


Name:			
Enrolment No:			
UPES End Semester Examination, May 2024			
Course: Alternate Dispute Resolution Program: LL. B (Hons.) Course Code: CLCC3061		Semester: VI Time: 03 hrs. Max. Marks: 100	
Instructions: All questions are compulsory.			
SECTION A (5Qx2M=10Marks)			
S. No.		Marks	CO
Q 1	Define ex-parte proceedings in arbitration.	2	CO 1
Q 2	Distinguish between settlement agreement and settlement award.	2	CO 1
Q 3	Distinguish between appeal and application.	2	CO 1
Q 4	Define separability principle in arbitration.	2	CO 1
Q 5	Define <i>res judicata</i> effect of the award?	2	CO 1
SECTION B (4Qx5M= 20 Marks)			
Q 6	Discuss the concept of party autonomy.	5	CO 2
Q 7	Discuss concept of foreign jurisdiction clause in arbitration.	5	CO 2
Q 8	Explain provisions of Part I of the Arbitration and Conciliation Act 1996 that shall also apply to cases of International Commercial Arbitration.	5	CO 2
Q 9	Discuss the salient features of FastTrack Procedure inserted by Arbitration and Conciliation (Amendment) Act 2015.	5	CO 2
SECTION-C (2Qx10M=20 Marks)			
Q 10	“While the decision in <i>Bharat Aluminium Co v. Kaiser Aluminium Technical Services</i> (‘BALCO’) case was a step in right direction and would drastically reduce judicial intervention in foreign arbitration, the law commission felt that there were still few areas that are likely to be problematic”.	10	CO 3

	In view of the above, demonstrate the problematic areas in the decision of Supreme Court in BALCO Case.		
Q 11	<p>India aims to be an arbitration hub, and businesses are opting for arbitration as the preferred mode of dispute resolution as arbitration offers quick, cost effective and efficient dispute resolution. One of the reasons parties opt for arbitration is to avoid cumbersome court procedure, including an upfront payment of court fee which sometimes serves as a barrier to bring a claim. However, much to the surprise of parties, there are also costs related to enforcement of awards such as payment of stamp duty on the award. The Arbitration and Conciliation Act, 1996 (“Arbitration Act”) and the UNCITRAL Model Law on International Commercial Arbitration do not mandate parties to pay any such stamp duties on arbitral awards. However, there are some specific situations in which arbitral awards are required to be registered.</p> <p>Demonstrate the necessity of registration of arbitral awards in specific situations.</p> <p style="text-align: center;">OR</p> <p>With the passage of time, there is a complete paradigm shift in the ADR mechanism in India. Judicial system has been overburdened due to arrear of cases. Arbitral cases also end up in courts under the provisions contained in Arbitration and Conciliation Act 1996. Various committees set up by Government of India and Law Commission of India in their recommendations have suggested adoption of those means of ADR which are time and cost efficient in resolving disputes between parties.</p> <p>In view of the above, examine the jurisdiction, procedures, powers, and efficacy of Lok Adalat in resolving disputes between parties.</p>	10	CO 3
SECTION-D (2Qx25M=50 Marks)			
Q 12	<p>The Supreme Court in the case of Chloro Controls India Pvt. Ltd. v Severn Trent Water Purification Inc. (2013) mentioned five theories about reference of non-signatories to arbitration by a judicial determination (as part of the obiter dicta), which have been encapsulated in the matter of Thomson-csf, S.a., v. American Arbitration Association F.3d 773 (2d Cir.1994).</p>	25	CO 4

	<p>In view of the above, critically examine the five theories mentioned as <i>Obiter Dicta</i> in the judgement of Chloro Controls Case by the Supreme Court of India.</p>		
<p>Q 13</p>	<p>The Group of Companies doctrine (“Doctrine”) has been judicially formulated to make arbitration better suited to the commercial realities of the modern-day world. However, the Doctrine was subject to closer examination by the Supreme Court of India in the year 2023.</p> <p>The Supreme Court has passed a judgment in <i>Cox and Kings Ltd. v. SAP India Private Ltd.</i>, which deals with the extent of the application of the Doctrine under Indian law. The Cox and Kings Judgment not only declares the Doctrine to be an intrinsic part of the Indian legal system, but also defines the contours of the Doctrine by guard-railing it from misuse. A three-judge bench of the Supreme Court had referred the ratio of Chloro Controls case to a larger bench for examination with regard to application of ‘Group of Companies Doctrine’.</p> <p>“A five-judge bench of the Supreme Court of India in the case Cox and Kings v SAP India Pvt. Ltd. 2023 found that the ratio in Chloro Controls v Severn Trent Water Purification Inc. 2013 was incorrect”. Critically examine the statement.</p>	<p>25</p>	<p>CO 4</p>