date of initial impounding and seek further approval of the Approving Authority for extending the period of initial retention, before the expiry of the period of initial retention, if so required.

The period of retention of the books of accounts or other documents shall in no case exceed a period of thirty (30) days from the date of conclusion of all the proceedings under this Act. The person, from whom the books of accounts or other documents were impounded, shall be entitled to obtain copies thereof. On the expiry of the period specified, the books of accounts or other documents shall be returned to the person from whom such books of accounts or other documents shall be returned to the person from whom such books of accounts or other documents were impounded unless the Approving Authority or the Adjudicating Authority permits their release to any other person. **(3 Marks)**

Answer : 3

(i) Amortization of Loan: As per provisions of Sec. 6(2), the Reserve bank shall not impose any restriction on the drawal of foreign exchange for drawl of foreign exchange for payment due on account of amortization of loan in the ordinary course of business. Hence this transaction is permissible without any restrictions. **(1 Mark)**

(ii) Person resident in USA returning permanently to India: When the person returns of India permanently, he becomes a resident in India. Sec. 6(4) provides that a person resident in India may hold, own transfer or invest in foreign currency, foreign security, etc. if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person who was resident outside India. Hence, the person who returned to India permanently can continue to hold the foreign security acquired by him when he was resident in U.S.A. **(2 Marks)**

(iii) Investment in shares of Indian company by non-resident: Reserve Bank issued Foreign Exchange Management (Permissible Capital Account Transactions) Regulations, 2000. In accordance with these regulations a person resident outside India is prohibited from making investment in India, in any form, in any Company or partnership firm or proprietary concern or any entity, whether incorporated or not, which is engaged or proposes to engage in agricultural or plantation actives. Hence, it is not possible for a person resident outside India to invest in the shares of a plantation company as such investment is prohibited. **(2 Marks)**

Case Study 5

Multiple Choice Questions

1. (b)
2. (b)
3. (a)
4. (b)
5. (d)

Descriptive Answer

Answer : 1

- (a) The provisions of the IBC, 2016 are applicable to Individuals, Unlimited Partnership Firms, Limited Liability Partnerships and companies. The provisions relating to Corporate in the Code, i.e., Limited Liability Partnerships and Companies are notified and in force w.e.f. 1st December, 2016. The provisions related to Individuals and Unlimited Partnership Firms – the Part III of IBC, 2016 are yet to be notified.
- (b) The four pillars of supporting institutional infrastructure, to make the Insolvency and Bankruptcy Process work efficiently are:
- (A) The regulator - The Insolvency and Bankruptcy Board of India (IBBI)
 - (B) Adjudicating Authority (AA):
 - i. National Company Law Tribunal (NCLT) - For Corporate, i.e., Companies and Limited Liability Partnerships
 - ii. National Company Law Appellate Tribunal (NCLAT) will act as Appellate Authority.
 - iii. Debt Recovery Tribunal (DRT) - For Individuals and Unlimited Partnership Firms
 - (C) A private industry of Insolvency Professionals (IPs) with oversight by private Insolvency Professional Agencies (IPAs)
 - (D) A private industry of Information Utilities (IU)

Answer : 2

- (a) The officers and managers of the Corporate Debtor, shall report to Resolution Professional. They shall provide him all the documents or records as required by him in the course of his duties. Where any personnel or promoters of Corporate Debtor are not assisting or not co-operating Resolution Professional, he may file an application to Adjudicating Authority for necessary instructions. Then, Adjudicating Authority shall direct accordingly.
- (b) As per section 5(8) of the IBC "Financial Debt" means, a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes-
- A. Money borrowed against the payment of interest
 - B. Any amount raised by acceptance under any acceptance credit facility or its de materialized equivalent;
 - C. Any amount raised pursuant to any note purchase facility or the issue of bonds,

notes, debentures, loan stock or any similar instrument.

- D. the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;
- E. receivables sold or discounted other than any receivables sold on non recourse basis;
- F. any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;
- G. any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
- H. any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
- I. the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause.

Answer : 3

(a) Competition law and policy is defined as those Government measures that affect the behavior of enterprises and structure of the industry with a view to promote efficiency and maximize welfare. There are two elements of such Government measures:- a Competition Policy: Set of policies, such as liberalized trade policy, relaxed FDI policy, de-regulation, etc., that enhances competition in the markets. A Competition Law: To prevent anti-competitive practices with minimal intervention.

(b) An anti-competitive agreement is an agreement having appreciable adverse effect on competition.

Anti-competitive agreements include, but are not limited to a agreement to limit production and/or supply; a agreement to allocate markets; a agreement to fix price; a bid rigging or collusive bidding; a conditional purchase/sale (tie-in arrangement); a exclusive supply / distribution arrangement; a resale price maintenance; and a refusal to deal.