

E-Way Bill

- Subject** : E-Way Bill - Legal Aspects
- Date & Day** : Wednesday, 04th April, 2018
- Venue** : Jaihind College, A. V. Room, 4th Floor,
A Road, Churchgate, Mumbai – 400 020.
- Presented by** : CA Parag Mehta

Power to Introduce E-way Bill (Section 68 of CGST Act)

- Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.
- Details of documents required to be carried shall be validated in such manner as may be prescribed.
- If the conveyance is intercepted by the proper officer at any place, the department may require the person in charge of the said conveyance to produce the documents prescribed and devices for verification.

E-Way Bill – Provisions

Rule No.	Deals with
138	Information to be furnished prior to commencement of movement of goods and generation of e-way bill
138A	Documents and devices to be carried by a person-in-charge of a conveyance
138B	Verification of documents and conveyance
138C	Inspection and verification of goods
138D	Facility for uploading information regarding detention of vehicle

When to generate E-Way Bill?

- E-way bill to be generated for movement of goods where consignment value exceeds **Rs. 50,000/-** in following cases:
 - In relation to a supply (e.g. – sale, export)
 - For reason other than supply (e.g. – job work, exhibition or fairs)
 - Due to inward supply from an unregistered person
- E-way bill may be generated at option of registered person or transporter even when value of goods is **less than Rs. 50,000/-**
- Consignment value of goods will be:
 - value determined in accordance with the provisions of section 15
 - **includes** CGST, SSGT / UTGST, IGST and cess charged, if any,
 - **exclude** value of exempt supply of goods where the invoice is issued in respect of both exempt and taxable supply of good

Compulsory Generation of E-Way Bill

- In following cases, E- Way bill is required to be generated even when consignment value is less than Rs. 50,000:
 - Where goods are sent by a principal located in one State or Union territory to a job worker located in any another State or Union territory
 - Where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who is exempt from obtaining registration
- Upon generation of E-Way bill, a unique E-Way bill Number (EBN) is made available to supplier, recipient, and transporter on common portal.

Who will generate E-Way Bill?

Who	E-Way Bill Form
<ul style="list-style-type: none">Registered PersonTransporter on authorization from registered person	Part A of GST EWB – 01
E-commerce operator or courier agency on authorization from consignor (where goods transported are supplied through E-commerce operator or courier agency)	Part A of GST EWB – 01
Registered person as consignor or recipient as consignee <ul style="list-style-type: none">owned or hired or public – by roadRailways or air or vessel	Part B of GST EWB – 01

Who will generate E-Way Bill?

Who	E-Way Bill Form
Transporter to generate e-way bill on basis of information furnished by registered person (when goods are handed over to him for transportation by road)	GST EWB – 01
Unregistered supplier and registered recipient	Compliance to be done by Recipient as if he is the Supplier

- Supplier or recipient, or as the case may be, transporter may not furnish **details of conveyance in Part B** of FORM GST EWB-01 where goods are transported for a distance of up to **50 km within the State or Union territory** from place of business of consignor to place of business of transporter for further transportation

E-Way Bill – Transshipment

- Goods are transferred from one conveyance to another
 - consignor or recipient, who has provided information in Part A of GST EWB – 01, or the transporter
 - before such transfer and further movement
 - update the details of conveyance in the e-way bill on common portal in FORM GST EWB – 01

- Where goods are transported for **distance of up to 50 km within same State or Union territory** from place of business of transporter to place of business of consignee, details of conveyance may not be updated in the e-way bill

E-Way Bill – Re-assignment of Transporter

- Assignment of e-way bill to another transporter
 - consignor or recipient, who has provided information in Part A of GST EWB – 01, or the transporter
 - assign the e-way bill to another **registered or enrolled** transporter
 - for updating information in Part B of FORM GST EWB – 01 for further movement of consignment

- Where details of conveyance is updated by transporter in part B of FORM GST EWB – 01, consignor or recipient **will not be allowed** to assign the e-way bill number to another transporter

Consolidated E-Way Bill ('CEWB')

- In case where multiple consignments are intended to be transported in one conveyance, then prior to movement of goods transporter has to indicate the serial number of e-way bill number of each consignment on the common portal and a consolidated e-way bill in **FORM GST EWB-02** will be generated
- Where E-Way bill is not generated either by consignor or consignee and **aggregate of consignment value** exceeds Rs. 50,000,
 - transporter will generate the E-Way bill on the basis of invoice / bill of supply / delivery challan
 - transporter may also generate a consolidated E-Way bill
 - E-way bill to be generated **only in respect of inter-state supply by road**
 - where goods are supplied through an e-commerce operator or a courier agency, information in Part A of GST EWB – 01 may furnished by such e-commerce operator or a courier agency
 - This provision **is not effective** from 1st April, 2018. It is kept on hold vide Notification No. 15/2018 – Central Tax dated 23.03.2018

Validity of E-Way Bill

Distance	Type of Cargo	Validity Period
Up to 100 km	Other than Over Dimensional Cargo	1 day
For every 100 km or part thereafter		1 additional day
Up to 20 km	Over Dimensional Cargo	1 day
For every 20 km or part thereafter		1 additional day

➤ Validity Period to be counted:

- from the time at which e-way bill has been generated, and
- Each day to be counted as period expiring at midnight of the day immediately following date of generation of e-way bill

Validity of E-Way Bill - Illustrations

Generation of E-way Bill	Approx. Distance	Expiry of E-way Bill
2 nd April, 2018 – 10:30 A.M.	345 km	6 th April, 2018 – 11:59 P.M.
10 th April, 2018 – 6:30 P.M.	87 km	11 th April, 2018 – 11:59 P.M.
15 th May, 2018 – 2:30 P.M.	1459 km	30 th May, 2018 – 11:59 P.M.
10 th April, 2018 – 6:30 P.M.	87 km (over dimensional cargo)	15 th April, 2018 – 11:59 P.M.

Validity of E-Way Bill

- Commissioner may, on the recommendations of the Council, by notification, extend the validity period of an e-way bill for certain categories of goods as may be specified therein
- Under exceptional circumstances, including trans-shipment, where goods cannot be transported within validity period, transporter may generate another e-way bill after updating details in Part B of GST EWB – 01
- “Over Dimensional Cargo” shall 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)

Acceptance / Rejection of E-Way Bill

- The details of E-Way bill will be available on the common portal to:
 - Registered supplier, when information in Part A is furnished by recipient or transporter
 - Registered recipient, when the information in Part A is furnished by supplier or transporter
- Supplier or recipient shall communicate his acceptance or rejection of the consignment
- It shall be deemed that details have been accepted by supplier or recipient if he does not communicate his acceptance or rejection:
 - within **72 hours** of details being made available to him or
 - at the time of delivery of goods

whichever is earlier

Exemption from generation of E-Way Bill

- E-way is not required to be generated where goods being transported are:
 - specified in Annexure to Notification No. 12/2018 – Central Tax dated 7th March, 2018;
 - transported by a non-motorized conveyance;
 - transported from custom port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs;
 - in respect of movement of goods within such areas as are notified under rule 138(14)(d) the Goods and Services Tax Rules of the concerned State;
 - 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 as amended from time to time;

Exemption from generation of E-Way Bill

- alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel;
- treated as no supply under Schedule III of the Act;
- 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;
- transported under customs supervision or under customs seal;
- transit cargo from or to Nepal or Bhutan;
- any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee;

Exemption from generation of E-Way Bill

- exempt from tax under Notification No. 7/2017 – Central Tax (Rate), dated 28th June, 2017 and No. 26/2017 – Central Tax (Rate), dated 21st September, 2017 as amended from time to time;
- where consignor of goods is Central Government, Government of any State or a local authority for transport of goods by rail;
- where empty cargo containers are being transported; and
- where goods are being transported up to a distance of 20 KM from place of business of consignor to a weighbridge for weighment or from weighbridge back to place of business of said consignor subject to condition that movement of goods is accompanied by a delivery challan issued in accordance with rule 55

Annexure to Notification No. 12/2018 – Central Tax dated 7th March, 2018

No.	Description of Goods
1	Liquefied petroleum gas for supply to household & non domestic exempted category (NDEC) customers
2	Kerosene oil sold under PDS
3	Postal baggage transported by Department of Posts
4	Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
5	Jewelry, 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)

E-Way Bill – General

- Information furnished in Part A of GST EWB – 01 will be made available to registered supplier on the portal and such supplier may utilize the same for furnishing details in FORM GSTR – 1
- Information furnished by unregistered supplier or unregistered recipient will be made available to him via mobile number or e-mail (if made available)
- Where E-Way bill is generated and goods are either not transported or are not transported as per details furnished, E-Way bill may be cancelled electronically within 24 hours of its generation.
 - E-way cannot be cancelled if it has been verified in transit by officer under Rule 138B
 - Unique number generated will be for period of 15 days for updation of Part B of GST EWB – 01

E-Way Bill – General

- E-way bill generated under the Goods and Services Tax Rules of any states or Union territory shall be valid in every State and Union Territory
- Explanation is inserted vide Notification No. 14/2018 – Central Tax dated 23rd March, 2018:
 - expressions ‘transported by railways’, ‘transportation of goods by railways’, ‘transport of goods by rail’ and ‘movement of goods by rail’ does not include cases where leasing of parcel space by Railways takes place

Documents and Devices to be carried (Rule 138A)

- Person in charge of conveyance has to carry:
 - Invoice or bill of supply or delivery challan, as the case may be; and
 - Copy of e-way bill in physically form or EBN in electronic form or mapped to Radio Frequency Identification Device embedded on to the conveyance.
- Registered person can obtain Invoice Reference Number from common portal by uploading tax invoice issued by him in FORM GST INV – 01
- This form can be produced for verification by proper officer in lieu of tax invoice. The Invoice Reference Number will be valid for 30 days from date of uploading.
- Information in Part A of FORM GST EWB – 01 will be auto-populated by common portal on the basis of information furnished in FORM GST INV – 01

Documents and Devices to be carried (Rule 138A)

- Commissioner may require class of transporters to obtain unique Radio Frequency Identification Device and get the said device embedded on to the conveyance and map the e-way bill to the Radio Frequency Identification Device prior to movement of goods.
- Where circumstances so warrant, Commissioner may require person-in-charge of the conveyance to carry following documents instead of e-way bill:
 - tax invoice or bill of supply or bill of entry; or
 - delivery challan, where the goods are transported for reasons other than by way of supply.

Verification of Documents and Conveyance (Rule 138B)

- Commissioner or officer empowered by him may authorize proper officer to intercept any conveyance to verify e-way bill or EBN in physical or electronic form for all intra-state and inter-state movement of goods
- Commissioners can get Radio Frequency Identification Device readers installed at places where verification of movement of goods is required to be carried out and verification of movement of vehicle will be done through such device readers where e-way bill has been mapped with such device
- Physical verification of conveyance will be carried out by proper officer as authorized by Commissioner or officer empowered by him in this behalf
- On receipt of specific information on evasion of tax, physical verification of a specific conveyance can also be carried out by any officer after obtaining necessary approval of Commissioner or officer empowered by him in this behalf

Inspection and Verification of Goods (Rule 138C)

- Summary report of every inspection of goods in transit will be recorded online by proper officer in Part A of FORM GST EWB – 03 **within 24 hours of inspection**
- Final report will be recorded in Part B of FORM GST EWB – 03 **within 3 days of such inspection**
- Where physical verification of goods has been done during transit at one place within State / Union Territory or in any other State / Union Territory, no further physical verification of said conveyance will be carried out again in the State / Union Territory, unless specific information relating to evasion of tax is made available subsequently

Uploading Information Regarding Detention of Vehicle (Rule 138D)

- Where a vehicle has been intercepted and detained for a period **exceeding 30 minutes**, the transporter may upload said information in FORM GST EWB-04 on the common portal.

Clarification vide. Press Note on 31st March, 2018

- Validity period of the e-way bill starts only after the details in Part B of Form GST EWB – 01 are updated by transporter for the first time
- In case goods are handed over to a second transporter by the first transporter to carry the goods further, the first transporter will assign the e-way bill to second transporter. Thereafter second transporter will update details in Part B of Form GST EWB – 01 and move the goods.
- Other Points:
 - Public Conveyance have also been covered as a mode of transport and it will be the responsibility of consignor or consignee for generating the e-way bill.
 - In case of movement of goods by rail by way of leasing of parcel space, the person who has leased the said space will generate Part B of the E-way bill.

Summary

GST council in its 26th meeting held on 10th March, 2018 has made following recommendations regarding introduction of E-way bill:

- E-way bill for inter-state movement of goods introduced from 01st April, 2018. (Notification No 15/2018 dated 23rd March -2018)
- E-way bill for intra-state movement of goods to be introduced in a phased manner but not later than 01st June, 2018.
- E-way bill to be generated only where consignment value exceeds Rs. 50,000/-.
- Value of exempted goods to be excluded from the value of consignment.
- Public conveyance also included as mode of transport and here, the responsibility of generating e-way bill will be on consignor or the consignee.
- Railways have been exempted from generating e-way bill but are required to carry invoice or delivery challan.

Recommendations made by GST council

- Time period for recipient to communicate his acceptance or rejection would be *earlier of* - validity period of the concerned e-way bill or 72 hours.
- Transporter may extend the validity of e-way bill in case of transshipment or in exceptional circumstances.
- Validity on one day will expire at midnight of the day immediately following the date of generation of e-way bill.
- Once verified by the tax officer, same conveyance will not be subject to a second check in any State or Union, unless and until, any specific information for the same is received.
- In case of movement of goods by railways, airways and waterways, the e-way bill can be generated even after commencement of movement of goods.
- Movement of goods on account of Bill-To-Ship-To supply will be handled through the capturing of place of despatch in PART-A of e-way bill.

Offences and Penalties

Section 122 (xiv) – Penalty

- Where taxable person who transports any taxable goods without cover of documents, he will be liable to pay penalty of:
 - Rs. 10,000 or
 - amount equivalent to tax evadedwhichever is higher

Section 129 – Detention, Seizure and Release of goods and conveyance in transit

- Any person transports any goods / stores any goods while they are in transit
 - in contravention of the provisions of this Act or the rules made thereunder,
 - all such goods and conveyance used as a means of transport for carrying said goods and documents
 - will be liable to detention or seizure
- Such goods and conveyance will be released on:

Condition	Quantum of Tax & Penalty
Owner of goods comes forward for payment of such tax and penalty	<ul style="list-style-type: none">• Taxable goods – Tax plus 100% of tax payable on such goods• Exempted goods – 2% of value of goods or Rs. 25,000 whichever is less
Owner does not comes forward for payment of such tax and penalty	<ul style="list-style-type: none">• Taxable goods – Tax plus 50% of value of goods (-) tax paid thereon• Exempted goods – 5% of value of goods or Rs. 25,000 whichever is less
In both cases referred above	Upon furnishing a security equivalent to amount payable under above situation



THANK YOU

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