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FOR CS EXECUTIVE EXAM PREPARATION

CS Executive 2024 Question Paper · Economic, Commercial and Intellectual Property Laws

EXAM	YEAR	TYPE
CS Executive	2024	Question Paper

SUBJECT
Economic, Commercial and Intellectual Property Laws

DATE
December 2024

NEW SYLLABUS

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Roll No. .....

Time allowed : 3 hours ***Maximum marks : 100***

Total number of questions : 6 ***Total number of printed pages : 12***

NOTE : *Answer* ***ALL*** *Questions.*

PART–I

1. Jindal Steel and Power Ltd. (JSPL), furnished information to the Competition Commission of India (CCI), invoking Sec. 19 read with Sec. 26(1) of the Competition Act, 2002 and alleged that Steel Authority of India Ltd. (SAIL), the respondent, had entered into an exclusive supply agreement with the Indian Railways for supply of rails. According to Sec. 3(4) of the Competition Act 2000, an exclusive supply agreement would be considered to be anti-competitive if it causes an appreciable adverse effect on competition in India. In this case, the other rail suppliers in the industry did not have an opportunity to place their bids because no tender floated by the Respondent. This resulted in filing a complaint before the Competition Commission of India (CCI) for the abuse of dominant position by SAIL. CCI registered the information provided by JSPL and directed SAIL to submit its comments within two weeks with respect to the information provided to CCI. SAIL made a prayer for an extension of six weeks for filing comments, which CCI rejected. CCI found a prima facie case against the respondents. It directed the Director General (DG) to investigate, granting liberty to the respondent to file its views and comments before the DG during the investigation. SAIL

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challenged the correctness of this order before Appellate Tribunal on the ground of not being heard and hence a violation of natural justice.

Commission made an application before Appellate Tribunal to implead it (SAIL) as a party to appeal. The investigation by DG was stayed by the Appellate Tribunal, it rejected CCI's plea for impleadment on the reasoning that it was neither a necessary party nor a proper party and observed that reasoning must be given for any order, direction, or decision taken. Commission went in appeal to the Supreme Court against this order of the Appellate Tribunal. From the above Case Study, answer the following questions as per provisions of the Competition Act, 2002 :

(*a*) What is the meaning of Exclusive Supply/Distribution Agreement ?

(*2 marks*)

(*b*) What is an Anti-Competitive Agreement ?

(*2 marks*)

(*c*) What is the purpose of appointing Director General under Section 16(1) of the Competition Act, 2002 ?

(*2 marks*)

(*d*) Whether the parties, including informant (JSPL) or the affected party (SAIL), are entitled to notice or hearing, as a matter of right, at the preliminary stage of formulating an opinion as to the existence of the prima facie case ?

(*3 marks*)

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(*e*) Explain the provisions of 'Inquiry into certain Agreements and Dominant Position of Enterprise' under Section 19(1) of the Competition Act, 2002.

(*3 marks*)

(*f*) Explain the provisions of "Procedure for inquiry into certain Agreements and Dominant Position of Enterprise" under Section 26 of the Competition Act, 2002.

(*3 marks*)

2. (*a*) VVR. Murthy, an Industrialist, wishes to take External Commercial Borrowings from Norway for the purpose of Repayment of Rupee Loan in India. Can he do so ? Give the end-uses (Negative List) under the External Commercial Borrowings (ECB).

(*5 marks*)

(*b*) Explain and justify the following cases of 'Resident Individuals' under Foreign Exchange and Management Act, 1999 :

(*i*) Tushar Mehta wishes to remit a sum of USD 50,000 as gift to his daughter in France. Whether he can do so ?

(*ii*) Deepa, a young girl aged 22 years, wishes to go to Poland for a private visit and she wishes to obtain USD 2,75,000/- for her private visit. Can she obtain ?

(*iii*) Akanksha, a software engineer is going for an employment in Budapest, requires a sum of USD 99,000 for her settlement abroad. Does she require prior approval of Reserve Bank of India ?

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(*iv*) Sandeep Sharma VP in a Domestic Indian company is going to visit the company plant location in New York for 30 days. He estimated a sum of USD 3,00,000 as expenditure. This is his first visit during the FY 2024-2025. Can he do so ?

(*v*) Parents of General Manager Sushant Agarwal from Delhi, is residing in Germany. He seeks your consultancy in sending a sum of USD 2,02,500 to his parents for their maintenance ?

(*5 marks*)

(*c*) "Neev Builders" launched a luxury housing project, issued a prospectus and advertised that these spacious apartments would have scenic views and all the global amenities. Umesh was impressed by this advertisement and made advance payment to book an apartment. However, later discovered several significant disparities and amenities from the promises made in the advertisement. Umesh wants to withdraw from the project.

Answer the following questions as per the provisions of Real Estate (Regulation and Development) Act, 2016 :

(*i*) Explain the obligations of Neev Builders regarding veracity of the advertisement or prospectus.

(*ii*) Can Umesh withdraw from the project ?

(*2+3=5 marks*)

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3. (*a*) Indian Satellite & Technology Pvt. Ltd. is an Indian start-up that has recently developed advanced Satellite technology. A major Aerospace company from Russia is interested in investing in it. Explain the Entry Routes for investment and compliance to receive the investment under the Foreign Direct Investment-Regulation and Policy.

(*b*) Lokesh was suffering from a serious ailment. He was admitted to a Well-Known private hospital in Gurugram. He was subjected to various tests. Even after diagnosis and subsequent treatment, his condition deteriorated. The doctor advised surgery during which Lokesh collapsed and died. Sushma his wife, preferred a claim for compensation of ₹ 50 lakhs under the Consumer Protection Act for deficiency in services. The hospital authority contented that medical profession was being unnecessarily hounded. Is the contention tenable ? Refer the relevant case law as per the provisions of Consumer Protection Act, 2019.

(*c*) Ravinder is a public servant and a sum of ₹ 50 Lakhs was recovered from his car parked outside his house while he was sitting in his car with Uttam, a businessman who allegedly handed over this money to clear his Income Tax file pending with Ravinder. Explain whether this money can be regarded as 'Proceeds of Crime' under the Prevention of Money Laundering Act, 2002 ? What defense can Ravinder submit to prove that he is not guilty ? Support your answer with relevant case law.

(*5 marks each*)

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

4. (*a*) Explain the Rules of Evidence and Standard of proof required by the Special Court under Fugitive Economic Offenders Act, 2018.

(*b*) What are the Key highlights of Foreign Trade Policy, 2023 ?

(*c*) Examine the rationale of enacting the Essential Commodities Act, 1955.

(*5 marks each*)

OR (Alternate question to Q. No. 4)

4A. (*i*) Explain the provisions of 'Offences by Companies' under Section 62 of the Benami Transactions (Prohibition) Act, 1988.

(*ii*) What are the guidelines for Notifying the Special Economic Zone under section 5 of Special Economic Zone Act 2005 ?

(*iii*) What is a 'Foreign Company' and what are the conditions for receiving Foreign Contribution by a Person Resident in India as per provisions of the Foreign Contribution (Regulation) Act, 2010.

(*5 marks each*)

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PART–II

5. (*a*) "Energize-52" is a popular cough syrup manufactured since 2015 by "Jeevan Pharma Company". The trade mark "Energize-52" was registered in 2017, and almost seven years had expired from the date of its registration. This syrup was highly popular among the consumers who asked for "Energize-52" over the other syrups available and the voluminous sales figures prove its widespread consumer recognition. In January 2024 "Jeevan Pharma Company" discovered that a new Competitor in the market had also launched a similar syrup under the brand name "Energize-T" using a logo and brand name that is deceptively similar to the registered trade mark of "Energize-52".

In view of the above case, answer the following questions with support of relevant provisions of the Trade Marks Act, 1999 :

(*i*) Is there an infringement of the trade mark "Energize-52" by the new competitor ?

(*2 marks*)

(*ii*) What defences can be pleaded by "Energize-T" ?

(*2 marks*)

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(*iii*) What defences can be raised by "Energize-52" to prove the distinctiveness of its trade mark ?

(*2 marks*)

(*iv*) What are the relative grounds for refusal of trade mark registration ?

(*2 marks*)

(*v*) What orders can the Court pass against the competitor's use of the trade mark "Energize-T" ?

(*2 marks*)

(*b*) Rohit has authored a book titled "A Concise History of Jaipur", and the manuscript was given to Varun for printing. A dispute arose among the two as Rohan contended that Varun had no right to publish the book as there was no assignment of the copyright. On the other hand, Varun argued that there was an oral agreement in which Rohit assigned the copyright in exchange for the printing expenses that entitled him to publish it. In reality, Rohit did not give a written or oral copyright assignment in favour of Varun to publish the books.

Based on the above, answer the following questions with relevant provisions of the Copyright Act, 1957.

(*i*) Do you think the requirements for the assignment of copyright were fulfilled ?

(*2 marks*)

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(*ii*) In case of assignment of copyright to Varun, when will it be deemed to have lapsed ?

(*2 marks*)

(*iii*) What rights can Rohit claim if the work is utilised in any other form ?

(*2 marks*)

(*iv*) When can the court revoke the assignment of copyright if granted to Varun ?

(*2 marks*)

(*v*) What will the Court do if it receives a complaint regarding this assignment of copyright ?

(*2 marks*)

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

6. (*a*) 'EcoSustain World' is a multinational corporation with a registered well-known Trade Mark protected across different categories of goods and services and a strong global brand reputation. A new Indian company started using a deceptively similar Trade Mark. Can 'EcoSustain World' protect its trade mark in India ?

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(*i*) Explain with an example the significance of a well-known trade mark as per provisions of the Trade Marks Act, 1999.

(*ii*) Why Registrar will protect 'EcoSustain World' ?

(*2+3=5 marks*)

(*b*) A food and beverage company wants to protect its unique recipe under Trade Secrets law. Can they do so ? Explain the concept of 'Trade Secrets' with examples. State the duration and conditions for preservation of the trade secrets.

(*5 marks*)

(*c*) 'Heavy Duty Company' manufactures 'Pick-N-Carry Hydraulic Self Mobile Cranes' developed and registered under the Designs Act, 2000. They filed a suit for permanent injunction and infringement against 'Robust Mechanicals Company', who began manufacturing and selling mobile cranes that were visually identical to the original design of 'Heavy Duty Company' claiming that their machine is "new or original".

(*i*) With the support of a case law, discuss the requirements of for a design to be considered significantly "new or original".

(*ii*) What is the Court's duty while determining if a design is "new or original" ?

(*3+2=5 marks*)

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(*d*) Ravi holds Patents for a specific design of tamper-proof locks sold under the trade mark "Tech-Lock". He sought an injunction against Sumit for infringement of his patented invention and restrain claiming a patent of addition. Sumit contends that patent of addition does not disclose the innovative step.

(*i*) State the rules relating to "Patent of Addition" as per Section 54 of the Patent Act, 1970.

(*ii*) State with support of case law whether the application by Ravi can be rejected on the ground of innovative step ?

(*3+2=5 marks*)

OR (Alternate question to Q. No. 6)

6A. (*i*) What are main topics addressed by Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreements ?

(*5 marks*)

(*ii*) What is meant by "Act of unfair competition" under the Geographical Indications of Goods (Registration and Protection) Act, 1999 ? What acts shall be deemed to be the acts of unfair competition ?

(*5 marks*)

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(*iii*) Explain the provisions of 'power of police to seize infringing copies' under Section 64 of the Copyright Act, 1957.

(*5 marks*)

(*iv*) Write short notes on the following with regard to the Patents Act, 1970 :

- Compulsory Licences
- Patent Agent.

(*3+2=5 marks*)

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