NATIONAL LAW UNIVERSITY JODHPUR

End Term Examination November – 2024
Semester – UG V Semester
Subject: Interpretation of Statutes

Time: 3 hours **Marks: 100**

Instructions:

i. *All the questions carry* ***equal marks*** *i.e. 20 marks for each question.*
ii. *Answer any* ***five*** *out of the* ***six*** *questions.*
iii. *Please substantiate your statement(s)/argument(s) with relevant case laws, wherever necessary.*
iv. ***QUESTIONS NUMBER 3 AND 5 ARE COMPULSORY.***

Q.1) In the case of *Tata Consultancy Services v. State of Andhra Pradesh*, the Supreme Court examined whether software could be categorised as "goods" under the Andhra Pradesh General Sales Tax Act, 1957. The court interpreted statutory provisions to conclude that software, whether customised or standardized, is "goods" because it has the attributes of tangibility, and transferability, and can be bought and sold.

Assume that a new law titled the "Digital Transactions and Services Act, 2024" defines "goods" as "tangible items that can be physically possessed and transferred from one person to another." Under this statute, a dispute arises where a company sells software licenses over the Internet, and the buyer claims they should not be subject to goods-related taxes since the software is not a tangible item. The tax authority argues otherwise, citing the *Tata Consultancy Services* precedent.

Committee Report Excerpt: The Parliamentary Committee on Digital Services, in its report, emphasized that "the Digital Transactions and Services Act, 2024 is aimed at modernizing tax regulation in response to the digital economy. The objective of the Act is to provide a framework for distinguishing between tangible goods and intangible digital services to ensure appropriate tax measures for each category. The Committee recognized the need for clarity, especially in cases involving digital content and licenses, where the traditional notions of tangibility may not fully apply. However, the goal is to ensure that all digital transactions, where economic value is transferred, are appropriately taxed, avoiding revenue loss."

(i) Discuss how the court should interpret the term "goods" in the context of this new statute. Should the court follow the reasoning in *Tata Consultancy Services*, or is there a substantial difference due to the new statutory definition? What role does legislative intent play, given the committee's objective as stated in the report? **(Marks 20)**

Q.2) Section 10 of the **Employment Protection Act, 2024** states:

- **Main Provision:** "Every employee working for a company for a continuous period of 12 months is entitled to receive paid leave for 20 days annually."
- **Proviso:** "Provided that if the employee has taken more than 10 days of sick leave in the same year, the entitlement to paid leave shall be reduced to 10 days."
- **Exception:** "This provision shall not apply to employees who can prove that the sick leave was taken due to an injury or illness sustained while performing official duties."

- **Explanation:** "For this section, 'continuous period' means uninterrupted service, including authorized leave periods, and 'sick leave' refers to absence from work due to health-related issues certified by a medical professional."

Facts: John has worked for "Technol hub," a software company, for 14 months. During this time, he took 12 days of sick leave, 5 of which were due to a back injury he sustained while lifting office equipment. The company refuses to grant John his full entitlement of 20 days of paid leave, citing the proviso that reduces paid leave to 10 days for employees who have taken more than 10 days of sick leave in a year.

1. How should the court interpret the **proviso, exception and explanation clauses under** Section 10, EPA, 2024? Discuss the rules of interpretation.
2. Which rule of statutory interpretation would be most appropriate to resolve the dispute in John's favour or against him?

(Marks 10*2 = 20)

Q.3) The Australian Patents Act of 1990 (Patents Act) states that a patent for an invention may only be granted to a "person" who is the "inventor", or who would be entitled to have the patent assigned to that person, or derives title to the invention from the inventor or the assignee above. There is no definition of the term "inventor" given in the statute.

An artificial intelligence system, known as JARVIS (or 'device for the autonomous bootstrapping of unified sentience'), was named as the inventor by the patent applicant, Dr Tony Stark, on a PCT(Patent Cooperation Treaty) application designating Australia. The alleged invention was the output of JARVIS' various products and methods directed at an improved fractal container.

JARVIS was named as the inventor because regulation 3.2C(2)(aa) of the Regulations requires that, concerning a PCT Application, the applicant name the "inventor of the invention to which the application relates" (among other things). So in the application, the inventor's and patent holder's names both should have been mentioned.

Also note, in a patent application, the owner and inventor can be different entities. The person making an application to patent an invention is known as the "applicant". If the application is accepted, the "applicant" becomes the "owner" of the patent. The applicant/owner of the patent is responsible for the filing of the application and if accepted, will be granted monopoly rights over the invention which can be enforced against anyone infringing the patent. The inventor can choose to be the applicant/owner of the patent, but the inventor can also assign the rights to a different entity. A traditional example is where employees assign their rights over their inventions to their employers when made in the course of employment.

Dr Tony Stark submitted an application to patent an invention for products and methods concerning containers, devices and methods for attracting enhanced attention using convex and concave fractal elements. In his application, Dr Stark named himself as the applicant of the patent and the inventor of the AI system – a device for the autonomous bootstrapping of unified sentience ("**JARVIS**"). Dr Stark is the owner and controller of JARVIS, and also owns the copyright in JARVIS's source code and the computer on which JARVIS resides.

The Deputy Commissioner of Patents ("**Deputy Commissioner**") rejected Dr Stark's application on the basis that JARVIS, an AI, cannot be named as an inventor under the Patents Act 1990 ("**Australian Patents Act**"). Dr Stark then sought judicial review of that decision to the Federal Court of Australia ("**Federal Court**").

Now you have to decide the case based on the application of relevant rules of statutory interpretation. **(Marks 10)**

Relevant Sections:

Section 3(15) " Who may be granted a patent?

(1) Subject to this Act, a patent for an invention may only be granted to a person who:

(a) is the inventor; or

(b) would, on the grant of a patent for the invention, be entitled to have the patent assigned to the person; or

(c) derives title to the invention from the inventor or a person mentioned in paragraph (b); or

(d) is the legal representative of a deceased person mentioned in paragraphs (a), (b) or (c).

(2) A patent may be granted to a person whether or not he or she is an Australian citizen."

3.2C Specifications—formalities check for PCT application

(1) This regulation applies to a PCT application if the applicant complied with the requirements of subsection 29A(5) of the Act.

(2) The applicant must:

(a) provide:

(i) an address for service in Australia or New Zealand at which the document under the Act or these Regulations may be given to the applicant personally, or to a person nominated as the applicant's representative; or

(ii) another address for service in Australia to which it is practicable and reasonable for Australia Post, or a person acting for Australia Post, to deliver mail; or

(iii) an address for service in New Zealand to which it is practicable and reasonable for a person providing mail delivery services to deliver mail; and

(aa) provide the name of the inventor of the invention to which the application relates.

(3) The PCT application must comply with the formalities requirements determined in an instrument under section 229 of the Act.

(4) The Commissioner may, within one month from the date the applicant complied with subsection 29A(5) of the Act, direct the applicant to do anything necessary to ensure that the requirements mentioned in sub-regulation (2) and (3) are met.

(5) The PCT application lapses if:

(a) the applicant has been given a direction under sub-regulation (4); and
(b) the applicant has not complied with the direction within 2 months of the date of the direction.

(6) If the PCT application lapses under sub-regulation (5), the Commissioner must:

(a) advertise that fact in the Official Journal; and
(b) notify the applicant that the PCT application has lapsed

Q.4) News Corp UK & Ireland Ltd (hereinafter referred to as "the Appellant") is a multinational media and digital publishing company. The Appellant operates several

digital platforms in the United Kingdom, including news websites, blogs, and social media platforms. Through these platforms, the Appellant provides advertising services to businesses, allowing them to advertise their products and services to a large online audience.

The Appellant was under investigation by the UK's tax authority, the Commissioners for His Majesty's Revenue and Customs (hereinafter referred to as "HMRC"). HMRC alleged that the Appellant's digital advertising services fell within the scope of Value Added Tax (VAT) under the VAT Act 1994, which applies to certain services provided by businesses in the UK.

The Appellant, on the other hand, contended that its digital advertising services should not be subject to VAT, arguing that the legislative intent of the VAT Act 1994 was to exempt certain digital advertising services from taxation, and that their services fell outside the definition of "advertising services" as described in the statutory provisions.

Specifically, the Appellant cited provisions under the VAT Act 1994 that exempt services related to traditional print and physical advertisements. The Appellant's legal team also argued that the language used in the VAT Act, drafted decades ago, did not consider the evolving nature of digital services, and therefore, could not be applied to the modern digital advertising industry.

HMRC, however, maintained that the digital services provided by the Appellant were effectively "advertising services" and should be taxed under VAT law, as the statutory language was broad enough to cover both traditional and digital advertising. They also referenced various committee reports that suggested that the law intended to ensure taxation across all forms of advertising, including digital platforms.

The primary legal issue in this case is whether the digital advertising services provided by News Corp UK & Ireland Ltd fall within the scope of the VAT Act 1994 and are subject to VAT. The case requires the court to interpret the statutory language of the VAT Act, especially in relation to the definition of "advertising services," and to determine whether it applies to digital advertising services in a way that aligns with the legislative intent.

Answer whether the existing statutory provisions can be applied to digital services, and if so, whether the law requires a more contemporary interpretation or amendment to reflect the rapid advancements in technology and the growing prominence of digital platforms. **(Marks 20)**

Q.5) The **Mental Health Care Act, 2017** (hereinafter "the Act") was enacted to ensure that all individuals have access to mental health care and treatment. It recognizes the right of persons with mental illness to live with dignity and receive community-based care, as well as protection from inhuman treatment.

In the academic world, mental health challenges among university **academicians** have gained increasing attention. Studies indicate that academic professionals face significant stress due to pressures from research expectations, administrative duties, student evaluations, and career progression concerns. Despite these challenges, many academicians may not fall under the legal definition of "mental illness" as per **Section 2(1)(p)** of the **Mental Health Care Act, 2017**, which defines "mental illness" as a substantial disorder of thinking, mood, perception, or memory that impairs judgment or the ability to meet ordinary life demands.

In response to these issues, the **University Grants Commission (UGC)** has issued guidelines aimed at promoting mental well-being among academicians in higher education institutions. These guidelines include mandatory counseling services, mental health workshops, stress management initiatives, and the creation of mental health cells within institutions. However, the efficacy and enforceability of these guidelines have been questioned, with some academicians advocating for greater legislative protections under the **Mental Health Care Act, 2017**.

The **Report of the Committee on Mental Health and Education (2022)**, established by the Ministry of Education, recommends that academicians be treated as a vulnerable group requiring mental health care. This view is further supported by the **National Commission for Teachers (2018)**, which stresses the need for targeted mental health interventions for those in academia.

Facts:

- The petitioner, a group of university academicians, has filed a writ petition before the **High Court of [State]**, challenging the inadequacies of the UGC's guidelines and seeking a declaration that academicians should be entitled to protections under the **Mental Health Care Act, 2017**.
- The petitioner argues that while the **Mental Health Care Act, 2017**, primarily targets individuals with diagnosed mental illnesses, the mental health challenges faced by academicians—such as stress, burnout, and anxiety—should also fall under the scope of the Act.
- The respondent (University Grants Commission) contends that the Act is meant to address those with **"mental illness"** as defined under **Section 2(1)(p)** and that the UGC guidelines sufficiently address the needs of academicians.

Issues to be Addressed:

1. Whether academicians, who may not have a formal diagnosis of mental illness but experience stress, burnout, and other related challenges, can claim protection and mental health care under the Mental Health Care Act, 2017?
2. Should the protections under the Mental Health Care Act, 2017 be extended to academicians, based on the rights guaranteed under Section 7 (Right to live with dignity and access to mental health services) and the principle of the right to mental health as part of Article 21 of the Constitution?
3. Considering the UGC guidelines and the recommendations from the Committee on Mental Health and Education (2022) and the National Commission for Teachers (2018), should academicians be considered a vulnerable group under the Act, thereby entitling them to specific mental health protections and support?

Support answering these three issues using rules of interpretation. **(Marks 10*2 = 20)**

Q.6) Write short comments on the following of the two judicial decisions: **(Marks 10*2)**

(a) Doctrine of Necessary Implication.

(b) Ejusdem Generis