

QI	Naveen incorporated a "One Person Company" making his sister Navita	about the maximum amount of dividend that can be declared by the
	as the nominee.Navita isleaving India permanently due to her marriage	company as per the provisions of the Companies Act, 2013. Examine the
	abroad. Dueto this fact, she is withdrawing her consent of nomination	relevant provisions of the Companies Act, 2013 and advise the members
	in the said One Person Company. Taking into considerations the provisions	accordingly.
	of the Companies Act, 2013 answer the questions given below.	OR
(a)	If Navita is leaving India permanently, is it mandatory for her to	A, B and C has decided to set up a new club with name of ABC club
	withdraw her nomination in the said One Person Company?	having objects to promote welfare of Christian society. They planned to
(b)	If Navita maintained the status of Resident of India after her marriage,	do charitable work or social activity for promoting the art work of
	then can she continue her nomination in the said One PersonCompany?	economically weaker section of Christian society. The company obtained
Ans:		the status of section 8 company and started operating from 1st April,
(a)	Yes, it is mandatory for Navita to withdraw her nomination in the said	2017 onwards.
	OPC as she is leaving India permanently as a natural person who is an 🔀 🝃	However, on 30th September 2019, it was observed that ABC club was
	Indiancitizenand whether resident in India or otherwise and has stayed 🔀 🤦	violating the objects of its objective clause due to which it was granted
	in India for a period of not less then 120 days during the immediately	the status of section 8 Company under the Companies Act 2013.
	preceding financial year shall be a nominee in OPC.	Discuss what powers can be exercised by the central government against
(b)	Yes, Navita can continue her nomination in the said OPC, if she maintained 🔳 🗲	ABC club, in such a case?
	the status of Resident of India after her marriage by staying in India for	ns: Section 8 of the Companies Act, 2013 deals with the
	a period of not less than 120 days during the immediately preceding	formation of companies which are formed to:
	financial year.	 Promote the charitable objects of commerce, art, science, sports,
	ICAI STUDY MAT.	education,research, social, welfare, religion, charity, protection of
		environment, etc.
Q2	What do you mean by "Companies with charitable purpose" (section 8)	Such company intends to apply its profits
	under the Companies Act 2013? Mention the conditions of the issue and	Prohibiting its object and
	revocation of the licence of such company by the government	
	OR	Prohibiting the payment of nay dividend to it members.
	A company registered under Section 8 of the Companies Act, 2013,	
	earned huge profits during the financial year ended on 31" March, 2018	Powers of Central Government to issue license :
	due to some Favorable policies declared by the Government of India and	Section 8 allows the Central Government to register such person or association
	implemented by thecompany. Considering the development, some	of persons as a company with limited liability without the addition of
	members of the company wanted the company to distribute dividends	words 'limited or private limited to its name, by issuing Licence on such conditions as it deems fit.



(ii)	The registrar shall on an application register such person or association		therefore, is state in this clause.
	as a company under this section.	(d)	<u>Liability Clause:</u> The liability of members of the company, whether
(iii)	On registration the company shall enjoy same privileges and obligation		limited or unlimitedand also states how the liability is limited. Company
	as of a limited company.		limited by shares and companylimited by guarantee.
	MAY-2019 / NOV-2018 / RTP	(e)	<u>Capital Clause:</u> The amount of authorized capital divided into share of
	Revocation of license:		fixed amounts and the number of shares with the subscribers to the
	The Central Government may by order revoke the license of the company		memorandum have agreed totake. A company not having share capital
	where the company contravenes any of the requirements or the conditions		need not have this clause.
	of this section subject to which a licence is issued or where the affairs ((f)	Association Clause: The Memorandum shall conclude the association
	of the company are conducted fraudulently, or violative of the objects of		clause. Everysubscriber tothe memorandum shall take at least one share,
	the company or prejudicial to public interest.		and shall write againsthis name, thenumber of shares taken by him.
	Before such revocation, the Central Government must give it a written		
	notice of its intention to revoke the licence and opportunity to be heard		NOV- 2019
	inthe matter.		
	On revocation of the licence, the Register shall put 'limited or 'private' 😈 🕡	24	Examine the following whether they are correct or incorrect along with
	limited' against the name of the company in its register.		reasons:
	× 30	(a)	A company being an artificial person cannot own property
Q3	"The Memorandum of Association is a charter of a company". Discuss.		and cannot sue or be sued.
	Alsoexplain in brief the contents of Memorandum of Association.	ns:	
Ans.	The Memorandum of Association of Company is in fact its charter, it	(a)	Incorrect: A company is an artificial person as it is created by a process
	defines its constitution and the scope of the powers of the company		other than natural birth. It is legal or judicial as it is created by law. It is
	with which it has been established under the Act. It is the very foundation		a person since it is clothed with all the rights of an individual.
	on which the whole edifice of the company it built. Contents of Memorandum:		Further, the company being a separate legal entity can own property,
	Contents of Memorandum:		have banking account, raise loans, incur liabilities and enter into contracts.
(a)	Name Clause: the name of the company must end with the		Even members can contract with company, acquire right against it or
	words "limited" in case of Public Limited Company or "private limited"		incur liability to it. It can sue and be sued in its own name. It can do
	in case of Private Limited Company		everything which any natural person can do except be sent to jail, take
(b)	Registered Office Clause: The state in which the registered office of the		an oath, marry or practice a learned profession.
	company is situated.		Hence, it is a legal person in its own sense. RTP/MAY 2020
(c)	Object Clause: The objects for which the company is proposed to be		
	incorporated and any matter considered necessary in furtherance		



(b)	A private limited company must have a minimum of two members, while		by the shareholders of the company.
	a publiclimited company must have at least seven members.		
Ans:	Correct: Section 3 of the Companies Act, 2013 deals with the basic requirement		ICAI STUDY MAT.
	with respect to the constitution of the company. In the case of a public		
	company, any 7 or more persons can form a company for any lawful	Q6	Mike Limited Company incorporated in India having Liaison office at
	purpose by subscribing their names tomemorandum and complying with		Singapore. Explain in detail meaning of Foreign Company and analysis
	the requirements of this Act in respect of registration. In exactly the		onwhether Mike Limited would be called as Foreign Company as it
	same way, 2 or more persons can form a private company.		established a Liaison office at Singapore as per the provisions of the
			Companies Act, 2013?
Q 5	Briefly explain the "doctrine of ultravires" under the Companies Act,	Ans:	Foreign company means any company or body corporate
	2013.What are the consequences of ultravires acts of the company?		incorporated outside India, which:.
Ans:	The meaning of the term ultra vires is simply "beyond (their) powers".	>(a)	Has a place of business in India, whether by itself or through agent
	The legal phrase "ultra vires" is applicable only to acts done in excess of		physically orthrough electronic mode and;
	the doers. This presupposes that the powers in their nature are limited.	(b)	Conduct any business activity in India in any other manner.
	It is a fundamental rule of Company Law that the objects of a company	Y	According to the given case, Mike Limited Company incorporated in India
	asstated in its memorandum can be departed from only to the extent	7	having liaison office at Singapore.
	permitted by the Act, thus far and no further. In consequence, any act	H	Thus, as it is incorporated in India it is an Indian Company and not
	done or a contract made by the company which travels beyond the	>	foreigncompany.
	powers not only of the directors but also of the company is wholly void	all	NOV - 2022 / NOV - 2020
	and inoperative in lawand is therefore not binding on the company. On	5/6	
	this account, a company can be restrained from employing its fund for	Q7	ABC Limited has allotted equity shares with voting rights to XYZ
	purposes other than those sanctioned by the memorandum.		Limited worth Rs. 15 Crores and issued Non-Convertible Debentures
	Likewise, it can be restrained from carrying on a trade		worth Rs. 40 Crores during the Financial Year 2019–20. After that total
	different from the one it is authorised to carry on.		Paid-up Equity Share Capital of the company is Rs. 100 Crores and Non-
	The impact of the doctrine of ultra vires is that a company can neither		Convertible Debentures stands at Rs. 120 Crores.
	be sued on an ultra vires transaction, nor can it sue on it. Since the		Define the Meaning of Associate Company and comment on
	memorandumis a "public document", it is open to public inspection.		whether ABC Limited and XYZ Limited would be called
	Therefore, when one deals with a company one is deemed to know about		Associate Company as per the provisions of the Companies Act, 2013?
	the powers of the company. If in spite of this you enter into a transaction	Ans:	As per Section 2(6) of the Companies Act, 2013, an Associate Company
	which is ultra vires the company, you cannot enforce it against the company.		inrelation to another company, means a company in which that other
	1 0:0		



venture company. The term "significant influence" means control of at least 20% of total share capital, or control of business decisions under an agreement. The term "total Share Capital", means the aggregate of the- (a) Paid-up equity share capital, and (b) Convertible preference share capital. In the given case, as ABC Ltd. has allotted equity shares with voting rightstoXYZ Limited of Rs. 15 cr, which is less than requisite control of 20% oftotal share capital (i.e. 100cr) to have a significant influence of XYZ Ltd. since the said requirement is not complied, therefore ABC Ltd. and XYZ Ltd. are not associate companies as per the Companies Act, 2013. Holding/allotment of non-convertible debentures has no relevance for ascertaining significant influence. RTP MAY 21/ MAY 2020/ JUNE 2023/ NOV-2020 RTP MAY 21/ MAY 2020/ JUNE 202	
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company are held by Central Government and 1,20,000 equity shares are held by Government of Maharashtra. Explain with reference to relevant provisions of the Companies Act, 2013, whether SK Infrastructure Limited can be treated as Government Company. Ans: Government Company means any company in which not less than 51% of the paid-upshare capital is held by- (i) The Central Government, or (ii) By any State Government or Governments, or (iii) Partly by the Central Government and partly by one or more State Construction of Maharashtra. Explain with reference to relevant means a company in which the holding controls the composition of the Board (ii) Exercises or controls more than one-had atits own ortogether with one or more atits own ortogether with one or more means a company of which other company in relation to any means a company in which the holding controls the composition of the Board (iii) Exercises or controls more than one-had atits own ortogether with one or more atits own ortogether with one or more of means a company of which other company in relation to any means a company in which the holding controls the composition of the Board (iii) Exercises or controls more than one-had atits own ortogether with one or more atits own ortogether with one or more of means a company of which other company in relation to any means a company in which the holding controls the composition of the Board (iii) Exercises or controls more than one-had atits own ortogether with one or more atits own ortogether with one or more of means a company in which the holding controls the composition of the Board (iii) Exercises or controls more than one-had atits own ortogether with one or more of means a company in which the holding controls the composition of the Board (iii) Exercises or controls more than one-had atits own ortogether with one or more of the Board (iii) Exercises or controls means a company in which the holding company in relation to any the second controls means a company in which the holding company in wh	ors of Popular Products Ltd. State the
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Ans: Government Company means any company in which not less than 51% ofthe paid-upshare capital is held by- (i) The Central Government, or (ii) By any State Government or Governments, or (iii) Partly by the Central Government and partly by one or more State (iv) Exercises or controls more than one not atits own ortogether with one or more of a company is holding company in relating means a company of which other company of which other company by the given case Jovial Ltd. is controlling to the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd. and the control of Director of Popular Products Ltd.	,
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company of such aGovernmentcompany. Co. of Popular Products Ltd. and Popular Co. of Popular Products Ltd. and Popular Pro	Popular Products Ltd., its subsidiary.
In the instant case, paid up share capital of SK Infrastructure Limited is	MAY-2019 —
In the instant case, paid up shale capital of SK inflastracture clinical is	



Q10	Mr. Dhruv was appointed as an employee in Sunmoon Timber Private	II ABC Limited was registered as a public company. There were 245
	Limited on the condition that if he was to leave his employment, he will	members in the company. Their details are as follows:
	not solicitcustomers of the company. After some time, he was fired	Directors and their relatives
	from company. He set up his own business under proprietorship and	Employees 15
	undercut Sunmoon Timber Private Limited's prices. On the legal advice	Ex-employees 20
	from his legal consultant and to refrain from the provisions of breach of	(Shares were allotted when they were employees)
	contract, he formed a new company under the name Seven Stars Timbers	others 20
	Private Limited. In this company, his wife and a friend of Mr. Dhruv	(Including 10 joint holders holding shares jointly in the
	were the sole shareholders and directors. Theytook over Dhruv's business	name of father and son)
	and continued it. Sunmoon Timber Private Limited files a suit against	The Board of directors of the company propose to convert
	Seven Stars Timbers Private Limited for violation of contract. Seven Stars	it into a private company. Advice whether reduction in the number of
	Timbers Private Limited argued that the contract was entered between 🔀 🝃	members is necessary for conversion
	Mr. Dhruv and Sunmoon Timber Private Limited and as company has A	ns: "Private company" means a company having a minimum paid-up share
	separate legal entity, Seven Stars Timbers Private Limited has not violated	capital as may be prescribed, and which by its articles, (except in case
	the terms of agreement. Explain with reasons, whether separate legal	of One Person Company, limits the number of its members to two
	entity between Mr. Dhruv and Seven Stars Timbers Private	hundred).
	entity between Mr. Dhruv and Seven Stars Timbers Private Limited will be disregarded?	However, where two or more persons hold one or more shares in a company jointly
		they shall, for the purpose of this clause, be treated as a single member.
Ans:	It was decided by the court in the case of Gilford Motor Co. Vs. Horne,	It is further provided that-
	that if the company is formed simply as a mere device to evade legal	Person who are in the employment of the company; and
	obligations, though this is only in limited and discrete circumstances, (1	Persons who, having been formerly in the employment to the company,
	courts can pierce the corporate veil. In other words, if the company is	were members of the company while in that employment and have
	mere sham or cloak, the separate legal entity can be disregarded.	continued to be members after the employment ceased, shall not be
	On considering the decision taken in Gilford Motor Co. Vs. Horne and facts	included in the number of members.
	of the problem given, it is very much clear that Seven Stars Timbers Private	In the instant case, Total No. of Members of ABC Ltd. will be counted a
	Limited was formed just to evade legal obligations of the agreement between	follow:
	Mr. Dhruv and Sunmoon Timber Private Limited. Hence, Seven Stars Timbers	I.Directors & their relatives- 190 RTP/JAN 2021
	Private Limited is just a sham or cloak and separate legal entity between	2.0ther (10 couple) (10 x 1) - <u>10</u>
	Mr. Dhruv and Seven Stars Timbers Private Limited should be disregarded.	200
		Since No. of member do not exceed 200. Therefore, there is no need for
	RTP	Since No. of member do not exceed 200. Therefore, there is no need for



Q12	NarendraMotors Limited is a government company. Shah Auto Private	Q13	Define OPC (One Person Company) and state the rules regarding its
	Limited is a private company having share capital of ten crores in the		membership. Can it be converted into a non-profit company under
	form of ten lacs shares of Rs. 100 each. Narendra Motors Limited is		section 8 or a private company?
	holding five lacs five thousand shares in Shah Auto Private Limited.	Ans:	Section 2(62) of companies act , 2013 defines one person
	Shah Auto Private Limited claimed the status of Government Company.		company as company which has only person as member
	Advise as legal advisor, whether Shah Auto Private Limited is		OPC has been introduced to encourage entrepreneurship and corporatization
	government company under the provisions of Companies Act, 2013?		ofbusiness.
Ans:	According to the provisions of Section 2(45) of Companies Act, 2013,		Rules regarding OPC membership :
	Government Company means any company in which not less than 51%	1.	Only a natural person who is an Indian citizen and whether resident in
	of thepaid-up share capital is held by-		India or otherwise and has stayed in India for a period of not less then
(i)	The Central Government, or		120 days during the immediately preceding financial year be eligible to
(ii)	By any State Government or Governments, or	14	incorporate OPC and a nominee for sole member of OPC.
(iii)	Partly by the Central Government and partly by one or more State	2.	No person shall be eligible to incorporate more than one person company
	Governments, and the section includes a company which is a subsidiary	<	or become nominee in more than one such company.
	company of such a Government company.	3.	No minor shall become member or nominee of the OPC or can hold share
	According to Section 2(87), "subsidiary company" in relation to any	I	with beneficial interest. RTP/MAY 2018
	other company(that is to say the holding company), means a company	X	KIF/MA/ 2010
	in which the holding exercises or controls more than one-half of the $\stackrel{>}{=}$	2	Convrsion of a non-profit company under section 8 or a private company :
	total voting power either at its own or togetherwith one or more of its	A	Such company cannot be incorporated or converted into a company under
	subsidiary companies.	\prec	section 8 of the act, though OPC can be converted to private or public
	By virtue of provisions of Section 2(87) of Companies Act, 2013, Shah		companies in certain cases.
	Auto Private Limited is a subsidiary company of Narendra Motors Limited		
	becauseNarendra Motors Limited is holding more than one-half of the	Q14	There are cases, where company law disregards the principle of corporate
	total voting powerin Shah Auto Private Limited.		personality or the principle that the company is a legal entity distinct
	Further as per Section 2(45), a subsidiary company of Government		fromits shareholders or members. Elucidate.
	Company is also termed as Government Company. Hence, Shah Auto	Ans.	The cases on the basis of which the principle of Corporate Personality of
	Private Limited being subsidiary of Narendra Motors Limited will also be		a company can be disregarded under the Companies Act, 2013 are:
	considered as Government Company.	1.	To determine the character of the company i.e. to find out whether
	RTP / DECEMBER 2023/RTP / NOV. 2021		company is an enemy or friend:A company may be charactised as an
	KIT / BESEMBER ESES/KIT / NOV. 2021		enemy company , if its affairs are under control of people of enemy
	•		country. (Case law - Diamler co Ltd vs Continental Tyre and Rubber



	Company) 回點和回		With reference to the same, briefly explain the doctrine of "ultravires"
2.	To protect revenue / tax: In certain matters concerning the		under the Companies Act, 2013. What are the consequences of ultravires
	law of taxes duties and stamps particularly where question	-	acts of the company?
	of the controlling interest is in issue. (Case law –S Berendsen Ltd Vs	Ans.	The meaning of the term ultra vires is simply "beyond (their) powers".
	Commisoner of Inland Revenue)		The legal phrase "ultra vires" is applicable only to acts done in excess of
3,	To avoid a legal obligation: Where it was found that the sole purpose for		the legal powers of the doers.
	the formation of the Company was to use it as a device to reduce the		It is a fundamental rule of Company Law that the objects of a company
	amount to be paid by way of bonus to workmen, the supreme court		as stated in its memorandum can be departed from only to the extent
	upheld the piercing of the veil to look at Real Transaction. (Case Law –		permitted by the Act, thus far and no further. In consequence, any act
	Workmen of Associated Rubber industry Lts V/s Associated Rubber		done or a contract made by the company which travels beyond the
	Industry Ltd)		powers not only of the directors but also of the company is wholly void
4.	Formation of subsidiaries as agents: A company may sometimes be	>	and inoperative in law and is therefore not binding on the company
	regarded as an agent or trustee of its members, or of another company		If you have lent money to the company on such a transaction, you cannot
	and may therefore be deemed to have lost its individuality in favour of	A	recover itfrom the company. But, if the money has not been expended,
	its principal. Here the principal will be held liable for the acts of that	×	then lender may bring an injunction order on the Co. to stop it from
	company	Y	parting from it. This is because companydoes not becomes owner of it.
5,	Company formed for fraud/ improper conduct or to defeat law: Where	H	However, if themoney has been used, then lender slips into the shoes of
	the device of incorporation is adopted for some illegal or improper,	5	the debtor paid - off and consequently can recover his loan tothat extent.
	purpose e.g. to defeat or circumvent law, to defraud creditors or to avoid	all	In the given case, the transaction is ultra-vires and hence the company
	Legal obligations. NOV- 2018		Ravi Private Limited is not liable to pay the debt. Mudra Finance Ltd.
			maybeing injunction order on Ravi Pvt. Ltd. to stop it from parting with
Q15	Ravi Private Limited has borrowed 35 crores from Mudra Finance Ltd.		the funds. MAY - 2018 / DEC - 2021 / RTP
	Thisdebtis ultra vires to the company. Examine, whether the company	-	M// 2010 / 020 2011 / KII
	is liable to pay this debt? State the remedy if any available		
	to Mudra Finance Ltd.?	Q16	Mr. X had purchased some goods from M/s ABC on credit. A credit period
	OR III		of one month was allowed to Mr. X. Before the date Mr. X went to the
	ABC Limited was into sale and purchase of iron rods. This was the main	-	company and wanted to repay the amount due him. He found only Mr. 2
	object of the company mentioned in the Memorandum of Association.		there, who was the factory supervisor of company. Mr. Z told Mr. X that
	The company entered into a contract with Mr. John for some finance		the accountant and the cashier were leave, he is in-charge of receiving
	related work. Later on, the company repudiated the contract as being	-	money and he may pay the amount to him Mr. Z issued a money receipt
	ultra vires.		under his signature. Aftertwo months M/S ABC Limited issued a notice



	to Mr. X for non-payment of the dues within the stipulated period. Mr. X	whether the contention of Sound Syndicate Ltd. is correct or not?
-	informed the company that he had already cleared the dues and he is Ans:	In case of The Royal British Bank Vs. Turouand, this doctrine was clearly
	no more responsible for the same. He also contended that Mr. Z is an	explained.As per the doctrine of indoor Management, outsiders are entitled
	employee of the company to whom he had made the payment and	to assume allthe detailed formalities for doing an act authorised by the
·	being an outsider, he trusted the words of Mr. 2 as duty distribution is a	articles, and Outsider, is not at all required to inquire into
	job of the internal management of the company. Analyse	the internal affair of the company.
	the situation and decide whether Mr. X is free from his	
	liability.	The bond signed by the director and secretary on behalf of the company,
Ans:	In this case according to the facts provided it is clearly observable that	was held to be valid and bank was not required to inquire whether any
	thesituation points towards the applicability of the Doctrine of Indoor	ordinary resolution was passed or not. This is the Indoor Management
	Management in relevance to the affairs of the company M/s ABC Limited.	rule, that the company's indoor affair are company's problem.
	According to the terms of the Doctrine of Indoor Management if an act	In the given case, the articles of the company, authorize the director to
	is authorised by the articles or memorandum, an outsider is entitled to	borrow on behalf of the company. Mr. Liddle a director borrowed money
	assume that all the detailed formalities for doing that act have been	but, later on company denied its liability to repay on the pretext that no
	observed. Here in this case if we view the facts from the perspective of \mathbb{P}	resolution was so passed and lender should have enquired about the
	applicability of the Doctrine.	same prior to providing the loan. Held, the contention of Sound Syndicate
	NOV - 2018 / NOV - 2022	Ltd. is not correct, as the outsider is not obligated to enquire into the
	NOV - 2018 / NOV - 2022	internal affair of the company. ICAI STUDY MAT.
		ZONZ STOSY MIXTY.
Q17	Sound Syndicate ltd, a public company, its articles of association earn <	Explain the concept of "Dormant Company" as envisaged in the Companies
	power the managing agents to borrow both short and long arm loans on	Act, 2013.
	behalf of the company, Mr. Liddle, the director of the company, approached Ans:	Dormant Company (Section 455 of the Companies Act, 2013)
	Easy Finance Lid, a non-banking finance company for a loan Rs. 25,00,000	Where a company is formed and registered under this Act for a future
	in name of the company.	project or to hold an asset or intellectual property and has no significant
	The Lender agreed and provided the above said loan. Later on Sound	accounting transaction, such a company or an inactive company may
	SyndicateLtd, refused to repay the money borrowed on the pretext that	make an application to the Registrar in such manner as may be
	noresolution authorizing such loan have been actually passed by the	prescribed for obtaining the status of dormant company.
	company and the lender should have enquired about the same prior	"Inactive company" means a company which has not been carrying on
	providing such loan hence company not liable to pay such loan.	any business or operation, or has not made any significant accounting
	Analyses the above situation in terms of the provisions of Doctrine of	transaction during the last two financial years, or has not filed financial
	Indoor Management under the Companies Act, 2013 and examine	statements and annual returns during the last two financial years.



	"Significant accounting transaction" means any transaction other than –	Q20	When a company is registered, it is clothed with a legal personality.
(a)	payment of fees by a company to the Registrar;		Explain.
(b)	payments made by it to fulfil the requirements of this Act or any other law;	Ans:	When a company is registered, it is clothed with a legal personality. It
(c)	allotment of shares to fulfil the requirements of this Act; and		comes to have almost the same rights and powers as a human being. Its
(d)	payments for maintenance of its office and records.		existence is distinct and separate from that of its members. A company
	RTP/MAY 2018		can own property, have bank account, raise loans, incur liabilities and
			enter into contracts.
		(a)	It is at law, a person different altogether from the subscribers to the
Q19	The Articles of Association of XYZ Ltd. provides that Board of Directors		memorandum of association. Its personality is distinct and separate
	has authority to issue bonds provided such issue is authorized by the		from the personality of those who compose it.
	shareholders by a necessary resolution in the general meeting of the	(b)	Even members can contract with company, acquire right against it or
	company. The company was in dire need of funds and therefore, it	>	incur liability to it. For the debts of the company, only its creditors can
	issued the bonds to Mr. X without passing any such resolution in general		sue it and not its members.
	meeting. Can Mr. X recover the money from the company? Decide 🔚		A company is capable of owning, enjoying and disposing of property in
	referring the relevant provisions of the Companies Act, 2013.	×	its own name. Although the capital and assets are contributed by the
Ans:	According to the Doctrine of Indoor Management, if an act is authorised	>	shareholders, the company becomes the owner of its capital and assets.
	by the articles or memorandum, an outsider is entitled to assume that $oxedsymbol{igspace}$	Ĭ	The shareholders are not the private or joint owners of
	all the detailed formalities for doing that act have been observed. As per	5	the company's property.
	the case of the Royal British Bank vs. Turquand [1856] 6E & B 327, the 💥	2	
	directors of R.B.B. Ltd. gave a bond to T. The articles empowered the	₹ Q21	F, an assessee, was a wealthy man earning huge income by way of
	directors to issue such bonds under the authority of a proper resolution.		dividend and interest. He formed three Private Companies and agreed
	In fact, no such resolution was passed. Notwithstanding that, it was held		with each to hold a bloc of investment as an agent for them. The
	that T could sue on the bonds on the ground that he was entitled to		dividend and interest income received by the companies was handed
	assume that the resolution had been duly passed. This is the doctrine of		back to F as a pretended loan. This way, F divided his
	indoor management, popularly known as Turquand Rule.		income into threeparts in a bid to reduce his tax liability.
	Since, the given question is based on the above facts, accordingly here in		
	this case Mr. X can recover the money from the company considering		Decide, for what purpose the three companies were established?
	that all required formalities for the passing of the resolution have been		Whether the legal personality of all the three companies may be
	duly complied.		disregarded.
	RTP	Ans:	The House of Lords in Salomon Vs Salomon & Co. Ltd. laid down that a
			company is a person distinct and separate from its members, and



	therefore, has an independent separate legal existence from its members Ans:	Corporate Veil: Corporate Veil refers to a legal concept whereby the
	who have constituted the company. But under certain circumstances the	company is identified separately from the members of the company.
	separate entity of the company may be ignored by the courts. When	The term Corporate Veil refers to the concept that members of a
	that happens, the courts ignore the corporate entity of the company and	company are shielded from liability connected to the company's actions.
	look behind the corporate façade and hold the persons in control of the	If the company incurs any debts or contravenes any laws, the corporate
	management of its affairs liable for the acts of the company. Where a	veil concept implies that members should not be liable for those errors.
	company is incorporated and formed by certain persons only for the	In other words, they enjoy corporate insulation.
	purpose of evading taxes, the courts have discretion to disregard the corporate	Thus, the shareholders are protected from the acts of the company.
	entity and tax the income in the hands of the appropriate assessee.	However, under certain exceptional circumstances the courts lift or pierce
		the corporate veil by ignoring the separate entity of the company and
(1)	The problem asked in the question is based upon the aforesaid facts. The	the promoters and other persons who have managed and controlled the
	three companies were formed by the assessee purely and simply as a	affairs of the company. Thus, when the corporate veil is lifted by the courts
	means of avoiding tax and the companies were nothing more than the	, the promoters and persons exercising control over the affairs of the
	façade of the assessee himself. Therefore the whole idea of Mr. F was ≤	company are held personally liable for the acts and debts of the company.
	simply to split his income into three parts with a view to evade tax. No 🚆 😈	The following are the cases where company law disregards the principle
	other business was done by the company.	of corporate personality or the principle that the company is a legal
(2)	The legal personality of the three private companies may be disregarded.	entity distinct and separate from its shareholders or members:
	because the companies were formed only to avoid tax liability. It carried (i)	To determine the character of the company i.e. to find out whether co-
	on no other business, but was created simply as a legal entity to ostensibly	enemy or friend
	receive the dividend and interest and to hand them over to the assessee <	To protect revenue/tax
	as pretended loans. The same was upheld in Re Sir DinshawManeckji (iii)	To avoid a legal obligation
	Petit AIR 1927 Bom.371 and Juggilal vs. Commissioner of Income Tax AIR (iv)	Formation of subsidiaries to act as agents
	(1969) SC (932).	Company formed for fraud/improper conduct or to defeat law.
	RTP / MAY 19	
	Q23	Explain clearly the doctrine of 'Indoor Management' as applicable in
Q22	Some of the creditors of Pharmaceutical Appliances Ltd. have complained	cases of companies registered under the Companies Act, 1956. Explain
	that the company was formed by the promoters only to defraud the	the circumstances in which an outsider dealing with the company
	creditors and circumvent the compliance of legal provisions of the	cannot claim any relief on the ground of 'Indoor Management'.
	Companies Act, 2013. In this context they seek your advice as to the Ans:	Doctrine of Indoor Management (Companies Act, 2013): According to the
	meaning of corporate veil and when the promoters can be made	"doctrine of indoor management" the outsiders, dealing with the company
	personally liable for the debts of the company.	though are supposed to have satisfied themselves regarding the competence

	of the company to enter into the proposed contracts are also entitled to
	assume that as far as the internal compliance to procedures and regulations
	by the company is concerned, everything has been done properly. They
	are bound to examine the registered documents of the company and
	ensure that the proposed dealing is not inconsistent therewith, but they
	are not bound to do more. They are fully entitled to presume regularity
	and compliance by the company with the internal procedures as required
	by the Memorandum and the Articles. This doctrine is a limitation of the
	doctrine of "constructive notice" and popularly known as the rule laid down
	in the celebrated case of Royal British Bank v. Turquand. Thus, the doctrine
	of indoor management aims to protect outsiders against the company.
	The above mentioned doctrine of Indoor Management or Turquand Rule 🔀
	has limitations of its own. That is to say, it is
	inapplicable to the following cases, namely:
(a)	Actual or constructive knowledge of irregularity: The rule does not protect
	any person when the person dealing with the company has notice,
	whether actual or constructive, of the irregularity.
	In Howard vs. Patent Ivory Manufacturing Co. where the directors could
	not defend the issue of debentures to themselves because they should
	have known that the extent to which they were lending
	money to the company required the assent of the general
	meeting which they had not obtained.
	Likewise, in Morris v Kansseen, a director could not defend an allotment
	of shares to him as he participated in the meeting, which made the
	allotment. His appointment as a director also fell through because none
	of the directors appointed him was validly in office.
(b)	Suspicion of Irregularity: The doctrine in no way, rewards those who
	behave negligently. Where the person dealing with the company is put
	upon an inquiry, for example, where the transaction is unusual or not in
	the ordinary course of business, it is the duty of the outsider to make
	the necessary enquiry.

The protection of the "Turquand Rule" is also not available where the circumstances surrounding the contract are suspicious and therefore invite inquiry. Suspicion should arise, for example, from the fact that an officer is purporting to act in matter, which is apparently outside the scope of his authority. Where, for example, as in the case of Anand Bihari Lal vs. Dinshaw& Co. the plaintiff accepted a transfer of a company's property from its accountant, the transfer was held void. The plaintiff could not have supposed, in absence of a power of attorney that the accountant had authority to effect transfer of the company's property. Similarly, in the case of Haughton & Co. v. Nothard, Lowe & Wills Ltd. where a person holding directorship in two companies agreed to apply the money of one company in payment of the debt to other, the court said that it was something so unusual "that the plaintiff were put upon inquiry to ascertain whether the persons making the contract had any authority in fact to make it." Any other rule would "place limited companies without any sufficient reasons for so doing, at the mercy of any servant or agent who should purport to contract on their behalf." Forgery: The doctrine of indoor management applies only to irregularities which might otherwise affect a transaction but it cannot apply to forgery which must be regarded as nullity. Forgery may in circumstances exclude the 'Turquand Rule'. The only clear illustration is found in the Ruben v Great Fingall Consolidated. In this case the plaintiff was the transferee of a share certificate issued under the seal of the defendant's company. The company's secretary, who had affixed the seal of the company and forged the signature of the two directors, issued the certificate. The plaintiff contended that whether the signature were genuine or forged was apart of the internal management, and therefore, the company should be estopped from denying genuineness of the document. But it was held, that the rule has never been extended to cover such a complete forgery.



Q24		
424	Jagannath Oils Limited is a public company and having 220 members.	of the company but not during present membership which was started
	Of which 25 members were employee in the company during the period	from 1st December 2016 i.e. after the date on which these 25 members
	Ist April 2006 to 28th June 2016. They were allotted shares in Jagannath	were ceased to the employee in Jagannath Oils Limited. Hence, they will
	Oils Limited first time on 1st July 2007 which were sold by them on 1 st	be considered as members for the purpose of the limit of 200 members.
	August 2016. After some time, on 1st December 2016, each of those 25	The company is required to reduce the number of members before
	members acquired shares in Jagannath Oils Limited which they are	converting it into a private company.
	holding till date. Now company wants to convert itself into a private (b)	On the other hand, if those 25 members were ceased to be employee on
	company. State with reasons:	28th June 2017, they were employee at the time of getting present
(a)	Whether Jagannath Oils Limited is required to reduce the	membership. Hence, they will not be counted as members for the purpose
	number of members.	of the limit of 200 members and the total number of members for the
(b)	Would your answer be different if above 25 members were the employee	purpose of this sub-section will be 195. Therefore, Jagannath Oils Limited
	in Jagannath Oils Limited for the period from 1st April 2006 to 28th	is not required to reduce the number of members before converting it
	June 2017?	into a private company
Ans:	According to Section 2(68) of Companies Act, 2013, "Private company" <	
	means a company having a minimum paid-up share capital as may be 📜 🗔 🛛 🗨 2	A transport company wanted to obtain licences for its vehicles but could
	prescribed, and which by its articles,—	not obtain licences if applied in its own name. It, therefore, formed a
(i)	restricts the right to transfer its shares;	subsidiary company and the application for licence was made in the
(ii)	except in case of One Person Company, limits the number of its members	name of the subsidiary company. The vehicles were to be transferred to
(ii)	except in case of One Person Company, limits the number of its members to two hundred:	name of the subsidiary company. The vehicles were to be transferred to the subsidiary company. Will the parent and the subsidiary
(ii) 		<u> </u>
<u>(ii)</u>	to two hundred:	the subsidiary company. Will the parent and the subsidiary
<u>(ii)</u>	to two hundred: Provided that where two or more persons hold one or more shares in a	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013.
<u>(ii)</u>	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013.
(A)	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Ans	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it
	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Provided further that—	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it may be deemed to have lost its individuality in favour of its principal.
(A)	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Provided further that— persons who are in the employment of the company; and	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it may be deemed to have lost its individuality in favour of its principal. The veil of Corporate Personality is lifted and the principal will be held
(A)	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Provided further that— persons who are in the employment of the company; and persons who, having been formerly in the employment of the company,	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it may be deemed to have lost its individuality in favour of its principal. The veil of Corporate Personality is lifted and the principal will be held liable for the acts of subsidiary company.
(A)	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Provided further that— persons who are in the employment of the company; and persons who, having been formerly in the employment of the company, were members of the company while in that employment and have	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it may be deemed to have lost its individuality in favour of its principal. The veil of Corporate Personality is lifted and the principal will be held liable for the acts of subsidiary company. The facts of the case are similar to the case of Merchandise Transport
(A)	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Provided further that— persons who are in the employment of the company; and persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it may be deemed to have lost its individuality in favour of its principal. The veil of Corporate Personality is lifted and the principal will be held liable for the acts of subsidiary company. The facts of the case are similar to the case of Merchandise Transport Limited vs. British Transport Commission (1982), wherein a transport company wanted to obtain licences for its vehicles but could not do so, if
(A) (B)	to two hundred: Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member: Provided further that— persons who are in the employment of the company; and persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased, shall not be included in the number of members; and	the subsidiary company. Will the parent and the subsidiary company be treated as separate commercial units? Explain in the light of the provisions of the Companies Act, 2013. If the subsidiary is formed to act as agent of the Principal Company, it may be deemed to have lost its individuality in favour of its principal. The veil of Corporate Personality is lifted and the principal will be held liable for the acts of subsidiary company. The facts of the case are similar to the case of Merchandise Transport Limited vs. British Transport Commission (1982), wherein a transport



	parent and the subsidiary were held to be one commercial unit and the	Q27	In the Flower Fans Private Limited, there are only 5 members. All of
	application for licences was rejected.		them go in a boat on a pleasure trip into an open sea. The boat capsizes
	Hence, in this case the parent and the subsidiary company shall not be		and all of them died being drowned. Explain with reference to the
	treated as separate commercial units.		provisions of Companies Act, 2013:
	NII NII	(i)	Is Flower Fans Private Limited no longer in existence?
Q26	Nolimit Private Company is incorporated as unlimited company having	(ii)	Further is it correct to say that a company being an artificial
	share capital of 10,00,000. One of its creditors, Mr. Samuel filed a suit		personcannot own property and cannot sue or be suf
	against a shareholder Mr. Innocent for recovery of his debt against	Ans.	KIF
	Nolimit Private Company. Mr. Innocent has given his plea in the court	<i>(i)</i>	Perpetual Succession – A company on incorporation becomes a separate
	that he is not liable as he is just a shareholder. Explain, whether Mr.		legal entity. It is an artificial legal person and have perpetual succession
	Samuel will be successful in recovering his dues from Mr. Innocent?		which means even if all the members of a company die, the company
Ans:	Section 2(92) of Companies Act, 2013, provides that an unlimited \geq	>	still continues to exist. It has permanent existence.
	company means a company not having any limit on the liability of its	01	The existence of a company is independent of the lives of its members.
	members. The liability of each member extends to the whole amount of		It has a perpetual succession. In this problem, the company will continue
	the company's debts and liabilities, but he will be entitled to claim	<u>×</u>	as a legal entity. The company's existence is in no way affected by the
	contribution from other members. In case the company has share 🔳	X	death of all its members.
	capital, the Articles of Association must state the amount of share	<u>=</u> (ii)	The statement given is incorrect. A company is an artificial person as it
	capital and the amount of each share. So long as the company is a \geq	5	is created by a process other than natural birth. It is legal or judicial as
	going concern the liability on the shares is the only liability which can		it is created by law. It is a person since it is clothed with all the rights
	be enforced by the company. The creditors can institute proceedings for		of an individual. Further, the company being a separate legal entity can
	winding up of the company for their claims. The official liquidator may		own property, have banking account, raise loans, incur liabilities and
	call the members for their contribution towards the liabilities		enter into contracts. Even members can contract with company, acquire
	and debts of the company, which can be unlimited.		right against it or incur liability to it. It can sue and be sued in its own
			name. It can do everything which any natural person can do except be
	On the basis of above, it can be said that Mr. Samuel cannot directly		sent to jail, take an oath, marry or practice a learned profession. Hence,
	claim his dues against the company from Mr. Innocent, the shareholder		it is a legal person in its own sense.
	of the company even the company is an unlimited company. Mr. Innocent		
	is liable upto his share capital. His unlimited liability wil I arise when	Q28	Explain the classification of the companies on the basis of control as
	official liquidator calls the members for their contribution towards the		per the Companies Act, 2013.
	liabilities and debts of the company at the time of winding up of company.	Ans.	In line with the Companies Act, 2013, following are the
	RTP		classification of the Companies on the basis of control:



(a)	Holding and subsidiary companies: 'Holding and subsidiary' companies Q2	BC Private Limited and its subsidiary KL Private Limited are holding
	are relative terms.	90,000 and 70,000 shares respectively in PQ Private Limited. The paid-up
	A company is a holding company in relation to one or more other companies,	share capital of PQ Private Limited is` 30 Lakhs (3 Lakhs equity shares
	means a company of which such companies are subsidiary companies.	of` 10 each fully paid). Analyse with reference to provisions of the
	[Section 2(46)]	Companies Act, 2013 whether PQ Private Limited is a subsidiary of BC
	For the purposes of this clause, the expression "company" includes any	Private Limited. What would be your answer if KL Private Limited is
	body corporate.	holding 1,60, 000 shares in PQ Private Limited and no shares are held by
	Whereas section 2(87) defines "subsidiary company" in relation to any	BC Private Limited in PQ Private Limited?
	other company (that is to say the holding company), means a company Ans	Section 2(87) of the Companies Act, 2013 defines "subsidiary company"
	in which the holding company—	in relation to any other company (that is to say the holding company),
(i)	controls the composition of the Board of Directors; or	means a company in which the holding company—
(ii)	exercises or controls more than one-half of the total voting power either (i)	controls the composition of the Board of Directors; or
	at its own or together with one or more of its subsidiary companies: (ii,	exercises or controls more than one-half of the total voting
	Provided that such class or classes of holding companies as may be	power eitherat its own or together with one or more of its subsidiary
	prescribed shall not have layers of subsidiaries beyond such numbers as 🗐 😈	companies: MTP
	may be prescribed.	For the purposes of this section —
		a company shall be deemed to be a subsidiary company of the holding
(b)	Associate company [Section 2(6)]: In relation to another company, means	company even if the control referred to in sub-clause (i) or sub-clause
	a company in which that other company has a significant influence, but	(ii) is of another subsidiary company of the holding company;
	which is not a subsidiary company of the company having such influence < 🔀 (ii,	"layer" in relation to a holding company means its subsidiary or subsidiaries.
	and includes a joint venture company.	In the instant case, BC Private Limited together with its subsidiary KL
	Explanation. — For the purpose of this clause —	Private Limited is holding 1,60,000 shares (90,000+70,000 respectively)
(i)	the expression "significant influence" means control of at least twenty	which is more than one half in nominal value of the Equity Share
	per cent of total voting power, or control of or participation in business	Capital of PQ Private Limited. Hence, PQ Private Limited is subsidiary of
	decisions under an agreement;	BC Private Limited.
(ii)	the expression "joint venture" means a joint arrangement whereby the (ii.	In the second case, the answer will remain the same. KL Private Limited
	parties that have joint control of the arrangement have rights to the net	is a holding 1,60,000 shares i.e., more than one half in nominal value of
	assets of the arrangement.	the Equity Share Capital of PQ Private Limited (i.e., holding more than
	The term "Total Share Capital", means the aggregate of the –	one half of voting power). Hence, KL Private Limited is holding company
	(1) Paid-up equity share capital; and	of PQ Private Company and BC Private Limited is a holding company of
	(2) Convertible preference share capital.	KL Private Limited.



	Hence, by virtue of Chain relationship, BC Private Limited becomes the		Classification of capital: In the domain of Company	
	holding company of PQ Private Limited.		Law, the term capital can be classified as follows:	
		(a)	Nominal or authorised or registered capital:	
Q30	What is the main difference between a Guarantee Company and a		This expression means such capital as is authorised by me	morandum of
	Company having Share Capital?		a company to be the maximum amount of share capital of t	he company.
Ans:	Difference between Guarantee Company [Section 2(21) of the Companies	(b)	Issued capital: It means such capital as the company issu	es from time
	Act, 2013] and a Company having share capital [Section 2(22)].		to time for subscription.	
	In case of guarantee company, the members may be called upon to	(c)	Subscribed capital: As such part of the capital which is fo	r the time
	discharge their liability only after commencement of the winding up and		being subscribed by the members of a company.	
	only subject to certain conditions; whereas in the case of company	(d)	Called up capital: As such part of the capital which has be	een called for
	having share capital, members may be called upon to discharge their		payment. It is the total amount called up on the shares is:	sued.
	liability at any time, either during the company's life -time or during its	_(e)	Paid-up capital: It is the total amount paid or credited as	paid up on
	winding up.		shares issued. It is equal to called up capital less calls in a	rrears.
	It is clear from the definition of the guarantee company that it does not	→	DECEMB	ED 2021
	raise its initial working funds from its members. Therefore, such a	¥	DECEMB	ER ZUZI
	company may be useful only where no working funds are	>	· ·	
	needed or where these funds can be held from other sources	_ Q32	Explain listed company and unlisted company as per the	
	like endowment, fees, charges, donations, etc.	>	provisions of the Companies Act, 2013	
	In Narendra Kumar Agarwal vs. Saroj Maloo, the Supreme Court has laid	Ans:	Listed company: As per the definition given in the section	
	down that the right of a guarantee company to refuse to accept the		2(52) of the Companies Act, 2013, it is a company which	has any of its
	transfer by a member of his interest in the company is on a different		securities listed on any recognised stock exchange.	
	footing than that of a company limited by shares. The membership of a		Provided that such class of companies, which have listed or	intend to list
	guarantee company may carry privileges much different from those of		such class of securities, as may be prescribed in consultat	ion with the
	ordinary shareholders. JULY 21		Securities and Exchange Board, shall not be considered as list	ted companies.
			Whereas the word securities as per the section 2(81) of th	e Companies
Q31	What do you mean by the term Capital? Describe its classification in		Act, 2013 has been assigned the same meaning as defined	l in clause (h)
	the domain of Company Law.		of section 2 of the Securities Contracts (Regulation) Act, 1	1956.
Ans:	Meaning of capital: The term capital has variety of meanings. But in		Unlisted company means company other than listed comp	any.
	relation to a company limited by shares, the term 'capital' means		9	
	'share capital'. Share capital means capital of the company expressed		Nov	2022
	in terms of rupees divided into shares of fixed amount.			



Q33	ABC Private Limited is a registered company under the Companies Act,
	2013 with paid up capital of `35 lakhs and turnover of `2.5 crores.
	Whether the ABC Private Limited can avail the status of a Small
	Company in accordance with the provisions of the Companies Act, 2013?
	Also discuss the meaning of a Small Company.
Ans:	Small Company: Small Company as defined under Section 2(85) of the
	Companies Act, 2013 means a company, other than a public company—
(i)	paid-up share capital of which does not exceed`4 crore or such higher
	amount as may be prescribed which shall not be more
	than ₹ 10 crore; and
(ii)	turnover of which as per profit and loss account for the immediately
	preceding financial year does not exceed` 40 Crore or such higher
	amount as may be prescribed which shall not be more than`100 crore: <
	Exceptions: This clause shall not apply to:
	(A) a holding company or a subsidiary company;
	(B) a company registered under section 8; or
	(C) a company or body corporate governed by any special Act.
	In the instant case, since the paid-up capital of ABC Private Limited is
	35 Lakhs and turnover is 2.5 crore, it can avail the status of a small
	company as both the requirements with regard to paid-up share capital
	as well as turnover are fulfilled by the Company.
	JUNE 2023
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QI	State with reasons whether the following statements are Correct	(d)	Goods' means every kind of movable property other than actionable
	or Incorrect:		claim and money
(a)	Actionable claim is a subject-matter of contract of sale.	Ans:	The Statement is Correct: "Goods" means every kind of movable property
Ans:	The Statement is Incorrect: According to Sec2(7) of the Sale of Goods		other than actionable claims and money; and includes stock and shares,
	Act, 1930, Defination of Goods Clearly Excludes Actionable Claim. Hence		growing crops, grass, and things attached to or forming part of the land,
	Actionable claim is not a subject matter of the contract of sale as		which are agreed to be severed before sale or under the contract of sale
	Contract of sale Just Covers Contract of sale of Goods (Movable Properties)		
	NOV- 1995		NOV- 1999
		(e)	"Contract of Sale can also take place by the conduct of the parties to
(b)	"Exchange of goods for goods between the two parties amounts to sale		the contract"
	under the Saleof Goods Act, 1930"	Ans:	The Statement is Correct: According to the provisions of the act, Subjected
Ans:	The Statement is Incorrect: When goods are exchanged for goods, it is		to any law for time being in force, a contract of sale may be expressed
	not a contract for sale of goods but it is just barter (ie exchange of	⋖	or may be implied from the conduct of the parties.
	goods for goods) . In sale there must be consideration in the form of	X	MAY- 2001
	money which is not possible in Barter transaction, hence it does not	<u>}</u>	
	amount to sale under the Sale of Goods Act, 1930.		
	MAY- 99	(f)	"In an agreement to sell, the property in the goods passes to the buyer
		Ans:	immediately" The Statement is linearized by an experient to call present in the
(c)	A bailment is the devilery of goods by one person to another for some	AVIS	The Statement is Incorrect, In an agreement to sell, property in the goods is to be transferred to the buyers at some future date, or subjected
(6)	purpose.		to the fulfilment of some conditions.
Ans:	A 'bailment' is the delivery of goods for some specific purpose under a		NOV- 2002
717/31	contract on the condition that the same goods are to be returned when		
	the purpose is accomplished to the bailor or are to be disposed of		
	according to the directions of the bailor.	0.2	A servere to how a new TV from a short known for Bo 20 000 newable
	1200 E	Q2	A agrees to buy a new TV from a shop keeper for Rs. 30,000 payable partly in cash of Rs. 20,000 andpartly in exchange of old TV
	NOV- 1999		set. Is it avalid Contract of Sale of Goods? Give reasons for
	100 1777		your answer.
	•		your unswer.



Ans:	It is necessary under the Sales of Goods Act, 1930 that the goods should Ans:	In this case, B, the buyer has no right against A the seller. Section 8 of
717701	be exchanged for money. If the goods are exchanged for goods, it will not	the Sales of Goods Act, 1930 provides that where there is an agreement
	be called a sale. It will be considered as barter. However, a contract for	to sell specific goods and the goods without any fault of either party
	transfer of movable property for a definite price payable partly in goods	perish, damaged or lost, the agreement is thereby avoided. This provision
	and partly in cashis held to be a contract of Sale of Goods.In the given	is based on the ground of supervening impossibility of performance
-	case, the new TV set is agreed to be sold for Rs. 30,000 and the price is	which makes a contract void. So, all the following conditions required to
-	payable partly inexchange of old TV set and partly in cash of Rs. 20,000.	treat it as a void contract are fulfilled in the above case:
	So, in this case, it is a valid contract of sale underthe Sales ofGoods Act, 1930. (i)	There is an agreement to sell between A and B
	(ii)	It is related to specific goods
	May -2002 / ICAI STUDY MAT. (iii)	The goods are lost because of the sinking of ship before the property or
		risk passes to the buyer.
Q3	State briefly the essential element of a contract of sale under the Sale (iv)	The loss of goods is not due to the fault of either party.
	of Goods Act,1930.	ICAI STUDY MAT.
Ans:	Essential Elements of Contract of Sale: The following elements must co	ICAI STODY MAT.
	exist as to constitute a contract of sale of goods under the Sale of Goods. $\frac{1}{2}$	Mr. Amit was shopping in a self-service Super market. He picked up a
1.	There must be at least two parties the seller and the buyer, the two	bottle of cold drink from a shelf. While he was examining the bottle, it
	must be different persons.	exploded in his hand and injured him. He files a suit for damages
2.	The subject matter of the contract must necessarily be goods (covering =	against the owner of the market on the ground of breach
	only movable property)	of condition. Decide under the Sale of Goods Act, 1930,
3.	A price in money (not in kind) should be paid or promised.	whether Mr. Amit would succeed in his claim?
4.	A transfer of property in goods from seller to the buyer must take place. Ans:	Essentials of Sale:The problem as given in the question is based on
5.	A contract of sale must be absolute or conditional .	Section 16(2) of the Sale of Goods Act, 1930, which states that where
6.	All other essential elements of a valid contract must be	goods are bought by description from a seller who deals in goods of
	present in thecontract of sale.	that description (whether he is the manufacturer or producer or not),
	MTP / RTP	there is an implied condition that the goods shall beof merchantable
		quality. Though the term 'merchantable quality' is not defined in the Act,
Q 4	A agrees to sell to B 100 bags of sugar arriving on a ship from Australia	it mean that in the present case, the bottle must be properly sealed. In
	to India within next two months. Unknown to the parties, the ship has	other words, if the goods are purchased for self-use, they should be
	already sunk. Does B have any right against A under the Sale of Goods	reasonably fit for the purpose for which it is being used. In the instant
	Act, 1930?	case, on an examination ofthe bottle of cold drink, it exploded and injured



	the buyer. Applying the provision of Section 16(2), Mr. Amit would	Ans:	A wholesaler of cotton has 100 bales in his godown. So, the goods are
	succeed in claim for damages from the owner of the shop.		existing goods. He agrees to sell 50 bales and these bales were selected
	RTP		and set aside. On selection, the goods becomes ascertained. In this case,
	KIF		the contract is for the sale of ascertained goods, as the cotton bales to
	<u> </u>		be sold are identified and agreed after the formation of the contract.
Q 6	X contracted to sell his car to Y. They did not discuss the price of the	(i)	If A agrees to sell to B one packet of sugar out of the lot of one hundred
	car at all. Xlater refused to sellhis car to Y on the ground that the		packets lying in his shop, it is a sale of existing but unascertained goods
	agreement was void being uncertain about price. Can Y		because it is not known which packet is to be delivered.
	demand thecar under the Sale of Goods Act, 1930?	(ii)	T agrees to sell to S all the apples which will be produced in his garden
			this year. It is contract of sale of future goods, amounting to 'an
Ans:	Payment of the price by the buyer is an important ingredient of a		paragraph to cell
	contract of sale.If the parties totally ignore the question of price while	N N	ICAI STUDY MAT.
	making the contract, it would not become an uncertain and invalid	98	Archika went to a jewellery shop and asked the shopkeeper to show the
	agreement. It will rather be a valid contract and the buyer shall pay a	¥	gold bangles with white polish. The shopkeeper informed that he has
	reasonable price.	«	gold bangles with lots of designs but not in white polish rather if
	In the give case, X and Y have entered into a contract for sale of car but	Ī	Archika select goldbangles in his shop, he will arrange white polish on
	they did not fix the price of thecar. X refused to sell the car to Y on this	5	those gold bangles without any extra cost. Archika select a set of designer
	ground. Y can legally demand the car from X and X can recover a	11	bangles and pay for that. The shopkeeper requested Archika to come
	reasonable price of the car from Y.		after two days for delivery of those bangles so that white polish can be
	ICAI STUDY MAT.	111	done on those bangles. When Archika comes after two days to take
			delivery of bangles, she noticed that due to white polishing, the design
Q7	Classify the following transactions according to the types of goods they		of bangles has been disturbed. Now, she wants to avoid the contract and
	are:(i) Awholesaler of cotton has 100 bales in his go down. He agrees to		asked the shopkeeper to give her money back but shopkeeper has denied
	sell 50 bales and these bales were selected and set aside.		for the same.
(i)	A agrees to sell to B one packet of sugar out of the	(a)	State with reasons whether Archika can recover the
	lot of one hundred packets lying in his shop.		amount under the Sale of Goods Act,1930.
	- Decem-		
(ii)	T agrees to sell to S all the apples which will be	(b)	What would be your answer if shopkeeper says that he can
	produced in his garden this year.		repair those bangles but he will charge extra cost for same?
	LINE Y		



Ans:	As per Section 4(3) of the Sale of Goods Act, 1930, where under a		In the give case, X and Y have entered into a contract for sale of car but
	contract of sale the property in the goods is transferred from the seller		they did not fix the price of the car. X refused to sell the car to Y on this
	to the buyer, the contract is called a sale, but where the transfer of the		ground. Y can legally demand the car from X and X can recover a
	property in the goods is to take placeat a future time or subject to some		reasonable price of the car from Y.
	condition thereafter to be fulfilled, the contract is called an agreement	Q10	Write short note on: "Good" in a Contract of Sale.
	to call and as now Continu ((1) an asymmetric call becomes a call	Ans:	Goods:
	when the time elapses or the conditions are fulfilled subject to which the		Goods means every kind of movable property other then
	property in the goods is to be transferred.		actionable claims and money.
(a)	On the basis of above provisions and facts given in the question, it can		Goods includes stock and shares, growing crops, grass and things attached
	be said that there is an agreement to sell between Archika and —		to or forming part of land, which are agreed to be served before sale or
	shopkeeper and not a sale. Even the payment was made by Archika, the		
	property in goods can be transferred only after the fulfilment of		under the contract of sale.
	conditions fixed between buyer and seller. As the white polish was done		Goods include both tangible and intangible goods like goodwill, copyright,
	but original design is disturbed due to polishing, bangles are not in <	1	patent, trademark etc.
	original position.Hence, Archika has right to avoid the agreement to sell 📮 🗖		
	and can recover the price paid.	QII	What is meant by delivery of goods under the Sale of Goods Act, 1930?
(b)	On the other hand, if shopkeeper offers to bring the bangles in original $\overline{\ }$	1	State various modes of delivery.
	position by repairing, he cannot charge extra cost from Archika. Even he	Ans:	<u>Delivery of goods means voluntary transfer of possession of goods from</u>
	has to bear some expenses for repair; he cannot charge it from Archika.		one person to another.
		1	Various Modes Of Delivery :
	RTP	1.	Actual Delivery: When goods are physically delivered to the buyer .Actual
Q9	X contracted to sell his car to Y. They did not discuss the price of the		delivery takes place when the sellers transfers physical
	3		I WILLIAM A CONTRACTOR AND A CONTRACTOR
	car at all. X later refused to sell his car to Y on the ground		possession of goods to buyer , to a third person authorised
	that the agreement was void being uncertain about price.		to hold goods on behalf of the buyer.
	that the agreement was void being uncertain about price.		
Ans:	that the agreement was void being uncertain about price. Can Y demand the car under the Sale of Goods Act, 1930?	2.	
Ans:	that the agreement was void being uncertain about price. Can Y demand the car under the Sale of Goods Act, 1930? Payment of the price by the buyer is an important ingredient of a contract	2.	to hold goods on behalf of the buyer.
Ans:	that the agreement was void being uncertain about price. Can Y demand the car under the Sale of Goods Act, 1930? Payment of the price by the buyer is an important ingredient of a contract of sale. If the parties totally ignore the question of price while making	2,	to hold goods on behalf of the buyer. Constructive Delivery: When it is effected without any change
Ans:	that the agreement was void being uncertain about price. Can Y demand the car under the Sale of Goods Act, 1930? Payment of the price by the buyer is an important ingredient of a contract	2.	to hold goods on behalf of the buyer. Constructive Delivery: When it is effected without any change in custody/ actual possession of things as in case of



	on buyer's behalf.	Q13	Briefly explain the distinguish between future goods and Contingent goods.
		Ans:	Future Goods:
3,	Symbolic Delivery: When there is delivery of things in token of a transfer	(i)	Future goods means goods to be manufactured/ produced or
	of something else. Delivery of goods in course of transit may be made		acquired by seller after making contract of sale.
	by handing over documents of title to goods like, bill of lading, railway	(ii)	A contract of sale of future goods is always an agreement.
	receipt, delivery, order, key of a warehouse containing the goods is	<u>(iii)</u>	It is never actual sale because, a person cannot transfer what is not in
	handed over to buyers.		existence.
	When actual delivery is not possible there may be delivery	(iv)	Example: Tanmay agreed to sell all the oranges which will be produced in
	of means ofgetting possession of goods.		his garden this year. It is a contract of sale of future goods, amounting
	MAY- 1997		to an agreement to sell.
Q12	Differentiate between Ascertained and Unascertained Goods with example.	>	Contingent Goods:
Ans:		<u></u> (i)	The acquisition of which by seller depends on an uncertain contingency
1.	Ascertained Goods:	<	are called contingent goods.
	(i) Ascertained goods are those goods which are identified in	(ii)	Contingent goods also operate as "An agreement to sell" and not a "
	accordancewith the agreement after the contract of sale is made.	<u> </u>	sale" so far as the question of passing property to the buyer is concerned.
	(ii) This term is not defined in the act but has been judicially interpreted.	_(iii)	In other words, like the future goods , in case of contingent goods also
	Example: A wholesaler of cotton has 100 bales in his godown. He agrees	#	the property does not pass to buyer at the time of making the contract.
	to sale 50 bales and these bales were selected and set aside. On selection		
	the goods becomeascertained.	W Q14	Distinguish between Existing goods and Contingents goods.
2,	Unascertained Goods:	Ans:	Existing Goods:
	(i) Unascertained Goods are those goods which are not specifically		Existing goods are such goods as are existence at the time of
	identified orascertained at the time of making the contract.		contract of sale, that is owned, possessed, acquired by the seller at
	(ii)They are indicated or defined only by description or sample.		the time of contract of sale.
	Example: If A agree to sell to B, one packet of salt out of lot of 100 packets		<u>Contingent Goods</u> :
	lying in his shop, it is a sale of unascertained goods because it is not		The acquisition of which by seller depends on an uncertain contingency
			are called contingent goods. Contingent goods also operate as "An
	known which packet is to be delivered.		agreement to sell" and not a "sale" so far as the question of passing
			property to the buyer is concerned MAY- 1997



Q15	Priyansh orders an iron window to an Iron Merchant for his new house.	Q16	Mr. A contracted to sell his swift car to Mr. B. Both missed to	discuss
	Iron merchant sends his technician to take the size of windows. The		the price of the said swift car. Later, Mr. A refused to sell his :	swift car
	technician comes at the site and takes size of area where window to be		to Mr. B on the ground that the agreement was void being	uncertain
	fitted. Afterwards, Iron merchant on discussion with his technician		about the price. Does Mr. B have any right against Mr. A	
	intimates Priyansh that cost of the window will be` 5,000 and he will		under the Sale of Goods Act, 1930?	
	take ₹ 1,000 as advance. Priyansh gives` 1,000 as advance and rest after			
	fitting of window. After three days when technician try to fit the	Ans:	As per the provisions of Section 2(10) of the Sale of Goods A	Act, 1930,
	window made by him at the site of Priyansh, it was noticed that the		price is the consideration for sale of goods and therefore is a requ	uirement
	size of window was not proper. Priyansh requests the Iron merchant		to make a contract of sale. Section 2(10) is to be read with Se	ection 9 of
	either to remove the defect or return his advance. Iron merchant replies		the Sale of Goods Act, 1930.	
	that the window was specifically made for his site and the defect		According to Section 9 of the Sale of Goods Act, 1930, the p	price in a
	cannot be removed nor can it be of other use. So, he will not refund the	_	contract of sale may be fixed by the contract or may be left t	o be fixed
	advance money rather Priyansh should give him the balance of4,000.		in manner thereby agreed or may be determined by the course	of dealing
	State with reason under the provisions of the Sale of		between the parties.	
	Goods Act, 1930, whether Priyansh can take his advance		Even though both the parties missed to discuss the price of th	e car while
	back?	5	making the contract, it will be a valid contract, rather than being	uncertain
Ans:	By virtue of provisions of Section 16 of the Sale of Goods Act, 1930, there		and void; the buyer shall pay a reasonable price in this situati	
	is an implied condition that the goods should be in merchantable $\overline{=}$ $\overline{=}$	j	In the given case, Mr. A and Mr. B have entered into a contract	
	position at the time of transfer of property. Sometimes, the purpose for $raket$		of a motor car, but they did not fix the price of the same. Mr.	
	which the goods are required may be ascertained from the facts and \leq		to sell the car to Mr. B on this ground. Mr. B can legally demar	
	conduct of the parties to the sale, or from the nature of description of		from Mr. A and Mr. A can recover a reasonable price of the car fr	
	the article purchased. In such a case, the buyer need not tell the seller —		The second of th	
	the purpose for which he buys the goods. On the basis of above provisions —			
	and facts given in the question, it is clear that as window size was not			
	proper, window was not in merchantable condition. Hence, the implied			
	condition as to merchantability was not fulfilled and Priyansh has the			
	right to avoid the contract and recover his advance money back. —			
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	_			
	<u> </u>			
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QI	State with reason whether the following statement is Correct or Incorrect:	Q 3	M/s Woodworth & Associates, a firm dealing with the wholesale and
(a)	If a seller does not disclose the dangerous nature of the goods to be sold		retail buying and selling of various kinds of wooden logs, customized as
	to the buyer he breaches the contract		per the requirement of the customers. They dealt with Rose wood, Mango
Ans:	Incorrect: If a seller does not discloses the dangerous nature of the good		wood, Teak wood, Burma wood etc.
	to be sold to the buyer and the buyer is ignorant of the danger, it is a		Mr. Das, a customer came to the shop and asked for wooden logs
	breach of implied warranty. In case of implied warranty it is the duty of		measuring 4 inches broad and 8 feet long as required by the carpenter.
	the seller to warn to the buyer of the probable danger of the dangerous		Mr. Das specifically mentioned that he required the wood which would
	nature of the goods. It is not breach of condition but it is merely a breach		be best suited for the purpose of making wooden doors and window
	of implied Warranty and the seller will be liable for damages and not for		frames. The Shop owner agreed and arranged the wooden pieces cut into
	Repudiation of contract.		as per the buyers requirements.
	NOV- 1998		The carpenter visited Mr. Das's house next day, and he found that the
	Liena:) <u> </u>	seller has supplied Mango Tree wood which would most unsuitable for the
(b)	"Where the buyer elects to treat the breach of condition as one of	-	purpose. The carpenter asked Mr. Das to return the wooden logs as it
	warranty, he may repudiate the contract"	\leq	would not meet his requirements.
Ans:	Incorrect: Section 13 of the sale of Goods Act, 1930 lays down that where	2 -	The Shop owner refused to accept return of the wooden logs on the
	the buyer elects to treat the breach of condition as one of	\	plea that logs were cut to specific requirements of Mr. Das and hence
	a warranty, he may only claim damages instead of	3	could not be resold.
	repudiating the contract	(i)	Explain the duty of the buyer as well as the seller
			according to the doctrine of "Caveat Emptor".
Q2	In a sale of goods , "Goods" sold must be of merchantable quality.		
Ans:	Goods Must be of merchantable Quality: When the goods are brought by	(ii)	Whether Mr. Das would be able to get the money back or
	description from a seller who deals in goods of that description (whether	Ç.17	the right kind of wood as required serving his purpose?
	he is the manufacturer pr producer or not there is an	Ans:	
	implied condition that goods shall be of Merchantable	(i)	Duty of the buyer according to the doctrine of "Caveat Emptor": In case
	Quality.		of sale of goods, the doctrine 'Caveat Emptor' means 'let the buyer beware'.
	There are two requirements for this condition to apply:		When sellers display their goods in the open market, it is for the buyers
1.	Goods should be brought by description -		to make a proper selection or choice of the goods. If the goods turn out to
2.	Seller should be a dealer in goods of that description.		be defective he cannot hold the seller liable. The seller is in no way responsible
	NOV- 1998		for the bad selection of the buyer. The seller is not bound to disclose the
	1404- 1990		defects in the goods which he is selling.



The following exceptions to the Caveat Emptor are the duties of the seller: 1. Fitness as to quality or use 2. Goods purchased under patent or brand name 3. Goods sold by description 4. Goods of Merchantable Quality 5. Sale by sample 6. Goods by sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is quilty of fraud 6. Goods by sample as well as description 8. Seller actively conceals a defect or is quilty of fraud 6. Goods by sample as well as description 9. Sale by sample as well as defect or is quilty of fraud 7. Trade usage 8. Seller actively conceals a defect or is quilty of fraud 8. Seller actively conceals a defect or is quilty or fraud 8. Seller actively conceals a defect or is quilty or fraud 8. Seller actively conceals a defect or is quilty or fraud 8. S		Duty of the seller according to the doctrine of "Caveat Emptor":		buyer expressly or impliedly makes known to the seller the particular
2. Goods purchased under patent or brand name 3. Goods sold by description 4. Goods of Merchantable Quality 5. Sale by sample 6. Goods by sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is guilty of fraud (ii) As Mr. Das has specifically mentioned that he required the wood which would be best suited for the purpose of making wooden doors and window frames but the seller supplied Mango tree wood which is most unsuitable for the purpose of making wooden doors and the right kind of wood as required serving his purpose. It is the duty of the seller to supply such goods as are reasonably fit for the purpose mentioned by buyer. (4) Mrs. G bought a tweed coat from P. When she used the coat, she got rashes on her skin as her skin was abnormally sensitive. But she did not make this fact known to the seller ie. P. Mrs. G filled a case against the seller to recover damages. Can she recover damages under the Sale of Goods Act, 1930, normally in a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is the steller supple exactly corresponded to the entire formation. The purpose of pool is purposed to the entire of fice as sample casually without noticing the fact.		ů ,		purpose for which the goods are required and also relies on the seller's
2. Goods purchased under patent or brand name 3. Goods sold by description 4. Goods of Merchantable Quality 5. Sale by sample 6. Goods of sy sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is guilty of fraud (ii) As Mr. Das has specifically mentioned that he required the wood which would be best suited for the purpose of making wooden doors and window frames but the seller supplied Mango tree wood which is most unsuitable for the purpose. Mr. Das is entitled to get the money back on the right kind of wood as required serving his purpose. It is the duty of the seller to supply such goods as are reasonably fit for the purpose mentioned by buyer. 1. ICAI STUDY MAT. 1. (a) Bought a tweed coat from P. When she used the coat, she got against the seller to recover damages. Can she recover damages under the Sale of Goods Act, 1930? Ans: A cording to Section 16(1) of Sales of Goods Act, 1930, normally in a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is the stage of one of the supplied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is the stage of one of the supplied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is the stage of one of the supplied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is the stage of song supplied condition or warranty as to quality or fitness for any particular purpose of goods were the price of the same as sample. The sample exactly corresponded to the entire of the same as sample. The sample exactly corresponded to the entire of the same as sample as the particular purpose of goods as the supplied warranties in the local rice and wheat wholesale shop and asked the seller to recover damages. The shopkeeper showed her a contract of sale there is no implied condition or w		I. Fitness as to quality or use		skill and judgment and that this is the business of the seller to sell such
seller responsible. 9. Goods of Merchantable Quality 5. Sale by sample 6. Goods by sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is guilty of fraud (ii) As Mr. Das has specifically mentioned that he required the wood which is most unsuitable for the purpose of making wooden doors and window frames but the seller supplied Mango tree wood which is most unsuitable for the purpose. Mr. Das is entitled to get the money back or the right kind of wood as required serving his purpose. It is the duty of the seller to supply such goods as are reasonably fit for the purpose Mrs. G bought a tweed coat from P. When she used the coat, she got rashes on her skin as her skin was abnormally sensitive. But she did not make this fact known to the seller i.e. P. Mrs. G filled a case against the seller to recover damages. Can she recover damages under the Sale of Goods Act, 1930, normally in a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is that of "Course Emptor" that is "lat the ware purpose" Bit place the same to fitness for any particular purpose of good supplied. The general rule is that of "Course Emptor" that is "lat the ware purpose" as the same case making who description as to fitness and quality and has no right to recover damages from the seller. RTP Wars. G brund the seller supposed the tweed coat was not suitable for her skin. Mrs. G cannot treat it as a breach of implied condition as to fitness and quality and has no right to recover damages from the seller. RTP Wars. Seller actively conceals a defect or is guilty of fraud Implied warranties in a contract of sale." Not the seller. RTP Wars. G brund warranty is warranty is warranty is warranty is warranty is warranty in a contract of sale in express words but law presumes that the parties have incorporated it into their contract. Implied warranties are considered in to every contract of parties. MAY- 1999 Wars. G b				goods in the ordinary course of his business, the buyer can make the
4. Goods of Merchantable Quality 5. Sale by sample 6. Goods by sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 8. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty of fraud 6. Goods by sample as well as description 9. Seller actively conceals a defect or is guilty or fraud 6. Goods act the subject of the sample as a finished that the tweed coat from the seller it as a breach of implied condition as to fitness and quality and has no right to recover damages 6. Write short notes on "Implied warranties in a contract of sale." 6. Write short notes on "Implied warranty is warranty which low implies into the contract of sale. It is the stipulation which has not been included in contract of sale. It is the stipulation which has not been included in contract of sale. It is the stipulation which has not be				seller responsible.
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6. Goods by sample as well as description 7. Trade usage 8. Seller actively conceals a defect or is guilty of fraud (ii) As Mr. Das has specifically mentioned that he required the wood which would be best suited for the purpose of making wooden doors and window frames but the seller supplied Mango tree wood which is most unsuitable for the purpose. Mr. Das is entitled to get the money back or the right kind of wood as required serving his purpose. It is the duty of the seller to supply such goods as are reasonably fit for the purpose mentioned by buyer. ICAI STUDY MAT. (25 Write short notes on "Implied warranties in a contract of sale" Ans: Implies Warranties: Implied warranty is warranty which low implies into the contract of sale in express words but law presumes that the parties have incorporated it into their contract. Implied warranties are considered in to every contract of sale unless they are expressly excluded by express agreement of parties. MAY- 1999 Mrs. G bought a tweed coat from P. When she used the coat, she got rashes on her skin as her skin was abnormally sensitive. But she did not make this fact known to the seller i.e. P. Mrs. Gilled a case under the Sale of Goods Act, 1930? Ans: According to Section 16(1) of Sales of Goods Act, 1930, normally in a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is that of "vereat Emptor" the ir "det he have been a before she agreed upon such purchase. The shopkeeper showed her a bool of rice as sample. The sample exactly corresponded to the entire loc. The buyer examined the sample casually without noticing the fact				the seller i.e. P about the sensitive nature of her skin. Therefore, she
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8. Seller actively conceals a defect or is guilty of fraud (ij) As Mr. Das has specifically mentioned that he required the wood which would be best suited for the purpose of making wooden doors and window frames but the seller supplied Mango tree wood which is most unsuitable for the purpose. Mr. Das is entitled to get the money back on the right kind of wood as required serving his purpose. It is the duty of the seller to supply such goods as are reasonably fit for the purpose mentioned by buyer. ICAI STUDY MAT. ICAI STUDY				was not suitable for her skin. Mrs. G cannot treat it as a breach of implied
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as Rs. 125 per kg to which she agreed. Mrs. Geeta insisted that she would like to see the sample of what will be provided to her by the shopkeeper before she agreed upon such purchase. The shopkeeper showed her a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is that of "Covert Emptor" that is "let the hunar beyone" But where the		make this fact known to the seller i.e. P. Mrs. G filled a case	40	
Ans: According to Section 16(1) of Sales of Goods Act, 1930, normally in a contract of sale there is no implied condition or warranty as to quality or fitness for any particular purpose of good supplied. The general rule is that of "Covert Emptor" that is "let the hunar beyone" But where the		against the seller to recover damages. Can she recover damages		
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fitness for any particular purpose of good supplied. The general rule is that of "Covert Emptor" that is "let the hunar beyons" But where the	Ans:	According to Section 16(1) of Sales of Goods Act, 1930, normally in a		
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THAT ALIAN THAT IS AN CAMMIA LAR THAT AT HE CAMACH IT AND CAMMIA LAR THAT AT HE CAMACH IT AND CAMACH		that of "Caveat Emptor" that is "let the buyer beware". But where the		that even though the sample was that of Basmati Rice but it contained



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	a mix of long and short grains. The cook on opening the bags complained	Q7	What are the differences between a 'Condition' and 'Warranty' in a
	that the dish if prepared with the rice would not taste the same as the		contract of sale? Also explain, when a 'breach of condition' be treated
	quality of rice was not as per requirement of the dish. Now Mrs. Geeta		as 'breach of warranty' under the provision of the Sales of Goods Act, 1930?
	wants to file a suit of fraud against the seller alleging him of selling mix	Ans:	Difference between conditions and warranties: Refer Notes
	of good and cheap quality rice. Will she be successful?		Breach of condition be treated as a breach of warranty
	Decide the fate of the case and options open to the buyer for grievance	(i)	When the buyer altogether waives the performance of the condition. A
	redressal as per the provisions of Sale of Goods Act, 1930?		party may for his own benefit, waive a stipulation. It should be voluntary
	What would be your answer in case Mrs. Geeta specified her exact		waiver by buyer.
	requirement as to length of rice?	(ii)	Where the buyer elects to treat the breach of the conditions, as breach
Ans:	As per the provisions of Sub-Section (2) of Section 17 of		of warranty. Buyer may claim only damages instead of repudiating the
	the Sale of Goods Act, 1930, in a contract of sale by sample,		contract.
	there is an implied condition that:	(iii)	Where the contract is non-severable and the buyer has
(a)	The bulk shall correspond with the sample in quality;	K.	accepted either the whole goods or any part thereof.
(b)	The buyer shall have a reasonable opportunity of comparing the bulk	(iv)	Where the fulfilment of any condition or warranty is excused by law by
(0)	with the sample.		reason of impossibility or otherwise.
		Ţ	KIF
	In the instant case, in the light of the provisions of the Act, Mrs. Geeta	08	X consults Y, a motor-car dealer for a car suitable for touring purposes to
	will not be successful as she casually examined the sample of rice		promote the sale of his product. Y suggests car 'Santro' and X accordingly
	(which exactly corresponded to the entire lot) without noticing the fact	A	buys it from Y. The car turns out to be unfit for touring purposes.
	that even though the sample was that of Basmati Rice but it contained	_	What remedy X is having now under the Sale of Goods Act, 1930?
	a mix of long and short grains.	Ans:	Condition and warranty: A stipulation in a contract of sale with reference
	AlsoIn the instant case, the buyer does not have any option available to		to goods which are the subject thereof may be a condition or a warranty.
	her for grievance redressal.	-	"A condition is a stipulation essential to the main purpose of the contract,
	In case Mrs. Geeta specified her exact requirement as to length of rice,		the breach of which gives rise to a right to treat the contract as repudiated".
	then there is an implied condition that the goods shall correspond with	-	In the instant case, the term that the 'car should be suitable for touring
	the description. If it is not so, the seller will be held liable.		
			purposes' is a condition of the contract. It is so vital that its
			non fulfillment defeats the very purpose for which X purchases
			the car.X is therefore entitled to reject the car and have
			refund of the price. ICAI STUDY MAT.
			10A1 31007 MA1.



Q9	Mr. T was a retailer trader of fans of various kinds. Mr. M came to his	Q10	Mrs. G bought a tweed coat from P. When she used the coat she got
·	shop and asked for an exhaust fan for kitchen. Mr. T showed him		rashes on her skin as her skin was abnormally sensitive. But she did not
	different brands and Mr. M approved of a particular band and paid for it.		make this fact known to the seller i.e. P. Mrs. G filled a case
	Fan was delivered at Mr. M's house; at the time of opening the packet		against the seller to recover damages. Can she recover
	he found that it was a table fan. He informed Mr. T about the delivery		damages under the Sale of Goods Act, 1930?
	of the wrong fan. Mr. T refused to exchange the same, saying that the	Ans:	According to Provisions of Sales of Goods Act, 1930, normally in a contract
	contract was complete after the delivery of the fan and payment of price.		of sale there is no implied condition or warranty as to quality or fitness
(i)	Discuss whether Mr. T is right in refusing to exchange as		for any particular purpose of goods supplied. The general rule is that of
	per provisions of the Sale of Goods Act, 1930?		"Caveat Emptor" that is "let the buyer beware". But where the buyer
(ii)	What is the remedy available to Mr. M?		expressly or impliedly makes known to the seller the particular purpose
Ans:	According to Section 15 of the Sale of Goods Act, 1930, where the goods		for which the goods are required and also relies on the seller's skill and
	are sold by sample as well as by description, the implied condition is \geq	>	judgment and that this is the business of the seller to sell such goods in
	that the goods supplied shall correspond to both with the sample and $ extstyle ex$	à	the ordinary course of his business, the buyer can make the seller responsible.
	the description. In case, the goods do not correspond with the sample or	4	In the given case, Mrs. G purchased the tweed coat without informing
	with description or vice versa or both, the buyer can repudiate the contract.	×	the seller i.e. P about the sensitive nature of her skin. Therefore, she
	Further, as per Section 16(1) of the Sales of Goods Act, 1930, when the	>	cannot make the seller responsible on the ground that the tweed coat
	buyer makes known to the seller the particular purpose for which the $igspace$		was not suitable for her skin. Mrs. G cannot treat it as a breach of implied
	goods are required and he relies on the judgment or skill of the seller, it \geq	>	condition as to fitness and quality and has no right to recover damages
	is the duty of the seller to supply such goods as are reasonably fit for		from the seller. ICAI STUDY MAT.
	that purpose.		10A1 31007 MA1.
(i)	In the given case, Mr. M had revealed Mr. T that he wanted the exhaust	QII	"State the law relating to sale by description"
	fan for the kitchen. Since the table fan delivered by Mr. T was unfit for	Ans:	When there is contract of sale of goods by description, there
	the purpose for which Mr. M wanted the fan, therefore, T cannot refuse		is implied condition that the goods shall correspond with description.
	to exchange the fan.	1.	If you contract to sell peas, you cannot compel buyer to take beans.
(ii)	When one party does not fulfill his obligation according to the agreed	2.	The buyer is not bound to accept and pay for the goods which are not in
	terms, the other party may treat the contract as repudiated or can		accordance with the description of goods.
	insist for performance as per the original contract. Accordingly, the	3,	If the description was essential for identifying the goods and buyer
	remedy available to Mr. M is that he can either rescind the contract or		agreed to purchase and good does not correspond with description the
	claim refund of the price paid by him or he may require Mr. T to replace		buyer is entitled to reject the goods. MAY- 1996
	it with the fan he wanted.		MA7- 1990



under the provisions of Sale of Goods Act, 1930? Ans: Warranty is stipulation collateral to main purpose of the contract the breach of shich gives rise to claim for damages but not a provisions of Sale of Goods Act, 1930? (a) In the instant case, the sale of sweet is sole by sample and the quality in the sweet and avoid the contract of sale in the instant case, the sale of sweet is allowed by sample and the quality of bulk does not correspond with quality of sample. Hence, Prashant can return the sweet and avoid the contract. (ii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. (iii) It is the stipulation which has not been included in contract of sale in the instant case, the sale of sweet is all would the description in the treates as the case of sale by description on the sample will be same. Prashant can return the sweet and avoid the contract. (iv) In the instance and evold be goods to contract of sale in the instance and evold the contract. (iii) It is the stipulation collection of post form the sample in goods were sold by sample by A to B, who in turn	Q12	Define the term 'warranty'. What are the kinds of implied warranties		by description, there is an implied condition that the goods shall
Ans: Warranty is stipulation collateral to main purpose of the contract the breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble breach of which gives rise to claim for damages but not a limble graphity of comparing the bulk with the sample contract of sale. (a) In the instant case, the sale of sale of sale of sale in the instant case, the sale of sale of the quality of sample. Hence, prashant can return the sweet and avoid the contract. (b) In the other case, the sale of sale of sale to fall the quality damage for bulk does not correspond with quality of sample. Hence, prashant can return the sweet and avoid the contract. (b) In the other case, the sale of sale of sweet is sale by description and the quality gad does not correspond with description made by sale the contract. (b) In the other case, the sale of sweet is sale by description and the quality gad does not correspond with description made by sale the contract. (b) In the other case, the sale of sweet is sale by description and the quality gad does not correspond with description made by certain goods does not correspond with description made by sample by A to B, who in turn sold the sale of avoid the contract. (c) In the instant case, the sale of sweet is sale by description and the quality and the contract. (d) Vertain goods were sold by sample by A to B, who in turn sold the same goods by sample to C and C by sample by A to B, who in turn sold the same goods by sample to C and C by sample by A to B, who in turn sold the		· · · · · · · · · · · · · · · · · · ·		
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(i) Implied warranty is warranty which law implies into the contract of sale. (ii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 (iv) It is the stipulation which has not been included in contract of sale in and the quality of goods does not correspond with description made by seller. Hence, answer will besame. Prashant can return the sweet and avoid the contract. MTP / RTP (iv) Certain goods were sold by sample by A to B, who in turn sold the same goods are fresh. Seller replies' "Sir, my all sweets are fresh and of good quality." Prashant agrees to buy on the condition that first he tastes of the goods from the sample to C and C by sample by A to B, who in turn sold the same goods are fresh. Seller replies' "Sir, my all sweets are fresh and of good quality." Prashant agrees to buy on the condition that first he tastes of the goods from the sample to C and C by sample the goods and gove a notice to C. One piece of 'Burfi' to check the quality. Seller gives him one piece to the goods from the sample rejected the goods and gove a notice to C. C sued B and B sued A. Advise B and C under the Sale of Goods Act, 1930. In the instant case, D who noticed the deviation of goods from the sample which provides that when the goods are sold by sample the goods and reat it as a breach of implied condition as to sample which provides that when the goods are sold by sample the goods and representation of the sample in quality and the buyer should be given taste the sweet? Ans: By virtue of provisions of Section 17 of the			(a)	7 0
(i) Implied warranty is warranty which law implies into the contract of sale. (ii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 (iii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 (iv) It is the stipulation which has not been included in contract of sale in and the quality of goods does not correspond with description made by seller. Hence, answer will besame. Prashant can return the sweet and avoid the contract. MTP / RTP (iv) Certain goods were sold by sample by A to B, who in turn sold the same goods are fresh. Seller replies' "Sir, my all sweets are fresh and of good quality." Prashant agrees to buy on the condition that first he tastes of the goods from the sample to C and C by sample by A to B, who in turn sold the same goods are fresh. Seller replies' "Sir, my all sweets are fresh and of good quality." Prashant agrees to buy on the condition that first he tastes of the goods from the sample to C and C by sample the goods and gove a notice to C. One piece of 'Burfi' to check the quality. Seller gives him one piece to the goods from the sample rejected the goods and gove a notice to C. C sued B and B sued A. Advise B and C under the Sale of Goods Act, 1930. In the instant case, D who noticed the deviation of goods from the sample which provides that when the goods are sold by sample the goods and reat it as a breach of implied condition as to sample which provides that when the goods are sold by sample the goods and representation of the sample in quality and the buyer should be given taste the sweet? Ans: By virtue of provisions of Section 17 of the		right to reject the goods and treat the contract as repudiated.	-	
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(ii) It is the stipulation which has not been included in contract of sale in express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 Q14 Certain goods were sold by sample by A to B, who in turn sold the same goods by sample to C and C by sample sold the goods to D. The goods are fresh. Seller replies' "Sir, my all sweets are fresh and of good quality." Prashant agrees to buy on the condition that first he tastes one piece of 'Burfi' to check the quality. Seller gives him one piece to taste. Prashant, on finding the quality is good, ask the seller to pack. On reaching the house, Prashant finds that 'Burfi' is stale not fresh while the piece tasted was fresh. Now, Prashant wants to avoid the contract under the Sale of Goods Act, 1930? (a) State with reason whether Prashant can avoid the contract under the Sale of Goods Act, 1930? (b) Will your answer be different if Prashant does not taste the sweet? Ans: By virtue of provisions of Section 17 of the Sale of Goods Act, 1930, in the case of a contract for sale by sample the sample in quality and the buyer shall have a reasonable opportunity of comparing the bulk with the sample.	(i)	Implied warranty is warranty which law implies into the contract of sale.	(b)	In the other case, the sale of sweet is the case of sale by description
express words but law presumes that the parties have incorporated if into their contract. MTP / NOV- 1996 Q14 Q15 Q15 Q16 Q17 Q17 Q18 Q18 Q18 Q19 Q19 Q19 Q19 Q19	(ii)			and the qualityof goods does not correspond with description made by
Prashant reaches a sweet shop and ask for I kg of 'Burfi' if the sweets are fresh and of good quality." Prashant agrees to buy on the condition that first he tastes on piece of 'Burfi' to check the quality. Seller gives him one piece to taste. Prashant, on finding the quality is good, ask the seller to pack. On reaching the house, Prashant findis that 'Burfi' is stale not fresh while the piece tasted was fresh. Now, Prashant wants to avoid the contract and return the 'Burfi' to seller. (a) State with reason whether Prashant can avoid the contract under the Sale of Goods Act, 1930? (b) Will your answer be different if Prashant does not taste the sweet? Ans: By virtue of provisions of Section 17 of the Sale of Goods Act, 1930, in the case of a contract for sale by sample there is an implied condition that the bulk with the sample. (a) In the instant case, D who noticed the deviation of goods from the sample of the goods and treat it as a breach of implied condition as to sample which provides that when the goods are sold by sample the goods and return the 'Burfi' to seller. (b) Will your answer be different if Prashant does not taste the sweet? Ans: By virtue of provisions of Section 17 of the Sale of Goods Act, 1930, in the case of a contract for sale by sample there is an implied condition that the bulk shall correspond with the sample in quality and the buyer shall have a reasonable opportunity of comparing the bulk with the sample.		express words but law presumes that the parties have incorporated if		
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have a reasonable opportunity of comparing the bulk with the sample. the rights available to the buyer against the seller under the Sale of			Q15	A person purchased bread from a baker's shop. The piece of bread
				contained stone in it which broke buyer's tooth while eating. What are
According to Section 15, where there is a contract for the sale of goods Goods Act, 1930?				the rights available to the buyer against the seller under the Sale of
		According to Section 15, where there is a contract for the sale of goods		Goods Act, 1930?



Ans:	This is a case related to implied condition as to wholesomeness which	Q17	Define the terms 'Condition' and 'Warranty' as used in Sale of Goods
	provides that the eatables and provisions must be wholesome that is		Act. Can a breach of warranty be treated as a breach condition and
	they must be fit for human consumption. In this case, the piece of		vice-versa?
	bread contained a stone which broke buyer's tooth while eating, thereby	Ans:	Condition: Condition is stipulation essential to main purpose of the contract
	considered unfit for consumption. Hence, the buyer can treat it as		the breach of which gives rise to a "Right to treat Contract as Repudiated."
	breach of implied condition as to wholesomeness and can also claim		
	damages from the seller.		Warranty: Warranty is stipulation collateral to main purpose of the
	ICAI STUDY MAT.		contract the breach of which gives rise to claim for damages but not a
			right to reject the goods and treat the contract as repudiated.
Q16	"A contract of sale is not avoided even on account of breach of a		MAY-1997/2000 / NOV-2001/2002
	condition"		MAY-1997/2000 / NOV-2001/2002
Ans:	The Sale of Goods Act, 1930 defines a condition as a stipulation essential	—	When Condition to be treated as Warranty:
	to the main purpose of the contract, the breach of which gives rise to a	5 I.	When the buyer altogether waives the performance of the condition. A
	right to treat the contract as having been repudiated. Thus it is clear	₹	party may for his own benefit, waive a stipulation. It should be voluntary
	from the definition, that the buyer gets the right to avoid the contract	<u>~</u> 1	waiver by buyer.
	in case of a breach of a condition on a contract of sale of goods. But the	2.	Where the buyer elects to treat breach of condition as breach of warranty.
	law does not force the buyer to avoid the contract in case of breach of a		Buyer may claim only damages, instead of repudiating the contract.
	condition. The buyer can treat the breach of a condition, as a breach of		Buyer has not waived the condition but decided to treat it as a warranty.
	a warranty. He also gets a right to waive the condition.	S	■ SC
	Further, where the contract is non- severable and the buyer has	Q18	What are the implied conditions in a Sale by Sample?
	accepted either the whole goods or any part thereof, then he cannot	Ans:	Following are Implied Conditions:
	avoid the contract. Further, where the law excuses the fulfilment of a	(1)	Condition as to Title:In every contract of sale, unless there is an agreement
	condition or warranty, then the breach of a condition shall not allow the	(i)	to contrary the first implied condition on part of seller is that in case of
	buyer to repudiate the contract. Thus, a contract of sale can be avoided		sale he has right to sell goods and in case of agreement to sell he will have
	by the buyer in case of breach of a condition and		right to sell the goods at time when property is to pass.
	therefore, the statement as given in the question is not true.	(ii)	Sale by Description: If you contract to sell peas, you cannot compel
		CII	buyer to take beans. The buyer is not bound to accept and pay for the
	1 Nov. coo		goods which are not in accordance with the description of goods. If the
-	NOV- 2000		description was essential for identifying the goods and buyer agreed to
			purchase and good does not correspond with description the buyer is



	next day, and he found that the seller has supplied Mango Tree wood		The cock on opening the bags complained that the dish if prepared with
	which would most unsuitable for the purpose. The carpenter asked Mr.		the rice would not taste the same as the quality of rice was not as per
	Das to return the wooden logs as it would not meet his requirements.		requirement of the dish.
	The Shop owner refused to return the wooden logs on the plea that logs		Now Mrs. Geeta wants to file a suit of fraud against the seller alleging h
	were cut to specific requirements of Mr. Das and hence could not be		of selling mix of goods and cheap quality rice. Will she be successful?
	resold. ?Explain according to the provisions of the act?		Explain the basic law on sale by sample under Sale of Goods Act, 1930?
Ans:	Caveat emptor means "let the buyer beware", i.e. in sale of goods, the		Decide the fate of the case and options open to the buyer for grievance
	seller is under no duty to reveal unflattering truths about the goods sold.		redressal as per the provisions of Sale of Goods Act, 1930?
	Therefore when a person buys some goods, he must examine them		What would be you answer in case Mrs. Geeta specified her
	thoroughly. It the goods turn out to be defective or do not suit his purpose,		exact requirement as to length of rice?
	or if he depends upon his skill and judgement and makes a bad selection,	Ans:	In a contract of sale by sample, there is an implied condition that.
	he cannot blame anybody except himself.	(a)	The bulk shall correspond with the sample in quality.
	The rule is enunciated in the opening words of section 16 of the Sale of $lacktriangle$	[⇒] (b)	The buyer shall have a reasonable opportunity of comparing the bulk with
	Goods Act, 1930, which runs thus, "subject to the provisions of this Act	X	the sample.
	and of any other law for the time being in force, there is no implied warranty	⊴(c)	The goods shall be free of any defect rendering them un-merchantable,
	or condition as to the quality or fitness for any particular purpose of goods	Ī	which would not be apparent on reasonable examination of the sample.
	supplied under a contract of sale.		This condition is applicable only with regard to defect, which could not
	Fig. 1		be discovered by an ordinary examination of the goods. But if the
	JAN- 2019		defects are latent, then the buyer can avoid the contract.
Q22	Mrs. Geeta went to the local rice and wheat wholesale shop and asked		In the given case: - Mrs. Geeta casually examined the sample and did
422	for 100 kgs of Basmati rice. The Shopkeeper quoted the price of the same		not notice that sample contained mix of long and short grains. Hence,
	as 125 per kg. To which she agreed. Mrs. Geeta insisted that she would		Mrs. Geeta cannot avoid the contract and will not be successful in the
	like to see the sample of what will be provided to her by the shopkeeper		suit. However if the buyerhad specified her exact requirements, then
	before she agreed upon such purchase.		seller must supply such goods which are reasonably fit for the given
	The shopkeeper showed her a bowl of rice as sample. The sample exactly		purpose.
	corresponded to the entries lot. The buyer examined the sample casually		
	without noticing the fact that even though the sample was that of		RTP



supplied by the seller varies in thickness from 1 inch to 1.4 inches. The timber is commercially fit for the purpose for which it was ordered. TK rejects the timber. Explain with relevant provisions of the Sale of Goods Act, 1930 whether TK can reject the timber. Ans: Condition as to quality or fitness (Section 16(1) of the Sale of Goods Act, 1930): The condition as to the reasonable fitness of goods for a particular purpose may be implied if the buyer had made known to the seller the purpose of his purchase and relied upon the skill and judgment of the seller to select the best goods and the seller that the goods supplied in those goods. There is implied condition on the part of the seller that the goods supplied shall be reasonably fit for the purpose for which the buyer wants them, provided the following conditions are fulfilled: (a) The buyer should have made known to the seller the purpose for which goods are required. (b) The buyer should have made known to the seller the be a manufacturer or not. In the instant case, as the timber supplied by the seller, whether he be a manufacturer or not. In the instant case, as the timber supplied by the seller, whether he be a manufacturer or not. In the purposes for which it was ordered, it means the implied condition on the part of the seller is fulfilled. Alternatively, the above answer can also be provided as under: Alternatively, the above answer can also be provided as under: Alternatively, the above answer can also be provided as under: According to Section 15 of the Sale of Goods Act, 1930 where there is a contract for the sale of goods by description, there is an implied condition and that the goods shall correspond with the description. The buyer is not				<u> </u>
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that the goods shall correspond with the description. The buyer is not area as it cannot take heavy load. Discuss		·		were as per the measurement and it was unsafe to fit tiles at the parking
that the goods shall correspond with the description. The buyer is not			. ———	area as it cannot take heavy load. Discuss in the light of provisions of
hound to accort and nou for the goods which are not in accordance with			. ———	
bound to accept and pay for the goods which are not in accordance with		bound to accept and pay for the goods which are not in accordance with		שובעו קטטעט אנו ויזשני



1.	Can Mr. J refuse to replace the marble with reference to the doctrine of		after the delivery of washing machine and payment of price. With
	Caveat Emptor? Enlist the duties of both Mr. K. and Mr. J 回题禁画		reference to th e provisions of Sale of Goods Act, 1930, discuss whether
11.	Whether the replacement of damaged tiles be imposed on		Mr. Dheeraj is right in refusing to exchange the washing machine?
	Caveat Emptor? Enlist the duties of both Mr. K. and Mr. J. Whether the replacement of damaged tiles be imposed on M/s Makrana Marbles? Explain.	Ans:	According to Section 15 of the Sale of Goods Act, 1930, whenever the
Ans:			goods are sold as per sample as well as by description, the implied
1.	Yes, Mr. J can refuse to replace the marble as he has supplied the marble		condition is that the goods must correspond to both sample as well as
	as per the requirement of the buyer i.e. Mr. K.		description. In case, the goods do not correspond to sample or description,
2.	Duty of Mr. K (the buyer) is that he has to examine the marbles and		the buyer has the right to repudiate the contract.
	tiles carefully and should follow the caution given by Mr. J i.e. the seller	1.	Further under Sale of Goods Act, 1930, when the buyer makes known to
	that tiles can bear only a reasonable weight before laying them in the		the seller, the particular purpose for which the goods are required and he
	parking space of his house.		relies on his judgment and skill of the seller, it is the duty of the seller to
3,	Duty of Mr. J (the seller) is that the goods supplied (i.e. tiles and marbles)	>	supply such goods which are fit for that purpose.
	shall be reasonably fit for the purpose for which the buyer wants them.	<u>2</u> .	Inthegiven case,Mr.VishalhasinformedtoMr.Dheerajthathewanted
4.	According to the doctrine of Caveat Emptor, it is the duty of the buyer	→	thewashingmachine for washing woollen clothes. However, the machine
	to satisfy himself before buying the goods that the goods will serve the	¥	which was delivered byMr. Dheeraj was unfit for the purpose for which
	purpose for which they are being bought.	∀	Mr. Vishal wanted the machine.
5,	In this case Mr. K has accepted the marbles without examination. Hence,	H	Based on the above provisionand facts of case, there is breach of implied
	there is no implied condition as regards to defects in marbles. Mr. J can	>	condition as to sample as well as description , therefore Mr. Vishalcan
	refuse to replace the marble as he has supplied the marble as per the		either repudiate the contract or claim the refundof the price paid by him
	requirement of the buyer i.e., Mr. K.		or he may require Mr. Dheeraj to replace the washing machine with
	NOV- 2022		desired one.
			MTP
Q25	Mr. Dheeraj was running a shop selling good quality washing machines.		
	Mr. Vishal came to his shop and asked for washing machine which is		
	suitable for washing woollen clothes. Mr. Dheeraj showed him a particular		
	machine which Mr. Vishal liked and paid for it. Later on, when the machine		
	was delivered at Mr. Vishal's house, it was found that it was wrong		
	machine and also unfit for washing woollen clothes. He immediately		
	informed Mr. Dheeraj about the delivery of wrong machine. Mr. Dheeraj		
	refused to exchange the same, saying that the contract was complete		



QI	State with reason whether the following statement is correct or incorrect:	Q2	"NemoDat Quod Non Habet" – "None can give or transfer goods what
(a)	"In a sale, the property of the goods is transferred from seller to the		he does not himself own." Explain the rule and state the cases in which
	buyer in case of generic (unascertained) goods."		the rule does not apply under the provisions of the Sale of Goods Act, 1930.
Ans:	The Statement is Incorrect: Where there is a contract for the sale of	Ans:	Exceptions to the Ruel "Nemodat Quod Non Habet": The term means,
	unascertained (generic) goods, no property in the goods is transferred to		"none can give or transfer goods what he does not himself own".
	the buyer unless and until the goods are ascertained.		Exceptions to the rule and the cases in which the Rule does not apply
	NOV- 1994		under the provisions of the Sale of Goods Act, 1930 are enumerated below:
		(i)	Effect of Estoppel (Section 27): Where the owner is stopped by the
(b)	"To A railway receipt is not a document of title"		conduct from denying the seller's authority to sell, the transferee will get
Ans:	The Statement is Incorrect: According to Section 2(4) of the sale of		a good title as against the true owner. But before a good title by estoppel
	Goods Act, A railway receipt is a "document of title" and it enables the		can be made, it must be shown that the true owner had actively suffered
	consignee to give a valid discharge in respect of the goods to which he		or held out the other person is question as the true owner or as a person
	relates.		authorized to sell the goods.
	NOV- 1996	(ii)	Sale by a Mercantile Agent: A sale made by a mercantile agent of the
			goods or document of title to goods would pass a good title to the buyer
(c)	"The seller of the goods is bound to deliver the goods whether the buyer \equiv		in the following circumstances, namely;
	has applied for delivery or not"		(a) If he was in possession of the goods or documents with
Ans:	The Statement is Incorrect: Apart from any express contract, the seller	<u> </u>	the consent of the owner;
	of goods is not bound to deliver the goods until and unless the buyer 某 🕟		(b) If the sale was made by him when acting in the ordinary course of
	applies for delivery of the goods		business as a mercantile agent; and
	MAY- 2001		(c) If the buyer had acted in good faith and has at the time of the contract
			of sale, no notice of the fact that the seller had no authority to sell.
(d)	"In a Sale on Approval, the property in goods passes to the buyer on the	(iii)	Sale by one of the joint owners: If one of the several joint owners of
	delivery of the goods"		goods has the sole possession of them with the permission of the others,
Ans:	The Statement is Incorrect: According to Section 24(1) of the Sale of		the property in the goods may be transferred to any person who buys
	Goods Act, 1930,the property passes only when he signifies is approval		them from such a joint owner in good faith and does not at the time of
	or Acceptance to seller or does any other act adopting the transaction.		the contract of sale have notice that the seller has no authority to sell.
	NOV- 2001		(Section 28)
	1000- 2001	(iv)	Sale by a person in possession under voidable contract: A buyerwould
			acquire a good title to the goods sold to him by seller who had obtained



	possession of the goods under a contract voidable on the ground of	Q3	J the owner of a Fiat car wants to sell his car. For this purpose, he hand
	coercion, fraud, misrepresentation or undue influence provided that the		over the car to P, a mercantile agent for sale at a price not less than Rs.
	contract had not been rescinded until the time of the sale (Section 29).		50, 000. The agent sells the car for Rs. 40, 000 to A, who buys the car in good
(v)	Sale by one who has already sold the goods but continues in possession		faith and without notice of any fraud. P misappropriated the money also.
	thereof:If a person has sold goods but continues to be in possession of		J sues A to recover the Car. Decide giving reasons whether J would succeed.
	them or of the documents of title to them, he may sell them to a third	Ans:	The problem in this case is based on the provisions of the Sale of Goods
	person, and if such person obtains the delivery thereof in good faith		Act, 1930 contained in the proviso to Section 27. The proviso provides
	without notice of the previous sale, he would have good title to them,		that a mercantile agent is one who in the customary course of his
	although the property in the goods had passed to the first buyer earlier.		business, has, as such agent, authorityeither to sell goods, or to consign
	A pledge or other deposition of the goods or documents of title by the		goods, for the purpose of sale, or to buy goods, or to raise money on the
	seller in possession are equally valid. [Section30(1)]		security of goods [Section 2(9)]. The buyer of goods from a mercantile
(vi)	Sale by buyer obtaining possession before the property in the goods has	>	agent, who has no authority from the principal to sell, gets a good title
	vested in him:Where a buyer with the consent of seller obtains	2	to the goods if the following conditions are satisfied:
	possession of the goods before the property in them has passed to him,	(1)	The agent should be in possession of the goods or documents
	he may sell, pledge or otherwise dispose of the goods to a third person, 🔀	×	of title to the goods with the consent of the owner.
	and if such person obtains delivery of the goods in good faith and $lacktriangle$	(2)	The agent should sell the goods while acting in the ordinary course of
	without notice of the lien or other right of the original seller in respect of	H	business of a mercantile agent. ICAI STUDY MAT.
	the goods in good faith and without notice of the lien or other right of \geq	>(3)	The buyer should act in good faith.
	the original seller in respect of the goods, he would get a good title to	(4)	The buyer should not have at the time of the contract of sale notice that
	them. [Section30(2)]		the agent has no authority to sell.
(vii)	Sale by an unpaid seller:Where an unpaid seller who had exercised his		In the instant case, P, the agent, was in the possession of the car with J's
	right of lien or stoppage in transit resells the goods, the buyer acquires a		consent for the purpose of sale. A, the buyer, therefore obtained a good
	good title to the goods as against the original buyer [Section54(3)]		title to the car. Hence, J in this case, cannot recover the car from A.
(viii)	Sale under the provisions of other Acts:		
	(a)Sale by an official Receiver or liquidator of the company will give the	Q 4	Mr. S agreed to purchase 100 bales of cotton from V, out of his large
	purchaser a valid title.		stock andsent his men to take delivery of the goods. They could pack
	(b)Purchase of goods from a finder of goods will get a valid title under		only 60 bales. Later on, there was an accidental fire and the entire stock
	circumstances.		was destroyed including 60 bales that were already packed. Referring to
	(c)Sale by a pawnee under default of pawnor		the provisions of the Sale of Goods Act, 1930 explain as to who will bear
	will give valid title to thepurchaser.		the loss and to what extent?



Ans:	Section 26 of the Sale of Goods Act, 1930 provides that unless otherwise	Q 5	Ms. R owns a two-Wheeler which she handed over to her friend Ms. K on
	agreed, the goods remain at the seller's risk until the property therein is		sale or return basis. Even after a week, Ms. K neither returned the
	transferred to the buyers, but when the property therein is transferred to		vehicle nor made payment for it. She instead pledged the vehicle to Mr.
	the buyer, the goods are at buyer's risk whether delivery has been made		A to obtain a loan. Ms. R now wants to claim the two-Wheeler from Mr.
	or not. Further Section 18 read with Section 23 of the Act provide that in		A. Will she succeed?
	a contract for the sale of unascertained goods, no property in the goods	(i)	Examine with reference to the provisions of the Sale of Goods
	is transferred to the buyer, unless and until the goods are ascertained		Act, 1930, what recourse is available to Ms. R?
	and where there is contract for the sale of unascertained or future goods	(ii)	Would your answer be different if it had been expressly provided that
	by description, and goods of that description and in a deliverable state		the vehicle would remain the property of Ms. R until the price has been
	are unconditionally appropriated to the contract, either by the seller with		paid?
	the assent of the buyer or by the buyer with the assent of the seller, the	Ans:	As per the provisions of Section 24 of the Sale of Goods Act, 1930, when
	property in the goods thereupon passes to the buyer. Such assent may	K	goods are delivered to the buyer on approval "on sale or return" or other
	be express or implied.		similar terms, theproperty therein passes to the buyer-
	Applying the aforesaid law to the facts of the case in hand, $\ \cdot\ _{L^{\infty}} \le \cdot $	<(a)	when the buyer signifies his approval or acceptance to the seller or does
	it is clear that Mr. S has the right to select the good out of	5	any other act adopting the transaction;
	the bulk and he has sent his men for same purpose.	L (b)	if he does not signify his approval or acceptance to the seller but retains
	X	<u> </u>	the goods without giving notice of rejection, then, if a time has been
-	Hence the problem can be answered based on the following two	3	fixed for the return of the goods, on the expiration of such time, and, if
-	assumptions and the answer will vary accordingly.	D	no time has been fixed, on the expiration of a reasonable time; or
(i)	Where the bales have been selected with the consent of the buyer's	(c)	he does something to the good which is equivalent to accepting the
	representatives: In this case the 60 bales has been transferred to the		goods e.g. he pledges or sells the goods.
	buyer and goods have been appropriated to the contract. Thus, loss		Referring to the above provisions, we can analyse RTP
	arising due to fire in case of 60 bales would be borne by Mr. S. As		the situation given in the question:
	regards 40 bales, the loss would be borne by Mr. V, since the goods have	(i)	In the instant case, Ms. K, who had taken delivery of the two wheeler on
	not been identified and appropriated.		Sale or Return basis pledged the two wheeler to Mr. A, has attracted the
(ii)	Where the bales have not been selected with the representatives:In this		third condition that she has done something to the good which is
	case, the goods has not been transferred at all and hence the loss of 100		equivalent to accepting the goods e.g. she pledges or sells the goods.
	bales would be borne by Mr. V completely.		Therefore, the property therein (two wheeler) passes to Mr. A. Now in
	RTP -		this situation, Ms. R cannot claim back her two wheeler from Mr. A, but
	-		she can claim the price of the two wheeler from Ms. K only.
	-		one can claim the price of the two vonceres from 113. K only.



(ii)	It may be noted that where the goods have been delivered by a person		Hence the problem can be answered based on the following two
	on "sale or return" on the terms that the goods were to remain the		assumptions and the answer will vary accordingly.
	property of the seller till they are paid for, the property therein does not	(i)	Where the bales have been selected with the consent of the buyer's
	pass to the buyer until the terms are complied with, i.e., price is paid for.		representatives: In this case, the property in the 60 bales has been
	Hence, in this case, it is held that at the time of pledge, the ownership		transferred to the buyer and goods have been appropriated to the
	was not transferred to Ms. K. Thus, the pledge was not valid and Ms. R	-	contract. Thus, loss arising due to fire in case of 60 bales would be borne
	could recover the two wheeler from Mr. A.	-	by Mr. S. As regards 40 bales, the loss would be borne by Mr. V, since the
			goods have not been identified and appropriated.
Q6	Mr. S agreed to purchase 100 bales of cotton from V, out of his large	-	goods have not been rachemed and appropriated.
	stock and sent his men to take delivery of the goods. They could pack	(ii)	Where the bales have not been selected with the consent of buyer's
	only 60 bales. Later on, there was an accidental fire and the entire stock		representatives: In this case, the property in the goods has not been
-	was destroyed including 60 bales that were already packed.	>	transferred at all and hence the loss of 100 bales would be borne by
-	Referring to the provisions of the Sale of Goods Act, 1930		Mr. V completely. ICAI STUDY MAT.
	explain as to who will bear the loss and to what extent?	4	ICAI STODY MAT.
Ans:	Section 26 of the Sale of Goods Act, 1930 provides that unless otherwise	Q7	I the owner of a Fiat car wants to sell his car. For this purpose he hand
	agreed, the goods remain at the seller's risk until the property therein is	Σ	over the car to P, a mercantile agent for sale at a price not less than Rs.
	transferred to the buyer, but when the property therein is transferred to		50, 000. The agent sells the car for Rs. 40, 000 to A, who buys the car in
	the buyer, the goods are at buyer's risk whether delivery has been made	>	good faith and without notice of any fraud. P misappropriated
	or not. Further Section 18 read with Section 23 of the Act provide that in	2	themoney also. J sues A to recover the Car. Decide
	a contract for the sale of unascertained goods, no property in the goods $^{\infty}$		given reasons whether J would succeed.
	is transferred to the buyer, unless and until the goods are ascertained	Ans:	The problem in this case is based on the provisions of the Sale of Goods
	and where there is contract for the sale of unascertained or future goods		Act, 1930 contained in the proviso to Section 27. The proviso provides
	by description, and goods of that description and in a deliverable state		that a mercantile agent is one who in the customary course of his
	are unconditionally appropriated to the contract, either by the seller with		business, has, as such agent, authority either to sell goods, or to consign
	the assent of the buyer or by the buyer with the assent of the seller, the		goods, for the purpose of sale, or to buy goods, or to raise money on the
	property in the goods thereupon passes to the buyer. Such assent may		security of goods [Section 2(9)]. The buyer of goods from a mercantile
-	be express or implied.		agent, who has no authority from the principal to sell, gets a good title
	Applying the aforesaid law to the facts of the case in hand, it is		to the goods if the following conditions are satisfied:
	clear that Mr. S has the right to select the goods out of the	(1)	The agent should be in possession of the goods or documents of title to
	bulk and he has sent his men for same purpose.		the goods with the consent of the owner.



(2)	The agent should sell the goods while acting in the ordinary course of	which is equivalent to accepting the goods e.g. he pledges or sells the
	business of mercantile agent.	goods. Therefore, the property therein (Motor car) passes to Mr. Joshi.
(3)	The buyer should act in good faith.	Now in this situation, Ms. Preeti cannot claim back her Motor Car from
(4)	The buyer should not have at the time of the contract of sale notice that	Mr. Ganesh, but she can claim the price of the motor car from Mr. Joshi only.
	the agent has no authority to sell.	
	In the instant case, P, the agent, was in the possession of the car	ICAI STUDY MAT.
	with J'sconsent for the purpose of sale. A, the buyer, therefore	What are the consequences of "destruction of goods" under the Sale of
	obtained a good title to the car. Hence, J in this case, cannot	
	recover the car from A.	Goods Act, 1930, where the goods have been destroyed after the agreement to sellbut before the sale is affected.
	Ans	に対象性
Q8	Ms. Preeti owned a motor car which she handed over to Mr. Joshi on sale (j)	In accordance with the provisions of the Sale of Goods Act, 1930 as
	or return basis. After a week, Mr. Joshi pledged the motor car to Mr.	contained in Section 7, a contract for the sale of specific goods is void if
	Ganesh. Ms. Preeti now claims back the motor car from Mr. Ganesh. Will	at the time when the contract was made; the goods without the knowledge
	she succeed? Referring to the provisions of the Sale of Goods Act, 1930,	of the seller, perished or become so damaged as no longer to answer to
	decide and examine what recourse is available to Ms. Preeti.	their description in the contract, then the contract is void ab initio. This
Ans:	As per the provisions of section 24 of the Sale of Goods Act, 1930, when	section is based on the rule that where both the parties to a contract are
	goods are delivered to the buyer on approval or "on sale or return" or	under a mistake as to a matter of fact essential to a contract, the
	other similar terms, the property therein passes to the buyer-	contract is void.
(a)	When the buyer signifies his approval or acceptance to the	In a similar way Section 8 provides that an agreement to sell specific
<i>(</i> 1.)	seller or does any other act adopting the transaction;	goods becomes void if subsequently the goods, without any fault on the
(b)	if he does not signify his approval or acceptance to the seller but retains	part of the seller or buyer, perish or become so damaged as no longer to
	the goods without giving notice of rejection, then, if a time has been	answer to their description in agreement before the risk passes to the buyer.
	fixed for the return of the goods, on the expiration of such time, and, if	It may, however, be noted that section 7 & 8 apply only to specific
	no time has been fixed, on the expiration of a reasonable time; or	goods and not to unascertained goods. If the agreement is to sell a
(c)	He does something to the good which is equivalent to accepting the	certain quantity of unascertained goods, the perishing of even the whole
	goods e.g. he pledges or sells the goods.	quantity of such goods in the possession of the seller will not relieve him
	Referring to the above provisions, we can analyse the situation given in	of his obligation to deliver the coads
	the question. Since, Mr. Joshi, who had taken delivery of the Motor car	MTP / RTP
	on Sale or Return basis and pledged the motor car to Mr. Ganesh, has	
	attracted the third condition that he has done something to the good	



Q10	What are the rules regarding delivery of goods?		reasonable opportunity of examining them in order to ascertain whether
Ans:	The Sale of Goods Act prescribes the following rules of delivery of goods:		they are in conformity with the contract. Unless otherwise agreed, the
<i>(i)</i>	Effect of Part delivery: A delivery of part of goods, in progress of delivery		seller is bound on request, to afford the buyer a reasonable opportunity
	of the whole has the some effect (for the purpose of passing of property		of examining the goods.
	in such goods) as delivery of the whole.		MAY- 1996
(ii)	Buyer to apply for delivery: Apart from any express contract the seller		
	of goods is not bound to deliver them, until the buyer applies for delivery.	QII	A, B and C were joint owner of a truck and the possession of the said truck
(iii)	Place of delivery: Where it is for the buyer to take possession of the		was with B. X purchased the truck from B without knowing that A and C
	goods or for the seller to send them to buyer is a question depending in		were also owners of the truck. Decide in the light of provisions of Sales
	each case on the contract between the parties. Time of delivery: Where under the contract of sale, the seller		of Goods Act 1930, whether the sale between B and X is valid or not?
(iv)		Ans:	According to Section 28 of the Sales of Goods Act, sale by one of the
	is bound to sell the goods to the buyer but no time for sending	X	several joint owners is valid if the following conditions are satisfied:-
	them is fixed, the seller is bound to send them within reasonable time.	<u></u> (i)	One of the several joint owners has the sole possession of them.
(v)	Goods in possession of a third party: Where the goods at the time of sales	∢(ii)	Possession of the goods is by the permission of the co-owners.
	are in possession of a third person, there is no delivery unless and until	(iii)	The buyer buys them in good faith and has not at the time of contract
	such third person acknowledges to the buyer that he holds the goods on	>	of sale knowledge that the seller has no authority to sell.
	his behalf.		In the above case, A, B and C were the joint owners of the truck and the
(vi)	<u>Time for tender of delivery:</u> Demand or tender of delivery may be treated	> .ul	possession of the truck was with B. Now B sold the said truck to X. X
	as ineffectual unless made at a reasonable hour.		without knowing this fact purchased the truck from B.
(vii)	Expenses for delivery: The expenses of and incidental to putting the goods		The sale between B and X is perfectly valid because Section 28 of the
-	into a deliverable state must be born by the seller, in the absence of a		Sales of Goods Act provides that in case one of the several joint owners
	contract to the contrary.		has the possession of the goods by the permission of the co-owners and
(viii)	<u>Instalment deliveries:</u> Unless otherwise agreed, the buyer is not bound to		if the buyer buys them in good faith without the knowledge of the fact
	accept delivery in instalments. The rights and liabilities in Cases of		that seller has no authority to sell, it will give rise to a valid contract of sale.
	delivery by instalments and payments there for may be determined by		
(ix)	The by contract Paterioration during transity Dhara acada are delivered at a distant place		ICAI STUDY MAT.
(IX)	<u>Deterioration during transit</u> : Where goods are delivered at a distant place, the liability for deterioration necessarily incidental to the course of transit		
	will fall on the buyer, though the seller agrees to deliver at his own risk.		
(x)	Buyer's right to examine the goods: Where goods are delivered to the		
	buyer, who has not previously examined them, he is entitled to a		
	buyer, who has not previously examined them, he is entitled to a		



Q12	Explain the law relating to passing of risk in case of the sale of goods.		the wheat in the sacks are that of the buyer. ICAI STUDY MAT.
Ans:	Passing of the risk in the property to the buyer of goods:		
(i)	The general rule is, "Unless otherwise agreed, the goods remain at the		
	seller's risk until the property therein is transferred to the buyer, after	Q14	"Delivery of the goods and payment of the price are
	that event they are at buyers risk, whether delivery has been made or not.		concurrent conditions"? Enumerate?
(ii)	If delivery has been delayed through the fault of either buyer	Ans:	The section says that unless otherwise agreed the delivery of the goods
	or seller, the goods shall be at the risk of the party in default.		and payment of the price are concurrent conditions that is to say, the
(iii)	Duties and liabilities of seller or buyer as bailee of goods for		seller shall be ready and willing to give possession of the goods to the
	otherpartyremain unaffected even when the risk has passed generally.		buyer in exchange for the price, and the buyer shall be ready and willing
	NOV -1996/ MAY-1999/ MAY 2001		to pay the price in exchange for possession of goods.
			The general rule is that the obligations of the seller to deliver and that of
Q13	X agreed to purchase 300 tons of wheat from Y out of a larger stock. X 🏄	5 =	the buyer to pay are implied concurrent conditions in the nature of
	sent his men with the sacks and 150 tons of wheat were put into the		mutual conditions precedent, and that neither can enforce that contract
	sacks. Then therewas a sudden fire and the entire stock was gutted.	\leq	against the other without showing performance or offering to perform of
	Who will bear the loss and why?		averring readiness and willingness to perform his own promise.
Ans:	Payment and Delivery are Concurrent Condition (Section 32):	<u> </u>	This section lays down the rule as regards what are known as reciprocal
(i)	Unless otherwise agreed, delivery of goods and payment of price are	0	promises to be simultaneously performed. In such a case no promisor
	concurrent conditions.	D	need perform his promise unless the promise is ready and willing to
(ii)	The seller shall be ready and willing to give to possession and the buyer		perform his reciprocal promise. NOV- 1997
	shall be ready and willing to pay the price, in exchange of goods.		
	In the given case, X has agreed to purchase 300 tons of wheat from Y out	Q15	When the property in the goods passes to the buyer in case of the
	of a larger stock. X sent his men (agent) to put the wheat in the sacks.		delivery ofthe goods to the buyer on approval basis?
	Out of 300 tones only 150 tons were put into the sacks. There was a sudden	Ans:	When goods are delivered to the buyer on approval or other similar terms,
	fire and the entire stock was gutted. In this case, according to the provisions		the properly therein passes to the buyer :
	of law, 150 tons sale has taken place. So, buyer X will be responsible to	1.	When he signifies his approval or acceptance to the seller,
	bear the loss. The loss of rest of the wheat will be that of the seller Y.		or does any other act adopting the transaction, or
	The wheat which was put in the sacks fulfils both the 回話意回	2.	If he does not signify his approval or acceptance to the seller, but retain
	conditions that are:-		the goods without giving notice of rejection then if a time has been fixed
(1)	The wheat is put in a deliverable state in the sacks.	-	for the return of the goods on expiration of such time. If no time has
(2)	The buyer is presumed to have knowledge of it because the men who put		been fixed on expiration of reasonable time.



3.	He does something to the good, which is equivalent to accepting the goods .	Q17	A delivered a horse to B on sale and return basis. The agreement
			provided that Bshould try the horse for 8 days and return, if he did not
	NOV -1998/ MAY-2001/ 2002		like the horse. On the third day the horse died without the fault of B. A
			file a suit against B for the recovery of price. Can he recover the price?
Q.16	The buyer took delivery of 20 tables from the seller on sale or return	Ans:	A delivered the horse to B on sale or return basis. It was decided between
	basis without examining them. Subsequently, he sold 5 tables to his		them that B will try the horse for 8 days and in case he does not like it,
	customers. The customer lodged a complaint of some defect in the		he will return the horse to the owner A. But on the third day the horse
	tables. The buyer sought to return tables to the seller. Was the buyer		died without any fault of B. The time given by the seller A to the buyer
	entitled to return the tables to the seller under the provisions of the Sale		B has not expired yet. Therefore, the ownership of the horse still belongs
	of Goods Act, 1930?		to the seller A. B will be considered as the owner of the horse only when
Ans:	of Goods Act, 1930? According to Section 24 of the Sales of Goods Act, 1930, in case of delivery of goods on approval basis, the property		B does not return the horse to A within stipulated time of 8 days. The
	in case of delivery of goods on approval basis, the property	<u> </u>	suit filed by A for the recovery of price from B is invalid and he cannot
	in goods passes from seller to the buyer:-		recover the price from B.
(i)	When the person to whom the goods are given either accepts them or	4	TOAT STOOT MAT.
	does an act which implies adopting the transaction.	×	ELFORETY
(ii)	When the person to whom the goods are given retains the goods without	Q18	A non-owner can convey better title to the bonafide purchaser of goods
	giving his approval or giving notice of rejection beyond the time fixed for		for value Discuss the cases when a person other than the owner can
	the return of goods and in case no time is fixed after the lapse of	>	transfer title in goods as per the provisions of Sales of Goods Act 1930?
	reasonable time.	MANS:	Subject to provision of the act and any other law for time being in force
	In the given case, seller has delivered 20 tables to the buyer on sale or		where goods are sold by person who is not the owner thereof and who
	return basis. Buyer received the tables without examining them. Out of		does not sell them under authority or with consent of owner , the buyer
	these 20 tables, he sold 5 tables to his customer. It implies that he has		acquires no better title to the goods than the seller had, unless the owner
	accepted 5 tables out of 20. When the buyer received the complaint of		of the goods is by his conduct precluded from denying the seller authority
	some defect in the tables, he wanted to return all the tables to the seller.		to sell.
	According to the provisions of law he is entitled to return only 15 tables	<u> </u>	The general rule regarding the transfer of title is seller cannot
	to the seller and not those 5 tables which he has already sold to his		transfer to buyer of goods a better title than he himself has.
	customer. These tables are already accepted by him so the buyer becomes	2.	If seller is not owner of goods then buyer will not become the owner this
	liable under thedoctrine of "Caveat Emptor".		rule is expressed in Latin Maxim "Nemodat quod non habet" which means
	<u> </u>		that no one can give what he has not got JUNE- 2019 / NOV-2020
	ICAI STUDY MAT.		



Q19	Mr. D sold some goods to Mr. E for 5, 00,000 on 15 days credit. Mr. D		examination of goods by the agent of Mr. H. Hence it can be easily
	delivered the goods. On due date Mr. E refused to pay for it. State the		concluded that the liability for damage suffered by the goods would fall
	position and rights of Mr. Das per The Sale of Goods Act, 1930.		on the buyer i.e. Mr. H and not Mr. G since the transfer of title of the
Ans:	When the seller is ready and willing to deliver the goods and requests the		goods had already taken place before the damage occurred.
	buyer to take delivery, and the buyer does not within a reasonable time	_	NOV- 2018
	after such a request take delivery of the goods, he is liable to the seller		1101- 2010
	for any loss occasioned by his neglect or refusal to take delivery and also	Q21	State the various essential elements involved in the sale of unascertained
	for a reasonable charge for the care and custody of the goods. Provided		goods and its appropriation as per the sale of Goods Act, 1930.
	that nothing in this section shall affect the rights of the seller where the	Ans:	
	neglect or refusal of the buyer to take delivery amounts to a repudiation	(a)	There is a contract for the sale of unascertained or future goods
	of the contract.	(b)	The goods should conform to the description and quality stated in contract.
	Thus, in the given case, Mr. D can recover damages from	(c)	The goods must be in a deliverable state.
	Mr. E and canrepudiate the contract as well.	(d)	The goods must be unconditionally appropriated to the contract either by
	MAY- 2018 ≤	\leq	delivery to the buyer or his agent or the carrier.
Q20	Mr. G sold some goods to Mr. H for certain price by issue of an invoice, 🚆	(e)	The appropriation must be made by:
	but payment in respect of the same was not received on that day. The ≶	Ŧ	(i) The seller with the assent of the buyer, or
	goods were packed and lying in the godown of Mr. G. The good were 💍	3	(ii)The buyer with the assent of the seller
	inspected by H's agent and were found to be in order. Later on,' dues of	(f)	The assent may be express or implied.
	the goods were settled in cash. Just after receiving cash, Mr. asked Mr. H	D (9)	The assent may be given either before or after appropriation.
	that goods should be taken away from his godown to enable him to $\overline{<}$	~	<u>g</u>
	store other good purchased by hi. After one day, since Mr. H did not take		MAY-2018 / NOV - 2019
	delivery of the goods, Mr. G kept the goods out of the godown in an open	Q22	Ms. R owns a Two-Wheeler which she handed over to her friend Ms. K on
	space. Due to rain, some goods were damaged.		sale or return basis. Even after a week Ms. K neither returned the vehicle
	Referring to the provisions of the sale of goods Act. 1930,		nor made payment for it. She instead pledged the vehicle to Mr. A to
	analyse the above situation and decide who will be held		obtain a loan. Ms. R now wants to claim the Two-Wheeler from Mr. A.
	responsible for the above damages. Will your answer the different. If the		Will she succeed?
	dues were not settled in case and still pending?	(i)	Examine with reference to the provisions of the sale of
Ans:	According to the facts of this case it stands pretty much clear to the		Goods Act. 1930, what recourse is available to Ms. R?
	judgment of an independent observer that the property in the goods sold	(ii)	Would your answer be different if it had been expressly provided that the
	by Mr. G had already passed to Mr. H after the payment of dues and the		vehicle would remain the property of Ms. R until the price has been paid?



Ans:	When the goods are delivered to the buyer on approval or on sale or return		contract was complete after the delivery of the fan and payment of price.
	basis or other similar terms the property there in passes to the buyer.	(i)	Discuss whether Mr. T is right in refusing to exchange as per provisions
(a)	When he signifies his approval or acceptance to the seller or does any		of Sale of Goods Act, 1930? JAN- 2021
	other actadopting the transaction.	(ii)	What is the remedy available to Mr. M?
(b)	If he does not signify his approval or acceptance to the seller but retains	ns:	Where there is a contract of sale of goods by description, there is an
	the goods on the expiration of such time, if no time has been fixed, then		implied condition that the goods shall correspond with the description.
	on the expiration of the reasonable time.		This rule is based on the principle that "if you contract to sell peas, you
(c)	He does something to the goods which is equivalent to accepting the goods.		cannot compel the buyer to take beans."
	But sometimes, it may be noted that where goods have been delivered		The buyer is not bound to accept and pay for the goods which are not in
	by a person on 'Sale or return' on the terms that the goods well to remain		accordance with the description of goods.
	the property of the sellers till they are paid for, the property therein does		Here in the given problem, Mr. M went to Mr. T's shop and asked for
	not pass to the buyer until the terms are complied with i.e. cash in paid for		exhaust fan and approved a particular brand and paid for it. The fan
	In the given case Mr. R Owns a two-wheeler which she handed over to		which was delivered at M's house was a table fan. So, he asked Mr. T to
	her friend MSK on sale or return basis. After a week MSK neither returned 🔘 🥞		exchange the same but Mr. T refused to do so.
	the vehicle nor made payment for it. She instead pledge the vehicle to ≥		Conclusion: Applying the above legal provision is the
	Mrs. A to obtain a loan.		given problem we can conclude as follows:
(i)	Thus, according to this case Mr. R has no right against Mr. A. He can	(1)	Mr. T is not right he can't refuse to exchange the fan as the goods are
	only recover the price of the two wheeler from Mr. K.		not according to description. Buyer has asked for exhaust fan and
(ii)	Yes, my answer will be different if it had been expressly provided that		seller has supplied table fan condition as to description is breached.
	the vehicle would remain the property of Mr. R until the price has been(2)	Remedy available to Mr. M- Mr. M can repudiate / rescind the contract
	paid then it says that at the time of pledge the ownership was not		i.e. he can return the table fan and ask for damages or both.
	transferred to Mr. K. Thus, the pledge was not valid and R can recover		
	from the two wheeler from A as well. NOV- 2020	24	Avyukt purchased 100 Kgs of wheat from Bhaskar at 30 per kg. Bhaskar
			says that wheat is in his warehouse in the custody of Kishore, the
Q.23	Mr. I was a retail trader of fans of various kinds. Mr. M came to his shop		warehouse keeper. Kishore confirmed Avyukt that he can take the
	and asked for an exhaust fan for kitchen. Mr. T showed him different		delivery of wheat from him and till then he is holding wheat on Avyukt's
	brands and Mr. M approved of a particular brand and paid for it. Fan		behalf. Before Avyukt picks the goods from warehouse, the whole wheat
	was delivered at Mr. M's house; at the time of opening the packet he		in the warehouse has flowed in flood. Now Avyukt wants his price on the
	found that it was a table fan. He informed Mr. T about the delivery of		contention that no delivery has been done by seller. Whether Avyukt is
	the wrong fan. Mr. T refused to exchange the same, saying that the		right with his views under the Sale of Goods Act, 1930.



Ans:	As per the provisions of the Sale of Goods Act, 1930 there are three modes					
	of delivery, i) Actual delivery, ii) Constructive delivery and iii) Symbolic					
	delivery. When delivery is affected without any change in the custody or					
	actual possession of the things, it is called constructive delivery or delivery					
	by acknowledgement. Constructive delivery takes place when a person in					
	possession of goods belonging to seller acknowledges to the buyer that					
	he is holding the goods on buyer's behalf.					
	On the basis of above provisions and facts, it is clear that					
	possession of the wheat has been transferred through					
	constructive delivery. Hence, Avyukt is not right. He cannot claim the price back.					
	JUN- 2023					
	3311- 2323					
Q25	Ayushman is the owner of a residential property situated at Indraprastha					
	Marg, New Delhi. He wants to sell this property and for this purpose he					
	appoints Ravi, a mercantile agent with a condition that Ravi will not sell					
	the house at a price not less than`5 crores. Ravi sells the house for ₹ 4>					
	crores to Mudit, who buys in good faith. Ravi misappropriated the money					
	received from Mudit. Ayushman files a suit against Mudit to recover his_					
	property. Decide with reasons, can Ayushman do so under the Sale of 📡					
	Goods Act, 1930?					
Ans:	As per the Proviso to Section 27 of the Sale of Goods Act, 1930, a sale					
	made by a mercantile agent of the goods would pass a good title to the					
	buyer in the following circumstances namely					
(a)	If he was in possession of the goods or documents with the					
	consent of the owner;					
(b)	If the sale was made by him when acting in the ordinary course of					
	business as a mercantile agent; and					
(c)	If the buyer had acted in good faith and has at the time of the contract					
	of sale, no notice of the fact that the seller had no authority to sell.					
	On the basis of above, it can be said that Ravi, the mercantile agent,					

sells property to Mudit who bought in good faith. Mudit obtained a good title of that residential property. Hence, Ayushman cannot recover his property from Mudit. Rather, Ayushman can recover his loss from Ravi.

JUN- 2023

Samar was in search of a second-hand car. For this purpose, he approached "Car Wala 007", a dealer in pre-owned cars. The sales manager of "Car Wala 007" showed him three cars which were standing in the parking lane just outside the office. Samar finalised red Wagon R car. After completing the documenting formalities and receiving the price of car, sales manager of "Car Wala 007" handed over the key of car to Samar. But when Samar was coming to parking area for picking the car, the electric poll fell on the car which badly damaged the car. Samar claimed that repair expenses of the car should be borne by "Car Wala 007" as car was not delivered to him. Referring to the provisions of the Sales of Goods Act 1930, state who will be liable to get the car repaired? According to the provisions of the Sale of Goods Act, 1930, there are three modes of delivery,

(i) Actual delivery,

(ii) Constructive delivery and

(iii) Symbolic delivery.

Symbolic delivery is a delivery of a thing in token of a transfer of something else, i.e., delivery of goods in the course of transit may be made by handing over documents of title to goods, like bill of lading or railway receipt or delivery orders or the key of a warehouse containing the goods is handed over to buyer.

In the instant case, Samar purchased a pre-owned car from "Car Wala 007" which was standing in the parking lane just outside of office. After completing the documenting formalities, he received the key of car from

Q26

sales manager of "Car Wala 007". But when he was coming to parking
area for picking the car, the car which badly damaged due to fall of the
electric poll on the car.
On the basis of above provisions and facts, it is clear that handing over
the key of car is the symbolic delivery of car. Hence, Samar being owner
of the car must bear the repair expenses of car.
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QI	State with reasons whether the following statement is Correct or Incorrect:	(d)	"The right of lion by an unpaid seller can be exercised
(a)	An unpaid seller who is in possession of goods sold, can exercise the		for the nonpayment of price ofgoods and other charges"
	right of lien even when the property has passed to the buyer	Ans:	Incorrect: The unpaid seller is given right of lien' over the
Ans:	The Statement is Correct: According to Sec. 47(2) of the Sale of Goods		goods, only in case of non-receipt of the price of goods and not for any
	Act, the seller may exercise his right of lien notwithstanding that he is		other charges.
	in possession of goods as agent or bailee of the buyer. Hence Unpaid		MAY- 1997
	Seller can exercise right of Lien even when the buyer is the owner of the	(e)	(i)In an auction sale, goods to be auctioned can be put for sale in lots.
	goods.	(0)	(ii) Right of lien' and right to stoppage the goods in transit
	NOV- 1999		may beexercised simultaneously by an unpaid seller.
		Ans:	That beexercised simulations by an unpara serier.
(b)	(i) A seller can never bid at an auction sale.	(i)	The statement is Correct: Section 64 of the Sale of Goods Act, 1932
	(ii) An unpaid seller can exercise the right of stoppage of goods in		provides that in the auction sale where goods are put up for sale in lots,
	transit if the buyer becomes insolvent.		each lot is prima facie deemed to be subject of a separate contract of sale.
Ans:		(ii)	The Statement is Incorrect: Right of lien is exercisable as long as the seller
(i)	The Statement is Incorrect: Right to bid may be reserved	4	is in possession of goods, whereas right of Stoppage in transit is
	expressely by or on behalf of seller and where such right is expreselly	<u>}</u>	exercisable as long as the goods are passing through channels of
	reserved , the seller or any person oh his behalf may bid at auction. $igspace$		communication for the purpose of reaching in the hands of the vendor.
(ii)	The statement is Correct: when the buyer of goods becomes insolvement	>	NOV- 1997
	the unpaid seller who has parted with possession of goods, he has a right		NOV- 1997
	of stopping them in transit. MAY- 1995	(f)	(i) After completion of the sale in an auction, the property in the goods
			and the risk of the loss caused in an accident to the auctioned property
			therein, is transferred to the bidder.
(c)	When goods are delivered to the buyer and he refuses to accept them, he		(ii) Where the goods are of perishable nature the unpaid
	is not bound to return the goods to the seller.		seller re-sellthe goods without any notice to the buyer.
Ans:	The statement is Correct: Section 43 of the Sale of Goods Act clearly	Ans:	
	provides that where goods are delivered to the buyer and he refuses to	(i)	The statement is Correct: Section 26 of the Sale of Goods Act, 1930
	accept them, having the right to do so, he is not bound to return them to		lays down that unless otherwise agreed, the goods remains at the seller's
	the seller, but it is sufficient the intimates to the seller that		risk until the property therein is transferred to the buyer. When property
	he refuses to accept them. NOV- 1996		therein is transferred to the buyer, the goods are at the buyer's risk
			whether delivery has been made or not. Therefore, the property in the



	goods and risk of loss thereof has been passed to the bidder and the	(j)	"A seller of goods shall be called an 'Unpaid seller' even when a part
	buyer has to bear the loss.		payment of theprice of goods sold has been made to him by a buyer"
(ii)	The Statement is Incorrect: According to Section 53(2) and (3) of the	Ans:	Correct: According to Section 45 (1) of Sale of Goods Act, 1930 a seller of
	sale of GoodsAct, 1930, a unpaid seller should give a notice to the buyer		goods is deemed to be an unpaid seller when the whole of the price has
	of hisIntention to re-sell the goods. However, in respect of perishable		not been paid. Hence to seller shall be called an unpaid seller even when
	goods no such noticeappears to be compulsory. MAY- 1998		a part payment of the price of goods has been made.
-	W/// 2550		MAY- 2002
(9)	"In an auction sale, seller or any other person on his behalf may bid at		
-	the auction"	(k)	"In an auction sale, seller or any other person on his behalf may bid at
Ans:	<u>Correct</u> : A bid can be made provided such a right is expressly reserved by		the auction, if such a right is expressly reserved"
	the seller. According to Section 64(3) of the Sale Of Goods Act, 1930, in	Ans:	Correct: According to Section 4(3) of the Sale Of Goods Act, 1930 in an
	the case of a sale by auction, a right of bid may be reserved expressly	E	Agreement to sell the transfer of property in the goods is to take place
	by or on behalf of the seller and, where such right is expressly so		at a future time or subject to some conditions thereafter to be fulfilled.
	reserved, but not otherwise, the seller or any one person on his behalf \leq	\leq	Hence the property in the goods does not pass to the buyer immediately.
	may, subject to the provisions herein after contained bid at the auction $ abla$	5	
-		Ţ	NOV- 2002
	NOV- 1998	5	
		Q2	When can an unpaid seller of goods exercise his right of lien over the
(h)	"Right of lien is linked with the possession of goods"	>	goods under the Sale of Goods Act? Can he exercise his right of lien
Ans:	<u>Correct:</u> The unpaid seller has a lien on the goods, for the price, while he	<	even if the property in goods has passed to the buyer? When such a
	is in possession of goods, until the payment or the tender of the price. A		right is terminated? Can he exercise his right even after he has obtained
	lien is a right to retain possession of goods, until payment of the price.		a decree for the price of goods from the court?
		Ans:	A lien is a right to retain possession of goods until the
	MAY- 2000		payment of the price. It is available to the unpaid seller of
			the goods who is in possession of them where-
(i)	"In an auction sale, a bid once made connote be withdrawn by the bidder"	(i)	The goods have been sold without any stipulation as to credit;
Ans:	<u>Incorrect:</u> The bidder can withdraw his bid any time before the fall of	(ii)	The goods have been sold on credit, but the term of credit has expired;
	the hammer i.e. Completion of sale.	(iii)	The buyer becomes insolvent.
	NOV- 2000		The unpaid seller can exercise 'his right of lien even if the property in
			goods has passed on to the buyer.



	He can exercise his right even if he is in possession of the goods as agent	4.	Repudiation of contract before due date (Section 60):Where either party
	or bailee for the buyer.		to a contract of sale repudiates the contract before the date ofdelivery,
	Termination of lien: An unpaid seller losses his right of lien thereon-		the other may either treat the contract as subsisting and wait till the
(i)	When he delivers the goods to a carrier or other bailee for the purpose of		date of delivery, or he may treat the contract as rescinded and sue for
	transmission to the buyer without reserving the right of disposal of the		damages for the breach.
	goods;	5,	Suit for interest: Nothing in this Act shall affect the right of the seller or
(ii)	When the buyer or his agent lawfully obtains possession of the goods;		the buyer to recover interest or special damages, in any case where by
	Yes, he can exercise his right of lien even after he has obtained a decree		law interest or special damages may be recoverable, or to recover the
	for the price of goods from the court.		money paid where the consideration for the payment of it has failed.
	ICAI STUDY MAT.		In the absence of a contract to the contrary, the court may award
			interest at such rate as it thinks fit on the amount of the price to
	>	≻	the buyer in a suit by him for the refund of the price in a case of
Q3	What are the rights of buyer against the seller, if the seller commits a \P	9	a breach of the contract on the part of the seller from the date on
	breach of contract under the Sale of Goods Act, 1930?	<	which the payment was made.
Ans:	If the seller commits a breach of contract, the buyer gets	**	KIP KIP
	the following rights against the seller:	2 Q4	Mr. D sold some goods to Mr. E for Rs. 5, 00,000 on 15 days
1.	Damages for non-delivery [Section 57]:Where the seller wrongfully	<u> </u>	Mr. D sold some goods to Mr. E for Rs. S, 00,000 on 15 days credit. Mr. D delivered the goods. On due date, Mr. E refused
	neglects or refuses to deliver the goods to the buyer, the buyer may sue	>	to pay for it. State the position and rights of Mr. D as per
	the seller for damages for non-delivery.		the Sale of Goods Act, 1930.
2.	Suit for specific performance (Section 58):Where the seller commits of	F	Position of Mr. D: Mr. D sold some goods to Mr. E for Rs. 5, 00,000 on 15
	breach of the contract of sale, the buyer can appeal to the court for	M Ans:	dayscredit.Mr. D delivered the goods. On due date Mr. E refused to pay
	specific performance. The court can order for specific performance only		for it. So, Mr. D is an unpaid seller as according to section 45(1) of the
	when the goods are ascertained or specific.		Sale of Goods Act, 1930, the seller of goods is deemed to be an 'Unpaid
3,	Suit for breach of warranty (section 59): Where there is breach of		Seller' when the whole of the price has not been paid or tendered and
	warranty on the part of the seller, or where the buyer elects to treat		the seller had an immediate right of action for the price.
	breach of condition as breach of warranty, the buyer is not entitled to		Rights of Mr. D: As the goods have parted away from Mr. D, therefore,
	reject the goods only on the basis of such breach of warranty. But he		Mr. D cannotexercise the right against the goods, he can only exercise
	may -		his rights against the buyer i.e. Mr. E which are as under:
	(i)set up against the seller the breach of warranty in diminution or	(i)	Suit for price (Section 55): In the mentioned contract of sale, the price
	extinction of the price or		is payable after 15 days and Mr. E refuses to pay such price, Mr. D may
	(ii) sue the seller for damages for breach of warranty.		sue Mr. E for the price.



(ii)	Suit for damages for non-acceptance (Section 56): Mr. D may sue Mr.E		Suraj is also entitled to:-
City	For damages for non-acceptance if Mr. E wrongfully neglects or refuses to		(1) Interest on the remaining amount
	accept and pay for the goods. As regards measure of damages, Section		(2) Interest during the pendency of the suit.
	73 of the Indian Contract Act, 1872 applies.		(3) Costs of the proceedings.
(iii)	Suit for interest [Section 61]: If there is no specific agreement between		
	Mr. D and Mr. E as to interest on the price of the goods from the date on	Q 6	Ram sells 200 bales of cloth to Shyam and sends 100 bales by lorry and
	which payment becomes due, Mr. D may charge interest on the price		100 bales by Railway. Shyam receives delivery of 100 bales sent by lorry,
	when it becomes due from such day as he may notify to Mr. E.	-	but before he receives the delivery of the bales sent by railway, he
		-	becomes bankrupt. Can Ram exercise right of stopping the goods in
	ICAI STUDY MAT.		transit?
		Ans:	Right of stoppage of goods in transit: The Case Discussed is based on
Q5	Suraj sold his car to Sohan for Rs. 75,000. After inspection and satisfaction, ψ_{a}	K=	section 50 of the Sale of Goods Act, 1930 dealing with the right of
	Sohan paidRs. 25,000 and took possession of the car and promised	*	stoppage of the Goods in transit available to an unpaid seller. The
	to pay the remaining amount within a month. Later on, Sohan ≤	\leq	section states that the right is exercisable by the seller only if the
	refuses to give the remaining amount on the ground that the car $\overline{\mathbb{S}}$	-	following conditions are fulfilled:-
	was not in a good condition. Advise Suraj as to what remedy is	E (i)	The seller must be unpaid
	available to him against Sohan.	(ii)	He must have parted with the possession of goods
Ans:	As per the section 55 of the Sale of Goods Act, 1930	(iii)	The goods must be in transit ICAI STUDY MAT.
	an unpaid seller has a right to institute a suit for price	D(iv)	The buyer must have become insolvent
	against the buyer personally. The said Section lays down that	(v)	The right is subject to the provisions of the Act.
(i)	Where under a contract of sale the property in the goods has passed to		Applying the provisions to the given case, Ram being still unpaid, can
	buyer and the buyer wrongfully neglects or refuses to pay for the goods,		stop the 100bales of cloth sent by railway as these goods are still in
	the seller may sue him for the price of the goods [Section 55(1)].	-	transit.
(ii)	Where under a contract of sale the price is payable on a certain day		
	irrespective of delivery and the buyer wrongfully neglects or refuses to	Q7	Rachit arranges an auction to sale an antic wall clock. Megha, being one
	pay such price, the seller may sue him for the price. It makes no	-	of thebidders, gives highest bid. For announcing the completion of sale,
	difference even if the property in the goods has not passed and the		the auctioneer fall the hammer on table but suddenly hammer brakes
	goods have not been appropriated to the contract [Section 55(2)].		and damages the watch. Megha wants to avoid the contract. Can she do
	This problem is based on above provisions. Hence, Suraj will succeed		so under the provisions of the Sale of Goods Act, 1930?
	against Sohan for recovery of the remaining amount. Apart from this,	Ans:	By virtue of provisions of Section 64 of the Sale of Goods Act, 1930, in



its completion by the fall of the hammer or in some other customery manner. In the instant case, Megha gives the highest bid in the auction for the sale of antic wall clock arranged by Rachit. Dihile announcing the completion of sale by fall of hammer on the table, hammer brakes and damages the clock. On the basis of above provisions, it can be concluded that the sale by auction connot be completed until hammer comes in its normal position after falling on table. Hence, in the given problem, sale is not completed. Megha will not be liable for loss and can avoid the contract. RTP RTP 88 Suraj sold his car to Sahan for Rs. 75,000. After inspection and sotisfaction, Sohan paid Rs. 25,000 and took possession of the car and promised to pay the remaining amount within a month. Later on, Sohan refuses to give the remaining amount within a month. Later on, Sohan not in a good condition. Advice Suraj as to what remedy is available to him against Sohan. Ans: As per the section 55 of the Sale of Goods Act, 1930 an unpaid seller has a right to institute a suit for price against the buyer personally. The said Section lays down that: (i) Where under a contract of sale the property in the goods has not passed and the agods shave hear a contract of sale the price it pageds and the goods. the seller may sue him for the price. It makes no difference even if the property in the goods has not passed and the agods shave not been appropriated to the contract. This problem is based on above provisions. Hence, Suraj will succeed				
In the instant case, Megha gives the highest bid in the auction for the sale of antic wall clock arranged by Rachit. While announcing the completion of sale by fall of hammer on the table, hammer brakes and damages the clock. On the basis of above provisions, it can be concluded that the sale by auction cannot be completed until hammer comes in its normal position after falling on table. Hence, in the given problem, sale is not completed. Megha will not be liable for loss and can avoid the contract. RTP RTP RTP RTP RTP RTP RTP RT		case of auction sale, the sale is complete when the auctioneer announces		against Sohan for recovery of the remaining amount. Apart from this,
In the instant case, Megha gives the highest bid in the auction for the sale of antic woll clock arranged by Rachit. While announcing the completion of sale by fall of hammer on the table, hammer brakes and damages the clock. On the basis of above provisions, it can be concluded that the sale by auction cannot be completed until hammer comes in its normal position after falling on table. Hence, in the given problem, sale is not completed. Megha will not be liable for loss and can avoid the contract. RTP RTP 88 Suraj sold his car to Sohan for Rs. 75,000. After inspection and promised to pay the remaining amount within a month. Later on, Sohan refuses to give the remaining amount on the ground that the car was not in a good condition. Advice Suraj as to what remedy is available to him against Sohan. Ans: As per the section SS of the Sale of Goods Act, 1930 an unpaid seller has a right to institute a suit for price against the buyer personally. The said Section lays down that: (2) Interest during the pendency of the suit. (3) Costs of the proceedings. PA agrees to sell certain goods to B on a certain date on 10 days credit. The periodof 10 days expired and goods were still in the possession of A. Provided the goods becomes insolvent. B has also not paid the price of the goods. B has also not paid the price of the goods to exercise his right of lien on the goods. Be comes insolvent and he do so under the Sale of Goods Act, 1930? Ans: Lien is the right of a person to retain possession of the goods for the price of the unpaid seller has also right of lien over the goods for the price of the unpaid seller has also right of lien over the goods for the price of the unpaid seller has a los right of lien over the goods for the price of the unpaid seller has also right of lien over the goods hat, 1930 provides that the unpaid seller has also right of lien in thefollowing cases: In the given is the prosession of the goods is extill for price of the unpaid seller has a right to institute a suit for price ag		its completion by the fall of the hammer or in some other customary		2027 (SORE)
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irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price. It makes no difference even if the property in the goods has not passed and the goods have not been appropriated to the contract. buyer has become insolvent. In this case, A is entitled to exercise the right of lien on the goods because the buyer has become insolvent and the term of credit has expired without any payment of price by the buyer. ICAI STUDY MAT.	(ii)	Where under a contract of sale the price is payable on a certain day		
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TONE STOUP MAT.				the term of credit has expired without any payment of price by the buyer.
		goods have not been appropriated to the contract.		ICAI STUDY MAT.
		This problem is based on above provisions. Hence, Suraj will succeed		



Q10	Who in an unpaid seller'? Discuss briefly his rights under the Sale of	<u> </u>	towever, the unpaid seller loses his right of lien under the
	Goods Act.	<u>f</u>	following circumstances:
Ans:	Meaning of an Unpaid Seller The seller of goods is	((i)When he delivers the goods to a carrier or other bailee for the
	deemed to be an 'Unpaid Seller' when:		ourpose oftransmission to the buyer without reserving the right of
(a)	The whole of the price has not been paid or tendered and the seller had	a	disposal of the goods.
	an immediate right of action for the price	((ii)Where the buyer or his agent lawfully obtains possession of the
(b)	A bill of exchange or other negotiable instrument has been received as	9	poods.
	conditional payment and the condition on which it was received has not	((iii)Where seller has waived the right of lion.
	been fulfilled by reason of dishonor of instrument or otherwise.	((iv)By Estoppel i.e., where the seller so conducts himself that he leads
		t	hird parties to believe that the lion does not exist
	Rights of an Unpaid Seller:	2. <u>R</u>	Right Of Stoppage in Transit: When the buyer of goods becomes insolvent
(i)	Against Goods: Property in goods has passed to the buyer lien, stoppage		the unpaid seller who has parted with the possession of goods has the
	in transit resale. Property in goods has not passed to the buyer withholding	ri	ight of dropping them in transit.
	delivery, lien , stoppage in transit, resale.	11	n other words, seller may resume possession of goods as long as they
(ii)	Against the Buyer:	a	are in course of transit and may retain them until paid or tendered price
	Suit for price, MTP / NOV- 1994	0	of the goods.
	Suit for damages, MTF / NOV- 1994	3. <u>R</u>	Right of re-sale:In the absence of this right ,the unpaid seller other
	Suit for interest.	r	ights against the goods , would not have been much use because these
		r	ights only entitled the unpaid seller to retain the goods until paid by the
	Rights of an unpaid seller against the goods: The unpaid seller has the	b	puyer.
	following rights against the goods		
	Right Of Lien (Sec. 47): He has a right of lien on the goods for the price	QII A	A, who is an agent of a buyer, had obtained the goods from the Railway
	while he is in possession, until the payment or tender of the price of	A	Authorities and loaded the goods on his truck. In the meantime, the
	such goods.	R	RailwayAuthorities received a notice from B, the seller for stopping the
	This right of lion can be exercised by him in the following cases	9	goods in transit as the buyer has become insolvent. Referring to the
	only:	p	provisions of Sale of Goods Act, 1930, decide whether the Railway
(a)	Where gods have been sold without any stipulation of credit	A	Authorities can stop the goods in transit as instructed by the seller?
(b)		Ans. T	The right of stoppage of goods in transit means the right of
(c)	Where the buyer becomes insolvent.	s	topping the goods after the seller has parted with the goods.
	<u> </u>	7	Thereafter the seller regains the possession of the goods.



In significance the electrised by an ampliance select where the solis in the Siles in the Sales of Boods because the goods are delivery order of the purpose of taking the goods to the buyer. This right is available to the unpaid seller only when the buyer has become insolvent. The conditions necessary for exercising this right are: 1. The buyer has not paid the total price to the seller 2. The seller has not paid the total price to the seller 3. The buyer has become insolvent. 4. The goods have not reached the buyer, they are in the course of transit. 4. The goods have not reached the buyer, they are in the course of transit. 4. In the given case A, who is an agent of the buyer, they are in the course of transit. 4. In the given case A, who is an agent of the buyer, they are in the course of transit. 5. In the goods from the railway authorities received a notice from the seller B to stop the goods as the buyer had become insolvent. 6. According to the Sales of Goods Act, 1930, the railway authorities 6. Cannot stop the goods on his truck is the agent of the buyer. That means railway authorities have given the possession of the goods 6. The buyer. The transit comes to an end when the buyer or his agent takes the possession of the goods. 7. The seller has a delivery order of the buyer or his agent takes the possession of the goods. 8. The transit comes to an end when the buyer order to K. K sold the goods to R order the price that the notice of resole has to R onthe basis of the delivery order to K. K sold the goods to R order the price that the notice of resole has a path or the possession of the goods. 8. The receipt of such notice, the buyer falls within a reasonable time to pay or tender the price that the notice of resole has a path or the payer by the seller on the original buyer. 8. The right of lien and stoppage in transit are meant to protect the seller. 9. The se will not be affected even when the buyer has made to transaction the buyer has made the transaction of the sold the machine t		This right can be exercised by an unpaid seller when he has lost his right		When the buyer has made the transaction with the consent of the seller
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Use I sold a machine to K. K gave a cheque for the payment. The cheque was dishonored. But I handed over a delivery order to K. K sold the goods to R onthe basis of the delivery order. I wanted to exercise his right of lien on the goods. Can he do so under the provision of the Sale of Goods Act, 1930? Ans: The right of lien and stoppage in transit are meant to protect the seller. These will not be affected even when the buyer has made a transaction of his own goods which were with the seller under lien. But under two transit resells the goods: The buyer acquires the good title thereofas against the original buyer, despite the fact that the notice of resale has not been given by the seller to the original buyer. 4. A re-sale by the seller where a right of re-sale is expressly reserved in a contractof sale: Sometimes, it is expressly agreed between the seller and buyer that in case buyer makes default in payment of the price, the seller will resell the goods to some other person. MAY- 1996	-	ICAI STUDY MAT.		
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Ans: The right of lien and stoppage in transit are meant to protect the seller. These will not be affected even when the buyer has made a transaction of his own goods which were with the seller under lien. But under two and buyer that in case buyer makes default in payment of the price, the seller will resell the goods to some other person. MAY- 1996			<u> </u>	
These will not be affected even when the buyer has made a transaction of his own goods which were with the seller under lien. But under two the seller will resell the goods to some other person. MAY- 1996		the sale of goods Act, 1750:		
of his own goods which were with the seller under lien. But under two	Ans:			
MAY 1770				the seller will resell the goods to some other person.
exceptional cases these rights of the seller are affected:-				MAY- 1996
		exceptional cases these rights of the seller are affected:-		



Q14	Discuss the remedies available to seller against the buyer in case of	Q16	State the provisions given under Sale Of Goods Act relating to "Auction
	breach of contract of sale.		Sale".
Ans:	breach of contract of sale. Remedies available to the seller against the buyer: Following A	ins:	The provisions given under Sale Of Goods Act relating to Auction Sale:
		(a)	When goods are sold in lots: When goods are put up for sale in lots, each
	of the breach of contract of sale:		lot is prima facie deemed tobe subject matter of a separate contract of
(1)	Suit for price: Where under contract of sale, the property in goods has		sale.
	passed to the buyer and the buyer wrongfully refuses or neglects to pay ((b)	Completion of the Contract of Sale:The sale is complete when the
	for goods, according to terms of contract the seller may sue him for the		auctioneer announces its completion by the fall of hammer or in any
	price of the goods.		other customary manner and until such announcement is made, any
(ii)	<u>Damages for non-acceptance (Section 56)</u> : Where the buyer wrongfully		bidder may retract from his bid.
	neglects or refuses to accept and pay for the goods, the seller may sue ((c)	Right to Bid May Be Reserved : Right to bid may be reserved expressly by
	him for damages for non-acceptance.		or on behalf of the seller and where such a right is expressly reserved,
	MAY- 1998		the seller or any one person on his behalf may bid at the auction.
	<u> </u>	(d)	Where the sale is not notified by the seller :Where the sale is not notified
Q15	What do you Mean by Stoppage in transit?		to be subject to the right of the seller to bid on behalf of the seller it
Ans:	Right Of Stoppage in Transit: When the buyer of goods becomes insolvent		shall not be lawful for the seller to bid himself or to employ any person
	the unpaid seller who has parted with the possession of goods has the 🔀		to bid at such sale, or for the auctioneer knowingly to take any bid from
	right of dropping them in transit.		the seller and any sale contravening the rule may be treated as
	In other words, seller may resume possession of goods as		fraudulent by the buyer.
	long as they are in course of transit and may retain them 🔲 🔀 <	(e)	Reserved Price :The sale may be notified to be subject to
	until paid or tendered price of the goods.		a reserve or upset price. Upset Price is the Minimum Price at
			which seller is willing to sell
	Example : "A" of Mumbai sold certain goods to "B" of Delhi. He delivered	(f)	Pretended Bidding: If the seller makes use of pretended bidding to raise
	the goods to "C",for purpose of transmission of these goods to "B".		the price, the sale if voidable at the option of the buyer.
	Before the goods could reach B , "B" becomes insolvent . "A" can stop		
	the goods in transit by giving a notice it to "C".		May -2000/ Nov-2002/ Jan-2021
	MTP / NOV- 1999		
	<u> </u>		I.

AB sold 500 bags of wheat to CD. Each bag contains 50 Kilograms of Q17 wheat. AB sent 450 bags by road transport and CD himself took remaining 50 bags. Before CD receives delivery of 450 bags sent by road transport, he becomes bankrupt. AB being still unpaid, stops the bags in transit. The official receiver, on CD's insolvency claims the bags. Decide the case with reference to the provisions of the Sale of Goods Act, 1930. Right of stoppage in transit (Section 50 of the Sale of Goods Act, 1930): Ans: Subject to the provisions of this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transit, that is to say, he may resume possession of the goods as long as they are in the course of transit and may retain them until paid or tendered price of the goods. When the unpaid seller has parted with the goods to a carrier and the buyer has become insolvent, he can exercise this right of asking the carrier to return the goods back, or not to deliver the goods to the buyer. In the instant case, CD, the buyer becomes insolvent, and 450 bags are in transit. AB, the seller, can stop the goods in transit by giving a notice of it to CD. The official receiver, on CD's insolvency cannot claim the bags. DEC- 2021



Basis	Partnership Partnership	Joint Stock Company
Legal status	A firm is not legal entity i.e. it has no legal personality distinct from	A company is a separate legal entity distinct from
	the personalities of its constituent members.	its members (Salomonv. Salomon).
Agency	In a firm, every partner is an agent of the other partners as well as	In a company, a member is not an agent of the other members or o
	of the firm.	the company, his actions do notbind either.
Distribution ofprofits	The profits of the firm must be distributed among the partners	There is no such compulsion to distribute its profits among its
	according to the terms of the partnership deed.	members. Some portion of the profits, but generally not the entire
		profit, become distributable among the shareholders only when
		dividends are declared.
Extent ofliability	In a partnership, the liability of the partners is unlimited. This	In a company limited by shares, theliability of a shareholder is
	meansthat each partner is liable for debts of a firm incurred in the	limited to the amount, if any, unpaid on his shares, but in the case
	course of the business of the firm and these debts can be recovered	of a guarantee company, the liability is limited to the amount for
	from his private property, if the joint estate is insufficient to meet	which he has agreed to be liable. However, there may be companies
	them wholly.	where the liability of members is unlimited.
Property	The firm's property is that which is the "joint estate" of all the	In a company, its property is separate from that of its members
	partnersas distinguished from the separate estate of any of them	who can receive it back only in the form of dividends or refund of
	and it does not belong to a body distinct in lawfrom its members.	capital.
Transfer of shares	A share in a partnership cannot be transferred without the consent	In a company a shareholder may transfer his shares, subject to the
	of all the partners.	provisions contained in its Articles.
		In the case of public limited companies whose shares are quoted on
		the stock exchange, the transfer is usually unrestricted.
 Management	In the absence of an express agreement to the contrary, all the	Members of a company are not entitled to take part in the
	partners are entitled to participate in the management.	management unless they are appointed as directors, in which case

		they may participate.Members, however, enjoy the right of
		attending general meeting and voting where they can decide certain
		questions such as election of directors, appointment of auditors, etc.
Registration	Registration is not compulsory inthe case of partnership.	A company cannot come into existence unless it is registered under
		the Companies Act, 2013.
Winding up	A partnership firm can be dissolved at any time if all the partners	A company, being a legal person is either wind up by the National
	agree.	Company Law Tribunal or its name is struck of by the Registrar of
		Companies.
Number of	According to section 464 of the Companies Act, 2013, the number of	A private company may have as many as 200 members but not less
membership	partners in any association shall not exceed 100.	than two and a public company may have any number of members
·	However, the Rule given under the Companies (Miscellaneous) Rules,	but not less than seven. A privateCompany can also be formed by
	2014 restrict the present limit to 50.	one person known as one person Company.
Duration ofexistence	Unless there is a contract to thecontrary, death, retirement or	A company enjoys a perpetual succession.
	insolvency of a partner results in the dissolution of the firm.	
Basis	<u>Difference between Partnership</u> Partnership	and Club Club □ 0.88
Definition	It is an association of persons formed for earning profits from a	A club is an association of personsformed with the object not of
	business carried on by all or any one of them acting for all.	earning profit, but of promotingsome beneficial purposes such as
		improvement of health or providing recreation for the members, etc.
 Relationship	Persons forming a partnership are called partners and a partner is	Persons forming a club are called members. A member of a club
•	anagent for other partners.	is not the agent of other members.
Interest in the property	Partner has interest in the property of the firm.	A member of a club has no interestin the property of the club.



Basis	Partnership Partnership	Hindu Undivided Family
Mode of creation	Partnership is created necessarily by an agreement.	The right in the joint family is created by status
		means its creation by birth in the family.
Death of a member	Death of a partner ordinarily leads to the dissolution of partnership.	The death of a member in the Hindu undivided family does not give
		rise to dissolution of the family business.
Management	All the partners are equally entitled to take part in the partnership	The right of management of joint family business generally vests in
	business.	the Karta, the governing male member or female member of the family.
Authority to bind	Every partner can, by his act, bindthe firm.	The Karta or the manager, has the authority to contract for the
-		familybusiness and the other members inthe family.
 Liability	In a partnership, the liability of apartner is unlimited.	In a Hindu undivided family, only the liability of the Karta is
		unlimited, and the other coparcener are liable only to the extent of
		their share in the profits of the family business.
Calling for accounts	A partner can bring a suit againstthe firm for accounts, provided he	On the separation of the joint family, a member is not entitled to
onclosure	also seeks the dissolution of the firm.	ask for account of the family business.
Governing Law	A partnership is governed by theIndian Partnership Act, 1932.	A Joint Hindu Family business isgoverned by the Hindu Law.
Minor₹s capacity	In a partnership, a minor cannot become a partner, though he canbe	In Hindu undivided family business,a minor becomes a member of
	admitted to the benefits ofpartnership, only with the consent of	the ancestral business by the incidence of birth. He does not have to
	all the partners.	wait for attaining majority.
Continuity	A firm subject to a contract between the partners gets dissolved by	A Joint Hindu family has the continuity till it is divided. The status
	death or insolvency of a partner.	of Joint Hindu family is not thereby affected by the death of a member.



NumberofMembers	In case of Partnership number ofmembers should not exceed 50.	Members of HUF who carry on a business may be unlimited in number.
Share in the	In a partnership, each partner hasa defined share by virtue of an	In a HUF, no coparceners has adefinite share. His interest is a
business	agreement between the partners.	fluctuating one. It is capable of being enlarged by deaths in the
		family diminished by births in the family.
	<u>Difference between Partnership and</u>	<u>Co-ownership</u>
Basis	Partnership Partnership	Co-ownership 🗆 🗀 🗀 🗀 🗀 🗀 🗀 🗀 🗀 🗀 🗀 🗀 🗀 🗀
Formation	Partnership always arises out of acontract, express or implied.	Co-ownership may arise either from agreement or by the operation
		of law, such as by inheritance.
Implied agency	A partner is the agent of the otherpartners.	A co-owner is not the agent ofother co-owners.
Nature ofinterest	There is community of interest which means that profits and losses	Co-ownership does not necessarily involve sharing of profits and losses
	must have to be shared.	
Transfer ofinterest	A share in the partnership is transferred only by the consent of	A co - owner may transfer his interest or rights in the property
	other partners.	without the consent of other co- owners.
	Difference between Partnership an	日本版画 は Accordation
Basis	Partnership	Association Decision
Meaning	Partnership means and involves setting up relation of agency	Association evolves out of social cause and there is no necessarily
	between two or more persons whohave entered into a business for	motive to earn and share profits. The intention is not to enter in a
	gains, with the intention to share the profits of such a business.	business for gains.
 Examples	Partnership to run a business and earn profit thereon.	Members of charitable society or religious association or an
		improvement scheme or building corporation or a mutual insurance
		society or a trade protection association.



		-	
QI.	Ms. Lucy while drafting partnership deed taken care of few important		Provisions for expulsion of a partner in case of gross breach of duty
	points. What are those points? Also, give list of information to be		or fraud.
	included in partnership deed?		Note: Ms. Lucy may add or delete any provision according to the needs
ANS:	Ms. Lucy while drafting partnership deed must take		of the partnership firm. ICAI STUDY MAT.
	care of following important points:	- <u></u>	ICAI STODY MAT.
	• No particular formalities are required for an agreement of partnership.		•
	Partnership deed may be in writing or formed verbally. The document	Q2.	What is the conclusive evidence of partnership? State the circumstances
	in writing containing the various terms and conditions as to the		when partnership is not considered between two or more parties.
	relationship of the partners to each other is called the ₹partnership deed₹.	ANS:	Conclusive evidence of partnership: Existence of Mutual Agency which is
	Partnership deed should be drafted with care and be stamped	<u> </u>	the cardinal principle of partnership law is very much helpful in reaching
	according to the provisions of the Stamp Act, 1899.	-	a conclusion with respect to determination of existence of partnership.
	If partnership comprises immovable property, the instrument of	-	Each partner carrying on the business is the principal as well as an agent
	partnership must be in writing, stamped and registered under the		of other partners. So, the act of one partner done on behalf of firm, binds
	Registration Act.		all the partners. If the element of mutual agency relationship exists between
	List of information included in Partnership Deed while drafting		the parties constituting a group formed with a view to earn profits by
	Partnership Deed by Ms. Lucy:	-	running a business, a partnership may be deemed to exist.
		-	Circumstances when partnership is not considered between two or more
	Name of the partnership firm.		parties: Various judicial pronouncements have laid to the following factors
	Names of all the partners.	-	leading to no partnership between the parties:
	 Nature and place of the business of the firm. 	(j)_	Parties have not retained any record of terms and conditions
	Date of commencement of partnership.		of partnership.
	Duration of the partnership firm.	(ii)	Partnership business has maintained no accounts of its own, which
	Capital contribution of each partner.	-	would be open to inspection by both parties
	<u> </u>	- <u>(iii)</u>	No account of the partnership was opened with any bank
	Profit Sharing ratio of the partners.	(iv)	No written intimation was conveyed to the Deputy Director of Procurement
	Admission and Retirement of a partner.		with respect to the newly created partnership.
	Rates of interest on Capital, Drawings and loans.		MTP / MAY-2018
	 Provisions for settlement of accounts in the case of dissolution of 		MTF / MAY-2018
	the firm.	-	
	 Provisions for Salaries or commissions, payable to the partners, if any. 	-	
		-	



Q3.	"Sharing in the profits is not conclusive evidence in the creation of	Q4.	What is Particular Partnership as per Indian Partnership Act, 1932?
	partnership". Comment.	ANS:	Particular partnership: A partnership may be organized for the prosecution
ANS:	"Sharing in the profits is not conclusive evidence		of a single adventure as well as for the conduct of a continuous business.
	in the creation of partnership" .		Where a person becomes a partner with another person in any particular
	Sharing of profit is an essential element to constitute a partnership. But		adventure or undertaking, the partnership is called 'particular partnership".
	it is only a prima facie evidence and not conclusive evidence, in that		A partnership, constituted for a single adventure or undertaking is, subject
	regard. The sharing of profits or of gross returns accruing from property		to any agreement, dissolved by the completion of the adventure or
	by persons holding joint or common interest in the property would not by		undertaking. JAN - 2021 WERE -
	itself make such persons partners.		JAIN - 2021
	Although the right to participate in profits is a strong test of partnership,		
	and there may be cases where, upon a simple participation in profits,	Q5.	Define partnership and name the essential elements for the existence of
	there is a partnership, yet whether the relation does or does not exist		a partnership as per the Indian Partnership Act, 1932. Explain any two
	must depend upon the whole contract between the parties. Where there		such elements in detail.
	is an express agreement between partners to share the profit of a business	ANS:	Definition of Partnership: Partnership is the relation between persons
	and the business is being carried on by all or any of them acting for all,		who have agreed to share the profits of a business carried on by all or
	there will be no difficulty in the light of provisions of Section 4 of the		any of them acting for all. (Section 4 of the Indian Partnership Act, 1932)
	Indian Partnership Act, 1932, in determining the existence or otherwise		The definition of the partnership contains the following five elements
	of partnership. But the task becomes difficult when either there is no		which must co -exist before a partnership can come into existence:
	specific agreement or the agreement is such as does not specifically	1.	Association of two or more persons
	speak of partnership.	2.	Agreement
	In such a case for testing the existence or otherwise of partnership	3.	Business MTP
	relation, Section 6 has to be referred. According to Section 6, regard	4.	Agreement to share Profits
	must be had to the real relation between the parties as shown by all	5,	Business carried on by all or any of them acting for all
	relevant facts taken together. The rule is easily stated and is clear, but		
	its application is difficult. Cumulative effect of all relevant facts such as		ELEMENTS OF PARTNERSHIP The definition of the partnership contains
	written or verbal agreement, real intention and conduct of the parties,		the following five elements which must co-exist before a partnership
	other surrounding circumstances etc., are to be considered while deciding		can come into existence:
	the relationship between the parties and ascertaining the existence of	1.	Association of two or more persons: Partnership is an association of 2 or
	partnership.		more persons. Again, only persons recognized by law can enter into an
	Hence, the statement is true / correct that mere MTP / NOV- 1995		agreement of partnership. Therefore, a firm, since it is not a person
	sharing in the profits is not conclusive evidence.		recognized in the eyes of law cannot be a partner. Again, a minor cannot



	be a partner in a firm, but with the consent of all the partners, may be		Law. In other words, there should be a binding contract of mutual
	admitted to the benefits of partnership. The Partnership Act is silent		agency between the partners. An act of one partner in the course of the
	about the maximum number of partners but Section 464 of the Companies		business of the firm is in fact an act of all partners. Each partner
	Act, 2013 read with the relevant Rules has now put a limit of 50 partners		carrying on the business is the principal as well as the agent for all the
	in any association / partnership firm.		other partners. He is an agent in so far as he can bind the other
2.	Agreement: It may be observed that partnership must be the result of		partners by his acts and he is a principal to the extent that he is bound
	an agreement between two or more persons. There must be an		by the act of other partners. It may be noted that the true test of partnership
	agreement entered into by all the persons concerned. This element		is mutual agency rather than sharing of profits. If the element of mutual
	relates to voluntary contractual nature of partnership. Thus, the nature		agency is absent, then there will be no partners.
	of the partnership is voluntary and contractual. An agreement from		
	which relationship of Partnership arises may be express. It may also be	Q6.	回經濟回 特別公共
	implied from the act done by partners and from a consistent course of	(i)	What do you mean by Partnership for a fixed period as
	conduct being followed, showing mutual understanding between them. It		per the Indian Partnership Act, 1932?
	may be oral or in writing.	(ii)	Can a minor become a partner in a partnership firm? Justify your answer
3.	Business: In this context, we will consider two propositions. First, there	ANS:	
	must exist a business. For the purpose, the term ₹business₹ includes every	(i)	Partnership for a fixed period (Indian Partnership Act, 1932): Where a
	trade, occupation and profession. The existence of business is essential.		provision is made by a contract for the duration of the partnership, the
	Secondly, the motive of the business is the "acquisition of gains" which		partnership is called partnership for a fixed period. It is a partnership
	leads to the formation of partnership. Therefore, there can be no partnership		created for a particular period of time. Such a partnership comes to an
	where there is no intention to carry on the business and to share the		end on the expiry of the fixed period.
	profit thereof.	(ii)	Minor as a partner: A minor is not competent to contract. Hence, a person
4.	Agreement to share profits: The sharing of profits is an essential feature		who is a minor according to the law to which he is subject may not be a
	of partnership. There can be no partnership where only one of the partners		partner in a firm, but with the consent of all the
	is entitled to the whole of the profits of the business. Partners must agree		partners for the timebeing, he may be admitted to
	to share the profits in any manner they choose. But an agreement to		the benefits of partnership.
	share losses is not an essential element. It is open to one or more partners		
	to agree to share all the losses. However, in the event of losses, unless	Q7.	Explain the provisions RTP ship Act, 1932
	agreed otherwise, these must be borne in the profit-sharing ratio.		relating to the creation out.
5.	Business carried on by all or any of them acting for all: The business	Ans:	Partnership by holding out is also known as partnership by estoppel. Where
	must be carried on by all the partners or by anyone or more of the		a man holds himself out as a partner, or allows others to do it, he is then
	partners acting for all. This is the cardinal principle of the partnership		stopped from denying the character he has assumed and upon the faith



	of which creditors may be presumed to have acted. A person may himself,		who has acted thereon that has right to enforce liability arising out of
	by his words or conduct have induced others to believe that he is a partner		holding out. You must also note that for the purpose of fixing liability
	or he may have allowed others to represent him as a partner. The result		on a person who has, by representation, led another to act, it is not
	in both the cases is identical.		necessary to show that he was actuated by a fraudulent intention.
	Example: X and Y are partners in a partnership firm. X introduced A, a		The rule given in Section 28 is also applicable to a former partner who
•	manager, as his partner to Z. A remained silent. Z, a trader believing A		has retired from the firm without giving proper public notice of his
	as partner supplied 100 T.V sets to the firm on credit. After expiry of		retirement. In such cases, a person who, even subsequent to the retirement,
	credit period, Z did not get amount of T.V sets sold to the partnership		give credit to the firm on the belief that he was a partner, will be entitled
	firm. Z filed a suit against X and A for the recovery of price .		to hold him liable
	Here, in the given case, A, the Manager is also liable for the price because		RTP/ICAI STUDY MAT
	he becomes a partner by holding out (Section 28, Indian Partnership		
	Act, 1932). It is only the person to whom the representation has been	Q 9.	Explain the following kinds of partnership under the Indian Partnership
	made and who has acted thereon that has right to enforce liability		Act, 1932: 回路禁回
	arising out of ₹holding out₹. 11. As per the provisions of Section 30(5) of	(i)	Partnership at will NOV - 2020
	the Indian Partnership Act, 1932, at any time RTP	(ii)	Particular partnership
	N. I.	ANS:	
Q8.	X and Y are partners in a partnership firm. X introduced A, a manager,	(i)	Partnership at will: According to Section 7 of the Indian Partnership Act,
	as his partner to Z. A remained silent. Z, a trader believing A as partner		1932, partnership at will is a partnership when: 1. no fixed period has been
	supplied 100 T.V sets to the firm on credit. After expiry of credit period, Z		agreed upon for the duration of the partnership; and 2. there is no provision
	did not get amount of T.V sets sold to the partnership firm. 2 filed a suit		made as to the determination of the partnership.
	against X and A for the recovery of price. Advice Z whether he can		These two conditions must be satisfied before a partnership can be
	recover the amount from X and A under the Indian Partnership Act, 1932		regarded as a partnership at will. But, where there is an agreement
Ans:	In the given case, along with X, the Manager (A) is also liable for the		between the partners either for the duration of the partnership or for the
	price because he becomes a partner by holding out (Section 28, Indian		determination of the partnership, the partnership is not partnership at
	Partnership Act, 1932).		will. Where a partnership entered into for a fixed term is continued after
	Partner by holding out (Section 28): Partnership by holding out is also		the expiry of such term, it is to be treated as having become a partnership
	known as partnership by estoppel. Where a man holds himself out as a		at will. A partnership at will may be dissolved by any partner by giving notice
	partner, or allows others to do it, he is then stopped from		at will. A partnership at will may be dissolved by any partner by giving notice in writing to all the other partners of his intention to dissolve the same.
			at will. A partnership at will may be dissolved by any partner by giving notice in writing to all the other partners of his intention to dissolve the same.
	partner, or allows others to do it, he is then stopped from	(ii)	



	Where a person becomes a partner with another person in any particular		by partners for the purpose of the business of the firm.
	adventure or undertaking the partnership is called ₹particular partnership₹.		
	A partnership, constituted for a single adventure or undertaking is, subject	QII.	Mohan, Sohan and Rohan are partners in the firm M/s Mosoro & Company.
	to any agreement, dissolved by the completion of the adventure or		They admitted Bohan as nominal partner and on agreement between all
	undertaking. 17. "Partner indeed virtually embraces the character of both		the partners, Bohan is not entitled to share profit in the firm. After
	a principal and an agent"		some time, a creditor Karan filed a suit to Bohan for recovery of his
			debt. Bohan denied for same as he is just a nominal partner and he is
Q10.	"Partner indeed virtually embraces the character of both		not liable for the debts of the firm and Karan should claim his dues from
	a principal and an agent". Describe the said statement		the other partners. Taking into account the provisions of the Indian
	keeping in view of the provisions of the Indian Partnership Act, 1932.		Partnership Act, 1932 (a) Whether Bohan is liable for the dues of Karan
ANS:	"Partner indeed virtually embraces the character of both a principal and		against the firm. (b) In case, Karan has filed the suit against firm,
	an agent": Subject to the provisions of section 18 of the Indian Partnership		whether Bohan would be liable?
	Act, 1932, a partner is the agent of the firm for the purposes of the business	ANS:	Nominal Partner is a partner only in name. The person name is used as
	of the firm.		if he were a partner of the firm, though actually he is not. He is not entitled
	A partnership is the relationship between the partners who have agreed		to share the profits of the firm but is liable for all acts of the firm as if
	to share the profits of the business carried on by all or any of them		he were a real partner. A nominal partner must give public notice of his
	acting for all (Section 4). This definition suggests that any of the partners		retirement and his insanity is not a ground for dissolving the firm. In the
	can be the agent of the others. Section 18 clarifies this position by		instant case, Bohan was admitted as nominal partner in the firm. A
	providing that, subject to the provisions of the Act, a partner is the agent		creditor of the firm, Karan has claimed his dues from Bohan as he is the
	of the firm for the purpose of the business of the firm. The partner indeed		partner in the firm. Bohan has denied for the claim by replying that he
	virtually embraces the character of both a principal and an agent.		is merely a nominal partner.
	So far as he acts for himself and in his own interest in the common concern	(a)	Bohan is a nominal partner. Even he is not entitled to share the profits
	of the partnership, he may properly be deemed as a principal and so far		of the firm but is liable for all acts of the firm as if he were a real partner.
	as he acts for his partners, he may properly be deemed as an agent. The		Therefore, he is liable to Karan like other partners.
	principal distinction between him and a mere agent is that he has a	(b)	In case, Karan has filed the suit against firm, answer would remain same.
	community of interest with other partners in the whole property and		
	business and liabilities of partnership, whereas an agent as such has no		
	interest in either.		
	The rule that a partner is the agent of the firm for the purpose of the		
	business of the firm cannot be applied to all transactions and dealings		
	between the partners themselves. It is applicable only to the act done		



Q12.	Mr. Ram and Mr. Raheem are working as teacher in Ishwarchand	Q13.	State whether the following are partnerships under the Indian Partnership
	Vidhyasagar Higher Secondary School and also are very good friends.		Act, 1932:
	They jointly purchased a flat which was given on rent to Mr. John. It was	(i)	Two firms each having 12 partners combined by an agreement into one firm.
	decided between landlords and tenant that the rent would be ₹10,000 per	(ii)	A and B, co-owners, agree to conduct the business in common for profit.
	month inclusive of electricity bill. It means electricity bill will be paid by	(iii)	Some individuals form an association to which each individual contributes
	landlords. The landlords, by mistake, did not pay the electricity bill for		₹ 500 annually. The objective of the association is to produce clothes
	the month of March 2021. Due to this, the electricity department cut the		and distribute the clothes free to the war widows.
	connection. Mr.John has to pay the electricity bill of ₹2800 and ₹200 as	(iv)	A and B, co-owners share between themselves the rent derived from a
	penalty to resume the electricity connection. Mr. John claimed ₹ 3000		piece of land.
	from Mr. Ram but Mr. Ram replied that he is liable only for ₹ 1500. Mr.	(v)	A and B buy commodity X and agree to sell the
	John said that Mr. Ram and Mr. Raheem are partners therefore he can		commodity with sharing the profits equally
	claim the full amount from any of the partner. Explain, whether under	ANS:	
	the provision of Indian Partnership Act, 1932, Mr. Ram is liable to pay	(i)	Yes, this is a case of partnership because there is an agreement between
	whole amount of ₹ 3000 to Mr. John?		two firms to combine into one firm.
ANS:	According to Section 4 of the Indian Partnership Act, 1932, "Partnership"	(ii)	Yes, this is a case of partnership because A & B, co-owners, have agreed
	is the relation between persons who have agreed to share the profits of		to conduct a business in common for profit.
	a business carried on by all or any of them acting for all. Therefore, for	(iii)	No, this is not a case of partnership as no charitable association can be
	determining the existence of partnership, it must be proved.		floated in partnership.
1.	There must be an agreement between all the persons concerned;	(iv)	No, this is not a case of partnership as they are co-owners and not the
2.	The agreement must be to carry on some business;		partners. Further, there exist no business.
3.	The agreement must be to share the profits of a business and	(v)	Yes, this is a case of partnership as there exist the element of doing
4.	The business was carried on by all or any of them acting for all. On the		business and sharing of profits equally
	basis of above provisons and facts provided in the question, Mr. Ram and		
	Mr. Raheem cannot be said under partnership as they are teachers in a		
	school and just purchased a flat jointly. By merely giving the flat on		RTP
	rent, they are not doing business.		
	They are just earning the income from the property		
	under their co- ownership. Hence, there is no partnership		
	between them. Therefore, Mr. Ram is liable to pay his share only i.e.		
	₹ 1500. Mr. John has to claim		
	rest₹1500 from Mr. Raheem.		



QI.	With reference to the provisions of Indian Partnership Act, 1932 explain	(i)	Introduction of a Partner (Section 31 of the Indian Partnership Act,
	the various effects of insolvency of a partner?		1932): Subject to contract between the partners and to the provisions of
ANS:	Effects of insolvency of a partner (Section 34 of the Indian Partnership		Section 30, no person shall be introduced as a partner into a firm without
	Act, 1932):		the consent of all the existing partners.
(i)	The insolvent partner cannot be continued as a partner.		In the instant case, Mr. Vikas can be introduced as a partner with the
(ii)			consent of Mr. B and Mr. C, the existing partners.
	which the order of adjudication is made.	(ii)	Rights of Transferee of a Partner's interest (Section 29): A transfer by a
(iii)	The estate of the insolvent partner is not liable for the acts of the firm		partner of his interest in the firm, either absolute or by mortgage, or by
	done after the date of order of adjudication.		the creation by him of a charge on such interest, does not entitle the
(iv)	The firm is also not liable for any act of the insolvent partner after the		transferee, during the continuance of the firm, to interfere in the conduct
	date of the order of adjudication,		of business, or to require accounts, or to inspect the books of the firm, but
(v)	Ordinarily, the insolvency of a partner results in dissolution of a firm;		entitles the transferee only to receive the share of profits of the transferring
	but the partners are competent to agree among themselves that the		partner, and the transferee shall accept the account of profits agreed to
	adjudication of a partner as an insolvent will not give rise to dissolution		by the partners.
	of the firm.		Hence, here Mr. Vikas, the transferee in M/S ABC Associates, cannot
	RTP		inspect the books of the firm and the contention of the other partners is
			right that Mr. Vikas cannot challenge the books of accounts.
Q2.	M/s ABC Associates has been a partnership firm since 1990. Mr. A, Mr. B		
	and Mr. C were partners in the firm since beginning. Mr. A, being a very		RTP
	senior partner of aged 78 years transfers his share in the firm to his son		
	Mr. Vikas, a Chartered Accountant. Mr. B and Mr. C were not interested	Q3.	Master X was introduced to the benefits of partnership of M/s ABC &
	that Mr. Vikas joining them as partner in M/s ABC Associates. After		Co. with the consent of all partners. After attaining majority, more than
	some time, Mr. Vikas felt that the books of accounts were displaying		six months elapsed and he failed to give a public notice as to whether
	only a small amount as profit despite a huge turnover. He wanted to		he elected to become or not to become a partner in the firm. Later on,
	inspect the book of accounts of the firm arguing that it is his		Mr. L, a supplier of material to M/s ABC & Co., filed a suit against M/s
	entitlement as a transferee. However, the other partners believed that		ABC & Co. for recovery of the debt due. In the light of the Indian
	he cannot challenge the books of accounts. Can Mr. Vikas be introduced		Partnership Act, 1932, explain:
	as a partner if his father wants to retire? As an advisor,	(i)	To what extent X will be liable if he failed to give public
	help them resolve the issues applying the necessary		notice after attaining majority?
	provisions from the Indian Partnership Act, 1932.	(ii)	Can Mr. L recover his debt from X?
ANS:		ANS.	As per the provisions of Section 30(5) of the Indian Partnership Act,



	1932, at any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of		of town, Mohan got the information that the price of their good is going
			down sharply due to some government policy which would result in
	partnership, whichever date is later, such person may give public notice		heavy loss to firm if goods not sold immediately. He tried to contact
	that he has elected to become or that he has elected not to become a		Shyam who has authority to sell the goods. When Mohan couldn't contact
	partner in the firm, and such notice shall determine his position as		to Shyam, he sold all goods at some reduced price to save the firm from
	regards the firm. However, if he fails to give such notice, he shall		heavy loss. Thereafter, Shyam and Keshav denied accepting the loss due
	become a partner in the firm on the expiry of the said six months. If the		to sale of goods at reduced price as it's only Shyam who has express
	minor becomes a partner by his failure to give the public notice within		authority to sell the goods. Discuss the consequences under the provisions
	specified time, his rights and liabilities as given in Section 30(7) are as		of the Indian Partnership Act, 1932
	follows:	ANS:	According to Section 20 of Indian Partnership Act, 1932, the partners in
(A)	He becomes personally liable to third parties for all acts of the firm		a firm may, by contract between the partners, extend or restrict the
	done since he was admitted to the benefits of partnership.		implied authority of any partner. Notwithstanding any such restriction,
(B)	His share in the property and the profits of the firm remains the same		any act done by a partner on behalf of the firm which falls within his
	to which he was entitled as a minor.		implied authority binds the firm, unless the person with whom he is
(i)	In the instant case, since, X has failed to give a public notice, he shall		dealing knows of the restriction or does not know or believe that partner
	become a partner in the M/s ABC & Co. and becomes personally liable to		to be a partner.
	Mr. L, a third party.		Further, according to Section 21, a partner has authority, in an emergency
(ii)	In the light of the provisions of Section 30(7) read with Section 30(5) of		to do all such acts for the purpose of protecting the firm from loss as
	the Indian Partnership Act, 1932, since X has failed to give public notice		would be done by a person of ordinary prudence, in his own case, acting
	that he has not elected to not to become a partner within six months,		under similar circumstances, and such acts bind the firm.
	he will be deemed to be a partner after the period of the above six		On the basis of provisions and facts provided in the question, though
	months and therefore, Mr. L can recover his debt from him also in the		Shyam was expressly authorised to sell the goods, Mohan sold the goods
	same way as he can recover from any other partner.		at some loss. It was very much clear that Mohan has done what a
			person of ordinary prudence does in an emergency to protect the firm
	ICAI STUDY MAT.		from heavy loss. Hence, this sale will bind the firm.
			- Six Six
Q4	Shyam, Mohan and Keshav were partners in M/s Nandlal Gokulwale and		RTP
	Company. They mutually decided that Shyam will take the responsibility		
	to sell the goods, Mohan will do the purchase of goods for firm and	Q <i>5</i>	A, B and C are partners in M/s ABC & Company. The firm has decided to
	Keshav will look after the accounts and banking department. No one will	٦-	purchase a machine from M/s LMN & Company. Before A & B purchase
	interfere in other's department. Once, when Shyam and Keshav were out		the machine, C died. The machine was purchased but thereafter A and
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	B became insolvent and the firm was unable to pay for machine. Explain,		the conduct of the business. But this rule can always be varied by an
	would the estate of C liable for the dues of M/s LMN & Company?		express agreement, or by a course of dealings, in which event the
ANS:	<u>Liability of Partner in case of death</u>		partner will be entitled to remuneration. Thus, a partner can claim
	According to Section 35 of Indian Partnership Act, 1932, the estate of a		remuneration even in the absence of a contract, when such remuneration
	deceased partner is not liable for any act of the firm done after his		is payable under the continued usage of the firm. In other words, where
	death. The estate of the deceased partner may be absolved from		it is customary to pay remuneration to a partner for conducting the
	liability for the future obligations of the firm, it is not necessary to give		business of the firm, he can claim it even in the absence of a contract
	any notice either to the public or the persons having dealings with the		for the payment of the same.
	firm. In the instant case, M/s ABC & Company was having three		In the given problem, existing partners are getting regularly a monthly
	partners A, B and C.		remuneration from firm customarily being working partners of the firm.
	The firm was going to purchase a machine from M/s LMN & Company.		As Sony also admitted as working partner of the firm, he is entitled to
	Before A & B purchase the machine, C died. Machine was purchased but		get remuneration like other partners.
	after that A and B become insolvent and the firm was unable to pay for		MTP
	machine. On the basis of above provisions and facts of the problem		
	given, the machine was purchased after the death of C. Hence, the	Q7.	A,B and C are partners of a partnership firm carrying on the business of
	estate of C would not be liable for the dues of M/s LMN & Company.		construction of apartments. B who himself was a wholesale dealer of
			iron bars was entrusted with the work of selection of iron bars after
	RTP Z		examining its quality. As a wholesaler, B is well aware of the market
			conditions. Current market price of iron bar for construction is ₹ 350 per
Q6	Moni and Tony were partners in the firm M/s MOTO & Company. They		Kilogram. B already had 1000 Kg of iron bars in stock which he had
	admitted Sony as partner in the firm and he is actively engaged in day-		purchased before price hike in the market for` 200 per Kg. He supplied
	to-day activities of the firm. There is a tradition in the firm that all		iron bars to the firm without the firm realising the purchase cost. Is B
	active partners will get a monthly remuneration of ₹ 20,000 but no		liable to pay the firm the extra money he made, or he doesn't have to
	express agreement was there. After admission of Sony in the firm, Moni		inform the firm as it is his own business and he has not taken any
	and Tony were continuing getting salary from the firm but no salary		amount more than the current prevailing market price of 350? Assume
	was given to Sony from the firm. Sony claimed his remuneration but		there is no contract between the partners regarding the above.
	denied by existing partners by saying that there was no express	ANS:	According to section 16 of the Indian Partnership Act, 1932, subject to
	agreement for that. Whether under the Indian Partnership Act, 1932,		contract between partners –
	Sony can claim remuneration from the firm?	(a)	if a partner derives any profit for himself from any transaction of the
ANS:	By virtue of provisions of Section 13(a) of the Indian Partnership Act,		firm, or from the use of the property or business connection of the firm
	1932 a partner is not entitled to receive remuneration for taking part in		or the firm name, he shall account for that profit and pay it to the firm;



(b)	if a partner carries on any business of the same nature as and competing		such money or property has come into the custody of the firm and it is
	with that of the firm, he shall account for and pay to the firm all profits		misapplied by any of the partners. The firm would be liable in both the
	made by him in that business.		cases.
	In the given scenario, Mr. B had sold iron bar to the firm at the current		RTP
	prevailing market rate of `350 per Kg though he had stock with him		
	which he bought for` 200 per Kg. Hence, he made an extra profit of` 150	Q9	A,B and C are partners in a firm. As per terms of the partnership deed,
	per Kg. This is arising purely out of transactions with the firm. Hence,		A is entitled to 20 percent of the partnership property and profits. A
	Mr. B is accountable to the firm for the extra profit earned thereby.		retires from the firm and dies after 15 days. B and C continue business
			of the firm without settling accounts. What are the rights of A's legal
	RTP		representatives against the firm under the Indian Partnership Act, 1932?
		ANS:	Retirement / Death of Partner: Section 37 of the Indian Partnership Act,
Q8	Explain in detail the circumstances which lead to liability of firm for		1932 provides that where a partner dies or otherwise ceases to be a
	misapplication by partners as per provisions of the Indian Partnership		partner and there is no final settlement of account between the legal
	Act, 1932.		representatives of the deceased partner or the firms with the property of
ANS:	Liability of Firm for Misapplication by Partners (Section 27 of Indian		the firm, then, in the absence of a contract to the contrary, the legal
	Partnership Act, 1932): Where-		representatives of the deceased partner or the retired partner are
(a)	a partner acting within his apparent authority receives money or		entitled to claim either.
	property from a third party and misapplies it, or	(i)	Such shares of the profits earned after the death or retirement of the
(b)	a firm in the course of its business receives money or property from a		partner which is attributable to the use of his share in the property of
	third party, and the money or property is misapplied by any of the		the firm; or
	partners while it is in the custody of the firm, the firm is liable to make	(ii)	Interest at the rate of 6 per cent annum on the amount of his share in
	good the loss		the property.
	Analysis of section 27: It may be observed that the workings of the two		Based on the aforesaid provisions of Section 37 of the Indian Partnership
	clauses of Section 27 are designed to bring out clearly an important		Act, 1932, in the given problem, A shall be entitled, at his option to:
	point of distinction between the two categories of cases of misapplication		(i) the 20% shares of profits (as per the partnership deed); or
	of money by partners. Clause (a) covers the case where a partner acts		(ii) interest at the rate of 6 per cent per annum on the amount of A's
	within his authority and due to his authority as a partner, he receives		share in the property.
	money or property belonging to a third party and misapplies that money		ICAI STUDY MAT.
	or property. For this provision to be attracted, it is not necessary that		
	the money should have actually come into the custody of the firm. On		
	the other hand, the provision of clause (b) would be attracted when		



Q10	P, Q and R are partners in a partnership firm. R retires from the firm	QII	X, Y and Z are partners in a Partnership Firm. They were carrying their
	without giving public notice. P approached S, an electronic appliances		business successfully for the past several years. Spouses of X and Y
	trader, for purchase of 25 fans for his firm. P introduced E, an employee		fought in ladies club on their personal issue and X's wife was hurt badly.
	of the firm, as his partner to S. S believing E and R as partners supplied		X got angry on the incident and he convinced Z to expel Y from their
	25 fans to the firm on credit. S did not receive the payment for the		partnership firm. Y was expelled from partnership without any notice
-	fans even after the expiry of the credit period. Advise S, from whom he		from X and Z. Considering the provisions of the Indian Partnership Act,
	can recover the payment as per the provisions of the Indian Partnership		1932, state whether they can expel a partner from the firm. What are
	Act, 1932		the criteria for test of good faith in such circumstances?
ANS:	According to sub-section (3) of Section 32 of the Indian Partnership	ANS:	A partner may not be expelled from a firm by a majority of partners
	Act, 1932, a retiring partner along with the continuing partners continue		except in exercise, in good faith, of powers conferred by contract between
	to be liable to any third party for acts of the firm after his retirement		the partners. It is, thus, essential that:
	until public notice of his retirement has been given either by himself or	(i)	the power of expulsion must have existed in a contract between the partners;
	by any other partner. But the retired partner will not be liable to any	(ii)	the power has been exercised by a majority of the partners; and
	third party if the latter deals with the firm without knowing that the	(iii)	it has been exercised in good faith. If all these conditions are not present,
	former was a partner.		the expulsion is not deemed to be in bonafide interest of the business of
	As per the provisions of Section 28, where a man holds himself out as a		the firm.
	partner or allows others to do it, when in fact he is not a partner, he is		The test of good faith as required under Section 33(1) includes three things:
	liable like a partner in the firm to anyone who on the faith of such		The expulsion must be in the interest of the partnership.
	representation has given credit to the firm. In the instant case, since Mr.		The partner to be expelled is served with a notice.
	R has not given the public notice of his retirement from the partnership		He is given an opportunity of being heard. If a partner is otherwise
	firm and Mr. S believes that Mr. R is a partner, Mr. R will be liable to Mr.		expelled, the expulsion is null and void.
	S under the provisions of Section 32.		Thus, according to the test of good faith as required under Section 33(1).
	Also Mr. E, who has been introduced as a partner of the firm to which		expulsion of Partner Y is not valid.
	Mr. E has not presumably denied, will also be liable for the payment of		DEC 2022
	25 fans supplied to the firm on credit along with other partners in terms		
	of the provisions of Section 28 as stated above. Over and above R and E,	Q12	"Though a minor cannot be a partner in a firm, he can nonetheless be
	P and Q being the partners of the firm along with the firm will also be		admitted to the benefits of partnership."
	held liable to S. Therefore, S can recover the payment from the Firm, P,	(a)	Referring to the provisions of the Indian Partnership Act, 1932, state the
	Q, R and E.		rights which can be enjoyed by a minor partner.
	JUNE 23	(b)	State the liabilities of a minor partner both:
		(~/	The same of the sa



	(i) Before attaining majority and	Q13	A and B are partners in M/s Aee Bee & Company. Firm is doing business
	(ii) After attaining majority ICAI STUDY MAT/MTP	وابه	of trading of plastic bottles. A is authorised to sell the stock of plastic
ANS:	(11) Hiter accuming majoricy		bottles. It was decided between them that A should sell the plastic
(a)	Rights which can be enjoyed by a minor partner:		bottles at the minimum price which they have decided and if A sell at a
(u)	(i) A minor partner has a right to his agreed share of		price less than minimum price, he should first take the permission of B.
	the profits and ofthe firm.		Due to sudden change in government policy, the price of plastic bottles
	(ii) He can have access to, inspect and copy the accounts of the firm.		was continuously declining. To save the loss of firm, A sold the stock at
	(iii) He can sue the partners for accounts or for payment of his share		lower price. Meanwhile, A tried to contact B but couldn't do so as B was
	but only when severing his connection with the firm, and not		on foreign trip. Afterwards when B came, he filed the suit to recover the
	otherwise.		difference of sale price and minimum price to the firm. Whether B can
	(iv) On attaining majority, he may within 6 months elect to become a		do so under the provisions of Indian Partnership Act , 1932?
	partner or not to become a partner. If he elects to become a partner,	ANS:	According to Section 13(e) of Indian Partnership Act, 1932, every partner
	then he is entitled to the share to which he was entitled as a minor.		has the right to be indemnified by the firm in respect of payments
	If he does not, then his share is not liable for any acts of the firm		made and liabilities incurred by him in the ordinary and proper conduct
	after the date of the public notice served to that effect.		of the business of the firm as well as in the performance of an act in an
(b)	(1) Liabilities of a minor partner before attaining majority:		emergency for protecting the firm from any loss, if the payments, liability
	(a) The liability of the minor is confined only to the extent of his		and act are such as a prudent man would make, incur or perform in his
	share in the profits and the property of the firm.		own case, under similar circumstances.
	(b) Minor has no personal liability for the debts of the firm incurred		In the instant case, due to some emergency, A sold the stock at lower
	during his minority.		price to save the firm from loss. A couldn't contact B as he was on
	(c) Minor cannot be declared insolvent, but if the firm is declared		foreign trip.
	insolvent his share in the firm vests in the Official Receiver/ Assignee.		Hence, on the basis of above provisions and facts of the problem given,
	(2) Liabilities of a minor partner after attaining majority: Within 6		selling by A at a lower price was to save the firm from loss. As the act
	months of his attaining majority or on his obtaining knowledge that		of A was in favour of firm, he was not liable to bear the loss.
	he had been admitted to the benefits of partnership, whichever date		
	is later, the minor partner has to decide whether he shall remain a		MTP
	partner or leave the firm. Where he has elected not to become		
	partner he may give public notice that he has elected not to become		
	partner and such notice shall determine his position as regards the		
	firm. If he fails to give such notice he shall become a partner in the		
	firm on the expiry of the said six months.		



Basis	Dissolution of Firm	Dissolution of Partnership	
Continuation of	It involves discontinuation of business in partnership.	It does not affect continuation of business. It involves only	
business		reconstitution of the firm.	
Winding up	It involves winding up of the firm and requires realization of assets	It involves only reconstitution and requires only revaluation	of
	and settlement of liabilities.	and liabilities of the firm.	
Order of court	A firm may be dissolved by the order of the court.	Dissolution of partnership is not ordered by the court.	
Scope	It necessarily involves dissolution of partnership.	It may or may not involve dissolution of firm.	
Final closure ofbooks	It involves final closure ofbooks of the firm.	It does not involve finalclosure of the books of the firm.	



QI	X and Y were partners in a firm. The firm was dissolved on 12th June,		which bans the trading of such a particular chemical. The business of
	2022 but no public notice was given. Thereafter, X purchased some		the firm becomes unlawful and so the firm will have to be compulsorily
	goods in the firm's name from Z. Z was ignorant of the fact of		dissolved in the light of Section 41 of the Indian Partnership Act, 1932.
	dissolution of firm. X became insolvent and Z filed a suit against Y for		
	recovery of his amount. State with reasons whether Y would be liable		RTP
	under the provisions of the Indian Partnership Act, 1932?		
ANS:	By virtue of provisions of Section 45 of the Indian Partnership Act, 1932,	Q 3	M/s XYZ & Company is a partnership firm. The firm is an unregistered
	notwithstanding the dissolution of a firm, the partners continue to be		firm. The firm has purchased some iron rods from another partnership
	liable as such to third parties for any act done by any of them which		firm M/s LMN & Company which is also an unregistered firm. M/s XYZ &
	would have been an act of the firm, if done before the dissolution, until		Company could not pay the price within the time as decided. M/s LMN
	public notice is given of the dissolution. In the instant case, X and Y		& Company has filed the suit against M/s XYZ & Company for recovery
	were partners in a firm which was dissolved but no public notice was		of price. State under the provisions of the Indian Partnership Act, 1932;
	given. After dissolution, X purchased some goods in the firm's name	(a)	Whether M/s LMN & Company can file the suit against M/s XYZ & Company?
	from Z who was ignorant of the fact of dissolution of firm. X became	(b)	What would be your answer, in case M/s XYZ & Company is a registered
	insolvent and Z filed a suit against Y for recovery of his amount.		firm while M/s LMN & Company is an unregistered firm?
	Following the provisions of Section 45, X and Y are continuing liable	(c)	What would be your answer, in case M/s XYZ & Company is an unregistered
	against third party even after dissolution of firm until public notice is		firm while M/s LMN & Company is a registered firm?
	given. As in the given problem, X became insolvent, therefore, Y will be	ANS:	According to provisions of Section 69 of the Indian Partnership Act, 1932
	liable to Z.		an unregistered firm cannot file a suit against a third party to enforce
	RTP		any right arising from contract, e.g., for the recovery of the price of goods
			supplied. But this section does not prohibit a third party to file suit
Q2	G, I and S were friends and they decided to form a partnership firm and		against the unregistered firm or its partners.
	trade in a particular type of chemicals. After three years of partnership,	(a)	On the basis of above, M/s LMN & Company cannot file the suit against
	a law was passed which banned the trading of such chemicals. As per		M/s XYZ & Company as M/s LMN & Company is an unregistered firm.
	the provisions of the Indian Partnership Act, 1932 can G, I and S	(b)	In case M/s XYZ & Company is a registered firm while M/s LMN &
	continue the partnership or will their partnership firm get dissolved?		Company is an unregistered firm, the answer would remain same as in
ANS:	Compulsory dissolution of a firm (Section 41)		point a) above.
	A firm is compulsorily dissolved by the happening of any event which	(c)	In case M/s LMN & Company is a registered firm, it can file the suit
	makes it unlawful for the business of the firm to be carried on or for the		against M/s XYZ & Company.
	partners to carry it on in partnership. In this case, the firm is carrying		RTP
	on the business of trading in a particular chemical and a law is passed		



Q4	"Indian Partnership Act does not make the registration of firms	(iv)	Third party can sue the firm: In case of an unregistered firm, an action
	compulsory nor does it impose any penalty for non-registration." In light		can be brought against the firm by a third party.
	of the given statement, discuss the consequences of non-registration of		ICAI STUDY MAT.
	the partnership firms in India?		ICAI STODY MAT.
ANS:	It is true to say that Indian Partnership Act, 1932 does not make the		•
	registration of firms compulsory nor does it impose any penalty for non-	Q 5	What are the various grounds under the Indian Partnership Act, 1932, on
	registration. Following are consequences of Non-registration of		which the Court may, at the suit of the partner, dissolve a firm?
	Partnership Firms in India: The Indian Partnership Act, 1932 does not	ANS:	DISSOLUTION BY THE COURT (Section 44 of the Indian Partnership Act,
	make the registration of firms compulsory nor does it impose any		1932): Court may, at the suit of the partner, dissolve a firm on any of
	penalty for non-registration. However, under Section 69, nonregistration		the following ground:
	of partnership gives rise to a number of disabilities which we shall	(a)	Insanity/unsound mind: Where a partner (not a sleeping partner) has
	presently discuss. Although registration of firms is not compulsory, yet		become of unsound mind, the court may dissolve the firm on a suit of
	the consequences or disabilities of non-registration have a persuasive		the other partners or by the next friend of the insane partner. Temporary
	pressure for their registration. These disabilities briefly are as follows:		sickness is no ground for dissolution of firm.
(i)	No suit in a civil court by firm or other co-partners against third party:	(b)	Permanent incapacity: When a partner, other than the partner suing,
	The firm or any other person on its behalf cannot bring an action		has become in any way permanently incapable of performing his duties
	against the third party for breach of contract entered into by the firm,		as partner, then the court may dissolve the firm. Such permanent incapacity
	unless the firm is registered and the persons suing are or have been		may result from physical disability or illness etc.
	shown in the register of firms as partners in the firm. In other words, a	(c)	Misconduct: Where a partner, other than the partner suing, is guilty of
	registered firm can only file a suit against a third party and the persons		conduct which is likely to affect prejudicially the carrying on of business,
	suing have been in the register of firms as partners in the firm.		the court may order for dissolution of the firm, by giving regard to the
(ii)	No relief to partners for set-off of claim: If an action is brought against		nature of business. It is not necessary that misconduct must relate to
	the firm by a third party, then neither the firm nor the partner can		the conduct of the business. The important point is the adverse effect of
	claim any set-off, if the suit be valued for more than`100 or pursue		misconduct on the business. In each case, nature of business will decide
	other proceedings to enforce the rights arising from any contract.		whether an act is misconduct or not.
(iii)	Aggrieved partner cannot bring legal action against other partner or the	(d)	Persistent breach of agreement: Where a partner other than the partner
	firm: A partner of an unregistered firm (or any other person on his		suing, wilfully or persistently commits breach of agreements relating to
	behalf) is precluded from bringing legal action against the firm or any		the management of the affairs of the firm or the conduct of its business,
	person alleged to be or to have been a partner in the firm. But, such a		or otherwise so conduct himself in matters relating to the business that
	person may sue for dissolution of the firm or for accounts and realization		it is not reasonably practicable for other partners to carry on the
	of his share in the firm's property where the firm is dissolved.		business in partnership with him, then the court may dissolve the firm



	at the instance of any of the partners. Following comes in to category of		by agreement);
	breach of contract: • Embezzlement, • Keeping erroneous accounts •	(b)	by the adjudication of all the partners, or of all the partners but one, as
	Holding more cash than allowed · Refusal to show accounts despite		insolvent (i.e., compulsory dissolution);
	repeated request etc.	(c)	by the business of the Firm becoming unlawful (i.e., compulsory dissolution);
(e)	Transfer of interest: Where a partner other than the partner suing, has	(d)	subject to agreement between the parties, on the happening of certain
	transferred the whole of his interest in the firm to a third party or has		contingencies, such as:
	allowed his share to be charged or sold by the court, in the recovery of		(i) effluence of time;
	arrears of land revenue, the court may dissolve the firm at the instance		(ii) completion of the venture for which it was entered into;
	of any other partner.		(iii) death of a partner;
(f)	Continuous/Perpetual losses: Where the business of the firm cannot be		(iv) insolvency of a partner.
	carried on except at a loss in future also, the court may order for its	(e)	by a partner giving notice of his intention to dissolve the firm, in case of
	dissolution.		partnership at will and the firm being dissolved as from the date
(g)	Just and equitable grounds: Where the court considers any other ground		mentioned in the notice, or if no date is mentioned, as from the date of
	to be just and equitable for the dissolution of the firm, it may dissolve a		the communication of the notice; and
	firm. 回話赞回	<i>(f)</i>	by intervention of court in case of:
	RTP		(i) a partner becoming the unsound mind;
			(ii) permanent incapacity of a partner to perform his duties as such;
Q6	When does dissolution of a partnership firm take place under the		(iii) Misconduct of a partner affecting the business;
	provisions of the Indian Partnership Act, 1932? Explain		(iv) willful or persistent branches of agreement by a partner;
ANS:	Dissolution of Firm: The Dissolution of Firm means the discontinuation of		(v) transfer or sale of the whole interest of a partner;
	the jural relation existing between all the partners of the Firm. But when		(vi) improbability of the business being carried on save at a loss;
	only one of the partners retires or becomes in capacitated from acting		(vii) the court being satisfied on other equitable grounds that the firm
	as a partner due to death, insolvency or insanity, the partnership, i.e.,		should be dissolved.
	the relationship between such a partner and other is dissolved, but the		日本語 ICAI STUDY MAT.
	rest may decide to continue. In such cases, there is in practice, no		ICAI STODY MAT.
	dissolution of the firm. The particular partner goes out, but the remaining		
	partners carry on the business of the Firm. In the case of dissolution of		
	the firm, on the other hand, the whole firm is dissolved.		
	The partnership terminates as between each and every partner of the		
	, ; ; ; ; ; ; ; ; ; ; ; ; ; ; ;		
	firm. Dissolution of a Firm may take place (Section 39 - 44)		



QI.	What is Law?	_333			
Ans:	Law is a set of obligations and duties imposed by the				
	government for securing welfare and Providing justice to soci	ety. India's			
	legal frameworkreflects the social, political, economic, and cu	ıltural			
	aspects of our vast and diversified country.	SPQ			
Q2.	What are the sources of Law?				
Ans:	The main sources of law in India are the	F 1000			
	Constitution,	自然實			
	• The statutes or laws made by Parliament and State Asse	mblies,			
	• Precedents or the Judicial Decisions of various Courts and				
	in some cases, established Customs and Usages.	SPQ			
Q3.	What is the process of making Law?				
Ans:	Process of making Law				
	• Law is proposed in parliament it is called a Bill.				
	• After discussion and debate, the law is passed in LokSab	ha.			
	• Thereafter, it has to be passed in RajyaSabha.				
	It then has to obtain the assent of the President of India.				
	• Finally, the law will be notified by the Government in the	publication			
	called the Official Gazette of India.				
	The law will become applicable from the date mentioned in the				
	notification as the effective date.				
	Once it is notified and effective, it is called an Act of Par	diament.			
	¶ .	5PQ —			

Q4.	To whom Law making power has b	een given by Cons	titution of India?
ANS:	People who wrote the Constitution	of India decided to	o divide the Law
	making power between:Central Gov	ernment and Stat	e Government
		SPQ	
			<u>. </u>

Classify law in Indian Legal system? Q5.

ANS:

CRIMINAL LAW

- Criminal law is concerned with laws pertaining to violations of Rules of law or Public wrong and punishment for same
- · It is governed by Indian Penal Code and Code of Criminal Procedures
- · Examples: Murder, Theft, Fraud

CIVIL LAW

- · It focus on dispute resolution rather than punishment
- · It is governed by Code of Civil Procedure
- · It is classified into : Law of Contract, Family Law, Property Law, Law of Tort

- · Doctrine of Stare Decisis:" To stand by that which is decided"
 - · It reinforces the court to follow same judegement/principle established by previous decisions , where facts are similar.

· Judicial Precedent or Case Law is Common Law

LAW

PRINČIPLES

OF NATURAL

JUSTICE

COMMON

- Natural Justice also know as Jus Naturals deals with certain fundamentals of justice going beyond written law.
- · Nemo Judex in causa sua : no one should be made judge in own case and its a rule against prejudice
- · Audi Alteram Partem: hear the other party or give other party a fair hearing

SPQ

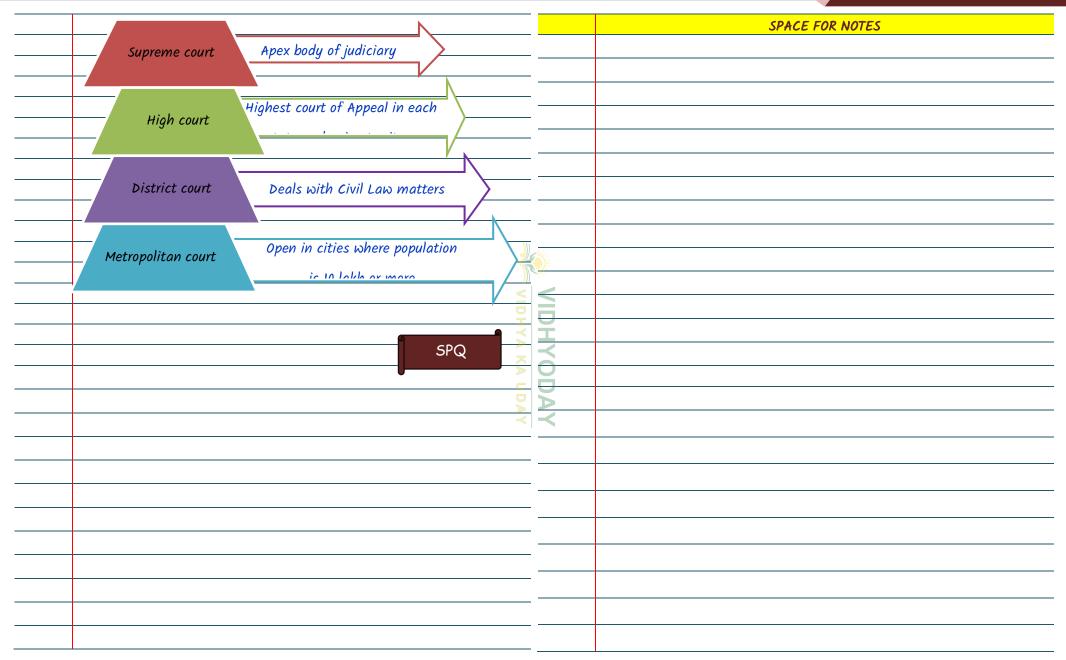


Q6.	Name the regulatory bodies enforcing the Law in India?	Q9.	Ministry of Corporate affairs administer which acts and by whom it is run?
ANS:	The regulatory bodies enforcing the Law in India are:	Ans:	Ministry of corporate affairs
	1. Ministry of Finance		• It is an Indian Government Ministry.
	2. Ministry of corporate Affairs (MCA)		 primarily concerned with administration of the Companies Act 2013,
	3. Ministry of home affairs		the Companies Act 1956, the Limited Liability Partnership Act, 2008,
	4. Securities Exchange Board of India (SEBI)		and the Insolvency and Bankruptcy Code, 2016.
	5. Reserve Bank of India (RBI)		Responsible mainly for the regulation of Indian enterprises in the
	6. Insolvency and Bankruptcy Board (IBBI) SPQ		industrial and services sector.
	7. Ministry of Law and Justice		
			The Ministry is mostly run by civil servants of the ICL Scadre.
Q7.	What are the primary responsibilities and functions of a		These officers are elected through the Civil Services Examination
	Ministry of Finance as outlined in a country's constitution?	SE SE	conducted by Union Public Service Commission.
Ans:	The Ministry of Finance (VittaMantralaya) is a Ministry within the		• The highest post, Director General of Corporate Affairs (DGCOA), is
	Government of India concerned With The Economy Of India, serving As	<u> </u>	fixed at Apex Scale for the ICLS.
	The Treasury Of India.		SPQ
	It concerns itself With taxation, financial legislation, financial institutions,	<u> </u>	
	capital markets, central and state finances, and the Union Budget.	Q10.	What specific departments or divisions fall under the purview of the
	One of the important functions of the Finance Ministry is the presentation		Ministry of Home affairs?
	of the Union Budget.	Ans:	Ministry of Home Affairs (GrhaMantralaya)
	SrQ ~	~	Is a ministry of the Government of India.
Q8.	What specific departments or divisions fall under the purview of the		As an interior ministry of India, it is mainly responsible for the
Ψο.	Ministry of Finance as established by the constitution?	-	maintenance of internal security and domestic policy.
Ans:	Departments under the Ministry of Finance-		The Home Ministry is headed by Union Minister of Home Affairs.
717/31	a) Department of Economic Affairs		Departments of Ministry of Home Affairs
	b) Department of Expenditure	-	a) Department of Border Management
	c) Department of Revenue SPQ	-	b) Department of Internal Security
	d) Department of Financial Services	-	c) Department of Home SPQ
	e) Department of Investment and Public Asset Management	-	d) DepartmentofOfficial Language
	f) Department of Public Enterprises		e) Department of States
	, if we will also a second and a		f) Department of Jammu, Kashmir and Ladakh Affairs



QII.	Can you provide an overview of the Ministry of Law and Justice's mandate	Q13.	Can you provide an overview of IBBI's mandate and its scope
	and its scope of operations based on constitutional provisions?		of operations based on constitutional provisions?
Ans:	Ministry of Law and Justice	ANS:	Insolvency and Bankruptcy Board of India(IBBI)-
	In the Government of India is a Cabinet Ministry deals with the		• It is the regulator for overseeing insolvency proceedings and entities
	Management of the legal affairs, through the Legislative Department		like Insolvency Professional Agencies (IPA),Insolvency Professionals
	Legislative activities through the Department of Legal Affairs		(IP) and Information Utilities (IU) in India.
	> Administration of justice in India through the Department of Justice		It was established on 1 October 2016 and given statutory powers
	Departments of Ministry of Law and Justice □提择回		through the Insolvency and Bankruptcy Code, which was passed by
	Department of Legal Affairs		LokSabha on 5th May 2016.
	Legislative Department		It covers Individuals, Companies, Limited Liability,
	 Department of Justice SPQ	 >	• Partnerships and Partnership firms. The new code will speed up the
	The state of the s	A O	resolution process for stressed assets in the country.
Q12.	Can you provide an overview of the RBI's mandate and its		 It attempts to simplify the process of insolvency and bankruptcy
	scope of operations based on constitutional provisions?	2	proceedings.
ANS:	Reserve Bank of India	\ \ \ \ \ \	It handles the cases using two tribunals like NCLT (National company
	It is India's Central Bank and regulatory body responsible for	<u> </u>	law tribunal) and Debt recovery tribunal.
	regulation of the Indian banking system.	>	SPQ
	• It is under the ownership of Ministry of Finance, Government of India.		
	o It is responsible for the control, issue and maintaining supply of	Q14.	How is the Indian judiciary organized at different levels, and what are
	the Indian rupee.		the key components of this structure?
	 It also manages the country's main payment systems and 	ANS:	When there is a dispute between citizens or between citizens and the
	works to promote its economic development.		Government, these disputes are resolved by the judiciary.
	 Bharatiya Reserve Bank Note Mudran (BRBNM) is a specialized 		The functions of judiciary system of India are:
	division of RBI through which it prints and mints Indian currency		Regulation of the interpretation of the Acts and Codes,
	notes (INR) in two of its currency printing presses located in		Dispute Resolution,
	Nashik (Western India) and Dewas (Central India).		Promotion of fairness among the citizens of the land.
			In the hierarchy of courts, the Supreme Court is at the top, followed by
	SPQ		the High Courts and District Courts.





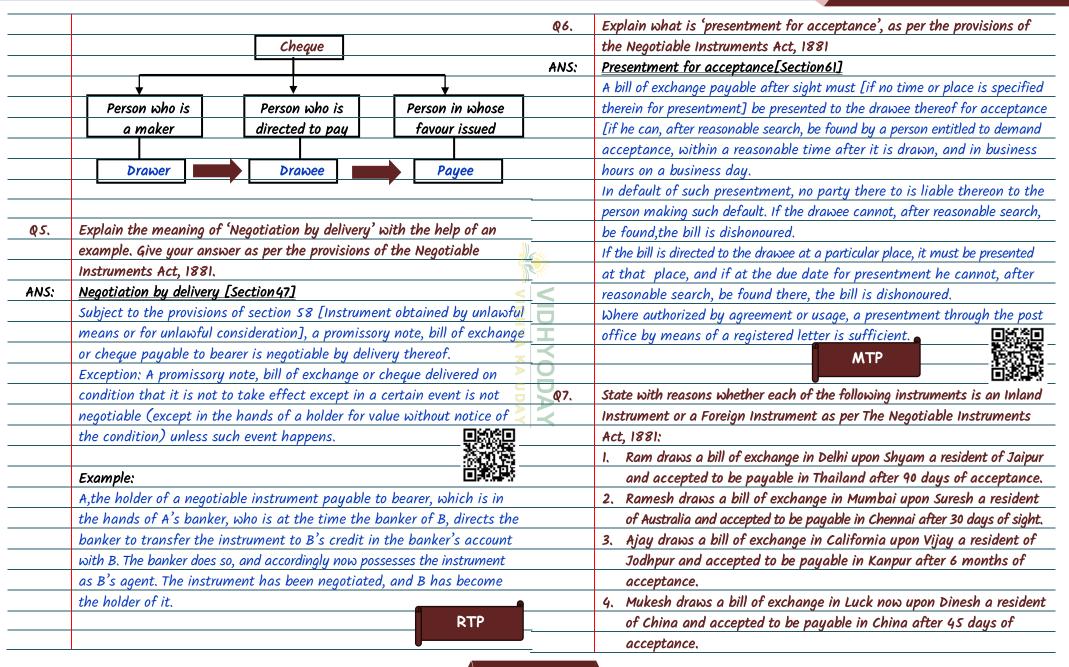


nd bill of exchange	
ange	
in writing containing an	
aker, directing a certain person	
o, or to the orderof a certain	
ent.	
er for making payment.	
ties which are as under:	
from the drawee.	
and he discuss in a dela te	
can be drawn payable to to bearer on demand.	
to bearer on demand.	



QI.	What are the essential characteristics of Negotiable Instruments?	debt is insufficient.
ANS:	Essential Characteristics of Negotiable Instruments	The promise to pay should be definite and unconditional
	It is necessarily in writing.	A promissory note must be signed by the maker otherwise it is
	It should be signed.	incomplete and ineffective.
	It is freely transferable from one person to another.	Promise to pay money only. SPQ
	Holder's title is free from defects.	Promise to pay a certain sum.
	It can be transferred any number of time still its satisfaction.	The maker and payee must be certain, definite and different persons.
	Every negotiable instrument must contain an unconditional promise	A promissory note cannot be made payable to the bearer [Section 31
	or order to pay money. The promise or order to	of the Bank of India Act, 1934 (RBI Act)]. Only the Reserve Bank or
	pay must consist of money only.	the Central Government can make or issue a promissory note 'payable
	The sum payable, the time of payment, the payee, must be certain.	to bearer'.
		Stamping: A promissory note must be properly stamped in accordance
	The instrument should be delivered.	with the provisions of the Indian Stamp Act and such stamp must
	Mere drawing of instrument does not create liability.	be duly cancelled by maker's signatures or initials on such stamp or
		otherwise.
Q2 .	Who are the parties to a bill of exchange?	
ANS:	Parties to the bill of exchange SPQ	4. Who are parties to a cheque?
	Drawer: The maker of a bill of exchange.	IS : Drawer: The person who draws a cheque i.e., makes the cheque (Debtor).
	Drawee: The person directed by the drawer to pay is called the 'drawee'.	His liability is primary and conditional.
	He is the person on whom the bill is drawn. On acceptance of the bill, he	Drawee: The specific bank on whom cheque is drawn. He makes the payment
	is called an acceptor and is liable for the payment of the bill. His liability	of the cheque. In case of cheque, drawee is always banker.
	is primary and unconditional.	"drawee in case of need"—When in the bill or in any indorsement thereon,
	Payee: The person named in the instrument, to whom or	the name of any person is given in addition to the drawee to be resorted
	to whose order the money is, by the instrument, directed	to in case of need such person is called a "drawee in case of need".
	to be paid.	Payee: The person named in the instrument (i.e., the person in whose
		favour cheque is issued),to whom or to whose order the money is, by the
Q3 .	What are the essential characteristics of Promissory Note?	instrument, directed to be paid, is called the payee. The payee may be
ANS:	Essential Characteristics of a Promissory Note	the drawer himself or a third party.
	In writing-An oral promise to pay is not sufficient.	SPQ
	There must be an express promise to pay. Mere acknowledgment of	







Ans.	"Inland instrument" and "Foreign instrument" [Sections 11 & 12 of the ANS:	Provision: Under Section 46 of the Negotiable Instruments Act, 1881, the
	Negotiable Instruments Act, 1881] A promissory note, bill of exchange or	making of a promissory note is completed by delivery, actual or
	cheque drawn or made in India and made payable in, or drawn upon any	constructive. Delivery refers to the whole of the instrument and not merely
	person resident in India shall be deemed to be an inland instrument.	a part of it. Delivery of half instrument cannot be treated as constructive
	Any such instrument not so drawn, made or made payable shall be	delivery of the whole.
	deemed to be foreign instrument.	Facts of case: In the above case Manoj draws a promissory note in favour
	Following are the answers as to the nature of the Instruments:	of Umesh cuts it into half and delivers it to Umesh. He cuts the note into
	1. In first case, Bill is drawn in Delhi by Ram on a person (Shyam), a	half and sends one of it to Umesh. Later he asks Umesh to return it back
	resident of Jaipur (though accepted to be payable in Thailand after	and on the other hand Umesh asks for the other piece. As delivery of half
	90 days) is an Inland instrument.	of the instrument is not a delivery is not the delivery of the instrument
	2. In second case, Ramesh draws a bill in Mumbai on Suresh resident of	the transfer of a part of the instrument shall not be treated as delivery.
	Australia and accepted to be payable in Chennai after 30 days of 🔪 🍃	Conclusion: So, the claim of Umesh to have the other half of the promissory
	sight, is an Inland instrument.	note sent to him is not maintainable. Manoj is justified in demanding
	3. In third case, Ajay draws a bill in California (which is situated	the return of the first half sent by him.
	outside India) and accepted to be payable in India (Kanpur), drawn	MTP
	upon Vijay, a person resident in India (Jodhpur), therefore the	
	Instrument is a Foreign instrument.	Explain the modes of Negotiations in instruments, as per the provisions
	4. In fourth case, the said instrument is a Foreign instrument as the	of the Negotiable Instruments Act, 1881.
	bill is drawn in India by Mukesh upon Dinesh, the person resident	MODES OF NEGOTIATION
	outside India (China) and also payable outside India (China) after	A promissory note, bill of exchange or cheque payable to
	45 days of acceptance.	bearer is negotiable by the delivery thereof.
	RTP	A promissory note, bill of exchange or cheque payable to order is negotiable
		by the holder by indorsement and delivery thereof.
		Negotiation by delivery[Section 47]
Q8.	Manoj owes money to Umesh. Therefore, he makes a promissory note for	Subject to the provisions of section 58 [Instrument obtained by unlawful
	the amount in favour of Umesh, for safety of transmission he cuts the	means or for unlawful consideration], a promissory note, bill of exchange
	note in half and posts one half to Umesh. He then changes his mind and	or cheque payable to bearer is negotiable by delivery thereof.
	calls upon Umesh to return the half of the note which he had sent.	Exception: A promissory note, bill of exchange or cheque delivered on
	Umesh requires Manoj to send the other half of the promissory note.	condition that it is not to take effect except in a certain event is not
	Decide how rights of the parties are to be adjusted. Give your answer in	negotiable (except in the hands of a holder for value without notice of
	reference to the Provisions of Negotiable Instruments Act, 1881.	the condition) unless such event happens.



	Negotiation by indorsement[Section48]	QII.	Classify Negotiable Instruments on following basis:
	Subject to the provisions of section 58, a promissory note, bill of exchange		a) "Bearer instrument" and "order instrument" SPQ
	or cheque Payable to order, is negotiable by the holder by indorsement		b) Inchoate and Ambiguous instruments
	and delivery thereof.	ıs:	a) Bearer Instrument: It is an instrument where the name of the payee
	RTP		is blank or where the name of payee is specified with the words"or
			bearer" or where the last indorsement is blank. Such instrument can be
			negotiated by mere delivery.
Q10.	Explain what is 'presentment for payment', as per the provisions of the		Order Instrument: It is an instrument which is payable to a person or
	Negotiable Instruments Act, 1881.		Payable to a person or his order or Payable to order of a person or where
Ans:	Promissory notes, bill of exchange and cheques must be presented for		the last indorsement is in full, such instrument can be
	payment to the maker, acceptor or drawee thereof respectively, by or on		negotiated by indorsement and delivery.
	behalf of the holder as herein after provided.		
	In default of such presentment, the other parties there		(b)Inchoate Instrument: It means an instrument that is incomplete in
	to are not liable there on to such holder.		certain respects. The drawer/ maker/ acceptor/ indorser of a negotiable
	Where authorized by agreement or usage, a presentment through the	j	instrument may sign and deliver the instrument to another person in his
	post office by means of a registered letter is sufficient.		capacity leaving the instrument, either wholly blank or having written
	Exception: Where a promissory note is payable on demand and is not		on it the word incomplete. Such an instrument is called an inchoate
	payable at a specified place, no presentment is necessary in order to 🔑 🖳	1	instrument and this gives a power to its holder to make it complete by
	charge the maker thereof.		writing any amount either within limits specified there in or within the
	Notwithstanding anything contained in section 6, where an electronic 👢 🔫		limits specified by the stamp's affixed on it.
	image of a truncated cheque is presented for payment, the drawee bank		Ambiguous Instrument: Section 17 of the Act, reads as: "Where an
	is entitled to demand any further information regarding the truncated		instrument may be construed either as a promissory note or bill of exchange,
	cheque from the bank holding the truncated cheque in case of any		the holder may at his election treat it as either, and the instrument shall
	reasonable suspicion about the genuineness of the apparent tenor of		be thence forward treated accordingly.
	instrument, and if the suspicion is that of any fraud, forgery, tampering		Thus, an instrument which is vague and cannot be clearly identified
	or destruction of the instrument, it is entitled to further demand the		either as a bill of exchange, or as a promissory note, is an ambiguous
	presentment of the truncated cheque itself for verification:		instrument. In other words, such an instrument may be construed either
	Provided that the truncated cheque so demanded by the drawee bank		as promissory note, or as a bill of exchange. Section 17 provides that the
	shall be retainedby it, if the payment is made accordingly.		holder may, at his discretion, treat it as either and the instrument shall
	SPQ		there after be treated accordingly. Thus, after exercising his option, the
	51 Q		holder cannot change that it is the other kind of instrument.



Q12.	M drew a cheque amounting to ₹2lakh payable to N and subsequently	first half sent by him. He can change his mind and refuse to send the
	delivered to him. After receipt of cheque N indorsed the same to C but	other half of the P/N. ICAI STUDY MAT.
	kept it in his safe locker. After sometime, N died, and P found the	ICAI STUDY MAT.
	cheque in N's safe locker. Does this amount to Indorsement under the	
	Negotiable Instruments Act, 1881? Q14.	Rama executes a promissory note in the following form, 'I promise to
Ans:	Provision: Negotiation by indorsement [Section48] : Subject to the provisions	pay a sum of 10,000 after three months'. Decide whether the promissory
	of section 58, a promissory note, bill of exchange or cheque payable to	note is a valid promissory note.
	order, is negotiable by the holder by indorsement and delivery thereof. Ans:	The promissory note is an unconditional promise in writing. In the above
	FACTS OF CASE: M drew cheque payable to N and delivered to him and	question the amount is certain but the date and name of payee is missing,
	further N indorsed it to C which kept in safe locker. Later P found it in	thus making it a bearer instrument. As per Reserve Bank of India Act,
	safe locker after the death of N.	1934, a promissory note cannot be made payable to bearer - whether on
	CONCLUSION: No, P does not become the holder of the cheque as the	demand or after certain days. Hence, the instrument is illegal as per
	negotiation was not completed by delivery of the cheque to him.	Reserve Bank of India Act, 193 <u>4 and cannot be legally enforced.</u>
	(Section 48, the Negotiable	ICAI STUDY MAT.
	Instruments Act, 1881) ICAI STUDY MAT.	ICAI STUDY MAT.
Q13.	M owes money to N. Therefore, he makes a promissory note for the \(\int\) \(\text{2015}\).	Anjum' drew a cheque for ₹20,000 payable to 'Babloo' and delivered it to
	amount in favor of N, for safety of transmission he cuts the note in half	him. 'Babloo' indorsed the cheque in favour of 'Rehansh' but kept it in
	and posts one half to N. He then changes his mind and calls upon N to	his table drawer. Subsequently, 'Babloo' died, and cheque was found by
	return the half of the note which he had sent. N requires M to send the	'Rehansh' in 'Babloo's table drawer. 'Rehansh' filed the suit for the
	other half of the promissory note. Decide how rights of the parties are	recovery of cheque.
	to be adjusted.	Whether 'Rehansh' can recover cheque under the provisions
Ans:	Provision: Under Section 46 of the N.I. Act, 1881, the making of a	of the Negotiable Instrument Act 1881?
	Promissory Note (P/N) is completed by delivery, actual or constructive. Ans.	According to section 48 of the Negotiable Instrument Act 1881, a promissory
	Delivery refers to the whole of the instrument and not merely a part of	note, bill of exchange or cheque payable to order, is negotiable by the
	it. Delivery of half instrument cannot be treated as constructive delivery	holder by indorsement and delivery thereof.
	of the whole.	The contract on a negotiable instrument until delivery remains incomplete
	FACTS OF CASE: M makes promissory note to N and he cuts the note in	and revocable. The delivery is essential not only at the time of negotiation
	half for safety of transmission. He then call backs half note from N.	but also at the time of making or drawing of negotiable instrument. The
	CONCLUSION: So,the claim of N to have the other half of the P / N sent	rights in the instrument are not transferred to the indorsee unless after
	to him is not maintainable. M is justified in demanding the return of the	the indorsement the same has been delivered. If a person makes the



indorsement of instrument but before the same could be delivered to the	
indorsee the indorser dies, the legal representatives of the deceased	
person cannot negotiate the same by mere delivery thereof. [Section 57]	
In the given case, cheque was indorsed properly but not delivered to	
indorsee i.e. 'Rehansh', Therefore, 'Rehansh' is not eligible to claim the	
payment of cheque.	
RTP	
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MC 등은	Difference between LLP and firm			
e				
Basis	LLP	Partnership firm		
Regulating Act	The Limited Liability Partnership Act, 2008.	The Indian Partnership Act, 1932.		
Body corporate	It is a body corporate.	It is not a body corporate.		
separate legal entity	It is a legal entity separatefrom its members.	It is a group of persons withno separate legal entity.		
Creation	It is created by a legal process called registration under the LLP Act, 2008.	It is created by an agreement between the partners.		
Registration	Registration is mandatory. LLP can sue and be sued in its own name.	Registration is voluntary. Only the registered partnership firm can sue the third parties.		
Perpetual succession	The death, insanity, retirementor insolvency of the partner(s)	The death, insanity, retirementor insolvency of the partner(s)		
lame	Name of the LLP to containthe word limited liability partnership (LLP) as suffix.	No guidelines. The partners can have any name as per their choice.		
iability	Liability of each partner is limited to the extent to agreed contribution except in case of willful fraud.	Liability of each partner is unlimited. It can be extended upto the personal assets of the partners.		
1utual agency	Each partner can bind the LLP by his own acts but not the other partners.	Each partner can bind the firmas well as other partners byhis own acts.		
Pesignated partners	At least two designated partners and atleast one of them shall be resident in India.	There is no provision for such partners under the Partnership Act, 1932.		
Common seal	It may have its common sealas its official signatures.	There is no such concept inpartnership.		
J	ame iability lutual agency esignated partners	ame Name of the LLP to containthe word limited liability partnership (LLP) as suffix. iability Liability of each partner is limited to the extent to agreed contribution except in case of willful fraud. lutual agency Each partner can bind the LLP by his own acts but not the other partners. esignated partners At least two designated partners and atleast one of them shall be resident in India.		



12.	Legal compliances	Only designated partners are responsible for all the compliances	All partners are responsible for all the compliances and penalties
		and penaltiesunder this Act.	under the Act.
13.	Annual filing of	LLP is required to file:	Partnership firm is not required to file any annual document with
	documents	(i) Annual statement ofaccounts	the registrar of firms.
		(ii) Statement of solvency	
		(iii) Annual return with the registration of LLP every year.	
14.	Foreign partnership	Foreign nationals can becomea partner in a LLP.	Foreign nationals cannot become a partner in a partnership firm.
15.	Minor as partner	Minor cannot be admitted tothe benefits of LLP.	Minor can be admitted to the benefits of the partnershipwith the
			prior consent of the existing partners.
			Eusen Eusen

Difference between LLP and Limited Liability Company

	Basis	LLP 🗧 💷	Limited Liability Company
1.	Regulating Act	The LLP Act, 2008.	The Companies Act, 2013.
-			
2.	Members/Partners	The persons who contribute to LLP are known as partners of the LLP.	The persons who invest the money in the shares are known as
		₹ ₹	members of the company.
3.	Internal governance	The internal governancestructure of a LLP is governed by contract	The internal governance structure of a company isregulated by
	structure	agreementbetween the partners.	statute (i.e., Companies Act, 2013).
4.	Name	Name of the LLP to containthe word "Limited Liability	Name of the public company to contain the word "limited" and
		partnership" or "LLP" as suffix.	Pvt. Co. to contain the word "Private limited" as suffix.
5,	No.	Minimum – 2 partners Maximum – No such limit onthe partners	Private company: Minimum – 2 members Maximum 200
	members/partners	in the Act. The partners of the LLP can be individuals/or body	members Public company: Minimum – 7 members
		corporate through the nominees.	Maximum – No such limit onthe members.



individuals. 6. Liability members/partners contribution except in case of willful fraud. 7. Management The business of the company is managed by the partners including the designated partners authorized in the agreement. 8. Minimum number of directors/designated partners minimum 2 designated partners. Pvt. Co 2 directors Public co 3 directors Pvt. Co 2 directors Public co 3 directors				Members can be organizations, trusts, another business form or
6. Liability Liability of a partners is limited to the extent ofagreed members/partners contribution except in case of willful fraud. 7. Management The business of the company is managed by the partners including the designated partners authorized in the agreement. 8. Minimum number of Minimum 2 designated partners. Pvt. Co. – 2 directors Public co. – 3 directors directors/designated				
members/partners contribution except in case of willful fraud. 7. Management The business of the company is managed by the partners including the affairs of the company are managed by board of directors the designated partners authorized in the agreement. 8. Minimum number of Minimum 2 designated partners. Pvt. Co. – 2 directors Public co. – 3 directors directors				
members/partners contribution except in case of willful fraud. 7. Management The business of the company is managed by the partners including the affairs of the company are managed by board of directors the designated partners authorized in the agreement. 8. Minimum number of Minimum 2 designated partners. Pvt. Co. – 2 directors Public co. – 3 directors directors	6.	Liability	Liability of a partners is limited to the extent ofagreed	Liability of a member is limited to the amount unpaid on the
the designated partners authorized in the agreement. 8. Minimum number of Minimum 2 designated partners. Pvt. Co. – 2 directors Public co. – 3 directors directors/designated		<u> </u>		-
the designated partners authorized in the agreement. 8. Minimum number of Minimum 2 designated partners. Pvt. Co. – 2 directors Public co. – 3 directors directors/designated		·		
8. Minimum number of Minimum 2 designated partners. Pvt. Co. – 2 directors Public co. – 3 directors directors/designated	7.	Management	The business of the company is managed by the partners including	The affairs of the company are managed by board of directors
directors/designated			the designated partners authorized in the agreement.	elected by the shareholders.
directors/designated				
	8.		Minimum 2 designated partners.	Pvt. Co. – 2 directors Public co. – 3 directors
partners O S O S O S O S O S O S O S O				
		partners	5 4	
			0 5	
			<u> </u>	
			· · · · · · · · · · · · · · · · · · ·	



QI	Enumerate the various characteristics of the LLP?
ANS:	2001000 200100
1.	Body Corporate
2	Perpetual Succession
3	Separate legal entity
4	Mutual Agency
5	LLP Agreement
6	Artificial Legal person
7	Common Seal
8	Limited liability
9	Management of business
10	Minimum and maximum numberof partners
11	Business for profit only
12	Investigation
13	Compromise or Arrangement
14	Conversion into LLP ICAI STUDY MAT.
15	E-Filing of documents
16	Foreign LLPs
	D
Q2	"LLP is an alternative corporate business form that gives the benefits $\stackrel{ extstyle <}{ extstyle <}$
	of limited liability of a company and the flexibility of a partnership".
	Explain.
ANS:1.	LLP is an alternative corporate business form that gives the benefits of
	limited liability of a company and the flexibility of a partnership
2.	Limited Liability: Every partner of a LLP is, for the purpose of the
	business of LLP, the agent of the LLP, but not of other partners. The
	partners will be limited to their agreed contribution in the LLP, while the
	liability of the LLP itself will be liable for the full extent of its assets.
3.	Flexibility of a partnership: The LLP allows its members the flexibility of organizing their internal structure as a partnership based on amutually
	arrived agreement.

4.	The LLP form enables entrepreneurs, professionals and enterprises	
	providing services of any kind or engaged in scientific and technical	
	disciplines, to form commercially efficient vehicles suited to their requirements.	
	Owing to flexibility in its structure and operation, the LLP is a suitable	
	vehicle for small enterprises and for investment by venture capital.	
	ICAI STUDY MAT/RTP	
Q3	Explain Small Limited Liability partnership under LLP Act,2008?	
ANS:	Small Limited Liability Partnership [Section2 (1)(ta)]:	
<u>K</u>	It means a limited liability partnership —	
a)	the contribution of which, does not exceed twenty-five lakh	
<	rupees or such higher amount, not exceeding five crore rupees, as may be	
5	prescribed; and	
L b)	the turnover of which, as per the Statement of Accounts and Solvency	
<u> </u>	for the immediately preceding financial year, does not exceed forty	
	lakh rupees or such higher amount, not exceeding fifty crore rupees,	
<u>></u>	as may be prescribed; or	
< c)	which meets such other requirements as may be prescribed, and fulfils	
	such terms and conditions as may be prescribed.	
	· ·	
Q4.	X, Y and Z have recently completed their Graduation from different streams	
	and wanted to start a business with capital of Rs. 5, 00,000 each. X and	
	Y are in favour to start with a private limited company but Z wants to form a Partnership firm. They approached a friend to solve dispute between	
	them and choose between company and partnership firm. He advises them	
	to commence the business with LLP which is the hybrid of company and	
	partnership firm. Sostate some merit points of LLP?	



Ans:	Advantages to form LLP are:
	• is organized and operates on the basis of an agreement
	 provides flexibility without imposing detailed legal and procedural
	requirements.
	Easy to form
	All partners enjoy limited liability
	Flexible capital structure SPQ
	Easy to dissolve
	and the second s
Q 5	List out the documents that need to be filed at the time of incorporation
·	of LLP?
ANS:	The incorporation document shall—
(a)	be in a form as may be prescribed;
(b)	state the name of the LLP;
(c)	state the proposed business of the LLP;
(d)	state the address of the registered office of the LLP;
(e)	state the name and address of each of the persons who are to be
	partners of the LLP on incorporation;
(f)	state the name and address of the persons who are to be designated
	partners of the LLP on incorporation;
(g)	contain such other information concerning the proposed LLP as may be
	prescribed.
	SPQ
Q6	A, B, and C are the partners in a LLP having a registered office in Pune
	and place of business in Mumbai. Now they wanted to change their
	registered office to Mumbai from Pune. Mr. A in his opinion said that
	they cannot change their Registered office as they inform Pune as their

	unalishaned affice at the time of incomparation to B in his activities and
	registered office at the time of incorporation. Mr. B in his opinion said that they can change their registered office by changing the address in
	website and all the legal papers without filing notice to registrar. Mr. C is
	confused with the opinion of both of them and concerned with the penal
A	provisions of the act. You are called to advise them.
Ans:	Provision: Change in registered office therein (Section13):
a)	A LLP may change the place of its registered office and file the notice of
	such changewith the Registrar in such form and manner and subject to such conditions as may be prescribed and any such change shall take
	effect only upon such filing.
b)	If the LLP contravenes any provisions of this section, the
<u></u>	LLP and its every partner shall be liable to a penalty of ₹500 for each
A D D A	day during which the default continues, subject to a maximum of₹50,000
<	for the LLP and its every partner.
4	FACTS OF CASE: In the given situation LLP has registered office in Pune
<u></u>	and now wants to shift to Mumbai
∀ → → →	Conclusion: As per the provision of LLP Act, 2008 it can shift its
>	registered office from Pune to Mumbai.
	SPQ
Q7	State the provision regarding reservation of name of LLP?
ANS:	RESERVATION OF NAME (SECTIONIS):
	A person may apply in such form and manner and accompanied by such
	fee as may be prescribed to the Registrar for the reservation of a name
	set out in the application as—
	a) The name of a proposed LLP; or
	b) The name to which a LLP proposes to change its name.
	Upon receipt of an application under sub-section (1) and on payment of
	the prescribed fee, the Registrar may, if he is satisfied, subject to the



	rules prescribed by the Central Government in the matter, that the name
	to be reserved is not one which may be rejected on any ground referred to
	in sub-section(2) of section15, reserve the name for a period of 3months
	from the date of intimation by the Registrar.
	SPQ
Q8	Mr. Mudit is the creditor of Devi Ram Food Circle LLP. He has a claim of ₹
	10,00,000 against the LLP but the worth of the assets of LLP are only ₹
	7,00,000. Now Mr. Mudit wants to make the partners of LLP personally
	liable for the deficiency of ₹3,00,000. Whether by virtue of provisions of
	Limited Liability Act, 2008, Mr. Mudit can claim the deficiency from the
	partners of Devi Ram Food Circle LLP?
ANS:	A limited liability partnership is a body corporate formed and incorporated 🕏
	under this Act and is a legal entity separate from that of its partners. 🚄
	The LLP itself will be liable for the full extent of its assets but the
	liability of the partners will be limited. Creditors of LLP shall be the
	creditors of LLP alone. In other words, creditors of LLP cannot claim from
	partners. The liability of the partners will be limited to their agreed
	contribution in the LLP.
	Hence the creditors of Devi Ram Food Circle LLP are the creditors of Devi
	Ram Food Circle LLP only. Partners of LLP are not personally liable
	towards creditors. Mr. Mudit cannot claim his deficiency of ₹ 3,00,000 from
	the partners of Devi Ram Food Circle LLP.
	Q
	SPQ

Q9	M/s Vardhman Steels LLP was incorporated on 01.09.2022. On 01.01.2023,
	one partner of a partnership firm named M/s Vardhimaan Steels is
	registered with Indian Partnership Act, 1932 since 01.01.2000 requested
	ROC that as the name of LLP is nearly resembles with the name of
	already registered partnership firm, the name of LLP should be changed.
	Explain whether M/s Vardhman Steels LLP is liable to change its name
	under the provisions of Limited Liability Act, 2008?
ANS:	Provision: Section 15 of LLP Act, 2008 provides no LLP shall be registered
	by a name which, in the opinion of the Central Government is—
	• undesirable; or
	• identical or too nearly resembles to that of any other
	'LLP or a company or a registered trade mark of any other person
	under the Trade Marks Act, 1999'.
2	Further, section 17 provides, if the name of LLP is identical with or too
	nearly resembles to- (a) that of any other LLP or a company; or (b) a
5	registered trade mark of a proprietor under the Trade Marks Act, 1999
	Facts of case: LLP was registered with name M/s Vardhman Steels LLP.
	One partner from partnership firm M/s Vardhimaan Steels claims that
<u> </u>	LLP is incorporated with resemble name
	Conclusion: Following the above provisions, LLP need not change its name
	if its name resembles with the name of a partnership firm. These
	provisions are applicable only in case where name is resembles with LLP,
	company or a registered trade mark of a proprietor.
	Hence, M/s Vardhman Steels LLP need not change its name even it resembles
	with the name of partnership firm.
	SPQ



Q10	There is an LLP by the name Ram Infra Development LLP which has 4		
•	partners namely Mr. Rahul, Mr. Raheem, Mr. Kartar and Mr. Albert. Mr.		
	Rahul and Mr. Albert are non – resident while other two are resident. LLP		
	wants to take Mr. Rahul and Mr. Raheem as Designated Partner. Explain		
	in the light of Limited Liability Partnership Act, 2008 whether LLP can		
	do so?		
ANS:	Provision: Every LLP shall have least two partners and shall also have at		
	least 2 individuals as designated partners, of whom at least one shall be		
	resident in India. , the term "resident in India" means a person who has stayed in India for a period of not less than one hundred twenty days		
	during the financial year.		
	Facts of case: In the given case there are 4 partners Rahul, Raheem, Kartar, Albert. Out of which Rahul and Albert are non-residents. And LLP wants to make Rahul and Raheem as designated partner. Conclusion: so LLP can do so because out of two designated partners		
	atleast one should be resident of India and in this case out of \square		
	Rahul and Raheem , Raheem is resident of India.		
QII	What are the effects of registration of LLP?		
ANS:	EFFECT OF REGISTRATION (SECTIONIA):		
71740.	77049		
	• Suing and being sued		
	• acquiring, owning, holding and developing or disposing of property,		
	whether movable or immovable, tangible or intangible;		
	 having a common seal, if it decides to have one; and 		
	 doing and suffering such other acts and things as bodies corporate 		
	may lawfully do and suffer.		
	ICAI STUDY MAT.		

Q12	Explain the essential elements to incorporate a Limited Liability		
	Partnership under the LLP Act, 2008.		
Ans.	Essential elements to incorporate Limited Liability		
	Partnership (LLP) - Under the LLP Act, 2008,		
	the following elements are very essential to form a LLP in India:		
(i)	To complete and submit incorporation document in the form prescribed		
	with the Registrar electronically;		
(ii)	To have at least two partners for incorporation of LLP [Individual or body		
	corporate];		
(iii)	To have registered office in India to which all communications will be		
<u> </u>	made and received;		
(iv)	To appoint minimum two individuals as designated partners who will be		
₹	responsible for number of duties including doing of all acts, matters and		
<u> </u>	things as are required to be done by the LLP. Atleast one of them should		
(v)	be resident in India.		
(v)	A person or nominee of body corporate intending to be appointed as		
>	designated partner of LLP should hold a Designated Partner Identification		
—	Number (DPIN) allotted by Ministry of Corporate Affairs.		
(vi)	To execute a partnership agreement between the partners inter se or		
	between the LLP and its partners. In the absence of any agreement the		
	provisions as set out in First Schedule of LLP Act, 2008 will be applied.		
	9 TCAT STUDY MAT/		
	ICAI STUDY MAT/		
	11 11/ 2010 (1101/ 2010		
	•		