

Case I

22nd September

Case II

27th December

Determine time of supply in each of the aforesaid cases. [Study Mat][CA Final MTP Oct 23]

Answer:- Legal Provision:

- ⇒ As per **section 9(3)** of the CGST act 2017, if services are supplied by any person located in a non-taxable territory to any person **other than non-taxable online recipient**, GST is payable under reverse charge by the person located in the taxable territory.
- ⇒ As per **section 13(3)** of CGST Act 2017, the **time of supply of service taxable under reverse charge is earlier** of the following:-
 - a) **Date of payment** made by the recipient or
 - b) Date immediately following 60 days from date of issue of invoice by the supplier, in cases where invoice is required to be issued by the supplier or
 - c) Date of issue of invoice by the Recipient, in cases where invoice is to be issued by the recipient.

Discussion & Conclusion:

- ⇒ In the given case, business support services are provided by Green Inc (located in non-taxable territory) to Mint Ltd. (person other than non-taxable online recipient and located in taxable territory), tax is payable **under reverse charge by Mint Ltd.**
- ⇒ Thus, the time of supply in each of the given cases will be as under:

| Cases | Time of Supply |
|-------|--|
| I | <ul style="list-style-type: none"> ⇒ As Mint Ltd makes the payment within 60 days of the date of issue of invoice, ⇒ Thus, time of supply is the date of payment, i.e. 22nd September. |
| II | <ul style="list-style-type: none"> ⇒ As Mint Ltd. makes the payment after 60 days from the date of invoice, time of supply will be the date immediately following the said period of 60 days, i.e. 61st day. ⇒ Thus, time of supply is 18th October. |

CCP 05.05.15.00

Kothari Ltd., Mumbai, holds 51% of shares of Wilson Inc., a USA based company. Wilson Inc. provides business auxiliary services to Kothari Ltd. From the following details, determine the time of supply of service provided by Wilson Inc: [Study Mat][CA Final MTP Sep 23]

| | |
|--|----------------|
| Agreed consideration | US \$ 1,00,000 |
| Date on which invoice is issued by Wilson Inc | 16th June |
| Date on which invoice is issued by Wilson Inc | 19th August |
| Date of debit in the books of account of Kothari Ltd | 30th September |
| Date on which payment is made by Kothari Ltd. | 23rd December |

Answer:- Legal Provision:

- ⇒ As per **2nd proviso to section 13(3)** of CGST Act 2017, in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply is the **earlier of:**
 - Date of entry in the books of account of the recipient of supply or
 - Date of payment.

Discussion & Conclusion:

- ⇒ In the given case, Since Kothari Ltd. holds 51% shares of Wilson Inc., Kothari Ltd. and Wilson Inc. are 'associated enterprises' as per section 92A of the Income-tax Act, 1961.
- ⇒ Thus, **Time of supply is 30th September** (ie earlier of 30th September or 23rd December)