

ELECTIVE PAPER 6D: ECONOMIC LAWS

CASE STUDY - 2

Mr. Manohar Mehta, renowned builder of Mumbai, owns a reputed building construction company known as “Sri Ram Building Construction and Real Estate”. Due to his vast business empire, he is known as the “King of the Property World”.

On the personal front, Mr. Mehta in his family has an elderly mother, wife, and three children. His father, Mr. Sri Ram Mehta, had recently expired after prolonged sickness. Mr. Manohar Mehta’s mother, Mrs. Rama Devi, is a religious lady always dedicating her time in worship and holy works. Wife, Urvashi, is a home maker and a socialite. She is mostly involved in all the social activities and runs her own NGO named “AAWAZ”. Mr. Mehta regularly give financial contribution to his wife’s NGO. These minor donations gave Mr. Mehta a Noble man tag in the social circle and better business prospects.

Sonia, eldest daughter of Mr. Mehta, is married and well settled with her husband in Australia. She has recently started her own import export business in Australia with the help of her father. Mr. Mehta would transfer the amount to his daughter and she regularize the amount in the books of accounts of her business.

Recently, a project was started by Mr. Mehta in Marol area of Mumbai. The project was named as “Shubh Apartment”. Under this project a 5 storey building comprising of 2 flats (2 BHK) at each floor were constructed. The actual construction cost of each flat was Rs. 50 lakh. The flat was sold at Rs. 60 Lakh. The advance booking charges of Rs. 6 lakh for each flat was collected from the buyers by cheque. Proper receipt was issued to all the buyers for the advance payment. Out of the 10 flats, 4 flats were sold at an increased price of Rs. 62 Lakh. Rs. 2 lakh each was taken in cash from the 4 buyers. Therefore, he earned in total Rs. 8 Lakh for these 4 flats. This amount of Rs. 8 lakh was send to Sonia via an independent agent. Sonia utilized this amount in her business and taken into record via some entry in her books of accounts.

Mr. Manohar Mehta has two sons, Rohit and Sorav. Sorav is the youngest son. He is pursuing his graduation from one of the best universities of Chicago. For his education, Mr. Mehta remitted foreign exchange of USD 2, 00,000 through authorized person. During course of his studies, Sorav was caught with the seasonal influenza, so there he required an emergency medical treatment. Mr. Mehta transmitted additional amount of USD 70,000 for treatment through authorized person who was well known to him for hassle free transfer.

Rohit, the elder son, after successful completion of his M.B.A. Finance degree, is now actively supporting his father in his real estate business. To give a start to his career, Mr. Mehta handed over the project

“Royal Aashiana” to be constructed in Kharghar. The said project was proposed to be developed in 1000 sq. mts. Rohit was working on the project under guidance of Mr. Mehta. He marketed about the said project and invited persons to purchase the flats in the Royal Ashiana. It was an ongoing project, Rohit without registration of the project made an agreement to sell some of the flats.

As per Mr. Mehta’s regular morning routine, he one day read his favorite column “Property for Sale” in the newspaper. He came across one advertisement regarding the sale of the residential plot in Panvel district of Maharashtra. He discussed about the advertisement with his manager, Mr. Shyam Pareekh. He asked his manager to visit the actual site of the mentioned property.

Mr. Pareekh called the land owner, Mr. R. Thakker, and took the appointment for the visit. He went to Panvel to meet the owner and see the property. It was a 10,000 square feet plot near the city area. Mr. Thakker quoted a price of Rs. 1crore for selling his property. After two rounds of meeting the final negotiation with the land owner was done and deal was locked for Rs. 90 Lakh. On mutual consensus between them, down payment of Rs. 20 lakh was made to Mr. Thakker in cash. Further, a payment of Rs. 70 Lakh was done by cheque and the property was registered in the name of his (Mr. Mehta) mother. Being a sacred woman, she was not interested in all such types of transactions or arrangements made on her name by Mr. Mehta.

After few months, Mr. Manohar Mehta from his sources came to know that an agricultural land is on sale by a farmer, Mr. Bhima Singh. The farmer’s 5 acres of agricultural land was located in Thane district of Mumbai. Mr. Manohar Mehta thought it would be a great deal to buy the agricultural land around the lush green vicinity of the Thane district. He further thought that he can resale this property after converting it to farm houses to the potential buyers.

After the detail discussion with his management regarding the purchase of land, Mr. Manohar Mehta went to Thane to see the agricultural land. The land was just 500 meters away from the highway. After visiting the land Mr. Mehta became keen to buy the property. They had a talk with the farmer, Mr. Bhima Singh. The farmer being illiterate hardly knew about the legal sale/purchase of the land. Mr. Manohar Mehta and Mr. Pareekh negotiated and finalized the deal in Rs. 80 Lakh.

Since Mr. Manohar Mehta required funds for purchasing the Thane property, he decided to sell his Panvel plot which was in the name of his mother. He retransferred the Panvel property (Which was in the name of his mother) to himself and then sold the Panvel plot for Rs. 1.10 Crore. He took partial amount by cheque and rest by cash. This way he safeguarded himself from showing the capital gain on financial record. Mr. Mehta received Rs. 80 Lakh in cheque and rest Rs. 30 Lakh in cash.

Whereas, Mr. Mehta induced Bhima Singh, and paid him Rs. 50 Lakh through cheque and Rs. 30 lakh through cash.

Mr. Manohar Mehta was still having Rs. 30 Lakh out of sale of 1.10 Crore panvel property, at his disposal. Mr. Mehta decided to deposit Rs. 2,000 each to his wife, two sons and mother, saving accounts every month. He would continue deposition of Rs. 2000 each per month for next couple of years.

During one of the corporate parties while having a discussion, Mr. Mehta's friend advised him to invest the remaining amount in the shell company outside India. Mr. Mehta liked the suggestion and decided to send Rs. 10 Lakh to invest in the shell company in Singapore via Hawala. He learned about Mr. Varun Das who runs a business of hawala under the veil of running a financial company. Mr. Mehta contacted Varun Das who agreed to transfer the fund via Hawala on 1% commission basis. In this way Mr. Mehta managed to circulate the amount in the shell company outside India.

Mr. Manohar Mehta also donated Rs. 50,000 in cash to his wife's NGO "AAWAZ".

After few months, Mr. Mehta decided to buy a new car, worth Rs. 50 Lakh. He did the down payment of Rs. 5 Lakh via cheque. For the remaining Rs. 45 lakh he took 3 years auto loan, so that he can deposit the monthly installment in the bank. Hence in this way the remaining Rs. 10 Lakh, which he gained from the sale of the Panvel property, was utilized..

Due to frequent transactions of hefty amount and his conduct of other financial activities in a year, Mr. Mehta bank accounts and his family members account of transactions were in the scrutiny of the Income Tax Department.

On further investigation it was discovered that Mr. Mehta, Mr. Thakkar, Rohit and Sonia being guilty for different offences punishable under the different Acts.

I. Multiple Choice Questions

1. Sonia plans to make investment in India. She was permitted to do so as per the FEM regulation in -
 - a. Trading in transferable development rights
 - b. Real Estate business and construction of farm houses
 - c. Agricultural or plantation activities
 - d. Chit funds subscribed through banking channel and on non-patriation basis

2. Sonia ordered exports of goods from India for her business. The amount (export value) of good shall be released and repatriated to India within period -
 - a. 3 Months from date of export
 - b. 6 Months from date of export
 - c. 9 Months from date of export
 - d. 9 Months from date of invoice covering such export
3. Amount released for the real estate project from allottees in separate account can be withdrawn by promoter after it is certified by-
 - a. Cost accountant and an Architect
 - b. Engineer, and a Chartered Accountant
 - c. an Architect and an Engineer
 - d. Engineer, an Architect, and a Chartered Accountant in practice
4. "Who according to the Provision of Prevention of Money Laundering Act is/ are held to be liable in dealing of Panvel property-
 - a. Mr. Manohar Mehta
 - b. Mr. Thakkar
 - c. Both (a) and (b)
 - d. Mr. Shyam Pareekh
5. Who among the following is liable for an offence of money laundering as per the Part C of the Schedule given in the Prevention of money laundering Act-
 - a. Mr. Mehta
 - b. Mr. Thakkar
 - c. Mr. Atul
 - d. Ms. Sonia
6. How much amount of penalty Mr. Mehta has to pay on illegal remittance of money transferred to Sorav
 - a. USD 6,00,000
 - b. USD 1,80,000
 - c. USD 60,000

- d. USD 50,000
7. Suppose any project started by Mr. Mehta was not completed within preferred time due to force majeure. Remedy available to Mr. Mehta in this situation
- a. Registration may be interim cancelled by Authority
 - b. Registration need to be freshly applied
 - c. Registration granted may be extended for period not exceeding 1 year on application
 - d. Registration may be extended for reasonable period on application.
8. Mr. Mehta sells a flat of Royal Aashiana to Mr. X for the amount Rs. 75 lakh. Mr. X made the advance payment. The correct value of the advance payment is
- a. Rs. 7.5 Lakhs
 - b. Rs. 8 Lakhs
 - c. Rs. 8.5 Lakhs
 - d. Rs. 9 Lakhs
9. In case of dispute between Mrs. Rama Devi and Mr. Mehta, can Mr. Mehta legally claim her right over the Panvel Plot?
- a. Yes, because he is the beneficial owner in the transaction
 - b. No, because the transaction is Null and void
 - c. Yes, because he paid consideration for the transaction
 - d. None of the above
10. Mr. Mehta files an application for initiation of voluntary liquidation proceeding of his Real Estate construction company. Mr. X, a home buyer of a flat in one of the project of Mr. Mehta claimed for the re-fund of paid amount or demanded for handover of possession of flat. Which amongst following is not incorrect statement
- a. X cannot claim the amount due to pending of Insolvency process
 - b. X can file a suit for the default committed by Mr. Mehta under the Insolvency & Bankruptcy code
 - c. X's right & interest is protected after execution of an agreement to sale till the conveyance of the flat
 - d. None of the above

II. Descriptive Question

1. What would be the consequences in the following given situations:
 - (a) Where if Mr. Mehta remitted Foreign Exchange USD 2,00,000 and USD 70,000 as educational and medical expenses to Sorav .
 - (b) Sorav used USD 20,000 out of the remitted medical expenses (i.e., USD 70,000) and used remaining amount to purchase immovable property jointly with Mr. Mehta in Chicago.

2. Suppose Royal ashiana, is a 15 year old building of Mr . X. It was purchased by Mr . Mehta in January 2016. He planned to re-develop the said building into residential apartments. He launched the project in end of January 2016. During the course, the Government enacted the Real estate(Regulation and Development) Act, 2016.Mr. Mehta seek advise of his legal consultant on the issues related to the registration of the said Project-
 - (1) Is the Registration for the re-development of society is mandatory?
 - (2) If he plans to develop a new society under new name with new allotments . Is the registration mandatory of the project?
 - (3) State the position where project have been completed and obtained the certificate of completion before the commencement of RERA?
 - (4) Where if the project is to be devolved into phases ?
 - (5) Where if the authority has not taken any decision on application for the registration within the prescribed period.

3.
 - (i) What remedy is available to Mr. Mehta, in case he want to compound for the commission of illegal remittance to Sorav under FEMA Act 1999?
 - (ii) According to the case study the property bought by Mr. Mehta in the name of his mother, Mrs. Rama Devi, is a Benami Transaction and will be confiscated. Suppose the property rightfully belonged to Mrs. Rama Devi then what measures she can take to save the property from confiscation. Explain?