

**GUJARAT NATIONAL LAW UNIVERSITY
GANDHINAGAR**

Course: Law of Contract II (Specific Contracts, Partnership and Sale of Goods)
Semester-III (Batch: 2019-24)

End Semester Online Examination: December 2020

Date: 19th December, 2020

Duration: 8 hours

Max. Marks: 50

Instructions:

- The respective marks for each question are indicated in-line.
- Indicate correct question numbers in front of the answer.
- No questions or clarification can be sought during the exam period, answer as it is, giving reason, if any.

- | | | <u>Marks</u> |
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| Q.1 | <p>Two MBA students, Ambani and Adani while pursuing their degree decided to set up a Start-up jointly and registered it in the name of Swades Partnership. Their business was selling and exporting indigenously manufactured crafts of India. Initially they did not have capital to start the business and hence met several angel investors. One businessman and baron Tata agreed to invest Rs 2 Crore in lieu of which he asked for a 20 percent share in profit annually. With the help of Tata, Ambani and Adani were able to establish their firm Swades and carry on the business smoothly. Their hard work and business acumen gave results quickly and they were recognized as the best business enterprise under the 'Make in India' programme in a short span of time.</p> <p>In order to diversify their business, the Swades firm approached the Bank of Baroda (hereinafter BoB) for a loan of Rs 15 crore. BoB agreed to give the loan if Bezos will agree to be a guarantor for the loan and also if Ambani and Adani would pledge some property of the firm. Swades firm had no property of its own except two vintage painting of Banarsi silk weavers painted in 1756 by a Portuguese painter, that was gifted to the firm by the Weavers Association of Varanasi as a token of appreciation. BoB agreed to take the paintings as a pledge, if Bezos would agree to guarantee at least 90 percent of the loan amount. On meeting Bezos, he initially agreed to guarantee 50 percent of the loan. However, he was ready to cover the whole loan if Ambani and Adani agreed to sell their products on Amazon for 5 years. BoB gave the loan and Ambani and Adani were now set to become the world's most promising entrepreneurs. Their firm Swades was winning all awards in the field of consumer satisfaction, marketing, sales and even corporate governance. Meanwhile, BoB pledged the paintings further to Royal Bank of Scotland for 20 crores.</p> <p>Ambani and Adani now needed more hands to run the business. So, they amended the partnership deed and included a clause which enabled them to introduce their family members as partners with the consent of all the partners. Meanwhile Ambani and Adani invited their minor sons Aamir and Shahrukh respectively, who were also rising Bollywood actors to be partners and inducted them immediately. So subsequently, Swades acquired its own brand and retail stores all around the country. Craftsmen were</p> | <p>(10+5
+3+5
+5+5
+7+7
+3=
50)</p> |

contracted to weave clothes of unique patterns and designers were hired to design the clothing line of Swades. With the passage of time Swades became an international brand. Ambani started looking into production and Adani looked into sales. Ambani got novel handicrafts manufactured and designed and Adani used to find buyers, wholesalers, retailers and individual customers around the globe. Even Gal Gadot and Scarlett Johansson were seen flaunting the clothes designed by Swades.

While everything was going fine, suddenly a newspaper article was published with a report of Ambani to be a fraudster. The news article claimed that few craftsmen of the village Patan in Gujarat were approached by Ambani and had weaved 2 dozens of Patola sarees for worth 11 lakh each however they were not paid for it. After this report got the limelight, there were many handicrafts associations that made a similar claim. Also Biba, Manish Malhotra and Sabyasachi filed a suit against Swades for copying their batik designs and block print on Swades clothing. Adani claimed that he was not aware of the actions of Ambani and hence he is not responsible.

Upset by the news, Adani conducted an enquiry and got to know that Ambani had indulged into such activities since past several years. A sting operation conducted by Tak news channel also showed Ambani bribing the designers of other brands to get their designs and launch them first in the market. This negative publicity affected the business of Swades. People boycotted the products of Swades. #Boycottswades started trending on twitter. Even Amazon refused to display Swades products on its website and App. Swades was unable to pay the loan taken from BoB and defaulted. BoB filed a suit against Swades, Tata and Bezos. Bezos objected for being impleaded in the suit as he claimed his liability secondary. Meanwhile both the paintings were stolen from the locker of Royal Bank of Scotland by an international thief Hrithik who is later caught by police officer Uday. Uday keeps the paintings in the police station under his custody. However they are again lost from there. One of the paintings is found by a passerby Jimmi.

Answer the following questions with the help of relevant provisions of Indian Contract Act 1872 and Partnership Act 1932 and decided cases:

- a) Define partnership and analyse the mode of determining existence of partnership. Answer whether Tata is a partner in Swades? (10 Marks)
- b) Whether Bezos can argue that his liability is secondary and will arise only after Ambani and Adani fail to pay? (5 Marks)
- c) Whether Bezos can claim to be discharged as a guarantor? (3 Marks)
- d) Determine the liability of the police officer Uday. (5 Marks)
- e) What is the duty of Jimmi under Indian Contract Act, 1872? (5 Marks)
- f) Whether the pledge by BoB to Royal Bank of Scotland is valid? (5 Marks)
- g) Discuss the rights and duties of Aamir and Shahrukh as partners in Swades. (7 Marks)
- h) Whether Adani and the firm Swades is liable for the actions of Ambani? (7 Marks)
- i) Can the weavers of Patan ask Adani to indemnify? (3 Marks)
