

NLUA
NATIONAL LAW UNIVERSITY, ASSAM
B.A., LL.B. (Hons.): IV Year – VIII Semester: Academic Year: 2014-2015
End Semester Examination (August, 2015)
8.2 TAXATION LAW

Time: **2 Hrs. 30 Minutes**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer five questions from the following. Question No. 1 is compulsory. All questions carry equal marks.

1. Terminal Callers (TC) and Tropical Telecommunications (TL) which are non-resident companies entered into transaction by which TC would transfer the share capital of its subsidiary company based in Mauritius. TC acquired by virtue of this transaction a controlling interest of 62% in Tropical Indiana Ltd. (TIL) that was an Indian Joint venture company (between TL and Hutchinson). Explain this problem with supporting cases and provisions of Indian Income Tax Act, 1961.
2. The US Supreme Court laid down that the States had no power, by taxation, or otherwise, to “retard, impede, burden or in any manner control, the operations of the constitutional law enacted by Congress to carry into execution the powers vested in general government.” Explain this position in the light of Constitutional basis of state power to taxation in India.
3. Discuss Assessment under the Assam VAT Act, 2003 and kinds of assessment. Define the assets included in the net wealth for assessment. Discuss the wealth escaping assessment under Wealth Tax Act, 1957.
4. Explain the provisions relating to computation of “Income from House Property” under the Income Tax Act, 1961 and deductions, with supporting case laws.
5. Explain the relevance of Double Taxation Avoidance Agreements (DTAAs)/Bilateral Tax Treaties with specific reference to:
 - (i) Basic principles of international taxation, and
 - (ii) Indian Income Tax Act, 1961.
6. Give clearly various deductions available to an assessee under the heads of income ‘Income from profits and gains of business or profession’.

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B.A., LL.B. (Hons.): IV Year – VIII Semester: Academic Year: 2014-2015
End Semester Examination (August, 2015)
8.3 ALTERNATIVE DISPUTES RESOLUTION SYSTEM

Time: **2 Hrs. 30 Minutes**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer five questions from the following. All questions carry equal marks.

1. “The UNCITRAL Model Law has been copied verbatim at many places in the *The Arbitration and Conciliation Act, 1996* but several deviations have been made in the Act of 1996 from the Model Law which were made keeping in mind the requirements of India”. Elaborate the above statement. (14 marks)
2. An agreement was made between Mr. Rao, the land owner and Mr. Das, a builder, at Guwahati. The agreement between the two parties provided that in case of any dispute arising between them, it would be settled through Arbitration and the Arbitrators would be three persons specifically named in the agreement. Subsequently, a dispute arose between the parties. On a petition made by the Builder, the trial Court removed the panel of the three arbitrators and appointed another person as the sole arbitrator. Mr. Rao, the land owner, raised objection with regard to the appointment of a sole arbitrator on the second date so fixed for the Arbitration of the case and he continued to take part in the arbitral proceedings.
 - a. Would the fact that Mr. Rao continued to attend the arbitration proceedings amount to waiver of right? What is meant by ‘waiver’ and when will a party be deemed to have waived his right to object? (8 marks)
 - b. Can matters involving moral questions or questions of public law be resolved by Arbitration? Mention 5 matters that cannot be referred to arbitration for dispute resolution. (6 marks)
3. “Power of the Court under section 9 of *The Arbitration and Conciliation Act, 1996* is not unbridled. It is subject to certain limitations and restrictions.”
 - a. Can the Court encompass applications for stay of arbitral proceedings? State the specific circumstances under which a party can make an application to a Court to grant interim measures. (8 marks)
 - b. What is meant by “balance of convenience”? Support your answer with appropriate illustrations and case laws. (6 marks)
4. An agreement was executed between an Indian Company and a foreign company incorporated under the laws of South Korea with its head office in Seoul.
 - a. Would such an agreement fall within the expression “International commercial Arbitration”? Give reasons for your answer (4 marks)

P.T.O.

- b. Explain the phrase “public policy of India” as interpreted by the Supreme Court of India. Support your answer with reference to appropriate case laws. (4 marks)
- c. Discuss in brief the observations made by the Supreme Court of India in *Bharat Aluminium Co. v. Kaiser Aluminium Technical Service Inc.* (2012)9 SCC 552. (6 marks)
5. “Even before the enactment of Part III in *The Arbitration and Conciliation Act, 1996*, Conciliation had received statutory recognition in India.”
- a. What is Conciliation? Mention the various enactments which provided for Conciliation in India before the 1996 Act. (6 marks)
- b. In your opinion what are the advantages of resolution of a dispute by Conciliation. (8 marks)

OR

Write short notes on:

(7x2=14 marks)

- a. Role of the Mediator in Mediation.
- b. Lok Adalat.

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End Semester Examination (August, 2015)
8.4 BL.2 MERGERS, ACQUISITIONS AND ANTI-TRUST LAWS

Time: **2 Hrs. 30 Minutes**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer five questions from the following. All questions carry equal marks.

1. What do you mean by takeover of the company? Discuss various kinds of takeover.
2. 'The provisions of Section 391 and 394 of the Companies Act, 1956 constitute complete code of the subject of amalgamation.' Discuss the statement detailing the salient features of Section 391 and 394.
3. (a) Explain in details the various transactions which are exempted from Open Offer Obligations.
(b) Explain the concept of takeover through leveraged buyout with the help of any one decided case law.
4. Explain the concept of takeover. State and explain the various takeover defences?
5. What are the obligations of 'Acquirer' under Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations 2011?
6. Discuss the threshold limits with respect to combinations provided under Competition Act, 2002. Explain the factors that CCI will take into account while evaluating 'appreciable adverse effect' on competition.
7. Discuss the facts, issues involved and opinion given by CCI in the following cases, also comment on observation made by CCI in the following cases:
 - a) Case of Relay B.V. (Diageo) and United Spirits Limited
 - b) Case of JET Airways (India) Limited and Etihad Airways PJSC

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B.A., LL.B. (Hons.): IV Year – VIII Semester: Academic Year: 2014-2015
End Semester Examination (August, 2015)
**8.4 CR.2 ADMINISTRATION OF CRIMINAL JUSTICE SYSTEMS,
NATIONAL SECURITY LAWS, INSURGENCY MOVEMENTS AND
TERRORISM**

Time: **2 Hrs. 30 Minutes**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
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Answer any five questions from the following. All questions carry equal marks.

1. Mr. Prateek was preventive detained under the Maintenance of Internal Security Act, 1971 in 1976. In 1981, he was detained under the subsequent legislation which was passed by the Parliament. Advise Mr. Prateek as his lawyer and defend your client before the Hon'ble Supreme Court.
2. Trace the history of policing in relation to theories of punishment.
3. The form of punishment during mid-eighteenth century and early-nineteenth century wherein the target of punishment was to "change the soul" of the offender not just the body; towards transforming the offender, not just avenging a particular crime. Explain this statement in the light of Michel Foucault's concept of disciplining and punishing an individual.
4. Narrate various legislations dealing with prison management in India with case laws on prison reforms.
5. Give a critical evaluation of national security legislations especially anti-terrorism laws in India with case laws.
6. Provide an overview of Rights of Accused as enumerated under the Criminal Procedure Code, 1973 and Constitution of India, 1950.

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End Semester Examination (August, 2015)

8.4 IL.2 LAW OF INTERNATIONAL ORGANISATIONS

Time: 2 Hrs. 30 Minutes

Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
 2. No clarification shall be sought on the question paper.
 3. Do not write anything on the question paper. It will be treated as malpractice.
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Answer any five questions from the following. All questions carry equal marks.

1. "In 1949, the International Court of Justice in its advisory opinion in the case concerning the "Reparation for Injuries Suffered in the Service of the United Nations" considered that the functions and rights conferred to the United Nations by its constituent instruments were such that they necessarily implied the attribution of international personality to the organisation." In the light of this situation, write an analytical essay on the legal personality of the international organisations in international law.
2. "Lockerbie incident has raised a number of questions about the nature and extent of the Security Council's powers under Chapter VII of the UN Charter. However, the questions relating to judicial scrutiny and judicial review of the UN Security Council's resolutions by the International Court of Justice remains of crucial importance for the constitutional system of the United Nations." Based on this scenario, discuss critically the relationship between the International Court of Justice and the Security Council in the light of the Lockerbie Case.
3. "For Marxists, contemporary international organisations reflect, legitimize and promote global capitalism. International Financial Institutions, such as the World Bank and the IMF are mechanisms of capitalist domination. They pry open markets, forcing privatization and encouraging foreign investment. MNCs entangle societies in a malignant web of dependency that causes underdevelopment and a gross mal-distribution of wealth within and between societies. Further, B.S. Chimni argues that the evolving global state formation may therefore be described as having an imperial character." In the light of the above observations, discuss the Marxist perspectives on international organisations.
4. Discuss analytically the classification, role and functions of international organisations. Give a critical assessment on the future of international organisations.
5. Write an essay on the regional organisations and their contribution to the development of law of international organisations.
6. Why do we need international financial institutions such as IMF, World Bank and WTO in international arena? What is the role of the IMF, World Bank and WTO in contemporary world politics? Are these institutions considered as agents of contemporary global economic crisis or are they playing the role of a catalyst in contemporary economic governance? Discuss critically the relationship between international financial institutions and WTO.

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End Semester Examination (August, 2015)
8.4 EL.2 ENVIRONMENT, TRADE AND HUMAN RIGHT LAWS

Time: **2 Hrs. 30 Minutes**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any five questions from the following. All questions carry equal marks.

1. 'WTO is not an environmental protection agency and that its competency for policy coordination in this area is limited to trade policies and those trade related aspects of environmental policies which may result in a significance effect on Trade.' In the light of aforementioned statement, discuss the objectives and functions of the committee on Environment and Trade
2. 'Anti-dumping Agreement does not prohibit dumping but condemns the practice. It provides extended guidelines to discipline the practice'. Discuss the aforementioned statement bringing out the meaning of material injury, special and differential treatment.
3. TRIPS provides strict legal regime for Intellectual Property but side by side it also provides for some exceptions and qualifications which can be used to foster certain public policy goals such as access to essential drugs under International Trade Regime. Discuss with reference to cases.
4. 'The General Agreement on Trade in Services (GATS) envisages progressive liberalization of trade and investment in services through periodic round of negotiations'. In the light of above statement describe difficulties in GATS Negotiations. Further discuss the different modes of services and 'obligations of member State' under GATS.
5. 'The necessity principle is developed and applied in the GATT and WTO context as an instrument to resolve trade, environment and human rights controversies'. Discuss with reference to cases.
6. Critically evaluate the facts and Panel Report on 'Import Prohibition on shrimp and Shrimp Products' (WT/DS58/R)

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8.4 IL.2 LAW OF INTERNATIONAL ORGANISATIONS

Time: 2 Hrs. 30 Minutes

Total Marks: 70

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Answer any five questions from the following. All questions carry equal marks.

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6. Why do we need international financial institutions such as IMF, World Bank and WTO in international arena? What is the role of the IMF, World Bank and WTO in contemporary world politics? Are these institutions considered as agents of contemporary global economic crisis or are they playing the role of a catalyst in contemporary economic governance? Discuss critically the relationship between international financial institutions and WTO.

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B.A., LL.B. (Hons.): IV Year – VIII Semester: Academic Year: 2014-2015

End Semester Examination (August, 2015)

8.4 CN.2 LAW OF WRITS AND LAW RELATING TO ELECTIONS

Time: 2 Hrs. **30 Minutes**

Total Marks: **70**

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any five questions from the following. All questions carry equal marks.

1. a. Explain the consequences of non-appearance of parties. (6 marks)
b. A files a suit against B. On the date of hearing, A remains absent and the suit is dismissed for default. Advise A about the relief available under the Code of Civil Procedure. (4 marks)
2. Explain the concept of constructive *res judicata* in the light of *State of U.P. v. Nawab Hussain*. Distinguish between *res judicata* and constructive *res judicata*. (5+5 marks)
3. Which court has the jurisdiction to adjudicate upon an application for execution of a decree? Can an execution proceeding be transferred to other court? Discuss the powers and rights of the transferee court. (1+4+5 marks)
4. Discuss the provisions relating to suits by or against Government? What are the circumstances under which service of notice may be exempted? (7+3 marks)
5. Discuss the provisions relating to appeals from original decree and the powers of the appellate Court? (6+4 marks)
6. What is 'Condonation of Delay'? When can a court accept an application for condonation of delay? (3+7 marks)
7. Distinguish between
a. Reference and Review (5 marks)
b. Appeal and Revision (5 marks)

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Time: 2 Hrs. 30 Minutes

Total Marks: 70

INSTRUCTIONS:

1. Read the questions carefully and answer.
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Answer any five questions from the following. All questions carry equal marks.

1. “The Judiciary is the weakest of the three great departments of the State. It has neither the power of the purse, nor the power of the sword, neither money nor patronage on one hand nor physical force to enforce the decisions on others” – Hamilton.
In the light of the above, briefly discuss the role of the higher courts in exercising the power of writ jurisdiction, judicial review and judicial activism under the parameters of the Constitution of India. Can the Judiciary be criticised of crossing the Lakshman Rekha or constitutional barrier of separation of power?
2. Trace out the genesis of the Public interest Litigation in India. Embellish your answer by referring to some important cases wherein the Courts departed from the traditional concept of *locus standi* with the liberal and expansive interpretation of different laws for the cause of the poor, downtrodden, weaker and socially and economically disadvantaged sections, the release and rehabilitation of some bonded labourers from the uncalled for and unwarranted exploitation and exposing and unearthing some scams, bringing back black money stashed in Foreign Banks, corruption in high offices and fulfilling other societal interest .
3. Elaborately discuss the necessary conditions to be fulfilled for issuance of the Writ of Mandamus and the grounds for rejection of such writ with the help of decided cases of the higher courts.
4. Critically assess the role of the Election Commission of India to check the Criminalisation of Politics. What are the key recommendations of the National Commission to Review the working of the Constitution (2001 Report) in this regard?
5. Discuss the major amendments carried out in the Representation of People Act, 1951 in an attempt to bring electoral reforms in India. Critically comment on People’s Union for Civil Liberties v. Union of India, AIR 2003 SC 2363.
6. “The interplay of legislature, the Courts and an independent Election Commission determined the details of changing democratic election procedures in India”. Discuss critically supported by facts and cases.

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