

PRESENTATION ON E-WAY BILL AND INTERCEPTION  
WITH PROCEDURES UNDER GST LAWS  
FOR  
WORKSHOP  
HELD  
JOINTLY BY  
GSTPAM,BCAS,CTC,AIFTP,MCTC AND WIRC OF ICAI  
ON  
7<sup>TH</sup> FEBRUARY, 2019

**CA MAYUR PAREKH**  
**MAYUR PAREKH & ASSOCIATES**

# **ELECTRONIC WAY BILLS (E-WAY BILLS)**

## **(SECTION 68 READ WITH RULE 138)**

### **What is an e-way bill?**

- ❑ E-way bill is an electronic way bill for movement of goods which can be generated on the **GSTN** (common portal). A 'movement' of goods of more than Rs 50,000 in value cannot be made by a registered person without an e-way bill.

### **Threshold Limit**

- If the Invoice value exceeds Rs.50,000 (Invoice value includes Taxes and Cess)
- For Maharashtra for Intra State Limit is Rs. 1 Lac.
- If the sale of goods for taxable and exempt is together then Exclude value of exempt supplies , Nil rated supplies and Non taxable supplies from Invoice value.

# Effective date of applicability of E-Way Bill

	Effective date
<b>Inter-state movement of Goods</b>	
For all the states and union territories	<b>1<sup>st</sup> April,2018</b>
<b>Intra-state movement of goods</b>	
For Andhra Pradesh, Gujarat, Kerala, Telangana and Uttar Pradesh	<b>15<sup>th</sup> April,2018</b>
For Bihar, Haryana, Himachal Pradesh, Jharkhand, Tripura and Uttarakhand	<b>20<sup>th</sup> April,2018</b>
For Arunachal Pradesh, Madhya Pradesh, Meghalaya, Pondicherry and Sikkim	<b>25<sup>th</sup> April,2018</b>
For Nagaland	<b>1<sup>st</sup> May,2018</b>
For Rajasthan	<b>20<sup>th</sup> May,2018</b>
<b>For Maharashtra</b> , Andaman & Nicobar, Chandigarh, Dadara & Nagar Haveli , Daman & Diu, Lakshadweep and Manipur	<b>25<sup>th</sup> May, 2018</b>
For Chhattisgarh, Goa, Jammu & Kashmir, Odisha, Punjab and Mizoram	<b>1<sup>st</sup> June, 2018</b>
For Delhi	<b>16<sup>th</sup>June, 2018</b>

## PORTAL

- **Portal** for issuing E-way bill - [www.ewaybillgst.gov.in](http://www.ewaybillgst.gov.in) was already introduced from 01st February, 2018

### **What are the objectives of e-way bill?**

- ❑ **Single e-Way Bill** for movement of the goods throughout the country.
- **To prevent the evasion of tax.**
- **Hassle free movement of goods across India.**
- **Tracking the movement of goods with e-Way Bill number.**
- **Easier verification of the e-Way Bill by officers with previous verification records.**

## What are the benefits of e-way bill?

1. The traders need not visit tax offices to collect and submit the Way Bill forms as used to be done in VAT regimes in some states.
2. Average waiting time at mobile squad reduces drastically – As the verification of the e-Way Bill is done with the common portal, it will speed up the process of verification and allowing the vehicle to pass faster.
3. Self-policing by traders- A trader while uploading gives the identification of the buying trader who will also account the transaction automatically.
4. Generation of GSTR-1 returns – GSTR-1 return of the supplier is auto prepared, hence he need not have to upload the same.( **Utility Started**)
5. This new system facilitates the tax payers to enter his master entries for customers, suppliers, transporters and products.
6. There are different modes of e-way bill generation – Web based, SMS based, Mobile App based, Bulk generation, API based, Suvidha Provider based. Hence, the tons of paper are saved per day.
7. The tax payer can also generate and manage multiple sub-users and assign them the roles on the e-way bill system.
8. The tax payer needs to take care while managing the sub-users to avoid mis-utilisation of his GSTIN.

## When should an e-way bill be generated?

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**, furnish information relating to the said goods in Part A of FORM GST **EWB-01** electronically, on the common portal

## Mandatory E-Way bill **irrespective of value of Goods**

- Where goods are sent **for job work** by a principal located in one State or Union territory to a job worker located in any other State or Union territory **AND Vice versa**
- Where **handicraft goods** are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of obtaining registration.

## **Whether an e-way bill is to be issued, even when there is no supply?**

- ***Yes. Even if the movement of goods is caused due to reasons others than supply, the e-way bill is required to be issued.***
- ***Reasons other than supply include movement of goods due to***
- ***job-work,***
- ***SKD or CKD,***
- ***recipient not known,***
- ***supply of liquid gas where quantity is not known,***
- ***supply returns,***
- ***exhibition or fairs,***
- ***for own use,***
- ***supply on approval basis and others etc.***



## What is a 'supply' in case of e-way bill?

□ A supply may be –

- Supplied for a consideration in the course of business
- Supplies made for a consideration which may not be in the course of business
- Supplies without consideration

Basically supply means –

- Sale – sale of goods and payment made
- Transfer – say branch transfers
- Barter/Exchange – Payment by goods instead of money.

Therefore, e-way bills must be generated on the common portal for all types of movements.

## **In the following cases it is not necessary to generate e-Way Bill:**

- 1. Goods transported through Non-Motorized vehicle (Like hand carts, Cycle etc.)**
- 2 where the goods are being transported—**
  - (i) 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 (ii) under customs supervision or under customs seal.**
- 3. in respect of movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138 of the State or Union territory Goods and Services Tax Rules in that particular State or Union territory.**
- 4. where the goods, other than de-oiled cake, being transported, are specified in the Schedule appended to notification No. 2/2017- Central tax (Rate) dated the 28th June, 2017.**
- 5. where the goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel,**
- 6. where the supply of goods being transported is treated as no supply under Schedule III of the Act**
- 7. Transit cargo transported to or from Nepal or Bhutan**
- 8. Movement of goods caused by defence formation under Ministry of defence as a consignor or consignee**
- 9. Empty Cargo containers are being transported**
- 10. Consignor transporting goods to or from between place of business and a weighbridge for weighment at a distance of 20 kms, accompanied by a Delivery challan.**
- 11. Goods being transported by rail where the Consignor of goods is the Central Government, State Governments or a local authority.**
- 12. Goods specified as exempt from E-Way bill requirements in the respective State/Union territory GST Rules.**
- 13. Where empty cylinders for packing of liquefied petroleum gas are being moved for reasons other than supply.(Inserted by N/No.26/2018- Central Tax, effective from 13th June,2018)**
- 14. where the goods being transported are specified in Annexure [Rule 138(14)]**

**ANNEXURE**  
**[(See rule 138 (14))]**

<b>S. No.</b>	<b>Description of Goods</b>
1	Liquefied petroleum gas for supply to household and non domestic exempted category (NDEC) customers
2	Kerosene oil sold under PDS
3	Postal baggage transported by Department of Post
4	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5	Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
6	Currency
7	Used personal and household effects
8	Coral, unworked (0508) and worked coral (9601)

## Four key players for generation of e-way bill online

The four key players for generation of E-way bill under GST are as follows:

- 1. Supplier:** The Supplier can register and generate e-way bills after registering on the website. Further, they also have the power to reject, if e-way bill does not belong to him.
- 2. Recipients:** The recipient has the power to register and generate an e-way bill. Further, he also has the power to reject the e-way bill.
- 3. Transporter:** He can generate the e-way bills under GST and he can further update the vehicle numbers for the e-way bills assigned to him for transportation by the taxpayers.
- 4. Department officers:** The department shall verify the e-way bills and consignment carried with the e-way bills.

## Who can generate E-Way Bill ?

- Where the goods are transported by the registered person as a **consignor or the recipient of supply as the consignee, whether in his own conveyance or a hired one,** the said person or the recipient **may generate the e-way bill in FORM GST EWB-1 electronically on the common portal after furnishing information in Part B of FORM GST EWB-1;**
- Where the e-way bill is not generated under clause (a) and the goods are handed over to a transporter, the registered person shall furnish the information relating to the transporter in Part B of FORM **GST EWB-1** on the common portal and the **e-way bill shall be generated by the transporter on the said portal on the basis of the information furnished by the registered person in Part A of FORM GST EWB-1;**
- The registered person or, as the case may be, the **transporter may, at his option, generate and carry the e-way bill even if the value of the consignment is less than fifty thousand rupees.**

## Who Shall Generate E-Way Bill

S.No	Movement of goods	Value Limit	Who shall generate E-way Bill
1	Outward supply	More than RS.50,000	By any person (supplier, recipient, transporter)
2	Any other outward movement	More than RS.50,000	By any person (supplier, recipient, transporter)
3	Inward supply from un-registered supplier, if recipient (registered) is known at the time of commencement of movement of goods	More than RS.50,000	By Registered Recipient
4	Inward supply from un-registered supplier, if recipient is not known	<b>No limit</b>	Un-registered supplier or Transporter

S.No	Movement of goods	Value Limit	Who shall generate E-way Bill
5	Inputs or capital goods sent by principal to job worker outside the State	No limit	By Principal only
6	Handicrafts transported from one State to another by a person exempted from the requirement of obtaining registration	No limit	Option to generate by Registered supplier or transporter
7	All movement of goods	Less than 50,000	Option to generate by Registered supplier or transporter
8	All movement from consignor to transporter or from transporter to consignee within State having distance less than 50 kms	No limit	Part B of Form EWB-01 not required

## Various situations and filing of forms involved in e-way bill compliance?

S.No.	Situations	Form
1	Goods transported by registered person as consignor or Consignee (mode of transport may be owned or hired or by railways or by air or vessel )	The Consignor or Consignee shall fill Part A and Part B of Form <b>GST EWB-01</b> and the E-way bill shall be generated.
2	Registered person is <b>consignor or consignee</b> and goods are handed over to transporter of goods for transportation by road	The registered person shall furnish the information relating to the transporter in <b>Part B</b> of <b>FORM GST EWB-01</b> along with other details in <b>Part A</b> of <b>FORM GST EWB-01</b> and E-way bill shall be generated by transporter
3	Goods transported by Unregistered person either in his own conveyance or hired one or through a transporter and the recipient is not known	Unregistered person or transporter may at their option generate e-way bill in <b>FORM GST EWB-01</b>
4	Goods transported by Unregistered person either in his own conveyance or hired one or through a transporter and the recipient is known	The recipient shall fill Part A and Part B of Form <b>GST EWB-01</b> and the E-way bill shall be generated.



S.No.	Situations	Form
5	If the goods are transported for a distance of Fifty kilometers or less, within the same State/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 transporter or recipient may not furnish the details of conveyance in <b>Part B of FORM GST EWB-01</b>
6	Goods to be transported are supplied through e-commerce operator	Information in <b>Part A of FORM GST EWB-01</b> may be furnished by such e-commerce Operator
7	where multiple consignments are intended to be transported in one conveyance and the e-way bill has been generated by Consignor/Consignee	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 <b>FORM GST EWB-02</b> maybe generated by him
8	Where the consignor or the consignee has not generated <b>FORM GST EWB-01</b>	The transporter shall generate <b>FORM GST EWB-01</b> on the basis of invoice or bill of supply or delivery challan and may also generate a consolidated e-way bill in <b>FORM GST EWB-02</b> for multiple consignments.

## What are the various points that needs to be noted for updating PART B of GST EWB – 1

### ➤ Updating the vehicle number in Part B of Form GST EWB-01

<b>Sr.No.</b>	<b>Mode of Transport</b>	<b>Vehicle Number</b>
<b>1</b>	<b>Road</b>	<b>Vehicle number</b>
<b>2</b>	<b>Railway</b>	<b>Serial Number and date of Railway receipt</b>
<b>3</b>	<b>Air</b>	<b>Serial Number and date of Air Consignment Note</b>
<b>4</b>	<b>Vessel</b>	<b>Serial Number and date of Bill of Lading</b>

## Who shall update vehicle details in Part B?

- **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 consignment.**
- **Once the details of the conveyance have been updated by the transporter in Part B of FORM GST EWB-01, the consignor or recipient, as the case maybe, who has furnished the information in Part-A of FORM GST EWB-01 shall not be allowed to assign the e-way bill number to another transporter.**

## Concept of Transporter ID:

- ❑ **Transporters are the main party who retains the main role in this entire show of E-Way Bill. For discharging the liability of E Way Bill a Transporter does not required to have a GSTIN. Technically speaking under GST Law all transporters are required to be registered. Those who holds a GSTIN need not do anything they can discharge all their liabilities of E Way Bill by creating login through their GSTIN on E-Way Bill Portal.**
- **However, Section 35(2) read with Rule 58 makes it mandatory for all transporters who are not registered under GST to get registered by filing form ENR-01. Output of registering through this ENR-01 is nothing but Transporter ID.**
- **This ID shall be required by every unregistered transporter after implementation of E-Way bill. Therefore, practically while furnishing information in Part A of EWB-01 a person if using a transporter will mention the Transporter ID provided by his transporter. After this Transporter may login to E Way bill portal and complete the Part B of form by mentioning the vehicle number in which he is making movement of consignment covered under the form requested. Transporter will finally submit the form and generate the E-way bill number.**
- **All transporters having GSTIN are termed as registered transporter. Those who do not have GSTIN and who gets Transporter ID by filing ENR-01 are termed as enrolled transporter**

# CONTENTS OF EWAY BILL

## □ PART A-

- **GSTIN OF CONSIGNOR**
- **NAME OF THE CONSIGNOR**
- **ADDRESS FROM WHERE THE GOODS ARE TO BE DESPATCHED**
- **DETAILS OF SUPPORTING DOCUMENT, NUMBER AND DATE**
- **GSTIN OF CONSIGNEE**
- **NAME OF THE CONSIGNEE**
- **ADDRESS WHERE THE GOODS ARE TO BE DELIVERED**
- **DETAILS OF GOODS, DESCRIPTION, HSN, QUANTITY, UQC, VALUE**
- **DETAILS OF TAXES LEVIABLE AND TOTAL INVOICE VALUE**
- **TRANSPORTER DETAILS, NAME AND ID.**
- **APPROXIMATE DISTANCE IN KM**

# CONTENTS OF E-WAYBILL

## □ PART-B

- **MODE OF TRANSPORT**
- **VEHICLE TYPE**
- **VEHICLE NUMBER**
- **TRANSPORT DOCUMENT NUMBER AND DATE**

# CONTENTS OF EWAYBILL

- **HSN Code** shall be indicated at minimum two digit level for taxpayers having annual turnover upto **five crore** rupees in the preceding financial year and at four digit level for taxpayers having annual turnover above five crore rupees in the preceding financial year.
- **Transport Document number** indicates Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number.
- **Place of Delivery** shall indicate the PIN Code of place of delivery.
- **Reason for Transportation** shall be chosen from one of the following:  
Code Description Supply ,Export or Import ,Job work ,SKD or CKD ,Recipient not known ,Line Sales , Sales return, Exhibition or fairs ,For own use ,Others
- The **details of bill of entry** shall be entered in place of invoice where the consignment pertains to an import.

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- ❑ Upon generation of the e-way bill on the common portal, a **unique e-way bill number (EBN) shall be made available to the supplier, the Recipient and the Transporter** on the common portal.



## Compliance for e-way bill by transporter

**Change of mode of conveyance during transit** – 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 on the common portal in Part B of FORM GST EWB-01

- Multiple consignments in one conveyance** – where a transporter is moving more than one consignment in one conveyance, he must indicate serial number of e-way bills for each consignment electronically on the common portal. A consolidated e-way bill in Form GST **EWB-02** must be generated by him before movement of goods.
- Goods not transported** – Where an e-way bill is generated but goods are not transported or are not transported as per the e-way bill, the e-way bill may be cancelled within 24 hours. This can be done directly or via a facilitation centre. An e-way bill cannot be cancelled if it has been verified in transit where the mode of conveyance has changed.
- Part B of e-Way Bill is not required to be filled where the distance between the consigner or consignee and the transporter is less than **50 Kms** and transport is within the same state**

## **Documents to be carried by person-in-charge of conveyance**

**❑ The invoice or bill of supply or delivery challan**

**AND**

- **A copy of the e-way bill OR the e-way bill number, either physically or mapped to a RFID (Radio Frequency Identification Device). RFID is embedded on to the conveyance (mode of transport). Details of these will be notified by the commissioner.**
  
- **However, the commissioner may notify person-in-charge to carry the following documents instead of the e-way bill –**
  - Tax invoice or bill or supply of bill of entry OR**
  - A delivery challan, where goods are transported other than by way of ‘supply’**
  
- ❑ **The information furnished in Part A of FORM GST **EWB-01** shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in FORM GSTR-1**

# Validity of E-Way Bill

Sr. no.	Distance	Valid from	Validity period
1	Upto 100 kms	<b>Date &amp; time at which e-way bill is generated</b>	One day in cases other than Over Dimensional Cargo
2	For every 100 kms or Part thereof	<b>Date &amp; time at which e-way bill is generated</b>	One additional day in cases other than Over Dimensional Cargo
3	Upto 20 km	<b>Date &amp; time at which e-way bill is generated</b>	One day in case of Over Dimensional Cargo
4	For every 20 km. or part thereof thereafter	<b>Date &amp; time at which e-way bill is generated</b>	One additional day in case of Over Dimensional Cargo

- The Commissioner may extend the validity period of e-way bill for certain categories of goods**

## Relevant Date

- **For the purposes of this rule, the “relevant date” shall 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.**

**1. Situation :** – Consider a situation where a consignor is required to move goods from City X to City Z. He appoints Transporter A for movement of his goods. Transporter A moves the goods from City X to City Y. For completing the movement of goods i.e. from City Y to City Z, Transporter A now hands over the goods to Transporter B. Thereafter, the goods are moved to the destination i.e. from City Y to City Z by Transporter B. How would the e-way bill be generated in such situations?

**Clarification :** – It is clarified that in such a scenario, only one e-way bill would be required. **PART A** of **FORM GST EWB-01** can be filled by the consignor and then the e-way bill will be assigned by the consignor to Transporter A. Transporter A will fill the vehicle details, etc. in **PART B** of **FORM GST EWB-01** and will move the goods from City X to City Y.

On reaching City Y, Transporter A will assign the said e-way bill to the Transporter B. Thereafter, Transporter B will be able to update the details of **PART B** of **FORM GST EWB-01**. Transporter B will fill the details of his vehicle and move the goods from City Y to City Z.

**2. Situation :** – Consider a situation where a Consignor hands over his goods for transportation on Friday to transporter. But, the assigned transporter starts the movement of goods on Monday. How would the validity of e-way bill be calculated in such situations?

**Clarification :** – It is clarified that the validity period of e-way bill starts only after the details in **PART B** of **FORM GST EWB-01** are updated **by the transporter** for the first time.

In the given situation, Consignor can fill the details in **PART A of FORM GST EWB-01** on Friday and handover his goods to the transporter. When the transporter is ready to move the goods, he can fill the **PART B of FORM GST EWB-01** i.e. **the assigned transporter can fill the** details in **PART B of FORM GST EWB-01** on Monday and the validity period of the e-way bill will start from Monday.

The details of e-way bill generated under sub-rule (1) shall be made available to the recipient, if registered, on the common portal, who shall **communicate his acceptance or rejection of the consignment** covered by the e-way bill

Where the recipient referred to in sub-rule (12) does not communicate his acceptance or rejection **within seventy two hours of the details being** made available to him on the common portal, or the time of delivery of goods whichever is earlier, it shall be **deemed that he has accepted the said details.**

- ❑ A registered person may obtain an **Invoice Reference Number** from the common portal by uploading, on the said portal, 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 and such number shall be **valid for a period of thirty days from the date of uploading**
  
- ❑ Where the registered person uploads the invoice under sub-rule (1), the information in Part A of FORM GST EWB 01 shall be auto-populated by the common portal on the basis of the information furnished in FORM GST INV-1
  
- ❑ The Commissioner may, by notification, require a class of transporters to obtain a **unique RFID and get the said device embedded on to the conveyance** and map the e-way bill to the RFID prior to the movement of goods



# POSERS

**Q-1 : How does taxpayer enter Part-A details and generate e-way bill, when he is transporting goods himself?**

**ANS : Sometimes, taxpayer wants to move the goods himself. E-way bill Portal expects the user to enter transporter ID or vehicle number. So if he wants to move the goods himself, he can enter his GSTIN in the transporter Id field and generate Part-A Slip. This indicates to the system that he is a transporter and he can enter details of his vehicle number in Part-B.**

**Q- 2 : When does the validity of the e-way bill start?**

**ANS : The validity of the e-way bill starts when first entry is made in Part-B i.e. vehicle entry is made first time in case of road transportation or first transport document number entry in case of rail/air/ship transportation, whichever is the first entry. It may be noted that validity is not re-calculated for subsequent entries in Part-B.**

**Q-3: What has to be done, if the validity of the e-way bill expires?**

**Ans: If validity of the e-way bill expires, the goods are not supposed to be moved. However, under circumstance of 'exceptional nature and trans-shipment', the transporter may extend the validity period after updating reason for the extension and the details in PART-B of FORM GST EWB-01.**

**Q- 4: How to extend the validity period of e-way bill?**

**Ans: There is an option under e-way bill to extend the validity period. This option is available for extension of e-way bill before 4 hours and after 4 hours of expiry of the validity. Here, transporter will enter the e-way bill number and enter the reason for the requesting the extension, from place (current place), approximate distance to travel and Part-B details. It may be noted that he cannot change the details of Part-A. He will get the extended validity based on the remaining distance to travel.**

**Q – 5 : Is the EWB applicable even for movement of goods as a courier?**

**Ans : Yes, for EWB purposes courier agencies are regarded as transporters. All provisions applicable to a transporter under the EWB Rules are applicable to a courier agency.**

- **Newly inserted Second Proviso to rule 138(1) empowers a courier agency to generate EWB on behalf of the consignor, subject to his authorisation.**
- **Even where consignor and consignee are both URP, courier agency must generate EWB if conditions are satisfied.**

**Q – 6 : Why am I unable to get GSTIN/Transporter ID from the Department of Posts for filling up Part B of EWB-01?**

**Ans : EWB is not required to be generated for movement of postal baggage by Department of Posts (Clause (a) of rule 138(14) r/w Annexure to rule 138)**

**Q – 7 : Whether EWB is required to be generated for movement of goods from unit of a company to another through own vehicle within 50 km?**

**Ans : Yes, EWB is required to be generated even in case of movement of goods within 50 km.**

- **The relaxation updating Part B (vehicle details) is given only in case of movement of goods from the POB of consignor to the POB of transporter for further movement of such goods.**
- **In all other cases, EWB needs to be generated even if the distance to be covered is less than 50 km.**

**Q – 8 :Whether the date of the invoice and the date of EWB must be the same?**

**Ans : Not necessarily. Tax invoice must be issued before or at the time of removal of goods (Sec. 31 of CGST Act)**

- **EWB must be generated before the commencement of movement of goods.**
- **Validity of EWB is to be calculated from the time of its generation.**

**Q- 9 : Is E-way bill required in case same conveyance carries 3 different invoices each of them valuing less than Rs.50,000/-, however, total of them exceeds Rs.50,000/-?**

**ANS : Sub rule (1) of Rule 138 of the CGST Rules require that every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees is required to generate E-way Bill. Hence as per this rule, the E-way bill may not be required to be generated if the value of consignment is less than Rs. 50,000/-. Further, sub rule 7 provides that where the consignor or the consignee has not generated FORM GST EWB-01 in accordance with the provisions of sub-rule (1) and the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan. A plain reading of this sub rule gives an indication that the E-way bill is required in case value of consignment in conveyance exceeds Rs. 50,000/-, even though individual values may be less than Rs 50,000/-.**

**Q- 10 : Is E-way bill required for movement of goods billed as services such as Works Contract/ Composite supply / Job Work Charges?**

**ANS : Yes, an E-way bill is required to be generated in relation to supply and even for the purpose other than supply, therefore wherever there is any movement of goods of the consignment value exceeding Rs. 50,000/- even as a part of services, the E-way bill would be required to be generated. In case invoicing is later done as services, then the movement of such goods can take place under the cover of delivery challan.**

**Q- 11 : Is E-way bill required for movement of samples costing Rs. 50,000/- having no commercial value?**

**ANS : Yes, an E-way bill is required to be generated in relation to supply and even for the purpose other than supply, therefore wherever there is any movement of goods of the consignment value exceeding Rs. 50,000/-, the E-way bill would be required to be generated.**

**Q- 12 : Is E-way bill required for movement of warranty replacement parts or repairs valuing more than Rs 50,000?**

**ANS : Yes, an E-way bill is required to be generated in relation to supply and even for the purpose other than supply, therefore wherever there is any movement of goods of the consignment value exceeding Rs. 50,000/-, the E-way bill would be required to be generated.**

**Q- 13 : Is E-way bill required for movement of used personal and household effects valuing more than Rs 50,000?**

**ANS : Rule 138(14) lists goods and circumstances of movement, in respect of which requirement to generate e-way bill is excluded. As used personal and household effects are specifically covered by Annexure to rule 138(14). Therefore, no e-way bill is required.**

**Q- 14 : How the distance has to be calculated, if the consignments are imported from or exported to other country?**

**ANS :** The approximate distance for movement of consignment from the source to destination has to be considered based on the distance **within the country**. That is, in case of export, the consignor place to the place **from where the consignment is leaving the country**, after customs clearance and in case of import, the place where the consignment is reached the country to the destination place and cleared by Customs.

**Q- 15 : Whether e-way bill is required, if the goods are being purchased and moved by the consumer to his destination himself?**

**ANS :** Yes. As per the e-way bill rules, e-way bill is required to be carried along with the goods at the time of transportation, if the value is more than Rs. 50,000/-. Under this circumstance, the consumer can get the e-way bill generated from the taxpayer or supplier, based on the bill or invoice issued by him. The consumer can also enroll as citizen and generate the e-way bill himself.



**Q- 16 : How to generate e-way bill for multiple invoices belonging to same consignor and consignee?**

**ANS :** If multiple invoices are issued by the supplier to recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple EWBs have to be generated. That is, for each invoice, one EWB has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one EWB. However after generating all these EWBs, one Consolidated EWB can be prepared for transportation purpose, if goods are going in one vehicle.

**Q- 17 : Whether Part-B is must for e-way bill?**

**ANS :** E-Way bill is complete only when Part-B is entered. Otherwise printout of EWB would be invalid for movement of goods. Filling up of Part-B of the e-way bill is a must for movement of the goods, except for within the same state movement between consignor place to transporter place, if distance is less than 50 Kms.

**Q- 18 : How to generate e-way bill, if the goods of one invoice is being moved in multiple vehicles simultaneously?**

**ANS : Where the goods are being transported in a semi knocked down or completely knocked down condition, the EWB shall be generated for each of such vehicles based on the delivery challans issued for that portion of the consignment as per CGST Rule 55 which provides as under:**

- (a) Supplier shall issue the complete invoice before dispatch of the first consignment;**
- (b) Supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;**
- (c) each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and**
- (d) Original copy of the invoice shall be sent along with the last consignment**

**Please note that multiple EWBs are required to be generated in this situation.**

**That is, the EWB has to be generated for each consignment based on the delivery challan details along with the corresponding vehicle number.**

**Q- 19 : Whether the e-way bill is required for movement of consignment for weighment to the weighbridge?**

**ANS : No e-Way bill is required for movement of goods upto a distance of 20 Km from the place of business of consignor to a weighbridge for weighment or from the weighbridge back to the place of business of consignor, within the same State, subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with Rule 55.**

**Q- 20 : What is to be done (in an EWB) if the vehicle breaks down?**

**ANS : If the vehicle breaks down, when the goods are being carried with an EWB, then transporter can get the vehicle repaired and continue the journey in the same EWB. If he has to change the vehicle, then he has to enter the new vehicle details in that EWB, on the e-way bill portal, using 'Update vehicle number' option in Part B and continue the journey in new vehicle, within the original validity period of e-way bill.**

**Q- 21 : What has to be done by the transporter if consignee is refusing to take goods or rejects the goods?**

**ANS : There is a chance that consignee or recipient may reject to take the delivery of consignment due to various reasons. Under such circumstance, the transporter can get one more E-way bill generated with the help of supplier or recipient by indicating supply as 'Sales Return' and with relevant document details and return the goods to supplier as per his agreement with him.**

**Q- 22 : Is HSN Code required to be furnished in EWB-01 PART-01? If turnover was below 1.5 Crores in preceding year still is it required to be mentioned?**

**ANS : According to the Notification no. 03/2018, it states that any taxpayer having turnover in preceding financial year upto 5 crores is required to mention 2 digits of HSN Code and for taxpayer with turnover in Preceding Financial year exceeding 5 crores is required to mention 4 digits.**

**In this notification, they have not given any relaxation to the taxpayers with turnover upto 1.5 crores which was given in Monthly returns and invoice rules. Therefore HSN code is required to be furnished in EWB-01 PART-01.**

**Q- 23 : How to enter multiple modes of transportation, i.e., road, rail, ship, air for the same e-way bill?**

**ANS : One e-way bill can go through multiple modes of transportation before reaching destination. As per the mode of transportation, the EWB can be updated with new mode of transportation by using 'Update Vehicle Number'. Let us assume the goods are moving from Cochin to Chandigarh through road, ship, air and road again. First, the taxpayer generates the EWB by entering first stage of movement (by road) from his place to ship yard and enters the vehicle number. Next, he will submit the goods to ship yard and update the mode of transportation as Ship and transport document number on the e-way bill system. Next, after reaching Mumbai, the taxpayer or concerned transporter updates movement as road from ship yard to airport with vehicle number. Next the taxpayer or transporter updates, using 'update vehicle number' option, the Airway Bill number. Again after reaching Delhi, he updates movement through road with vehicle number. This way, the e-way bill will be updated with multiple mode of transportation.**

**Q- 24 : Can the e-way bill be deleted or cancelled?**

**ANS : The e-way bill once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of generation. If a particular EWB has been verified by the proper officer, then it cannot be cancelled. Further, e-way bill can be cancelled if either goods are not transported or are not transported as per the details furnished in the e-way bill.**

**Q- 25 : What is Over Dimensional Cargo?**

**ANS : 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.**

**Q-26 : In case of B to C Transaction goods amounting to more than Rs.50000/- when hand delivery is given by Salesman to Customer using Taxi/ Local Train or Bus within Mumbai & Thane whether E way bill required ? If Dealer shows Customer came & personally collected product, will that be a solution to avoid E way Bill process ?**

**ANS : Even goods carried by salesman and used Taxi to deliver the goods to the Customer, E-way Bill is required to be generated.**

**In case of movement of goods by public transport, e-way bill shall be generated by the person who is causing the movement of the goods, in case of any verification, he can show e-way bill number to the proper officer.**

**Q- 27 : What is the meaning of consignment value?**

**ANS : It is the value of the goods declared in invoice, a bill of challan or a delivery challan, as the case may be, issued in respect of the said consignment and also include Central tax, State or Union territory tax, Integrated tax and Cess charged, if any. But, it will not include value of exempt supply of goods, where the invoice is issued in respect of both exempt and taxable supply. It will also not include value of freight charges for the movement charged by transporter.**

**Q- 28 :** In case of movement of goods by Railways, is there a requirement for railway to carry e-way bill along with goods?

**ANS :** In case of movement of goods by Railways, there is no requirement to carry e-way bill along with the goods, but railways has to carry invoice or delivery challan or bill of supply as the case may be along with goods. Further, e-way bill generated for the movement is required to be produced at the time of delivery of the goods. Railways shall not deliver goods unless the e-way bill required under rules is produced at the time of delivery. But for the purposes of e-way bill, the expression 'transported by railways' does not include the 'leasing of parcel space by Railways'.

**Q- 29 :** Expired stock has no commercial value, but is often transported back to the seller for statutory and regulatory requirements, or for destruction by seller himself. What needs to be done for such cases of transportation of the expired stock?

**ANS :** E-way bills are required even in cases where goods are moved for reasons other than supply. Delivery Challan has to be the basis for generation of e-way bill in such cases.



**Q – 30 : How to registered on E-way bill portal if transporter is registered in multiple state or union territory on GST portal?**

**Ans :** As per Rule 58(1A) of CGST Rule, 2017 for the purpose of E-way bill , a transporter registered in multiple state or union territory having the same PAN number, may apply for a unique common enrolment number by submitting the details in **FORM GST ENR-02** using any one of his GSTIN number. Where the said transporter has obtained a unique common number, he shall not be eligible to use any of GSTIN number for the purpose of said E-way bill Rules.

**Q-31 : XYZ Ltd. Company has undertaken Construction Contract from ABC Ltd in Maharashtra. As per the terms of the Contract ABC Ltd. has Imported Materials worth Rs. 1 Crore and Cleared the Goods from Customs. After Clearing the Goods XYZ Ltd. Wants to send the said goods for Processing to M/s Gaurav Enterprise from Mumbai to Pune. The Processing Charges is Rs. 5 Lacs. After Processing the above goods M/S Gaurav Enterprise has to send the said Processed Goods to the Site of the ABC Ltd. In Mumbai. Now in the aforesaid Transaction How E-way Bill Provisions would be Complied ? Who will Raise E-way Bill to Whom and What value to be mentioned in E-Way Bill ? What Documents are to be accompanied ?**

**ANS :** E-way bill along with Delivery Challan need to be Raised by XYZ Ltd. In the Name of Gaurav Enterprise with value of Bill of Entry. Similarly after processing again E-way Bill and Invoice need to be raised in the name of XYZ Ltd. With value of agreed contract Value including Jobwork Charges.

## Issues regarding “Bill To Ship To” for e-Way Bill under CGST Rules, 2017

In a typical “Bill To Ship To” model of supply, there are three persons involved in a transaction, namely:

- “A” is the person who has ordered “B” to send goods directly to “C”.
- “B” is the person who is sending goods directly to “C” on behalf of “A”.
- “C” is the recipient of goods.
  
- In this complete scenario two supplies are involved and accordingly two tax invoices are required to be issued:
  - **Invoice -1**, which would be issued by “B” to “A”.
  - **Invoice -2** which would be issued by “A” to “C”.
  
- who would generate the e-Way Bill for the movement of goods which is taking place from “B” to “C” on behalf of “A”.
  
- Either “A” or “B” can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated as per the following procedure:

**Case -1:** Where e-Way Bill is generated by “B”, the following fields shall be filled in Part A of GST FORM EWB-01:

1	<b>Bill From:</b>	In this field details of “B” are supposed to be filled.
2	<b>Dispatch From:</b>	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of “B”.
3	<b>Bill To:</b>	In this field details of “A” are supposed to be filled
4	<b>Ship to:</b>	In this field address of “C” is supposed to be filled.
5	<b>Invoice Details:</b>	Details of Invoice-1 are supposed to be filled

**Case -2:** Where e-Way Bill is generated by “A”, the following fields shall be filled in Part A of GST FORM EWB-01:

1	<b>Bill From:</b>	In this field details of “A” are supposed to be filled
2	<b>Dispatch From:</b>	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of “B”.
3	<b>Bill To:</b>	In this field details of “C” are supposed to be filled.
4	<b>Ship to:</b>	In this field address of “C” is supposed to be filled.
5	<b>Invoice Details:</b>	Details of Invoice-2 are supposed to be filled.

## Registration procedure for enrolling e-way bills using web based mode under GST

1. It is a one-time registration.
2. The GST tax payer can open the web site **ewaybill.nic.in** and click on '**e-way Bill Registration**' link. The user shall be directed to the '**e-way bill registration form**'
- 3 The user has to **enter his GSTIN** and on validation, the system shows him his GSTIN details and request to send **OTP**.
4. The **OTP** will be sent to the tax payer's **registered mobile number**.
5. After entry and **validation of OTP**, the user needs to provide his choice of **username and password** to get itself registered with e-way bill system. The taxpayer can use this registered username and password to work on the system.

## One-time enrolment for GST unregistered transporters:

- Unregistered transporter has to open e-way bill portal and select '**Enrolment for Transporters**' option.
- Enter the PAN details, other business details and authenticate with OTP.
- The OTP will be sent to his mobile number.
- After entry and validation of OTP, he can enter his choice of username and password.
- After that the said transporter has to give his consent to use Aadhar details and declaration for enrolment and has to submit the same.
- On submission, the system generates the **15 digit TRANS ID**.
- This TRANS ID, he can provide to his clients to enter in the e-way bill so as to enable the transporter to enter the vehicle number for movements of goods.

## **Registration procedure for enrolling e-way bills using SMS based mode under GST**

- **User needs to have the registered mobile number which he/she used for registration on the e- Way Bill portal.**
- **Once user selects option 'for SMS' under main option 'Registration' the user needs to verify the OTP received on his/her registered mobile number.**
- **The system validates the OTP.**
- **Next, the user needs to select the User id from the drop down menu, the mobile number of the selected user will be auto populated by the system.**
- **Once the user gives the submit request the particular user can generate e-Way Bill through SMS system**

## **Registration procedure for enrolling e-way bills using Android mode under GST**

- **The e-Way Bill system enables the user to generate an e -Way bill through android application as well.**
- **Once a user selects 'For Android' under the option 'Registration', The user needs to select the concern user from the drop down menu, name and place will be auto populated by the system.**
- **The user shall enable the concern user with android app, needs to enter the IMIE Number of the concern user and save the details in the e-Way Bill system. Once saved the concerned user will be able to generate e-Way Bill through android applications.**
- **The said application would not be available under Play Store but Link will be provided to the Registered User.**



## **e-way bills through API Interface (Application Program Interface )**

- **Site-to-Site integration**
- **The EWAYBILL APIs are used to communicate between Tax Payers and Transporters of e-way Bill System**
- **The tax payers or transporters, who have automated their systems, can use this API to generate the e-way bill online from system to system.**
- **This API interface facilitates the tax payers or transporters to enable their automated system to call the EWB system to generate, update and pull the data related to their e-way bills**

## Inspection, Verification and Detention of goods in transit

- ❑ One of the main purposes of **E-way bill** is to ensure smooth movement of goods at the check post. Let us examine the various process involved in the process of transporting the goods from one place to another.
- ❑ Once the goods are ready for transportation, the transporter has to ensure that two things are in place:
  - The person in charge of a conveyance carrying any consignment of goods of value exceeding Rs 50,000/- should carry a copy of documents viz., invoice/bill of supply/delivery challan/bill of entry
  - A valid e-way bill in physical or electronic form for verification
- ❑ In case such person does not carry the mentioned documents, there is no doubt that a contravention of the provisions of the law takes place and the provisions of section 129 and section 130 of the CGST Act are invocable

## **Interception or Inspection by the Proper Officer**

- ❑ When the goods are in movement, a proper officer may intercept or inspect any vehicle that is carrying goods. A vehicle may be intercepted either for verification of documents or inspection of goods. He shall verify all the documents that the transporter is carrying including an E-way bill, invoice etc.**
- ❑ However, the officer cannot conduct another physical verification of the same goods when a physical verification has already been conducted in any state or union territory.**
- ❑ As an exception, the vehicle may be stopped if the officer has specific information about tax evasion**

## SECTION 129

- ❑ **Section 129 of the CGST Act provides for detention and seizure of goods and conveyances and their release on the payment of requisite tax and penalty in cases where such goods are transported in contravention of the provisions of the CGST Act or the rules made thereunder.**
- ❑ **In case a consignment of goods is accompanied by an invoice or any other specified document and **not an e-way bill**, proceedings under section 129 of the CGST Act may be initiated**
- ❑ **It has been provided that proceedings under section 129 of the CGST Act are being initiated for every mistake in the documents as prescribed in Rule 138A**

## **Q-32 : Can Provisions of Section 129 be invoked in case of certain Technical Errors ?**

**ANS:** Vide CBIC Circular 64/38/2018 GST dt. 14 Sept. 2018 it has been clarified that in case a consignment of goods is accompanied with an invoice or any other specified document and also an e-way bill, proceedings under section 129 of the CGST Act may not be initiated, inter alia, in the following situations:

- a) Spelling mistakes in the name of the consignor or the consignee but the GSTIN, wherever applicable, is correct;**
- b) Error in the pin-code but the address of the consignor and the consignee mentioned is correct, subject to the condition that the error in the PIN code should not have the effect of increasing the validity period of the e-way bill;**
- c) Error in the address of the consignee to the extent that the locality and other details of the consignee are correct;**
- d) Error in one or two digits of the document number mentioned in the e-way bill;**
- e) Error in 4 or 6 digit level of HSN where the first 2 digits of HSN are correct and the rate of tax mentioned is correct;**
- f) Error in one or two digits/characters of the vehicle number.**

**❑ Penalty to the tune of Rs. 500/- each under section 125 of the CGST Act and the respective State GST Act should be imposed (Rs.1000/- under the IGST Act) in **FORM GST DRC-07** for every consignment**

**❑ A record of all such consignments where proceedings under section 129 of the CGST Act have not been invoked in view of the situations listed earlier shall be sent by the proper officer to his controlling officer on a weekly basis.**

**Q-33 : If a conveyance carrying 10 consignments is intercepted and for only 2 consignments the person-in-charge fails to produce e-way bill/ other relevant documents, then whether detention can be made of all Consignment or only 2 such consignments/ conveyance ?**

**ANS : The detention can be made of only 2 Consignments.**

## PROCEDURES TO BE FOLLOWED BY THE PROPER OFFICER

- Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in **FORM GST MOV-01**.
- In addition, the proper officer shall issue an order for physical verification/ inspection of the conveyance, goods and documents in **FORM GST MOV-02**, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods
- The proper officer shall, within twenty four hours of the aforementioned issuance of **FORM GST MOV-02**, prepare a report in **Part A** of **FORM GST EWB-03** and upload the same on the common portal.



Within a period of three days (earlier Working days ) from the date of issue of the order in **FORM GST MOV-02**, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorised in this behalf.

Where circumstances warrant such time to be extended, he shall obtain a written permission in **FORM GST MOV-03** from the Commissioner or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.

On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in **FORM GST MOV-04** and serve a copy of the said report to the person in charge of the goods and conveyance.

The proper officer shall also record, on the common portal, the final report of the inspection in **Part B** of **FORM GST EWB-03** within three days of such physical verification/inspection.

Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in **FORM GST MOV-05** and allow the conveyance to move further.

Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the CGST Act, he shall issue an order of detention in **FORM GST MOV-06** and a notice in **FORM GST MOV-07** in accordance with the provisions of sub-section (3) of section 129 of the CGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.

## Facility for uploading information regarding detention of vehicle

- ❑ Where a vehicle has been intercepted and **detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB- 04** on the common portal. **As the online facility to upload form GST EWB-04 yet to be activated, same can be filed manually also.**

## CONSEQUENCES FOR NOT GENERATING AND NOT CARRYING OF E-WAY BILL FOR THE CONSIGNMENT VALUE EXCEEDING RS.50000/-

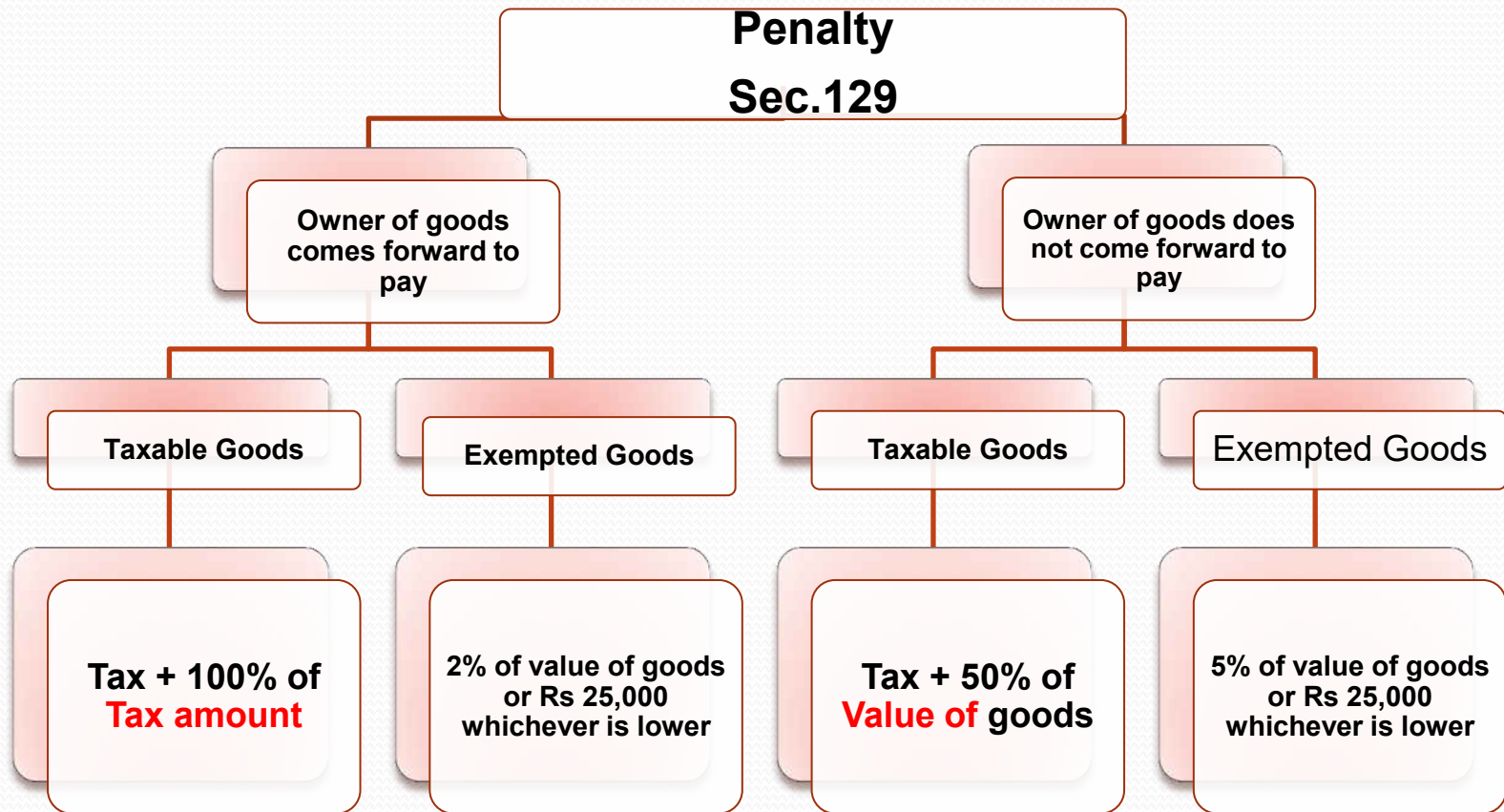
- ❑ Below penal provisions may get attracted for not complying with E Way bill rules:

Section 122(1) : Where a taxable person who-

*issues any invoice or bill without supply of goods or services or both in violation of the provisions of this Act or the rules made there under;*

*Transports any taxable goods without the cover of documents as may be specified in this behalf*

*He shall be liable to pay a penalty of ten thousand rupees or an amount equivalent to the tax evaded, whichever is higher.*



**□ Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the CGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the CGST Act and the CGST Rules, release the goods and conveyance by an order in **FORM GST MOV-05**.**

**□ The order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.**

- Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the CGST Act, the goods and the conveyance shall be released, by an order in **FORM GST MOV-05**, after obtaining a bond in **FORM GST MOV-08** along with a security in the form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the CGST Act.
- The finalisation of the proceedings under section 129 of the CGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.
- Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in **FORM GST MOV-09**, quantifying the tax and penalty payable.
- On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in **FORM GST MOV-05**. The order in **FORM GST MOV-09** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

**❑ In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in **FORM GST MOV-06**, action under section 130 of the CGST Act shall be initiated by serving a notice in **FORM GST MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.**

**❑ Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the CGST Act by issuing a notice proposing to confiscate the goods and conveyance in **FORM GST MOV-10**. In the said notice, the quantum of tax and penalty leviable under section 130 of the CGST Act read with section 122 of the CGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the CGST Act shall be specified**

**❑ Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the CGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.**



- ❑ ~~No order for confiscation of goods or conveyance, or for imposition of penalty, shall be issued without giving the person an opportunity of being heard.~~
- ❑ An order of confiscation of **goods** Or the **Conveyance** shall be passed in **FORM GST MOV-11**, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned.
- ❑ Once the order of confiscation is passed, the title of such **goods** or the **Conveyance** shall stand transferred to the Central Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released.
- ❑ The order in **FORM GST MOV-11** shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the CGST Act.

- ❑ Once an order of confiscation of goods is passed in **FORM GST MOV-11**, the order in **FORM GST MOV-09** passed earlier with respect to the said goods shall be withdrawn.
- ❑ In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in **FORM GST MOV-11**, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the Central Government.
- ❑ Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods.
- ❑ Whenever an order or proceedings under the CGST Act is passed by the proper officer, a corresponding order or proceedings shall be passed by him under the respective State or Union Territory GST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017.

❑ Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available **in case of an unregistered person**, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.

❑ A summary of every order in **FORM GST MOV-09** and **FORM GST MOV-11** shall be uploaded electronically in **FORM GST-DRC-07** on the common portal.

❑ The procedure narrated above shall be applicable *mutatis mutandis* for an order or proceeding under the **IGST Act, 2017**.

## PROCEDURE ON THE PART OF DEALER – RULE 142

- ❑ Notice under sub-section (1) of section 73 or sub-section (1) of section 74 or subsection (2) of section 76, a summary thereof electronically in **FORM GST DRC-01**
- ❑ Statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in **FORM GST DRC-02** specifying therein the details of the amount payable.
- ❑ Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, he shall inform the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in **FORM GST DRC-04**.
- ❑ Where the person chargeable with tax makes payment of tax and interest under subsection (8) of section 73 or, as the case may be, tax, interest and penalty under subsection (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

- ❑ The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in **FORM GST DRC-06**.
- ❑ A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.
- ❑ Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in **FORM GST DRC-08**.

**Q-34 : Whether Goods can be detained if E-Way Bill been Generated after Movement of Goods but before Interception of the same by Department ?**

**ANS : No.**

**Case Name : M/s. Bhumika Enterprises Vs State Of U.P. (Allahabad High Court)**

**Appeal Number : Writ Tax No. 564 of 2018**

**Date of Judgement/Order : 03/04/2018**

**Q-35 : Whether Seizure of goods for mere Non-mentioning of vehicle no. in Part B of E-Way Bill while moving the goods from dealer's place of Business to Transporter's Place is illegal ?**

**ANS : Yes.**

**Case Name : VSL Alloys (India) Pvt. Ltd. Vs State Of U.P. And Another (Allahabad High Court)**

**Appeal Number : Writ Tax No. - 637 of 2018**

**Date of Judgement/Order : 13/04/2018**

**Q-36 : Whether Department was Justified in levying Penalty equal to the Value of the Goods Transported without Complete E-Way Bill ?**

**Ans : Court Observations :**

- **The petitioner is a national level courier company and engages employees who are expert in uploading e-way bill.**
- **Filing Part B in e-way bill is a mandatory requirement and cannot be treated as a technical error.**
- **The explanation of the petitioner that Part B could not be updated due to technical error could not be accepted since the petitioner had not raised any grievance on this issue, either online or in writing**
- **Minor penalties could be levied only in cases where the tax was upto INR 5,000.**
  
- **Case Name : M/s Gati Kintetsu Express Pvt. Ltd. Vs Commissioner, Commercial Tax of MP & others (Madhya Pradesh High Court)**
- **Appeal Number : W. P. No. 12399 of 2018**
- **Date of Judgement/Order : 05/07/2018**



**Q-37 : Whether the goods can be seized on the sole ground of absence of E-WAY Bill ?**

**Ans : Since the E-Way Bill has been generated before Seizure of Goods and Dealer was Ready to furnish Bank guarantee.**

**Case : Anuj General Store & 2 Others Vs. State of U.P. & 3 Others (Allahabad High Court)**

**Writ Tax No. - 797 of 2017**

**Date of Decision : 1st December, 2017**

**Q-38 : A resident of Trivandrum (Kerala), had purchased a car from a company situated in Pondicherry (Tamil Nadu) and entrusted car to company for its transportation to Trivandrum which was intercepted by the Competent Authority of Kerala and treated as Interstate Transaction whether justified in law?**

**ANS: YES.**

**[2018] 100 taxmann.com 154 (Kerala)**

**HIGH COURT OF KERALA**

**Kun Motor Co. (P.) Ltd.**

**v.**

**Assistant State Tax Officer, Thiruvananthapuram**

**Q-39** : In case of Interception of goods and acceptance by the seller by making payment of tax and penalty, whether Input Tax Credit be available for the said tax paid ? Whether to reflect in GSTR-1 ?

**ANS** : NO – Refer Section 17(5).

# Thank you

## **PRESENTER'S CONTACT DETAILS:**

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