

Roll No.....

Time allowed : 3 hours

Maximum marks : 100

Total number of questions : 8

Total number of printed pages : 6

PART—A

*(Answer Question No.1 which is compulsory
and any two of the rest from this part.)*

1. Attempt **any four** of the following :

(i) Susheel bought a car from Mahavir Udyog Ltd. (MUL), a car manufacturing company, at Jammu. Soon its clutch developed some problem. The defects were not attended to by MUL. He was advised to take the car to Karnal where also the defects were not rectified. He approached the Consumer Disputes Redressal Forum, which directed refund of money paid for the car with interest. MUL's appeal before the State Commission was rejected. MUL now intends to prefer an appeal to the National Commission. Will the company succeed ? Discuss referring to case law.

(5 marks)

(ii) Bhagat, an Indian national, has failed to realise and repatriate foreign exchange worth more than Rs.2 crore. Bhagat, having realised that he had contravened the provisions of the Foreign Exchange Management Act, 1999, desires to compound the said offence. Advise Bhagat as to how he can proceed in the matter.

(5 marks)

(iii) Rainbow Chemicals Ltd., Mumbai appointed Vishal & Co., Chennai as the distributors for sale of certain equipments. Clause 1 of the agreement permits sale to any establishment other than those wholly or mainly engaged in the manufacture or sale of rubber, synthetic rubber, rubber chemicals or articles made therefrom. Is there any restrictive trade practice in this agreement ? Discuss with the help of decided case law.

(5 marks)

(iv) The appellant bank is the depository participant with National Securities Depository Ltd. (NSDL), and the respondents were the investors. The respondents filed a complaint before the State Commission against the appellants alleging delay in dematerialising their shares. It was contended that share certificates of Adarsh Ltd., which they had sent to the appellant bank for dematerialisation, were dematerialised

after undue delay. It was contended that dematerialisation would normally take about 15 days time which could be extended upto 30 days in the event of very large number of shares submitted for dematerialisation. It was alleged that for no fault of the complainants, the conversion of the shares was considerably delayed for one reason or the other. The State Commission, after considering the contentions, allowed the complaint and awarded compensation. Against the order of the State Commission, the appellants appealed to the National Commission. Whether depository and depository participant are liable for negligence? Discuss in the light of decided case.

(5 marks)

- (v) A manufacturer appointed a dealer to sell its products. The manufacturer already had a dealer in that place and his dealership agreement was cancelled on the ground of non-performance. The dealer, whose dealership was cancelled, complained before the MRTP Commission alleging that the new dealership agreement violated various provisions of the Monopolies and Restrictive Trade Practices Act, 1969. Can the MRTP Commission pass an interim order in the matter directing the manufacturer to keep alive the dealership agreement ?

(5 marks)

2. (a) Write short notes on the following :

- (i) Substantial expansion of production capacity
- (ii) Carry on business (COB) licence.

(3 marks each)

- (b) Your company intends to set-up its new plant to manufacture steel castings at a new location. Prepare a management note to the CEO of your company highlighting the various incentives offered by the government to set-up industries in a backward area.

(5 marks)

- (c) Specify how appeals from orders passed by the National Commission under the Consumer Protection Act, 1986 are regulated.

(4 marks)

3. (a) Choose the most appropriate answer from the given options in respect of the following :
- (i) Chairman of the Central Consumer Protection Council is —
 - (a) The Minister incharge of consumer affairs in the State Government
 - (b) The Minister incharge of consumer affairs in the Central Government
 - (c) The Secretary incharge of consumer affairs in the Central Government
 - (d) A Judge of Supreme Court appointed by the Central Government.
 - (ii) The State Commission under the Consumer Protection Act, 1986 has jurisdiction to entertain complaints where the value of goods/services and compensation, if any, claimed is —
 - (a) Exceeding Rs.20 lakh but not more than Rs.1 crore
 - (b) Rs.1 lakh to Rs.20 lakh
 - (c) Rs.1 lakh to Rs.50 lakh
 - (d) Rs.1 crore to Rs.2 crore.
 - (iii) On the basis of rise in wages, operational cost, inflation, *etc.*, the tariff will be revised suitably in case of private sector participation in ports after every —
 - (a) 2 years
 - (b) 3 years
 - (c) 4 years
 - (d) 5 years.

(1 mark each)

- (b) State, with reasons in brief, whether the following statements are true or false. Attempt **any three** :

- (i) It is compulsory for small scale industries to obtain licence under the Industries (Development and Regulation) Act, 1951.
- (ii) A company, which is a small scale industrial unit, may issue shares to a person resident outside India to the extent of 24% of its paid-up capital.
- (iii) The Monopolies and Restrictive Trade Practices Act, 1969 was structured rigidly while the Competition Act, 2002 is flexible and behaviour-oriented.
- (iv) There is a need for private participation in the power sector.

(2 marks each)

- (c) Distinguish between 'capital account transactions' and 'current account transactions' with reference to treatment of such transactions under the Foreign Exchange Management Act, 1999.

(6 marks)

4. (a) Caustic Chemicals Ltd. manufactures heavy chemicals on the outskirts of a metropolitan city located on the bank of a river. The company has decided to set-up a new project by way of expansion of its existing unit. As Company Secretary, you are asked to submit an application for environmental clearance for the proposed expansion. List out the items on which you will need information to be gathered for preparing such an application to the appropriate authority.

(5 marks)

- (b) Briefly narrate the highlights of the recommendations of the report of the Expert Committee set-up by the Government of India to find out investment opportunities in infrastructure sectors *viz.*, power, telecommunications, highways and ports.

(5 marks)

- (c) Outline the guidelines approved by the Government of India for joint venture participation by major and minor ports to attract foreign direct investment as part of its efforts to expand the ports infrastructure in the country.

(5 marks)

PART—B

(Answer Question No.5 which is compulsory and any two of the rest from this part.)

5. (a) In the regular course of business, the appellant maintained an account of the respondent in its books of account. At the foot of account of the respondent so maintained by the appellant, a sum of Rs.49,79,388.17 remained due and payable by the respondent to the appellant as on 31st December, 1999. The respondent sought some time for making the payment because of financial difficulties. By letter dated 8th February, 2001, the appellant called upon the respondent to clear the outstanding dues *vide* three letters in February, 2001 cautioning that upon failure to pay, the appellant would proceed to sell the shares, placed with it as collateral security, in the market and the proceeds thereof would be adjusted against the outstanding dues without any further intimation. The appellant lodged a complaint against the respondent with the Economic Offences Wing on 21st March, 2003 and in September, 2003 made a claim before the Arbitral Tribunal. Respondent raised the issue of limitation, which was accepted by the Arbitral

Tribunal. The appellant filed an arbitration petition before the High Court, which was dismissed. Appellant appealed to the Supreme court. Discuss in the light of decided case law, whether the claim will be allowed ?

(5 marks)

(b) Draft a specimen of civil writ petition.

(5 marks)

(c) Gujarat Transports Ltd. entered into an agreement with Raja Textiles Ltd. which provided for settlement of disputes in terms of the rules of Indian Council of Arbitration. When the dispute arose, Gujarat Transports Ltd. approached the civil court for appointing an arbitral tribunal and the court appointed a retired judge as the arbitral tribunal. Raja Textiles Ltd. appealed to the High Court and the appeal was dismissed. The company wants to prefer an appeal to the Supreme Court. Advise.

(5 marks)

(d) State, with reasons in brief, whether the following statements are true or false :

- (i) Registration laws in India require that full description of the property be given in the documents presented for registration.
- (ii) An award is illegal, if one of the arbitrators does not sign the award.
- (iii) For the validity of an award, it is necessary to set out recitals in the award.
- (iv) Non-putting of seal on an agreement may not invalidate the agreement, if it has otherwise been properly executed.
- (v) All the agreements relating to properties are not compulsorily registrable.

(1 mark each)

6. (a) Explain the term 'parcels clause in a deed'.

(3 marks)

(b) Write a short note on 'covenants and undertakings'.

(3 marks)

(c) "All licences are revocable at the will of the licensor." Comment.

(3 marks)

(d) Draft important clauses of an agreement on behalf of a firm to hypothecate goods to execute fixed loan from Reliable Bank Ltd.

(6 marks)

7. (a) Draft a power of attorney in a leasing contract. *(6 marks)*
- (b) Draft a specimen of the deed of assignment of a patent. *(6 marks)*
- (c) Write a short note on 'revision' under the Code of Civil Procedure, 1908. *(3 marks)*
8. (a) Draft specimen notices (i) to determine partnership at will; and (ii) to dissolve partnership. *(5 marks)*
- (b) Describe the important contents of a hire-purchase agreement. *(5 marks)*
- (c) Draft specimen of equitable mortgage by a limited company in favour of a bank for securing the amount due on cash credit. *(5 marks)*

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