



INTER CA – MAY 2018

Sub: Accountancy & Law

Topics: Hire purchase & Instalment selling, Branch Accounts, The Indian Contract Act, the General Clauses Act, Interpretation of Statutes.

Test Code – M13

Branch: MULTIPLE

Date: 31.12.2017

(50 Marks)

Note: All questions are compulsory.

Question 1 (6 marks)

In the books of ABC Ltd.
New York Branch Trial Balance in (₹)
as on 31st March, 2015
(6 marks)

	Conversion (₹)	Dr.	Cr.
Stock on 1.4.14 (1 mark)	40	6,000	–
Purchases and sales (1 mark)	41	16,400	30,750
Sundry debtors and creditors (1 mark)	42	8,400	6,300
Bills of exchange (1 mark)	42	2,520	5,040
Sundry expenses (1/2 mark)	41	22,140	–
Bank balance (1 mark)	42	8,820	–
Delhi head office A/c (1/2 mark)	–	–	22,190
		64,280	64,280

Question 2 (4 Marks)

Statement showing differences between Hire Purchase and Installment System (1/2 mark for each point)

	Basis of Distinction	Hire Purchase	Installment System
1.	Governing Act	It is governed by Hire Purchase Act, 1972.	It is governed by the Sale of Goods Act, 1930.
2.	Nature of Contract	It is an agreement of hiring.	It is an agreement of sale.
3.	Passing of Title (ownership)	The title to goods passes on last payment.	The title to goods passes immediately as in the case of usual sale.
4.	Right to Return goods	The hirer may return goods without further payment except for accrued installments.	Unless seller defaults, goods are not returnable.
5.	Seller's right to repossess	The seller may take possession of the goods if	The seller can sue for price if the buyer is in

		hirer is in default.	default. He cannot take possession of the goods.
6.	Right of Disposal	Hirer cannot hire out sell, pledge or assign entitling transferee to retain possession as against the hire vendor.	The buyer may dispose of the goods and give good title to the bonafide purchaser.
7.	Responsibility for Risk of Loss	The hirer is not responsible for risk of loss of goods if he has taken reasonable precaution because the ownership has not yet transferred.	The buyer is responsible for risk of loss of goods because of the ownership has transferred.
8.	Name of Parties involved	The parties involved are called Hire purchaser and Hire vendor.	The parties involved are called buyer and seller.
9.	Component other than cash price	Component other than Cash Price included in installment is called Hire charges.	Component other than Cash Price included in Installment is called Interest.

Question 3 (6 Marks)

Machinery Account (3 marks)

		Rs.			Rs.
I Yr.	To Hire Vendor A/c	15,533	I Yr.	By Depreciation A/c	1,553
		<u>15,533</u>		By Balance c/d	<u>13,980</u>
II Yr.	To Balance b/d	13,980	II Yr.	By Depreciation A/c*	1,398
		<u>13,980</u>		By Balance c/d	<u>12,582</u>
III Yr.	To Balance b/d	12,582	III Yr.	By Depreciation A/c*	1,258
		<u>12,582</u>		By Hire Vendor	11,000
				By Profit & Loss A/c	324
				(Loss on Surrender)	<u>12,582</u>

Hire Vendor Account (3 marks)

		Rs.			Rs.
I Yr.	To Bank A/c	6,000	I Yr.	By Machinery A/c	15,533
	To Balance c/d	<u>12,639</u>		By Interest A/c	<u>3,106</u>
		<u>18,639</u>			<u>18,639</u>
II Yr.	To Bank A/c	6,000	II Yr.	By Balance b/d	12,639
	To Balance c/d	<u>9,167</u>		By Interest A/c	<u>2,528</u>
		<u>15,167</u>			<u>15,167</u>
III Yr.	To Machinery A/c (transfer)	11,000	III Yr.	By Balance b/d	9,167
		<u>11,000</u>		By Interest A/c	<u>1,833</u>
					<u>11,000</u>

Note : Alternatively, total interest could have been debited to Interest Suspense A/c and credited to Hire Vendor A/c with consequential changes.

*It has been assumed that depreciation has been written off on written down value method. Alternatively straight line method may be assumed.

Depreciation has been directly credited to the Machinery Account; it could have been accumulated in provision for depreciation account.

Working Notes: (2 marks)

			Instalment Amount	Interest	Principal
4th Instalment			6,000	Rs.	Rs.
Interest	6,000 x	20 120	<u>1,000</u>	1,000	5,000
			5,000		
			<u>6,000</u>		
Add : 3rd Instalment			11,000		
Interest	11,000 x	20 120	<u>1,833</u>	1,833	4,167
			9,167		
			<u>6,000</u>		
Add : 2nd Instalment			15,167		
Interest	15,167 x	20 120	<u>2,528</u>	2,528	3,472
			12,639		
			<u>6,000</u>		
Add : 1st Instalment			18,639		
18369 x 20/120					
			<u>3,106</u>	<u>3,106</u>	<u>2,894</u>
			<u>15,533</u>	<u>8,467</u>	<u>15,533</u>

Question 4 (4 marks)

According to **Section 3(26) of the General Clauses Act, 1897**, 'Immovable Property' shall include:

- (i) Land,
- (ii) Benefits to arise out of land, and
- (iii) Things attached to the earth, or permanently fastened to anything attached to the earth. **(2 marks)**

For example, trees are immovable property because trees are benefits arise out of the land and attached to the earth. However, timber is not immovable property as the same are not permanently attached to the earth. In the same manner, buildings are immovable property. **(2 marks)**

Question 5 (5 Marks)

As per the provisions of Section 27 of the General Clauses Act, 1897, where any legislation or regulation requires any document to be served by post, then unless a different intention appears, the service shall be deemed to be effected by:

- (i) properly addressing,
- (ii) pre-paying, and
- (iii) posting by registered post.

A letter containing the document to have been effected at the time at which the letter would be delivered in the ordinary course of post. **(2 marks)**

Therefore, in view of the above provision, since, the statutory rules itself provides about the service of notice that a notice when required under said statutory rules to be sent by 'registered post acknowledgement due', then, if notice was sent by 'registered post' only it will not be the compliance of said rules. However, if such provision was not provided by such statutory rules, then service of notice if by registered post only shall be deemed to be effected. **(2 marks)**

Furthermore, in similar case of *In United Commercial Bank v. Bhim Sain Makhija, AIR 1994 Del 181* : A notice when required under the statutory rules to be sent by 'registered post acknowledgement due' is instead sent by 'registered post' only, the protection of presumption regarding serving of notice under 'registered post' under this section of the Act neither tenable not based upon sound exposition of law. **(1 mark)**

Question 6 (5 Marks)

. **Harmony principal** : When there is doubt about the meaning of the words of a statute , these should be understood in the sense in which they **harmonies** with the subject of the enactment and the object which the legislature had in view. Their meaning is found not so much in a strictly grammatical or etymological property of language, not even in its popular use, as in the subject or in the occasion on which they are used and the object to be attained . **(1 mark)**

2.Applicability : Rule of Harmonious Construction is applicable only when there is a **real** and not merely apparent conflict between the provisions of an Act, and one of them has not been made subject to the other .However , when after having construed their context , the words are capable of only a single meaning , the Rule of Harmonious Construction disappears and is replaced by the Rule of Literal Construction . **(1 mark)**

3. Giving effect to all provisions :Where there are two more provisions in a Statute , which cannot be reconciled with each other , they should be so interpreted , wherever possible , as to give effect to all of them .This is known as the Rule of Harmonious Construction . **(1 mark)**

4.Integrated Whole : (2 marks)

(a) A Statute is passed as a whole and not in sections and it should it should be assumed to be governed by one general purpose and intent .The Court's duty is to give effect to all the parts of a statute , if possible .But this general principal is meant to guide the courts in furthering the intent of the legislature , not overriding it.

(b) The Section and Sub-section must be read as parts of an integral whole and being inter- dependent . Therefore, importance should not be attached to a single clause in one section overlooking the provisions of another section.

(c) It is impossible **to avoid inconsistency** ,the provision which was enacted or amended **later in point of time** must prevail.

Question 7 (5 Marks)

The term “**Ejusdem Generals**” means ‘**of the same kind or species**’. Where the Statute enumerates different subjects, general words following specific words are to be constructed and understood with reference to the words that precede them. Those general words are to be taken as applying to things of the same kind as the specific words previously mentioned, unless there is something to show that a wider sense was intended. **(1 mark)**

1. General Words following Specific Words: (1 ½ mark)

(a) Where specific words are used and after those specific words, some general words are used, the general words would take their colour from the specific words used earlier.

(b) **Examples:**

- “in consequence of war, disturbance or any other cause”, the words ‘any other cause’ would take colour from the earlier words ‘war’, ‘disturbance’ and therefore, would be limited to cause of the same kind as ‘war and disturbance’.
- Where an Act permits keeping of “dogs, cats, cows, buffaloes and other animals”, the expression ‘other animals’ would not include wild animals like lions and tigers, but would mean only domesticated animals like horse, etc.
- Where an Act prohibits import of ‘arms, ammunition, or gunpowder or any other goods’ the words ‘any other goods’ will refer to goods similar to ‘arms, ammunition or gunpowder’ **(AG vs. Brown)**

2. Coverage: If the particular words used exhaust the whole genus (category), then the general words are to be constructed as covering a larger genus (category). The Courts have a discretion whether to apply the ‘**ejusdem generis**’ doctrine in a particular case or not. **(1 mark)**

3. Different Nature of Words: (1 ½ mark)

(a) The general principle of ‘**ejusdem generis**’ applies only where the specific words are all the same nature. When the words are of different categories, then the meaning of the general words then would not take colour from the earlier specific words.

(b) Courts have a discretion whether to apply the **ejusdem generis**’ doctrine in particular case or not.

(c) **Example:** The ‘Just and Equitable’ clause in the winding-up powers of the Court has been held to be not restricted by the first situation in which the Court may wind up a Company.

Question 8 (8 Marks)

1)a) The Indian Contract Act, 1872 does not define the word ‘Agency’. However the word ‘Agent’ is defined “as a person employed to do any act for another or to represent another in dealings with third persons. The third person for whom the act is done or is so represented is called “Principal”. **(1 mark)**

1)b) **Salient features of agency (4 marks)**

Following are the four salient features of agency

(i) **Basis-**The basic essence of ‘agency’ is that the principal is bound by the acts of the agent and is answerable to third parties.

(ii) **Consideration not necessary-**Unlike other regular contracts, a contract of agency does not need consideration.

(iii) **Capacity to employ an agent-** A person who is competent to contract alone can employ an agent. In other words, a person in order to act as principal must be a major and of sound mind.

(iv) **Capacity to be an agent-**A person in order to be an agent must have authority to contract. In other words, an agent brings about a contractual relationship between the principal and third persons.

2) According to the provisions of Section 184 of the Indian Contract Act, 1872, as between the principal and a third person, any person, even a minor may become an agent. But no person who is not of the age of majority and of sound mind can become an agent, so as to be responsible to his principal. Thus, if a person who is not competent to contract is appointed as an agent, the principal is liable to the third party for the acts of the agent. Thus, in the given case, Dharmesh gets a good title to the watch . Mitesh is not liable to Ramesh for his negligence in the performance of his duties.(3 marks)

Question 10 (6 marks)

Bailee's Duties and Liabilities: The problem as asked in the question is based on the provisions of Section 163(4) of the Indian Contract Act, 1872. As per the section, "in the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, any increase or profit which may have accrued from the goods bailed." (3 marks)

Applying the provisions to the given case, the bonus shares are an increase on the shares pledged by B to M. So M is liable to return the shares along with the bonus shares and hence B the bailor, is entitled to them also. (3 marks)
