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**DEPARTMENTAL EXAMINATION FOR IAS AND HAS OFFICERS OF HIMACHAL PRADESH
PAPER V REVENUE CASE
Nov/Dec 2018**

Time Allowed : 3 hours.

Maximum marks: 100

Note:

- (i) All questions are compulsory.
- (ii) All questions carry equal marks as specified at the end of each question.
- (iii) Bare Acts and Rules can be consulted.

Question no. 1: The petitioner Rampratap is lessee of house and around three big-has of agricultural land located in khasra No. 1102/2 in village Kohari of Tehsil Kandaghat. His share in the lease is half and the other half is with his nephew. The rent settled in the lease deed is Rs. 1200/- per annum. In the days of the former Pepsu State, of which Kandaghat was a part, the concerned Panchayat used to determine the annual rental value of the house property and only a lumpsum charge of Rs 10 per annum used to be paid to the Panchayat. However after the coming into existence of NAC Kandaghat, of which the area under reference became a part, the latter determined Rs. 5000/- per month as the monthly rental value of the house for purposes of property tax. Some three months after, a demand notice and challan form were issued to the petitioner by the Executive Officer of NAC Kandaghat. To this he stated that the tax should be payable by two persons, i.e., by himself and his nephew, and in that way his half share came to Rs. 2500/, which amount is exempt from payment of the tax. He also claimed that as per the demand notice the tax was shown as due for the assessment year 2004-05 but that was against the notification because it came into force in the concerned area after constitution of NAC in 2006-07 only. Presuming that the property is exempt from tax up to monthly rental value of Rs 2500/ decide through a detailed reasoned order the claim of the petitioner as primarily it relates to the interest in the property under reference.

25 marks

Question no 2: Consolidation, proceedings were concluded in village Aaonli in District Sirmaur in the year 1993-1994. During these proceedings, land was allotted to the petitioner and private respondents in joint khewat, as per their entitlement. They continued to be shown as such throughout. In the year, 2008, the petitioner moved an application under HP land Revenue Act 1954 for partition of the joint khewat, before the revenue authorities. Private respondents put up appearance and raised question of title on the ground that the land in question was in their cultivation and possession. Objection was dismissed. They went in appeal but failed. Thereafter, partition proceedings were finalised and Sanand Taksim was prepared by the Assistant

Collector, Ist Grade, Sarahan. Consequent thereto, the possession was also transferred and entries made in the revenue record. Private respondents feeling dissatisfied, filed an appeal for declaration and permanent injunction, claiming exclusive ownership of part of the property on which they had constructed their house and the land which was abutting to the national highway. It was also prayed that injunction be issued against the petitioner, not to disturb their possession. They also laid challenge to the partition proceedings which had already become final between the parties mainly on the ground that the land which was allotted to them during the Consolidation proceedings can't now be subjected to partition as the same goes against the very spirit of the Consolidation Act as the same will again lead to further fragmentation of the same piece of land.

Assuming that you are the Collector of the area decide this case through a well reasoned and speaking order along with the case law on the point.

25 marks

Question no 3:

M/s. Ganesh Packaging Industries Pvt. Ltd., Una (hereinafter described as the 'assessee') was registered as a dealer under the H.P. General Sales Tax Act, 1973 and in the year 2005 the Assessing Authority created liability of Rs. 2,39,013 against the assessee. Due to its failure to satisfy the demand, the assessee's **land** bearing Khasra No. 65/17 (8 kanals), 65/18 (7 kanals), killa No. 323, Khatoni No. 477, situated in Mewla Maharajpur, Tehsil Gagret was attached by Collector-cum-Deputy Excise and Taxation Commissioner, Una vide his order dated August 17, 2005 passed under Section 75 of the **Himachal Land Revenue Act, 1954**. The required permission for selling the property for recovery of revenue was given by the competent authority on February 28, 2008. After several attempts to auction the property in question, the Respondent No. 1, M/s. M.H. Textiles Pvt. Ltd., Baddi, purchased the factory and other properties of the assessee by registered sale deed dated August 11, 2009. Soon thereafter, respondent No. 1 deposited a sum of Rs. 2,39,013 which was outstanding against the assessee.

4. In the meanwhile, Excise and Taxation Officer-cum-Assessing Authority, Gagret initiated proceedings against the assessee for levy of interest and penalty and vide order dated October 26, 2010, he created demand of Rs. 6,82,247. This was followed by an order dated December 20, 2011 vide which Assistant Collector 1st Grade-cum-Excise and Taxation Officer, Gagret directed attachment of the property which had been purchased by the petitioner on August 11, 2009. The petitioner challenged the order of attachment on the ground that he had cleared all his dues before purchasing of property and as the mutation had been attested by the revenue authorities, the recovery, if

any, was to be made from the original owner and not him. Decide the issue as Collector of the district through a reasoned order.

25 marks

Question no 4: On 15-07-2003 an application was filed by one Sh Jwaladas, before the Assistant Collector Grade 1 Rampur with a request to enter mutation of land comprised in Khasra no 345 measuring one Bigha and Khasra no 346, measuring nine bighas in his favour. In the application, following facts were mentioned:

- (i) That in the year 1978, the applicant Jwaladas entered as tenant in the building located on Lhasa number 345 to which the agricultural land comprised in Khasra no 346 was abutting.
- (ii) That both these pieces of land were under the ownership and possession of the landlord Mehru, who was a permanent resident of Sonipat in Haryana and was thus an absentee landlord. However the tenancy was created only with respect to Khasra no 345.
- (iii) That the applicant started cultivation of Khasra number 346 as soon as he started residing in the building comprised in khasra number 345 and the landlord being absentee landlord did not object to the same.
- (iv) Jwaladas contended that he had been regularly paying the land revenue related to the cultivated land to the government for last several years and the rent of building to the landlord. In support of the same he also adduced as evidence, copies of the record of municipal committee Rampur showing him as tenant of the building.
- (v) Landlord Mehru's legal heirs contended that Sh Jwaladas was rented out built-up premises and that the cultivation of land abutting to it was permissive only till the tenancy on built-up premises lasted and could not be extended beyond that. Regarding the land revenue also they stated that the same was paid by the tenant because the landlord had expressly asked the tenant to pay the same on behalf of the landlord.

In the above background, as AC grade 1 decide the claim of ownership regarding the agricultural land through adverse possession. Also examine how far the provisions of HP Tenancy and Land Reforms Act will be applicable to this.

25 marks

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