

GST TEST 3

(Time of Supply)

Time : 30 minutes Marks : 20

1. Renudhoot Ltd. enters into a contract with XYZ Ltd. on 2nd July 2022 for a period of 2 years for construction of a new building - to be used for commercial purposes - for a total consideration of ` 150 lakh. As per the terms of contract, Renduhoot Ltd. is required to make payment at different stages of completion of the building namely, 50%, 75% and 100%.

Determine the time of supply using relevant details given as under:

Stage	Date of various stages	Date of issuance of invoice	Date of payment	Amount paid (`)
Initial booking	02.07.2022	02.07.2022	02.07.2022	15 lakh
50% completion of building	15.03.2023	22.03.2023	29.03.2023	60 lakh
75% completion of building	20.06.2023	24.07.2023	23.07.2023	35 lakh
100% completion of building	30.09.2023	30.09.2023	20.09.2023	40 lakh

2. Mint Industries Ltd., a registered supplier, imports business support services from Green Inc. of USA on 13th August. The relevant invoice for \$ 1,20,000 is raised by Green Inc on 18th August. Mint Industries Ltd. makes the payment against the said invoice as follows:

Case I	22 nd September
Case II	27 th December

Determine time of supply in each of the aforesaid cases.

3. 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:

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

4. Basis the following information, determine the time of supply:

S. No.	Event	Date
(1)	Commencement of provision of service	05 th June
(2)	Completion of service	10 th October
(3)	Invoice issued	20 th October
(4)	Payment received by cheque and entered in the books	15 th October
(5)	Amount credited in Bank account	18 th October
(6)	Rate changed from 12% to 18%	16 th October

Note: Assume that all the days covered in the above case are working days.

GST TEST 3 SOLUTION

(Time of Supply)

1. As per section 13, the time of supply of services is the earlier of the dates arrived at by methods (A) and (B), as follows:
- (A) Date of invoice or date of receipt of payment (to the extent the invoice or payment covers the supply of services), whichever is earlier, if the invoice is issued within the time prescribed under section 31;
 - (B) Date of provision of service or date of receipt of payment (to the extent the payment covers the supply of services), whichever is earlier, if the invoice is not issued within the time prescribed under section 31

Since in the present case, the construction services are provided under a contract for a period exceeding three months with periodic payment obligations, such services would fall within the ambit of term "continuous supply of services" as defined under section 2(33).

As per section 31(5), in case of continuous supply of services, the invoice should be issued either (i) on/ before the due date of payment or (ii) before/at the time when the supplier of service receives the payment, if the due date of payment is not known (iii) on/ before the date of completion of the milestone event when the payment is linked to completion of an event [Section 31(5)].

Accordingly, the time of supply with respect to each of the stages of completion is as follows:

Stages of completion	Time of supply
Initial booking	Since invoice is issued within the prescribed time limit, earlier of the date of issue of invoice or date of receipt of payment is the time of supply. However, date of issuance of invoice (02.07.2022) and date of receipt of payment (02.07.2022) are the same. Therefore, time of supply is 02.07.2022.
50%	Since invoice has not been issued on or before the date of 50% completion, earlier of date of provision of service (15.03.2023) or date of receipt of payment (29.03.2023), i.e. 15.03.2023 is the time of supply.
75%	Since invoice has not been issued on or before the date of 75% completion, earlier of date of provision of service

	(20.06.2023) or date of receipt of payment (23.07.2023), i.e. 20.06.2023 is the time of supply.
100%	Since invoice is issued within the prescribed time limit, earlier of the date of issue of invoice (30.09.2023) or date of receipt of payment (20.09.2023), i.e. 20.09.2023 is the time of supply.

2. In case of services supplied by any person located in a non-taxable territory to any person other than non-taxable online recipient, tax is payable under reverse charge by the person located in the taxable territory [Notification No. 10/2017 IT (R) dated 28.06.2017]. Hence, in the given case, since the 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.

The time of supply of services taxable under reverse charge is the earlier of the following:

- Date of payment, or
- Date immediately following 60 days since issue of invoice (or any other document in lieu of invoice) by the supplier.

If it is not possible to determine the time of supply by using these parameters, then the time of supply will be the date of entry of the service in the books of account of the recipient of supply.

In view of the aforesaid provisions, the time of supply in each of the given cases will be as under:

CASE	Time of supply
CASE I	Since Mint Ltd makes the payment within 60 days of the date of issue of invoice, the time of supply is the date of payment, i.e. 22 nd September
CASE II	As Mint Ltd. makes the payment after 60 days from the date of invoice, time of supply is the date immediately following the said period of 60 days, i.e. 61 st day which is 18 th October.

3. 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. As per second proviso to section 13(3), in case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply is the earlier of the following two dates:

Date of entry in the books of account of the recipient of supply [which is Kothari Ltd. in the present case]	30 th September
OR	OR
Date of payment [by Kothari Ltd. in the present case]	23 rd December

Thus, time of supply is 30th September.

4. The explanation to section 14 lays down that the date of receipt of payment is 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 is the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.

In the given case, the payment has been credited in the bank account within 4 working days from the date of change in the rate of tax. Therefore, the date of receipt of payment is 15th October being the date of entry in the books of account of the supplier which is earlier than the date of credit of the payment in the bank account (18th October).

As per section 14(a)(iii), in case of change in rate of tax, if the service is supplied before the change in rate of tax and the invoice is issued after the change in rate of tax but the payment is received before such change in rate of tax, the time of supply is the date of receipt of payment.

Therefore, applying the provisions of section 14(a)(iii) to the given case, the time of supply is 15th October.