

From	Karvy Data Management Services Ltd.
Date	April 30,2018
Subject	Applicability of GST on sale or disposal of old & used motor vehicle
Category	Notification
Reference	Notification No. 01/2017 Central Tax (Rate), dated 28-06-2017; 8/2018-CT (Rate) dated 25-01-2018 and 1/2018-Compensation Cess (Rate) dated 25-01-2018
Series	Karvy/GST/69

Since the implementation of GST, numerous representations have been made by the taxpayers on the applicability of GST on the supply of used / second hand motor vehicle in GST regime.

We have summarized relevant provisions dealing with the applicability of GST on supply of used / second hand motor vehicle which is enumerated as below:

Rate of tax applicable on supply of motor vehicle falling under tariff head 8703 in Schedule IV was notified vide Notification No. 01/2017 Central Tax (Rate), dated 28th June 2017 @ 28%.

Further Notification No. 8/2018-CT (Rate) dated 25th Jan 2018 was issued by Central Board of Indirect Tax and Customs clarifying the rates applicable on supply of used/second motor vehicle. Clarification on the transaction value of such used and old motor vehicle was also provided in the said notification. Below mentioned is the gist of notification no. 8/2018-CT (Rate) dated 25th Jan 2018:

A taxpayer on account of supply of old & used motor vehicle shall pay tax at an applicable rate as provided in Table-A below on the value that represent margin of the supplier of such motor vehicle. The value that represent margin of the supplier has been further classified into two categories of taxpayers:

- Supply made by a registered person who has claimed depreciation under Sec. 32 of Income Tax Act 1961 on the said motor vehicle:** The 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, and where the margin of such supply is negative, it shall be ignored.
- Supply made by a registered person in all other cases:** The value that represents the margin of supplier shall be, the difference between the selling price and the purchase price and where such margin is negative, it shall be ignored.

Conditions: The above provision on determining the value that represent margin of the supplier shall apply only when the supplier of such old and used motor vehicle has NOT availed Input Tax Credit under GST regime, CENVAT Credit under CENVAT Credit Rules 2004 and VAT or any other taxes under State Sales Tax Law.

Particulars	Scenario-I	Scenario-II
Supplier Type	Business Entity	Dealer of old & used motor vehicle
GST Registration Status	Registered	Registered
Status on claiming of depreciation	Depreciation Claimed	Depreciation not claimed
Status on availment of ITC / CENVAT Credit / VAT	ITC not claimed	ITC not claimed
Margin value of the supplier	Consideration received - Depreciated value of the goods on the date of supply	Selling Price of the goods - Purchase Price of the goods
Applicability of GST	(i) Margin Value = Positive, GST will be applicable at the prescribed rate in Table-A	(i) Margin Value = Positive, GST will be applicable at the prescribed rate in Table-A
	(ii) Margin Value= Negative, GST will not be applicable	(ii) Margin Value= Negative, GST will not be applicable

Table-A

Sl. No.	Tariff Head	Description of Goods	Rate
1	8703	Old and used, petrol Liquefied petroleum gases (LPG) or compressed natural gas (CNG) driven motor vehicles of engine capacity of 1200 cc or more and of length of 4000 mm or more.	18%
		Explanation. - For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	
2	8703	Old and used, diesel driven motor vehicles of engine capacity of 1500 cc or more and of length of 4000 mm	18%
		Explanation. - For the purposes of this entry, the specification of the motor vehicle shall be determined as per the Motor Vehicles Act, 1988 (59 of 1988) and the rules made there under.	
3	8703	Old and used motor vehicles of engine capacity exceeding 1500 cc, popularly known as Sports Utility Vehicles (SUVs) including utility vehicles.	18%
		Explanation. - For the purposes of this entry, SUV includes a motor vehicle of length exceeding 4000 mm and having ground clearance of 170 mm. and above.	
4	87	All Old and used Vehicles other than those mentioned from Sl. No. 1 to Sl. No. 3	12%

Applicability of Compensation Cess on supply of all old and used motor vehicle: Compensation Cess on account of such supply falling under tariff head 8703 is NIL subject to the condition that supplier has **NOT** availed Input Tax Credit under GST regime, CENVAT Credit under CENVAT Credit Rules 2004 and VAT or any other taxes under State Sales Tax Law. This was notified by CBIC vide notification no. 1/2018-Compensation Cess (Rate) dated 25th Jan 2018.

Link to access notification no. 01/2017 Central Tax (Rate), dated 28-06-2017: <http://www.cbec.gov.in/resources//htdocs-cbec/gst/Notification-for-CGST-rate-Schedule.pdf>

Link to access notification no. 8/2018-CT (Rate), dated 25th Jan 2018: <http://www.cbec.gov.in/resources//htdocs-cbec/gst/notfctn-08-2018-cgst-rate-english.pdf;jsessionid=667F950534748994AC77AD46FEE353E0>

Link to access notification no. 1/2018-Compensation Cess (Rate) dated 25th Jan 2018: http://www.cbec.gov.in/resources//htdocs-cbec/gst/Compensation_Cess01_2018_rate_eng.pdf

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In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi, Chennai, Pune and Kolkata. For more information about KDMSL service offerings, visit www.karvygst.com

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