

MODEL QUESTION PAPER FOR THE LIMITED INSOLVENCY EXAMINATION
(w.e.f. 1st January 2021)

1. Which of the following enactments was not amended as part of the IBC, 2016?
 - a) The Customs Act, 1962
 - b) The Limitation Act, 1963
 - c) The Payment and Settlement Systems Act, 2007
 - d) The Limited Liability Partnership Act, 2008Ans. (b)

2. Where the committee of creditors resolves to continue the interim resolution professional as resolution professional under section 22 of the IBC, 2016, the resolution needs to be passed by a majority of not less than _____ per cent of voting share of the financial creditors.
 - a) 50
 - b) 66
 - c) 75
 - d) 90Ans.(b)

3. A resolution professional shall file an application to the Adjudicating Authority to extend the period of fast track resolution beyond _____ days, if instructed to do so by a resolution passed at a meeting of the committee of creditors.
 - a) 45
 - b) 90
 - c) 180
 - d) 270Ans. (b)

4. A corporate debtor shall be deemed to have given a preference at a relevant time under the IBC, 2016 if it is given to a related party during the period of _____ preceding the insolvency commencement date.
 - a) two years
 - b) three years
 - c) four years
 - d) five yearsAns. (a)

5. Under the IBC, 2016, an RP may make an application for avoidance of transactions to _____ if the terms of such transaction required exorbitant payments to be made by corporate debtor.
 - a) IBBI
 - b) Special court
 - c) NCLAT

d Adjudicating Authority

Ans. (d)

6. Which of the following is an 'excluded asset' for the purposes of Part III of the IBC, 2016 dealing with insolvency resolution and bankruptcy for individuals?
- a) Unencumbered single dwelling unit irrespective of its value.
 - b) Encumbered single dwelling unit irrespective of its value.
 - c) Unencumbered single dwelling unit of prescribed value.
 - d) Encumbered single dwelling unit of prescribed value.

Ans. (c)

7. Who prepares a list of creditors of the bankrupt under section 132 of the IBC, 2016?
- a) Bankruptcy trustee.
 - b) Official liquidator.
 - c) Adjudicating Authority.
 - d) Bankrupt.

Ans. (a)

8. Which of the following is not a function of an IBBI?
- a) Issue authorisation for assignment
 - b) Lay down standards of professional conduct for its members
 - c) Monitor the performance of its members
 - d) Register the insolvency professionals who are its members

Ans. (a)

9. Which of the following members of the IBBI may be included as members of the Disciplinary Committee?
- a) Independent members
 - b) Whole-time members
 - c) Executive members
 - d) Nominee members

Ans. (b)

10. An appeal may be filed to the Supreme Court against an order of the NCLAT on a question of _____ arising out of such order.
- a) law
 - b) fact
 - c) process
 - d) admissibility of evidence

Ans. (a)

11. An operational creditor is required to dispatch the application filed with the NCLT for initiation of corporate insolvency resolution process to _____.
- a) all financial creditors

- b) the proposed interim resolution professional
- c) the corporate debtor
- d) prospective resolution applicants

Ans. (c)

12. In a corporate insolvency resolution process, if there are dues to numerous workmen of the corporate debtor, _____.

- a) all workmen must submit their claims individually
- b) an authorized representative may submit one claim with proof on behalf of all workmen
- c) the resolution professional shall use an authorised representative to collect and consolidate all such claims
- d) the resolution professional shall announce dues as per corporate debtors' records and invite applications for disputes, if any

Ans. (a)

13. Where all financial creditors are related parties of the corporate debtor, the committee of creditors shall comprise of _____.

- a) all debenture holders
- b) top 'n' operational creditors accounting for 75% of voting share
- c) insolvency resolution professional and authorised representative
- d) 18 largest operational creditors by value and one representative each of workmen and of employees

Ans. (d)

14. In case the resolution professional receives more than one resolution plan, _____.

- a) he shall select the best plan for consideration of the committee of creditors
- b) he shall select all such plans that meet the requirements of the IBC, 2016 and present them for consideration of the committee of creditors
- c) he shall negotiate with the resolution applicant to improve their offer and then select the best plan for consideration of the Adjudicating Authority
- d) he shall file an application under section 60(5) of the IBC, 2016 for directions

Ans. (b)

15. Which of the following is not a requirement for a company to be registered as an insolvency professional agency?

- a) Its sole object is to carry out the functions of an insolvency professional agency.
- b) It has a minimum net worth of ten crore rupees.
- c) It is promoted by a statutory regulator.
- d) It is not under the control of person(s) resident outside India.

Ans. (c)

16. Who amongst the following is eligible for registration as an insolvency professional?

- a) A banker with 10 years of professional experience.

- b) An advocate with 10 years of professional experience.
- c) An MBA graduate with 10 years of managerial experience.
- d) A graduate with 10 years of managerial experience.

Ans. (b)

17. Which of the following is not prohibited by the code of conduct for insolvency professionals?

- a) Diligence while performing his functions and duties
- b) Being engaged in employment while holding valid authorisation for assignment
- c) Accepting gifts or hospitality from a creditor
- d) Conducting business which in the opinion of the IBBI is inconsistent with the reputation of the profession.

Ans. (a)

18. Who ordinarily decides the fees payable to a liquidator under the IBBI (Liquidation Process) Regulations, 2016?

- a) Committee of creditors
- b) Corporate debtor
- c) IBBI
- d) Adjudicating Authority

Ans. (a)

19. Which of the following may not prove existence of debt due to an operational creditor under the IBBI (Liquidation Process) Regulations, 2016?

- a) Records available with an information utility.
- b) A charge registered with Registrar of Companies.
- c) A contract for the supply of goods and service.
- d) An invoice demanding payment for the goods and services supplied.

Ans.(b)

20. In which of the following circumstances voluntary liquidation is permissible?

- a) Where the committee of creditors decides to liquidate the company during the resolution period.
- b) Where the Adjudicating Authority does not receive a resolution plan of a company.
- c) Where the company has no debt or can pay all its debts in full.
- d) Where there is a financial debt arising out of default in payment of counterindemnity obligation in respect of the guarantee.

Ans.(c)

21. An information utility holds financial information as a_____.

- a) trustee
- b) regulator
- c) custodian
- d) fiduciary

Ans. (c)

22. When a complaint and grievance is in the same matter, it will fall within the category of _____.

- a) general complaint
- b) complaint-cum-grievance
- c) complaint
- d) grievance

Ans.(b)

23. A show cause notice issued by the IBBI on consideration of an inspection report needs to be disposed of by _____ within six months.

- a) inspecting authority
- b) IBBI
- c) Adjudicating Authority
- d) disciplinary committee

Ans.(d)

24. As per the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, the resolution professional shall prepare a list of creditors within _____ days from the date of public notice?

- a) 7
- b) 14
- c) 30
- d) 60

Ans.(c)

25. As per the IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, a bankruptcy trustee shall submit a preliminary report within _____ days of bankruptcy commencement date?

- a) 30
- b) 45
- c) 60
- d) 90

Ans.(d)

26. Who among the following need not be given notice for the general meeting of a company?

- a) A member of the company.
- b) An assignee of an insolvent member of the company.
- c) The auditor of the company.
- d) A debenture holder of the company.

Ans. (d)

27. When a company has failed to commence its business within one year of its incorporation, _____.
- a) the registrar may strike off its name from the register of companies
 - b) it will be given a dormant status
 - c) its registration will be suspended
 - d) it will be referred to official liquidator
- Ans.(a)
28. In terms of the Partnership Act,1932 the partner of a firm, where partnership is at will, may retire _____.
- a) with the consent of all the other partners
 - b) in accordance with an express agreement by the partners
 - c) by giving notice in writing to all the other partners of his intention to retire
 - d) without the consent of all the other partners
- Ans.(c)
29. Every limited liability partnership shall file a duly authenticated _____ with the Registrar within sixty days of closure of its financial year.
- a) auditor's report
 - b) cash flow statement
 - c) annual return
 - d) profit and loss statement
- Ans. (c)
30. A contract in which one person promises to compensate the other person for the loss suffered by him, due to the conduct of the promisor or of any other person, is known as_____.
- a) contract of indemnity
 - b) contract of guarantee
 - c) quasi-contract
 - d) contingent contract
- Ans.(a)
31. When an instrument has been lost, then as per the Negotiable Instrument Act, 1881, until the contrary is proved, it shall be presumed that it was _____.
- a) an expired instrument
 - b) duly stamped
 - c) duly registered
 - d) duly signed
- Ans.(b)
32. 'A' transfers a garden to B for his life, with a proviso that, in case B cuts down a particular neem tree, the transfer shall cease to have any effect. B cuts down the tree. Decide the case in the light of the Transfer of Property Act, 1882.

- a) B loses his life interest in the garden.
- b) B does not lose his life interest in the garden.
- c) No such provision is made under the Transfer of Property Act, 1882.
- d) The transfer will become void-ab-initio.

Ans. (a)

33. Under the Sale of Goods Act, 1930, 'delivery' means _____.
- a) gratuitous transfer of possession from one person to another
 - b) involuntary transfer of possession from one person to another
 - c) voluntary transfer of possession from one person to another
 - d) transfer of possession irrespective of whether it is gratuitous, involuntary, or voluntary, from one person to another.

Ans.(c)

34. The arbitration agreement as defined in section 7(2) of the Arbitration and Conciliation Act, 1996 may be _____.
- a) in form of contract and a separate agreement
 - b) in form of contract and a written agreement
 - c) in the form of an arbitration clause in a contract or in the form of a separate agreement
 - d) in the form of an implied oral agreement.

Ans.(c)

35. Which of the following decides applications from the banks and financial institutions for recovery of debts of individuals due to them?
- a) Debt Recovery Tribunal
 - b) Debt Recovery Appellate Tribunal
 - c) Securities Appellate Tribunal
 - d) Central Board of Direct Taxes

Ans. (a)

36. As per the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, what constitutes a 'non-performing asset'?
- a) An asset of a borrower which has been classified by a credit rating agency as doubtful.
 - b) An asset or an account of a borrower which has been classified by a bank as sub-standard or doubtful or loss asset, after 90 days of default.
 - c) An account for which a borrower has refused to repay.
 - d) An asset of borrower's subsidiaries company which has failed to repay any of its debt.

Ans.(b)

37. As per SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, the board of directors shall meet at least _____ times a year.
- a) 2

b) 3

c) 4

d) 5

Ans. (c)

38. Principle of res-judicata applies to _____.

a) suits only

b) execution proceedings only

c) arbitration proceedings

d) suits as well as execution proceedings

Ans. (d)

39. What is a punishment prescribed under the Prevention of Corruption Act, 1988 for the offence relating to bribing the public servant by a commercial organisation?

a) With fine only.

b) With fine and imprisonment of five years.

c) With fine and imprisonment of three years.

d) No punishment prescribed.

Ans. (a)

40. Who will hear appeal against order passed by the State Real Estate Regulatory Authority?

a) State Real Estate Appellate Authority

b) High Court

c) National Company Law Appellate Tribunal

d) Supreme Court

Ans. (a)

41. Balance sheet of a company does not reflect _____.

a) what the company owns and what the company owes

b) the assets and liabilities of the company

c) the financial health of the company

d) the income and expenditure of the company

Ans. (d)

42. Basic Earnings per Share (EPS) is calculated as _____.

a) Net profit /total number of shares

b) (Net profit - preferred dividend)/weighted average number of outstanding shares

c) (Net Profit - Preference Share Capital) /Average shares outstanding

d) (Net Profit - Dividend) /Total shares outstanding

Ans.(b)

43. A firm can enhance its value by_____.

a) increasing working capital

- b) increasing capital expenditure
 - c) decreasing cost of capital
 - d) increasing debt
- Ans. (c)

44. The process whereby a company sells its receivables to a collection agent in order to secure a cash sum which is at a discount to the face value of the receivables is termed as _____ process.
- a) debt factoring
 - b) credit factoring
 - c) sell per se
 - d) cash collection
- Ans. (a)

45. Who will pay GST on the business (in respect of which any tax, interest or penalty is payable under CGST Act) carried on by a minor, or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person?
- a) Guardian
 - b) Partner
 - c) Director
 - d) Such businesses are exempted from paying GST
- Ans. (a)

46. As per the Constitution of India, which of the following courts is a 'court of record'?
- a) High Courts and District Courts
 - b) District Courts, High Courts and Supreme Court of India
 - c) The Supreme Court of India and High Courts
 - d) District Court
- Ans. (c)

47. Exchange markets and Over the Counter Markets are considered as two types of - _____.
- a) Inter market
 - b) Primary market
 - c) Secondary market
 - d) Risky market
- Ans. (c)

48. A market which has only one seller selling a homogeneous product to many buyers is known as _____.
- a) oligopoly
 - b) monopoly
 - c) perfect competition
 - d) monopolistic competition

Ans. (b)

49. Which of the following is not a settlement machinery appointed by the appropriate authority for the settlement of the industrial disputes under the Industrial Disputes Act, 1947?

- a) Conciliation officers
- b) Labour Courts
- c) Board of Arbitrators
- d) Courts of Inquiry

Ans.(c)

50. In a forensic audit, diversion of funds is best discovered by a review of _____.

- a) the audited financial statement
- b) books of the CD
- c) bank statements
- d) trial balance

Ans. (c)

51. The Hon'ble Supreme Court, in Mobilox Innovations (P) Limited v Kirusa Software (P) Limited case, has interpreted the expression "_____".

- a) Operational Creditor
- b) Existence of Dispute
- c) Time value of money
- d) Doctrine of Repugnancy

Ans.(b)

52. In the case of Sree Metaliks Limited and another v Union of India, it was held by Hon'ble Calcutta High Court that _____.

- a) section 7 of the IBC, 2016 is unconstitutional
- b) section 7 of the IBC, 2016 must be read with the Section 424 of the Companies Act, 2013
- c) the National Company Law Tribunal and National Company Law Appellate Tribunal have to adhere to the principles of natural justice barring exceptional circumstance
- d) the principles of natural justice are expressly ousted from section 7 of the Code

Ans. (c)

53. In which of the following case, Hon'ble NCLT has upheld that '*shareholder has a right to decide whether approving or disapproving the decision be proceeded with the Corporate Insolvency Resolution Process under Section 10 of the IBC. Such right does not stand curtailed by Deed of Pledge.*'?

- a) Edelweiss Asset Reconstruction Co. Ltd. v Synergies Dooray Automotive Ltd. & Ors.
- b) Consolidated Engineering Co. & Anr. v Golden Jubilee Hotels Pvt. Ltd.
- c) Export Import Bank of India & Anr v Astonfield Solar (Gujarat) Pvt Ltd & Anr
- d) Tata Steel Limited v Liberty House Group Pvt. Ltd. & Ors.

Ans. (c)

54. In which of the following case, Hon'ble NCLT has held that '*Since, the attachment order passed by the court under Prevention of Money Laundering Act is hit by the provisions of Section 14 of IBC and considering the overriding effect of IBC under Section 238 of the Code, the attachment order under PMLA Act is a nullity and non-est in law and hence it will not have any binding force*'?

- a) SREI Infrastructure Finance Limited v Sterling SEZ and Infrastructure Limited
- b) State Bank of India v ARGL
- c) Affinity Finance Services Pvt Ltd v Kiev Finance Limited
- d) Small Industries Development Bank of India v Tirupati Jute industries Limited

Ans. (a)

55. In which of the following cases, Hon'ble NCLAT has interpreted upon the powers of the Liquidator and held that '*the liquidator shall verify claims of all the creditors, take into custody and control of all the assets, property, effects and actionable claims of the 'corporate debtor', carry on the business of the 'corporate debtor' for its beneficial liquidation etc. as prescribed under Section 35 of IBC*'?

- a) M/s Era Infra Engineering Ltd. v Prideco Commercial Projects Pvt. Ltd.
- b) S. C. Sekaran v Amit Gupta & Ors.
- c) Consolidated Engineering Co. & Anr. v Golden Jubilee Hotels Pvt. Ltd.
- d) Gammon India Limited v Neelkanth Mansions and Infrastructure Pvt. Ltd.

Ans. (b)

Attempt Questions 56-65 based upon the following case study/transaction analysis:

Mr. X holds the first meeting of his team as Interim Resolution Professional of Jumpee Cosmetics Limited ("Jumpee"). An application was made to the Adjudicating Authority by a joint lending forum, led by Kuber Bank who are owed Rs.1.3 crore, which was satisfied that a default had occurred (Jumpee had not made any repayments on the principal debt for six months, having also defaulted for three months towards the end of last year).

The Adjudicating Authority communicated the order under section 5(a) of the IBC, 2016 ("the Code") and sent notice of commencement of the corporate insolvency resolution process.

Richie, one of the senior members of X's team asks to see X privately and reveals at the meeting that his cousin is on the board of Jumpee. He explains that they have not seen each other socially for more than five years and have not discussed this matter. Richie is a forensic accountant, and a skilful strategist and X is very keen for him to remain on the team.

Jumpee deals in cosmetics for reconstructive surgery or as an alternative for surgical intervention and thus, holds several licenses for live animal research and the blending of volatile chemical compounds and the current status of the licenses needs to be ascertained.

Having completed an early "walk round" of the main site, and having talked to Jumpee's main Security Officer, Mr. X selects a series of offices in the main building of the company's headquarters and call a meeting of three members of his team.

With reference to the above-mentioned facts, answer the following questions:

56. With respect to the stated position of Richie, what shall be the reasonable step by Mr. X?
- a) Richie may remain on the team as his relationship with his cousin is a distant one and it is reassured that he has had no social contact with him in the past five years
 - b) Richie has to leave the team and return to the office as he is effectively an “independent director” of Jumpee and cannot be allowed to be part of the CIRP process
 - c) Richie may remain on the team as he is a junior member without any significant influence
 - d) Richie must leave the team and return to the office as the Code of Conduct places high value on independence and impartiality

Ans.(d)

57. With respect to the circular issued by IBBI on January 16, 2018 requiring certain disclosures to be made by the Insolvency Professional in a Resolution Process in the interests of transparency, by when must the disclosure be made relating to the relationship between Richie and his cousin?

- a) Within 2 days of the appointment of the Interim Resolution Professional
- b) Within 2 days of the constitution of the Committee of Creditors
- c) Within 3 days of the appointment of the Interim Resolution Professional
- d) Within 3 days of the constitution of the Committee of Creditors

Ans.(c)

58. Who shall be held responsible for the loss suffered by Jumpee, after the commencement of CIRP, on account of non-compliance with the law due to a license for cosmetic products from animal testing not being renewed on time?

- a) The directors of the company, if their names were on the original application for the said license
- b) The Insolvency Professional will be responsible, and any loss will not form part of the insolvency Resolution Process cost
- c) The Company itself is responsible as it is a separate legal entity, and all contracts and transactions are being performed in its name
- d) The senior employees and personnel of the company will be responsible as they are in the most senior position with the greatest knowledge of the practices of the business

Ans. (b)

59. After the Commencement of CIRP, Mr. X shall ensure publishing of Form G for Invitation for Expression of Interest by?

- a) Within 75 days of the date of commencement of the Resolution Process
- b) Within 90 days of the date of commencement of the Resolution Process
- c) Within 105 days of the date of commencement of the Resolution Process
- d) Within 115 days of the date of commencement of the Resolution Process

Ans. (a)

60. Mr. X shall appoint Registered Valuers by?

- a) within 27 days of the date of commencement of the Resolution Process
- b) within 37 days of the date of commencement of the Resolution Process

- c) within 47 days of the date of commencement of the Resolution Process
 - d) within 57 days of the date of commencement of the Resolution Process
- Ans. (c)

61. Mr. X before accepting the assignment as an Interim Resolution Professional would have submitted Form 2 under rule 9 of IBBI (Application to Adjudication Authority) Rules, 2016. What does Form 2 deal with?
- a) Application to initiate corporate insolvency resolution process
 - b) Written communication in connection with application to initiate corporate insolvency resolution process
 - c) Invoice determining payment under the Code
 - d) Consent to act as insolvency professional for insolvency resolution of personal guarantor to corporate debtor

Ans. (b)

62. Assuming Mr. X was in employment at the time of considering the offer of assignment, choose the correct answer from the following.
- a) Mr. X can submit Form 2 only if he holds a valid authorisation for assignment
 - b) Mr. X can submit Form 2 and take authorisation for assignment before actual date of appointment
 - c) Requirement of holding an authorisation for appointment does not arise for Mr. X as his name was proposed by a financial creditor
 - d) Requirement of holding an authorisation for appointment would arise for Mr. X if his name were proposed by an operational creditor

Ans. (a)

63. The two Registered Valuers appointed by Mr. X have provided estimates of fair value and liquidation value. In which of the following situation should Mr. X appoint a third valuer?
- a) Only if each of the valuers disagree with the value provided by the other valuer
 - b) Only if the suspended board of directors of Corporate Debtor make such a request
 - c) Only if he is of the view that the two estimates are significantly different
 - d) Only if the CoC by a majority of more than 50% of voting share recommends for such appointment

Ans. (c)

64. Mr. X has received a suggestion from one of the creditors that the liquidation value should be included in the information memorandum to fetch higher resolution value. Choose the correct answer from the following:
- a) Liquidation value should be mandatorily included in the Information Memorandum.
 - b) Only the liquidation value due to operational creditors can be include in the Information Memorandum.
 - c) Liquidation value may be included in the Information Memorandum if creditors pass a special resolution with 76 per cent voting rights or more.
 - d) Liquidation value is not a mandatory content of the Information Memorandum.

Ans. (d)

65. The Financial Creditors are contemplating to initiate insolvency proceedings on the Mr. P, the personal guarantor to the Corporate Debtor. They have approached Mr. X to take up the assignment in relation to Mr. P. What should Mr. X do?
- a) Mr. X should not agree to the request as he is not eligible for such appointment
 - b) Mr. X should accept the request as he has complete knowledge of the corporate debtor which will help him in faster resolution
 - c) Mr. X should file an application before NCLT seeking its approval
 - d) Mr. X should file an application before IBBI seeking its prior approval

Ans. (a)

Attempt Questions 66-69 based upon the following case study/transaction analysis:

MM is a gym located at leased premises in Lajpat Nagar, New Delhi. Because of competition and other issues, MM is facing financial difficulties and it is not meeting its liabilities. All the efforts to revive the business, cut the costs or even sell the business were unsuccessful. Payment to equipment suppliers and maintenance agencies are due for supplies/services provided in the previous 3 months amounting to around Rs.2 lakh. The rent for its premises remains unpaid for 3 months amounting to Rs. ninety thousand towards landlord Mr. D (the landlord had received advance rent for three months, lease deed provided for one-month rent as security and one-month rent as advance). MM has a loan account with XYZ Bank, which remains unpaid for last two months. The monthly EMI for the loan is Rs. 1 lakh. MM was managed by Mr. M, as a sole proprietor. MM has employed 7 persons, including 3 trainers, 1 accountant and 3 housekeeping staff. The salaries due to these employees were paid in half since the past four months. The housekeeping staff are covered under the definition of workmen. Mr. M made an application under Section 94 of the IBC, 2016 for initiation of insolvency resolution of MM. The Adjudicating Authority admitted the application and appointed P as resolution professional. The Adjudicating Authority considered the repayment plan approved by the creditors and rejected it.

66. Whether M could have applied for fresh start process?
- a) Yes, before the National Company Law Tribunal
 - b) No, MM is ineligible for applying for fresh start process
 - c) No, as it is required to seek prior approval of the IBBI
 - d) Yes, before the Debt Recovery Tribunal

Ans. (b)

67. In the case which of the following is incorrect?
- a) Mr. M can make an application for bankruptcy
 - b) The employees can make an application for bankruptcy
 - c) The bankruptcy process is automatically initiated with the rejection of repayment plan, without requiring any application
 - d) The order of Adjudicating Authority rejecting the repayment plan is to be provided to the IBBI for record.

Ans. (c)

68. In the above situation if a bankruptcy order is passed against MM, who shall prepare the list of creditors?
- a) Bankruptcy trustee
 - b) MM
 - c) Adjudicating Authority
 - d) None, the list of creditors made by P shall be used.

Ans. (a)

69. In the bankruptcy proceeding what debts will be paid before the dues of the accountant of the bankrupt?
- a) Unpaid debt owed to the trainers
 - b) Dues of the housekeeping staff and the debts owed to the secured creditors
 - c) Dues of Mr. D
 - d) Dues of suppliers

Ans. (b)

Attempt Questions 70-72 based upon the following case study/transaction analysis:

A Deed of partnership was executed between A and C wherein they both agreed to carry on business in partnership in the firm name of M/s National Kunstructions on the terms and conditions as recorded in the partnership deed. Clauses 6 and 7 of the partnership deed states that the duration of this partnership is not fixed, and it will, therefore, be a partnership at will. Each partner will be entitled to a share in the goodwill of the firm according to his share in the partnership. If any partner wishes to retire from the firm, he can do so by giving notice in writing to the other partners of his intention to retire after completion of the pending construction works and the retirement shall take effect after the pending construction works are completed, accounts in respect thereof are taken and the amount due at the foot of the accounts is paid or received by him, as the case may be. If the continuing partners take up any new construction work after receipt of such written notice from the retiring partner, the retiring partner shall not be liable in any manner in respect of such construction work. The retiring partner will have no claim in respect of the goodwill of the firm and the goodwill shall belong to the continuing partners according to the shares mutually agreed between them.

The partnership firm obtained a contract for the construction of road on National Highway No. 8 from M/s MAB Construction Partners but before the completion of construction of the said work M/s MAB Construction Partners gave a notice to M/s National Kunstructions for dissolving the firm. This action was taken by M/s MAB Construction Partners because according to them various irregularities and illegalities were being committed by the partner A in the management of the business of the partnership firm.

With reference to the above-mentioned facts, answer the following questions:

70. Whether notice of Dissolution given by M/s MAB Construction Partners to M/s National Kunstructions is tenable?
- a) Yes, because the partnership is not for a fixed duration and is a partnership at will

- b) No, only partners can dissolve its partnership firm
- c) No, retiring partners can initiate the dissolution of firm
- d) No, only continuing partners can issue notice for dissolution of firm

Ans. (b)

71. Amongst the following, what are not the prescribed modes of dissolution of firm as per Partnership Act, 1932?

- a) Dissolution by agreement
- b) Dissolution by notice, when the partnership is at will
- c) Dissolution on the happening of certain contingencies
- d) Dissolution by the orders of the Government

Ans. (d)

72. How are the losses to be treated in case of dissolution of firm?

- a) Payment to creditors only out of profits of company
- b) Losses shall not be paid in case of dissolution by notice
- c) Losses shall be paid, first out of profits, then out of partners' capital and lastly, by the partners individually in their profit-sharing ratio, if necessary
- d) Losses shall be paid out of partners' capital directly

Ans. (c)

Attempt Questions 73-75 based upon the following case study/transaction analysis:

Mr. S, an advocate, is in the business of providing professional services like filing of petitions before Tribunals and Courts. Mrs. B, wife of Mr. S, is a registered Insolvency Professional (IP) with the IBBI. Mr. S, in his capacity of an advocate, filed many applications relating to admission of corporate debtors before NCLT and his wife Mrs. B being an insolvency professional in her own professional capacity acts as Insolvency Professional in all the cases her husband takes up. Mrs. B within 6 months of becoming Insolvency Professional accepted 15 such assignments. She does not have any prior experience as an Insolvency Professional. While considering one such application for initiation of CIRP, NCLT observed that the fees charged by Mrs. B for acting as insolvency resolution professional is exorbitant. Mrs. B contracted with the applicant to not only act as Interim Resolution Professional but also as Resolution Professional in all the 15 assignments that she accepted.

With reference to the above-mentioned facts, answer the following questions:

73. Is Mrs. B right in accepting the assignments when it was her husband who proposed her name? Choose the most appropriate answer.

- a) Mrs. B is a professional in her own capacity. So, there is nothing wrong in her accepting assignments.
- b) The IPs are bound by Code of Conduct, which expressly bars an IP to accept an assignment which is being undertaken by any of his relatives.
- c) The Code of Conduct requires the IP to maintain complete independence in professional relationships. It is not correct on part of Mrs. B to accept assignments which affect her independence.

d) Mrs. B should have taken prior permission from IBBI before accepting such assignments to avoid any further disciplinary action

Ans. (c)

74. IBBI has issued a show cause notice to Mrs. B based on the adverse remarks made by NCLT. Choose the correct answer.

a) IBBI does not have power to issue a show cause notice just because NCLT has made some observations.

b) IBBI should approach NCLT before issuing a show cause notice to confirm the remarks made by it.

c) IBBI is empowered by the Code to issue a show cause notice even without a complaint made against IP if it has reasonable grounds to believe IP has contravened any provisions.

d) Mrs. B should have taken prior permission from IBBI before accepting such assignments to avoid any further disciplinary action

Ans. (c)

75. Assume that out of the 15 assignments Mrs. B accepted, 2 are listed companies, 3 are unlisted public companies and 10 are private companies. Based on this assumption answer the following.

a) The number of assignments is within the limits prescribed under IBBI (Insolvency Professionals) Regulations, 2016.

b) There is no cap in number of assignments that an IP can accept. However, IP must refrain from accepting too many assignments if he is unable devote enough time.

c) An IP can accept only 10 assignments in total as per extant provisions.

d) An IP cannot accept more than one assignment at a time in case of a listed company.

Ans. (b)
