

MODEL QUESTION PAPER FOR THE LIMITED INSOLVENCY EXAMINATION

(w.e.f. 1st November, 2018)

1. Which of the following enactments was not amended as part of the Insolvency and Bankruptcy Code, 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, 2008

Ans. (b)

2. The management of the affairs of a corporate debtor undergoing corporate insolvency resolution process vests in the_____.

- a) Interim Resolution Professional
- b) Board of Directors
- c) Committee of Creditors
- d) Insolvency and Bankruptcy Board of India

Ans. (a)

3. Where the Committee of Creditors resolves to continue the interim resolution professional as resolution professional under section 22 of the Insolvency and Bankruptcy Code, 2016, the resolution needs to be passed a majority of not less than _____ percent of voting share of the financial creditors.

- a) 50
- b) 66
- c) 75
- d) 90

Ans.(b)

4. 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) 270

Ans. (b)

5. The liquidator is required to communicate his decision of admission or rejection of claim under section 14 of the Insolvency and Bankruptcy Code, 2016 to the Insolvency and Bankruptcy Code, 2016 to

_____.

- a) all creditors and the Insolvency and Bankruptcy Board of India
- b) the corporate debtor and the adjudicating authority
- c) the adjudicating authority and the creditor concerned
- d) the creditor concerned and the corporate debtor

Ans.(d)

6. A corporate debtor shall be deemed to have given a preference at a relevant time under the Insolvency and Bankruptcy Code, 2016 if it is given to a _____ during the period of _____ years preceding the insolvency commencement date.

- a) related party; two years
- b) unrelated party; two years
- c) related party; three years
- d) unrelated party; three years

Ans. (a)

7. Under the Insolvency and Bankruptcy Code, 2016, _____ may make an application for avoidance of transactions to _____, if the terms of such transaction required exorbitant payments to be made by _____.

- a) Financial Creditor; IBBI; Liquidator
- b) Committee of Creditors; Special Court; Corporate Debtor
- c) Corporate Debtor; National Company Law Tribunal; Corporate Debtor
- d) Resolution Professional; Adjudicating Authority; Corporate Debtor

Ans. (d)

8. Which of the following is an 'excluded asset' for the purposes of Part III of the Insolvency and Bankruptcy Code, 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)

9. A creditor cannot apply in relation to any partnership debt owed to him for initiating an insolvency resolution process against _____.

- a) the firm
- b) any one partner of the firm
- c) all partners of the firm
- d) guarantor of the firm

Ans. (d)

10. In case a repayment plan comes to an end prematurely under Section 118 of the Insolvency and bankruptcy Code, 2016, the resolution professional shall submit a report to the Adjudicating Authority. Such report need not contain _____.

- a) the receipts and payments made in pursuance of the repayment plan
- b) the reason for premature end of the repayment plan
- c) the details of the creditors whose claims have not been fully satisfied
- d) an application for initiation of bankruptcy of the person concerned

Ans. (d)

11. Who prepares a list of creditors of the bankrupt under Section 132 of the Insolvency and Bankruptcy Code, 2016?

- a) Bankruptcy Trustee
- b) Official Liquidator
- c) Adjudicating Authority
- d) Bankrupt

Ans. (a)

12. An onerous property that a bankruptcy trustee may disclaim does not include _____.

- a) a readily saleable property
- b) an unsaleable property
- c) an unprofitable contract

- d) a property that may give rise to a claim

Ans. (a)

13. In a bankruptcy process, unsecured creditors rank _____.

- a) in ascending order of the amount of debt due to them
- b) in descending order of the amount of debt due to them
- c) equally amongst themselves
- d) in ascending order of the period of default of the debt

Ans. (c)

14. Which of the following is not a function of an Insolvency Professional Agency?

- a) Redress the grievances against insolvency professionals who are its members
- 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. (d)

15. Any information utility which is aggrieved by an order of the Insolvency and Bankruptcy Board of India may prefer an appeal to_____.

- a) High Court of competent jurisdiction
- b) National Company Law Tribunal
- c) Supreme Court
- d) National Company Law Appellate Tribunal

Ans. (d)

16. Which of the following members of the Insolvency and Bankruptcy Board of India may be included as Members of the Disciplinary Committee?

- a) Independent members
- b) Whole-time members
- c) Executive members
- d) Nominee members

Ans. (b)

17. 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)

18. An officer of a corporate debtor is liable for punishment under Section 68 of the Insolvency and Bankruptcy Code, 2016, if he has, within the twelve months immediately preceding the insolvency commencement date or at any time after the insolvency commencement date, concealed any property of the corporate debtor exceeding a threshold amount. Who may initiate proceedings for such concealment and before which forum?

- a) IBBI; Special Court under the Companies Act, 2013
- b) IBBI; National Company Law Tribunal
- c) Central Government; National Company Law Tribunal
- d) Central Government; Sessions Court

Ans. (a)

19. A Debt Recovery Tribunal does not have jurisdiction to entertain_____.

- a) a suit or proceeding by or against an individual debtor
- b) a claim made by or against a corporate debtor
- c) a claim made by or against an individual debtor
- d) a question of priorities arising out of insolvency of an individual debtor

Ans. (b)

20. Provisions of which legislation apply to the proceedings before the Special Court under the Insolvency and Bankruptcy Code, 2016?

- a) The Code of Criminal Procedure, 1973
- b) The Code of Civil Procedure, 1908
- c) The Indian Financial Code, 2013
- d) The Summary Trial of Offences Act, 1999

Ans. (a)

21. An operational creditor is required to dispatch the application filed with the National Company Law Tribunal for initiation of corporate insolvency resolution to _____.

- a) all financial creditors
- b) the proposed interim resolution professional
- c) the corporate debtor
- d) prospective resolution applicants

Ans. (c)

22. 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. (b)

23. 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)

24. 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 Insolvency and Bankruptcy Code, 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 Insolvency and Bankruptcy Code, 2016 for directions

Ans. (b)

25. 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)

26. Which of the following statements is not true about disposal of a show cause notice issued to an insolvency professional agency?

- a) The order in disposal of show-cause notice becomes effective on the day of receipt of the order by the insolvency professional agency.
- b) The order in disposal of show-cause notice becomes effective ordinarily after thirty days of the date of issue of order.
- c) The Disciplinary Committee disposes of the show-cause notice by a reasoned order in adherence to principles of natural justice.
- d) The Disciplinary Committee endeavours to dispose of the show-cause notice within a period of six months of the assignment.

Ans. (a)

27. Who enrolls an individual as its professional member?

- a) Insolvency and Bankruptcy Board of India
- b) Registered Valuer Organisation
- c) An Insolvency Professional Agency
- d) Indian institute of Corporate Affairs

Ans.(c)

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

- a) A banker with 15 years of professional experience
- b) An advocate with 10 years of professional experience
- c) An MBA with 10 years of managerial experience
- d) A graduate with 10 years of managerial experience

Ans. (b)

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

- a) Negligence while performing his functions and duties.
- b) Taking support services from an insolvency professional entity
- 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. (b)

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

- a) Committee of Creditors
- b) Corporate Debtor
- c) Insolvency and Bankruptcy Board of India
- d) Adjudicating Authority

Ans. (a)

31. Which of the following may not prove existence of debt due to an operational creditor under the Insolvency and Bankruptcy Board of India (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)

32. The option to sell the assets of a corporate debtor by means of private sale under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 is not

available to a liquidator if the asset is_____.

- a) perishable
- b) sold at a price lower than the reserve price of a failed auction
- c) likely to deteriorate in value if not sold immediately
- d) sold at a price higher than the reserve price of a failed auction

Ans. (b)

33. 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 counter-indemnity obligation in respect of the guarantee.

Ans.(c)

34. The Annual Status Report indicating progress of the voluntary liquidation is not required to include the_____.

- a) details of assets that are yet to be sold
- b) distribution made to stakeholders
- c) cost of realization of the assets
- d) developments in any material litigation

Ans. (c)

35. Which of the following is not a requirement for registration as an information utility?

- a) It has a minimum net worth of Rs.50 crore.
- b) At least 26% of its voting power is held by persons resident outside India.
- c) More than half of its directors are independent directors.
- d) Its sole object is to provide core services and other services under the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017.

Ans. (b)

36. An information utility holds financial information as a _____.

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

Ans. (c)

37. During a fast track process, existence of dues in case of workmen can be proved _____.

- a) individually or collectively
- b) individually only
- c) collectively only
- d) by resolution professional

Ans.(a)

38. An order of the Insolvency and Bankruptcy Board of India directing an inspecting authority to conduct an inspection of records of a service provider may not contain _____.

- a) scope of inspection
- b) privileges of service provider
- c) composition of inspecting authority
- d) timelines for conducting the inspection

Ans.(b)

39. A show-cause notice issued by the Insolvency and Bankruptcy Board of India on consideration of an inspection report needs to be disposed of by _____ within _____.

- a) Inspecting Authority; Six months
- b) IBBI; three months
- c) Adjudicating Authority; One year
- d) Disciplinary Committee; Six months

Ans.(d)

40. 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)

41. Par value of a share means _____.

- a) face value of the share
- b) dividend value of the share
- c) the latest traded value of the share on the stock-exchange
- d) fair market value of the share

Ans.(a)

42. 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)

43. Financial statement of a company does not include _____.

- a) due and drawn statement
- b) balance sheet
- c) cash flow statement
- d) profit and loss account

Ans. (a)

44. 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)

45. Can a member function as a Bench of National Company Law Tribunal?

- a) Yes, a technical member, if duly authorised.
- b) Yes, a judicial member, if duly authorised.
- c) Yes, only in exigencies when no other member is available.
- d) No, a member cannot function as a Bench.

Ans.(b)

46. A company which has not been carrying on any business or operation, or has not made any significant accounting transaction during the last two financial years, or has not filed financial statements and annual returns during the last two financial years is _____.

- a) an inactive company
- b) a shelf company
- c) a company undergoing insolvency resolution process
- d) a dormant company

Ans. (a)

47. Mr. X, a partner of a limited liability partnership defrauded creditors of the limited liability partnership for fraudulent purpose. The liability of the limited liability partnership _____.

- a) shall be unlimited
- b) shall be limited
- c) shall be limited, but the rest of liability will be that of Mr. X
- d) shall be nil, as all the liability will be that of Mr. X

Ans.(a)

48. 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)

49. A valid Agreement is one which _____.

- a) creates legal and social obligations on the parties

- b) creates only rights of a party
- c) is written on a piece of paper and signed by the parties
- d) creates legally binding rights and obligations on the parties to it

Ans. (d)

50. 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)

51. 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)

52. 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)

53. '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 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)

54. A suit for recovery of possession can be filed under the Specific Relief Act, 1963, _____.

- a) for immovable property only
- b) for movable property only
- c) for both immovable and movable property
- d) only by the owner in respect of property to which he has rightful title

Ans.(c)

55. 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)

56. Which of the following decides applications from the banks and financial institutions for recovery of debts due to them?

- a) Debt Recovery Tribunal
- b) Debt Recovery Appellate Tribunal
- c) Securities Appellate Tribunal
- d) Central Board of Direct Taxes

Ans. (a)

57. 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.

- 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)

58. The Hon'ble Supreme Court, in the matter of Mardia Chemicals Ltd. Vs. Union of India, held that the requirement of deposit of 75% of amount claimed before entertaining an appeal (petition) under Section 17 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest, 2002 is _____.

- a) valid but in the interest of justice, the amount to be deposited should be reduced to 45%
- b) an arbitrary condition against all the canons of reasonableness
- c) mandatory and must be complied with
- d) a matter of executive prerogative and the court does not have the jurisdiction to interfere in such matters

Ans.(b)

59. 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)

60. In computing the period of limitation of any suit for the execution of a decree, the institution or execution of which has been stayed by injunction or order, the time of the continuance of the injunction or order from the day on which it was _____ shall be excluded.

- a) issued
- b) filed
- c) admitted
- d) heard first

Ans. (a)

61. As per the SEBI (Delisting of Equity Shares) Regulations, 2009 delisting of which of the following is not permitted?

- a) convertible securities
- b) authorised equity shares recognised by any stock exchange
- c) sweat equity shares
- d) bonus shares

Ans. (a)

62. Which of the following is most appropriate for measuring a bond's sensitivity to changing risk?

- a) Key rate duration
- b) Effective duration
- c) Modified duration
- d) Median duration

Ans.(a)

63. 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)

64. Which of the following represent the standard of living in a country?

- a) National Income
- b) Per capita income
- c) Poverty ratio
- d) Unemployment rate

Ans. (b)

65. The Policy Repo Rate is _____ the Reverse Repo rate.

- a) higher than
- b) lower than
- c) equal to
- d) 75% of

Ans. (a)

66. 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)

67. As per the Constitution of India, which of the following courts is not 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 only.

Ans. (d)

68. 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)

69. The listed entity (which has listed its specified securities) shall submit _____ standalone financial results to the stock exchange within _____ days of end of each quarter.

- a) Quarterly and year-to-date; 45
- b) Half-yearly or quarterly or year-to-date; 30
- c) Quarterly and year-to-date; 30

- d) Half-yearly and year-to-date; 45

Ans. (a)

70. 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)

71. 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)

72. How is cash management different than liquidity management?

- a) Cash management deals with only one account, while liquidity management involves everything on the balance sheet.
- b) Cash management only considers the current financial reporting period, while liquidity management looks out 2-3 years.
- c) Cash management only considers cash, while liquidity management considers assets that are considered liquid.
- d) Cash management is essential to financial reporting, while liquidity management is just a good practice.

Ans.(c)

73. 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)

74. 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)

75. The Supreme Court in Mobilox Innovations(P) Limited vs. Kirusa Software (P) Limited CA No. 9405 of 2017, has interpreted the expression “_____”.

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

Ans.(b)

76. In the case of Sree Metaliks Limited and another vs. Union of India [W.P.7144 (W) of 2017, Cal] it was held by Calcutta High Court that_____.

- a) Section 7 of the Insolvency and Bankruptcy Code, 2016 is unconstitutional
- b) Section 7 of the Insolvency and Bankruptcy Code, 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 is expressly ousted from Section 7 of the Insolvency and Bankruptcy Code, 2016

Ans. (c)

77. In the case of Era Infra Engineering Ltd. vs. Prideco Commercial Projects Pvt. Ltd. (Company Appeal (AT) (Insolvency) No. 31 of 2017), the NCLAT held that in case no notice was issued by the Operational Creditor under Section 8 of the Insolvency and Bankruptcy Code, 2016 then_____.

- a) the application under Section 9 of the Insolvency and Bankruptcy Code, 2016, stands dismissed being incomplete
- b) the application under Section 9 of the Insolvency and Bankruptcy Code, 2016, is provisionally admitted
- c) the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 is dismissed however the moratorium on the corporate debtor can be declared
- d) the application under Section 9 of the Insolvency and Bankruptcy Code, 2016 is admitted however no moratorium is declared

Ans. (a)

78. In Pratik Ramesh Chirania vs. Trinity Auto Components Ltd. M.A.544/2017 (CP No. 1032/I&BC/MB/MAH/2017), the Mumbai bench of NCLT opined that ‘satisfaction of Adjudicating Authority’ as mandated under Section 31(1) of the Insolvency and Bankruptcy Code, 2016 _____.

- a) is only subjective
- b) can be subjective or objective or both
- c) can be sanctioned without judicial analysis
- d) is objective as the parameters to exercise such satisfaction is clearly provided for under the provisions of the Insolvency and Bankruptcy Code, 2016

Ans. (b)

79. In Kamineni Steel & Power India Pvt. Ltd. (CP(IB) No. 11/10/HDB/2017), it was argued that the resolution plan _____.

- a) did not reflect the interest of the operational creditors properly
- b) was not approved by 75% of the voting share of financial creditor
- c) was presented by the promoters who were the wilful defaulters
- d) included extortionate credit transactions

Ans. (b)

Attempt Questions 80-83 based upon the following case study/transaction analysis

‘XYZ’ a public limited company engaged in the construction of roads is in default in repayment of dues to the following:

General slowdown in construction activities had resulted in low capacity utilization and inadequate cash generation for timely payment of dues to all concerned.

Repeated follow-up by the Financial Institutions with the corporate debtor, ‘XYZ’ for submitting its specific plan of action for repayment of dues did not evoke any response.

Therefore, after a joint lenders meeting, all the financial institutions unanimously decided to apply under the provisions of the Insolvency and Bankruptcy Code, 2016 to the National Company Law Tribunal (NCLT) for starting the process of insolvency resolution in respect of ‘XYZ’.

Financial Creditors filed an application before NCLT which was admitted by NCLT on 20th May, 2017 and orders issued for commencement of a moratorium, appointment of an interim resolution professional A and for his making a public announcement inviting claims from all concerned.

A made a public announcement and the following creditors were identified:

1. Financial debts owed to unsecured creditor (F1) - 5 crore
2. Workmen’s dues for the period of 24 months preceding the liquidation commencement date (F2) – 15 crore
3. Debts owed to a secured creditor who has relinquished his security (F3) – 30 crore
4. Debts owed to the Central Government (F4) – 17 crore
5. Debts owed to a secured creditor for an amount unpaid following the enforcement of security interest (F5) – 26 crore

B was the statutory auditor of the corporate debtor and F1 has been identified as a related Party to XYZ Ltd. A committee of creditors was constituted. The committee in its meeting decided to appoint P as the resolution professional.

80. P can take the following action without the approval of the committee of creditors:

- a) Raise interim finance
- b) Make changes in the appointment of B
- c) Record change in the ownership interest of XYZ
- d) File application for avoidance of a preferential transactions

Ans.(d)

81. In terms of the moratorium order, the following shall not be prohibited:

- a) Foreclosing of security interest created by XYZ in respect of its property
- b) Institution of arbitration proceedings
- c) Recovery of a property by a lessor where such property is occupied by XYZ
- d) Supply of raw material essential for laying down the roads

Ans.(d)

82. The NCLT rejected the resolution plan for want of compliance with the Insolvency and Bankruptcy Code, accordingly the proceeds from the sale of liquidation shall be distributed in the following order of priority:

- a) F2 – F1 – F3 – F4 & F5 (ranked equally)
- b) F2 & F5 (ranked equally) – F3 – F1 – F4
- c) F2 & F5 (ranked equally) – F1 – F3 – F4
- d) F3 & F2 (ranked equally) – F1 – F5 & F4 (ranked equally)

Ans.(d)

83. During the course of liquidation, it was found that XYZ had gifted some assets of the company to another company DEF Ltd on 20th April 2015 and F1 reported the transaction to the National Company Law Tribunal by way of an application. The National Company Law Tribunal may pass an order:

- a) Rejecting the application;
- b) Requiring the Insolvency and Bankruptcy Board to initiate disciplinary proceedings against the liquidator;
- c) Require any person to pay sums in respect of benefits received by such person to the liquidator;
- d) Require any person to submit relevant documents of transaction to the Insolvency and Bankruptcy Board of India to make necessary order.

Ans. (a)

Attempt Questions 84-87 based upon the following case study/transaction analysis assuming that the provisions of Insolvency Resolution and Bankruptcy for Individuals and Partnership firms under Part-III of the Code have been notified.

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 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 Insolvency and Bankruptcy Code, 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.

84. 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 Insolvency and Bankruptcy Board of India
- d) Yes, before the Debt Recovery Tribunal

Ans. (b)

85. 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 Insolvency and Bankruptcy Board of India for record.

Ans. (c)

86. 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)

87. 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)
