

Impact of recent changes in E-Way Bill under GST

Recently, in the GST council meeting held on March 10, 2018, it was recommended that the e-way bill for inter-State movement of goods across the country shall be implemented from 01st April 2018. Further, in case of intra-State movement of goods, e-way bill system will be introduced w.e.f. a date to be announced in a phased manner but not later than 01st June, 2018. Further, based on various representations by the industry, trade and professionals, certain changes were made to the provisions governing e-way bill, the same is as under:

1) Transporter can be authorised to fill Part A of Form GST EWB 01

Earlier, assignment was available to transporter only for updating the details in Part B of the e-way bill i.e. vehicle number. However, as per this amendment, supplier or recipient may authorise transporter to generate Part A of e-way bill on their behalf which means that now with this amendment, suppliers can now authorise transporters to even fill Part A of the E-way bill. This can be helpful for the suppliers such that the additional compliance of preparation of e-way bill can be shifted on to the transporters, however this may be an additional burden on transporters. Since, this is optional therefore logistics service providers must clearly agree upon with their customers as to who shall be filling the details in Part A and Part B and eventually be responsible for generation of the e-way bill and accordingly authorisation must be taken. However, the modality of this authorisation is still not clear as to whether it is consignment to consignment of a blanket authorisation for a certain period of time. Further, how this feature of authorisation from the supplier to the transporter would be enabled in the portal will also be known more so in detail once the portal is fully ready. **[1st**

Proviso to rule 138(1) Newly inserted]

2) Authorisation of filling Part A of Form can be given to e-commerce operators or courier agencies when goods transported are supplied through them

There was confusion as to how Part A can be filled and who should fill the Part A when the goods transported are supplied through an e-commerce operator or courier agency. In such a scenario, it has now been specified that the courier agency or the e-commerce operators who are intermediaries in this transaction can also fill the details in Part A for the purpose of generation of e-way bill. It can be helpful for the actual supplier or the courier company as the responsibility of preparation of e-way bill can be shifted upon the intermediate e-commerce

operator or the courier agency, however this may create an additional compliance burden on the e-commerce operators/ courier agencies. Further, similar to above, the mechanism of authorization needs more clarity and once the portal is fully ready, we need to look at how this feature of authorisation from the consignor to the e-commerce operator or the courier agency would be enabled in the portal and how it is going to work for filling of details in Part A. **[2nd proviso to rule 138(1) Newly inserted]**

3) Multiple e-way bills may not be required in Bill To Ship To transaction

Although, there is no any specific amendment in the rules in this regard but it has been specified in the recommendations of the GST council meeting released as a press note that movement of goods on account of Bill-To-Ship-To supply will be handled through the capturing of place of dispatch in PART-A of e-way bill which means that in case goods are billed to X but moved to Y then the e-way bill needs to be generated on the GSTIN of X by giving the details in the place of delivery and the details of the actual consignee i.e. Y can also be given in the same e-way bill in the field of place of dispatch. However, since the law is still ambiguous and unclear on this aspect therefore more clarity from department is awaited on this issue.

4) E-way bill can be generated by either transporter or by job-worker for inter-state supply from principal to job-worker

Earlier, in case of an inter-state supply of goods by a principal to a job-worker, the responsibility was casted on the principal to generate the e-way bill without considering the value limit of Rs.50,000/-. However, now, by way of this amendment it has been specified that anyone i.e. either a principal or a registered job worker can generate the e-way bill. **[3rd Proviso to rule 138 (1) Amended]**

5) Only taxable value must be considered for calculating the eligibility limit of Rs.50,000/- if the same invoice contains both taxable and exempted goods

E-way bill is not required to be generated if the consignment value of the goods transported is less than Rs.50,000/-. However, there was confusion prevailing as to how to calculate the limit of Rs.50,000/- if in the same invoice there are both exempted and taxable goods being transported. Therefore, it has now been specified that for the purposes of calculation of value limit of Rs.50,000/- for generating e-way bill if the same invoice contains both exempt and taxable supply of goods, then only the taxable value must be taken into consideration. In

other words, consignment value of goods shall exclude the value of exempt supply of goods for the purpose the calculating the limit of Rs.50,000/- where the invoice is issued in respect of both exempt and taxable supply of goods. **[Explanation 2 to rule 138(1) Amended]**

6) E-way bill to be generated even when goods are transported through a public conveyance

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 or **a public conveyance**, by road, the said person shall generate the e-way bill. Earlier, though e way bill was required to be generated even where goods are transported in public conveyance but this was not specifically brought out in the law. However, now this situation has been specifically addressed clearly stating that even if the goods are transported through any public conveyance, the e-way bill needs to be generated and the responsibility of generating e-way bill in case of movement of goods by public transport would be that of the consignor or consignee. **[Rule 138(2) Amended]**

7) Generation of e-way bill even after commencement of movement of goods in case of transportation through railway, airway or in vessel

Generally, railway receipt is issued after commencement of movement. However, e way shall be required to be generated prior to commencement of movement. To address this issue, rules have been amended. As per amended rule, where goods are transported by railways or by air or vessel, e way bill can be generated before or even after the commencement of movement. **[Rule 138(2A) Newly inserted]**

8) Railways shall not deliver the goods unless e-way bill is produced at the time of delivery

In case of transportation of goods through railways, relaxation is given whereby it is stated that e-way bill can be generated even after the commencement of the movement of goods. However, by this amendment it is stated that railways shall not deliver the goods until the e-way bill is produced to the railways at the time of delivery of the goods. Therefore, this is added to ensure that post facto transportation of goods through railways e-way bill is actually generated and compliance is taken care of. Further, for transportation of goods by rail Forwarding Note number or Parcel Way bill number instead of Railway Receipt number may also be given. **[Proviso to rule 138 (2A) Newly inserted]**

9) Generation of e-way bill by transporters if not generated by the consignor/ consignee for inter-state supply if aggregate value of goods carried in the conveyance exceed Rs.50,000/-

It is specified that where consignor and consignee has not generated the e way bill and the aggregate of consignment value of goods carried in the conveyance is more than fifty thousand rupees, the transporter, except in case of transportation of goods by railways, air and vessel, shall, in respect of inter-state supply, generate the e-way bill in FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be.

Therefore, here it is important to understand that here two possibilities in which consignor and consignee may not generate e way bill –

- a) Consignment value being less than Rs. 50,000/-
- b) Non-generation of e way bill due to any reason.

Earlier, there was doubt whether transporter is required to generate e-way bill if the aggregate value of goods in the conveyance exceeds Rs.50,000/- and the consignor/ consignee have not generated the e-way bill. It has been herewith clarified that if the e-way bills are not generated by the consignor or consignee due to any reason and if the aggregate value of the goods carried in the conveyance exceeds Rs.50,000/- then the transporter must generate the e-way bill.

However, this requirement is laid only for inter-state supply, therefore if individual value of consignment is less than Rs. 50,000/-, no need to generate e way bill, even if aggregate value of consignment in a conveyance is more than Rs. 50,000/- **in case of intra-state supply**. We need to await the amendments in the Maharashtra GST rules to conclude on intra-state supply. Further, in case of transportation of goods by railways, air and vessel, consignor or consignee shall themselves generate the e way bill. **[Rule 138(7) Amended]**

10) Additional validity period for e-way bill in case of Over Dimensional Cargo

Government addressed the difficulty of Over Dimensional Cargo wherein earlier limit of 100 kms per day validity was very difficult for them but now the relaxed limit 20 kms per day is given for transportation of ODC as under:

- Upto 20 Kms - one day;

- For every 20 Kms thereafter - additional one day.

[Rule 138(10) Amended]

11) Relaxation for filling the details of Part B upto 50 kms

Earlier, if the distance of travel of goods between the premises of the consignor to the transporter was more than 10 Kms then the Part B was also required to be updated and e-way bill was required to be generated before the commencement of the movement of goods. However, now this limit has been relaxed to 50 Kms. It means that the consignor can move the goods upto 50 kms to the transporters location by merely filling the details Part A and updation of details later transporter can fill the Part B and generate the e-way bill. Further, transporter is also not required to update the part B with the vehicle number if the distance between the transporters premises to the customers location for final delivery is less than 50 kms. ***[Third proviso to rule 138(3) & First Proviso to rule 138(5)]***

12) Time-limit for filling details in Part B after updating Part A is extended to 15 days

Earlier once details were filled in Part A and the unique number is obtained then the same was valid for 72 hours for eventual generation of e-way bill by filling the details in Part B. However, this validity period has been extended to 15 days for updation of part B which shall be helpful in case of transshipment of goods which are stored in the warehouse/ godown and are removed/ delivered later on (say 5 to 7 days) from the place of the transporter. ***[Second proviso to rule 138(9)]***

13) Option to extend the validity of e-way bill is enabled

Earlier it was stated that if the goods are not transported within the period of validity of the e-way bill then in cases of circumstances of exceptional in nature, the transporter may generate another e-way bill. This led to lot of confusion as to what amounts to circumstances of exceptional nature and whether multiple e-way bills can be generated for the same transaction. However, this issue is now been partially addressed wherein it is stated that in circumstances of exceptional in nature also includes transshipment of goods and further in this scenario, instead of generating a new e-way bill altogether the validity of the existing e-way bill itself can be extended Further, this right of extending the validity is given only to the transporter and the same is not available to consignor/ consignee of the goods. Although, it seems like

the option of giving rights of extending authorization only to the transporters may not be the intent of the legislation although legal text state otherwise. ***[Second proviso to Rule 138(10) Amended]***

14) Validity of e-way bill upto midnight of the subsequent day

Earlier, it was stated that for the purpose of calculation of time-limit of 1 day validity of the e-way bill, the same needs to be counted as 24 hours from the time and date of generation of e-way bill. However, it has now been specified that validity of 1 day 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 1 to Rule 138(10) Amended]***

15) Time-limit for rejection of e-way bill has been capped upto the time of delivery

Earlier it was provided that where a person does not communicate his acceptance or rejection to the e-way bill generated within 72 hours of the details being made available to him on the common portal then the same shall be deemed to have been accepted by him. However, this 72 hours time-limit did not take into account the actual delivery of goods and the consignee was still having the option to reject the e-way bill even after the delivery of goods if the time-limit of 72 hours has not elapsed. Therefore, in order to address this anomaly, the time-limit of rejection is capped to 72 hours or time of delivery of goods, whichever is earlier. ***[Rule 138(12) Amended]***

16) Updation of list of situations where e-way bill is not required

In the amended version of the e-way bill rules, relaxation in generation of e-way bill has been extended in more scenarios as under:

- a) All goods exempted under schedule appended to notification No. 2/2017- Central tax (Rate) except de-oiled cake;
- b) Where the supply of goods being transported is treated as no supply under Schedule III of the Act;
- c) 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;

- d) Where the goods being transported are transit cargo from or to Nepal or Bhutan;
- e) Where the goods being transported are exempt from tax under notification No. 7/2017-Central Tax (Rate) i.e. Supply of goods by the CSD to the Unit Run Canteens or by CSD to the authorized customers or by Unit Run Canteens to the authorized customers.
- f) Any movement of goods caused by defence formation under Ministry of defence as a consignor or consignee;
- g) Where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail;
- h) Where empty cargo containers are being transported; and
- i) Where the goods are being transported upto a distance of 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.

17) E-way bill not required to be carried in physical form

To remove this ambiguity as to whether e-way bill needs to be carried in physical form or whether e-way bill number in electronic form is sufficient to ensure compliance. It has been provided that a person in-charge of the conveyance shall carry a copy of the e-way bill in physical form or the e-way bill number in electronic form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the commissioner.

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