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FOR CS EXECUTIVE EXAM PREPARATION

CS Executive 2023 Question Paper · Economic, Commercial and Intellectual Property Laws

EXAM	YEAR	TYPE
CS Executive	2023	Question Paper

SUBJECT
Economic, Commercial and Intellectual Property Laws

DATE
December 2023

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 : 8***

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

PART–I

1. Tiya purchases a laptop for her sister Siya from HP. The laptop had initial installation issues, when taken to the manufacturer's service centre defect in the laptop was detected. The company refuses to redress the issues faced by Siya on the pretext that she was not the consumer. On the basis of the above case, answer the following questions :

(*i*) Can Siya be treated as a consumer as she is not the person who purchased the laptop ?

(*ii*) If this laptop was purchased through amazon, explain the duty of the e-commerce giant in case of grievance.

(*iii*) Had a mediator been appointed to settle the issue, what is the procedure of mediation as given in provision.

(*5 marks each*)

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2. (*a*) Titto is seller of dental floss in the market where he holds monopoly as there are only handful sellers in this product line of dental care. The competitor accuses him of possessing dominant position and abusing the same. Explain the understanding of dominant position and abuse of the same.

(*b*) Faizal is a fugitive economic offender and has left India to avoid legal proceedings against him. Discuss the provisions relating to power of civil/tribunal to disallow civil claims and attach his property.

(*c*) Chandu intends to make overseas direct investment with a view to earning a return. Since Chandu is looking at either real estate or lottery, you are required to state the restriction or prohibitions in context of ODI.

(*5 marks each*)

3. (*a*) Trilok purchased a tractor from Jahanvi Limited for tilling the land but he used it during idle time for transportation of agricultural produce on hire. Some defects were developed in the engine of the tractor. He complained to Jahanvi Limited, but all in vain. Then he filed a suit in Consumer Dispute Redressal Forum for damages caused by the defects. Jahanvi Limited pleaded that Trilok is not a 'consumer' within the definition of section 2(i) (d) of the Consumer Protection Act, 1986, as he is using the tractor for commercial purposes.

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Whether Trilok will succeed in his case ? Refer to relevant provision of Law in support of your answer with reference to case laws, if any ?

(*5 marks*)

(*b*) Amit, a director of a Public Limited Company was on a business trip to USA. Suddenly, he developed chest pain there and was provided medical treatment in a hospital, the funds for which were provided by one John, a US national who happened to be his friend.

Did Amit violate the provisions of the Foreign Contribution Regulation Act, 2010 ? Give reason.

(*5 marks*)

(*c*) 'A', an individual by a transaction, purchased a house in the name of his wife. Consideration of transaction was paid by 'A' out of his known sources. Government seized the house claiming it to be a benami property. Decide.

Whether the action of the Government is justified under the Prohibition of the Benami Transaction Act, 1988 ?

(*5 marks*)

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

4. (*a*) Explain the provisions of section 5 of the Foreign Contribution (Regulation) Act, 2010 relating to procedure to notify on Organization of a political nature.

(*b*) Analyse the powers of the Central Government to supersede the Special Economic Zone Authority under the Special Economic Zones Act, 2005. What will be the consequences of its implementation ?

(*c*) Which orders may be issued by Competition Commission of India after inquiry into agreements or abuse of dominant position under Section 27 of the Competition Act, 2002 ?

(*5 marks each*)

OR (Alternate question to Q. No. 4)

4A. (*i*) Who is status holder under the Foreign Trade Policy and Procedure of India enumerated as per Foreign Trade Policy.

(*4 marks*)

(*ii*) What facilities are available in case of private visits and for emigration under the Liberalized Remittance Scheme (LRS) ?

(*4 marks*)

(*iii*) Describe the adopted ways in which collusive bidding or bid rigging may occur.

(*3 marks*)

(*iv*) Elaborate the law and procedure in respect of confiscation and vesting of benami property under the Benami Transactions (Prohibition) Act, 1988.

(*4 marks*)

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PART–II

5. X Pharmaceuticals Ltd., a renowned pharmaceutical company engaged in producing new pharmaceutical drugs have developed a new drug applying the process of making, combing drugs of a chemical materials and a micro-organism. X Pharmaceuticals Ltd. had patented this new innovative process to the Appropriate authority and got its patent registered. Whereas Y Instra Lab Pvt. Ltd. engaged in producing pharma drugs developed a drug of a combination of drug of penicillin and lactobacilli following the same process as X Pharmaceuticals Ltd. used in producing its drugs and already entered the market with their combination of drug product for quite a few months.

X Pharmaceuticals Ltd., claimed that they have developed the process of manufacturing their drugs after years of research and development as also claimed that they have evolved a new process in producing the same drug with a new process hitherto unknown to the Pharmaceutical word. X Pharmaceuticals Ltd. filed a suit against Y Instra Lab Pvt. Ltd for seeking expert ad interim injunction restraining Y Instra Lab Pvt. Ltd. from using the said process for its products and marketing them.

In light of the above, answer the following questions :

(*i*) Is the process developed by X Pharmaceuticals Ltd., is new and innovative ?

(*5 marks*)

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(*ii*) Identify from the above case study as to whether the process adopted by X Pharmaceuticals Ltd., have been patented or 'combination of drug' have been patented ?

(*3 marks*)

(*iii*) Can the process developed by X Pharmaceuticals Ltd., be used by Y Instra Lab Pvt. Ltd. in producing its combination of drug ?

(*4 marks*)

(*iv*) Can X Pharmaceuticals Ltd., restrain Y Instra Lab. Pvt. Ltd. from using the process of combination of drug ?

(*5 marks*)

(*v*) What relief/award/order can be provided for X Pharmaceuticals Ltd. in this instant case.

(*3 marks*)

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

6. (*a*) Do the following acts constitute infringement of copyright under the Copyright Act, 1957 :

(*i*) Prof. Ajay recited in public an extract from a poem by Rabindranath Tagore.

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(*ii*) ABC Publisher published a compilation of speeches of Atal Bihari Vajpayee, former Prime Minister, delivered in public without permission.

(*iii*) A newspaper publishes a copy of masterpiece painting of Ganesh while carrying a story on his death.

(*iv*) A book is not available in India. A librarian makes 10 copies of the book for the use of the Public library.

(*v*) A magazine reproduces an article on a political topic by Kuldeep Nayar.

(*b*) Manish assigned the copyright of his book to his niece Sujata in 2020. In 2022, due to some misunderstanding between them, Manish wants to revoke the assignment. Sujata contents that she has not made any fault and that she had helped a lot and there is no ground for revocation of assignment. Discuss.

(*c*) You have recently been appointed as Company Secretary of the Ever Innovative Limited. Your Company receives a notice from the controller of patent that the application filled by your company for the grant of a patent of a new machine was deemed to have been abandoned. How you propose to deal with the matter ?

(*d*) What is meant by an Industrial property under the Intellectual Property Rights ?

(*5 marks each*)

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OR (Alternate question to Q. No. 6)

6A. (*i*) An application for registration of patents is filled with provisional specification indicating the subject matter to which the invention relates. State the contents of specification.

(*ii*) Who is the proprietor of a design and state the prohibition in registration of certain design ?

(*iii*) Explain the Provision 39 of Geographic indications relating to penalty for false geographical indications.

(*iv*) Explain the broadcast reproduction rights under the provisions of the Copyright Act, 1957.

(*5 marks each*)

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