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**FINAL MAY 2019 EXAM**

**SUBJECT- IDT**

**Test Code – FNJ 7111**

**BRANCH - () (Date :)**

**Head Office : Shraddha, 3<sup>rd</sup> Floor, Near Chinai College, Andheri (E), Mumbai – 69.**

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Answer 1:

**Computation of net GST payable by Manohar lal Company Ltd.**

Particulars	GST payable (Rs.)
Gross GST liability [Refer working note (2) below]	91,200
Less: Input tax credit [Refer working note (1) below]	<u>62,000</u>
<b>Net GST liability</b>	<b>29,200</b>

(1 mark)

**Working Notes:**

**(1) Computation of Input Tax Credit (ITC) available with Manohar lal Company Ltd. in the month of November 2017**

Particulars	GST (Rs.)
Health insurance of factory employees [Note – 1]	Nil
Raw material received in factory [Note – 2]	Nil
Work's contractor's service used for installation of plant and machinery [Note -3]	12,000
Manufacturing machinery directly sent to job worker's premises under challan [Note -4]	50,000
Purchase of car used by director for business meetings only [Note -5]	Nil
Outdoor catering service availed for business meetings [Note -6]	<u>Nil</u>
<b>Total ITC available</b>	<b>62,000</b>

(3 marks)

**Notes:**

1. ITC of health insurance is blocked in the given case since said services are not notified by Government as obligatory for employer to provide to its employees under any law - in terms of section 17(5)(b)(iii) of the CGST Act, 2017.
2. Where the goods against an invoice are received in lots/instalments, ITC is allowed upon receipt of the last lot/instalment vide first proviso to section 16(2) of the CGST Act, 2017. Therefore, Manohar lal Company Ltd. will be entitled to ITC of raw materials on receipt of second instalment in December, 2017.
3. Section 17(5)(c) of CGST Act, 2017 provides that ITC on works contract services is blocked when supplied for construction of immovable property (other than plant and machinery) except when the same is used for further supply of works contract service.  
  
Though in this case, the works contract service is not used for supply of works contract service, ITC thereon will be allowed since such services are being used for installation of plant and machinery.
4. ITC on capital goods directly sent to job worker's premises under challan is allowed in terms of section 19(5) of CGST Act, 2017 read with rule 45(1) of CGST Rules, 2017.
5. Section 17(5)(a) of CGST Act, 2017 provides that ITC on motor vehicles is allowed only when the same are used:  
  
(1) for making taxable supply of- (i) further supply of such vehicles, (ii) transportation of passengers, (iii) imparting training on driving, flying, navigating such vehicles and

(2) for transportation of goods.

Since Manohar Lal Company Ltd is a supplier of machine and it does not use the car for transportation of goods, ITC thereon will not be available.

6. Section 17(5)(b)(i) of CGST Act, 2017 provides that ITC on outdoor catering is blocked except where the same is used for making further supply of outdoor catering or as an element of a taxable composite or mixed supply.

Since Manohar Lal Company Ltd is a supplier of machine, ITC thereon will not be available. **(3 marks)**

(2) **Computation of gross GST liability**

	Value received (Rs.)	Rate of GST	GST payable (Rs.)
Hiring receipts for machine	5,25,000	12%	63,000
Service charges for supply of manpower operators	2,35,000	12%	28,200
Gross GST liability			91,200

**Note:**

Since machine is always hired out along with operators and operators are supplied only when the machines are hired out, it is a case of composite supply, wherein the principal supply is the hiring out of machines [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Therefore, service of supply of manpower operators will also be taxed at the rate applicable for hiring out of machines (principal supply), which is 12%, in terms of section 8(a) of the CGST Act, 2017. **(3 marks)**

**Answer 2:**

(A)

Section 87 of the CGST Act, 2017 stipulates that when two or more companies are amalgamated or merged in pursuance of an order of court or of Tribunal or otherwise and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have supplied or received any goods or services or both to or from each other during the period commencing on the date from which the order takes effect till the date of the order, then such transactions of **supply and receipt shall be included in the turnover of supply or receipt of the respective companies and they shall be liable to pay tax accordingly.**

Notwithstanding anything contained in the said order, for the purposes of the CGST Act, 2017, the said two or more companies shall be treated as distinct companies or the period up to the date of the said order. The registration certificates of the said companies shall be cancelled with effect from the date of the said order. **(4 marks)**

(B)

**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. **(2 marks)**

In the given case, due date for payment of tax on goods cleared on 25.01.20XX under provisional assessment is 20.02.20XX.

In view of the provisions of section 60(4), in the given case, Kulbhushan & Sons is liable to pay following interest in respect of 1<sup>st</sup> consignment:

$$= \text{Rs. } 1,80,000 \times 18\% \times 48/365$$

$$= \text{Rs. } 4,261 \text{ (rounded off)}$$

(2 marks)

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 (05.06.20XX) within 60 days from the date of receipt of application of refund (09.04.20XX), interest is not payable to Kulbhushan & Sons on tax refunded in respect of 2<sup>nd</sup> consignment. (2 marks)

**Answer 3:**

(A)

Section 36 of the CGST Act explains the provisions relating to period of retention of accounts as under: -

Every registered person required to keep and maintain books of account or other records shall retain them **until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.** (2 mark)

However, a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of 1 year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later. (3 marks)

(B)

The written submissions in reply to SCN issued to Rajul are as follows:

- i. The show cause notice (SCN) issued for normal period of limitation under section 73(1) of the CGST Act, 2017 is not sustainable.
- ii. The SCN under section 73(1) of the CGST Act, 2017 can be issued at least 3 months prior to the time limit specified for issuance of order under section 73(10) of the CGST Act, 2017. The adjudication order under section 73(10) of the CGST Act, 2017 has to be issued within 3 years from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

The due date for furnishing annual return for a financial year is on or before the 31<sup>st</sup> day of December following the end of such financial year [Section 44 of the CGST Act, 2017]. Thus, SCN under section 73(1) of the CGST Act, 2017 can be issued within 2 years and 9 months from the due date for furnishing of annual return for the financial year to which the short-paid tax relates to.

- iii. The SCN has been issued for the period between 01.07.2017 to 31.12.2017 which falls in the financial year (FY) 2017-18. Due date for furnishing annual return for the FY 2017-18 is 31.12.2018 and 3 years' period from due date of filing annual return lapses on 31.12.2021. Thus, SCN under section 73(1) ought to have been issued latest by 30.09.2021.

- iv. Since the notice has been issued after 30.09.2021, the entire proceeding is barred by limitation and deemed to be concluded under section 75(10) of the CGST Act, 2017.

(5 marks)

**Answer 4:**

**(A)**

A waybill is a receipt or a document issued by a carrier giving details and instructions relating to the shipment of a consignment of goods and the details include name of consignor, consignee, the point of origin of the consignment, its destination, and route. Electronic Way Bill (E-Way Bill) is a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. In other words, E-way bill is an electronic document generated on the GST portal evidencing movement of goods. (3 marks)

Following benefits are expected from e-way bill mechanism:

- (i) Physical interface to pave way for digital interface resulting in elimination of state boundary check-posts
- (ii) It will facilitate faster movement of goods
- (iii) It will improve the turnaround time of trucks and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs.

(2 marks)

**(B)**

As per section 22 of the CGST Act every supplier of goods or services or both is required to obtain registration in the State/ Union territory from where he makes the taxable supply if his aggregate turnover exceeds Rs. 20 lakh [Rs. 10 lakh in case of specified Special Category States] in a financial year.

However, **section 24** of the said Act enlists **certain categories of persons** who are **mandatorily required to obtain registration**, irrespective of their turnover. Persons who supply goods or services or both through **such electronic commerce operator (ECO)**, who is required to collect tax at source under section 52, is one such person specified under clause (ix) of section 24.

However, where the ECO is liable to pay tax on behalf of the suppliers of services under a notification issued under section 9(5), the suppliers of such services are entitled for threshold exemption.

Further, persons making supplies of **services**, other than supplies specified under **section 9(5)** through an ECO who is **required to collect tax at source under section 52**, and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of Rs. 20 lakh [Rs. 10 lakh for specified special category States] in a financial year, have been exempted from obtaining registration vide *Notification No. 65/2017 CT dated 15.11.2017*.

Section 2(45) of the CGST Act defines ECO as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. Electronic commerce is defined under section 2(44) to mean the supply of goods or services or both, including digital products over digital or electronic network. Since Clean Indya Pvt. Ltd. owns and manages a website for e-commerce where both goods and services are supplied, it will be classified as an ECO under section 2(45).

*Notification No. 17/2017 CT (R) dated 28.06.2017* issued under section 9(5) specifies services by way of house-keeping, except where the person supplying such service through ECO is liable for registration under section 22(1), as one such service where the ECO is liable to pay tax on behalf of the suppliers. (5 marks)

**Answer 5:****Computation of GST payable**

<b>Particulars</b>	<b>Rs.</b>
Price of the machinery [Note 1]	20,00,000
<i>Add:</i> Extended warranty cost [Note 2]	1,00,000
Consultancy charges in relation to pre-installation planning [Note 4]	10,000
Freight and insurance charges [Note 3]	20,000
Subsidy received from Central Government [Note 5]	Nil
Receipts from Joint Venture of PQR Enterprises [Note 5]	50,000
<i>Less:</i> 1% discount on basic price* = Rs. 20,00,000 x 1% [Note 6]	<u>(20,000)</u>
Value of supply	21,60,000
<b>CGST @ 9%</b> [Note 7]	<b>1,94,400</b>
<b>SGST @ 9%</b> [Note 7]	<b>1,94,400</b>

**(3 marks)****Notes:**

1. Laxmi Ltd. and PQR Enterprises are not related and price is assumed to be the sole consideration for the supply. Therefore, in terms of section 15(1) of the CGST Act, 2017, the value of the supply is the transaction value i.e., price actually paid or payable for the machinery by PQR Enterprises.  
  
Design and engineering charges are includible in the value of supply as any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is so includible in terms of section 15(2)(c) of CGST Act, 2017.  
  
Further, loading charges being incidental expenses charged by the supplier to the recipient of supply, are includible in the value as per section 15 (2)(c) of the CGST Act, 2017.
2. Supply of machinery (goods) with supply of ancillary services like extended warranty, is a composite supply, the principle supply of which is the supply of machinery. [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
3. Supply of machinery (goods) with supply of ancillary services like freight and insurance is a composite supply, the principle supply of which is the supply of machinery [Section 2(30) of the CGST Act, 2017 read with section 2(90) of that Act]. Thus, value of such ancillary supply is includible in the value of composite supply.
4. Any amount charged for anything done by the supplier in respect of the supply of goods at the time of, or before delivery of goods is includible in the value of supply in terms of section 15(2)(c) of CGST Act, 2017.
5. Subsidies provided by the Central Government and State Governments are not includible in the value of supply in terms of section 15(2)(e) of the CGST Act, 2017. However, subsidy directly linked to the price received from a non-Government body is includible in the value in terms of section 15.
6. Cash discount has been given to PQR Enterprises upfront at the time of supply and thus would have been recorded in the invoice and hence, the same is excluded from the value of supply in terms of section 15(3)(a) of the CGST Act, 2017.

7. In the given case-

- the location of the supplier is in Bhopal (Madhya Pradesh); and
- the place of supply of machinery is the location of the machinery at the time at which the movement of the same terminates for delivery to the recipient i.e., Indore (Madhya Pradesh) vide section 10(1)(a) of IGST Act, 2017.

Therefore, as per section 8(1) of IGST Act, 2017, the given supply is an intra-State supply as the location of the supplier and the place of supply are in the same State. Thus, the supply will be leviable to CGST and SGST. **(7 marks)**

*\*Note: It is also possible to take a view that the basic price of the machinery is Rs. 19,70,000 [Rs. 20,00,000*

*– Rs. 10,000 – Rs. 20,000] and design and engineering charges and loading charges are added to such price. In that case, 1% of discount amount will come out to be Rs. 19,700, value of supply would be Rs. 21,60,300 and CGST and SGST would be Rs. 1,94,427 each.*