



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

*End-Term Examinations*

Paper Code: LB-701

Subject: Principles of Taxation Law

B.A./B.B.A. LL.B. 7<sup>th</sup> Semester12<sup>th</sup> March, 2021

Time: 3hrs (for writing exam- 10:00 am -12:00 pm and for scanning & uploading answer-sheet- 12:00 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt any two questions from Section-A. Each question in Section-A carries five marks. Attempt any two questions from Section-B. Each question in Section-B carries twenty marks.

**SECTION-A (Short-Answer Type)****(2x5=10 Marks)****Q.1 Short Answer Type Questions:**

- (A) What is bad debt. Explain the circumstances under which bad-debt may be allowed to deducted under the head 'profits and gains from business and profession'.
- (B) In the FY 2019-20 the assessee 'X' received short term gain from transfer of shares. In the same year suffered loss from transfer of a long-term capital assets. While submitting the return after self-assessment, he adjusted the short-term gain against the long-term. The ITO rejected the adjustment and issued demand notice. Explain the legality for the order for demand of tax.
- (C) Mr. X files his return, on behalf of his firm Ms. XY for the FY 2018-19. The ITO, while going through with the return records the findings that the nature of business transactions, volume thereof is very complex and thus requires fresh audit of all the accounts. After taking due permission of Joint Commission of Income Tax, a notice was issued to Mr. X for getting his account audited from an auditor nominated by the Department. Mr. X raises objection against the order of the Department. Decide the objection of Mr. X as per the provisions of income Tax Act, 1961.

**SECTION-B (Long-Answer/Descriptive/Analytical Type)****(2x20=40 Marks)**

- Q.2** Mr. X, who is a citizen of India, resides outside India for last many years. For the first time since last 12 years, he came to India in the FY 2018-19, stayed in India for 75 days and invested huge money and created a business establishment. From this establishment, a total of Rs. 18.5 lakhs accrued to him in the FY 2018-19. Though he went back again to his country of residence, but due to his Indian business establishment Rs. 22.3 lakhs accrued to him in the FY 2019-20. The Income Tax Authorities, while assessing the tax liability of his Indian Income found that he had received a total of Rs. 14.5 Lakhs and Rs. 17.3. lakhs respectively in the FY 2018-19 and 2019-20, and both of these two amounts were never ever taxed in the country of his residence. The ITO added the same to his total Indian income and taxed accordingly. Mr. X challenged the order passed by ITO. He argued that he, being non-resident in India for the FY 2018-19 and FY

2019-20, his foreign income cannot be taxed in India. With the help of provisions contained under Income Tax Act, 1961 decide his contentions.

- Q. 3** Mr. X is an employee in a company. On February 10, 2020 his service was transferred from Kolkata to Delhi. After reaching to Delhi, he took a flat on rent from Mr. Y, on Rs. 25000 per month with 10% increase in rent for every succeeding year. On February 14, 2020 he returns to Kolkata for collection of certain belongings. Before he could come back to Delhi, national lockdown was notified due to covid-19 pandemic. The flat was factually vacant till May 30, 2020. On June 1<sup>st</sup>, 2020 Mr. Z, a friend of Mr. X, made a telephonic call to him and requested to stay at his flat for some period. Mr. X allowed him to stay there but Mr. Z was required to pay Rs. Rs. 25000 per month as mutually agreed convenience fee. Mr. Z stayed till November, 2020 and paid the convenience fee. As part of good gesture, Mr. Y excused Mr. X from making any payment of rent until his arrival. Mr. X finally came at his rented flat in the Month of December, 2020. In his return, Mr. Y claimed that his house should be treated as 'on rent', but without any income due to pandemic, and thus no tax should be imposed for such period. The ITO rejected his claim, and considered 'notional annual value' for the period commencing from March 2020 to November 2020 and imposed tax accordingly. On the hand, Mr. X filed his return and claim the convenience fee received from Mr. Z as 'income from house property'. The ITO accepted the claim. Decide the legality of the order of ITO, both against X and Y.
- Q. 4** Discuss the provisions of income tax pertaining to clubbing of income of spouse.

Mr. X is a partner in a Firm where he possesses 18% share in the profits. His wife, who is 12<sup>th</sup> pass, joins the firm as senior account clerk with salary of Rs. 20,000/ per month. The ITO clubbed the income. Decide the legality of the order passed by ITO.



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

*End-Term Examinations*

Paper Code: LB-702

Subject: Intellectual Property Rights-I

B.A./B.B.A. LL.B. 7<sup>th</sup> Semester13<sup>th</sup> March, 2021

Time: 3hrs (for writing exam- 10:00 am -12:00 pm and for scanning & uploading answer-sheet- 12:00 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt any two questions from Section-A. Each question in Section-A carries five marks. Attempt any two questions from Section-B. Each question in Section-B carries twenty marks.

**SECTION-A (Short-Answer Type)****(2x5=10 Marks)****Q.1 Short Answer Type Questions:**

- (A) 'Everyday' is used by Mr. 'X' as his trademark for packaged (fresh) milk since last three years. Mr. 'X' applies for registration of the same as trademark. This is opposed by 'Everyday' which supplies milk powder. The Registrar of the Trade Marks rejects the opposition and grants the trade mark under the proviso of sub-section (1) of Section 9 of the Trade Marks Act, 1999. This is challenged on the ground of Section 11(1) and (2) of the Act. Decide in the light of judicial pronouncement on the issues.
- (B) "Colours may equally be used by anyone hence in themselves they do not create exclusivity but the same may create distinctiveness due to its pattern or combination or composition with the words, the same may be protected." Explain colour as trademark with the help of statutory provisions and decided cases.
- (C) Why geographical indication is called is considered as collective rights? Explain whether geographical word itself devoid of any distinctiveness hence discouraged to give the acquired distinctiveness or secondary meaning.

**SECTION-B (Long-Answer/Descriptive/Analytical Type) (2x20=40 Marks)**

- Q.2** 'Registration of trade mark does not prohibit unregistered earlier trade-mark to bring a suit of passing off against the registered trade mark.' Critically analyze the statement in light of the provisions in the Trade-Marks Act, 1999 and decide the issues in the facts given below with the help of decided cases.

Manas Healthcare is a renowned company having registered its tablet 'Healthygo' as trade mark for heart unrest related issues. Swastha Pharmaceuticals is another company which was selling its tablet 'Heartygo' for the same unrest related issues to heart but it

did not get registered its 'Heartygo'. There was no doubt that the tablet was in vogue and in demands and the Swastha Pharmaceuticals was very reputed company. Swastha Pharmaceuticals bring a suit of passing off on the ground of 'deceptively similar'. This is argued by the Manas Healthcare that there are more dissimilarities than similarities.

- Q.3** 'The danger of parallel goods substantiated if the goodwill earned in one country or market for the trade-marked products on the basis of features and quality is subsided by the parallel imported goods lower in features and quality. The same may occur in dilution of the trade-mark and must be considered an infringement.' Discuss with the help of statutory provisions and decided case laws and accordingly decide the following issues involved in the following facts:

Raymonds Zeals is world renowned and luxury smart wrist watch manufactured in Switzerland. The same is the trade-mark of the company. The features of the wrist watches are variable as per the permissions and restrictions imposed by imported country. 'X' is incorporated entity of the company in India and authorized to import and sale in India. Mr. 'Y' is authorized user of the trade mark in South Asia including China. The feature in the wrist watch of personal tracking through GPS has been disallowed in China but permitted in India. Mr. 'Z' an Indian retailer in wrist-watches contact to Mr. 'Y' and imports the same wrist watches from China, where the supplied quality of same wrist watches is lower than sold by 'X' because of the compliance of government in China. Mr. 'Z' sales the same in his famous show room in Connaught Place, at lower price than those are sold by 'X'. Raymonds Zeals Switzerland and 'X' files a case against 'Z' for diluting the trade-mark and consequently infringing the same.

- Q.4** What is underlying idea of well-known trade-mark? Critically analyze whether the protection of well-known trade-marks in India has not been in the direction as was thought by the legislature? Do cite relevant provisions and decided cases.



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

*End-Term Examinations*

Paper Code: LB-703

Subject: Public International Law

B.A./B.B.A. LL.B. 7<sup>th</sup> Semester15<sup>th</sup> March, 2021

Time: 3hrs (for writing exam- 10:00 am -12:00 pm and for scanning & uploading answer-sheet- 12:00 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt any two questions from Section-A. Each question in Section-A carries five marks. Attempt any two questions from Section-B. Each question in Section-B carries twenty marks.

**SECTION-A (Short-Answer Type)****(2x5=10 Marks)****Q.1 Short Answer Type Questions:**

- (A) **X** commits a crime and fled to state **B**. State **A** demands extradition of fugitive **X** from the state **B** contending that historically State **A** and **B** have always extradited fugitive whenever demanded and this practice have acquired the status of international custom. State **B** denies existence of any such custom between the two states. The dispute is referred to international arbitral tribunal for adjudication. State **A**, in support of its contention, relies on authoritative work of highly qualified jurist called Mr. **Y**. After considerable research on the state practice of state **A** and **B**, has opined that customary rule of extradition exists between state **A** and **B**. In addition to the work of jurist **Y**, the arbitral tribunal also considers other relevant evidences on the state practice of state **A** and **B**. The tribunal holds that customary rule for extradition exists between state **A** and **B** and thus state **B** is legally bound to extradite fugitive **X** to state **A**.

In the above case there are several sources of international law operating in tandem.

Name the sources which are discussed and highlighted in the above case. Also explain whether the sources discussed in the above case are primary or subsidiary sources under the statute of ICJ?

- (B) **X**, a *de-jure* emperor of Meghaland brought a suit against Dharmpal & Co. for recovery of certain amount of money in Varanchal. **Y** who had ousted **X** also joined the suit. The lower court has decreed in favour of **X**. The defendant company has preferred an appeal. In the meanwhile Varanchal has recognised **Y** as *de jure* sovereign of Meghaland. How would you decide the appeal? Cite arguments in support of your decision.
- (C) Discuss the structure, power and functions of the Security Council.

**SECTION-B (Long-Answer/Descriptive/Analytical Type) (2x20=40 Marks)**

- Q.2** X is employed in peace keeping missions of UN in strife ridden African countries. He rescued more than three thousand people. However he angered many extremist forces and was assassinated by one group. X was in the service of the United Nations at the time of his assassination. The avenue before United Nations was to hold someone responsible for the assassination of an employee/agent and extract reparations. On an application before the ICJ the primary question was whether international organization like UN has the capacity to make an international claim to demand reparations when a State is responsible for injuries to one of its agents in the performance of its duties? Cite relevant case law/s in support of your answer. Also discuss whether the international organisations can be subjects of international law.
- Q.3** What are general principles of law recognized by civilised nations? The Secretary General of the United Nations discharged certain employees of the Secretariat of United Nations from service. On complaint, the United Nations Administrative Tribunal made awards in their favour. Discuss whether UN General Assembly is bound to comply with the awards of the Tribunal. Cite reasons to support your answer.
- Q.4** A dispute arose between Estonia and Albania. The UNSC passed resolution thereby recommending the parties to refer the dispute for adjudication by the ICJ. Estonia filed unilateral application before the ICJ contending that in view of the UNSC recommendations, the court had compulsory jurisdiction to adjudicate dispute even in absence of Albanian consent. Albania opposed the unilateral application filed by Estonia and contended that in view of principle of general international law and the ICJ statute, Estonia could not file a unilateral application before the ICJ without entering into special agreement with Albania to that effect. Nevertheless notwithstanding the irregularity of action taken by Estonia, Albania agreed to appear before the court. In the subsequent proceedings, Albania raised the preliminary issue regarding maintainability of the proceedings on the basis of unilateral application by Estonia. Decide whether ICJ in this case has the jurisdiction to adjudicate the dispute although the original application invoking the court's jurisdiction was unilateral. Cite relevant case law/s (if any) to support your answer.



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

*End-Term Examinations*

Paper Code: LB-704

Subject: Drafting, Pleading and Conveyance

B.A./B.B.A. LL.B. 7<sup>th</sup> Semester16<sup>th</sup> March, 2021

Time: 3hrs (for writing exam- 10:00 am -12:00 pm and for scanning & uploading answer-sheet- 12:00 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt any two questions from Section-A. Each question in Section-A carries five marks. Attempt any two questions from Section-B. Each question in Section-B carries twenty marks.

**SECTION-A (Short-Answer Type)****(2x5=10 Marks)****Q.1 Short Answer Type Questions:**

- (A) What is the meaning, significance and difference between Facta Probanda and Facta Probantia?
- (B) What changes 2002 CPC Amendments have brought in the Law relating to Amendment of Pleadings.
- (C) While making an Online Credit Card Payment on an Online Portal ‘Mobikwikwik’, the requisite amount from bank of the user, duly gets deducted, but the payment is not forwarded by the Online Portal, against the Credit Card, due to which the Credit Card user is blacklisted; discuss briefly, the rights and remedies of such an Online User.

**SECTION-B (Long-Answer/Descriptive/Analytical Type)****(2x20=40 Marks)**

- Q.2** Draft a Writ petition under Article 226/227 of the Constitution of India against the State and the Police officials and other parties, seeking restoration of possession and seeking compensation for police interference and atrocities; for and on behalf of a Co-sharer named AXY, who has been in the legal and lawful Possession of a Cinema House - Immovable Property, which fell in his share in pursuance of a partition proceedings, after which AXY was exclusively put in possession of the said Cinema House by the Revenue Officials concerned; However, the Police comes and forcibly ousts the said co-sharer AXY, as the other co-sharer named BCR, approaches local Police by way of a Written Complaint, claiming some purported rights in the said Cinema House, and in

pursuance thereof, the Police interferes in the lawful peaceful possession of the said co-sharer AXY and ousts him from the possession thereof; but you as a lawyer, instead of filing a Regular Civil Suit seeking restoration of possession, decide to approach the Hon'ble High Court through a Public Law Remedy of a Writ Petition on behalf of AXY, as the Police has no right to interfere in Purely a Civil Matter.

Accordingly Draft such a Writ Petition for and on behalf of AXY, raising legal grounds therein, impleading all the necessary and proper parties therein and raising due claims as above.

- Q.3** Land measuring 30 Bighas belonging to Satwant Singh, who has since died in the year 1981, had been taken over by the Irrigation Department of Joint State of Punjab in the year 1960, for construction of an Irrigation Channel, which was duly constructed on the said piece of land, but without payment of any compensation whatsoever or without following any due process of law or issuance of any notification etc.; which estate has now fallen in current Successor State of Himachal Pradesh, after Reorganization of States. His two sons named Balwant and Kulwant and Widow named Gursharan Kaur, approach you a lawyer and engage your services to file a due claim as per law in this regard on 10-02-2021. You as a Lawyer need to Draft a Notice under section 80 CPC against the successor State of Himachal Pradesh, its officials etc., before instituting a Civil Suit for Possession and payment of compensation etc.

Draft the said Legal notice under section 80 CPC giving the correct particulars of the Officials / State against whom the proposed Civil Suit shall be filed claiming the restoration of land or alternative land of equal size and also claiming due compensation etc. on behalf of your clients named above.

- Q.4** A lift has to be got installed by Operator named OTIS Lifts Navi Mumbai, in the newly constructed Seven Storeyed Administrative Block of an Educational Institute "Swami Vivekanda University of Legal Studies, Shimla, HP.

Draft a Service and Installation Agreement between the Educational authorities and the Service Provider named OTIS, wherein the service provider would install the lift and operate, service and maintain on BOT basis, free from any defects for a period of Seven years, and in lieu thereof, the service provider would be paid the cost of Lift to the tune of Rs. 45 Lakhs, which payment would be paid 50% in advance and remaining payment



on pro-rata basis at the start of each year, after installation of the Lift and after seven years, the Lift would stand transferred to the Institute, with a further option of yearly maintenance cost payable in advance @ Rs. 4 Lakhs p.a. for another period of 10 years.



## HIMACHAL PRADESH NATIONAL LAW UNIVERSITY SHIMLA

*End-Term Examinations*

Paper Code: LB-705

Subject: International Trade Law

B.A./B.B.A.LL.B. 7<sup>th</sup> Semester17<sup>th</sup> March, 2021

Time: 3hrs (for writing exam- 10:00 am -12:00 pm and for scanning & uploading answer-sheet- 12:00 pm – 01:00 pm)

Maximum Marks: 50

Instructions:

Attempt any two questions from Section-A. Each question in Section-A carries five marks. Attempt any two questions from Section-B. Each question in Section-B carries twenty marks.

**SECTION-A (Short-Answer Type)****(2x5=10Marks)****Q.1 Short Answer Type Questions:**

- (A) Country A has contracted with country B for the export of certain goods. Before the performance of a contract, war breaks between country A and B. In such a situation what are the governing rules of performance of contract?
- (B) The contract for the supply of the goods was concluded among parties. The goods were supposed to be carried via air. In case of any loss, destruction or damage of the cargo, what are the rules to fix the liability of the carrier?
- (C) Whether a law of the land can be considered as violative of the provisions of the GATT, 1995 and specifically the obligations enshrined under the Anti-dumping Agreement. Discuss with the cases decided by the Dispute Settlement Body.

**SECTION-B (Long-Answer/Descriptive/Analytical Type)****(2x20=40Marks)**

- Q.2** The company P sold some fire tenders to country I on f.o.b contract terms. Buyers nominated ship of Z for the carriage of goods to the ports of country I. While the goods were loaded to the ship due to breakage of some part of the ship goods consignment fell down and got damaged. Later on, repair was done @ \$1000. The goods later on shipped in another vessel. Seller company P claimed the repair cost of the goods. In the light of above discuss the liability of the consignor and country I. Whether country I would be liable to pay for repairs under the contract? Examine in detail.
- Q.3** A credit by its nature is a separate transaction from the sale or other contract on which it may be based. Sometimes banks also undertake the liability for payment. Analyzing the concept of letter of credit in international transactions highlights how letter of credit is different from letter of credit? What are the general rules governing these documentary credits?

**Q.4** The dumping margin must be evaluated in a way that leads to the least possibility of conclusion of dumping on part of the alleged country.

Country X exports product X to country Y. In order to ascertain whether there exists dumping or not, country Y uses a weighted average method. During the evaluation it is found that some part of the alleged export consists of dumping margin which shows a negative value whereas others show a positive value. You are the counsel for country Y. Discuss -

- a. What is dumping margin and what are the various methods to determine dumping margin?
- b. How should country Y decide dumping margin in the above case? Refer to the case laws and specific provision of the relevant agreement in this regard.