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1.	**Securities and Exchange Board of India v. Mega Corporation Limited**, 2022 SCC OnLine SC 361 *Section 15Z of the Securities and Exchange Board of India Act - Restricting the respondent-company from accessing the capital market for one year and further restraining the promoter directors from buying, selling or otherwise dealing with securities for India - Principles of natural justice would be violated if an opportunity to cross-examine is not granted in a case where a material adverse to the party is taken cognisance by SEBI - There is a right of disclosure of the relevant material - However, such a right is not absolute and is subject to other considerations - There was no necessity for the Tribunal to lay down as an inviolable principle that there is a right of cross-examination in all cases.*	
2.	**Reliance Industries Limited v. Securities and Exchange Board of India and Others,** 2022 SCC OnLine SC 979 *Alleged violation of Section 77 of the Companies Act, 1956 – Alleged Violation of Regulations 3, 5 and 6 of the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 1995 - Whether SEBI is required to disclose documents in the present set of proceedings? – Norms for disclosure of documents - SEBI's attempt to cherry-pick the documents it proposes to disclose - Such cherry-picking by SEBI only derogates the commitment to a fair trial – Direction to SEBI to furnish a copy of the documents to the appellant.*	

3.	**Kavi Arora v. Securities & Exchange Board of India,** 2022 SCC OnLine SC 1217 *Violation of the provisions of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to Securities Market) Regulations, 2003 - Documents sought from SEBI - Copy of the opinion formed by Respondent SEBI for issuance of the Show Cause Notice to the notice - SEBI Adjudication Rules 1995 - There is apparently no rule which requires SEBI to furnish the opinion under Rule 3 to the notice in its entirety. The documents relied upon for the formation of opinion under Rule 3, are not required to be disclosed to the notice unless relied upon in the inquiry - In the event, the Petitioner is prejudiced by reason of any adverse order, based on any materials not supplied to the Petitioner, or any prejudice is demonstrated to have been caused to the Petitioner, it would be open to the Petitioner to approach the appropriate forum.*	
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5.	**State Bank of India and Another vs. K.S. Vishwanath,** 2022 SCC OnLine SC 667 *Bank fraud - False documents - enquiry officer found respondent guilty - confirmed by the Appellate Authority- Appeal - Single Judge set aside the order of punishment and directed the Bank to give all the consequential benefits- Division Bench confirmed judgment of the Single Judge - Whether the High Court can reappreciate evidence of a quasi-judicial authority while exercising writ jurisdiction – Standard of proof in enquiry under departmental proceeding - Impugned judgment and order passed by the Division Bench of the High Court and order passed by the learned Single Judge were quashed and set aside - Standard of proof which is required in a criminal case and that of the disciplinary proceedings is different - Standard of proof required in criminal proceedings being different from the standard of proof required in departmental enquiries, the same charges and evidence may lead to different results in the two proceedings, that is, finding of guilt in departmental proceedings and an acquittal by giving benefit of doubt in the criminal proceedings.*	
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7.	**Lachhmi Narain Singh (D) Through Lrs and Others v. Sarjug Singh (Dead) Through Lrs. and Others,** 2021 SCC OnLine SC 606 *Probate proceeding – Admissibility of Deed canceling the Will - Genuineness of the cancellation deed - Objection as to the admissibility of a registered document must be raised at the earliest stage before the trial court and the objection could not have been taken in appeal, for the first time - Objection as to the mode of proof must be taken when the document is tendered and before it is marked as an exhibit. It cannot be taken in appeal. The objection as to the mode of proof should be taken before a*	

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8.	**Z. Engineers Construction (P) Ltd. v. Bipin Bihari Behera,** (2020) 4 SCC 358 *Power of attorneys - Objection of admissibility of the document on account of being insufficiently stamped - Objection related to deficiency in stamp duty on a power of attorney which the appellants claim to be conveyance, depends upon the finding regarding delivery of possession in terms of the power of attorney - Such objection is required to be decided before proceeding further - However, in a case where evidence is required to determine the nature of the document, it is reasonable to defer the admissibility of a document for insufficient stamp duty at the time of final decision in the suit.*	
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11.	**SEBI v. Kishore R. Ajmera,** (2016) 6 SCC 368 *What is the degree of proof required to hold brokers/sub-brokers liable for fraudulent/manipulative practices under the Securities and Exchange Board of India (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations and/or liable for violating the Code of Conduct specified in Schedule II read with Regulation 9 of the SEBI (Stockbrokers and Sub-brokers) Regulations, 1992 - It is a fundamental principle of law that proof of an allegation levelled against a person may be in the form of direct substantive evidence or, as in many cases, such proof may have to be inferred by a logical process of reasoning from the totality of the attending facts and circumstances surrounding the allegations/charges made and leveled - While direct evidence is a more certain basis to come to a conclusion, yet, in the absence thereof the Courts cannot be helpless - It is the judicial duty to take note of the immediate and proximate facts and circumstances surrounding the events on which the charges/allegations are founded and to reach what would appear to the Court to be a reasonable conclusion there2from - Test would always be that what inferential process that a reasonable/prudent man would adopt to arrive at a conclusion – Appeal is dismissed and the order passed by SAT is affirmed.*	
12.	**Yellapu Uma Maheswari v. Buddha Jagadheeswararao,** (2015) 16 SCC 787 *Partition suit – Admissibility of documents – Nomenclature given to the document is not a decisive factor but the nature and substance of the transaction have to be determined with reference to the terms of the documents and the admissibility of a document is entirely dependent upon the recitals contained in that document but not on the basis of the pleadings set up by the party who seeks to introduce the document in question - Compulsorily registrable documents if not registered then inadmissible in evidence for the purpose of proving the factum of partition- Whether unregistered documents can be used for any collateral purpose - In a suit for partition, an unregistered document can be relied upon for collateral purpose i.e. severancy of*	

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13.	**Omprakash v. Laxminarayan,** (2014) 1 SCC 618 *Suit for specific performance of contract, possession and permanent injunction in respect of unirrigated land - Admissibility of the agreement to sell as evidence - Deed of the agreement having been insufficiently stamped, the same was inadmissible in evidence.*	
14.	**H. Siddiqui v. A. Ramalingam,** (2011) 4 SCC 240 *Agreement to sell- Power of attorney – Whether the power of attorney had been executed by the respondent in favour of his brother enabling him to alienate his share in the property? Whether the same had been proved in accordance with the law- Secondary evidence - In a case where the original documents are not produced at any time, nor has any factual foundation been laid for giving secondary evidence, it is not permissible for the court to allow a party to adduce secondary evidence - Secondary evidence relating to the contents of a document is inadmissible, until the non-production of the original is accounted for - Mere admission of a document in evidence does not amount to its proof- Documentary evidence is required to be proved in accordance with the law.*	
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17.	**Vadiraj Naggappa Vernekar v. Sharadchandra Prabhakar Gogate** (2009) 4 SCC 410. *Order 18 Rule 17 is primarily a provision enabling the court to clarify any issue or doubt, by recalling any witness either suo moto or at the request of any party, so that the court itself can put questions and elicit answers. The said power is not intended to be used to fill up omissions in the evidence of a witness who has already been examined.*	

18.	**Ravinder Singh Gorkhi v. State of U.P.,** (2006) 5 SCC 584 *The Evidence Act does not make any distinction between a civil proceeding and a criminal proceeding.*	
19.	**Dayamathi Bai v. K.M. Shaffi,** (2004) 7 SCC 107 *Property suit – Certified copy of a registered sale deed - Where copies of the documents are admitted without objection in the trial court, no objection to their admissibility can be taken afterward in the court of appeal - When a party gives in evidence a certified copy, without proving the circumstances entitling him to give secondary evidence, the objection must be taken at the time of admission and such objection will not be allowed at a later stage.*	
20.	**Prithi Chand v. State of H.P.,** (1989) 1 SCC 432 *A copy of a copy is admissible as secondary evidence if it has been compared with the original or if this copy is taken from the original by a mechanical process. Copy of a copy not compared with the original is not secondary evidence of the original.*	
21.	**Smt. Savithramma v. Cecil Naronha & Anr.,** AIR 1988 SC 1987 *Affidavits can be used as evidence only if for sufficient reason court passes an order under Order XIX, Rules 1 or 2 of the Code of Civil Procedure.*	
22.	**State of Bihar and Ors. v. Sri Radha Krishna Singh & Ors.,** AIR 1983 SC 684. *The admissibility of a document is one thing and its probative value quite another. These two aspects cannot be combined. A document may be admissible and yet may not carry any conviction and the weight of its probative value may be nil.*	
23.	**Bareilly Electricity Supply Co. v. The Workmen & Ors, 1971 (2) SCC 617** *It is inconceivable that the Tribunal can act on what is not evidence such as hearsay, nor can it justify the Tribunal in basing its award on copies of documents when the originals which are in existence are not produced and proved by one of the methods either by affidavit or by witnesses who have executed them, if they are alive and can be produced. Again if a party wants an inspection it is incumbent on the Tribunal to give inspection in so far as that is relevant to the enquiry.* *The application of the principle of natural justice does not imply that what is not evidence can be acted upon. On the other hand, it means that no materials can be relied upon to establish a contested fact that are not spoken to by persons who are competent to speak about them and are subjected to cross-examination by the party against whom they are sought to be used.*	
24.	**Narayan Ganesh Dastane v. Sucheta Narayan Dastane,** 1975 AIR 1534 *A fact is said to be proved when the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.*	
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26.	**Addagada Raghavamma v. Addagada Chenchamma,** (1964) 2 SCR 933 *There is an essential distinction between the burden of proof and the onus to prove; the burden of proof lies upon the person who has to prove a fact and it never shifts... Such considerations, having regard to the circumstances of a particular case, may shift the onus of proof. Such a shifting of the onus is a continuous process in the evaluation of evidence.....*	

27.	**King. v. Burdett,** (1820) 4 B. & Ald. 95 *There is no difference between the rules of evidence in civil and criminal cases. If the rules of evidence prescribe the best course to get at the truth, they must be and are the same in all cases and in all civilized countries.*	
SESSION 3 **ELECTRONIC EVIDENCE: NEW HORIZONS, COLLECTION, PRESERVATION, AND APPRECIATION**		
1.	***Emerging Cyber Crimes in India: A Concise Compilation*** (2021), National Cyber Crime Research & Innovation Centre (NCR&IC), Modernization Division, Bureau of Police Research & Development, New Delhi. https://bprd.nic.in/WriteReadData/userfiles/file/20220405035311525361 2Emerging CyberCrimesinIndia.pdf	**375**
2.	Ajay Kumar Goel, ***Cybercrime: A Cesspool in Virtual World***, IP Tech LJ (2020) 136	**407**
3.	Tarun Krishnakumar, ***Law Enforcement Access to Data in India: Considering the Past, Present, and Future of Section 91 of the Code of Criminal Procedure***, 1973, 15 IJLT (2019) 67	**420**
4.	Rolf van Wegberg, Jan-Jaap Oerlemans, Oskar van Deventer, ***Bitcoin money laundering: mixed results? An explorative study on money laundering of cybercrime proceeds using bitcoin***, Journal of Financial Crime, Emerald Publishing Limited	**447**
5.	Justice Raja Vijayaraghavan V, ***Electronic Evidence***, Lecture delivered in Workshop on Adjudicating Terrorism Cases held at National Judicial Academy, Bhopal on January 24, 2021	**465**
6.	N.S. Naipinai, ***Electronic Evidence – The Great Indian Quagmire,*** (2019) 3 SCC (J-41)	**482**
7.	Karia, T., Anand, A. and Dhawan, ***The Supreme Court of India Re-Defines Admissibility of Electronic Evidence in India***, Digital Evidence and Electronic Signature Law Review, 12, (2015). pp-33-37.	**495**
8.	Mason Stephen and Seng Daniel, ***The foundations of Evidence in Electronic Form***, University of London Press; Institute of Advanced Legal Studies. Available at: https://www.jstor.org/stable/j.ctv512x65.10	**500**
9.	Dr. Justice S. Murlidhar, ***Compilation of Judgments on Electronic Evidence***, at NJA during the Workshop of Additional District Judges, on 18.08.2018.	**535**

10.	***Standard Operating Procedures for the Collection, Analysis and Presentation of Electronic Evidence*** prepared by Cybercrime Programme Office of the Council of Europe (C-PROC) – 12th September 2019. Available at: www.coe.int/cybercrime	**574**
11.	Vivek Sood, ***Leading Electronic Evidence in the Court: Critical Analysis and the Stepwise Process***, Chapter 3 in Nabhi's CYBER CRIMES, ELECTRONIC EVIDENCE & INVESTIGATION LEGAL ISSUES.	**620**
12.	Justice Kurian Joseph, ***Admissibility of Electronic Evidence*** (2016) 5 SCC (J)	**647**
CASE LAW JURISPRUDENCE ***Points mentioned below with the judgments are for reference and discussion. Please read full-text judgments for conclusive opinion***		
1.	**Ravinder Singh v. State of Punjab,** (2022) 7 SCC 581 *Two children kidnapped and murdered - Section 302 read with Section 120-B IPC – Death penalty by trial court – High Court acquitted two accused and partly allowed the appeal filed by third accused and while setting aside the death penalty, sentenced him to undergo rigorous imprisonment for 20 years under Section 302 IPC – Conviction and sentence challenged - Electronic evidence produced before the High Court should have been in accordance with the statute and should have complied with the certification requirement, for it to be admissible in the court of law - Oral evidence in the place of such certificate cannot possibly suffice as Section 65-B(4) is a mandatory requirement of the law - Appeal is allowed and the impugned order of the High Court is set aside*	
2.	**Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal,** (2020) 7 SCC 1 *Admissibility of electronic records - interpretation of Section 65-B of the Evidence Act, 1872 - Election petitions - Sections 80 and 81 of the Representation of the People Act, 1951, challenging the election of the appellant – Late presentation of Nomination Forms and filing after the stipulated time - Reliance upon video-camera arrangements that were made both inside and outside the office of the Returning Officer* *Certificate required under Section 65-B(4) is a condition precedent to the admissibility of evidence by way of electronic record, as correctly held in Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473, and incorrectly "clarified" in Shafhi Mohammad v. State of H.P., (2018) 2 SCC 801 –* *Oral evidence in the place of such certificate cannot possibly suffice as Section 65-B(4) is a mandatory requirement of the law - General directions to cellular companies and internet service providers to maintain CDRs and other relevant records for the period concerned (in tune with Section 39 of the Evidence Act) in a segregated and secure manner if a particular CDR or other record is seized during investigation in the said period- The parties concerned can then summon such records at the stage of defence evidence, or in the event such data is required to cross-examine a particular witness - Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473 is the law declared by this*	

	Court on Section 65-B of the Evidence Act. *The judgment in Tomaso Bruno [Tomaso Bruno v. State of U.P., (2015) 7 SCC 178 being per incuriam, does not lay down the law correctly. Also, the judgment dated 3-4-2018 reported as Shafhi Mohd. v. State of H.P., (2018) 5 SCC 311 do not lay down the law correctly and are therefore overruled – Appeals dismissed with costs.*	
3.	**P. Gopalkrishnan v. State of Kerala and Anr.** (2020) 9 SCC 161 *Evidence", clearly takes within its fold documentary evidence to mean and include all documents including electronic records produced for the inspection of the court.* *An electronic record is not confined to "data" alone, but it also means the record or data generated, received, or sent in electronic form. The expression "data" includes a representation of information, knowledge, and facts, which is either intended to be processed, is being processed, or has been processed in a computer system or computer network or stored internally in the memory of the computer.*	
4.	**State by Karnataka Lokayukta, Police Station, Bengaluru v. M.R. Hiremath** (2019) 7 SCC 515 *The need for the production of such a certificate would arise when the electronic record is sought to be produced in evidence at the trial. It is at that stage that the necessity for the production of the certificate would arise.*	
5.	**Shafi Mohammad v. State of HP** (2018) 2 SCC 801 *Electronic evidence is admissible and provisions under Sections 65-A and 65-B of the Evidence Act are by way of a clarification and are procedural provisions. If the electronic evidence is authentic and relevant the same can certainly be admitted subject to the Court being satisfied wit its authenticity and the procedure for its admissibility may depend on fact situations such as whether the person producing such evidence is in a position to furnish a certificate under Section 65-B(4).* *The requirement of the certificate under Section 65-B (4) is not always mandatory. The requirement of a certificate under Section 64B (4), being procedural, can be relaxed by the Court wherever the interest of justice so justifies, and one circumstance in which the interest of justice so justifies would be where the electronic device is produced by a party who is not in possession of such device, as a result of which such party would not be in a position to secure the requisite certificate.* *Sections 65-A and 65-B of the Evidence Act, 1872 cannot be held to be a complete code on the subject.*	

6.	**Vikram Singh v. State of Punjab** (2017) 8 SCC 518 *Original tape-recorded conversations of ransom calls handed over to police are primary evidence. No 65-B certificate is required.*	
7.	**Shamsher Singh Verma v. State of Haryana** (2016) 15 SCC 485 *In view of the definition of "document" in the Evidence Act, it was held that the compact disc is also a document.*	
8.	**Tomaso Bruno v. State of UP** (2015) 7 SCC 178 *Held that the computer-generated electronic records in evidence are admissible at a trial if proved in the manner specified by section 65B. The effect of non-production of or not adducing the best evidence (in this case the CCTV footage of the hotel) is viewed by the Court as material suppression which leads to an adverse inference under Section 114(g) of the Evidence Act.*	
9.	**Anvar v. P.K. Basheer and Ors.** (2014) 10 SCC 473 *Section 65B (4) is a condition precedent to the admissibility of evidence by way of electronic record.* *Proof of electronic record is a special provision introduced by the IT Act amending various provisions under the Evidence Act. The very caption of Section 65-A of the Evidence Act, read with Sections 59 and 65-B is sufficient to hold that the special provisions on evidence relating to the electronic record shall be governed by the procedure prescribed under Section 65-B of the Evidence Act. That is a complete code in itself.* *If an electronic record as such is used as primary evidence the same is admissible in evidence, without compliance with the conditions in Section 65-B of the Evidence Act.*	
10.	**NCT of Delhi v. Navjot Sandhu** (2005) 11 SCC 600 *According to Section 63 of Indian Evidence Act, secondary evidence means and includes, among other things, "copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies". Section 65 enables secondary evidence of the contents of a document to be adduced if the original is of such a nature as not to be easily movable. It is not in dispute that the information contained in the call records is stored in huge servers which cannot be easily moved and produced in the court. That is what the High Court has also observed at para 276. Hence, printouts taken from the*	

	computers/servers by mechanical process and certified by a responsible official of the service-providing company can be led in evidence through a witness who can identify the signatures of the certifying officer or otherwise speak of the facts based on his personal knowledge. Irrespective of the compliance with the requirements of Section 65-B, which is a provision dealing with admissibility of electronic records, there is no bar to adducing secondary evidence under the other provisions of the Evidence Act, namely, Sections 63 and 65. It may be that the certificate containing the details in sub-section (4) of Section 65-B is not filed in the instant case, but that does not mean that secondary evidence cannot be given even if the law permits such evidence to be given in the circumstances mentioned in the relevant provisions, namely, Sections 63 and 65.	
11.	**Kuber Impex Limited and Ors. vs. Commissioner of Customs-Nhava Sheva** (22.08.2022 - CESTAT - Mumbai): MANU/CM/0178/2022 *On close reading of Section 138C of the Act, 1962, it is seen that the Legislature had prescribed the detailed procedure to accept computer printouts and other electronic devices as evidence. It has been stated that any proceedings under the Act, 1962, where it is desired to give a statement in evidence of electronic devices, shall be evidences of any matter stated in the certificate.*	
12.	**Heisnam Chaoba Singh v. The Union of India and Ors.** (Calcutta High Court) Decided on: 05.10.2021, MANU/WB/0768/2021 *It was held that neither Section 65B of the Evidence Act nor Section 138C of the Customs Act would be applicable to the proceedings of the detaining authority for passing an order of detention.*	
13.	**Periyar Polymers Pvt. Ltd. v. Deputy Commr., Central Tax & C. Ex., Palakkad GST Division** (Kerala High Court) Decided on: 01.09.2021, MANU/KE/3183/2021 *The guidelines for the conduct of a virtual mode of personal hearing through a video conferencing facility were discussed. The record of personal hearing submitted in this manner shall be deemed to be a document for the purpose of the Customs, Act, 1962 in terms of Section 138C of the said Act, read with Section 4 of the Information Technology Act, 2000.*	
14.	**Ganesan S. v. The Commissioner of Customs, Chennai VII Commissionerate Air Cargo** (Madras High Court) Decided on: 18.03.2021, MANU/TN/2218/2021	

	Call records given by the mobile service provider and the certificate that is required to be issued under Section 138C of the Customs Act, 1962.	
15.	**S.N. Agrotech and Ors. v. C.C., New Delhi** Decided on (17.04.2018): MANU/CE/0169/2018 *Evidence in form of computer print-outs etc. recovered during the course of the investigation is admissible subject to satisfaction of Section 138C (2) of the Customs Act - Said requirement refers to the certificate from the responsible person in relation to the operation of the relevant laptop/computer.*	
16.	**Edwin Andrew Minihan vs. The Union of India and Ors.** (Kerala High Court) Decided on: 17.03.2016 *Section 138C of the Customs Act deals with the admissibility of micro films, facsimile copies of documents, and computer printouts as evidence. Sub-section 4 of Section 138-C provides that in any proceedings under the Act and the Rules made thereunder, where it is desired to give a statement in evidence by virtue of the section, a certificate containing the matters mentioned in clauses (a) to (c) and signed by a person mentioned therein shall be evidence of the matter stated in the certificate. The proceeding before the detaining authority is not a proceeding under the Customs Act. The proceeding before the detaining authority is a proceeding under the (The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974) COFEPOSA Act. Therefore, neither Section 65-B of the Evidence Act nor Sections 138-C of the Customs Act would be applicable to the proceedings before the detaining authority for the purpose of arriving at the subjective satisfaction and passing an order of detention.*	
17.	**Dharambir v. Central Bureau of Investigation,** 2008 SCC OnLine Del 336 (a) *As long as nothing at all is written on to a hard disc and it is subjected to no change, it will be a mere electronic storage device like any other hardware of the computer;* *(b) Once the hard disc is subject to any change, then even if it restored to the original position by reversing that change, the information concerning the two steps, viz., the change and its reversal will be stored in the subcutaneous memory of the hard disc and can be retrieved by using software designed for that purpose;*	

	(c) Therefore, a hard disc that is once written upon or subjected to any change is itself an electronic record even if does not at present contain any accessible information *(d) In addition there could be active information available on the hard disc which is accessible and convertible into other forms of data and transferable to other electronic devices. The active information would also constitute an electronic record.* *(e) Given the wide definition of the words "document" and "evidence" in the amended Section 3 the EA, read with Sections 2 (o) and (t) IT Act, there can be no doubt that an electronic record is a document.* *(f) The further conclusion is that the hard disc in the instant cases are themselves documents because admittedly they have been subject to changes with their having been used for recording telephonic conversations and then again subject to a change by certain of those files being copied on to CDs. They are electronic records for both their latent and patent characteristics.* *(g) In the instant cases, for the purposes of Section 173 (5) (a) read with Section 207 (v) CrPC, not only would the CDs containing the relevant intercepted telephone conversations as copied from the HDs be considered to be electronic record, and therefore documents but the HDs themselves would be electronic records and therefore documents.*	
SESSION 4 **LAW OF PRECEDENTS AND STARE DECISIS**		
1.	Justice R.V. Raveendran, ***Precedents – Boon or Bane?*** in ANOMALIES IN LAW ANDJUSTICE, 363 (Eastern Book Company, 2021)	**656**
2.	Bryan A. Garner et al, ***The Law of Judicial Precedents***, (Thomas Reuters, 2016) Excerpts- Vertical Precedents Horizontal Precedents Binding Decisions Nonbinding Decisions as Persuasive Authority Judicial Unity	**711**
3.	Santiago Legarre & Christopher R. Handy, ***Overruling Louisiana: Horizontal***	**754**

	StareDecisis and the Concept of Precedent, 82 LA. L. REV. 41 (2021).	
4.	Prof. Dr. A. Lakshminath, ***Stare Decisis in the Indian Courts – Institutional Aspects*** in JUDICIAL PROCESS – PRECEDENT IN INDIAN LAW, 3rd Edn. 13(Eastern Book Company, 2009)	**796**
5.	Chintan Chandrachud, ***The Precedential Value of Solitary High Court Rulings in India:Carving an Exception to the Principle of Vertical Stare Decisis***, Lawasia Journal 25 (2011).	**842**
6.	Justice Sunil Ambwani, '***Stare Decisis', Amongst High Courts*** (2008)	**857**
7.	Benjamin N. Cardozo, ***Adherence to Precedent – The Subconscious Element in the Judicial Process*** in THE NATURE OF THE JUDICIAL PROCESS 142 (Oxford University Press , 1928)	**865**
8.	Ray Jay Davis, ***The Doctrine of Precedent as Applied to Administrative Decisions,*** 59W. Va. L. Rev. (1957)	**905**
9.	K. H. Kaji & Manish K. Kaji, ***The Law of Judicial Precedents & Contempt of Court.*** **Available at:** https://itatonline.org/articles_new/wp-content/files/The_Law_of_Judicial_Precedents.pdf	**937**
CASE LAW JURISPRUDENCE ***Points mentioned below with the judgments are for reference and discussion. Please read full-text judgments for conclusive opinion***		
1.	***Trimurthi Fragrances (P) Ltd. v. Government of N.C.T. of Delhi,*** 2022 SCC OnLine SC 1247 *A decision delivered by a Bench of largest strength is binding on any subsequent Bench of lesser or coequal strength. It is the strength of the Bench and not number of Judges who have taken a particular view which is said to be relevant - A Bench of lesser quorum cannot disagree or dissent from the view of law taken by a Bench of larger quorum. Quorum means the bench strength which was hearing the matter - The numerical strength of the Judges taking a particular view is not relevant, but the Bench strength is determinative of the binding nature of the Judgment.*	
2.	***Gregory Patrao v. Mangalore Refinery & Petrochemicals Ltd.***, 2022 SCC OnLine SC 830 *Subsequent Supreme Court Decisions which have considered & distinguished earlierjudgments are binding on High Courts*	
3.	***Mahesh Kumar Mundra vs. The State of Madhya Pradesh and Ors***. (07.05.2022 - MPHC) : MANU/MP/1126/2022	

	If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism. *In all common law jurisdictions judgments play a vital role in setting up precedents forthe future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process"."*	
4.	***Shah Faesal v. Union of India,*** (2020) 4 SCC 1 *Per incuriam rule is strictly and correctly applicable to the ratio decidendi and not to obiter dicta. Earlier precedent can be overruled by a larger Bench if - (i) it is manifestly wrong, or (ii) injurious to public interest, or (iii) there is a social, constitutional, or economic change necessitating it. A coordinate Bench of the same strength cannot take acontrary view and cannot overrule the decision of earlier coordinate bench. No doubt it can distinguish the judgment of such earlier Bench or refer the matter to a larger Bench for reconsideration in case of disagreement with the view of such earlier Bench.*	
5.	***S.E. Graphites (P) Ltd. v. State of Telangana,*** (2020) 14 SCC 521 *Even Brief Judgments Of Supreme Court Passed After Grant Of Special Leave AreBinding Precedents*	
6.	***Union of India v. R. Thiyagarajan***, (2020) 5 SCC 201. *Judgment of High Court applicable only to the State(s) within its jurisdiction. Pan-Indiaapplication of the order of the High Court would tantamount to usurpation of the jurisdiction of the other High Courts.*	
7.	***Kaikhosrou (Chick) Kavasji Framji v. Union of India,*** (2019) 20 SCC 705 *Views in Lead Judgment are binding precedents if concurring judgments did not expressany contrary opinion on it.*	
8.	***Court on its Own Motion v. Jayant Kashmiri***, 2017 SCC OnLine Del 7387 *The judgments of the High Court would bind the trial courts. If an unnecessary referenceto a judicial precedent or erroneous submission in law is made, the Judge considering thematter would reject the reliance thereon or the submission made. However, certainly reference to a judicial precedent cannot be termed a contumacious act.*	
9.	***Union of India v. P. Shyamala***, 2017 SCC OnLine Mad 6715 *Exposition of law and ratio decidendi, to be accepted as a binding precedent, should be based on issues raised and argued by both sides. A mere observation without reasons is distinguishable, from a ratio decidendi.*	
10.	***Hyder Consulting (UK) Ltd. v. State of Orissa***, (2015) 2 SCC 189 *A prior decision of this Court on identical facts and law binds the Court on the same points of law in a later case. In exceptional circumstances, where owing to obvious inadvertence or oversight, a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, the principle of per incuriam may apply.*	
11.	***Raj Kumar Mehra and Ors. vs. Surinder Mohan (***23.04.2015 - HPHC) AIR 2015HP 58 *If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful*	

	to the doctrine of precedent or to principles of incrementalism. *In all common law jurisdictions judgments play a vital role in setting up precedents forthe future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".*	
12.	***Namit Sharma v. Union of India,*** (2013) 1 SCC 745 *It is not only the higher court's judgments that are binding precedents for the Information Commission, but even those of the larger Benches of the Commission should be given due acceptance and enforcement by the smaller Benches of the Commission. The rule of precedence is equally applicable to intra appeals or references in the hierarchy of the Commission.*	
13.	***Pradip J. Mehta v. CIT,*** (2008) 14 SCC 283 *The judgment of the other High Courts, though not binding, have persuasive value whichshould be taken note of and dissented from by recording its own reasons.*	
14.	***Union of India v. Major Bahadur Singh,*** (2006) 1 SCC 368 *Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in thecontext in which they appear to have been stated. Judgments of courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for Judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.*	
15.	***State of Haryana v. AGM Management Services Ltd.,*** (2006) 5 SCC 520 *Circumstantial flexibility, one additional or different fact may make a world of differencebetween conclusions in two cases. Disposal of cases by blindly placing reliance on adecision is not proper.*	
16.	***ICICI Bank v. Municipal Corpn. of Greater Bombay,*** (2005) 6 SCC 404 *It was held that the decision given by the Apex Court must be read following the context of the statutory provisions which have been interpreted by the competent court. It was also stated that no judgement can be read if it is a statute. Since the law cannot always be static, based on the relevant principles and rules, the Judges must cautiously make useof the precedents in deciding cases.*	
17.	***Megh Singh v. State of Punjab,*** (2003) 8 SCC 666 *Circumstantial flexibility, one additional or different fact may make a world of differencebetween conclusions in two cases or between two accused in the same case. Each case depends on its own facts and a close similarity between one case and another is not enough because a single significant detail may alter the entire aspect.*	
18.	***Director of Settlements, A.P. v. M.R. Apparao,*** (2002) 4 SCC 638 *It is necessary to follow the law declared by the Supreme Court and a judgment of the Court has to be read in context of questions which arose for consideration in the case in which the judgment was delivered. An "obiter dictum" as distinguished from a "ratio decidendi" is an observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision. Such an obiter*	

	may not have an effect of a binding precedent but it cannot be denied that it is of considerable weight.	
19.	***Suganthi Suresh Kumar v. Jagdeeshan***, (2002) 2 SCC 420 *It is impermissible for the High Court to overrule the decision of the Apex Court on the ground that the Supreme Court laid down the legal position without considering any other point. It is not only a matter of discipline for the High Courts in India, it is the mandate of the Constitution as provided in Article 141 that the law declared by the Supreme Court shall be binding on all courts within the territory of India.*	
20.	***Vishnu Traders v. State of Haryana***, 1995 Supp (1) SCC 461 *In the matters of interlocutory orders, principle of binding precedent will not apply. However, the need for consistency of approach and uniformity in the exercise of judicial discretion respecting similar causes and the desirability to eliminate occasions forgrievances of discriminatory treatment requires that all similar matters should receive similar treatment except where factual differences require a different treatment so that there is assurance of consistency, uniformity, predictability and certainty of judicial approach.*	
21.	***Hari Singh v. State of Haryana***, (1993) 3 SCC 114 *It was held that in a judicial system that is administered by courts, one of the primary principles to keep note of is that the courts under the same jurisdiction must have similar opinions regarding similar legal questions, issues and circumstances. If opinions given on similar legal issues are inconsistent then instead of achieving harmony in the judicialsystems, it will result in judicial chaos. The decision regarding a particular case that hasbeen held for a long time cannot be disturbed merely because of the possibility of the existence of another view.*	
22.	***State of Punjab v. Surinder Kumar,*** (1992) 1 SCC 489 *The High Courts have no power, like the power available to the Supreme Court under Article 142 of the Constitution of India, and merely because the Supreme Court grantedcertain reliefs in exercise of its power under Article 142 of the Constitution of India, similar orders could not be issued by the High Courts.*	
23.	***CIT v. Sun Engineering Works (P) Ltd.***, (1992) 4 SCC 363 *While applying the decision to a latter cases, the court must carefully try to ascertain the true principle laid down by the decision of Supreme Court and not to pick out words or sentences from the judgments divorced from the context of question under considerationby the court to support their reasoning.*	
24.	***Union of India v. Kamlakshi Finance Corpn. Ltd.,*** 1992 Supp (1) SCC 443 *In disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities. The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not "acceptable" to the department — in itself an objectionable phrase — and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by a competent court. If*	

	this healthy rule is not followed, the result will only be undue harassment to assessees and chaos in administration of tax laws.	
25.	***Blue Star Ltd. v. Commissioner of Income-Tax,*** 1994 SCC OnLine Bom 756 *The Bombay High Court quoted the following observations of Earl of Halsbury in the case of Qumin vs. Leathem (1901) AC 495 (HL) "Every judgment must be read as applicable to the particular facts proved or assumed to be proved, since the generality of the expressions which may be found there, are not intended to be expositions of the wholelaw, but governed and qualified by the particular facts of the case in which such expressions are found and a case is only an authority for what it actually decides.*	
26.	***Empire Industries Ltd. v. Union of India,*** (1985) 3 SCC 314 *Different courts sometimes pass different interim orders as the courts deem fit. It is a matter of common knowledge that the interim orders passed by particular courts on certain considerations are not precedents for other cases which may be on similar facts.*	
27.	***Regional Manager v. Pawan Kumar Dubey, (1976) 3 SCC 334*** *It is the rule deducible from the application of law to the facts and circumstances of a case that constitutes its ratio decidendi and not some conclusion based upon facts that may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each caseto similar facts.*	
28.	**CIT v. Balkrishna Malhotra, (1971) 2 SCC 547** *Interpretation of a provision in a taxing statute rendered years back and accepted andacted upon by the department should not be easily departed from.*	
29.	***State of Orissa v. Sudhansu Sekhar Misra,*** (1968) 2 SCR 154 *A decision is only an authority for what it actually decides. The essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. It is not a profitable task to extract a sentence, here andthere from a judgment and to build upon it.*	
30.	***K.T.M.T.M. Abdul Kayoom v. CIT***, 1962 Supp (1) SCR 518 *Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo)by matching the colour of one case against the colour of another. To decide, therefore, onwhich side of the line a case falls, the broad resemblance to another case is not at all decisive.*	
31.	***East India Commercial Co. Ltd. v. Collector of Customs,*** AIR 1962 SC 1893 *The decision of a High Court on a point of law is binding on all inferior Tribunals withinits territorial jurisdiction. Thus, the High Court which has the jurisdictional authority has control over all courts in the jurisdiction. Other High Courts' judgments are only persuasive in nature.*	
SESSION 5 **ART, CRAFT AND SCIENCE OF DRAFTING JUDGMENTS**		

	The judgment replicates the individuality of the judge and therefore it is indispensable that it should be written with care and caution. The reasoning in the judgment should be intelligible and logical. Clarity and precision should be the goal. All conclusions should be supported by reasons duly recorded. The findings and directions should be precise and specific. Writing judgments is an art, though it involves skilful application of law and logic. *Judicial opinion.* *Tells the story of the case.* *What the case is about.* *How the court is resolving the case.* *Why the court is resolving in that manner.* *Spells out judge's own thoughts.* *Explains the decision to the parties.* *Communicates the reasons to the public.* *Provides reasons for appeal court to consider.* *It must be reasonable, logical, and easily comprehensible.*	
2.	***Shakuntala Shukla v. state of Uttar Pradesh & Another*** 2021 SCC Online SC 672 "*Judgment" means a judicial opinion that tells the story of the case; what the case is about; how the court is resolving the case and why. "Judgment" is defined as any decision given by a court on a question or questions or issue between the parties to a proceeding properly before court. It is also defined as the decision or the sentence of a court in a legal proceeding along with the reasoning of a judge which leads him to his decision. The term "judgment" is loosely used as judicial opinion or decision. Roslyn Atkinson, J., Supreme Court of Queensland, in her speech once stated that there are four purposes for any judgment that is written:* *i) to spell out judges own thoughts;* *ii) to explain your decision to the parties;* *iii) to communicate the reasons for the decision to the public; and* *iv) to provide reasons for an appeal court to consider* *It is not adequate that a decision is accurate, it must also be reasonable, logical and easily comprehensible. The judicial opinion is to be written in such a way that it elucidates in a convincing manner and proves the fact that the verdict is righteous and judicious. What the court says, and how it says it, is equally important as what the court decides.* *Every judgment contains four basic elements and they are (i) statement of material (relevant) facts, (ii) legal issues or questions, (iii) deliberation to reach a decision and (iv) the ratio or conclusive decision.*	

	A judgment should be coherent, systematic and logically organized. It should enable the reader to trace the fact to a logical conclusion on the basis of legal principles. It is pertinent to examine the important elements in a judgment in order to fully understand the art of reading a judgment. In the Path of Law, Holmes J. has stressed the insentient factors that persuade a judge. A judgment has to formulate findings of fact, decide what the relevant principles of law are, and apply those legal principles to the facts. The important elements of a judgment are: *i) Caption* *ii) Case number and citation* *iii) Facts* *v) Issues* *) Summary of arguments by both the parties* *) Application of law* *i) Final conclusive verdict* *It is desirable that the judgment should have a clarity, both on facts and law and on submissions, findings, reasonings and the ultimate relief granted*	
3.	***Aparna Bhat and Others v. State of Madhya Pradesh and Another*** 2021 SCC OnLine SC 230 *Court to make sure survivor can rely on their impartiality and neutrality.* *Sensitivity in judicial approach/language/reasoning.* *Sensitivity to the concerns of survivors of sexual offences.* *Embargo on orders that reflect adversely on judicial system/undermining the guarantee to fair justice.* *Removing gender bias*	
4.	***UPSC v. Bibhu Prasad Sarangi, (2021) 4 SCC 516*** *Technology enables Judges to bring speed, efficiency and accuracy to judicial work. But a prolific use of the "cut-copy-paste" function should not become a substitute for substantive reasoning which, in the ultimate analysis, is the defining feature of the judicial process. Judges are indeed hard pressed for time, faced with burgeoning vacancies and large case-loads. Crisp reasoning is perhaps the answer.*	

5.	***Balaji Baliram Mupade v. State of Maharashtra,*** 2020 SCC OnLine SC 893 *Judicial discipline requires promptness in the delivery of judgments - an aspect repeatedly emphasized by this Court. The problem is compounded where the result is known but not the reasons. This deprives any aggrieved party of the opportunity to seek further judicial redressal in the next tier of judicial scrutiny*	
6.	***Surjeet Singh v. Sadhu Singh,*** (2019) 2 SCC 396 *An opinion to remand the case to the first appellate court, there was no need for the High Court to devote 60 pages in writing the impugned order. It was not required. The examination could be confined only to the issue of remand and not beyond it. At the same time, there was no need to cite several decisions and that too in detail. Brevity being a virtue, it must be observed as far as possible while expressing an opinion*	
7.	***Kanailal and other v. Ram Chandra Singh and others*** (2018) 13 SCC 715 *Reasons are live links between the minds of the decision-taker to the controversy in question and the decision or conclusion arrived.* *Objectivity in reasons.* *Adjudging validity of decision.* *Right to reason is indispensable part of sound judicial system.* *Salutary requirement of natural justice.*	
8.	***Ajay Singh and Another v. State of Chhattisgarh and Another*** (2017) 3 SCC 330 *A judgment, as has been always understood, is the expression of an opinion after due consideration of the facts which deserve to be determined.*	
9.	***Board of Trustees of Martyrs Memorial Trust and Another v. Union of Indian and Other*** (2012) 10 SCC 734 *Brevity in judgment writing.* *Due application of mind.* *Clarity of reasoning.* *Focussed consideration.* *Examination of every matter with seriousness.* *Sustainable decision*	
10.	***Joint Commissioner of Income Tax v. Saheli Leasing & Industries Ltd*** (2010) 6 SCC 384	

	State only what are germane to the facts of the case. *Must have correlation with applicable law and facts.* *Ratio decidendi should be clearly spelt out.* *Go through the draft thoroughly.* *Sustained chronology in judgment – perfect sequence of events.* *Citations should afford clarity rather than confusion.* *Pronounce judgment at the earliest*	
11.	***Kranti Associates (P) Ltd. v. Masood Ahmed Khan***, (2010) 9 SCC 496 *It was held,* *(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.* *(b) A* ***quasi-judicial authority must record reasons*** *in support of its conclusions.* *(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.* *(d)* ***Recording of reasons*** *also operates as a valid restraint on any* ***possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*** *(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.* *(f) Reasons have virtually become as indispensable a component of a decision-making process as* ***observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies****.* *(g) Reasons* ***facilitate*** *the process of* ***judicial review*** *by superior courts.* *(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.* *(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose: to* ***demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system****.* *(j) Insistence on reason is a requirement for both judicial accountability and transparency.* *(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.*	

	(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process. *(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making makes the judges and decision-makers less prone to errors and makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37] .)* *(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires,* *"adequate and intelligent reasons must be given for judicial decisions".* *(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".*	
12.	***K.V. Rami Reddi v. Prema*** (2009) 17 SCC 308 *The suit was filed by the present respondent for specific performance to enforce a sale agreement dated 20-10-1988. The suit is stated to have been decided on 24-3-1999. According to the present respondent, who was the petitioner in the civil revision petition, even without dictating the judgment to the stenographer, transcribing and signing the same, simply an endorsement in the plaint docket sheet was made to the effect that the plaintiff in the suit was not entitled to the relief of specific performance to enforce a sale agreement but was entitled to refund of Rs. 2, 00,000. Stand in the revision petition was that there was no judgment in the eye of the law. It was pointed out that only the operative portion was dictated on 25-3-1999 during lunch time and, therefore, the decision rendered on 24-3-1999 was non-est in the eye of the law and a nullity.*	
13.	***Banarsi Das Cotton Mills (P) Ltd. v. State of Haryana,*** 1996 SCC OnLine P&H 287 *There can be no manner of doubt that while deciding the appeal the Higher Level Screening Committee acts as a quasi-judicial authority and it is duty bond to record reasons in support of its decision. The recording of reasons and communication thereof is imperative for compliance of the principles of natural justice which must inform the proceedings of every quasi-judicial body and even in the absence of a statutory provision or administrative instructions requiring recording of reasons in support of the orders, the quasi-judicial authority must pass speaking orders so as to*	

	stand the test of scrutiny.	
14.	***Sangram Singh v. Election Tribunal, Kotah & Bhurey Lal Baya*** (1955) 2 SCR 1 *Procedure, something designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to both sides) lest the very means designed for the furtherance of justice be used to frustrate it.* *Laws of procedure are grounded on a principle of natural justice which requires that men should not be condemned unheard, that decisions should not be reached behind their backs, that proceedings that affect their lives and property should not continue in their absence and that they should not be precluded from participating in them. Of course, there must be exceptions and where they are clearly defined they must be given effect to. But taken by and large, and subject to that proviso, our laws of procedure should be construed, wherever that is reasonably possible, in the light of that principle.*	
15.	***B (A Child) (Adequacy of Reasons),*** [2022] EWCA Civ 407 In the court of Appeal (Civil Division) on Appeal from the Family Court in Nottingham, Royal Courts of Justice Strand, London, Dated 25th March 2022. *Judgments reflect the thinking of the individual judge and there is no room for dogma, but in my view a good judgment will in its own way, at some point and as concisely as possible:* *state the background facts* *identify the issue(s) that must be decided* *articulate the legal test(s) that must be applied* *note the key features of the written and oral evidence, bearing in mind that a judgment is not a summing-up in which every possibly relevant piece of evidence must be mentioned* *record each party's core case on the issues* *make findings of fact about any disputed matters that are significant for the decision* *evaluate the evidence as a whole, making clear why more or less weight is to be given to key features relied on by the parties*	

	give the court's decision, explaining why one outcome has been selected in preference to other possible outcomes.	
16.	***Bharat Bank Ltd., Delhi and Ors. v. Employees of the Bharat Bank Ltd., Delhi and The Bharat Bank Employees' Union, Delhi.*** 1950 AIR 188 *A true judicial decision presupposes an existing dispute between two or more parties, and then involves four requisites:- (1) The presentation (not necessarily orally) of their case by the parties to the dispute; (2) if the dispute between them is a question of fact, the ascertainment of the fact by means of evidence adduced by the parties to the dispute and often with the assistance of argument by or on behalf of the parties on the evidence; (3) if the dispute between them is a question of law, the submission of legal argument by the parties, and (4) a decision which disposes of the whole matter by a finding upon the facts in dispute and application of the law of the land to the facts so found, including where required a ruling upon any disputed question of law.* *A quasi-judicial decision equally presupposes an existing dispute between two or more parties and involves (1) and (2), but does not necessarily involve (3) and never involves (4). The place of (4) is in fact taken by administrative action, the character of which is determined by the Minister's free choice.*	
SESSION 6 **IMPOSITION OF PENALTIES: EXERCISE OF DISCRETION BY ADJUDICATING OFFICERS**		
1.	***Securities Law Enforcement: Calibrating the Discipline of Penalty Imposition*** *Retrieved from –* *https://corporate.cyrilamarchandblogs.com/2019/09/securities-law-enforcement-calibrating-the-discipline-of-penalty-imposition/*	**1253**
2.	**Ambika Mehrotra,** ***"SAT orders 'technical breaches' an insufficient ground for imposing penalty for violation of law"*** *Retrieved from –* *https://vinodkothari.com/wp-content/uploads/2019/08/SAT-orders-%e2%80%98technical%e2%80%99-breaches-an-insufficient-ground-for-imposing-penalty-for-violation-of-law.pdf*	**1258**
CASE LAW JURISPRUDENCE ***Points mentioned below with the judgments are for reference and discussion. Please read full-text judgments for conclusive opinion***		
1.	Securities and Exchange Board of India v. Bharti Goyal Etc. *Civil Appeal Nos. 3596-97 of 2020 (Supreme Court)*	

	Prima facie, the direction of substituting the fine, which has been imposed for indulging in fraudulent and unfair trading practices with a warning is contrary to the statutory provisions	
2.	DKG Buildcon Pvt. Ltd. Vs. The Adjudicating & Enquiry Officer, S.E.B.I. *Civil Appeal No. 1742 of 2009 (Supreme Court)* *The Court held that taking into consideration the severity of offences found to have been committed by the appellants and other entities, and the non-cooperative attitude of the appellants during the course of the investigation in attempting to obstruct the same, the quantum of penalty imposed under Section 15A(a) is justified and with effective consideration of the factors listed in Section 15J of the 1992 Act*	
3.	MBL and Company Ltd. v. Securities and Exchange Board of India *(2022 8 SCC 273)* *The Court refused to interfere with order debarring MBL from dealing in securities in its proprietary account for a period of 4 years*	
4.	Securities and Exchange Board of India v. Sunil Krishnan Khaitan *Civil Appeal No. 8249 of 2013 (Supreme Court)* *The object of the wide definitions in the Takeover Regulations, 1997 is to ensure that no one is able to dribble past and defeat its objects by resorting to camouflage and subterfuge. The principle of doubtful penalisation is a well settled rule of construction of penal statutes which means that if two views and reasonable constructions can be put on a provision, the court must lean in favour of construction which exempts the subject from penalty rather than one which imposes penalty*	
5.	Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Pabari *(2019) 5 SCC 90* *Section 15 continued to apply to the defaults under section 15A (a) as it stood subsequent to the amendment in 2002 until the amendment in 2014. Sections 15A(a) to 15HA have to be harmoniously read along with section 15J in such a manner as to avoid any inconsistency; the provision of one section cannot nullify the another unless it is impossible to reconcile the* **two.** *the insertion of an 'explanation' in section 15J would reflect that the legislative intent was not to curtail the discretion of AO by prescribing the minimum mandatory penalty in section 15A(a). It was clarified that conditions specified in Section 15J are not exhaustive and are merely illustrative in nature, and, hence, are not required to be mandatorily fulfilled for the imposition of a penalty by the Adjudicating Officer* *(Siddharth Chaturvedi v. Securities and Exchange Board of India was confirmed;*	

	SEBI v. Roofit Industries Ltd. was overruled)	
6.	Siddharth Chaturvedi v. Securities and Exchange Board of India *(2016) 12 SCC 119* *The Court observed that the interpretation of sections 15A(a) and 15J adopted by the Court in SEBI v. Roofit Industries Ltd. (2016) 12 SCC 125 was incorrect and referred the matter to larger bench*	
7.	P.G. Electroplast v. Securities and Exchange Board of India *Order Delivered on 30.08.2016 (SAT, Mumbai)* *The penalty imposed by SEBI of debarment from the market for a long period of one decade is highly disproportionate*	
8.	Samrat Holdings Ltd. v. Securities and Exchange Board of India *Order Delivered on 01.01.2001 (SAT, Mumbai)* *The findings should serve as the basis for penalty. It should not serve only to absolve the entity from the reach of penalty*	
9.	Excel Crop Care Ltd. v. Competition Commission of India *(2017) 8 SCC 47* *The punishment to be enforced on enterprises engaged in anti-competitive methods should be assessed on the base of 'relevant turnover' of the business and not the 'total turnover'*	
10.	State of Himachal Pradesh v. Nirmala Devi *(2017) 7 SCC 262* *The cardinal principle of sentencing policy is that the sentence imposed on the offender should reflect the crime committed and be proportional to the gravity of the offence*	
11.	Bharjatiya Steel Industries v. Commissioner, Sales Tax, Uttar Pradesh *(2008) 11 SCC 617* *Levy of Penalty, ordinarily, requires proof of mens rea unless there exist any statutory interdict*	
12.	Chairman, SEBI v. Shriram Mutual Fund *(2006) 5 SCC 361* *Penalty is attracted as soon as contravention of the statutory obligation as contemplated by the Act and the Regulation is established" and that "intention of the*	

	parties committing such violation" i.e. mens rea was wholly irrelevant	
13.	Swedish Match AB v. Securities and Exchange Board of India *(2004) 11 SCC 641* *Failure to comply with a statute may attract penalty but only because a statute attracts penalty for failure to comply with statutory provisions, the same in all situation would not call for a strict construction. A statute ordinarily must be literally construed. Such a literal construction would not be denied only because the consequence to comply with the same may lead to a penalty*	
14.	Suprintendent and Remambrancer of Legal Affairs to Government of West Bengal v. Abani Maity *(1989) 4 SCC 85* *Ordinarily the word "liable"has been held as conveying not an absolute obligation or penalty but as merely importing a possibility of attracting such obligation or penalty even where it is used with the words "shall be." But a statute is not to be interpreted merely from the lexicographer's angle. Exposition ex visceribus actus is a long recognized rule of construction. Words in a statute often take their meaning from the context of the statute as a whole; they are not to be construed in isolation*	
15.	Hindustan Steel Ltd. v. State of Orissa *(1969) 2 SCC 627* *Even if a minimum penalty is prescribed, the authority can refuse to impose penalty in cases wherein there is a technical or venial breach of provisions, after considering the specific circumstances*	
SESSION 7 **E-FILING, DIGITIZATION, AND MAINTENANCE OF RECORDS**		
1.	Reiling D. **Court Information Technology: Hypes, Hopes and Dreams.** In: Kramer X., Biard A., Hoevenaars J., Themeli E. (eds) New Pathways to Civil Justice in Europe. Springer, 2021	**1264**
2.	Richard Susskind, **Architecture** from Book Online Courts And The Future of Justice, Oxford University Press, 2019, Page 111-119	**1279**
3.	Richard Susskind, **Online Judging**, from Book Online Courts And The Future of Justice, Oxford University Press, 2019, Page 143-152	**1288**
DOCUMENTS: E-COURTS PROJECT – E-COMMITTEE, SUPREME COURT		
1.	**Phase II - Policy and Action Plan Document, Phase II of the E-Courts Project, E-committee Supreme Court of India, 8th January, 2014** https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2020	

	/05/2020053169.pdf	
2.	**Phase I - National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary Prepared by E-Committee, Supreme Court of India, 1st August, 2005** https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2020/05/2020053162.pdf	
3.	**Phase II - Objectives Accomplishment Report as per Policy Action Plan Document, E-Committee, Supreme Court of India [e-Courts Project]** https://cdnbbsr.s3waas.gov.in/s388ef51f0bf911e452e8dbb1d807a81ab/uploads/2020/05/2020053116.pdf	
4.	**Phase II - Innovations - Phase II of the e-Courts Project** https://ecourts.gov.in/ecourts_home/static/manuals/FINAL%20INNOVATIONS%20IN%20PHASE%20II.pdf	
5.	**Various initiatives of E-committee**, Supreme Court of India: A Compilation	
6.	**E-Filing, from Case Management through CIS 3.0, Case Information system 3.0, e-committee, Supreme Court of India, Prepared by: R. Arulmozhiselvi, 2018** https://doj.gov.in/sites/default/files/CIS%203.0%20final_0.pdf	
RULES		
7.	***Model Rules for Video Conferencing for Courts***, e-Committee, Supreme Court of India.	
8.	***Model Rules for Live-streaming and Recording of Court Proceedings,*** e-Committee, Supreme Court of India.	
9.	***Model Rules for E-Filing - Rules for On-Line Electronic Filing (E-Filing) Framed under Article 225 and 227 of the Constitution of India,*** e-Committee, Supreme Court of India.	
MANUAL		
10.	***E-Filing Procedure for High Courts & District Courts in India***, e-Committee Supreme Court of India.	
11.	***National Service and Tracking of Electronic Processes (NSTEP)-Android OS APP***, e-Committee Supreme Court of India.	
12.	***eCourts Digital Payment,*** e-Committee Supreme Court of India.	
13.	***E-Filing, from Case Management through CIS 3.0, Case Information system 3.0***, e-Committee, Supreme Court of India.	
SESSION 8 **COURT & CASE MANAGEMENT**		
1.	**NCMS Baseline Report on Case Management System** https://main.sci.gov.in/pdf/NCMS/Case%20Management%20System.pdf	**1299**

8.	Reliance Industries Ltd. v. SEBI, (2022) 10 SCC 181	
9.	Prakash Gupta v. SEBI, 2021 SCC OnLine SC 485	
10.	Rathi Graphic Technologies Limited v. Rajkumar Rathi *Order Delivered on 13.06.2022 (NCLT, Allahabad)*	
11.	DLF Ltd. v. Securities and Exchange Board of India *Order Delivered on 13.03.2015 (SAT, Mumbai)*	
12.	Lalit Kumar Jain v. Union of India, (2021) 9 SCC 321	
13.	Internet & Mobile Assn. of India v. RBI, (2020) 10 SCC 274	
14.	Madras Bar Association v. Union of India, 2021 SCC OnLine SC 463	
15.	Rojer Mathew v. South Indian Bank Ltd., (2020) 6 SCC 1	
16.	Madras Bar Assn. v. Union of India, (2014) 10 SCC 1	
17.	Union of India v. Madras Bar Assn., (2010) 11 SCC 1	
18.	L. Chandra Kumar v. Union of India, (1997) 3 SCC 261	
19.	Supreme Court Advocates-on-Record Assn. v. Union of India, (1993) 4 SCC 441	
20.	S.P. Gupta v. Union of India, 1981 Supp SCC 87	