NATIONAL LAW UNIVERSITY, DELHI

LL.M., Semester-II (Batch of 2020)

End-Semester Assessments (Online), May/June-2021

Paper: Law and Practice of Finance

Time: 48 hours Total Marks: 50

1. Mail your assignments only to submissions.llm@nludelhi.ac.in.
2. All questions are compulsory.
3. This is an open book exam. Students are free to consult their class notes as well as assigned reading material.
4. No clarification shall be sought on the question paper.
5. Mention ONLY Name, Roll No. and Subject Paper on the Cover/First page. Start writing your answers from the next/second page only. **Do not** mention your name and roll no on any other page.
6. Question 1 and 3 are for 15 marks each while question 2 is for 20 marks.

Q.1 An investment bank, Kuber Finance and Advisors Ltd. (Kuber) has contracted with Ashima Housing Ltd (Ashima) to arrange for it a loan of Rs. 1000 crore for the completion of its projects relating to the development of a township and a new IT SEZ as well as the payment of some of the maturing debts. The banks whom Kuber approaches for subscription/lending have following concerns which need to be addressed by you:-

A) Ashima may not take up the projects, considering the real estate market, or scale down the scope of the projects. In that event, it would not need a part of the loan or would not call for it while they would have made arrangements for it and incur costs for it.

B) Ashima, in the event the township project is a success, may make a prepayment of the loan if it does not know of avenues to deploy the surplus funds. The banks would have a problem redeploying the funds coming into their hands unexpectedly.

C) Some lenders, who may have agreed to lend as part of the consortium, may back out when the time to lend comes. How would Ashima handle such a situation?

D) Since Ashima is already a debtor to other banks, most of its assets would already be subject to security, leaving nothing of value for the new lenders as a security.

E) The banks have concerns that changes in the capital adequacy requirements and downgrading of the credit rating of Ashima would result in the loan not being as rewarding as hoped for or even becoming a losing proposition for them.

Q.2 A) A truck manufacturer, concerned over the terms and conditions imposed on the truck buyers by banks when extending loans and the rigorous eligibility conditions for the loans for consideration, wants to help them so as to ease the process of obtaining financing while minimizing the risk to its own balance sheet. Advise it on the avenues availableto achieve its objectives.

B) Lakshmi Jewellers Ltd. (Lakshmi) borrows money from Kuber Bank Ltd. (Kuber) for which it gives the bank a floating charge over its stock-in-trade, trade receivables and shop furnishings. The loan document provides that the charge shall crystallize in the event- the borrower commits a default on any other loan, any execution proceedings are instituted against the borrower for non-payment of judgement debt, the insurance cover of the borrower for the stock in trade falls below the specified percentage of the stock in trade, institution of proceedings against the borrower under the Prevention of Money Laundering Act or under any revenue law etc. Six months after borrowing from Kuber Bank, Lakshmi Jewellers borrows money from Anant Finance Ltd., without disclosing the fact to Kuber Bank and taking its prior consent, though so required under the loan agreement. The loan from Anant Finance is also secured with a floating charge on the stock in trade and the conditions of crystallization include in addition to all conditions mentioned in the security agreement withKuber Bank a condition that it would crystallize on the resignation of the auditor. Kuber Bank comes to know of the breach of loan condition and protests with the management of Lakshmi Jewellers Ltd., and demands the repayment of the loan or an additional security. An agreement to create mortgage over the shops of Lakshmi Jewellers, on a long term lease from Gaur Malls Ltd and DLF Ltd., is entered into and the lease agreement is deposited with theKuber Bank Ltd. The mortgage is not registered with the land registry, it is registered with the registrar of companies. Subsequent to this, Lakshmi Jewellers experiences financial difficulties and borrows money from an alternative investment fund, Mirage Funds. For the loan it gives floating security over the stock in trade and receivables and the promoter pledges his shares in the company. The terms of the floating security are the same as given to Anant Finance.

The financial woes of the company do not end. The auditor does not agree with the companyon the valuation of the stock in trade and receivables and resigns. While the resignation was with the board of the company, Harit Chand, a well known surgeon, visited the shops of Lakshmi Jewellers and bought jewellery worth over a crore rupees on the occasion of his daughter's marriage.

The suppliers of Lakshmi Jewellers, who are unpaid for long, fed up with the delays, initiate insolvency proceedings against it.

For the benefit of the liquidator, decide the priority in different assets and enforceability of transactions of Kuber Bank, Anant Finance, Gaur Malls Ltd., DLF Ltd., Mirage Funds and Harit Chand.

Q.3 Kewalram Sugar Mills Ltd., pursuant to the government's twin policy of reducing air pollution due to burning of paddy residue/waste and to increase the ethanol mixing with petrol, decides to set up a plant to produce ethanol from agricultural waste. It decides to incorporate a subsidiary to manufacture ethanol out of agricultural residue/waste. Prior to approaching the financial institutions for loan, it wants to identify the risks and the possible available means to reduce or eliminate them so as to get the financing on the best possible terms. Please advise.