Capital goods and its Credit under GST :

GST is a tax on the supply of goods or services or both. The registered person who is engaged in taxable supply or export of goods or services or both can avail eligible input tax credit on goods or services or both used in the course or furtherance of business.

Input tax credit can be availed on inputs, input services, and capital goods. In this article, the paper writer has examined the concept of capital goods and relevant aspects for same under GST.

THE CONCEPT OF CAPITAL GOODS:

In GST law, the term "capital goods" has been defined. Capital goods mean 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 or furtherance of business.

Therefore, under GST, in order to consider a good as capital good, the following should be satisfied:

a. It should be Goods: Goods is defined to cover moveable property other than money, shares etc [land and building are not goods];
b. When the benefit [Good capitalized in the books of accounts] from the goods can be received for more than a year; and
c. Used in the course of business: That is, the capital good is used in connection or in relation to the business.

Under Cenvat Credit Rules, capital goods were defined to cover specified goods which were covered in specific Chapter headings of Central Excise Tariff, such as plant and machinery of chapter 84, electrical appliances of Chapter 85. Similarly, in VAT laws, including in Karnataka VAT, Capital goods meant a plant, including cold storage and similar plant, machinery, goods vehicles, equipment, moulds, tools, and jigs.

Under GST , the scope of the capital goods has been widened to cover any kind of goods which are capitalized in the books of accounts.

Unlike under pre-GST regime, where the credit of capital goods was required to be availed in two parts [50% in the first year and the other 50% later], the credit of capital goods can be availed entirely, at the time when it is procured under GST.

Points to be taken care while availing the credit of capital goods:

1. In GST, the credit can be availed on the capital goods provided the depreciation of tax component is not claimed. A similar provision was there in Cenvat credit rules.

2. ITC of capital goods can be availed fully if the capital goods are used only for the supply of taxable goods or services (including export).

3. ITC of capital goods cannot be availed fully if the capital goods are used only for manufacturing or selling or providing exempt goods or services or used for personal purposes.

4. If the capital goods are used partly for taxable supplies and partly for exempted supplies, then the credit of the capital goods related to the particular month should be reversed which is attributable to exempt supplies on a proportionate turnover basis.

The useful life of the capital good is deemed to be 5 years for this purpose. Therefore, the credit attributable to a particular month would be the total ITC availed of the particular capital goods divided by 60 months (5 years) and the credit attributable to exempt supplies should be reversed proportionate to exempt turnover of the month.

$$\text{Credit attributable to a particular month}\{Tm\} = \frac{\text{Total ITC availed on the Capital goods}}{60}$$

$$\text{Credit attributable to exempt supplies }\{Te\}=Te^{*}\ \frac{\text{Exempt turnover in the month}}{\text{Aggregate turnover of the month}}$$

Therefore, the Te amount should be reversed along with interest.

5. ITC of the capital goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples, or used for personal consumption cannot be availed.

6. ITC of the capital goods held on stock on the day before taking registration under GST cannot be availed.

Eligibility of credit of certain particular Capital goods under GST:

7. Works contract services and construction services: The goods/ services used for the construction of buildings for business purposes including works contract services are restricted if such buildings are capitalized in the books of accounts [for example renting/ leasing of buildings].

8. **Plant and machinery**: However, plant and machinery are excluded from construction and works contract services in the case of eligibility of credit. It is defined as apparatus, equipment, and machinery fixed to earth by foundation or structural support and includes such foundation and structural supports. However, it excludes land, building or any other civil structures; telecommunication towers; and pipelines laid outside the factory premises. The credit of plant and machinery would be available if

a. Depreciation on the tax component of such plant and machinery is not claimed in the Income Tax act; and

b. Such plant and machinery are used in effecting taxable supplies in the course or furtherance of business.

9. **Motor vehicles**: The credit of cars, bikes, etc., has been restricted under GST. However, ITC of motor vehicles for transportation of persons having approved seating capacity of more than 13 persons (including the driver) can be availed. For example, The ITC of the buses or vans used for the conveyance of employees of a company for official purposes can be availed, as the seating capacity is more than 13.

10. In cases, where the seating capacity is 13 persons or less, then the credit would be available only when such vehicles are used for,

Supply of motor vehicles: That is, a car dealer can avail the credit of all the motor vehicles which he buys and sells in the course of business;

Supply of passenger transportation service: A person engaged in supplying transportation services to passengers [auto rickshaws, cabs] can avail the credit of motor vehicles which he uses to provide such services;

Imparting training services on driving such motor vehicles: A car driving trainer or instructor can avail the credit of cars in which he trains people; or

Transportation of goods: It should be noted that the credit would be available even if such vehicles [lorries, tempos etc] are used to only transport goods from the factory to factory outlets. In this case, it is not essential that such vehicles should be used for supplying goods transportation services.

11. **Vessels and Aircraft**: Similarly, the credit of vessels and aircraft would be available only if they are used for:

a. Supply of such vessels or aircraft;

b. Transportation of passengers: For example, Air travel services;

c. Imparting training on navigating such vessels or flying such aircraft; or

d. Transportation of goods.

12. **Eligibility of ITC in case of few common capital goods are as follows**:

Sl	Capital Goods	Eligible for ITC Yes/No	Remarks
1	Airconditioner, Electrical Fittings, Bulbs, CCTV etc	Yes	If used in the business premises, like office or factories etc If capitalized to Building in the books of account, then credit is restricted
2	UPS, Generator, Transformer etc	Yes	If used in the business premises, like office or factories etc

3	Furniture etc	Yes	If used in the business premises, like office or factories etc
4	Computer and related machines like Printers, scanners etc	Yes	If used in the business premises, like office or factories etc
5	Plant and Machinery	Yes	If used in the supplies of Taxable goods and services
6	Software	Yes	If used for official purposes
7	Goods for construction of buildings	No	If capitalized to Buildings in the books of Account

Miscellaneous:

13. A composition dealer and a non-resident taxable person cannot avail credit of capital goods. However, a non-resident taxable person can avail the credit of tax paid on the import of such capital goods.

14. In the case of a composition dealer converting to the regular registered person or when the exempted goods become taxable, for which the capital goods are used, ITC of capital goods held on the preceding day to such conversion or change in rate can be availed. Full credit cannot be availed. The ITC should be reduced at 5% per quarter (or part thereof) from the invoice date till the date of conversion or change in rate.

Example: Machine A was used in the manufacture of journals, which is exempted under GST. Therefore, if the journals are made taxable, then credit reduced by 5% of ITC per quarter can be availed.

[Note: Useful life a capital asset is deemed to be 5 years under GST].

15. If a person registered under GST under the regular scheme, gets converted to composition scheme, or the goods or services for which the capital goods are being used, become exempt, ITC of the capital goods is not eligible. Therefore, the credit should be reversed.

Full ITC should not be reversed. Credit attributable to the remaining part of the useful life should be reversed.

[Note: Useful life a capital asset is deemed to be 5 years under GST].

Issues:

Whether GST to be paid when the capital goods on which ITC was availed is destroyed ?

Ans. No, ITC should be reversed as it is restricted u/s 17(5).

Whether the ITC of capital goods used for exports can be availed?

Ans. Yes, the credit on capital goods attributed to exports of goods/export of services can be availed.

Conclusion The credit can be availed on the goods, which are capitalized in books of account, to the extent used for making taxable supplies of goods/ services. Even when the goods such as computer/ UPS/ office furniture tables is not capitalized in books, the input tax credit of same may still be availed by treating it as inputs, provided it is used in course of business of making taxable supplies.

5 E Way Bill Changes from 16th November 2018

The changes, which will improve the e-way bill experience for businesses and transporters alike, are to go live from 16thNovember, 2018.

Checking for Duplicate E-way bills based on same Invoice number

Earlier, the e-way bill system was not equipped to check for duplicates based on the invoice number. Thus, if multiple e-way bills were generated against the same invoice number, either by intention or accident, the system was allowing that to happen, resulting in problems. But as per the e way bill changes from 16th November 2018, the system will not allow the consignor or the supplier to generate duplicate e-way bills. The system will check for duplicates based on the consignor's GSTIN, document type and document number.

Thus, if one e-way bill has already been generated against one invoice, no additional e-way bills against the same invoice will be allowed. The same will hold true for transporters and consignees as well – they too will not be allowed to raise e-way bills, if the e-way bill has already been generated by the consignor against a particular invoice.

Even if the transporter or consignee has generated one e-way bill against the consignor's invoice, and any other party tries to generate the e-way bill, the system will immediately alert the user that one e-way bill is already present against that invoice.

Options for CKD, SKD and Lots

As per the latest e way bill changes, the options for "CKD" (Completely Knocked Down), "SKD" (Semi Knocked Down) and "Lots" for the "Supply Type" field will come in to play, which is particularly useful, whenever big consignments are broken down and moved in batches. The same also applies for export and import consignments, where a single consignment may be too big to be moved from supplier to recipient.

Handling Addresses for Export & Import Consignments

For export consignments:

- "Bill To" party will be "URP" (Unregistered Person) or GSTIN of SEZ unit with "State" as "Other Country"
- Shipping Address and PIN Code will be of the location (airport / shipping yard / border check post) from where the consignment is moving out from the country

For import consignments:

- "Bill From" party will be "URP" (Unregistered Person) or GSTIN of SEZ unit with "State" as "Other Country"
- Dispatching Address and PIN Code will be of the location (airport / shipping yard / border check post) from where the consignment is entering the country.

Handling Bill to – Ship to Transactions

From 16th November 2018, the e-way bill portal will be fully equipped to handle all "Bill To – Ship To" transactions. Such transactions are primarily of 4 types, depending upon the number of parties involved in the billing and movement of goods. The types are as follows:

- **Type 1 – Regular:** This is a regular or normal transaction, where billing and movement of goods is happening directly between two parties – consignor and consignee.
- **Type 2 – Bill To – Ship To**: In this type of transaction, three parties are involved. Billing takes places between consignor and consignee, but the goods move from consignor to the third party as per the request of the consignee.
- **Type 3 – Bill From – Dispatch From**: In this type of transaction also, three parties are involved. Billing takes places between consignor and consignee, but the goods are moved by the consignor from the third party to the consignee.
- **Type 4 – Combination of both**: This is the combination of Type 2 and Type 3 and involves a total of four parties. Billing takes places between consignor and consignee, but the goods are moved by the consignor from the third party to the fourth party, as per the consignee's request.

IMPORTANT ANNOUNCEMENTS :

A. ***Extension in the time limit for furnishing FORM GST ITC-04 for the period- July, 2017 to September, 2018***

Central Government vide Notification No. 59/2018- Central Tax dated 26th October, 2018 *extended the time limit for furnishing the declaration in FORM GST ITC-04* in respect of goods/ capital goods dispatched to a job worker or received from a job worker or sent from one job worker to another, during the period from July, 2017 to September, 2018 *till the 31st day of December,*

B. ***Due date of TRAN-1 and TRAN-2 is extended for certain taxpayers who could not complete filing due to tech glitch,*** *to 31st March 2019 and 30th April 2019 respectively.*

C. ***Reverse Charge Mechanism*** *(in case of supplies made by unregistered persons to registered persons), under GST deferred till* ***30th Sept 2019.***

D. ***Latest Update as on 8th December 2018:*** *Due date for filing GSTR-9, GSTR-9A and GSTR-9C is extended till 31st March 2019 by CBIC for FY 2017-18*