

INSOLVENCY AND BANKRUPTCY BOARD OF INDIA -
LAND AND BUILDING SYLLABUS WITH EFFECT FROM 01.06.2020.

IMPORTANT CASE LAWS (2 Marks)

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1.	RUSTAM C. COOPER vs UNION OF INDIA	Property means the highest right a man can have to anything, it includes ownership, estates and interest in coporeal things and also rights such as trademarks, copy rights, patents, etc. Court has included all types of property viz tangible.
2.	SORAB TALATI vs JOSHEPH MICHEM	The court approved of investment theory to fix standard rent of the rent controlled premises. Return or yield from Gilt Edged Security is the basis for determining the fair return to the landlord for his investments in land & buildings.
3.	COMMISSIONER OF WEALTH TAX vs P.N. SIKAND	In determining the values of the leasehold interest of the assessee in the land for the purpose of wealth tax assessment, the price would have to be reduced by 50% of the unearned increase in the value of the land (which is diverted to the lessor).
4.	WENGER & CO vs DISTRICT VALUATION OFFICER - DELHI HC	Combination of methods (Owner occupied - sale comparison & tenanted portion - capitalization method) - adopted by DVO and his approach is not only acceptable but also in accordance with the principles of evaluation.
5.	JAWAJI NAGNATHAN vs REVENUE DIVISIONAL OFFICER	Basic valuation register prepared and maintained for the purpose of collecting stamp duty cannot form foundation to determine the market value of the property under registration.
6.	CHIMANLAL HARIGOVINDDAS vs SPECIAL LAND ACQUISITION OFFICER	The court cannot take into account the award passed by the SLAO unless it is produced and proved before the court. The market value is to be determined as on date of publication of the

		notification under sec 4 of LAA. Plus factors and minus factors are to be considered while determining the market value.
7.	CONTROLLER OF ESTATE DUTY VS. RADHA DEVI JALAN	<ul style="list-style-type: none"> • Rented properties must be valued by rental method. • In case of building which are in possession of tenant and the tenants cannot either be evicted or the rent payable by them cannot be enhanced, except in accordance with the provisions of the rent act, the only appropriate method of valuation is to capitalise the annual rent by certain number of year's purchase. • The method of valuing the land and the building separately and adding up the value would be improper in such cases, because that would ignore the impact of the Rent Control Act on the value of the land the building.
8.	COMMISSIONER OF INCOME TAX VS. SMT. ASHIMA SINHA	<ul style="list-style-type: none"> • The court approved of Tribunal's decision to allow 10% deduction in value to account for sale of undivided share in the property. • The court has held that <p style="margin-left: 40px;">“In the method adopted by the valuation officer, the value of land is taken twice viz, i) the amount included in the yield method and ii) again under the reversionary method. This is a novel approach but in our view is erroneous”.</p> <p>(Note : The Calcutta High Court has virtually held that there is no such thing as 'Reversionary value' and the concept of reversionary value is erroneous. It is well known that the courts have to consider only the evidence duly proved and the arguments submitted before them in the court. It seems that the advocates submitting</p>

		<p>arguments on behalf of the valuation officer have not properly understood the logical reasoning behind the reversionary value and therefore failed in producing proper evidence and properly presenting the concept of reversionary value before the High court. The High court has therefore misled in delivering such absolutely incorrect and erroneous judgement. It needs to be cautioned at this stage, that the judgements of the courts should always be read in the context of the evidence duly proved and arguments submitted before the court and should never be followed blindly.</p> <p>- (Courtesy : Book "Basics in Real Estate valuation" - Mr. H.T. Hardikar - Page 234)</p>
9.	COMMISSIONER OF INCOME TAX VS. ANUP KUMAR KAPOOR AND ORS.	<ul style="list-style-type: none"> • The valuation officer under the method adopted by him, has taken the value of the land twice, once in arriving at the figure by the 'yield or rental' method and again in applying the 'reversionary' method. This is in our view was wholly wrong. • In this case Calcutta court rejected concept of reversionary value of land. The above case was fully tenanted property and obviously therefore land reversion was not possible and hence its value could not be added.
10.	COMMISSIONER OF INCOME TAX VS. VIMLABEN BHAGWANDAS PATEL	<ul style="list-style-type: none"> • The rate of capitalisation should be not unreal and must have regard to the commercial rate of return after taking into consideration the various constraints and insecurities in the property market. • After considering payment provision v/s 11(1) of U.L.C.R. Act of 1976, the court opined, "In our opinion, the reasonable and appropriate rate of capitalisation would be $8^{1/3}$ time the net average annual income which would give yield of 12% per annum on the investment of capital in

FAQ

01. Property includes ownership, estates and interests in corporeal things and also rights such as trademarks, copyrights, patents.
- Sorab Talati Vs Josheph Michem
 - Rustam C Cooper Vs Union of India
 - Commissioner of Wealth Tax Vs P. N. Sikand
 - Wenger & Co Vs District Valuation Officer - Delhi Hc
02. In this case, the court approved of investment theory in preference to comparable rent theory to fix standard rent of the rent controlled premises. The court considered return or yield from Gilt Edged security as the basis.
- Rustam C. Cooper Vs Union of India
 - Sorab Talati Vs Josheph Michem
 - Commissioner of Wealth Tax Vs P. N. Sikand
 - Wenger & Co Vs District Valuation Officer - Delhi HC
03. In which of the following case, the court has for the first time approved of Investment theory of Rent fixation, by allowing 1.50 percent more return than the return on gilt edged security on value of land and 2.5 percent extra yield on the cost of the building, as fair return to the landlord on his investment in an immovable property?
- Commissioner of Wealth Tax Vs P. N. Sikand
 - Sorab Talati Vs Joseph Michem
 - Wenger & Co Vs District Valuation Officer - Delhi HC
 - Jawaji Nagnathan Vs Revenue Divisional Officer
04. The Doctrine of Unearned Increase was enunciated because of a famous court judgement. Select the correct judgement.
- Sorab Talati Vs Josheph Michem
 - Commissioner of Wealth Tax, New Delhi vs. Sri P.N. Sikand
 - Wenger & Co Vs District Valuation Officer - Delhi HC
 - Jawaji Nagnathan Vs Revenue Divisional Officer
05. The landmark judgement, Commissioner of Wealth Tax, New Delhi Vs. Sri P.N. Sikand (1979) 107 ITR 922 (SC) states that:
- only the lessor has the right to the increase in value

- b) the increase in value of the leasehold interest of the property leased is to be equally shared by both the lessor and lessee.
- c) only the lessee has the right to the increase in value
- d) the ratio of the lessor's and lessee's share is to be determined by negotiation.
06. For owner occupied portion, the District valuation officer calculated the value on the basis of what were the rates prevalent for sale of commercial flats in cannaught place. For the tenanted portion, he capitalised the rental value. The method adopted by him is acceptable.
- a) Commissioner of Wealth Tax Vs P.N. Sikand
- b) Wenger & Co Vs District Valuation Officer - Delhi HC
- c) Jawaji Nagnathan Vs Revenue Divisional Officer
- d) Sorab Talati vs Josheph Michem
07. In which of the following cases, the court approved comparable sales method of valuation for owner occupied portion of the building and rental method of valuation for tenanted portion of the same building.
- a) Rustam C. Cooper Vs Union of India
- b) Wenger & Co Vs District Valuation Officer - Delhi HC
- c) Sorab Talati Vs Josheph Michem
- d) Commissioner of Wealth Tax Vs P.N. Sikand
08. Basic valuation register for the purpose of collecting stamp duty cannot form a foundation to determine the market value
- a) Commissioner Of Wealth Tax Vs P. N. Sikand
- b) Jawaji Nagnathan Vs Revenue Divisional Officer
- c) Chimanlal Harigovinddas Vs Special Land Acquisition Officer
- d) Wenger & Co Vs District Valuation Officer - Delhi HC
09. The court cannot take into account the award passed by the SLAO unless it is produced and proved before the court. The market value is to be determined as on date of publication of the notification under sec 4 of LAA. Plus factors and minus factors are to be considered while determining the market value.
- a) Jawaji Nagnathan Vs Revenue Divisional Officer
- b) Chimanlal Harigovinddas Vs Special Land Acquisition Officer
- c) Commissioner Of Wealth Tax Vs P. N. Sikand
- d) Wenger & Co Vs District Valuation Officer - Delhi HC

10. The method of valuing the land and the building separately and adding up the value would be improper in such cases, because that would ignore the impact of Rent Control Act on the value of the land and building.

- a) Chimanlal Harigovinddas Vs Special Land Acquisition Officer
- b) Controller of Estate Duty Vs Radha Devi Jalan
- c) Commissioner of Income Tax Vs Vimlaben Bhagwandas Patel
- d) Commissioner of Income Tax Vs Anup Kumar Kapoor and ors.

11. The rate of capitalisation should be not unreal and must have regard to the commercial rate of return after taking into consideration the various constraints and insecurities in the property market.

- a) Controller of Estate Duty Vs Radha Devi Jalan
- b) Commissioner of Income Tax Vs Vimlaben Bhagwandas Patel
- c) Commissioner of Income Tax Vs Anup Kumar Kapoor and ors.
- d) Commissioner of Income Tax Vs Smt. Ashima Sinha

12. The valuation officer under the method adopted by him, has taken the value of the land twice, once in arriving at the figure by the yield or rental method and again in applying the reversionary method. This in our view was wholly wrong.

- a) Commissioner of Income Tax Vs Vimlaben Bhagwandas Patel
- b) Commissioner of Income Tax Vs Anup Kumar Kapoor and ors.
- c) Chimanlal Harigovinddas Vs Special Land Acquisition Officer
- d) Controller of Estate Duty Vs Radha Devi Jalan

13. The court approved of Tribunal's decision to allow 10% deduction in value to account for sale of undivided share in the property.

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In the method adopted by the valuation officer, the value of land taken twice viz. i) the amount included in the yield method and ii) again under the reversionary method. This is a novel approach but in our view is erroneous.

- a) Chimanlal Harigovinddas Vs Special Land Acquisition Officer
- b) Commissioner of Income Tax Vs Smt. Ashima Sinha
- c) Commissioner of Income Tax Vs Vimlaben Bhagwandas Patel
- d) Controller of Estate Duty Vs Radha Devi Jalan

Ans : 'b' for all questions

