

GUIDELINE ANSWERS

EXECUTIVE PROGRAMME

Syllabus 2022

JUNE 2025

GROUP 2



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110 003

tel 011-4534 1000 email info@icsi.edu website www.icsi.edu

These answers have been written by competent persons and the Institute hope that the GUIDELINE ANSWERS will assist the students in preparing for the Institute's examinations. It is, however, to be noted that the answers are to be treated as model answers and not as exhaustive and the Institute is not in any way responsible for the correctness or otherwise of the answers compiled and published herein.

The Guideline Answers contain the information based on the Laws/Rules applicable at the time of preparation. However, students are expected to be updated with the applicable amendments which are as follows:

CS Examinations

December Session

June Session

Applicability of Amendments to Laws

upto 31 May of that Calendar year

upto 30 November of previous Calendar Year

CONTENTS

Group 2

	<i>Page No.</i>
5. Capital Market & Securities Laws	1
6. Economic, Commercial and Intellectual Property Laws	21
7. Tax Laws & Practice	41

CAPITAL MARKET & SECURITIES LAWS

GROUP 2 PAPER 5

Time allowed : 3 hours

Maximum marks : 100

NOTE : Answer All Questions.

PART-I

Question 1

- (a) About three decades ago, three friends M, N and P formed a private limited company named MNP Private Limited. They began their operations with four looms and hardly couple of employees in a deserted small village of Gujarat one of India's promising textile belts. Over the following years, with the hard labour and dedication of team, the business grew in size, volume as well as in profitability too. This help MNP Private Limited to expand its business from domestic market into exports market in the financial year 2018-19. With higher export margins and timely payment by foreign clients, later its business further emerged as a vertically integrated textile yarn manufacturer, knitted fabric and also ready-made garments producer.

By 2022, MNP's leadership had an ambitious plan for further expanding into two new domestic plants with double of its existing capacity in the Northern part of the country, to make pan India presence. But they were also knowing that they have to look beyond their internal sources of funds and debt financing to achieve their goals. Because, in the recent past, the management had a bad experience for over- boarding bank financing. At the same time, the company never had an outside shareholder. Therefore, they are also hesitating to have someone unknown to them on the Board.

Considering the whole scenario, their Company Secretary, suggested the top management to engaged some renowned consulting firm to explore the possibilities for some good quantum of equity infusion, so that their proposed expansion program can be funded properly. This process was also suitable to the company's founders, as they were accustomed with the private equity model as a viable alternative to an IPO, with much lower regulatory compliances. Therefore, they assigned their Company Secretary an assignment to explore and appoint some Private Equity firm interested in India's textile sector. After couple of options being explored and evaluated by the Company Secretary, he finally sorted out M/s High Tide Capitals, a Mumbai based private equity firm, actively looking for a large investment in India's textiles sector. In the meanwhile, one of the competing funds of M/s High Tide Capitals, after hearing this news offered a substantially high share purchase price offer to the top management of MNP Private Limited.

After considering various pros and cons, the top management decided to opt with M/s High Tide Capitals as their partner. Because, to capitalize firm's significant expertise in the domestic textile industry as well as their links at the global textile trades through their Headquarters based at London. With this M/s High Tide Capitals joined as a minority shareholder, the relationship and mutual trust built with MNP gave a considerable sway over hiring, procurement, and other key aspects of the business. As a result, this gave a pace for setting transformations both in MNP's culture and its stature amongst its peers. M/s High Tide Capitals also help in addressing gaps of MNP's governance aspect that was one of the key hinderance in its ambitious expansion project.

At the time of M/s High Tide Capitals investment, MNP Private Limited had no formal business plans and also does not have effective budgeting process through which the costs of several inputs were to be properly tracked. However, M/s High Tide Capitals also helped MNP Private Limited to design a proper business plan and budgeting process from scratch. All these support from M/s High Tide Capitals, has help to become an integral part of MNP's corporate culture and removed a bottleneck that had hampered plans for scaling operations. With passage of time, M/s High Tide Capitals is not considered as an outsider for MNP's top management, rather they are an integral part of top management.

Based upon the case study, answer the following :

- (i) What is a private equity ?
- (ii) What are the characteristics of private equity invested by High Tide Capitals ?
- (iii) What are the different types of private equity investments ?
- (iv) Who are the investors in a private equity firm, like the High Tide Capitals ?
- (v) What are the alternative sources of arranging funds besides private equity ?

(2 marks each)

- (b) RNP Financial Services Limited is registered with SEBI as a merchant banker for providing various capital market services to its clients, including management of public issues, underwriting, etc. With recent changes in its top management, new leadership being more ambitious did not give due importance to the regulatory compliances and more focused on business expansion. As a result, team did lot of non-compliances. One of their old client, made this complaint with the SEBI. As a result, SEBI conducted their internal enquiry and observed that RNP Financial Services Limited has continuously violating various rules and regulations applicable to merchant bankers. Accordingly, SEBI issued formal show cause notice. But, the new management made couple of false and misleading submissions to SEBI. As a result, SEBI carried out a full-fledge investigation into the affairs of RNP Financial Services Limited by appointing an appropriate Investigating Authority. During the course of investigation, authority appointed by SEBI has also seized various records and books of the company.

In the context of Securities and Exchange Board of India Act, 1992 and the various rules & regulations made thereunder, answer the following :

- (i) What are the powers of SEBI with regard to issue of directions to an intermediary ?
- (ii) What are the grounds on which SEBI can conduct an investigation into the affairs of the intermediary ?
- (iii) What are the powers of the Investigating Authority in the case ?
- (iv) If penalty is imposed on RNP Financial Services Limited, what factors should be taken into account by SEBI or Adjudicating Officer while adjudging the quantum of penalty ?
- (v) When and how the Investigating Authority should return the seized records of RNP Financial Services Limited ?

(2 marks each)

Answer 1(a)(i)

Private equity is a type of equity (finance) and one of the asset classes who takes securities and debt in operating companies that are not publicly traded on a stock exchange. Private equity is essentially a way to invest in some assets that isn't publicly traded, or to invest in a publicly traded asset with the intention of taking it private.

As per the definition of Private Equity as defined in SEBI (Alternative Investment Funds) Regulations, 2012, private equity fund means an Alternative Investment Fund which invests primarily in equity or equity linked instruments or partnership interests of investee companies according to the stated objective of the fund.

Answer 1(a)(ii)

Private equity has following three characteristics:

- a) Leverage,
- b) Participation in Equity or Ownership, and
- c) High Risk oriented.

Answer 1(a)(iii)

Private equity investments can be divided into following different categories:

- a) Leveraged Buyout (LBO): This refers to a strategy of making equity investments as part of a transaction in which a company, business unit or business assets is acquired from the current shareholders typically with the use of financial leverage. The companies involved in these types of transactions that are typically more mature and generate operating cash flows.
- b) Venture Capital: It is a broad sub-category of private equity that refers to equity investments made, typically in less mature companies, for the launch, early development, or expansion of a business.
- c) Growth Capital: This refers to equity investments, mostly minority investments, in the companies that are looking for capital to expand or restructure operations, enter new markets or finance a major acquisition without a change of control of the business.

Answer 1(a)(iv)

Private equity consists of investors and funds that make investments directly into private companies or conduct buyouts of public companies. Capital for private equity is raised from retail and institutional investors, and can be used to fund new technologies, expand working capital within an owned company, make acquisitions, or to strengthen a balance sheet. The major of private equity consists of institutional investors and accredited investors who can commit large sums of money for long periods of time.

As a source of investment capital, private equity comes from High Net-worth Individuals (HNI) and firms that purchase stakes in private companies or acquire control of public companies with plans to make them private & consequently delist from the stock exchange.

Answer 1(a)(v)

The alternative sources of arranging funds besides private equity are as under:

- (i) Venture Capital Fund which means an Alternative Investment Fund which invests primarily in unlisted securities of start-ups, emerging or early-stage venture capital undertakings mainly involved in new products, new services, technology or intellectual property right based activities or a new business model and shall include an angel fund and migrated venture capital fund,
- (ii) Angel fund refers to money pool created by high net worth individuals or companies (generally known as Angel Investor), for investing in start-up business. Angel fund is defined in SEBI (Alternative Investment Funds) Regulations, 2012 as a sub-category of Venture Capital

Fund under Category I- Alternative Investment Fund that raises funds from angel investors and invests in accordance with regulations specified by SEBI.

Answer 1(b)(i)

According to the provisions of Section 11B of SEBI Act, 1992, if SEBI is satisfied, after making or causing to be made an enquiry that it is necessary in the interest of investors or orderly development of securities market; or to prevent the affairs of any intermediary or other persons referred to in section 12 being conducted in a manner detrimental to the interest of investors or securities market; or to secure proper management of such intermediary or person; it may issue such directions to the intermediary as may be appropriate in the interest of investors in securities and the securities market.

The power to issue directions under this section shall include and always be deemed to have been included the power to direct any person, who made profit or averted loss by indulging in any transaction or activity in contravention of the provisions of this Act or regulations made thereunder, to disgorge an amount equivalent to the wrongful gain made or loss averted by such contravention.

Answer 1(b)(ii)

Section 11C of the SEBI Act, 1992 provides that where the SEBI has reasonable ground to believe that:

- a) the transactions in securities are being dealt with in a manner detrimental to the investors or the securities market; or
- b) any intermediary or any person associated with the securities market has violated any of the provisions of this Act or the rules or the regulations made or directions issued by SEBI thereunder;

it may, at any time by order in writing, direct any person specified in the order to investigate the affairs of such intermediary or persons associated with the securities market and to report thereon to the SEBI.

Answer 1(b)(iii)

The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of its investigation.

Answer 1(b)(iv)

According to the provisions of Section 15J of the SEBI Act, 1992, while adjudging the quantum of penalty, the SEBI or the Adjudicating Officer shall have due regard to the following factors:

- a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default,
- b) the amount of loss caused to an investor or group of investors as a result of the default,
- c) the repetitive nature of the default.

Answer 1(b)(v)

The Investigating Authority shall keep in its custody the books, registers, other documents and record seized under this section for such period not later than the conclusion of the investigation as it considers necessary and thereafter shall return the same to the company or the other body

corporate, or, as the case may be, to the managing director or the manager or any other person, from whose custody or power they were seized and inform the Magistrate or Judge of the Designated Court of such return.

The Investigating Authority may, before returning such books, registers, other documents and record as aforesaid, place identification marks on them or any part thereof.

Attempt all parts of either Q. No. 2 or Q. No. 2A

Question 2

- (a) Elaborate the impact of RBI's monetary policies on Indian economy and stock market.
(5 marks)
- (b) List down the powers Central Government enjoying under the Securities Contracts (Regulation) Act, 1956 and the Rules and Regulations made thereafter.
(5 marks)
- (c) Under the provisions of the Depositories Act, 1996, a depository is the registered owner for the purpose of effecting transfer of ownership of security; but it is the beneficial owner who owns or has control over the legal entity. What is a 'beneficial owner' and 'depository' under the provisions of the Depositories Act, 1996 ? What are the rights available to a beneficial owner ?
(2+3=5 marks)
- (d) Your company has been appointed as a Banker to an issue by ABC Limited. Elaborate, who can be appointed as a Banker to an issue under SEBI (Bankers to an Issue) Regulations, 1994, and what are the activities they are authorised to do ?
(5 marks)

Answer 2(a)

Since monetary policies are influenced by inflation and inflationary expectations in the economy, it is therefore critical that inflation index should be able to predict future inflation with reasonable accuracy. Generally, when a country is operating in a low interest rate regime, borrowers can borrow money at a lower interest rate. This aids in increased purchasing power of the consumers. The demand for the goods increases and subsequently sensing a higher demand, the prices will also rise. This condition drives the inflation rates higher. When the inflation rates have risen more than the optimal levels, the Reserve Bank of India (RBI) steps in to increase interest rate to control inflation rate. When inflationary pressure starts building in the economy, RBI hikes the repo rate and/or cash reserve ratio (CRR) to manage the money supply causing higher inflation. This ultimately impacts the supply of money in the Stock Market.

Maintaining an optimal inflation rate is the primary task of Monetary Policy decision makers of any nation. An optimal inflation rate ensures a healthy economy. More often than not, the policy makers tend to spur growth in a stalled economy by slashing the interest rates, thereby increasing the money available in the markets. However, in order to implement such rate cuts the inflation rate should be at an optimal level. So, it becomes the prime responsibility of Reserve Bank to monitor Wholesale Price Index (WPI) and Consumer Price Index (CPI) to ensure that economy is balanced.

A rise in the inflation rate impacts market sentiments. A higher inflation rate drives the interest rates higher and hence borrowing becomes costly for the banks, corporates and financial institutions. Therefore, the valuations of capital-intensive companies and sectors may come under pressure as their margins decrease due to the higher interest burden.

However, the markets are governed by many factors and the direction cannot be determined by reading just one factor. Global sentiments and global funds inflows are other crucial factors that impact the direction of stock markets significantly.

Answer 2(b)

Various powers Central Government enjoying under the Securities Contracts (Regulation) Act, 1956 and the Rules and Regulations made thereafter are as follow:

- i) **To call for periodical returns or direct any inquiries to be made (Section 6):** Every recognised stock exchange and every member thereof shall maintain and preserve for such periods not exceeding five years such books of account, and other documents as the Central Government, after consultation with the stock exchange concerned, may prescribe in the interest of the trade or in the public interest.
- ii) **To direct rules to be made or to make the rules (Section 8):** Section 8 deals with the power of Central Government to make rules or direct rules to be made in respect of recognised stock exchange.
- iii) **To Supersede governing body of a Recognised Stock Exchange (Section 11):** Where the Central Government is of opinion that the governing body of any recognised stock exchange should be superseded, then, it may, by notification in the Official Gazette, declare the governing body of such stock exchange to be superseded.
- iv) **To Suspend Business of a Recognised Stock Exchange (Section 12):** If in the opinion of the Central Government, an emergency has arisen and for the purpose of meeting the emergency, the Central Government considers it expedient so to do, it may, by notification in the Official Gazette, for reasons to be set out therein, direct a recognised stock exchange to suspend such of its business for such period not exceeding seven days and subject to such conditions as may be specified in the notification.
- v) **To prohibit contracts in certain cases (Section 16):** Section 16 stipulates that if the Central Government is of opinion that it is necessary to prevent undesirable speculation in specified securities in any State or area, it may, by notification in the Official Gazette, declare that no person in the State or area specified in the notification shall, save with the permission of the Central Government, enter into any contract for the sale or purchase of any security specified in the notification except to the extent and in the manner, if any, specified therein.
- vi) **To grant Immunity (Section 23 O):** The Central Government may, on recommendation by the SEBI, grant immunity from prosecution for any offence under Securities Contracts (Regulation) Act, 1956, or the rules or the regulations made thereunder or also from the imposition of any penalty under this Act with respect to the alleged violation.
- vii) **To delegate (Section 29A):** Section 29A stipulates that the Central Government may, by order published in the Official Gazette, direct that the powers (except the power under section 30) exercisable by it under any provision of Securities Contracts (Regulation) Act, 1956 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the order, be exercisable also by the SEBI or the Reserve Bank of India.
- viii) **Power to make Rules (Section 30):** Section 30 empowers the Central Government to make rules for the purpose of carrying into effect the objects of the Securities Contracts (Regulation) Act, 1956 by notification in the Official Gazette.

Answer 2(c)

Under the Depositories Act, 1996:

A "Beneficial owner" means a person whose name is recorded as such with a depository, and

A "Depository" means a company formed and registered under the Companies Act, and which has been granted a certificate of registration under sub-section (1A) of section 12 of the Securities and Exchange Board of India Act, 1992.

Section 10 of the Depositories Act, 1996, further lays down that a depository should be deemed to be the registered owner for the purposes of effecting transfer of ownership of security on behalf of a beneficial owner. Thus, the depository as a registered owner should not have any voting rights or any other rights in respect of securities held by it.

The beneficial owner is entitled to all the rights and benefits and is subject to all the liabilities in respect of his securities held by a depository. Under the Depositories Act, 1996, beneficial owners have the following rights:

- (a) A beneficial owner may with the previous approval of the depository create a pledge or hypothecation in respect of a security owned by him through a depository. Every beneficial owner should give intimation of such pledge or hypothecation to the depository and such depository is required to make entries in its records accordingly. (Section 12)
- (b) A beneficial owner may opt out of the depository system in respect of any security by informing the depository. (Section 14)
- (c) Any loss caused to the beneficial owner due to the negligence of the depository or the participant, would be indemnified by the depository to such beneficial owner. (Section 16)

Answer 2(d)

Under the SEBI (Bankers to an Issue) Regulations, 1994, a Banker to an Issue means a scheduled bank or such other banking company as may be specified by the SEBI from time to time, carrying on any of the following activities:

- (i) Acceptance of application and application monies;
- (ii) Acceptance of allotment or call monies;
- (iii) Refund of application monies;
- (iv) Payment of dividend or interest warrants;
- (v) Providing escrow services for the purposes of issue management, buyback, delisting, or open offer, as required under the relevant regulations made by SEBI;
- (vi) Opening of a separate bank account for depositing the proceeds in the initial public offer/ further public offer; and
- (vii) Such other activities as may be specified by SEBI.

Bankers to the issue, as the name suggests, carries out all the activities of ensuring that the funds are collected and transferred to the Escrow accounts. While one or more banks may function as Bankers to the Issue as well as collection banks, others may do the limited work of collecting the applications for securities along with the remittance in their numerous branches in different centres. The banks are expected to furnish prompt information and records to the company and to the lead manager for monitoring and progressing the issue work.

OR (Alternative question to Q. No. 2)

Question 2A

- (i) You have been recently appointed as the Company Secretary in S.K. Limited. One of the youngest Board members wanted to understand from you—what Role a Company Secretary may have, under the Laws Governing to Depositories and Depository Participants ? Explain in detail.

(5 marks)

- (ii) The capital market intermediaries are vital link between investor, issuer and regulator. Elaborate the concept, with the help of objectives of intermediaries.

(5 marks)

- (iii) After establishing the Gujarat International Finance Tech-city SEZ as India's maiden International Financial Services Centre, how does it boost the Indian economy ?

(5 marks)

- (iv) You have been appointed as Company Secretary of SkyBlue Limited, a Special Purpose Acquisition Company. This company is in the process of issuing Specified Security under Section 23(3) of the Companies Act, 2013 through an IPO, and get them listed with an IFSC recognised stock exchange. Please advise the following :

- (a) Is SkyBlue Limited eligible to issue such an IPO ? If 'Yes' - under what conditions, and if 'No' – why ?

(2 marks)

- (b) What should be the offer size, and how much percentage the sponsors should minimum hold ?

(1 mark)

- (c) What should be the minimum application size ?

(1 mark)

- (d) What should be the acquisition time line ?

(1 mark)

Answer 2(A)(i)

Various roles a Company Secretary can exercise under the Laws Governing to Depositories and Depository Participants, are as under:

- a) Right to Legal Representation: In case of any decision of the SEBI, the aggrieved entity/ company (the appellant) may either appear in person or authorise one or more chartered accountants or company secretaries (PCS) or cost accountants or legal practitioners or any of its officers to present his or its case before the Securities Appellate Tribunal (SAT). (Section 23C of Depositories Act, 1996)
- b) Internal Audit of Depository Participants: The 2 (two) Depository services providers in India, viz., National Securities Depository Ltd. (NSDL) and Central Depository Services (India) Limited (CDSL) have allowed Company Secretaries in whole-time practice to undertake internal audit of the operations of Depository Participants (DPs).
- c) Reconciliation of Share Capital Audit: Company Secretary is authorised to issue quarterly

certificate with regard to reconciliation of the total issued capital, listed capital and capital held by depositories in dematerialized form, details of changes in share capital during the quarter, and in-principle approval obtained by the issuer from all the stock exchanges where it is listed in respect of such further issued capital under SEBI (Depositories and Participants) Regulations, 2018. [Regulation 76 of SEBI (Depositories and Participants) Regulations, 2018]

- d) Concurrent Audit of Depository Participants: Practising Company Secretary is authorized to carry out concurrent audit of Depository Participants which covers audit of the process of demat account opening, control and verification of Delivery Instruction Slips (DIS).

Answer 2(A)(ii)

Intermediaries are service providers and are an integral part of any financial system. SEBI regulates various intermediaries in the primary and secondary markets through its regulations for these respective intermediaries. SEBI has defined the role of each of the intermediary, the eligibility criteria for granting registration, their functions and responsibilities and the code of conduct to which they are bound.

With this aim, these intermediaries are working towards their following objectives:

- a) To smoothen the process of investment.
- b) To establish a link between the investors and the users of funds.
- c) Corporations and Governments do not market their securities directly to the investors. Instead, they hire the services of the market intermediaries to represent them to the investors.
- d) Investors, particularly small investors, find it difficult to make direct investment. A small investor desiring to invest may be able to diversify across issuers to reduce risk. He may not be equipped to assess and monitor the credit risk of issuers. Market intermediaries help investors to select investments by providing investment consultancy, market analysis and credit rating of investment instruments.
- e) In order to operate in secondary market, the investors have to transact through share brokers. Registrars and Share Transfer Agents, Custodians and Depositories Participants are capital market intermediaries that provide important infrastructure services for both primary and secondary markets.

Therefore, it is said that the capital market intermediaries are vital link between investor, issuer and regulators.

Answer 2(A)(iii)

The establishment of The Gujarat International Finance Tech-city (GIFT)-IFSC, under Section 18 of the Special Economic Zones Act, 2005, will boost the growth of country and GIFT-IFSC is an important gateway to connect India with global opportunities. The benefits Indian economy will have, from an IFSC are as under:

- 1) Internationalization of Rupee – Pathway for calibrated approach to internationalization of domestic currency.
- 2) Gateway for inbound & outbound Capital Flows – IFSC to serve as a captive centre to procure our own requirement for International Financial Services e.g. Banking, Capital Markets, Insurance etc.
- 3) Employment Generation – Concentration of financial institutions in IFSC to create middle and high-end job opportunities for professionals (Global in-house Centres, Treasury).

- 4) Regional Financial Integration – IFSC can enable India to play an important role in regional financial integration and increase global influence.
- 5) Development of Niche Areas – IFSC to be leveraged for development of niche financial sector activities like Bullion Exchange Aircraft & Ship Leasing.
- 6) Innovation in Financial Services – IFSC can become a Laboratory for India and the world to test new age financial innovations and technologies (FinTech).

Thus, the setting up and operationalization of India's maiden IFSC was a bold and historic step which has catapulted India into a 21st century modern, resilient, and sustainable economy.

Answer 2(A)(iv)

- (a) In accordance with IFSCA (Listing) Regulations, 2024, SkyBlu Limited, as a Special Purpose Acquisition Company (SPAC), shall be eligible to raise capital through initial public offer of specified securities on the recognised stock exchange(s), only where-
 - (i) The target business combination has not been identified prior to the IPO;
 - (ii) The SPAC has the provisions for redemption and liquidation in line with these Regulations;
 - (iii) The sponsor of the SPAC issuer has a good track record in SPAC transactions, business combinations, fund management or investment banking activities and the same shall be disclosed in the offer document.

Here, sponsor shall mean a person sponsoring the formation of the SPAC and shall include persons holding any specified securities of the SPAC prior to the IPO.

However, SkyBlu Limited, as a Special Purpose Acquisition Company (SPAC), shall not be eligible to raise capital through initial public offer or list specified securities on the recognised stock exchange(s):

If the issuer or any of its sponsors is -

- (a) debarred from accessing the capital market; or
 - (b) a wilful defaulter; or
 - (c) a fugitive economic offender.
- (b) The offer size should not be less than USD 50 million or any other amount as may be specified by the Authority from time to time. Further, the sponsors shall hold at least 15% and not more than 20% of the post issue paid up capital.
 - (c) The minimum application size in an initial public offer of SPAC shall be USD 100,000.
 - (d) Maximum acquisition timeline is of 3 years (36 months).

PART-II

Question 3

- (a) The Board of Directors of XYZ Limited are in the process of finalizing their policy relating to Sweat Equity and Share based Employee Benefits. Therefore, before this policy being adopted by the Board, Managing Director wants to understand the provisions of SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 as applicable to General Employee Benefit Scheme (GEBS) and Retirement Benefit Scheme (RBS). Being Company Secretary, you are being instructed to explain the above in detail.

(5 marks)

- (b) Global Air Limited, is a listed company with Bombay Stock Exchange and is planning to issue 3,00,000 non-convertible debentures (NCDs) @ 6% of ₹ 1,000 each, to strengthening its future projects. List the obligations the company has as required in the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021.

(5 marks)

- (c) Elegance Limited, is the Subsidiary of Prosperity Limited as on 31st March, 2021. The Holding company is listed with National Stock Exchange. Elaborate the Corporate Governance requirements relating to the subsidiary company to be complied by Prosperity Limited under SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015.

(5 marks)

Answer 3(a)

Provisions relating to the General Employee Benefits Scheme (GEBS) in accordance with regulation 26 of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 are as under:

- (1) GEBS shall contain the details of the scheme and the manner in which the scheme shall be implemented and operated.
- (2) The shares of the company or shares of its listed holding company shall not exceed ten per cent of the book value or market value or fair value of the total assets of the scheme, whichever is lower, as appearing in its latest balance sheet (whether audited or limited reviewed) for the purposes of GEBS.
- (3) The secretarial auditor of the company shall certify compliance with sub-regulation (2) at the time of adoption of such balance sheet by the company.

Provisions relating to the Retirement Benefit Scheme (RBS) in accordance with regulation 27 of the SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021 are as under:

- (1) Retirement benefit scheme may be implemented by a company subject to compliance with these regulations and provisions of any other law in force in relation to retirement benefits.
- (2) The retirement benefit scheme shall contain the details of the benefits under the scheme and the manner in which the scheme shall be implemented and operated.
- (3) The shares of the company or shares of its listed holding company shall not exceed ten per cent of the book value or market value or fair value of the total assets of the scheme, whichever is lower, as appearing in its latest balance sheet (whether audited or limited reviewed) for the purposes of RBS.
- (4) The secretarial auditor of the company shall certify compliance with sub-regulation (3) at the time of adoption of such balance sheet by the company.

Answer 3(b)

Under Regulation 23 of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 the obligations of the issuer are prescribed which are as follow:

- 1) The issuer shall treat all applicants to an issue of non-convertible securities in a fair and equitable manner as per the procedures as may be specified by the SEBI.
- 2) The issuer shall not employ any device, scheme, or artifice to defraud in connection with issue or subscription or distribution of non-convertible securities which are listed or proposed to be listed on the recognized stock exchange.
- 3) The issuer shall apply for Securities and Exchange Board of India Complaints Redress System (SCORES) authentication in the format specified by the SEBI and shall use the same for all issuance of non-convertible securities.

- 4) In case of a public issue, the issuer shall provide all required information/ documents to the lead managers for conducting the due diligence, in the form and manner as may be specified by the SEBI.
- 5) The issuer shall ensure that the secured debt securities are secured by 100% security cover or higher security cover as per the terms of the offer document and/ or Debenture Trust Deed, sufficient to discharge the principal amount and the interest thereon at all times for the issued debt securities.
- 6) If an issuer is a company, it shall ensure that its Articles of Association require its Board of Directors to appoint the person nominated by the debenture trustee(s) in terms of clause (e) of sub-regulation(1) of regulation 15 of the SEBI (Debenture Trustees) Regulations, 1993 as a director on its Board of Directors.
- 7) The issuer shall fix a record date for the purposes of payment of interest, dividend and payment of redemption or repayment amount or for such other purposes as specified by the SEBI. Such record date shall be fixed at 15 days prior to the due date of payment interest or dividend, repayment of principal or any other corporate actions.

Answer 3(c)

The corporate governance requirements with respect to subsidiary of listed entity are specified under Regulation 24 of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. In terms of the said regulation, Prosperity Limited being the holding company, shall meet the following compliances with respect to Elegance Limited:

- i) At least one independent director on the board of directors of the listed entity shall be a director on the board of directors of an unlisted material subsidiary, whether incorporated in India or not.

The term “material subsidiary” shall mean a subsidiary, whose income or net worth exceeds twenty percent of the consolidated income or net worth respectively, of the listed entity and its subsidiaries in the immediately preceding accounting year.
- ii) The audit committee of the listed entity shall review the financial statements, in particular, the investments made by the unlisted subsidiary.
- iii) The minutes of the meetings of the board of directors of the unlisted subsidiary shall be placed at the meeting of the board of directors of the listed entity.
- iv) The management of the unlisted subsidiary shall periodically bring to the notice of the board of directors of the listed entity, a statement of all significant transactions and arrangements entered into by the unlisted subsidiary. The term “significant transaction or arrangement” shall mean any individual transaction or arrangement that exceeds or is likely to exceed ten percent of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the unlisted subsidiary for the immediately preceding accounting year.
- v) A listed entity shall not dispose of shares in its material subsidiary resulting in reduction of its shareholding (either on its own or together with other subsidiaries) to less than or equal to fifty percent or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal, or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.
- vi) Selling, disposing and leasing of assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate basis during a financial year shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made

under a scheme of arrangement duly approved by a Court/Tribunal, or under a resolution plan duly approved under section 31 of the Insolvency Code and such an event is disclosed to the recognized stock exchanges within one day of the resolution plan being approved.

- vii) Where a listed entity has a listed subsidiary, which is itself a holding company, the provisions of this regulation shall apply to the listed subsidiary in so far as its subsidiaries are concerned.

Question 4.

- (a) Since 29th August, 2023, VXL Limited has listed its three specified securities, with National Stock Exchange. As part of compliances, specify the compliance requirements it has to do as one-time compliance relating to these specified securities.

(5 marks)

- (b) What are the objectives that C. Achutan Committee had recommended with respect to SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 2011.

(5 marks)

- (c) You are the Company Secretary of Green Grains Limited, a listed entity. In the last board meeting, one of the Board members wanted to understand the principles of fair disclosure under the SEBI (Prohibition of Insider Trading) Regulation, 2015. Elaborate the requirements under the Codes of Fair Disclosure.

(5 marks)

Answer 4(a)

VXL Limited shall be required to comply with following requirements as One-time compliance under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015:

- Under Regulation 6(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, a listed entity shall appoint a Company Secretary as the Compliance Officer. Any vacancy in the office of the Compliance Officer shall be filled by the listed entity at the earliest and in any case not later than three months from the date of such vacancy. However, the listed entity shall not fill such vacancy by appointing a person in interim capacity, unless such appointment is made in accordance with the laws applicable in case of a fresh appointment to such office and the obligations under such laws are made applicable to such person.
- Under Regulation 7(1) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the listed entity shall appoint a share transfer agent or manage the share transfer facility in house. However, in the case of in-house share transfer facility, as and when the total number of holders of securities of the listed entity exceeds one lakh, the listed entity shall either register with the SEBI as a Category II share transfer agent or appoint Registrar to an issue and share transfer agent registered with the SEBI.

Answer 4(b)

Shri C. Achutan Committee had provided for following objectives of the then proposed SEBI (Substantial Acquisition of Shares and Takeovers) Regulation, 2011:

- i) To provide a transparent legal framework for facilitating takeover activities,
- ii) To protect the interests of investors in the securities market, taking into account that the acquirer, shareholders, and investors need a fair, equitable and transparent framework,
- iii) To balance the various conflicting objectives and interests of all stakeholders in the context of substantial acquisition of shares and takeover in the listed companies,

- iv) To provide each shareholder an opportunity to exit his investment in the target company when a substantial acquisition of shares, or takeover of a target company takes place, on terms that are not inferior to the terms on which substantial shareholders exit their investments,
- v) To provide acquirers with a transparent legal framework to acquire shares or control of the target company and to make an open offer,
- vi) To ensure that the affairs of the target company are conducted in the ordinary course when a target company is subject matter of an open offer,
- vii) To ensure that fair and accurate disclosure of all the material information is made by the person responsible for making them to various stakeholders to enable them to take informed decisions,
- viii) To regulate and provide for fair and effective competition among acquirers desirous of taking over the same target company, and
- ix) To ensure that only those acquirers who are capable of actually fulfilling their obligations under the Takeover Regulations make open offers.

Answer 4(c)

As per Regulation 8 of the SEBI (Prohibition of Insider Trading) Regulations, 2015, the Principles of Fair Disclosure for purposes of Code of Practices and Procedures for Fair Disclosure of Unpublished Price Sensitive Information as covered in Schedule A to the SEBI (Prohibition of Insider Trading) Regulations 2015, shall be as follows:

- 1) Prompt public disclosure of unpublished price sensitive information that would impact price discovery no sooner than credible and concrete information comes into being in order to make such information generally available,
- 2) Uniform and universal dissemination of unpublished price sensitive information to avoid selective disclosure,
- 3) Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished price sensitive information,
- 4) Prompt dissemination of unpublished price sensitive information that gets disclosed selectively, inadvertently or otherwise to make such information generally available,
- 5) Appropriate and fair response to queries on news reports and requests for verification of market rumours by regulatory authorities,
- 6) Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information,
- 7) Developing best practices to make transcripts or records of proceedings of meetings with analysts and other investor relations conferences on the official website to ensure official confirmation and documentation of disclosures made,
- 8) Handling of all unpublished price sensitive information on a need-to-know basis.

Question 5

- (a) Elaborate the prohibitions of certain dealings in securities under the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulation, 2003.

(5 marks)

- (b) Power Trends Limited, a listed company, wants to go in for voluntary delisting. The company

has decided, to come out with an Exit Offer for the public shareholders. As your organisation is a SEBI Registered Merchant Banker, hence the company has appointed your organisation as the 'Manager to the Exit Offer'. Describe the obligations, you will have before making the detailed public announcement.

(5 marks)

- (c) Zebra invested in a mutual fund scheme at a time when its net asset value (NAV) was ₹ 12.65 per unit. 60 days later, the NAV of the scheme was ₹ 12.25 per unit. In the meantime, the scheme distributed ₹ 0.60 per unit as dividend.

- (i) Calculate the holding period return for Zebra.
- (ii) Calculate the annualized return for Zebra.

(2+3 = 5 marks)

Answer 5(a)

Regulation 3 of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 deals with the prohibition of certain dealings in securities. It provides, no person shall directly or indirectly:

- i) buy, sell or otherwise deal in securities in a fraudulent manner,
- ii) use or employ, in connection with issue, purchase or sale of any security listed or proposed to be listed in a recognized stock exchange, any manipulative or deceptive device or contrivance in contravention of the provisions of the SEBI Act or the rules or the regulations made there under,
- iii) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange,
- iv) engage in any act, practice, course of business which operates or would operate as fraud or deceit upon any person in connection with any dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange in contravention of the provisions of the SEBI Act or the rules and the regulations made there under.

Answer 5(b)

Under Regulation 29 of the SEBI (Delisting of Equity Shares) Regulations, 2021, before making the detailed public announcement, the obligations of Manager to the Offer are as follows:

The Manager to the offer for delisting of equity shares shall ensure that:

- i) the acquirer is able to implement the delisting offer,
- ii) firm arrangements for funds through verifiable means have been made by the acquirer to meet the payment obligations under the delisting offer,
- iii) the contents of the initial public announcement, the detailed public announcement, the letter of offer and the post-bidding advertisement(s) are complete, true, fair and adequate in all material aspects, based on reliable sources and are in compliance with the requirements under these regulations and other applicable securities laws,
- iv) market intermediaries engaged for the purpose of the delisting of equity shares are registered with the SEBI,
- v) the Manager to the offer shall exercise due diligence, care and professional judgment to ensure compliance with these regulations,

- vi) the Manager to the offer shall not, either directly or indirectly through its associates, deal in its own account in the shares of the company after its appointment as Manager to the offer till the conclusion of the delisting offer,
- vii) the Manager to the offer to ensure that the acquirer complies with the provisions of these regulations.

Answer 5(c)

- (i) Holding Period Return for Zebra=

$$\frac{\text{Income} + (\text{end of period value} - \text{original value}) \times 100}{\text{Original value}}$$

$$= \frac{₹0.60 + (₹12.25 - ₹12.65)}{₹12.65}$$

$$= 0.0158 \text{ or } 1.58\%$$

- (ii) Annualized return for Zebra = Holding Period Returns x 365 / 60 (assuming 365 days in a year)
 = 1.58% x 365 / 60 = 9.61%

Alternate Answer to 5(c) (ii) as per the Applied Mathematics

$$\text{Annualized return for Zebra} = (1 + \text{Absolute Rate of Return})^{(365 / \text{Number of Days})} - 1$$

$$\begin{aligned} \text{Therefore, Annualized Return for Zebra} &= (1 + 0.0158)^{6.0833} - 1 \\ &= (1.0158)^{6.0833} - 1 \\ &= 0.10006 \text{ or } 10.01\% \end{aligned}$$

Attempt all parts of either Q. No. 6 or Q. No. 6A

Question 6

Write Short Notes on the following :

- (a) Entities not eligible for Right Issue
- (b) Filing of information documents while Issuance and Listing of Non-convertible Securities issued on a Private Placement Basis
- (c) Exemption by SEBI under Regulation 11 of SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011
- (d) Advertisement code for Mutual Funds
- (e) Fixed Delisting Price.

(3 marks each)

Answer 6(a)

Entities not eligible for Rights Issue

Regulation 61 of the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018 stipulates that an issuer shall not be eligible to make a rights issue of specified securities:

- (a) if the issuer, any of its promoters, promoter group or directors of the issuer are debarred from accessing the capital market by the SEBI,
- (b) if any of the promoters or directors of the issuer is a promoter or director of any other company

which is debarred from accessing the capital market by the SEBI,

- (c) if any of its promoters or directors is a fugitive economic offender.

The restrictions under (a) and (b) above will not apply to the persons or entities mentioned therein who were debarred in the past by the SEBI and the period of debarment is already over as on the date of filing of the draft letter of offer with the SEBI.

Answer 6(b)

Filing of information document while Issuance and Listing of Non-convertible Securities issued on a Private Placement Basis

Regulation 50A of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 provides that an issuer making a private placement of non-convertible securities, and seeking listing thereof on stock exchange(s), shall file a general information document with the stock exchange(s), which shall contain the following disclosures, namely-

- (a) disclosures specified in Schedule I of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021,
- (b) disclosures specified in the Companies Act, 2013, as applicable, and
- (c) additional disclosures as may be specified by the SEBI.

The general information document shall be valid for a period of one year from the date of opening of the first offer of non-convertible securities made under that general information document. In respect of a second or subsequent offer of non-convertible securities, during the period of validity for a period of one year of that general information document, no further general information document shall be required to be filed.

An issuer making a private placement of second or subsequent offer of non-convertible securities, during the validity of the general information document or a shelf prospectus or a shelf placement memorandum, as the case may be, shall file a key information document for each such second or subsequent offer of non-convertible securities, with the stock exchange(s).

Answer 6(c)

Exemptions by SEBI under Regulation 11 of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Regulation 11 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 provides that on an application being made by the acquirer in writing giving the details of the proposed acquisition and grounds on which the exemption is sought, SEBI may grant exemption to the acquirer from the Open Offer obligations subject to the compliance with such conditions as it deems fits.

For instance, in case where the exemption is sought from the Open Offer obligations which has been triggered pursuant to the issue of shares by way preferential allotment, SEBI may require that the approval of shareholders should be obtained by way of postal ballot. Further, along with the application, the acquirer is also required to pay a non-refundable fee of Rs.5,00,000/, by way of direct credit in the bank account.

However, it is to be noted that the Acquirer is not exempted from making other compliances related to the disclosure requirements as provided under regulation 29, 30 and 31 of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

Answer 6(d)

Advertisement Code for Mutual Funds

The Advertisement Code for Mutual Funds in accordance with the SEBI (Mutual Funds) Regulations, 1996 are as under:

- (i) Advertisement shall be accurate, true, fair, clear, complete, unambiguous and concise.
- (ii) Advertisement shall not contain statements which are false, misleading, biased or deceptive, based on assumptions and shall not contain any testimonials or any ranking based on any criteria.
- (iii) No celebrities shall form part of advertisement,
- (iv) No advertisement shall directly or indirectly discredit other advertisements or make unfair comparisons.
- (v) Advertisements shall be accompanied by a standard warning in legible fonts which states "Mutual fund investments are subject to market risks, read all schemes related document carefully." No addition or deletion of words shall be made to the standard warning. Advertisements in vernacular language(s) shall contain this standard warning in the vernacular language.
- (vi) In audio-visual media based advertisements, the standard warning in visual and accompanying voice over reiteration shall be audible in a clear and understandable manner. For example, in standard warning both the visual and the voice over reiteration containing 14 words running for at least 5 seconds may be considered as clear and understandable.
- (vii) Advertisement shall not be so designed as likely to be misunderstood or likely to disguise the significance of any statement. Advertisements shall not contain statements which directly or by implication or by omission may mislead the investor.
- (viii) Advertisements shall not carry any slogan that is exaggerated or unwarranted or slogan that is inconsistent with or unrelated to the nature and risk and return profile of the product.
- (ix) Advertisements shall not be so framed as to exploit the lack of experience or knowledge of the investors. Extensive use of technical or legal terminology or complex language and the inclusion of excessive details which may detract the investors should be avoided.
- (x) Advertisements shall contain information which is timely and consistent with the disclosures made in the Scheme Information Document, Statement of Additional Information and the Key Information Memorandum.

Answer 6(e)

Fixed Delisting Price

Regulation 20A of the SEBI (Delisting of Equity Shares) Regulations, 2021, deals with the Fixed Delisting Price, under this:

- (1) In case the acquirer has proposed delisting through fixed price process; the acquirer shall provide a fixed delisting price which shall be at least 15% more than the floor price calculated in terms of regulation 19A.
- (2) The acquirer shall be eligible to undertake delisting through fixed price process only if the shares of the company are frequently traded.
- (3) The acquirer shall be bound to accept the equity shares tendered or offered in the delisting offer, if the post-offer shareholding of the acquirer along with the shares tendered by the public shareholders reaches 90% at the fixed delisting price, offered by the acquirer.

OR (alternative question to Q. No. 6)**Question 6A**

- (i) Earth Limited is a leading manufacturer of electrical two-wheeler vehicles. In terms of market capitalisation, it is among top 1,000 listed companies. You have been recently appointed as its Company Secretary. Immediately on joining, one of your assistants wanted to know from you what are the regulatory compliances Company has to comply with under the provisions of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015. Explain the requirements.

(5 marks)

- (ii) The Expense Ratio of a mutual fund scheme is the cost of running and managing a mutual fund, which is charged to the scheme. What expenses are covered in the Expense Ratio and how does it affect the NAV ?

(5 marks)

- (iii) Sun Limited, is a leader in the domestic paper manufacturing industry and also a part of Nifty 50 list of National Stock Exchange. Despite the company is doing its best, the Board of Directors have in-principle decided and are in the process of approving the delisting proposal in the next Board meeting. You being the Compliance Officer, have been advised by the Board for Due-Diligence to be carried out by a Peer Review Company Secretary. Elaborate the relevant provisions relating to this process.

(5 marks)

Answer 6(A)(i)

Compliances required to be complied with under the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 by Earth Limited being among top 1,000 listed companies are as under:

- a) Board of directors shall have at least one independent woman director.
- b) Entities shall undertake Directors and Officers insurance ('D and O insurance') for all their independent directors of such quantum and for such risks as may be determined by its board of directors.
- c) The provisions of Risk Management Committee shall be applicable.
- d) Company shall formulate a dividend distribution policy which shall be disclosed on the website of the listed entity and a web-link shall also be provided in their annual reports.
- e) The Annual Report shall contain a Business Responsibility and Sustainability Report (BRSR) on the environmental, social and governance disclosures, in the format as may be specified by SEBI from time to time.

Answer 6(A)(ii)

Under SEBI (Mutual Funds) Regulations, 1996, Mutual Funds are permitted to incur / charge certain operating expenses for managing a mutual fund scheme such as sales & marketing/ advertising expenses, administrative expenses, transaction costs, investment management fees, registrar fees, custodian fees, audit fees as a percentage of the fund's daily net assets. This is commonly referred to as 'Expense Ratio'.

This covers the following expense items:

- a) Fees paid to service providers like trustees, Registrar & Transfer Agents, Custodian, Auditor, etc.

- b) Asset management expenses,
- c) Commissions paid to distributors,
- d) Other selling expenses including advertising expenses,
- e) Expenses on investor communication, account statements, dividend/ redemption cheques/ warrants,
- f) Listing fees and Depository fees, or
- g) Goods & Service tax.

Expense ratio is the cost of running and managing a mutual fund which is charged to the scheme. All expenses incurred by a Mutual Fund and Asset Management Company will have to be managed within the limits specified under Regulation 52(6) & (6A) of the SEBI (Mutual Funds) Regulations, 1996.

The expense ratio is calculated as a percentage of the Scheme's average Net Asset Value (NAV). The daily NAV of a mutual fund is disclosed after deducting the expenses. Thus, the expense ratio has a direct bearing on a scheme's NAV – the lower the expense ratio of a scheme, the higher the NAV.

Answer 6(A)(iii)

As per regulation 10 of the SEBI (Delisting of Equity Shares) Regulations, 2021, the Board of Directors of the company, before considering the proposal of delisting, shall appoint a Peer Review Company Secretary and provide the following information to such Company Secretary for carrying out due-diligence:

- (a) the details of buying, selling and dealing in the equity shares of the company by the acquirer or its related entities during the period of two years prior to the date of board meeting held to consider the proposal for delisting, including the details of the top twenty five shareholders, for the said period,
- (b) the details of off-market transactions of all the shareholders mentioned in clause (a) for a period of two years,
- (c) any additional information, including the information mentioned above for a longer period of time, sought by the Company Secretary if the Company Secretary is of the opinion that the information provided under clauses (a) and (b) is not sufficient for providing the certification.

After obtaining the information from the Board of Directors of the company, the Company Secretary shall carry out the due-diligence and submit a report to the Board of Directors of the company certifying that the buying, selling and dealing in the equity shares of the company carried out by the acquirer or its related entities and the top twenty five shareholders is in compliance with the applicable provisions of securities laws including these regulations. While communicating the decision of the Board of Directors on the proposal for delisting of equity shares, the company shall also submit to the recognized stock exchanges on which the equity shares of the company are listed, the due -diligence report of the Company Secretary.

ECONOMIC, COMMERCIAL AND INTELLECTUAL PROPERTY LAWS

GROUP 2 PAPER 6

Time allowed : 3 hours

Maximum marks : 100

NOTE : Answer All Questions.

PART-I

Question 1

Swastik Ayurved Pharma Limited is one of the largest producers of Herbal and Ayurvedic products in India. To expand its market share, Swastik regularly advertised the claimed benefits of its products. These advertisements promoted the products as having medicinal properties and the ability to cure ailments without side effects. However, the advertisements lacked any scientific evidence to support such claims. Relying upon these advertisements, Rajeev, a consumer, purchased the products. The products, however, turned out to be ineffective and did not match the claims made in the advertisements.

Rajeev, the complainant, lodged a complaint with the Secretary, Ministry of Health, Government of India, alleging that the advertisements released by the company were misleading, false, and deceptive, intended to misguide the general public, and in violation of the Consumer Protection Act, 2019, which mandates that advertisements must be truthful and not misleading. Further, the Advertising Standards Council of India (ASCI) also found the advertisements to be misleading and in violation of its regulations. It was contended that the company and its directors should be held liable for such misleading and deceptive advertisements. The case was ultimately referred to the Supreme Court under Article 136 of the Constitution of India by way of a special leave to appeal.

From the above case study, answer the following questions as per the provisions of the Consumer Protection Act, 2019 :

- (i) Who is a "consumer" under the Consumer Protection Act, 2019 ? Can Rajeev be considered a consumer in this case ?

(4 marks)

- (ii) Whether the false, misleading and deceptive advertisement may be treated as unfair trade practice ? Explain in detail.

(4 marks)

- (iii) Can the producer and its directors be penalized for issuing false or misleading advertisements under the Consumer Protection Act, 2019 ?

(3 marks)

- (iv) When and to whom a case may be lodged against and be appealed against such order ?

(2 marks)

- (v) Distinguish between defect and deficiency under the Consumer Protection Act, 2019 ?

(2 marks)

Answer 1(i)

According to Section 2(7) of the Consumer Protection Act, 2019, Consumer means any person who-

- (i) Buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
- (ii) Hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose.

Explanation. - For the purposes of this clause, -

- a. the expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;
- b. The expressions "buys any goods" and "hires or avails any services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing.

Looking to the provision of Section 2(7) of the Consumer Protection Act, 2019, Mr. Rajeev who purchased the advertised products relying upon the advertisements of Swastik Ayurved Pharma Ltd. is a consumer.

(4 Marks)

Answer 1(ii)

According to Section 2(47) of the Consumer Protection Act, 2019, Unfair Trade Practice means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provisions of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, which are related to the false, misleading and deceptive advertisements under the Consumer Protection Act, 2019:

Making any statement, whether orally or in writing or by visible representation including by means of electronic record, which-

- (a) Falsely represents that the goods are of a particular standard, quality, quantity, grade, composition, style or model;
- (b) Falsely represents that the services are of a particular standard, quality or grade;
- (c) Represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
- (d) Makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
- (e) Permitting the publication of any advertisement whether in any newspaper or otherwise, including by way of electronic record, for the sale or supply at a bargain price of goods or services etc.

Accordingly, if any advertisement which attracts the consumer, will be deemed misleading and violative of the Consumer Protection Act, 2019, which mandates that all advertisements must be truthful and not misleading or deceptive to the public. Further, such false, misleading and deceptive advertisements also violates the advertising standard Council of India regulations.

(4 Marks)

Answer 1(iii)

Section 89 of the Consumer Protection Act, 2019 states that any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees. Hence the company and its corporate heads are liable accordingly.

(3 Marks)

Answer 1(iv)

Any consumer who is aggrieved by the order of a commission can prefer an appeal in the higher commission within prescribed period from the date of the order. The appeal can be preferred-

- Against order of the District Commission before the State Commission within 45 days
- Against order of the State Commission before the National Commission within 30 days
- Against order of the National Commission before the Supreme Court within 30 days.

(2 Marks)

Answer 1(v)

Defect

Defect means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly. [Section 2(10) of the Consumer Protection Act, 2019]

Deficiency

Deficiency means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes —

- (i) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
- (ii) deliberate withholding of relevant information by such person to the consumer. [Section 2(11) of the Consumer Protection Act, 2019]

(2 Marks)

Question 2

- (a) Swarna Charitable Trust registered on 21.12.2023 engaged in the Educational Sector filed an Application with the RBI seeking approval to invest US\$ in a foreign entity in Australia on 10.2.2025. Examine whether the Trust is likely to receive approval from the RBI for making

such an investment. Support your answer with reasons. Also explain the conditions for making Overseas Direct Investment for such a Trust in a Foreign Entity.

(5 marks)

(b) Whether following remittances by persons other than individuals require prior approval of the Reserve Bank of India under Liberalized Remittance Scheme :

- (i) Vikram Associates, a partnership firm in India wants to remit USD 2,000,000 for consultancy services procured from outside India for a project other than infrastructure Project.
- (ii) Lakshay & Co., a partnership firm wants to remit USD 9,000,000 for consultancy services procured from outside India for an infrastructure project.
- (iii) Mayank Pvt. Ltd., a Real Estate Company in India want to remit commission of USD 25,000 to an agent outside India for selling a residential flat in India for which he has remitted USD 400,000 in India
- (iv) PQR Pvt. Ltd., a Real Estate Company in India want to remit commission of USD 25,000 to an agent outside India for selling a Commercial plot in India for which he has remitted USD 2,000,000 in India
- (v) Navya Ltd., an Indian company wants to remit USD 100,000 to a company outside India towards reimbursement of pre-incorporation expenses for investment of USD 2,000,000 in its company which is fully brought into India.

(5 marks)

(c) Export & Import Bank of India wants to receive Foreign Direct Investment (FDI) and further raise funds for its trade activities from Japan. State the procedure for raising External Commercial Borrowings (ECB).

(5 marks)

Answer 2(a)

Any person being a registered Trust or a registered Society engaged in the educational sector or which has set up hospitals in India may make Overseas Direct Investment in a foreign entity with the prior approval of the Reserve Bank, subject to the following conditions, namely: —

- (i) the foreign entity is engaged in the same sector that the Indian Trust or Society is engaged in;
- (ii) the Trust or the Society, as the case may be, should have been in existence for at least three financial years before the year in which such investment is being made;
- (iii) the trust deed in case of a Trust, and the memorandum of association or rules or bye-laws in case of a Society shall permit the proposed Overseas Direct Investment;
- (iv) such investment have the approval of the trustees in case of a Trust and the governing body or council or managing or executive committee in case of a Society;
- (v) in case the Trust or the Society require special licence or permission either from the Ministry of Home Affairs, Central Government or from the relevant local authority, as the case may be, the special licence or permission has been obtained and submitted to the designated AD bank.

Thus, Swarna Trust will not get approval from RBI to invest in a foreign entity because trust is in existence for less than 3 years.

(5 Marks)

Answer 2(b)

- (i) Remittances exceeding USD 1,000,000 per project for any consultancy services in respect of a project other than infrastructure project require prior approval of RBI. In this case, prior approval of Reserve Bank of India is required as remittance is USD 2,000,000 which exceeds the prescribed limit.
- (ii) Remittances exceeding USD 10,000,000 per project for any consultancy services in respect of an infrastructure project require Prior approval of Reserve Bank of India. So, in this case no prior approval of Reserve Bank of India is required as it is within the limit.
- (iii) Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India exceeding USD 25,000 or five percent of the inward remittance whichever is more require prior approval of Reserve Bank of India. In this case, 5% of inward remittance is USD 20000 which is within the limit. So, no prior approval of Reserve Bank of India is required.
- (iv) Commission, per transaction, to agents abroad for sale of residential flats or commercial plots in India exceeding USD 25,000 or five percent of the inward remittance whichever is more require prior approval of RBI. In this case, 5% of inward remittance is USD 100000 which exceeds the prescribed limit. So, prior approval of Reserve Bank of India is required.
- (v) Remittances exceeding five per cent of investment brought into India or USD 100,000 whichever is higher, by an entity in India by way of reimbursement of pre-incorporation expenses requires prior permission of Reserve Bank of India. In this case, 5% of investment brought into India is USD 100,000 which is within the limit. So, no prior approval of Reserve Bank of India is required.

(1+1+1+1+1=Total 5 Mark)

Answer 2(c)

Procedure for raising External Commercial Borrowing (ECB) for the permitted activities may be stated as follows:

1. All ECB can be raised under the automatic route if they conform to the parameters prescribed under this framework.
2. For approval route cases, the borrowers may approach the RBI with an application in prescribed format (Form ECB) for examination through their AD Category I bank.

Such cases shall be considered keeping in view the overall guidelines, macroeconomic situation and merits of the specific proposals.

3. ECB proposals received in the Reserve Bank above certain threshold limit (refixed from time to time) would be placed before the Empowered Committee set up by the Reserve Bank.
4. The Empowered Committee will have external as well as internal members and the Reserve Bank will take a final decision in the cases taking into account recommendation of the Empowered Committee.
5. Entities desirous to raise ECB under the automatic route may approach an AD Category I bank with their proposal along with duly filled in Form ECB.

(5 Mark)

Question 3

- (a) Sky Heights Aviation Limited wants to enter the Civil Aviation Sector by constructing airports and developing air transport services in India and abroad. Some International Aviation Companies are interested in investing in it. Explain the Entry Routs for investment and the

permissible percentage to receive such investment under the Foreign Direct Investment Regulation & Policy.

(5 marks)

- (b) X was caught transferring funds through illegal export of opium from India to South Africa. State whether X has committed any offence under the Prevention of Money Laundering Act, 2002. Elucidate the punishment that may be imposed on X under the Act.

(5 marks)

- (c) A housing scheme project was launched by ABC Ltd. in 2015, which is still ongoing and has not received a completion certificate. On 1.5.2016, the Real Estate (Regulation and Development) Act, 2016 (RERA Act) came into force. ABC Ltd. now wants to register this project with the Real Estate Regulatory Authority under the RERA Act. Advise ABC Ltd. whether it can register this project. Also, state which projects are exempt from the ambit of the RERA Act.

(5 marks)

Answer 3(a)

Sky Heights Aviation Limited which wants to enter in Civil Aviation Sector by constructing airports and developing air transport services in India and abroad may avail the foreign direct investment as per the following Routes for investment and the percentage to receive such foreign investment:

AIRPORT

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(a) Greenfield projects	100%	Automatic
(b) Existing projects	100%	Automatic

Sector/Activity	% of Equity/ FDI Cap	Entry Route
(1) (a) Scheduled Air Transport Service*/ Domestic Scheduled Passenger Airline (b) Regional Air Transport Service	100%	Automatic up to 49% (Automatic up to 100% for NRIs) Government route beyond 49%
(2) Non-Scheduled Air Transport Service	100%	Automatic
(3) Helicopter services/Seaplane service requiring DGCA approval	100%	Automatic

AIR TRANSPORT SERVICES

As per Schedule XI of Aircraft Rules, 1937, Air Operator Certificate to operate Scheduled air transport services (including Domestic Scheduled Passenger Airline or Regional Air Transport Service) may be granted to a company or a body corporate provided that:-

- (a) It is registered and has its principal place of business within India;
- (b) The Chairman and at least two-thirds of its Directors are citizens of India; and

(c) Its substantial ownership and effective control is vested in Indian nationals.

(5 Marks)

Answer 3(b)

According to Section 3 of the Prevention of Money Laundering Act, 2002, whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected with the proceeds of crime and projecting it as untainted property shall be guilty of offence of money laundering.

Punishment: Section 4 of the said Act provides for the punishment for Money-Laundering. Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than 3 years but which may extend to 7 years and shall also be liable to fine. But where the proceeds of crime involved in money-laundering relate to any offence specified under paragraph 2 of Part A of the Schedule, the maximum punishment may extend to 10 years instead of 7 years.

As per the provisions of the Prevention of Money Laundering Act, 2002 Mr. X has Committed an offence under Section 3 and Section 23 of this Act and he may be punished as per the aforesaid provisions of section 4 of the Prevention of Money Laundering Act, 2002.

(5 Marks)

Answer 3(c)

In the case of *M/s. Newtech Promoters and Developers Pvt. Ltd. Vs. State of UP & Ors. etc.*, the Supreme Court of India observed that from the scheme of the Act 2016, its application is retroactive in character and it can safely be observed that the projects already completed or to which the completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. At the same time, it will apply after getting the ongoing projects and future projects registered under Section 3 to prospectively follow the mandate of the Act 2016.

So, ABC Ltd. can register for this project as the completion certificate has not received yet.

Projects exempt from the ambit of the Act

The following projects do not require to be registered under the Act:

- (a) area of land proposed to be developed does not exceed 500 Sq. Meters or No. of apartments proposed to be developed does not exceed eight inclusive of all phases:

Provided that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act;

- (b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;
- (c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

(5 Marks)

Attempt all parts of either Q. No. 4 or Q. No. 4A

Question 4

- (a) What are the objectives of the OIML Certification System under the Legal Metrology Act, 2009 ?

(5 marks)

- (b) State the factors that the Competition Commission of India should consider while determining whether a combination is likely to have an appreciable adverse effect on competition under the Competition Act, 2002.

(5 marks)

- (c) In what manner is the Special Economic Zone Authority constituted ? State the functions of the Special Economic Zone Authority under the Special Economic Zones Act, 2005.

(5 marks)

Answer 4(a)

The objectives of the OIML Certification System are:

- (a) to promote the global harmonization, uniform interpretation and implementation of legal metrological requirements for measuring instruments and/or modules;
- (b) to avoid unnecessary re-testing when obtaining national type evaluations and approvals, and to support the recognition of measuring instruments and/or modules under legal metrological control, while achieving and maintaining confidence in the results in support of facilitating the global trade of individual instruments; and
- (c) to establish rules and procedures for fostering mutual confidence among participating OIML Member States and Corresponding Members in the results of type evaluations that indicate conformity of measuring instruments and/or modules, under legal metrological control, to the metrological and technical requirements established in the applicable OIML Recommendation(s).

(5 Marks)

Answer 4(b)

As per Section 20(4) of the Competition Act, 2000, for the purposes of determining whether a combination would have the effect of or is likely to have an appreciable adverse effect on competition in the relevant market, the Commission shall have due regard to all or any of the following factors, namely: -

- (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 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 advantages, 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.

(5 Marks)

Answer 4(c)**Special Economic Zone Authority**

Section 31 of the Special Economic Zones Act, 2005 dealing with the Constitution of Authority empowers the Central Government to constitute by notification in the Official Gazette, an Authority for every SEZ to exercise powers conferred on and discharge the functions assigned to it.

In the case of an existing SEZ established by the Central Government the Central Government has been empowered to establish such authority within six months from the date of commencement of the Act, it is further provided that the person or authority (including Development Commissioner) which is exercising control over an existing SEZ, shall continue to do so till the authority is constituted. Section 31(2) provides that every authority shall be a body corporate by name as assigned, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract and shall sue and be sued. Section 31(9) stipulates that no act or proceedings of an authority shall be invalidated merely by reason of:

- (a) any vacancy in or any defect;
- (b) any defect in the appointment of a person as its member; or
- (c) any irregularity in the procedure of the authority not affecting the merits of the case.

Functions of Authority

Section 34 of the Special Economic Zones Act, 2005 casts upon the Authority a duty to undertake such measures as it thinks fit for the development, operation and management of the respective Special Economic Zone. Section 34(2) provides for following measures:

- (a) the development of infrastructure in the Special Economic Zone;
- (b) promoting exports from the Special Economic Zone;
- (c) reviewing the functioning and performance of the Special Economic Zone;
- (d) levy, user or service charges or fees or rent for the use of properties belonging to the Authority;
- (e) Performing such other functions as may be prescribed.

(5 Marks)

OR (Alternate question to Q. No.4)

Question 4A

- (i) Explain the provisions relating to Special Courts constituted under Section 50 of the Prohibition of Benami Property Transactions Act, 1988.

(5 marks)

- (ii) Under what circumstances can the Central Government cancel the certificate granted under Section 12 for receiving foreign contribution under the Foreign Contribution (Regulation) Act, 2010 ?

(5 marks)

- (iii) State the objectives of the National Committee on Trade Facilitation (NCTF). How does the National Trade Facilitation Action Plan aim to achieve these objectives under the Foreign Trade Policy, 2023 ?

(5 marks)

Answer 4A(i)

Section 50 of the Benami Transactions Prohibition Act, 1988 relates to Special Courts.

Section 50 (1) provides that the Central Government, in consultation with the Chief Justice of the High Court, shall for trial of an offence punishable under this Act, by notification, designate one or more Courts of Session as Special Court or Special Courts for such area or areas or for such case or class or group of cases as may be specified in the notification.

Section 50 (2) provides that while trying an offence under this Act, a Special Court shall also try an offence other than an offence referred to in sub-section (1), with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

Section 50(3) states that the Special Court shall not take cognizance of any offence punishable under this Act except upon a complaint in writing made by -. (i) the authority; or (ii) any officer of the Central Government or State Government authorized in writing by that Government by a general or special order made in this behalf.

According to Section 50(4) every trial under this section shall be conducted as expeditiously as possible and an endeavour shall be made by the Special Court to conclude the trial within six months from the date of filing of the complaint.

(5 Marks)

Answer 4A(ii)

Section 14 of the Foreign Contribution (Regulation) Act, 2010 provides that the Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if.-

- (1) the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or
 - (i) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or
 - (ii) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or

- (iii) the holder of certificate has violated any of the provisions of this Act or rules or order made there under; or
- (iv) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.

(5 Marks)

Answer 4A(iii)

India has ratified the World Trade Organization's Trade Facilitation Agreement (TFA) in April 2016. To facilitate coordination and implementation of the TFA provisions, an inter-ministerial body i.e., National Committee on Trade Facilitation (NCTF) has been constituted. The aims to achieve the objects, NCTF has followed the four pillars of TFA as follows:

- *Transparency*: focus on improved access to accurate and complete information.
- *Technology*: development and use of digital and detection technologies to ease out trade bottlenecks and improve efficiency.
- *Simplification*: of procedures and Risk based Assessments. Simplified, uniform and harmonised procedures with increased adoption of a risk based management approach.
- *Infrastructure Augmentation*: enhancement of infrastructure, particularly the road and rail infrastructure leading to ports, and the infrastructure within ports, airports, ICDs, Land Customs Stations is a major enabler for growth in trade that cuts across all stakeholders.

National Trade Facilitation Action Plan aims to achieve: -

- Improvement in Ease of Doing Business through reduction in transaction cost and time
- Reduction in cargo release time
- A paperless regulatory environment
- A transparent and predictable legal regime
- Improved investment climate through better infrastructure.

(5 Marks)

PART-II**Question 5**

- (a) Universal Drugs and Pharma Limited, a multinational pharmaceutical company, was incorporated and registered in Chennai. The company filed a patent application in India under the Patents Act, 1970, for its cancer drug Glivec (Imatinib Mesylate).

The application sought to patent a beta-crystalline form of imatinib mesylate, claiming it to be a new form with improved bioavailability and efficacy.

However, the Patent Controller of India rejected the application, stating that the drug did not meet the criteria for patentability under Section 3(d) of the Patents Act, 1970. The rejection was based on the ground that Section 3(d) prohibits the patenting of new forms of known substances unless they demonstrate enhanced therapeutic efficacy compared to the original compound.

Universal Drugs and Pharma Ltd. challenged the decision before the Intellectual Property Appellate Board (IPAB), but the IPAB upheld the Patent Controller's decision.

The company then filed an appeal before the Supreme Court of India, raising the following key legal issues :

- Whether the beta-crystalline form of imatinib mesylate qualifies for patent protection under Section 3(d) of the Indian Patents Act, 1970, given that the substance was already known but had been presented in a new form ?
- Whether the patentability criteria under Section 3(d) are consistent with international standards, or whether they are excessively restrictive ?

In view of the above case study, answer the following questions in accordance with the provisions of the Indian Patent Act, 1970 :

- (i) What is meant by Patent, and what can be patented ?

(2 marks)

- (ii) When mere discovery of a new form of a known substance will not to be treated as new invention under section 3(d) of the Patent Act, 1970 ?

(2 marks)

- (iii) What are the rights of patentee under the Patent Act, 1970 ?

(2 marks)

- (iv) Are the patentability criteria under Section 3(d) in accordance with international standards ?

(2 marks)

- (v) Will Universal Drugs and Pharma Ltd. succeed in its arguments as per the provisions of the Patents Act, 1970 ?

(2 marks)

- (b) Kancheepuram Sarees, a famous product made in the Kancheepuram region of Tamil Nadu, was registered under the Geographical Indication of Goods (Registration and Protection) Act, 1999. The Kancheepuram Handloom Silk Weavers Co-operative Society Limited was constituted to register "Kancheepuram G.I." by traditional authentic weavers residing in Kancheepuram region.

The registration of a similar society was also made by the non-traditional producers which used the same G.I. against which the dispute arose. The Kancheepuram Society of Traditional Weavers filed a petition challenging the registration of a similar G.I. for the product, claiming that it would result in the misuse and exploitation of their traditional craft.

The petitioners argued that only the authentic weavers from the Kancheepuram region should be entitled to use the G.I. for Kancheepuram Sarees and that "Broader definition could result in the dilution of the uniqueness and quality of the product.

Therefore, the G.I. of Kancheepuram Sarees should be exclusive to the traditional weavers, of the Kancheepuram region and the G.I. Act should be interpreted in a way that protected the authenticity and tradition of the product. Any registration extending the use of G.I. beyond this would lead to the exploitation of their craft. Union of India, the respondent, argued that G.I. Act is intended to protect the geographical origin of a product and does not restrict registration based on the type of producer. It should be extended to all the producers traditional as well as non-traditional weaver communities which produce authentic "Kancheepuram Sarees".

Considering the above case study, answer the following questions in the light of Geographical Indication of Goods (Registration and Protection) Act, 1999.

- (i) What is meant by Geographical Indication ?
(2 marks)
- (ii) What are the benefits of Geographical Indication registration ?
(2 marks)
- (iii) Is there any difference between Geographical Indication and Trade Mark ?
(2 marks)
- (iv) When may a registered Geographical Indication be treated as infringed ?
(2 marks)
- (v) Is the contention of the Union of India, the respondent, correct ? Explain.
(2 marks)

Answer 5(a)(i)

Section 2(1) (m) of the Patents Act, 1970, defines the term patent as to mean a patent for any invention granted under Patents Act. Accordingly, a patent is a statutory right for an invention granted for a limited period of time to the patentee by the Government, in exchange of full disclosure of his invention for excluding others, from making, using, selling, importing the patented product or process for producing that product for those purposes without his consent. Patent is a monopoly grant and it enables the inventor to control the output and within the limits set by demand, the price of the patented products. Underlying economic and commercial justification for the patent system is that it acts as a stimulus to investment in the Industrial innovation. Innovative technology leads to the maintenance of and increase in nations stock of valuable, tradable and industrial assets.

An invention relating either to a product or process that is new, involving inventive step and capable of industrial application can be patented. However, it must not fall into the categories of inventions that are non-patentable under section 3 and 4 of this Act.

(2 Marks)

Answer 5(a)(ii)

The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any property or mere new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant;

Explanation to clause (d) of the Patent Act, 1970 clarifies that salts, esters, polymorphs, metabolites, pure form, particle size, isomers, mixtures of isomers, complexes, combinations and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy.

(2 Marks)

Answer 5(a)(iii)

Section 48 of the Patent Act, 1970 provides that subject to the other provisions contained in the Patents Act and the conditions specified in section 47, a patent granted under the Act shall confer upon the patentee:

- (a) Where the subject matter of the patent is a product, the exclusive right to prevent third parties, who do not have his consent, from the act of making, using, offering for sale, selling or importing for, those purposes that product in India.

- (b) Where the subject matter of the patent is a process, the exclusive right to prevent third parties, who do not have his consent, from the act of using that process, and from the act of using, offering for sale, selling or importing for those purposes the product obtained directly by that process in India.

A patentee enjoys the exclusive right to make and use the patented invention. The patentee also has the right to assign the patent, grant licences, or otherwise deal with the patent, for any consideration. These rights, created by statute, are circumscribed by various conditions and limitations as prescribed under the Patents Act, 1970.

(2 Marks)

Answer 5(a)(iv)

The Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement is essential for facilitating intellectual property, trade settling intellectual property, trade disputes and giving WTO members the freedom to pursue their own national goals. The Trips agreement is an attempt to put these rights under common international law and to close the gap in how they are safeguarded and upheld globally. It provides minimal requirements to enforcement and protection of intellectual property owned by citizen of other WTO members by each Government.

Accordingly, the Patent Act, 1970 including section 3(d) is in compliance with India's International obligation under Trips, as the law did not prevent the patenting of genuine innovations but instead focused on preventing the patenting of minor modification that did not offer significant therapeutic benefits in this instant case.

(2 Marks)

Answer 5(a)(v)

Section 3(d) of the Patent Act, 1970 is the key issue in this problem. It may be emphasized that owner modifications of existing compounds would not qualify for Patent Protection unless they demonstrate a significant enhancement in therapeutic efficacy. The Universal Drugs and Pharma Ltd. had failed to prove that the new form of imatinib mesylate provided a substantial increase in efficacy compared to the original substance.

Further, public interest in ensuring affordable access to essential medicines outweighed the interest of patent holders, otherwise patent of incremental innovations could lead to monopolistic pricing and prevent affordable access to medicines, especially in the case of life-saving drugs. Hence, the decision given by the Patent Controller and the Intellectual Property Appellate Board refusing to grant patent protection to the Universal Drugs and Pharma Ltd. is correct.

This case study is based upon *Novartis AG v/s Union of India*, (2013) 6 SCC 1 as decided by the Supreme Court of India.

(2 Marks)

Answer 5(b)(i)

As per Section 2(e) of the Geographical Indication of Goods (Registration and Protection) Act, 1999, Geographical Indication in relation to goods means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be.

It may be noted that any name which is not the name of a country, region or locality of that country shall also be considered as the geographical indication if it relates to a specific geographical area and is used upon or in relation to particular goods originating from that country, region or locality, as the case may be.

(2 Marks)

Answer 5(b)(ii)

Benefit of registration of Geographical Indications are as under:

- It confers legal protection to Geographical Indications in India.
- Prevents unauthorised use of a Registered Geographical Indication by others.
- It provides legal protection to Indian Geographical Indications which in turn boost exports.
- It promotes economic prosperity of producers of goods produced in a geographical territory.

(2 Marks)

Answer 5(b)(iii)

A trade mark is a sign which is used in the course of trade and it distinguishes goods or services of one enterprise from those of other enterprises. Whereas a geographical indication is an indication used to identify goods having special characteristics originating from a definite geographical territory.

(2 Marks)

Answer 5(b)(iv)

The Geographical Indication may be treated to be infringed in the following situations:

- When an unauthorised user uses a geographical indication that indicates or suggests that such goods originate in a geographical area other than the true place of origin of such goods in a manner which mislead the public as to the geographical origin of such goods.
- When the use of geographical indication result in an unfair competition including passing off in respect of registered geographical indication.
- When the use of another geographical indication results in false representation to the public that goods originate in a territory in respect of which a registered geographical indication relates.

(2 Marks)

Answer 5(b)(v)

The Union of India, in defense, contended that the of the Geographical Indication of Goods (Registration and Protection) Act, 1999, is intended to protect the geographical origin of a product and does not restrict registration based on the type of producer. The protection under the GI Act should extend to all producers within the region, including those who do not necessarily belong to traditional weaver communities but still produce authentic Kancheepuram sarees, is correct

Therefore, the registration to all producers within the region, including both traditional and non-traditional producers, as long as they could show that their products met the standards set for Kancheepuram Sarees. The Geographical Indication of Goods (Registration and Protection) Act, 1999 seeks to protect the geographical origin of a product and that broad protection would ensure that the quality and reputation of the product were maintained, without limiting the use of the Geographical Indication to a specific group of producers.

This case study is based upon the case of *Kancheepuram Handloom Silk Weavers Co-operative Society Ltd. v/s Union of India (2006) 6 SCC 750*.

(2 Marks)

Attempt all parts of either Q. No6 or Q. No. 6A

Question 6

- (a) Rajat, the proprietor of RC Associates, filed an application for a patent with the Controller for his new invention of a "Smart Watch." However, the Controller is of the opinion that the invention cannot be performed without a substantial risk of infringement of a claim of another existing patent. What directions may the Controller issue to Rajat under Section 19 of the Patents Act, 1970 ?

(5 marks)

- (b) ES Ltd., a telecommunications company, is in the design phase of a new device that incorporates a cell phone with Internet capabilities. There is a concern that the new device may have nearly the same design as their competitor's product. What requirements ES Ltd. should comply with before applying for registration of the design of the new device under the Designs Act, 2000 ?

(5 marks)

- (c) ABC Ltd., incorporated in 1996 deals in Plywood under the Trade Names 'UNIPLY'. It came to know in 1999 that XYZ Ltd. is also using the Name 'UNIPLY'. ABC Ltd. filed a suit against the XYZ Ltd. along with an application for a Temporary Injunction. The Court granted an ex-parte temporary injunction to the Appellant. In turn, XYZ Ltd. also filed appeal against ABC Ltd. claiming that it was incorporated in 1993 and they have been carrying business under the Name of 'UNIPLY' since 1993. XYZ Ltd. claimed the prior use of Marks in question.

Explain, whether XYZ Ltd. can be restrained from using the name 'UNIPLY' with reference to a case law as per the Trade Marks Act, 1999 ?

(5 marks)

- (d) A Pharmaceutical company develops a new drug with a specific chemical compound 'Carbon Dioxide'. The Company applied 'Carbon Dioxide' to register it as Trademark. Whether this Trademark can be granted as per the Trade Marks, Act, 1999 ?

(5 marks)

Answer 6(a)

Section 19 of the Patents Act, 1970 provides that if in consequence of the investigations it appears to the Controller that an invention in respect of which an application for a patent has been made cannot be performed without substantial risk of infringement of a claim of any other patent, he may direct that a reference to that other patent, be inserted in the applicant's complete specification by way of notice to the public within such time as may be prescribed, unless

- a) the applicant shows to the satisfaction of the Controller that there are reasonable grounds for contesting the validity of the said claim of the other patent; or
- b) the complete specification is amended to the satisfaction of the Controller.

The reference shall be inserted in the following form, namely: "Reference has been directed, in pursuance of Section 19(2) of the Patents Act, 1970 to Patent No.....".

Where after a reference to another patent has been inserted in a complete specification in pursuance of a direction under Section 19(1):

- a) that other patent is revoked or otherwise ceases to be in force; or
- b) the specification of that other patent is amended by the deletion of the relevant claim; or
- c) it is found, in proceedings before the court or the Controller, that the relevant claim of that other patent is invalid or is not infringed by any working of the applicant's invention, the Controller may, on the application of the applicant delete the reference to that other patent.

(5 Marks)

Answer 6(b)

ES Ltd. should comply with the following essential requirements for the registration of 'Design' under the Design Act:

- The design should be new or original, not previously published or used in any country before the date of application for registration. The novelty may reside in the application of a known shape or pattern to new subject matter.
- The design should relate to features of shape, configuration, pattern or ornamentation applied or applicable to an article.
- The design should be applied or applicable to any article by any industrial process.
- The features of the design in the finished article should appeal to and are judged solely by the eye. This implies that the design must appear and should be visible on the finished article, for which it is meant.
- Any mode or principle of construction or operation or anything which is in substance a mere mechanical device, would not be a registrable design. For instance, a key having its novelty only in the shape of its corrugation or bent at the portion intended to engage with levers inside the lock associated with, cannot be registered as a design under the Act.
- The design should not include any Trade Mark or property mark or artistic works as defined under the Copyright Act, 1957.

(5 Marks)

Answer 6(c)

Section 31 of the Trade Marks Act, 1999 stipulates that in all legal proceedings relating to trade mark registered under the Act, the original registration and all subsequent assignments and transmission thereof shall be prima facie evidence of its validity. However, as per Section 34 the proprietor or a registered user of a registered trademark is not entitled to interfere with or restrain the use by any person of a trademark identical with or nearly resembling it in relation to goods or services in relation to which that person or a predecessor in title of his has continuously used that trade mark from a prior date.

Therefore, in case of unregistered marks, the owner of the trade mark may lodge a case against passing off action in case his trademark is used by some other person. It has been held by the courts in various cases and the ownership of a trademark is decided by its usage in commercial transactions.

The Supreme Court in *Uniply Industries Ltd. vs. Unicorn Plywood Pvt. Ltd. and Others* observed that:

- (i) for inherently distinctive marks ownership is governed by priority of use for such marks. The first user of sale of goods/services is the owner who is senior to others.

- (ii) These marks are given legal protection against infringement immediately upon adoption and use in trade.
- (iii) Some courts indicate that even prior sales of goods – though small in size with the mark – are sufficient to establish priority, the test being to determine continuous prior user and the volume of sale or the degree of familiarity of the public with the mark.

Therefore, the proprietorship of the trademark is decided by the date of usage of the mark by a person in business transactions.

So, XYZ Ltd. cannot be restrained from using the name 'UNIPLY' as it is using this name since 1993.

(5 Marks)

Answer 6(d)

Section 13 of the Trade Marks Act, 1999 states that no word:

- (a) which is the commonly used and accepted name of any single chemical element or any single chemical compound (as distinguished from a mixture) in respect of a chemical substance or preparation, or
- (b) which is declared by the World Health Organisation and notified in the prescribed manner by the Registrar from time to time, as an international non-proprietary name or which is deceptively similar to such name,

shall be registered as a trade mark and any such registration shall be deemed for the purpose of section 57 to be an entry made in the register without sufficient cause or an entry wrongly remaining on the register, as the circumstances may require.

In the given case, 'Carbon Dioxide' is a commonly used and accepted name for a single chemical compound. Hence, it cannot be registered as Trademark.

(5 Marks)

OR (Alternate question to Q. No.6)

Question 6A

- (i) When may a license be terminated, granted under the Copyright Act, 1957 ?
- (ii) The main goals on which National Intellectual Property Right Policy has focused are mainly to encourage innovation, enhance the business climate and commercially utilize intellectual property. Comment.
- (iii) Who is "Trademark Agent" ? State the qualifications for registration of trademark agent under the law relating to trademarks.
- (iv) How a Patent Specification is prepared ? When is an Application for patent published as per the Patent Act, 1970 ?

(5 marks each)

Answer 6A(i)

Termination of Licence

Section 32B of the Copyright Act, 1957 deals with termination of licences and provides that if at any time after the granting of a licence, the owner of the copyright in the work or any person authorised by him publishes a translation of such work in the same language and which is substantially the same in content at a price reasonably related to the price normally charged in India for the

translation of works of the same standard on the same or similar subject, the licence so granted shall be terminated.

However, such termination shall take effect only after the expiry of a period of three months from the date of service of a notice in the prescribed manner on the person holding such licence by the owner of the right of translation intimating the publication of the translation.

(5 Marks)

Answer 6A(ii)

The National Intellectual Property Policy outlines seven goals that are further defined with actions that must be taken by the designated nodal Ministry or Department. The goals are briefly discussed below: -

- IPR Awareness: Outreach and Promotion - To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society.
- Generation of IPRs - To stimulate the generation of IPR.
- Legal and Legislative Framework - To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest.
- Administration and Management - To modernize and strengthen service oriented IPR administration.
- Commercialization of IPR - Get value for IPRs through commercialization.
- Enforcement and Adjudication - To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.
- Human Capital Development - To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs.

(5 Marks)

Answer 6A(iii)

Trade Mark Agent

Section 145 of the Trade Marks Act, 1999 deals with agents and provide that where, by or under the Trade Marks Act, any act, other than the making of an affidavit, is required to be done before the Registrar by any person, the act may, subject to the rules made in this behalf, be done instead of by that person himself, by a person duly authorised in the prescribed manner, who is-

- (a) a legal practitioner, or
- (b) a person registered in the prescribed manner as a trade marks agent, or
- (c) a person in the sole and regular employment of the principal.

Qualifications for Registration

Rule 144 of the Trade Marks Rule, 2017 states that subject to the provisions of Rule 145, a person shall be qualified to be registered as a trademark's agent if he-

- (i) is a citizen of India,
- (ii) is not less than 21 years of age;
- (iii) is a graduate of any university in India or possesses an equivalent qualification and has passed the examination prescribed in rule 148 or is an Advocate within the meaning of the Advocates Act, 1961 or is a member of the Institute of Company Secretaries of India;

- (iv) is considered by the Registrar as a fit and proper person to be registered as a trademark agent.

(5 Marks)

Answer 6A(iv)

A patent specification can be prepared by the applicant himself or his registered and authorized agent. The patent specification generally comprises of the title of the invention indicating its technical field, prior art, draw backs in the prior art, the solution provided by the inventor to obviate the drawbacks of the prior art, a concise but sufficient description of the invention and its usefulness, drawings (if any) and details of best method of its working. The complete specification must contain atleast one claim or statement of claims defining the scope of the invention for which protection is sought for.

Every application for patent is published after expiry of 18 months from the date of its filing or priority date whichever is earlier. However, following applications are not published.

- (A) Application in which secrecy direction is imposed.
- (B) Application which has been abandoned u/s 9(1) and i.e. when a provisional application has been filed and the complete application has not been filed with 12 months from the filing of the provisional application.
- (C) Application which has been withdrawn 3 months prior to 18 months.

(5 Marks)

TAX LAWS AND PRACTICE

GROUP 2 PAPER 7

Time allowed : 3 hours

Maximum marks : 100

NOTE : Answer All Questions.

PART-I

Question 1

Mrs. Ankita aged 50 years, a resident individual and practicing Company Secretary, furnishes you the receipts and payments account for the financial year 2024-25.

Receipt and Payment Account

Receipt	Amount (₹)	Payment	Amount (₹)
Opening balance Cash on hand and at Bank as on 1.4.2024	10,000	Staff salary, bonus and stipend to articled assistants	21,00,000
Fee from professional services (Gross)	50,00,000	Other administrative expenses	11,50,000
Rent from House Property	60,000	Office rent paid in a Complex	30,000
Motor car loan from SBI Bank (on 1.1.2025 @ 9% p.a.)	2,40,000	Housing loan repaid to SBI (includes interest of ₹ 80,000)	1,88,000
Interest from Saving bank account	12,500	Life insurance premium of her spouse (10% of sum assured)	24,000
		Motor car (acquired on 1st Jan., 2025 by A/c payee cheque)	4,25,000
		Medical insurance premium (for self and her husband paid through mobile UPI)	18,000
		Books bought on 1.07.2024 (annual publications by A/c payee cheque)	20,000
		Computer acquired on 1.12.2024 by A/c payee cheque (for professional use)	30,000

		Public provident fund subscription for own	20,000
		Motor car maintenance	20,000
		Closing balance Cash on hand and at Bank as on 31.3.2025	12,97,500
	53,22,500		53,22,500

Following further information is given to you :

- (1) She occupies 50% of the building for own residence and let out the balance for residential use at a monthly rent of ₹ 5,000. The building was constructed during the year 1997-98, when the housing loan was obtained.
- (2) Motor car was put to use both for official and personal purpose. 1/5th of the motor car use is used for personal purpose.
- (3) The written down value of assets as on 01.04.2024 are given below :
 Furniture & Fittings : ₹ 60,000
 Plant & Machinery (Air-conditioners, Photocopiers, etc.) : ₹ 80,000
 Computers : ₹ 50,000

On the basis of the above information, you are required to give the following answers, assuming that she has shifted out of the default tax regime under section 115BAC :

- (a) Compute the income chargeable under the head of house property for Ankita for the assessment year 2025-26.
 (3 marks)
- (b) Compute the total depreciation allowable as per Income Tax Act, 1961 under the head of Profits and Gains from Business & Profession for Ankita for the assessment year 2025-26.
 (3 marks)
- (c) Compute the total income chargeable under the head of Profits and Gains from Business & Profession for Ankita for the assessment year 2025-26.
 (3 marks)
- (d) Compute the total allowable deduction under chapter VI-A of the Income Tax Act, 1961 for Ankita for the assessment year 2025-26.
 (3 marks)
- (e) Compute the total income of Mrs. Ankita for the assessment year 2025-26 as per Income Tax, 1961.
 (3 marks)

Answer 1 (a)**Computation of Income under the head House Property of Mrs. Ankita for A.Y. 2025-26**

Particulars	Amount (Rs.)	Amount (Rs.)
Income from House Property		
A. Self-Occupied Property		
Annual Value	Nil	
Less: Deduction u/s 24(b)		
Interest on Housing Loan (50% of Rs. 80,000 i.e. Rs. 40,000 but limited to Rs. 30,000)	(30,000)	
Loss from self-occupied property		(30,000)
B. Let-out House Property		
Annual Value (Rent receivable has been taken as the annual value in the absence of other information)	60,000	
Less: Deduction u/s 24		
30% of Net Annual Value (30% x Rs. 60,000)	(18,000)	
Interest on Housing Loan (50% of Rs. 80,000 i.e. Rs. 40,000)	(40,000)	
Income from Let out Property		2,000
Total Income under the head House Property		(28,000)

Answer 1(b)

Computation of Total Depreciation Allowable as per Income Tax Act, 1961

Name of Assets	Amount in (₹)
Motor car (Rs. 4,25,000 x 7.5% x 4/5)	25,500
Books being annual publications @ 40%	8,000
Furniture and fittings @ 10% of ₹ 60,000	6,000
Plant and machinery @ 15% of ₹ 80,000	12,000
Computer @ 40% of ₹ 50,000	20,000
Computer (New) ₹ 30,000 @ 40% x 50%	6,000
Total Depreciation Allowable as per Income Tax Act, 1961	77,500

Answer 1(c)**Computation of Income from Business and Profession of Mrs. Ankita for the A.Y. 2025-26**

Particulars	Amount (₹)	Amount (₹)
Fees from Professional Services		50,00,000
Less: Expenses allowable as deduction		
Staff salary, bonus and stipend	21,00,000	
Other administrative expenses	11,50,000	
Office rent paid	30,000	
Motor car maintenance (20,000 x 4/5)	16,000	
Interest on Car loan (for business purpose only) (2,40,000 x 9% x 3/12 x 4/5)	4,320	
Less: Allowed Depreciation [as calculated above]	77,500	
Total Allowed Expenses		(33,77,820)
Income from Business & Profession		16,22,180

Note: The deduction with respect to Interest on Car loan has been considered on accrual basis assuming assessee has followed accrual basis of accounting.

Alternative Answer to Question No. 1(c)**Computation of Income from Business and Profession of Mrs. Ankita for the A.Y. 2025-26**

Particulars	Amount (₹)	Amount (₹)
Fees from Professional Services		50,00,000
Less: Expenses allowable as deduction		
Staff salary, bonus and stipend	21,00,000	
Other administrative expenses	11,50,000	
Office rent paid	30,000	
Motor car maintenance (20,000 x 4/5)	16,000	
Interest on Car loan (for business purpose only)	Nil	
Less: Allowed Depreciation [as calculated above]	77,500	
Total Allowed Expenses		(33,73,500)
Income from Business & Profession		16,26,500

Note: The deduction with respect to Interest on Car loan has not been considered assuming assessee has followed cash basis of accounting.

Answer 1(d)

Computation of Allowed Deduction u/s 80C and 80D for the A.Y.2025-26

Particulars	Amount (₹)	Amount (₹)
Deductions under Chapter VI-A		
Deduction under section 80C		
Housing loan Principal Repayment	1,0,8000	
Life insurance premium (allowed for both own and for spouse)	24,000	
Public provident fund subscription for own	20,000	
Total	152,000	
Total amount of 1,52,000 restricted to ₹ 1,50,000		1,50,000
Deduction under section 80D		
Medical insurance premium (paid otherwise than in cash)		18,000
Deduction under section 80TTA		
Interest from Saving Bank Account (Max. deduction is ₹ 10,000)		10,000
Total Deductions under Chapter VI-A		1,78,000

Answer 1(e)

Computation of Total Income of Mrs. Ankita for the A.Y. 2025-26

Particulars	Amount (₹)
Income from House Property (as calculated above)	(28,000)
Profits and Gains from Business or Profession (as calculated above)	16,22,180
Income from Other Sources: Interest from Saving Bank Account	12,500
Gross Total Income	16,06,680
Less: Deduction under Chapter VI-A	(1,78,000)
Total Income	14,28,680

Note: The deduction with respect to Interest on Car loan has been considered on accrual basis assuming assessee has followed accrual basis of accounting.

Alternative Answer to Question No. 1(e)**Computation of Total Income of Mrs. Ankita for the A.Y. 2025-26**

Particulars	Amount (₹)
Income from House Property (as calculated above)	(28,000)
Profits and Gains from Business or Profession (as calculated above)	16,26,500
Income from Other Sources: Interest from Saving Bank Account	12,500
Gross Total Income	16,11,000
Less: Deduction under Chapter VI-A	(1,78,000)
Total Income	14,33,000

Note: The deduction with respect to Interest on Car loan has not been considered assuming assessee has followed cash basis of accounting.

Question 2

- (a) Mr. Sunil Joshi, age 63 years, a resident individual, gives the following particulars of his receipts for financial year 2024-25 :

Particulars	Amount (₹)
Installment received from the bank under reverse mortgage arrangement	2,50,000
Interest on bank term deposits	2,00,000
Interest on bank saving A/c	45,000
Pension received from Central Govt.	6,00,000
STCG on sale of dining table and chairs	90,000
Income from dairy farming business	50,000

Compute Sunil's total income and Income Tax liability for the assessment year 2025-26 considering that he has opted the benefit of default tax regime under section 115BAC.

(5 marks)

- (b) Mr. Ramesh furnishes the following details for year ended 31.03.2025 :

Particulars	Amount (₹)
Short Term Capital Gain	3,80,000
Loss from Speculative Business	1,50,000
Long Term Capital Gain on Sale of Land	60,000
Long Term Capital Loss on Sale of shares (STT not paid)	3,00,000
Income From Business of Textile (after allowing current year Depreciation)	1,00,000
Income From Salary (Computed)	2,00,000

Loss from Let-Out House Property	80,000
Share of Loss from Firm	1,80,000

Following are the information relating to Carry Forward of Losses :

Brought Forward Loss from Business of Textile ₹ 1,20,000- this being the 8th year from the year of Loss.

Compute Gross Total Income of Mr. Ramesh for the assessment year 2025-26, if he has exercised the option of shifting out of default tax regime provided under Section 115BAC. Also state the eligible Carry Forward losses for future years.

(5 marks)

- (c) Sanjay owns a house property whose Municipal Value, Fair Rent and Standard Rent are ₹ 96,000, ₹ 1,26,000 and ₹ 1,08,000 (per annum), respectively. During the financial year 2024-25, one-third of the portion of the house was let out for residential purpose at a monthly rent of ₹ 5,000. The remaining two-third portion was self-occupied by him. Municipal tax @ 11% of municipal value was paid during the year.

The construction of the house began in June, 2019 and was completed on 31-5-2022. Vikas took a loan of ₹ 1,00,000 on 1-7-2019 for the construction of building. He paid interest on loan @ 12% per annum and every month such interest was paid. Assume whole principal amount is outstanding till 31.03.2025.

Compute income from house property of Sanjay for the A. Y. 2025-26 if he has exercised the option of shifting out of the default tax regime provided under section 115BAC.

(5 marks)

Answer 2(a)

Computation of Total Income of Mr. Sunil Joshi for A.Y. 2025-26

Particulars	Amount (₹)	Amount (₹)
Income under the head salary		
Pension from Central Government	6,00,000	
Less: Standard deduction u/s 16 [Actual salary or Rs. 75,000, whichever is less]	(75,000)	
Taxable Income under the head Salary		5,25,000
Income from Business & Profession - Income from dairy farming business		50,000
Income from Capital Gains - STCG on sale of dining table and chairs (assumed as personal effect and therefore not a capital asset)		Nil
Income from Other Sources		
Installment received under reverse mortgage [exempt]	Nil	
Interest on bank term deposits	2,00,000	
Interest on bank saving a/c	45,000	

Taxable Income from Other Sources		2,45,000
Gross Total Income		8,20,000
Less: Deduction under section 80TTB (not allowed under new scheme under section 115BAC)		-
Taxable Income		8,20,000

Computation of Tax Liability of Mr. Sunil Joshi for A.Y. 2025-26 u/s 115BAC

Particulars	Amount (₹)
Tax Liability	
Up to ₹ 3,00,000	NIL
₹ 3,00,001 to ₹ 7,00,000 (@ 5% of ₹ 4,00,000)	20,000
₹ 7,00,001 to ₹ 8,20,000 (@ 10% of ₹ 1,20,000)	12,000
Total Tax	32,000
Less: Rebate u/s 87A	Nil
Total Tax after rebate	32,000
Add: Health and Education cess @ 4%	1,280
Total Tax Liability including cess	33,280

Note: It is assumed that the dining table and chairs is used for personal use and comes under the category of personal effect. Therefore, not a capital asset.

Alternative Answer to Question No. 2(a)

Computation of Total Income of Mr. Sunil Joshi for A.Y. 2025-26

Particulars	Amount (₹)	Amount (₹)
Income under the head salary		
Pension from Central Government	6,00,000	
Less: Standard deduction u/s 16 [Actual salary or Rs. 75,000, whichever is less]	(75,000)	
Taxable Income under the head Salary		5,25,000
Income from Business & Profession - Income from dairy farming business		50,000
Income from Capital Gains - STCG on sale of dining table and chairs		90,000
Income from Other Sources		

Installment received under reverse mortgage [exempt]	Nil	
Interest on bank term deposits	2,00,000	
Interest on bank saving a/c	45,000	
Taxable Income from Other Sources		2,45,000
Gross Total Income		9,10,000
Less: Deduction under section 80TTB (not allowed under new scheme under section 115BAC)		-
Taxable Income		9,10,000

Computation of Tax Liability of Mr. Sunil Joshi for A.Y. 2025-26 u/s 115BAC

Particulars	Amount (₹)
Tax Liability	
Up to ₹ 3,00,000	NIL
₹ 3,00,001 to ₹ 7,00,000 (@ 5% of ₹ 4,00,000)	20,000
₹ 7,00,001 to ₹ 9,10,000 (@ 10% of ₹ 1,20,000)	21,000
Total Tax	41,000
Less: Rebate u/s 87A	Nil
Total Tax after rebate	41,000
Add: Health and Education cess @ 4%	1,640
Total Tax Liability including cess	42,640

Note: The word used is STCG on sale of dining table and chairs, so it may be considered that said table and chair was used in business and STCG computed is given. Accordingly, it is assumed that the same does not fall under personal effect and therefore considered as capital assets.

Answer 2(b)

Computation of Total Income of Mr. Ramesh for the A.Y. 2025-26

Particulars	Amount (₹)	Amount (₹)
Income from Salary (computed)	2,00,000	
Less: Loss from let-out house property	(80,000)	
		1,20,000
Profit and gains of business or profession		

Income from textile business	1,00,000	
Less: brought forward loss of Rs. 1,20,000 from textile business set-off to the extent of Rs 1,00,000	(1,00,000)	Nil
Share of loss from firm not allowed to be set-off		Nil
Capital Gain		
Short term capital gain		3,80,000
Long-term capital gain on sale of land	60,000	
Less: Long term capital loss of Rs. 3,00,000 on sale of shares set-off to the extent of Rs. 60,000	(60,000)	Nil
Balance loss of Rs. 2,40,000 to be carried forward to A.Y 2026-27 and upto AY 2033-34		
Gross Total Income		5,00,000

Losses to be carried forward to A.Y.

Particulars	Amount (₹)
Loss from speculative business: Loss from speculation business cannot be set-off against any income other than profit and gains of another speculation business. Such loss can, however, be carried forward upto A.Y. 2029-30 for set-off against income from speculation business of that year.	1,50,000
Long term capital loss on sale of shares: Balance loss cannot be set-off against short term capital gain or against any other head of income. The same has to be carried forward for set-off against long-term capital gain of the subsequent assessment year upto AY 2033-34.	2,40,000
Balance brought forward loss of Rs. 20,000 from textile business Such business loss cannot be carried forward since business loss can be carried forward for a maximum of eight assessment years immediately succeeding the assessment year for which the loss was first computed and A.Y. 2025-26 is the eighth year.	Nil

Answer 2(c)

Computation of income from house property of Sanjay for the A.Y.2025-26

Particulars	Amount (₹)	Amount (₹)
Self-occupied portion (Two third)		
Net Annual value	Nil	
Less: Deduction under section 24(b)		
Interest on loan (See Note below) (Rs. 18,600 x 2/3) [Allowable since he has exercised the option of shifting out of the default tax regime provided under section 115BAC (1A)]	12,400	
Loss from Self-occupied house		(12,400)

Let-out portion (One third):		
Municipal Value (96,000 x 1/3)	32,000	
Fair Rent (1,26,000 x 1/3)	42,000	
whichever is higher (a)	42,000	
Standard Rent (1,08,000 x 1/3) (b)	36,000	
Expected Rent [lower of (a) and (b)]	36,000	
Actual rent received (Rs. 5000 x 12)	60,000	
Gross Annual Value	60,000	
Less: Municipal Tax paid (96,000 x 11% x 1/3)	(3,520)	
Net Annual Value	56,480	
Less: Deductions under section 24		
Standard deduction 30% of NAV	(16,944)	
Interest on Loan (see note below) (18,600 x 1/3)	(6,200)	
Income from let-out property		33,336
Total Income from House Property		20,936

Working Note: Interest on loan taken for construction of building: Interest for the year (1.4.2024 to 31.3.2025) = Rs.12,000 (12% of Rs.1,00,000). Pre-construction period interest 12% of Rs. 1,00,000 for 33 months (from 1.07.2019 to 31.3.2022) Rs.33,000. Pre-construction period interest to be allowed in 5 equal annual installments of Rs.6,600 from the year of completion of construction i.e., from F.Y. 2022-23 till F.Y. 2026-27. Therefore, total interest deduction under section 24 = Rs.12,000 + Rs. 6,600 = Rs.18,600.

Alternative Answer to Question No. 2(c)

Computation of income from house property of Sanjay for the A.Y.2025-26

Particulars	Amount (₹)	Amount (₹)
Self-occupied portion (Two third)		
Net Annual value	Nil	
Less: Deduction under section 24(b)		
Interest on loan (See Note below)	Nil	
Loss from Self-occupied house		Nil
Let-out portion (One third):		
Municipal Value (96,000 x 1/3)	32,000	
Fair Rent (1,26,000 x 1/3)	42,000	
whichever is higher (a)	42,000	

Standard Rent (1,08,000 x 1/3) (b)	36,000	
Expected Rent [lower of (a) and (b)]	36,000	
Actual rent received (Rs. 5000 x 12)	60,000	
Gross Annual Value	60,000	
Less: Municipal Tax paid (96,000 x 11% x 1/3)	(3,520)	
Net Annual Value	56,480	
Less: Deductions under section 24		
Standard deduction 30% of NAV	(16,944)	
Interest on Loan (see note below)	Nil	
Income from let-out property		39,536
Total Income from House Property		39,536

Working Note: Interest on loan taken for construction of building: It is specifically mentioned that Mr. Vikas took a loan and not Mr. Sanjay. Therefore, the interest on housing loan has been ignored while computing income under the head House Property.

Question 3

(a) The particulars given below are of Mr. Ramaswamy's income (age 57 years) posted in J. K. Swami Pvt. Ltd. in Hyderabad, for the previous year 2024-25 :

- (1) Basic Pay 30,000 per month till January 31, 2025, ₹ 35,000 p.m. from February 2025.
- (2) Dearness allowance 30% of basic salary (50% of DA forms part of retirement benefits).
- (3) Employee's contribution to recognized provident fund ₹ 72,000 and his employer matches the same contribution.
- (4) Leave encashment received for P.Y. 2024-25 ₹ 15,000.
- (5) He also received salary for the month of April, 2025 in advance without Dearness allowance on 31st March 2025. Also, he received an arrear salary for the month of March, 2024 on the same day assuming it is taxed on the due basis.
- (6) The employer also spent ₹ 74,000 on a refresher course for upgrading Mr. Ramaswamy's skills.
- (7) Motor Car owned and driven by Mr. Ramaswamy and engine capacity within 1.6 liters, used partly for official and partly for personal purposes. Running & Maintenance expenses borne by the employer during the year was ₹ 46,600.

Compute the taxable salary income of Mr. Ramaswamy for the assessment year 2025-26 assuming that he has opted out of the default tax regime under section 115BAC.

(5 marks)

(b) Prakash (age 41 years), who is a resident in India, is a person with disability (disability below 80%), he provides the following particulars of his income for the year ended 31.3.2025 :

S. No.	Particulars	Amount (₹)
1.	Dividend received from Domestic Company	1,78,000
2.	Interest on government securities (gross)	46,000
3.	Honorarium from school of orphanage for giving his part time service	50,000

He has donated ₹ 20,000 to the school for orphanage which is approved as a charitable institution and contributed ₹ 2,000 to Prime Minister National Relief Fund.

He has deposited ₹ 20,000 in Public Provident Fund Account on 31.03.2025. He has also paid ₹ 3,000 by credit card as premium of Mediclaim policy of his dependent Son.

His father is also a person with disability (disability below 65%) and is dependent on him for medical treatment and rehabilitation. Prakash spends ₹ 8,000 during the year on him.

Compute the Total Income of Prakash for the assessment year 2025-26, assuming that he has not opted the default tax regime under section 115BAC of the Income Tax Act, 1961.

(5 marks)

- (c) Manish purchased 1,000 listed equity shares of ₹ 10 each at ₹ 100/- per share from a broker on 4th May, 2016. He paid ₹ 3,000 as brokerage. On 15th March, 2024, he was given bonus shares by the company on the basis of one share for every two shares held. On the same date, he was also given a right to acquire 1,000 rights shares @ ₹ 90/- per share. He acquired 50% of the right shares offered and sold the balance 50% of the rights entitlement for a sum of ₹ 67,500 on 7th April 2024. The right shares were allotted to him on 30th April, 2024. All the shares held by him were sold on 24th September, 2024 @ ₹ 280/- per share through a recognized stock exchange.

Compute the Taxable Income from Capital Gain of Manish for the assessment year 2025-26. Assuming FMV as on 31st January, 2018 for the above share is 150/- per Share. Ignore section 115BAC pertaining to alternative tax regime.

(5 marks)

Answer 3(a)

Computation of taxable salary of Mr. Ramaswamy for A.Y.2025-26

Particulars	Amount (₹)
Basic Pay [₹ 30,000 x 10 + ₹ 35,000 x 2]	3,70,000
Dearness Allowance [₹ 3,70,000 x 30%]	1,11,000
Employer's contribution to recognized provident fund 72,000	
Less: Exempt (3,70,000 + 55,500) x 12% (51,060)	20,940
(upto 12% of Basic Salary + DA part of retirement benefit)	
Leave encashment for P.Y. 2024-25	15,000

Advance salary for April 2025 received on 31.3.2025	35,000
Arrear salary for March 2024 (already taxed on F.Y. 2023-24)	-
Refresher course for upgrading skills (Exempt)	Nil
Motor Car Facility (W.N. 1)	25,000
Gross Salary	5,76,940
Less: Standard Deduction under section 16(ia)	(50,000)
Taxable Income from Salary	5,26,940

Working Note 1: The motor car is chargeable as under:

If the Car is owned / hired by the employee; expenses met by the employer & is used by the employee partly for official and partly for Personal purposes, the taxable value of the perquisite would be the actual expenditure incurred by the employer as reduced by the taxable value of the perquisite determined basis the engine capacity, i.e., INR 46,600 – INR (1800*12) = INR 25,000.

Note: While calculating advanced salary received in March 2025 for the month of April, 2025 only basic pay (excluding employer's contribution to PF) is considered.

Answer 3(b)

Computation of Total Income of Prakash for A.Y.2025-26

Particulars	Amount (₹)	Amount (₹)
Income from other sources		
Dividend received from Domestic Company	1,78,000	
Interest on Government Securities	46,000	
Honorarium from school	50,000	
Gross Total Income		2,74,000
Less: Deductions:		
Under Section 80C- Public Provident Fund	20,000	
Under Section 80D- Mediclaim Insurance Policy	3,000	
Under Section 80DD- Disability for Dependent father	75,000	
Under Section 80U- Disability Himself	75,000	
Under Section 80G- Donation	5,050	
Prime Minister Relief fund (100% of Rs. 2,000)	2,000	
Orphanage School (50% of Rs. 10,100) 10% of 1,01,000 Rs. (2,74,000 – 20000+3000+75000+75000)		
Total Deductions		(1,80,050)
Total Income		93,950

Answer 3(c)**Computation of Taxable Income from Capital Gain of Manish for A.Y.2025-26**

Particulars	Amount (₹)	Amount (₹)
(A) Short term Capital Gain on Sale of Right Entitlement:		
Full value of Sales consideration	67,500	
Less Cost of acquisition	Nil	
Short-term capital gains on Right Entitlement		67,500
(B) Short term Capital Gain on Sale of Right Shares (500 Share):		
Full value of Sales consideration (280 x 500)	1,40,000	
Less Cost of acquisition (90 x 500)	(45,000)	
Short-term capital gains on Right Share		95,000
(C) Short term Capital Gain on Sale of Bonus Shares (500 Share):		
Full value of Sales consideration (280 x 500)	1,40,000	
Less Cost of acquisition	Nil	
Short-term capital gains on Bonus Share		1,40,000
Total Short Term Capital Gain		3,02,500
(D) Long term Capital Gain on Sale of Original Shares (1000 Share):		
Full value of Sales consideration (280 x 1000)	2,80,000	
Less Cost of acquisition (FMV as on 31-1-2018) (150 x 1000)	(1,50,000)	
Long-term capital gains on Original Share		1,30,000
Total Long Term Capital Gain		1,30,000
Taxable Income from Capital Gain* (3,02,500 + 1,30,000)		4,32,500*

Note: *The Long-Term capital gains in excess of ₹ 1,25,000 u/s 112A shall be taken while computing the tax liability on Capital Gains, but it is included as a part of taxable income and therefore the same has not been deducted.

Alternate presentation to Question No. 3(c)**Computation of Taxable Income from Capital Gain of Manish for A.Y.2025-26**

Particulars	Original Shares	Right Entitlement	Right Shares	Bonus Shares
No. of shares	1,000	500	500	500
Full value of consideration @ ₹ 280 per share	2,80,000	67,500	1,40,000	1,40,000
Less Cost of acquisition	1,50,000	Nil	45,000	Nil

Short-term capital gains	-	67,500	95,000	1,40,000
Long term capital gains	1,30,000	-	-	-
Total short-term capital gains falling u/s 111A (from sale of right and bonus shares) (95,000+1,40,000)	2,35,000			
Other short-term capital gains (from right entitlement)	67,500			
Long term capital gains	1,30,000			
Total Income from Capital Gain	4,32,500*			

Note: *The Long-Term capital gains in excess of ₹ 1,25,000 u/s 112A shall be taken while computing the tax liability on Capital Gains, but it is included as a part of taxable income and therefore the same has not been deducted.

(Attempt all parts of either Q. No. 4 or Q. No. 4A)

Question 4

- (a) Gangotri Files Ltd. filed its return of income for the assessment year 2024-25, on 15th December 2024. On 2nd March, 2025, the accountant of Gangotri Files Ltd. realised that he had forgotten to claim a genuine business expenditure amounting to ₹ 15,00,000. He wants to file revised return on 2nd March, 2025, to claim such expenditure as the assessment is not yet completed. State with reason whether the action of the accountant of Gangotri Files Ltd. is valid ?

- (b) Raghuveer has two minor children, viz., Master A and Master B. Master A is a child artist and Master B is suffering from diseases specified under section 80U of the Income Tax Act, 1961.

The Income of both the minor child A and B are as follows :

Income of A from stage shows : ₹ 1,00,000

Income of A from bank interest : ₹ 6,000

Income of B from dividend from domestic company : ₹ 30,000

Income of B from bank interest : ₹ 1,20,000

Explain in whose hands the above income of minor children be taxable under the Income Tax Act, 1961. (Assume that Income of Raghuveer is higher than his wife's income).

(5 marks)

- (c) Which are all persons required to mandatorily file the Return of Loss as per Section 80 of Income Tax Act, 1961. Also explain the consequences of Non-filing of Return of Loss in time.

(5 marks)

Answer 4(a)

Particulars
The due date of filing return of income of Gangotri Files Limited for the assessment year 2024-25 is 31st October, 2024 since it is a company.

However, it filed its return of income on 15.12.2024, which is a belated return.

If any omission is discovered even in a belated return, the same can also be revised up to 31.12.2024 being the date 3 months prior to the end of the relevant assessment year i.e. 31.03.2025 or completion of assessment, whichever is earlier.

However, it cannot file a revised return on 02.03.2025 since it is beyond 31.12.2024.

Hence, the action of accountant of Gangotri Files Limited is not valid.

Answer 4(b)

As per section 64(1A), income of minor children is **clubbed with the income of that parent whose income** (excluding minor's income) **is higher**.

In this case, Mr. Raghuveer income is more than his wife income and, hence, if any income of minor child is to be clubbed then it will be clubbed with the income of Mr. Raghuveer.

Income of minor child earned on account of **manual work or** income from the **skill, knowledge, talent, experience**, etc., of minor child **will not be clubbed** with the income of his/her parent.

Income of a minor suffering from **disability specified under section 80U** **will not be clubbed** with the income of his/her parent.

The taxpayer can claim an exemption under section 10(32) ₹ 1,500 per child provided opted out of section 115BAC.

Particulars	Whose hands the income is taxable
Income of A from stage shows ₹ 1,00,000	Income of A from stage show will not be clubbed with the income of Mr. Raghuveer. This income is taxable in the hands of minor child A .
Income of A from bank interest ₹ 6,000	Income of A from bank interest of ₹ 6,000 will be clubbed with the income of Mr. Raghuveer . Further he will be entitled to claim exemption of ₹ 1,500 under section 10(32), hence, net income to be clubbed will be ₹ 4,500 (₹ 6,000 – ₹ 1,500).
Income of B from dividend from domestic company ₹ 30,000	Dividend income of B who is suffering from diseases u/s 80U, will not be clubbed with the income of Mr. Raghuveer. This income is taxable in the hands of minor child B .
Income of B from bank interest ₹ 1,20,000	Bank Interest Income of B who is suffering from diseases u/s 80U, will not be clubbed with the income of Mr. Raghuveer. This income is taxable in the hands of minor child B .

Answer 4(c)

Persons required to mandatorily file ITR as per section 80 of the Income Tax Act, 1961
A person having the following losses is required to mandatorily file return of loss on or before the due date for the purpose of carry forward of such losses – 1. Business loss 2. Speculation business loss 3. Loss from specified business [In case assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)] 4. Loss under the head "Capital Gains" 5. Loss from the activity of owning and maintaining race horses"
Consequences of Non-Filing of Return of Loss in time
If the return of loss is not filed within the time allowed u/s 139(1) then, the following Losses cannot be carried forward – 1. Business loss 2. Speculation business loss 3. Loss from specified business [In case assessee has exercised the option of shifting out of the default tax regime provided under section 115BAC(1A)] 4. Loss under the head "Capital Gains" 5. Loss from the activity of owning and maintaining race horses"

(Alternative to Q. No. 4)**Question 4A**

- (i) On 9th January, 2025, Amit (a bank employee) received ₹ 6,00,000 towards interest on enhanced compensation from State Government in respect of compulsory acquisition of his land effected during the financial year 2016-17.

Out of this interest,

- ₹ 2,50,000 relates to the financial year 2017-18;
- ₹ 1,65,000 to the financial year 2018-19; and
- ₹ 1,85,000 to the financial year 2019-20.

He incurred ₹ 50,000 by way of legal expenses to receive the interest on such enhanced compensation. Explain with relevant provisions of Income Tax Act, 1961 how much of interest on enhanced compensation would be chargeable to tax for the assessment year 2025-26 ?

(5 marks)

- (ii) Examine the applicability of Tax Deduction at Sources (TDS) or Tax Collection at Source (TCS) as per the Income Act, 1961 for the assessment year 2025-26 in the following independent situations :

- (a) PQR Pvt. Ltd sells two cars to Mrs. Anjna costing ₹ 4,00,000 and ₹ 12,00,000 respectively

on 01.05.2024 and 25.12.2024. Mrs. Anjna has furnished her PAN to PQR Pvt. Ltd. and filed her return of income regularly before the due date.

(3 marks)

- (b) MNO Ltd. paid rent of ₹ 75,000 + 18% GST per month to Rakesh for the office premises from 01.04.2024 to 31.03.2025. Rakesh has furnished his PAN to MNO Ltd. and also filed his return of income before due date regularly.

(2 marks)

- (iii) Examine the tax implications of the following transactions under Income Tax Act, 1961 for the assessment year 2025-26 : (Give brief reason)

- (a) Government of India has appointed Mr. Ramesh as an ambassador in Sweden. He received salary of ₹ 7,50,000 and allowances of ₹ 2,40,000 during the previous year 2024-25 for rendering his services in Sweden. He is an Indian citizen having status of non-resident in India for the previous year 2024-25.

(3 marks)

- (b) Mr. Narayanan, a non-resident in India, has earned ₹ 3,00,000 as royalty for a patent right made available to Mr. Rajkumar who is also a non-resident. Mr. Rajkumar has utilized patent rights for development of a product in India and 50% royalty is received in India and 50% outside India.

(2 marks)

Answer 4A(i)

Section 145B of the Income Tax Act, 1961 provides that interest received by the assessee on enhanced compensation shall be deemed to be the income of the assessee of the year in which it is received, irrespective of the method of accounting followed by the assessee and irrespective of the financial year to which it relates.

Section 56(2)(viii) states that such income shall be taxable under the head 'Income from other sources'.

50% of such income shall be allowed as deduction by virtue of section 57(iv) and no other deduction shall be permissible from such Income.

Therefore, legal expenses incurred to receive the interest on enhanced compensation would not be allowed as deduction from such income.

Computation of interest on enhanced compensation taxable as

"Income from other sources" for the A.Y 2025-26

Particulars	Amount (₹)
Interest on enhanced compensation taxable u/s 56(2)(viii)	6,00,000
Less: Deduction under section 57(iv) (50% x ₹ 6,00,000)	(3,00,000)
Taxable interest on enhanced compensation	3,00,000

Answer 4A(ii):

(a)	PQR Pvt. Ltd. is not required to collect tax at source on sale of car of ₹ 4,00,000 to Mrs. Anjna since its value does not exceed ₹ 10 lakhs. However, it is required to collect tax at source u/s 206C(1F) @ 1% on sale of new car of consideration of ₹ 12 lakhs since the value of this car exceeds ₹ 10 lakhs. Tax has to be collected (TCS) at the time of receipt of ₹ 12 lakhs.
(b)	MNO Limited is required to deduct tax at source under section 194-I @ 10% on rent of ₹ 75,000 per month exclusive of GST component, since the aggregate rent of ₹ 9,00,000 during the financial year exceeds the threshold limit of ₹ 2,40,000. Tax has to be deducted at the time of payment or credit, whichever is earlier.

Answer 4A(iii)

(a)	As per Section 9(1)(iii) of the Income Tax Act, 1961, salaries (including, inter alia, allowances) payable by the Government to a citizen of India for services rendered outside India shall be deemed to accrue or arise in India. Thus, salary received from Government by Mr. Ramesh, being a non-resident of ₹ 7,50,000 for rendering services in Sweden would be taxable in his hands in India, after allowing standard deduction of ₹ 50,000 under old regime and ₹ 75,000 under new regime. However, any allowance or perquisites paid or allowed outside India by the Government to a citizen of India for rendering services outside India will be fully exempt u/s 10(7). Hence, ₹ 2,40,000, being the allowance would be exempt.
(b)	Royalty payable by a non-resident would be deemed to accrue or arise in India in the hands of the recipient only when such royalty is payable in respect of any right, property or information used for the purposes of a business or profession carried on by such non-resident in India or earning any income from any source in India. In the present case, since Mr. Rajkumar, a non-resident, paid the royalty of ₹ 3,00,000 for a patent right used for development of a product in India, the same would be taxable in India in the hands of the recipient, Mr. Narayanan, a non-resident, irrespective of the fact that only 50% of the royalty is received in India.

Part II**Question 5**

Hanuman Ltd. is a paper manufacturing company having a GST registration from Jaipur (Rajasthan). Its manufacturing unit is situated in Ahmedabad (Gujrat). It gives the following information pertaining to September 2024 as under :

- (1) Inter-State supply of paper manufactured by Hanuman Ltd. (Invoice value : ₹ 40,00,000).
- (2) Intra-State supply of paper manufactured by Hanuman Ltd. (invoice value : ₹ 10,00,000).
- (3) Rent of agricultural land let out to ITC Ltd. (it is used for agriculture purposes by ITC, rent of September 2024 being ₹ 11,00,000).

- (4) Rent of commercial property located near Uttar Pradesh let out to RK Mall (rent of September being ₹ 6,00,000).
- (5) Stock transfer without consideration to its branch at Kota (Rajasthan), Branch has separate GSTN for conveyance of accounting and billing. Value under section 15 is ₹ 20,000 (Intra-State).

Besides, Hanuman Ltd. gives the following information :

- Advance rent of ₹ 6,00,000 pertaining to commercial property for October, 2024 is received on 29th September, 2024 (GST rate : 18%, but GST is not received separately, it will be paid by the tenant only during October, 2024).
- Purchase of inputs during September, 2024 from different parties in Andhra Pradesh (invoice value : ₹ 1,00,000, GST : 5%).
- Purchase of inputs during September 2024 from different parties in Jaipur (invoice value : ₹ 80,000, GST : 12%).
- A computer was purchased from a local supplier for ₹ 2,50,000 (GST rate : 18%) on 1st April, 2024 for office purposes Full input tax credit was taken in April, 2024. However, on 18th September, 2024 it is gifted by Hanuman Ltd. to Suresh, he is a friend of managing director of Hanuman Ltd.
- On 25th September, 2024, Hanuman Ltd. pays advance consultancy fee to a consultant of ₹ 1,00,000. The consultant will provide his service only during December, 2024. Invoice will be issued after completion of job (GST rate on consultancy fee is 18%).
- Outdoor catering services availed for ₹ 1,00,000 for a marketing event organized for his prospective customer (Intra-state transaction and GST rate : 5%).
- Balance available in electronic credit ledger on 1st September, 2024 : ₹ 11,000 (CGST), ₹ 8,01,000 (SGST) and ₹ 2,91,000 (IGST).

Additional Information :

- (1) Both inward and outward supplies given above are exclusive of GST.
- (2) Rate of GST on outward supplies are 18%.
- (3) All the conditions for claiming input tax credit (including conditions imposed by rule 36(4) are satisfied.

On the basis of above case study, you are required to answer the following questions with reference to GST Law :

- (a) Calculate the total GST on outward supply for the month of September, 2024 in the context of CGST Act, 2017.
(5 marks)
- (b) Calculate the total input tax credit available for the month of September, 2024 in the context of CGST Act, 2017.
(5 marks)
- (c) Calculate the Net GST liability payable for the month of September, 2024 and also calculate Balance left in electronic credit ledger on September 30, 2024, if any, in the context of CGST Act, 2017.
(5 marks)
- (d) What is the order of utilization of input tax credit as per CGST Rules, 2017.
(5 marks)

Answer 5(a)**Computation of GST on Outward Supply**

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Inter-State supply of goods (18% of ₹ 40,00,000)	7,20,000	-	-
Intra-State supply of goods (9% of ₹ 10,00,000, 9% of Rs. 10,00,000)	-	90,000	90,000
Rent of agricultural land (exempt from GST)	-	-	-
Rent of Uttar Pradesh commercial property (18% of ₹ 6,00,000)	1,08,000	-	-
Advance rent of commercial property (₹ 6,00,000 × 18 /118)	91,525	-	-
Intra-State stock transfer to Kota Branch with separate registration (Supply of goods between distinct persons in course of furtherance of business qualifies as supply even if made without consideration.) (9% of ₹ 20,000, 9% of ₹ 20,000)	-	1,800	1,800
Total	9,19,525	91,800	91,800
Add: Reversal of input tax credit pertaining to computer gifted to a friend [period of use from 1st April, 2024 to September 17, 2024: 5 months and 17 days, remaining useful life out of fixed life of 60 months: 54 months and 13 days, Input tax credit availed: ₹ 45,000 (being 18% of ₹ 2,50,000), Reversal required: ₹ 45,000 × 54/60. which comes to ₹ 40,500, 50% is CGST and 50% is SGST]	-	20,250	20,250
GST on Outward Supply	9,19,525	1,12,050	1,12,050

Answer 5(b)**Computation of Input Tax Credit available for September, 2024**

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
Balance available in electronic credit ledger on September 1, 2024	2,91,000	11,000	8,01,000
Purchase of inputs through inter-State supply (5% of ₹ 1,00,000)	5,000	-	-
Purchase of inputs through intra-State supply (6% of ₹ 80,000, 6% of ₹ 80,000)	-	4,800	4,800

Advance consultancy fee (invoice not received, input tax credit not available)	-	-	-
Input tax credit on Outdoor catering services availed [ITC on outdoor catering services is blocked u/s 17(5).]	-	-	-
Total input tax credit	2,96,000	15,800	8,05,800

Answer 5(c)

Computation of Net GST Payable for September, 2024 and Balance available in electronic credit ledger on 30 September, 2024

Particulars	IGST (₹)	CGST (₹)	SGST (₹)
GST on outward supply (as computed earlier)	9,19,525	1,12,050	1,12,050
Less: Input tax credit of IGST	2,96,000	-	-
Balance	6,23,525	1,12,050	1,12,050
Less: Input tax credit of CGST	-	15,800	-
Balance	6,23,525	96,250	1,12,050
Less: Input tax credit of SGST (balance SGST: ₹ 8,05,800 - ₹ 1,12,050 = ₹ 6,93,750)	-	-	1,12,050
Balance	6,23,525	96,250	NIL
Less: Input tax credit of SGST (balance SGST: ₹ 6,93,750 - ₹ 6,23,525 = ₹ 70,225)	6,23,525	-	-
Balance payable through electronic cash ledger	NIL	96,250	NIL
Balance left in electronic credit ledger on September 30, 2024	NIL	NIL	70,225

Answer 5(d)**Rule 88A: Order of Utilization of input tax credit**

Input tax credit on account of integrated tax shall first be utilized towards payment of integrated tax, and the amount remaining, if any, may be utilized towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order.

Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilized towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilized fully.

Central Tax not utilizes against State/ Union territory Tax and vice versa.

(Attempt all parts of either Q. No. 6 or Q. No. 6A)**Question 6**

(a) Determine the place of supply with reference to the GST Law in the following independent cases :

- (i) Mr. Joy Jacob, an unregistered person of Asansol, West Bengal sends a courier through Kolkata, West Bengal based Mohan Bhai Courier Agency to his sister in Mumbai, Maharashtra.
- (ii) Mr. Mitin, an unregistered person, resides at Bhopal, Madhya Pradesh books a two-way air journey ticket from Prayagraj, Uttar Pradesh to Jaipur, Rajasthan on 6th September and back. He leaves Prayagraj on 11th September in a morning flight and lands in Jaipur the same day. He leaves Jaipur on 15th September in a late-night flight and lands in Prayagraj on the next day.
- (iii) Rim Shum Pvt. Ltd., located at Lucknow, Uttar Pradesh, purchases a manufacturing machine from Manavsri Steel Industries Ltd., located at Jaipur, Rajasthan, for being installed in its factory located at Haridwar, Uttarakhand.

(6 marks)

(b) Divya Ltd., a registered supplier from Gujrat, is engaged in the manufacture of passenger autos. The company provides the following details of purchases made/services availed by it during the month of March, 2025 :

S. No.	Particulars	GST (₹)
1.	Purchase of iron which is used as a raw material [Goods were received in two lots—first in March and the second in April]	3,00,000
2.	Purchase of accessories which were delivered directly to the dealers of the company on the direction of Divya Ltd. [Only invoice was received by Divya Ltd.]	1,00,000
3.	Purchase of bus (seating capacity 15) for the transportation of employees from their residence to company and back	1,90,000
4.	General insurance taken on a car (seating capacity 5) used by executives of the company for official purposes	15,200

You are required to determine the ITC that can be availed by Divya Ltd. for the month of March, 2025 by giving brief explanations for treatment of various items. Subject to the information given above, all the other conditions necessary for availing ITC have been fulfilled.

(4 marks)

(c) Ravindra Rao, a registered person in Indore, Madhya Pradesh has provided the following information regarding outward transactions made during the month of January, 2025 :

S. No.	Particulars
1.	He was appointed by recognized sports body as a chief selector of Basket Ball team and received ₹ 6,00,000 as remuneration.
2.	Services of pure labor contract was provided for construction of independent residential unit for ₹ 2,80,000.

3.	He rented out his warehouse for warehousing of wheat and received rental income of ₹ 1,75,000.
4.	Provided services to Municipal Corporation of Indore for slum improvement and upgradation for ₹ 7,50,000.
5.	He has charged consideration of ₹ 2,25,000 against Western Music dance performance in an event.

You are required to compute the taxable value of supply on which GST is to be paid by Mr. Ravindra Rao for the month of January, 2025. All the amount stated above are exclusive of GST, wherever applicable. Suitable Notes should form part of answer.

(5 marks)

(d) Karan Enterprises, registered in Patna (Bihar), is engaged in printing and selling of books as well as trading of stationery item. He has provided following information of a consignment which is to be supplied to Agra (Uttar Pradesh) :

- (i) Taxable value of supplies indicated on tax invoice : ₹ 30,000 (excluding GST leviable @ 18%)
- (ii) Value of exempted supplies : ₹ 13,000
- (iii) Value of taxable goods sent to job worker on delivery challan : ₹ 16,000. You are required to calculate the consignment value for the purpose of generating e-way bill for inter-state supply of goods.

(5 marks)

Answer 6(a)

S. No.	Particulars
(i)	The place of supply of services by way of transportation of goods by courier provided to an unregistered person is the location at which such goods are handed over for their transportation. Therefore, the place of supply, in the given case is Kolkata, West Bengal.
(ii)	The place of supply of passenger transportation service to an unregistered person is place where the passenger embarks on the conveyance for a continuous journey. Further, as per explanation, in case of continuous journey, the return journey is treated as a separate journey , even if the tickets for onward and return journey is issued at the same time. Therefore, the place of supply for the outward and return journey are the locations where Mr. Mitin embarked on the conveyance for the continuous journey. Therefore, the place of supply in first case is Prayagraj, Uttar Pradesh for outward journey, and Jaipur, Rajasthan, for return journey.
(iii)	If the supply involves goods which are to be installed at site, the place of supply is the place of such installation. Therefore, the place of supply, in the given case is Haridwar, Uttarakhand.

Answer 6(b)**Computation of ITC That can be availed by Divya Ltd. for the month of March, 2025**

Particulars	Amount (₹)
Purchase of iron used as a raw material [When inputs are received in lots, ITC can be availed only on the receipt of last lot. Hence, since last lot received in April, ITC cannot be availed in March.]	NIL
Purchase of accessories delivered directly to the dealers of the company [Goods delivered to another person on the direction of the registered person by way of transfer of documents of title or otherwise, either before or during the movement, are deemed to have been received by such registered person. Thus, ITC is available to the registered person, on whose order/direction the goods are delivered to a third person.]	1,00,000
Bus for the transportation of employees [ITC on motor vehicles for transportation of persons with seating capacity > 13 persons (including the driver) used for any purpose is allowed.]	1,90,000
General insurance taken on car (seating capacity 5) used by executives of the company for official purpose [ITC on motor vehicles for transportation of persons with seating capacity ≤ 13 persons (including the driver) is blocked except when the same are used for (i) making further taxable supply of such motor vehicles (ii) making taxable supply of transportation of passengers (iii) making taxable supply of imparting training on driving such motor vehicles.]	NIL
Further, ITC is not allowed on services of general insurance relating to such ineligible motor vehicles. Since, the car is not used for any of the eligible purposes, ITC thereon is blocked and thus, ITC on general insurance taken on such car is also blocked.]	
Total ITC	2,90,000

Answer 6(c)**Computation of taxable value of supply on which GST is to be paid by Mr. Ravindra Jadeja Rao.**

Particulars	Amount (₹)
Remuneration received as a chief selector of Basket Ball team. [Taxable since services provided to a recognized sports body by an individual only as a player, referee, umpire, coach or team manager are exempt.]	6,00,000
Service of pure labor contract for construction of independent residential unit [Services of pure labor contracts of construction of original works pertaining to a single residential unit otherwise than as a part of a residential complex are exempt.]	NIL
Rental income from warehousing of wheat [Warehousing of wheat being an agricultural produce is exempt.]	NIL

Services to Municipal Corporation of Indore for slum improvement and upgradation* [Services provided to a Local Authority by way of slum improvement and upgradation are exempt.]	NIL
Consideration received against Western Music dance performance in an event [Taxable, since the amount received for Western Music dance performance but the exemption is available for performance in folk or classical art forms of music or dance. if the consideration charged for such performance is not more than Rs. 1,50,000.]	2,25,000
Total Value of taxable supply on which GST is to be paid	8,25,000

*Note: It has been assumed that either the services provided are pure services or composite supply where value of supply of goods is upto 25% of value of such supply and consequently, said supply has been considered as exempt from GST.

However, it is also possible to assume that it is a composite supply with value of supply of goods more than 25% of value of such supply. In that case, said supply will be liable to GST.

Answer 6(d)

Computation of consignment value for the purpose of generating e-way bill

Particulars	Amount (₹)	Amount (₹)
Taxable value of supplies indicated on tax invoice	30,000	
Add: IGST @ 18%	5,400	35,400
Value of exempted supplies		-
Value of taxable goods sent to job worker on delivery challan		16,000
Consignment value for the purpose of generating e-way bill		51,400

Working Note:

Section 68 of the CGST Act, 2017 read with Rule 138 (1) of the CGST Rules, 2017 provides that e-way bill is mandatorily required to be generated if the goods are moved, in relation to supply and consignment value exceeds ₹ 50,000. Further, explanation 2 to rule 139(1) stipulates that the consignment value of goods shall be the value, determined in accordance with the provisions of section 15, declared in an invoice, a bill of supply or a delivery challan, as the case may be, issued in respect of the said consignment and also includes CGST, SGST/UTGST, IGST and cess charged, if any in the document and shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

(or alternative to Q. No. 6)

Question 6A

- (i) Piyush Pvt. Ltd. have imported a machine from U.K. and furnished following particulars in relation to such import :

S. No.	Particulars	Amount
1.	F.O.B. cost of the machine	30,000 U.K. Pounds
2.	Freight (air)	3,000 U.K. Pounds
3.	Engineering and design charges paid to a firm in U.K.	500 U.K. Pounds
4.	License fee relating to imported goods payable by the buyer as a condition of sale	20% of F.O.B. Cost
5.	Materials and components supplied by the buyer free of cost valued	₹ 10,000
6.	Insurance paid to the insurer in India	₹ 6,000

Other Particulars :

- Inter-bank exchange rate as arrived at by the authorized dealer : ₹ 72.60 per U.K. Pound.
- CBIC had notified for purpose of Section 14 of the Customs Act, 1944, exchange rate of ₹ 70.30 per U.K. Pound.

Compute the assessable value of goods for customs purpose of Piyush Pvt. Ltd.

(5 marks)

- GST Audit by tax Authorities can be done under section 65 of CGST Act, 2017 read with rule 101 of CGST Rule 2017. Write a brief note on the salient features of such audit.

(5 marks)

- Discuss the provisions relating to issue of an invoice/document in the following circumstances :

- Advance payment is received against a supply, but subsequently no supplies are made.
- Goods are sent on approval for sale or return and are removed before the supply takes place.
- Suresh provides continuous supply of services to his client, where the due date of payment for such services is not ascertainable. No advance has been received in this behalf.

(6 marks)

- Explain when can provisional refund be granted under GST law. Also explain the conditions for grant of provisional refund.

(4 marks)

Answer 6A(i)

Computation of assessable value of goods for customs purpose for Piyush Pvt. Ltd.

Particulars	Amount UK Pounds	Amount (₹)
FOB cost of Machine	30,000	21,09,000

Add: Engineering and Design charges (paid to a firm in UK)	500	35,150
Add: License fee relating to imported goods payable by the buyer as a condition of sale (20% on 30,000 UKP)	6,000	4,21,800
	36,500	
Sub-Total (36,500 UKP x ₹ 70.30) As per explanation to section 14(1) of the customs act, 1962, assessable value should be calculated with reference to the rate of exchange notified by the CBIC (i.e 70.30)		25,65,950
Add: Material and components supplied by the buyer free of cost		10,000
FOB value as per customs		25,75,950
Add: Air Freight (since air freight is ascertainable and is lower than 20% of FOB value, actual sum to be considered. [3000 x 70.30 = ₹ 2,10,900])		2,10,900
Add: Insurance paid to the insurer in India		6,000
CIF Value / Assessable Value		27,92,850

Note: License fee 20% of FOB cost relating to imported goods payable as a condition of sale and is computed @ 20% of "F.O.B. Cost".

Alternate Answer to Question No. 6A(i)

Computation of assessable value of goods for customs purpose for Piyush Pvt. Ltd.

Particulars	Amount UK Pounds	Amount (₹)
FOB cost of Machine	30,000	21,09,000
Add: Engineering and Design charges (paid to a firm in UK)	500	35,150
Add: License fee relating to imported goods payable by the buyer as a condition of sale (20% on ₹ 26,92,688 FOB value) [(21,09,000 +31,150+10,000)/80 x 20]	7660.56	5,38,538
	38,160.56	
Sub-Total (38,160.56 UKP x ₹ 70.30) As per explanation to section 14(1) of the customs act, 1962, assessable value should be calculated with reference to the rate of exchange notified by the CBIC (i.e 70.30)		26,82,688
Add: Material and components supplied by the buyer free of cost		10,000
FOB value as per customs		26,92,688
Add: Air Freight (since air freight is ascertainable and is lower than 20% of FOB value, actual sum to be considered. [3000 x 70.30 = ₹ 2,10,900])		2,10,900

Add: Insurance paid to the insurer in India	6,000
CIF Value / Assessable Value	29,09,588

Note: It is assumed that License fee @ 20% of Custom FOB after taking the engineering and design charges, cost of Material supplied by the buyer and also including License fee relating to import of goods as part of Custom FOB.

Answer 6A(ii)

Departmental GST Audit by tax Authorities (u/s 65 of CGST Act 2017 read with rule 101 of CGST Rule 2017)

- (i) The audit shall be at the place of business of registered person or in tax office.
- (ii) Shall be conducted by the Commissioner or any officer authorized (CA/CMA) by him.
- (iii) The registered person shall be informed by way of a notice of 15 working days prior to the conduct of audit in FORM GST ADT-01.
- (iv) The audit by tax authorities shall be completed within a period of 3 months from the date of commencement of the audit, and such period is further extendable for a period of 6 months by commissioner for the reasons to be recorded in writing.
- (v) The proper officer shall, within 30 days, inform the registered person, whose records are audited, about the findings, rights and obligations and the reasons for such findings in FORM GST ADT-02.

Where the audit conducted results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under section 73 or section 74 or section 74A.

Answer 6A(iii)

(a)	As per section 31(3)(e), where advance payment is received against a supply for which receipt voucher has been issued, but subsequently no supplies are made and no tax invoice is issued in pursuance thereof, a refund voucher may be issued to the person who had made the advance payment.
(b)	As per section 31(7), where the goods are sent on approval for sale or return and are removed before the supply takes place, the invoice shall be issued before or at the time of supply or 6 months from the date of removal, whichever is earlier.
(c)	As per section 31(5)(b), in case of continuous supply of services, where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment.

Answer 6A(iv)

Provisional refund of 90% of the amount claimed in case of zero-rated supply of goods or services or both [Section 54(6)]:

The proper officer may,

- in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council.

- refund on a provisional basis, 90% of the total amount so claimed.
- in such manner and subject to such conditions, limitations and safeguards as may be prescribed, and
- thereafter make an order under Section 54(5) for final settlement of the refund claim after due verification of documents furnished by the applicant.
- The remaining 10% can be refunded later after due verification of documents furnished by the applicant.

Condition for Grant of provisional refund [Rule 91(1)]:

- The provisional refund in accordance with the provisions of Section 54(6) shall be granted subject to the condition that the person claiming refund has during any period of 5 years immediately preceding the tax period to which the claim for refund relates,
- and not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds 2.5 crore.

NOTES

[illegible]

[illegible]

NOTES

[illegible]