



THE CHAMBER OF TAX CONSULTANTS

3, Rewa Chambers, Ground Floor, 31, New Marine Lines, Mumbai - 400 020

●Tel.: 2200 1787 / 2209 0423 / 2200 2455 ●E-mail: office@ctconline.org

●Website: www.ctconline.org

Provisions of E way Bills in GST Laws

By CA Janak Vaghani

1. Introduction:

Both Central and State Governments have implemented GST from 1st July 2017 in place of excise, service, vat etc. The GST is said to be One Nation One Tax. GST is payable almost on every transaction with fewer exemptions across India at same rate there is no benefit for moving trade and industry in other States It was also expected since IGST is levied on every inter-State supply the check post and e way bill provisions contained in various State vat Laws would be abolished. However, to the surprise of trade and industry, the both State and Central GST laws provide for way bills and detention, seizure and release of goods and conveyance in transit and confiscation thereof. The e way bill is implemented all over India. The State of Maharashtra has decided to implement e way bill for intra State movement of goods from 25th May 2018 vide notification No. JC(HQ)-1/GST/2018/Noti/1/E-way Bill/ADM-8. dated the 7th May 2018. In this note the provisions of E way bills are discussed.

2. Inspection of Goods in Movement

Under Section 68 the Government may require; -

- i) the person in charge
- ii) of a conveyance carrying any consignment of goods
- iii) of value exceeding such amount as may be specified
- iv) to carry with him such documents and such devices
- v) as may be prescribed.

Under the section obligation is cast on the person in charge of conveyance carrying goods to carry prescribed documents. He may be the supplier or recipient or third person. He has to suffer penal action for any non-compliances like confiscation of the goods not only that but detention of vehicles. Therefore, all such persons must take due care while undertaking movement of goods to see that proper documents required are furnished by the concerned persons.

3. Information to be Furnished Prior to Movement of Goods, (Rule.138(1))

2.1 Rule 138(1) provides for furnishing of information prior to commencement of movement of goods electronically on common portal. Accordingly, every registered person, who causes movement of goods of consignment value exceeding fifty thousand rupees; -

i) in relation to a supply; or

ii) for reasons other than supply; or

iii) due to inward supply from an unregistered person,

shall, before commencement of movement of a goods, furnish information in **Part A of Form GST EWB-01** along with other information as may be required.

This information is to be furnished electronically before the commencement movement of goods.

4. Persons Responsible for Furnishing Information.

i) The primary responsibility to furnish information electronically is upon registered person who causes movement of goods. He may be the supplier of goods or recipient of goods or any other person.

ii) The transporter upon authorization received from the registered person may furnish the information.

In case of movement of goods by unregistered person the said unregistered person or transporter at their option may generate E way bill (Sub rule (3) Second Proviso).

iv) E commerce operator or a courier agent when goods are supplied through them upon authorization received from the registered person,

v) Principal or Job worker when goods are supplied inter State. E way bill is mandatory irrespective of value of consignment value,

vi) Supplier of handicraft goods who is exempted from registration for inter State movement whether registered or not.

5. Movement of Goods.

The E way bill is required to be generated for any movement of goods. Movement of goods may be for supply or non-supply. Each supply of goods may not require E way bill. However, each movement of goods may require E way bill. For this, the purpose of movement of goods is not to be seen. The E way bill is required for transporting goods whether in his own conveyance or hired one.

Where the goods are transported by railways or by air or vessel, the e-way bill shall be generated by the registered person, being the supplier or the recipient.

He shall, either before or after the commencement of movement, furnish, on the common portal, the information in Part B of FORM GST EWB-01. However, the railways shall not deliver the goods unless the e-way bill required under these rules is produced at the time of delivery-(Sub Rule (2A)).

7. Multiple Consignment of Goods-(Sub Rules (6 and 7)).

Sub rule (6) Provides for generation of consolidated E way Bill where multiple consignments are intended to be transported in one conveyance. In such case the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in FORM GST EWB-02 may be generated by him prior to the movement of goods. However, sub rule (7) requiring transporter to generate E way Bill for multiple consignment of goods having value less than 50000/- in single conveyance is not brought in force by notification dated 31st March 2018.

Therefore, in such case it is not mandatory for transporter to generate E way bill as well as consolidated E way Bill.

8. Transfer of Conveyance-(Sub Rule (5)).

Sub rule (5) provides for up dation of details of change in conveyance in part B of E Way Bill. Accordingly, Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A of the FORM GST EWB-01, or the transporter shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill. However, where the goods are transported for a distance up to fifty kilometers within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of the conveyance may not be updated in the e-way bill.

9. Assignment of E Way Bill Number-(Sub Rule (5A)).

The consignor or the recipient, who has furnished the information in Part A of FORM GST EWB-01, or the transporter, may assign the e-way bill number to another registered or enrolled transporter for updating the information in Part B of FORM GST EWB-01 for further movement of the consignment.

However, after the details of the conveyance have been updated by the transporter the person who has furnished the information can not assign the e-way bill number to another transporter.

10. Consignment Value.

E way bill is required for movement of goods having consignment value exceeding 50000. Explanation 2 to sub rule (1) defines the term consignment value. Accordingly, the consignment value of goods shall be the value,

- i) determined in accordance with the provisions of section 15,
- ii) declared in an invoice, a bill of supply or a delivery challan, as the case may be,
- iii) issued in respect of the said consignment, and
- iv) also includes the central tax, State or Union territory tax, integrated tax and cess charged, if any,
- v) in the document and
- vi) shall exclude the value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of goods.

It is clarified by department that in case of supply of goods for providing services the consignment value shall be the value of goods. Like wise for movement of goods for non-supply the value of goods as per section 15 is to be taken.

11. Exemptions from Generation of E way Bill.

No E way bill is required in following cases- (Sub rule (14)):-

- (a) where the goods being transported are specified in Annexure ;
- (b) where the goods are being transported by a non-motorised conveyance;
- (c) where the goods are being transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
- (d) in respect of movement of such goods and within such areas in the State and for values not exceeding such amount as the Commissioner of State Tax, may be specified. Till date not such notification issued in the State of Maharashtra;
- (e) Tax free goods, other than de-oiled cake, specified in the Schedule appended to Finance Department Notification No. MGST. 1017/C.R.- 103 (1) /Taxation-1, [No. 2/2017- State Tax (Rate)], dated the 29th June 2017, published in the

Maharashtra Government Gazette, Extra-ordinary, Part IV-B No. 182, dated the 29th June 2017 as amended from time to time;

f) Non GST Goods like alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel ;

(g) where the supply of goods being transported is treated as no supply under Schedule III of the Act ;

(h) where the goods are being transported under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port, or under customs supervision or under customs seal;

(i) where the goods being transported are transit cargo from or to Nepal or Bhutan;

(j) where the goods being transported are exempt from tax under Finance Department Notification No. MGST. 1017/C.R.-103 (6) /Taxation-1, [No. 7/2017- State Tax (Rate)], dated the 29th June 2017, published in the Maharashtra Government Gazette, Extra-ordinary, Part IV-B No. 182, dated the 29th June 2017, as amended from time to time and Finance Department Notification No. MGST. 1017/C.R.-167/Taxation-1, [No. 26/2017- State Tax (Rate)], dated the 25th September 2017, published in the Maharashtra Government Gazette, Extra-ordinary Part IV-B No. 299, dated the 25th September 2017, as amended from time to time ;

(k) any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee ;

(l) where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail ;

(m) where empty cargo containers are being transported; and

(n) where the goods are being transported up to twenty kilometers from the place of the business of the consignor to a weighbridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

Further no E way bill is required in following cases under other sub rules; -

- i) For movement of goods not exceeding 50000.(138(1)).
- ii) where the goods are transported for up to fifty kilometers within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the recipient, or as the case may be, the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01. (Third Proviso to Sub rule (3)).
- iii) Where the aggregate of the consignment value of goods carried in the conveyance is more than fifty thousand rupees transporter is not required to generate E way bill. (Sub rule (7) is not brought in force).

12. Furnishing of Details of E way Bill and Its Acceptance or Rejection-(Sub Rules (11and 12)).

Sub-rule (11) provides that the details of the e-way bill generated rule shall be made available to the supplier, if registered, where the information in Part A of FORM GST EWB- 01 has been furnished by the recipient or the transporter or to recipient, if registered, where the information in Part A of FORM GST EWB- 01 has been furnished by the supplier or the transporter on the common portal and the supplier or the recipient, as the case may be, shall communicate his acceptance or rejection. Sub rule (12) provides that if it is not accepted or rejected within 72 hours of the intimation or the time of delivery of goods whichever is earlier it is deemed to have been accepted.

13. Cancellation of E-way Bill-(Sub Rule (9)).

The E Way Bill can be cancelled where the goods are either not transported or are not transported as per the details furnished in the e-way bill, electronically on the common portal within twenty-four hours of generation of the e-way bill. However, it cannot be cancelled if it has been verified in transit.

14. Validity of E Way-Bill-(Sub Rule (10)).

The validity of E way bill is as under;-

Table

Sr. No.	Distance	Validity Period
1.	Less than 100 km.	One day other than over

		Dimensional Cargo
2.	For every 100 km or part thereof thereafter	One additional day other than Over Dimensional Cargo
3.	Up to 20 km. For every 20 km. or part thereof there after One additional day in case of Over Dimension	One day in case of Over Dimensional Cargo
4.	For every 20 km or part thereof thereafter	One additional day in case of Over Dimensional Cargo
5.		

The commissioner, upon recommendation of council may extend the validity of e-way bill by notification for certain categories of goods as may be specified therein.

further that, where, under circumstances of an exceptional nature, including trans-shipment, the goods cannot be transported within the validity period of the e-way bill, the transporter may extend the validity period after updating the details in Part B of FORM GST EWB-01, if required.

The relevant date is defined by way of Explanation-1 to the said sub rule to mean the date on which the e-way bill has been generated and the period of validity shall be counted from the time at which the e-way bill has been generated and each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-way bill.

Explanation 2 provides definition of Over Dimensional Cargo mean a cargo carried as a single indivisible unit and which exceeds the dimensional limits prescribed in rule 93 of the Central Motor Vehicle Rules, 1989, made under the Motor Vehicles Act, 1988 (59 of 1988).

11. Documents and Devices To Be Carried by The In charge Person-(Rule 138A).

11.1. Rule 138A (1) provides for carrying of following documents and devices by the person in charge of a conveyance;-

- a) The invoice or bill of supply or delivery challan, as the case may be,
- b) A copy of E-way bill or E way bill number either physically or mapped to a Radio Frequency Identification Device (RFID) embedded on to the conveyance in such manner as may be notified by the Commissioner. The Commissioner may by notification require the transporter to get the said device embedded on to the conveyance and map the e-way bill to the RFID before movement of goods.

However, the provisions of clause (b) does not apply when goods are moved by rail air or vessel.

11.2 A registered person may obtain an Invoice Reference Number by up loading a tax invoice issued by him in **Form GST-INV-1** and produce the same for verification by the proper officer in lieu of the tax invoice. Such number shall be valid for a period of thirty days from the date of uploading. When registered person up loads the invoice, the information in **Part A of EWB -01** shall be auto populated on the basis of the information furnished in **Form GST INV-1**.

11.3The commissioner may by notification require the person in charge of conveyance to carry the following documents instead of e-way bill following documents;-

- a) tax invoice, or bill of supply or bill of entry; or
- b) a delivery challan, where the goods are transported other than by way of supply.

12. Verification of Documents and Conveyance-(Rule 138B).

Under rule 138B, the Commissioner or an authorized proper officer intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all intra or inter-State movement of goods. The Commissioner shall get RFID readers installed at a place where the verification of movement of goods is carried out and it shall be verified through such RFID readers where the e-way bills are mapped with RFID. However, where any information is received for tax evasion then the authorized proper officer after obtaining prior approval can carry physical verification of any specific conveyance.

13. Inspection and Verification of Goods-(Rule 138C).

The proper officer shall prepare summary report of every inspection of goods in transit and it shall be recorded on line in **Part A of Form GST EWB-03** within twenty-four hours of inspection and final report in **Part B of Form GST EWB-03** shall be recorded within three days of the inspection. It is also provided that where the physical verification of goods being transported is done at one place within the State or any other State no further verification of the said conveyance shall be carried out again in the State unless specific information relating to evasion of tax is made available subsequently.

14. Facility of Uploading of Information of Detention of Vehicle(-Rule 138D).

It is the policy of the Government not to detain any vehicle for more than 30 minutes. Therefore, a provision is made for uploading details by transporter of information of detention of vehicle for more than 30 minutes in **Form GST EWB -04**.

15. Conclusion.

It seems that an honest attempt is being made to check evasion of tax at the same time minimum interception is proposed. In most cases the checking will be made electronic basis as far as possible. In GST the thrust of the government is e process and e checking which is an ideal and desirable situation to check and control human intervention and allow free flow of movement of goods.

Harsh provisions are made for confiscation and detention of goods including perishable goods as well as vehicles and release of goods upon payment of tax with penalty.

It would have been desirable at the initial stage the e way bill provisions are made applicable to tax evasion prone goods and thereafter made applicable to other goods. The trade, transporters and industry must be given breathing time to adjust and adapt the new provisions of GST law and e environment.