



J.K. SHAH[®]
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FINAL MAY 2019 EXAM

SUBJECT- IDT

Test Code - FNJ 7174

BRANCH - () (Date :)

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ANSWER : 1**(1 mark x 30 = 30 Marks)**

1. (c)
2. (a)
3. (a)
4. (d)
5. (c)
6. (c)
7. (a)
8. (a)
9. (c)
10. (c)
11. (b)
12. (a)
13. (d)
14. (c)
15. (d)
16. (d)
17. (a)
18. (c)
19. (c)
20. (b)
21. (a)
22. (b)
23. (b)
24. (d)
25. (c)
26. (a)
27. (a)
28. (b)
29. (h)
30. (c)

ANSWER : 2**(A)****Computation of Input tax credit available with XYZ Ltd. (amount in Rs.) :**

Sales promotion services	[WN – 1]	16,200
Health care services availed from Physique Club for upkeep of health of their employees	[WN -2]	Nil
XYZ Ltd. hired cab on rent for employees as an obligation by government notification	[WN -3]	4,500
Market research services	[WN – 1]	10,080
Quality control services	[WN – 1]	18,000
Work contract services for construction of office building (Not considered as eligible input service)		Nil
Total Input tax credit available		48,780

(4 marks)**Working Notes :**

- (1) As per the Section 2(60), “Input service” means any service used or intended to be used by a supplier in the course or furtherance of business. So, services like –
- (a) Sales promotion services;

(b) Market research services;

(c) Quality control services,

are used by supplier in course or **furtherance of business**. Hence, the credit of the tax paid on the aforesaid supply of services is available.

(2) As per Section 17(5)(b), **No input tax credit is available in respect of food and beverages**, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or service or both or an element of a taxable composite or mixed supply. Thus, no input tax credit shall be admissible on health care services provided to employees.

(3) As per Section 17(5) (b), since the **government has notified cab services as obligatory services** to be provided to employees, hence **credit of tax paid on such service shall be allowed**.

(2 Marks)

(B) The admissibility or otherwise of duty drawback in the aforesaid cases is discussed hereunder –

(1) **Drawback Admissible Rs. 50,000** : The amount of drawback i.e. 40% of 2,00,000 i.e. Rs. 80,000 shall be restricted to $1/3^{\text{rd}}$ of the Market price of the goods i.e. $1/3^{\text{rd}}$ of 1,50,000 i.e. Rs. 50,000. Hence, the amount of drawback admissible shall be Rs. 50,000.

(2) **Drawback Inadmissible** : In this case the market price of the goods Rs. 55,000 is less than the amount of drawback i.e. 2,000 kgs. \times Rs. 30. i.e. Rs. 60,000. Hence, no drawback shall be allowed.

(3) **Drawback Inadmissible** : No drawback shall be allowed in this case, as the export value i.e. FOB value of the goods is less than the value of imported materials used therein.

(4) **Drawback Admissible Rs. 16,800** : Minimum value – addition of 40% of imported material i.e. 40% of Rs. 3 lakhs amounts to Rs. 1,20,000. Since FOB value of the goods is Rs. 4,20,000 i.e. the criteria of minimum value – addition has been achieved, so, drawback allowable = 4% of Rs. 4,20,000 = Rs. 16,800.

(1 mark x 4 = 4 Marks)

ANSWER : 3

(A)

Computation of Assessable value & customs duty -

FOB cost	£	8,000
Add : Design and development charges paid in UK	£	500
Total		8,500
Exchange rate to be applied is 1 £ (Pound) = Rs. 100, as notified by CBIC on date of presentation of bill of entry.	Rs.	100
Total sum in Indian Rs.	Rs.	8,50,000
Add : Commission to the Agent @ 2% of FOB cost \times Rs. 100 per pound	Rs.	16,000
FOB value as per customs	Rs.	8,66,000
Add : Insurance Charges (1.125% of Customs FOB)	Rs.	9,742.50
Add : Air freight (Restricted to 20% of Customs FOB)	Rs.	1,73,200.00
Total CIF Value being Assessable Value	Rs.	10,48,942.50
Add : Basic Customs duty @ 10% (Rate of Custom duty is applicable of the date of presentation of Bill of Entry since it is		

presented after arrival of aircraft)	[1]	Rs.	1,04,894.25
Add : SWS @ 10% of [1]	[2]	Rs.	10,489.43
Total for Integrated tax leviable u/s 3(7)		Rs.	11,64,326.18
Add : Integrated tax @ 12% of Rs. 11,64,326.18	[4]	Rs.	1,39,719.14
Total imported cost (rounded off)		Rs.	13,04,045.32
Total customs duty payable = [1] + [2] + [3] + [4] (rounded off)		Rs.	2,55,102

(6 Marks)

- (B) In case of change in rate of tax, the “**date of receipt of payment**” shall be the date on which the payment is entered in the books of account of the supplier; or the date on which the **payment is credited to his bank account, whichever is earlier**. However, the date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax. (2 marks)

In this case, since the payment is credited in bank account after 4 working days from the date of change I rate of tax hence, the date of receipt of payment shall be 09.12.2018 and not the date when the same is entered in books of accounts.

In this case since services have been supplied after the change in rate of tax and the payment is received after the change in rate of tax but the invoice has been issued prior to the change in rate of tax, the time of supply shall be the date of receipt of payment.

Hence, applicable rate of tax shall be 12%. Amount of CGST payable = Rs. 25,00,000 × 12% = Rs. 3,00,000.

(3 Marks)

- (C) **Computation of Value of taxable supply and GST Liability (amount in Rs.) –**

Total Receipts	25,00,000
Less : Receipts of ‘Gyan sagar’ an industrial training institute (ITI) affiliated to the National Council for Vocational Training (NCVT), are not liable to GST, since the same are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	- 1,20,000
Less : Receipts of ‘Edu – care’ a vocational education provider affiliated to Sector Skill Council formed under National Skill Development Corporation (NSDC) are exempt vide Entry 69 of Notification No. 12/2017 – ct (Rate.)	- 1, 80 ,0 00
Less : Receipts of ‘Abhigyan Skill Centre’ an industrial training centre (ITC) affiliated to the State Council for Vocational Training, Rajasthan, not liable to GST, since the same are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate).	-2,00,000
Less : Receipts of ‘Mission’, an institute, registered with Directorate General of Employment and Training (DGET), Union Ministry of Labour and Employment, running a Modular Employable Skill Course (MESCC) approved by the National Council of Vocational Training – Not liable to GST, since the same is exempt vide Entry 66 of Notif. No. 12/2017 – CT (Rate).	- 1, 00 ,0 00
Less : Receipts of ‘Scinart’ a Commercial coaching institute providing commercial coaching in the field of arts and science shall be liable for GST.	Taxable
Less : Receipts of ‘Commerce concepts’ a Commercial coaching institute providing coaching in the field of commerce shall be liable for GST Irrespective of the fact that a certificate was awarded to each trainee after completion of the training.	Taxable

Less : Receipts of Gurukul school providing education upto higher secondary shall are exempt vide Entry 66 of Notification No. 12/2017 – CT (Rate)]/	-	6, 00 ,0 00
Less : Receipts of ‘Play Kids’ school providing education upto primary level i.e. Rs. 8 lakhs are exempt vide Entry 66 of Notification NO. 12/ 2017 – CT (Rate). However, receipts from renting of premises by the school to commercial coaching centre shall be liable for GST.	-	8, 00 ,0 00
Value of taxable supply		5,00,000
GST Payable @ 18%		90,000

(9 marks)

ANSWER : 4

(A) As per **Section 15(3)** of CGST Act, 2017, the **value of the supply shall not include any discount** which is given -

- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply ; and
- (b) after the supply has been effected, if –
 - (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

Nature of discount – Post supply discount : In the given case, Prakash Sales in entitled for 10% discount on fans supplied by Kaya Trade Links Pvt. Ltd. for the quarter July – September as it has sold more than 500 fans in the preceding quarter April – June. However, **since the entire stock for the quarter July – September has already been dispatched** by Kaya Trade Links Pvt. Ltd. in the month of June, the discounts on the fans supplied to Prakash Sales for the quarter July – September will be a post – supply discount.

Allowability of discount on assumption of reversal of ITC by Recipient : Such post – supply discount will be allowed as a deduction from the value of supply **since the discount policy was known before the time of such supply and the discount can be specifically linked to relevant invoices** (invoices pertaining to fans supplies to Prakash Sales for the quarter July – September) provided Prakash Sales reverses the input tax credit attributable to the discount on the basis of document issued by Kaya Trade Links Pvt. Ltd. (2 marks)

The value of supply will thus, the computed as under (amount in Rs.) :

Price at which the fans are supplied to Prakash Sales	[WN – 1]	7,000
Add : Packing expenses	[WN – 2]	1,000
Less : Discount	[WN – 3]	- 700
Value of taxable supply of one unit of fan		7,300
Value of taxable supply of fans for the quarter July – September [Rs. 7,300 × 1,000]		73,00,000

(2 marks)

Working Notes :

- (1) **Value of supply – Transaction Value :** The value of a supply is the transaction value, which is the price actually paid or payable for the said supply, in terms of Section 15(1) of the CGST Act presuming that the supplier and the recipient of supply are not related and price is the sole consideration for the supply.

- (2) **Packing Charges** : The value of supply includes incidental expenses like packing charges in terms of Section 15(2) (c) of CGST Act.
- (3) **Post Supply Discount** : Since all the conditions specified in Section 15(3)(b) of the CGST Act have been fulfilled, the post – supply discount will be allowed as deduction from the value of supply presuming that Prakash Sales has reversed the input tax credit attributable to such discount on the basis of document issued by Kaya Trade Links Pvt. Ltd.

The amount of input tax credit to be reversed shall be arrived as under (amount in Rs.) :

No. of fans supplied	1,000
Amount of discount per fan	700
Total Discount	7,00,000
Rate of GST	18%
Amount of ITC to be reversed	1,26,000

(2 Marks)

(B) Duty free allowances allowed to Mr. Ram are as follows –

- (a) Under **Rule 3**, goods eligible for General free allowance are :
 (i) used personal effects (excluding jewellery); and
 (ii) Other articles (other than those mentioned in Annexure I) upto Rs. 50,000
- (b) Under Rule 6, Duty free allowance of Used personal and household articles, other than those mentioned in Annexure I or Annexure II but including articles mentioned in Annexure III, upto an aggregate value of Rs. 1,00,000.

Under Rule 5, No duty free allowance in case of jewellery of Rs. 50,000 will be available, since he was not residing abroad for more than one year prior to his return to India.

Computation of Customs duty payable by Mr. Ram (amount in Rs.) :

1. Used personal effects like clothes etc.	Nil
2. Digital Video Disc player	5,000
3. Music System	55,000
4. Air – Conditioner	45,000
5. Microwave Over	28,000
6. Fax Machine	52,000
7. Domestic Refrigerator	1,20,000
8. Jewellery (18 grams)	75,000
Total dutiable goods imported	3,80,000
Less : Total allowance [(i.e. Rs. 50,000 (GFA) + Rs. 1,00,000 (Transfer of residence)]	1,50,000
Value of goods on which duty is payable	2,30,000
Customs duty @ 38.5% (inclusive of SWS)	88,550

(6 marks)

(C) The different types of supplies under GST law are as under –

- (i) Taxable and exempt supplies;
 (ii) Inter – State and Intra – State supplies ;
 (iii) Composite and mixed supplies ; and
 (iv) Zero rated supplies.

(2 marks)

(D) **Computation of the amount of interest payable on finalization of assessment :**
Section 60(4) of the CGST Act, 2017 stipulates that where the **tax liability as per the final assessment is higher than under provisional assessment** i.e. **tax becomes due** consequent to order of final assessment, the registered person shall be **liable to pay interest** on tax payable on supply of goods but not paid on the due date, at the rate specified under section 50(1) [**18% p.a.**], from the **first day after the due date of payment of tax in respect of the goods supplied under provisional assessment till the date of actual payment**, whether such amount is paid before / after the issuance of order for final assessment. **(1.5 marks)**

In the given case, due date for payment of tax on goods cleared on 25.01.2019 under provisional assessment is 20.02.2018. Kulbhushan & Sons is liable to pay following interest in respect of 1st consignment:

Due date of payment of tax under provisional assessment	20.02.2019
Actual date of payment of tax	09.04.2019
Period of delay in days	48 days
GST Payable	1,80,000
Rate of Interest	18% p.a.
Interest payable [Rs. 1,80,000 × 18% × 48/365] Rounded off)	4,261

(3 marks)

Interest on refund : Further, section 60(5) of the CGST Act, 2017 stipulates that where the tax **liability as per the final assessment is less than in provisional assessment** i.e. **tax becomes refundable** consequent to the order of final assessment, the registered person **shall be paid interest** at the rate specified under section 56 [**6% p.a.**] from the date immediately after the expiry of 60 days from the date of receipt of application under section 54(1) till the date of refund of such tax.

However, since in the given case, refund has been made (05.06.2019) within 60 days from the date of receipt of application of refund (09.04.2019), interest is not payable to Kulbhushan & Sons on tax refunded in respect of 2nd consignment. **(1.5 Marks)**

ANSWER : 5

(A) **Advance ruling to be void in certain circumstances [Section 104]:**

(1) **Advance ruling to be void if obtained by fraud or suppression of material facts or misrepresentation of facts [Section 104 (1)]:** Where the AAR or the AAAR finds –

- that advance ruling pronounced by it under section 98(4) or under Section 101(1)
- has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts,
- it may , -
 - by order,
 - declare such ruling to be void ab – initio, and
- thereupon all the provisions of the Act or the rules made thereunder shall apply
- to the applicant or the appellant as if such advance ruling had never been made.

Opportunity of Being Heard [Explanation] : No order shall be passed unless an opportunity of being heard has been given to the applicant or the appellant. The period beginning with the date of such advance ruling and ending with the date of order shall be excluded while computing the period specified in Sections 73(2) and Section 73(10) or Sections 74(2) and Section 74(10).

(2) **Communication of copy of order [Section 104 (2)]** : A copy of the order made under Section 104(1) shall be sent to the applicant, the concerned officer and the jurisdictional officer. **(5 marks)**

- (B) Reciprocal arrangement for exchange of information facilitating trade [**Section 151B**] [**Inserted by Finance Act, 2018 w.e.f. 29.03.2018**] : The relevant provisions are discussed as under –
- (1) The **Central Government may enter into an agreement** or any other arrangement with the **Government of any country outside India** or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and **exchange of information for trade facilitation** , effective risk analysis verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.
 - (2) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.
 - (3) Subject to the provisions of Section 151B(2), the information received under Section 151B(1) may also be used as evidence in investigations and proceedings under this Act.
 - (4) Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.
 - (5) Notwithstanding anything contained in Section 151B(1)/(2) (3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date on which the Finance Bill, 2018 receives the assent of the President i.e. 29.03.2018, shall be deemed to have been done or take under the provisions of this section. **(6 marks)**
- (C) **Job work – Deemed Supply of services – GST rate of services applicable** : As per **para 3 of Schedule II to the CGST Act**, any treatment or process which is applied to another person's goods is a supply of services and accordingly is subject to GST rate applicable for services.

In the given case, M/s. Prem Tools (job worker) undertakes the process of mounting the steel cabinets of Alok Pvt. Ltd. (principal) on metal frames. In view of para 3 of Schedule II to the CGST Act, **the mounting activity classifies as service even though metal frames are also supplied as a part of the mounting activity.** Accordingly, the job charges will be **chargeable to rate of 18%**, which is the applicable rate for services. **(2 marks)**

Valuation of Job – work Services : Further, the **value of steel cabinets will not be included in the value of taxable supply** made by M/s. Prem Tools as the supply of cabinets does not fall within the scope of supply to be made by M/s. Prem Tools. M/s. Prem Tools is only required to mount the steel cabinets, which are to be supplied by Alok Pvt. Ltd., on metal frames, which are to be supplied by it. **(1 mark)**

Sale of waste generated during Job work – Liable to GST : As regards sale of waste generated during the job work, since M/s. Prem Tools is registered, the tax leviable on the supply will have to be paid by it in terms of Section 143(5) of the CGST Act. Such supply will be treated as supply of goods and subject to GST rate applicable for metal waste.

According, the GST Liability of M/s. Prem Tools will be computed as under (amount in Rs.) :

Job Charges		5,00,000
GST @ 18%	(A)	90,000
Sale of metal waste		45,000
GST @ 12%	(B)	5,400

(3 marks)

(D) **Final return [Section 45]:**

Final return to be furnished on cancellation of registration : Every registered person who is required to furnish a return under section 39(1) and whose registration has been cancelled shall furnish a final return, in such form and manner as may be prescribed within 3 months of –

- The date of cancellation, or
- The date of order of cancellation,

Whichever is **later**.

(3 marks)

ANSWER : 6

(A) **Cancellation of registration [Rule 22 of CGST Rules, 2017] :**

(1) **SCN for Cancellation of Registration** [Rule 22(1)] : Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he shall issue a notice to such person in **FORM GST REG 17**, requiring him to show cause, within a period of **7 working days** from the date of the service of such notice, as to why his registration shall not be cancelled.

(2) **Reply to SCN** (Rule 22 (2)) : The reply to the show cause notice shall be furnished in **FORM GST REG – 18** within **7 working days** from the date of service of notice.

(3) **Order for Cancellation of Registration** [Rule 22(3)] : Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issued an order in **FORM GST REG – 19, within a period of 30 days** from –

- The date of application or, as the case may be,
- The date of the reply to the show cause issued,

cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under Section 29(5).

(4) **Dropping of proceedings for cancellation of Registration** [Rule 22(4)]: Where the reply furnished is found to be satisfactory, the proper officer shall drop the proceedings and pass an order in **FORM GST REG – 20**.

However, where the person instead of replying to the notice served under Rule 22(1) for contravention of the provisions contained in Section 29(2)(b)/(c), furnishes all the pending returns and makes full payment of the tax dues along with applicable interest and late fee, the proper officer shall drop the proceedings and pass an order in **FORM GST – REG 20**. [Amended vide Notification No. 39/2018 – CT w.e.f. 04.09.2018]

- (5) **Applicability to legal heirs** [Rule 22(5)]: The provisions of Rule 22(3) shall, mutatis mutandis, apply to the legal heirs of a deceased proprietor, as if the application had been submitted by the proprietor himself. **(5 Marks)**

(B)

- **Where the goods are transported by a registered person – whether as consignor or recipient as the consignee** (Whether in his own conveyance or a hired one or a public conveyance, by road), the said person shall have to generate the e – way bill (by furnishing information in part B on the common portal) [Rule 138(2)].
- **Where the e – way bill is not generated by the registered person and the goods are handed over to the transporter, for transportation of goods by road**, the registered person shall furnish the information relating to the transporter in **Part B** on the common portal and the e way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A.
- **Transport by rail/ by air/ vessel – E – way bill to be generated by Supplier or Recipient** : Where the goods are transported by railways or by air or vessel, the e – way bill shall be generated by the registered person, being the supplier or the recipient, who shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB – 01. [Rule 138 (2A)]. **(4 marks)**

(C) **Computation of the amount of fine :**

Declared CIF value of Ophthalmic rough blanks @\$ 1 per piece		\$ 1000
Rate or exchange		1\$ =Rs. 65
CIF value in rupee terms (1,000 × Rs. 65) / Assessable Value		Rs. 65,000.00
Add : Basic customs duty @ 10%	[1]	6,500.00
Add : SWS (10% of basic customs duty)	[2]	650.00
Total for Integrated tax		72,150.00
Integrated tax under Section 3(7) @ 12% of Rs. 72,150	[3]	8,658.00
Total Imported Cost		80,808.00
Market value @ Rs. 100 per piece (1000 × Rs. 100)		1,00,000.00
Profit margin (Market Value – Total cost to the importer)		19,192.00
Fine equal to 50% of margin of profit	[4]	9,596.00
Total amount payable by party to clear the consignment [(1) + (2) + (3) + (4)]		25,404

Maximum fine that can be imposed u/s 125 : The maximum amount of fine that can be imposed under Section 125 of the Customs Act, 1962 is equal to Market value of the imported goods Less Amount of duty i.e. Rs. 1,00,000 – Rs. 15808 = Rs. 84,702. **(6 Marks)**

(D) The relevant provisions are as under –

(1) **Denomination of Export Contracts :**

- (a) All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but **export proceeds shall be realized in freely convertible currency.**

- (b) However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, **rupee payment through Vostro account must be against payment in free foreign currency** by buyer in his non – resident bank account. Free foreign exchange remitted by buyer to his non – resident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.
- (c) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be **denominated in ACU Dollar**. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank / Government of India line of credit.

(2) Non – Realisation of Export Proceeds : If an exporter fails to realize export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT (D & R) Act, rules and orders made thereunder and provisions of FTP. **(5 Marks)**