PAPER – 13 : CORPORATE AND ECONOMIC LAWS

SUGGESTED ANSWERS

SECTION-A

1.

(i) (A)

(ii) (A/C)

(iii) (B)

(iv) (D)

(v) (D)

(vi) (D)

(vii) (A)

(viii) (D)

(ix) (C)

(x) (B)

(xi) (D)

(xii) (C)

(xiii) (A)

(xiv) (B)

(xv) (D)

SECTION-B

2. (a)

If Vida Ltd is a Government Company and the Government has been intimated

As per the proviso to Section 160(1) and Rule 7(1) of the Companies (Appointment and Qualification of Directors) Rules, 2014,

Section160 does not apply to a Government Company where the Ministry or Department concerned has been intimated about the proposed appointment of the person as a director.

The proposal is valid even without compliance under Section 160.

If the Articles provide for election of Directors by ballot

The exemption from Section 160 in case of election of directors by ballot is available only to Section 8 companies. Since Vida Ltd. is a normal limited company and not a Section 8 company, Section 160 is applicable.

In the given case, Mr. Jhunjhunwala has duly given notice in writing and deposited ₹1,00,000, thereby complying with the requirements of Section 160. Hence, the proposal of Mr. Dandpat is valid.

However, as per Section 152 read with Section 10, the appointment of directors is subject to the Articles of Association, which are binding on the company and its members. Since the Articles provide for election of directors by ballot, the appointment, if made, must be decided through ballot voting.

Conclusion:
The proposal is valid, but the appointment must be made by ballot in accordance with the Articles of Association.

Public Company with advertisement only in vernacular newspaper

Under Section 160(2) and Rule 13, where a company opts not to send individual notices, it must publish an advertisement:

- At least once in English, in an English newspaper circulating in the district of the registered office; and
- At least once in vernacular language, in a vernacular newspaper circulating in that district;
- Such publication must be not less than seven days before the meeting.

In the given case, the company has published only in the vernacular newspaper but not in the English newspaper, resulting in partial compliance.

Conclusion: The requirement of due notice is not fully complied with; hence, the candidature notice is invalid and the election proceedings are irregular.

2(b)

(i) Eligibility to Invite Public Deposits

As per Section 76(1) of the Companies Act, 2013, only an "eligible company" (a certain class of public companies) can invite deposits from the public.

A public company is eligible to invite public deposits if it satisfies all of the following conditions:

1. Net worth of not less than ₹100 crore, or
2. Turnover of not less than ₹500 crore, and
3. Has obtained prior consent of shareholders in a general meeting by special resolution, and
4. Has filed the said resolution with the Registrar of Companies, and
5. Has obtained a credit rating and complied with the prescribed rules under the Companies (Acceptance of Deposits) Rules, 2014.

Application to the given case:

- Net worth = ₹100 + ₹20 + ₹5 = ₹125 crore. Fulfilled.
- Turnover = ₹575 crore Fulfilled.

Hence, the company qualifies as an "eligible public company**"** under Section 76.

Conclusion:
M/s Pearson Ltd is eligible to invite public deposits, subject to compliance with all procedural requirements (special resolution, credit rating, filing, etc.).

(ii) Tenure and Limit for Acceptance of Public Deposits

Under Rule 3(1) of the Companies (Acceptance of Deposits) Rules, 2014:

- No company shall accept or renew any deposit repayable on demand or for a period of less than six months or more than 36 months.

However, a short-term exception is allowed:

A company may accept deposits for less than six months but not less than three months, for meeting short-term fund requirements, subject to:

(a) Such deposits do not exceed 10% of the aggregate of the paid-up share capital, free reserves and securities premium account; and

(b) Such deposits are repayable not earlier than three months.

Therefore:

- Normal deposit tenure: 6 to 36 months**.**
- Short-term deposits (3–6 months)**:** Allowed only up to 10% of the aggregate of capital + reserves + premium.

(iii) Limit for Acceptance of Deposits from Members

As per Rule 3(4**)** of the Companies (Acceptance of Deposits) Rules, 2014:

A public company (whether eligible or not) may accept deposits from its members up to 10**%** of the aggregate of its paid-up share capital, free reserves and securities premium account**.**

Computation:

(100 + 20 + 5) × 10% = ₹12.5 crore

Limit from members = ₹12.5 crore

(iv) Limit for Acceptance of Deposits from Public and Members Together

As per Rule 3(4)**,** an eligible public company may accept:

- Deposits from members up to 10%, and
- Deposits from public up to 25% of the aggregate of paid-up capital, free reserves and securities premium account.

Therefore**,** total permissible = 35% of (100 + 20 + 5) = 35% of ₹125 crore = ₹43.75 crore.

Limit from public = ₹31.25 crore (25%)

Limit from members = ₹12.5 crore (10%)

Total limit (public + members) = ₹43.75 crore (35%)

3. (a)

Conducting Board Meetings at a shorter notice

(i) Holding of Board Meeting at a Shorter Notice

Statutory Reference: Section 173(3) of the Companies Act, 2013.

- A meeting of the Board of Directors shall be called by giving not less than seven days' notice in writing to every director at his registered address by hand, post, or electronic means.
- However, a meeting may be convened at shorter notice to transact urgent business, subject to compliance with specified conditions.
- The notice must state clearly that the meeting is being held at a shorter notice**.**

Conclusion:

Yes, the Board Meeting may be held at a shorter notice, provided the prescribed conditions (see below) are fulfilled.

(ii) Requirement regarding Independent Director

When a company is required to appoint independent directors, the following provisions apply (as per the second proviso to Section 173(3) and Rule 3(3) of the Companies (Meetings of Board and its Powers) Rules, 2014**):**

(a) The presence of at least one Independent Director is mandatory for the meeting held at a shorter notice to transact urgent business.

(b) If no Independent Director is present at such meeting, then:

- The decisions taken at the meeting shall be circulated to all the directors, and
- Shall be final only on ratification by at least one Independent Director.

If the company does not have any Independent Director (for example, a private company not required to appoint one), then:

- The decision taken shall be ratified by a majority of directors, unless it has already been approved at the meeting by a majority of the Board.

(c) Venue of Meeting Conducted via Video Conferencing

Statutory Reference: Rule 3(6**)** of the Companies (Meetings of Board and its Powers) Rules, 2014.

- Where the meeting is conducted through video conferencing or other audio-visual means, the scheduled venue mentioned in the notice convening the meeting shall be deemed to be the venue of the meeting.
- All recordings of the proceedings shall also be deemed to have been made at such venue**.**

Conclusion:

Even if directors participate from different locations, the place stated in the notice shall be treated as the official venue of the meeting**.**

3. (b)

Amalgamation of two companies

Relevant Legal Provision

Under Section 237 of the Companies Act, 2013, the Central Government may, in the public interest, order the amalgamation of two or more companies into a single company.

Such an order may include:

- The constitution, properties, and rights and liabilities of the new company; and
- The terms and conditions of the amalgamation, including compensation payable to shareholders or other interested persons.

Determination of Compensation

As per Section 237(3):

- Where an order made by the Central Government under Section 237(1) provides for transfer of undertakings or shares of any company,
- The prescribed authority shall determine the compensation payable to the shareholders or interested persons having regard to the prescribed principles.

In this case, the prescribed authority has fixed:

- Cash compensation of ₹1,200 per share to shareholders of A Ltd.; and Share exchange ratio as per the terms of amalgamation.

Remedy for Dissatisfied Shareholders

Under Section 237(4) of the Act:

Any person aggrieved by the order of the prescribed authority determining the amount of compensation may, within thirty days from the publication of such order, appeal to the National Company Law Tribunal (NCLT). The Tribunal, after hearing the parties, may confirm, modify, or vary the amount of compensation determined by the prescribed authority.

Therefore:
The remedy available to the objecting shareholders is to appeal to the NCLT within 30 days from the publication of the compensation order, seeking revision of the compensation determined by the prescribed authority.

Effect of the Central Government's Order
Once the amalgamation order is made and published in the Official Gazette:
The transfer of undertakings and shares, and the constitution of the new company, take effect by operation of law; and

The amalgamation cannot be stayed or invalidated merely due to objections on compensation grounds—such objections lie only before the NCLT regarding the quantum of compensation.

4. (a)
Case Study on Board Meeting of an unlisted company
Venue, Date, and Time of the Meeting
As per Section 173(1) of the Companies Act, 2013:
A Board Meeting may be held

- at any place in India or outside India,
- on any day, and
- at any time,
- except on a National Holiday.

Therefore:
Holding the meeting at Taj Palace, Mumbai, on Sunday, 5th January 2025, at 8:00 p.m., is valid and permissible, since Sunday is not a National Holiday under the Act.

Mode of Sending Notice to a Director in London
As per Section 173(3) and Rule 3 of the Companies (Meetings of Board and its Powers) Rules, 2014:

- Notice in writing of every Board Meeting shall be given to every director at his registered address, whether in India or outside India.
- Such notice may be sent by hand delivery, post, or electronic means (e.g., e-mail).

Therefore:
Notice to the director present in London can validly be sent by electronic means (e-mail) to his registered e-mail ID, or by post to his registered address abroad.

Quorum for the Meeting
Under Section 174(1) of the Act:
The quorum for a meeting of the Board of Directors shall be one-third of its total strength, or two directors, whichever is higher.

Here, the total strength of the Board = 12 (Directors currently holding office Excludes Vacancies)
Hence, quorum = $12 \div 3 = 4 \rightarrow 4$ directors

At the commencement of the meeting, 7 directors were present — quorum was validly constituted.

Effect of Directors Losing Video Connectivity
As per Rule 3 (3) (e) of the Companies (Meetings of Board and its Powers) Rules, 2014:

"A director participating through video conferencing shall be counted for the purpose of quorum, unless he is disconnected, in which case, he shall be considered as not participating from the time of disconnection."

Thus, once the three directors from London lost their internet connection and ceased to participate, the effective number of participating directors fell from 7 to 4, which is equal to the quorum (4).

Validity of Resolutions Passed

The resolution is passed and valid as the number of directors present meets the quorum requirements of Section 174(1) of the Companies Act, 2013.

4. (b)

Whether the company can be considered a Non-Profit Company

Under Section 8 of the Companies Act, 2013, a non-profit company (commonly known as an NPO or Section 8 company) is one that:

- Has its objects confined to promotion of commerce, art, science, sports, education, research, social welfare, charity, protection of environment, or similar objects;
- Applies its profits or income solely for promoting its objects; and
- Prohibits payment of any dividend to its members.

These conditions must be expressly stated in the Memorandum and Articles of Association.

In the given case, United Social Services Ltd is a public company incorporated with profit motive, though it intends to earn only marginal profit. The company has not obtained a license under Section 8 from the Central Government (MCA).

Therefore:

Merely having social welfare objectives or low profit intention does not automatically make it a Section 8 (non-profit) company.

Unless the company is licensed under Section 8, it remains an ordinary company limited by shares under Section 2(20).

Whether it can be converted into a Non-Profit Company

Yes.

As per the Companies (Incorporation) Rules, 2014, a company already incorporated under Section 2(20) of the Act can be converted into a company registered under Section 8, provided it satisfies the conditions prescribed therein and obtains a license from the Central Government.

Such conversion can be done for both private and public limited companies, subject to approval by Regional Director (RD).

Procedure for Conversion into a Section 8 Company

The procedure is governed by Rule 20 of the Companies (Incorporation) Rules, 2014 and involves the following steps:

i. Board Meeting:
- Pass a Board Resolution approving the proposal for conversion and fixing date, time, and agenda for a General Meeting.

ii. Special Resolution:
- Pass a Special Resolution in the General Meeting approving alteration of Memorandum and Articles to align with Section 8 objectives.

iii. Application to Regional Director (RD):
- File Form INC-12 with the Regional Director along with relevant documents required.

iv. License under Section 8:
- On satisfaction, the Regional Director issues a license under Section 8, and the company thereafter becomes a non-profit company.

v. Filing with Registrar:
- The company must then file necessary forms with the Registrar of Companies (ROC) to record the conversion.

5. (a)

Reporting of fraud by Auditor

1. **Statutory Provision – Section 143(12)**

   Section 143(12) of the Companies Act, 2013 casts a statutory duty on the auditor (including cost accountant or company secretary in practice conducting audit) to report any fraud committed or being committed against the company by officers or employees of the company to the Central Government or Audit Committee/Board, depending on the amount involved.

2. **Classification Based on Amount of Fraud**

   The Companies (Audit and Auditors) Rules, 2014, particularly Rule 13, prescribe the reporting procedure based on the value of the fraud:

(a) Where the Fraud Involves ₹1 crore or More

1. Immediate Intimation:

The auditor shall report the matter to the Board or Audit Committee immediately after becoming aware of it and seek their reply or observations within 45 days.

2. Reporting to Central Government:

- ✓ If the auditor does not receive a satisfactory reply within 45 days, or is not satisfied with the reply,
- ✓ He shall forward his report to the Central Government within 15 days of expiry of the 45-day period.

3. Mode of Reporting:

- ✓ The report shall be sent in a sealed cover to the Secretary, Ministry of Corporate Affairs,
- ✓ In Form ADT-4,
- ✓ With a copy of the report and reply/observations of the Board or Audit Committee, if any
- ✓ in a sealed cover by registered post/speed post.

4. Intimation to Board/Audit Committee:

- ✓ The auditor shall also intimate the Board or Audit Committee of such reporting to the Government.

(b) Where the Fraud Involves Less than ₹1 crore

1. The auditor shall report the matter only to the Audit Committee or the Board of Directors.
2. The company shall disclose such details in the Board's Report under Section 134(3)(ca).
3. No reporting to the Central Government is required in such cases.

3. **Scope and Applicability**

- These provisions apply to statutory auditors, cost auditors, and secretarial auditors.
- "Fraud" has the meaning assigned under Section 447 of the Act (i.e., wrongful gain or loss through deceit or concealment).

4. **Confidentiality and Responsibility**

- The auditor's duty to report fraud overrides confidentiality obligations.
- Failure to comply attracts penalty under Section 143(15) - ₹5 lakh for listed companies and ₹1 lakh for others.

5. (b)

Procedure for Approval of Resolution Plan by Adjudicating Authority

The process is governed by Section 31 of the Insolvency and Bankruptcy Code, 2016 and Regulation 39(4) of the CIRP Regulations, 2016.

1. **Submission of Resolution Plan:**

❖ Resolution applicant submits the plan to the Resolution Professional (RP) after due approval by the Committee of Creditors (CoC) under Section 30(4).

❖ The plan must be approved by not less than 66% of voting share of the CoC.

2. **Verification by RP:**

❖ RP ensures that the plan complies with the requirements of Section 30(2), such as:

- Payment of CIRP costs in priority;
- Payment to operational creditors as per statutory minimum;
- Management of affairs post-resolution;
- Implementation plan and approvals;
- Non-contravention of existing laws.

3. **Submission to Adjudicating Authority (NCLT):**

❖ The approved plan is submitted to the Adjudicating Authority for final approval under Section 31(1).

4. **Examination by NCLT:**

❖ NCLT examines whether:

❖ The plan meets the conditions of Section 30(2);

❖ The plan has been approved by the CoC with the required majority;

❖ It is feasible, viable, and in accordance with the law.

5. **Order of Approval:**

❖ If satisfied, the NCLT approves the plan, and it becomes binding on the corporate debtor, creditors, employees, creditors, guarantors and other stakeholders.

❖ The NCLT may reject the plan if it does not comply with Section 30(2).

6. **Post-Approval Compliance:**

❖ After approval, the Resolution Applicant and Resolution Professional are required to implement the plan under supervision as per timelines. Implementation is monitored, often through a monitoring committee constituted for this purpose, to ensure compliance.

Legal Reference: Section 31(1)-(3) of IBC; K. Sashidhar v. Indian Overseas Bank (2019) 12 SCC 150.

6. (a)

CSR

1. NVG – National Voluntary Guidelines (2011)

- The National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs) were issued by the Ministry of Corporate Affairs (MCA) in 2011.
- They were formulated by the Indian Institute of Corporate Affairs (IICA) to promote responsible business conduct among Indian companies.
- The NVGs outlined nine principles based on the Triple Bottom Line approach — ethics, product responsibility, employee well-being, stakeholder engagement, environment, public policy, inclusive growth, customer value)
- These principles encouraged businesses to:
  - Conduct themselves ethically,
  - Respect human rights,
  - Promote environmental stewardship,
- Support inclusive growth and equitable development.

❖ **Essence:** NVGs provided the first national framework encouraging companies to go beyond compliance and integrate sustainability into core business operations.

2. SDG, UNGP, and Revised NVG

(a) SDGs – Sustainable Development Goals

India has adopted the United Nations Sustainable Development Goals (SDGs) and aligned its CSR and sustainability initiatives accordingly. The progress of States and Union Territories towards achieving these goals is monitored through the SDG India Index prepared by NITI Aayog.

(b) UNGP – UN Guiding Principles on Business and Human Rights

- Adopted in 2011 by the UN Human Rights Council, these principles are based on the "Protect, Respect and Remedy" framework.
- They emphasize that businesses must respect human rights and provide grievance redress mechanisms.

(c) Revised NVG (2019) → NGRBC

- In 2019, MCA replaced the earlier NVGs with the National Guidelines on Responsible Business Conduct (NGRBC).
- The revised framework incorporated global developments (UNGP, SDGs) and stressed responsible conduct, transparency, and stakeholder engagement.

3. The National Guidelines on Responsible Business Conduct (NGRBC) apply to:

1. All Businesses: They are designed to be adopted by all business entities in India, regardless of their size, sector, ownership (Public/Private/MSMEs), or location
2. Global Reach: They apply to the domestic and overseas operations of Indian MNCs
3. Mandatory Compliance: While the principles are aspirational for all, they are mandatory for the top 1,000 listed entities via the Business Responsibility and Sustainability Report (BRSR)

6. (b)

How Business Intelligence Works

Business Intelligence (BI) is a technology-driven process that collects raw data from various business operations, converts it into structured information, and presents it in a form useful for decision-making.

The working of BI can be explained in five key stages:

1. **Data Collection**
   BI begins by collecting data from multiple sources within and outside the organization — such as:

- Sales, finance, production, HR systems
- Customer feedback, market data, or social media

This data is extracted from different formats and stored in a central database.

2. **Data Integration and Storage**
   The collected data undergoes the ETL (Extract, Transform, Load) process:

- Extracted from multiple sources within and outside the organization,
- Transformed (cleaned — errors and duplicates removed, converted into a uniform format), and
- Loaded into a Data Warehouse or Data Mart.

- This ETL step ensures that the information is accurate, consistent, and ready for analysis.

3. **Data Analysis**
   Using BI tools (like Power BI, Tableau, or Qlik), the stored data is analyzed through:

- **Querying:** Asking questions from data, such as sales by region or by product.
- **Data mining:** Detecting hidden trends and correlations.
- **Predictive analytics**: Forecasting future patterns based on historical data.

4. **Reporting and Visualization**
   The analysis is converted into easy-to-understand dashboards, charts, and reports. These real-time dashboards for KPI monitoring help managers track key performance indicators continuously and compare actual performance with targets in a clear, visual format.

5. **Decision Making and Action**
   The insights derived from BI are used by management to:

- Identify problems or opportunities,
- Evaluate "what-if" scenarios, and
- Take quick, evidence-based business decisions.

In this way, BI acts as a continuous feedback loop that helps the business improve its performance over time.

7. (a)

Eligibility criteria for making an IPO

Under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018, as amended, an issuer company can make an Initial Public Offer (IPO) only if it satisfies the following eligibility criteria:

1. **Net Tangible Assets**

- The issuer must have net tangible assets of at least ₹3 crore in each of the preceding three full years (each year of 12 months).
- Not more than 50% of these assets should be held in monetary form (cash, bank balances, or financial investments).
- If more than 50% of assets are monetary, the company must make a firm commitment to deploy the excess funds in its business or project.

- Note: The 50% restriction does not apply if the IPO is entirely through an offer for sale by existing shareholders.

2. Net Worth

- The company must have a net worth of at least ₹1 crore in each of the preceding three full financial years.
- "Net worth" refers to paid-up share capital plus free reserves, excluding revaluation reserves.

3. Track Record of Distributed Profits

- The company should have earned a minimum average distributable pre-tax profits of ₹15 crore, computed on a restated and consolidated basis, during the three most profitable years out of the immediately preceding five years.

- This requirement ensures that only companies with consistent profitability and genuine distributable earnings can access public capital.

4. Change of Name Condition

- If the issuer has changed its name within the last one year, at least 50% of the revenue for the preceding one year must have been earned from the activity reflected by the new name.
- This prevents misleading investors by issuing shares under a recently adopted but unrelated name.

5. Alternative Route (QIB Route)

- If the issuer does not satisfy the eligibility criteria, it may make an IPO through the book-building process, provided it allots at least 75% of the net offer to public to Qualified Institutional Buyers (QIBs).

Why?

These eligibility norms ensure that only companies with a sound financial track record, stable assets, and genuine business operations are permitted to access the public markets, thereby protecting investor interest and maintaining market integrity.

7. (b)

Case Study under the Competition Act, 2002

The Competition Act, 2002 aims to prevent practices that have an appreciable adverse effect on competition and to protect consumer interests and ensure freedom of trade in Indian markets.

Under Section 3(1) of the Act, any agreement that causes or is likely to cause an appreciable adverse effect on competition is prohibited. Specifically, Section 3(4) addresses vertical agreements between enterprises at different stages of the production or supply chain.

These include:

- Tie-in arrangements
- Exclusive supply agreements
- Exclusive distribution agreements
- Refusal to deal
- Resale price maintenance

The practice of resale price maintenance, defined under Section 3(4)(e), refers to any agreement that restricts the reseller's ability to sell goods below a stipulated price. Such restrictions are considered anti-competitive if they limit the dealer's pricing freedom and adversely affect market competition.

In the landmark case Re: Maruti Suzuki India Limited Suo Motu Case No. 01 of 2019, order dated 23.08.2021, the Competition Commission of India (CCI) imposed a penalty of ₹200 crore on Maruti Suzuki for implementing a Discount Control Policy.

The company not only restricted dealers from offering additional discounts but also actively monitored and enforced compliance through Mystery Shopping Agencies (MSAs), imposed penalties, and threatened supply stoppages.

The CCI held that these actions amounted to resale price maintenance, which had an appreciable adverse effect on competition and violated Section 3(4)(e) read with Section 3(1) of the Act.
Maruti appealed the decision before the National Company Law Appellate Tribunal (NCLAT) after depositing 10% of the penalty.

The (NCLAT) has not yet delivered a final decision in the Maruti Suzuki discount control policy case. As of now, the matter is pending.

Given the similarity of facts, the conduct of the car manufacturer in the present case—restricting dealer discounts, enforcing pricing discipline through penalties and threats, and monitoring via MSAs—constitutes resale price maintenance and is likely to be in contravention of Section 3 of the Competition Act, 2002.1

Any measure that restricts the freedom of trade and pricing autonomy of dealers is considered anti-competitive under Indian law. The company's conduct, though claimed to be for discipline, may attract regulatory scrutiny and penalties under the Competition Act.

Such conduct amounts to resale price maintenance and is prohibited under Section 3(4)(e) read with Section 3(1) of the Competition Act, 2002.

8. (a)

(i) Definition and Examples of Capital Account Transactions

As per Section 2(e) of the Foreign Exchange Management Act (FEMA), 1999, a capital account transaction refers to:

- A transaction which alters the assets or liabilities, including contingent liabilities, outside India of persons resident in India, or
- Assets or liabilities in India of persons resident outside India.

These transactions typically involve cross-border movement of capital and are regulated under Section 6 of FEMA.

Examples of Capital Account Transactions:

1. Foreign Direct Investment (FDI) by a resident in India into a foreign entity
2. External Commercial Borrowings (ECBs) raised by Indian entities
3. Transfer of fixed assets to a company's capital account
4. Investment by non-residents in Indian securities
5. Sale/purchase of immovable property in India by non-residents
6. Investment in equity shares or capital contribution in a foreign company
7. Acquisition of immovable property outside India by a resident
8. Opening a Foreign Currency Account Abroad by a Resident Indian
9. Issue of ADRs/GDRs
10. Transfer of Shares or Debentures Between Residents and Non-Residents
11. Remittance for Purchase of Property Abroad

(ii) Eligibility to Pay Foreign Dues from Foreign Currency Account

As per Section 6(4) of FEMA, a person resident in India is permitted to "Hold, own, transfer or invest in foreign currency, foreign security or any immovable property situated outside India if such currency, security or property was acquired, held or owned by such person when he was resident outside India or inherited from a person resident outside India."

Additionally, Section 6(5) allows the use of foreign exchange and income arising therefrom, including its conversion or replacement, for legitimate purposes.

In Mr. Soni's case:

- He acquired the foreign assets while he was a non-resident.
- He also inherited foreign property from his wife, who was a resident outside India at the time of acquisition.
- Now that he has become a resident in India, he is legally permitted to use his foreign currency account abroad to pay outstanding dues in foreign currency.

Conclusion: Mr. Soni is eligible to make payments from his foreign currency account held abroad, as the assets were acquired or inherited while he was a non-resident, in accordance with Section 6(4) and 6(5) of FEMA, 1999.

Such transactions are permissible capital account transactions under Section 6(4) and 6(5) of FEMA, 1999.

8. (b)

Role of the RBI

The Reserve Bank of India (RBI) plays a pivotal role in shaping India's monetary, banking, and financial landscape. Over the years, it has evolved from a regulator to a facilitator, adapting its structure and approach to meet dynamic economic needs.

Key functions include

1. Bank Inspection and Regulation RBI conducts inspections under the Banking Regulation Act, 1949 to ensure stability, compliance, and protection of depositors.
2. Policy Formulation and Prudential Norms It issues guidelines relating to income recognition, asset classification, provisioning, and capital adequacy, and implements international standards such as the Basel framework.
3. Licensing and Branch Expansion RBI authorizes branch openings, reviews licensing policies, and maintains data on branch operations and ATMs.
4. Board-Level Appointments It approves appointments/removals of key executives in private banks and recommends appointments in public sector banks.
5. Anti-Money Laundering (AML) Through its AML Cell, RBI monitors compliance with the Prevention of Money Laundering Act (PMLA) and tracks developments in combating financial terrorism.
6. Monitoring Overseas Operations RBI formulates policies and grants approvals for Indian banks' foreign branches, joint ventures, and representative offices.
7. Precious Metals and Foreign Exchange Management RBI authorizes banks to deal in gold, silver, and platinum, oversees schemes like the Gold Deposit Scheme, and manages India's foreign exchange reserves.

Conclusion: RBI's multifaceted role ensures a robust, transparent, and globally aligned banking system, safeguarding public interest and promoting financial stability.