

<b>Name:</b>	
<b>Enrolment No:</b>	

**UNIVERSITY OF PETROLEUM AND ENERGY STUDIES**  
**End Semester Examination, December, 2019**

**Course: Interpretation of Statutes**  
**Programme: B.B.A., LL.B. (CL/IT/BFIT.)BCOM.LL.B**  
**Max. Marks: 100**

**Semester: VII**  
**Time: 03 hrs.**

**Instructions:**

**SECTION A –All questions are Compulsory**

S. No.		Marks	CO
Q 1	Can a taxing statute be given retrospective operation?	2	CO 1
Q 2	What does Generalia Specialibus Non Derogant mean?	2	CO 1
Q 3	What is the importance of dictionary in interpretation? Give an example	2	CO 1
Q 4	What do you mean by Legislative Intent?	2	CO 2
Q 5	What do you mean by Subordinate Legislation?	2	CO 1

**SECTION B-Attempt any two Questions**

Q 6	"A statute is not passed in vacuum but in a frame work of circumstances so as to give a remedy for a known state of affairs. To arrive at its true meaning one should know the circumstances with reference to which the words were used and what was the object appearing from those circumstances which Parliament had in view." Make a critical appraisal of the above in the light of Haydon's rule as applied to the interpretation of statutes.	10	CO 2
Q 7	The rule of Ejusdem generis has to be applied with care and caution. It is not an inviolate rule of law, but only permissible inference in the absence of an indication to the contrary, and where the context and object of the enactment do not require restricted meaning to be given to the words of general import, it becomes the duty of the courts to give those words their plain and ordinary meaning. Comment critically.	10	CO 2



	<p>a) That the notification is ultra vires the constitutionally permitted reservation policy of the country. A scheduled caste candidate cannot be denied the benefitted of reservation. <b>5 Marks</b></p> <p>b) That the idea of creamy layer was propounded in the Indira Sawhney judgment and in that the issues were related to OBC reservation only. The concept laid down in this judgment can not be stretched and applied over scheduled caste candidates <b>10 Marks.</b></p> <p>c) That the publication of scheduled castes is done at national level; so a state government has no authority to make rules including, excluding or affecting the reservation of scheduled castes. <b>10 Marks</b></p>		
Q 13	<p>An Act to make provision for prevention of adulteration of the food. Be it enacted by Parliament in the Fifth Year of the Republic of India.</p> <p>This appeal by special leave is directed against the judgment of the High Court of Judicature at Bombay allowing the appeal filed by respondent No. 1 against the acquittal of the appellant by the Judicial Magistrate, First Class, Thana, and convicting him under <a href="#">s. 16(1)</a>, read with <a href="#">s. 7(1)</a>, of the <a href="#">Prevention of Food Adulteration Act, 1954</a> (hereinafter called the Act), and sentencing him to undergo rigorous imprisonment for two months and to pay a fine of Rs. 250/-.</p> <p>The appellant is the proprietor of a shop at Thana known as the Cottage Industries. He is a dealer in butter. On June 27, 1957, the Food Inspector of the Than &amp; Borough Municipality visited the shop of the appellant and purchased from him some quantity of Khandeshi butter. After purchasing the butter, the Food Inspector notified his intention to the appellant that he was going to get the butter analysed. He divided the butter into three equal parts, put them in three separate bottles and duly sealed the bottles in the presence of two panchas. He gave one of those bottles to the appellant, sent one to the Public Analyst and kept the third with himself. The appellant signed the labels on the bottles and also passed a receipt in favour of the Food Inspector in</p>	25	CO 4

token of the receipt of one of the bottles and that receipt was signed by the appellant and counter-signed by two panch witnesses. The Public Analyst analysed the butter sent to him and, sent his report in due course. In the report it was stated that the butter contained 18.32% foreign fat, 19.57% moisture and 64.67% milk fat.

On October 5, 1957, the Food Inspector filed a complaint in the Court of the Judicial Magistrate, First Class, Than&, against the appellant. It was alleged therein that the said butter was found to be " adulterated " as defined in [s. 2\(1\)](#) (a) of the Act and that the appellant had committed an offence under [s. 16](#) of the Act by selling the adulterated article of food in contravention of [s. 7\(1\)](#) of the Act and the rules made thereunder. The Judicial Magistrate acquitted the appellant on the ground that it had not been proved beyond reasonable doubt that the butter which was purchased from the shop of the appellant was the very same butter which was sent to the Public Analyst and also for the reason that butter prepared out of curd did not come within the mischief of the definition of the word butter " in rule A.11.05 of Appendix B to the Prevention of Food Adulteration Rules, 1955 (hereinafter called the Rules). The Food Inspector preferred an appeal against that order of acquittal to the High Court. The High Court held that the conclusion of the learned Judicial Magistrate that the butter purchased from the appellant might have been tampered with before it was sent to the Public Analyst was not based on any evidence on the record. It further held that butter prepared from curds was covered by the definition of the word " butter " given in the relevant rule. It further held that- even if the butter prepared out of curds 'was not butter as defined in the said rule, the appellant would still be liable under [s. 2](#) (1) (a) of the Act as it contained foreign fat and, therefore, was an adulterated article of food within the meaning of the said section. In the result it set aside the order of acquittal, convicted the appellant under the Act and sentenced him to rigorous imprisonment for two months and to pay a fine of Rs. 250/-. Hence this appeal.

[Section 2\(1\)](#) of the Act defines the word " adulterated " and it says that an article of food shall be deemed to be adulterated if it satisfies one or other of the conditions prescribed in sub-cl. (a) to (1). We are concerned in this appeal with sub-cl. (1) where

under an article of food shall be deemed to be adulterated if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities which are in excess of the prescribed limits of variability. [Section 2\(xii\)](#) defines "prescribed" to mean "prescribed by rules made under this Act." In exercise of the powers conferred by sub-s. (2) of [s. 4](#) and sub-s. (1) of [s. 23](#) of the Act, the Central Government made rules prescribing, inter alia, the standards of quality of different articles of food. Rule 5 says that standards of quality of the various articles of food specified in Appendix B to the Rules are as defined in that appendix. Rule A.11.05 of Appendix B to the Rules defines "butter" to mean "the product prepared exclusively from the milk or cream of cow or buffalo, or both, or without the addition of salt and annatto and shall contain not less than 80 per cent. of milk fat and not more than 16 per cent. of moisture" and no preservative is permissible in butter. Therefore, if the quality or purity of butter falls below the standard prescribed by the said rule or its constituents are in excess of the prescribed limits of variability, it shall be deemed to be adulterated within the meaning of Sec.2 of the Act. If the prescribed standard is not attained, the statute treats such butter, by fiction, as an adulterated food, though in fact it is not adulterated. To put it in other words, by reason of the fiction, it is not permissible for an accused to prove that, though the standard prescribed is not attained, the article of food is in fact not adulterated. The nonconformity with the standard prescribed makes such butter an adulterated food. Sec. 8 of the Act prohibits the manufacture, sale, storage, or distribution of such food. Sec. 16 provides a penalty for the contravention of the provisions of Sec.7. The first question, therefore, that falls for consideration is whether the butter seized from the appellant was butter as defined by Rule A.. Learned counsel for the appellant argues that butter prepared from curd is not butter as defined in the Act for, the following reasons: (1) the definition of the word "butter" does not include the product which is obtained from curd, as it refers only to a product which is prepared from milk or cream; (2) the three words, "milk", "cream" and "curd", are separately and exhaustively defined in the Rules and, therefore, the omission of the word "curd" in the said rule is a clear legislative indication that butter prepared from curd is not butter within the meaning of that rule; and (3) the word "exclusively" found in the, rule emphasizes the fact that butter to

	<p>come under the definition in the Act should have been prepared from milk or cream and from no other product.</p> <p>1. In the light of the preamble of the Food Adulteration Act does this case satisfy the requirements of adulteration? Elaborate. <span style="float: right;">10</span> Marks</p> <p>2. What type of statute is Prevention of Food Adulteration Act? How are such statutes interpreted? <span style="float: right;">5</span> Marks</p> <p>3. What is the mischief sought to be remedied by the Prevention of Food Adulteration Act? What impact, if any, it might have on the final outcome of this appeal against the conviction of the appellant? 5 Marks</p> <p>4. If literal rule of interpretation is applied in this case by the Supreme Court, what impact, if any, it can have on the outcome. <span style="float: right;">5 Marks</span></p>		