GST on transfer of used Capital Assets- A Brief

- Section 2(19) of CGST Act, Capital Goods means goods, the value of which is capitalized in the books of account of the person claiming the Input Tax Credit and which are used or intended to be used in the course of furtherance of business.
- If a registered person buys the Fixed Assets (other than Motor Vehicle) (pre or post GST) and taken Input Tax Credit, then GST shall be paid according to section 18(6) of the Act. GST payable should be calculated on the basis of useful life of assets according to Rule 44(1).
- For Example, M/s. ABC purchase Machinery A for Rs. 500000/- as on 01/04/2018 with GST credit of Rs.90000/-. Machine was sold in the month of Sept-2020 for Rs.100000/- & GST Rs.18000/-. Machine's useful life according to GST rule is 60 months and machine used for 30 months. Unused period is 30 months. Tax on pro rata basis =45000/- (90000/60*30). Rs.18000/- or Rs.45000/-, higher amount will be paid. Hence invoice for Rs.250000/- should be made to come out 18% is 45000/-. This was to be paid as tax invoice and effect to be given in GSTR-1 & GSTR-3B. There was no reversal of ITC.
- If a registered person buys the Fixed Assets in Pre-GST regime and has not availed input tax credit because the assets was used for supply of exempted goods. When such supplier sells the assets, it is Chargeable to GST as the assets itself are not exempted goods.
- If a registered person sells used Motor Vehicle rate of Tax on used Motor Vehicle to be charges as per Notification No. 08/2018 – Central Tax (Rate) dated 25/01/2018. The condition is that the ITC has not been availed at the time of purchase of such Motor Vehicle.
- If the Motor Vehicle has been purchased Post-GST regime & if the depreciation has been claimed on such vehicle then transaction value that represents the margin of the supplier shall be the difference between the consideration received for supply of such goods and the depreciated value of such goods on the date of supply. For Example, if W.D.V. as on 31/03/2020 for motor vehicle is Rs.200000/- & sold for Rs.250000/- than margin (difference between w.d.v. and sales value) is liable to Tax i.e., Rs.50000/- (250000-200000).
- If the depreciation is not claimed by the person on such vehicle then the value that represents the margin of supplier shall be, the difference between the selling price and the purchase price. For Example, MV is purchase for Rs.500000/- & sold for Rs.250000/- than margin (difference between purchase price and sales value) is liable to Tax i.e., Rs.250000/- (500000-250000).
- If the margin in the above stated both cases is negative, then it shall be ignored. Meaning thereby that the transaction value of such vehicle shall be zero.
- If the Motor Vehicle has been purchased Pre-GST regime, the method of calculating GST will not differ if the purchase has not availed input tax credit in

pre-GST regime also. Rate of Tax on used Motor Vehicle to be charges as per Notification No. 08/2018 – Central Tax (Rate) dated 25/01/2018.

Engine Capacity	Length	GST Rate
More than 1200 CC	4000 mm or more	18%
More than 1500 CC	4000 mm or more	18%
More than 1500 CC	Popularly Known as SUV	18%

Remaining all other Vehicles other than mention in above three 12%

- An unregistered person can sell old assets without charging GST. A person is liable for registration if his aggregate turnover (including sales of old assets) exceeds turnover specified u/s 22 of CGST Act.
- In case a composition dealer sells used Fixed Assets, Section 7(1)(a) of the Act says "Supply" includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Hence, GST charged on assets sold shall be the rate equal to the composition levy being paid on his regular supply.
- In case of supply of Second Hand Goods by a person dealing in purchase and sales of second hand goods, taxable value for supply of second hand goods shall be the margin value i.e., difference between the selling price and the purchase price and where the margin value of such supply is negative, it shall be ignored.
- To avail this margin value scheme the following conditions should be fulfilled.
    - The supplier should be registered under GST.
    - The supply of goods shall be sold as such as it were purchased or after minor processing which does not change the nature of goods and
    - Where no input tax credit has been availed on the purchase of such goods.
- As per Section 15 when transaction between two unrelated parties and price is sole consideration then transaction value will be treated as value of supply. If assets given as gift, then one has to go for valuation as per valuation rules.
- In case of Damage/Lost Assets, Theft, etc. no transaction has taken place, therefore no transaction value is there so Tax cannot be determined. Therefore, amount as determined as per rule 44(6) will have to be paid as output tax liability.