

E-Way Bill & its challenges and issues

INTRODUCTION

E-way bill or Electronic-way bill is a document introduced under the GST regime that needs to be generated before transporting or shipping goods worth more than INR 50,000 within state or inter-state. The Government vide Notification No. 09/2018- Central Tax dated 23.01.2018 notify www.ewaybillgst.gov.in as the Common Goods and Services Tax Electronic Portal for furnishing the e-way bill. This website will be managed by the National Informatics Centre, Ministry of Electronics & Information Technology, Government of India. From 01.04.2018, the inter-State movement of goods for a value beyond Rs. 50,000/-, need to have the e-way bill. According to Notification 15E/2018 dated 28.06.2018, Maharashtra has Increase E-Way Bill threshold to Rs.1 Lakh from INR 50,000/-. The assessee will have to look in to the movement of goods whether inter-State or intra-State and accordingly follow the procedures of CGST or SGST Act. For generation of EWB within the State, the threshold will be as per SGST Act.

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 such movement, required to generate an E-Way bill.

The person in charge of a conveyance carrying any consignment of goods of value exceeding Rs. 50,000/- should carry a copy of document viz., invoice/bill of supply/ delivery challan/ bill of entry and a valid e-way bill in physical or electronic form for verification.

The EWB contains the entire details of the consignment like Name, Address and GSTIN consignor and consignee. It also has the details of commodity consigned, quantity consigned and value consigned. The

details of movement of goods is also mentioned in the e-way bill. The registered dealers under GST can generate e-way bill as a supplier or as a recipient of the goods.

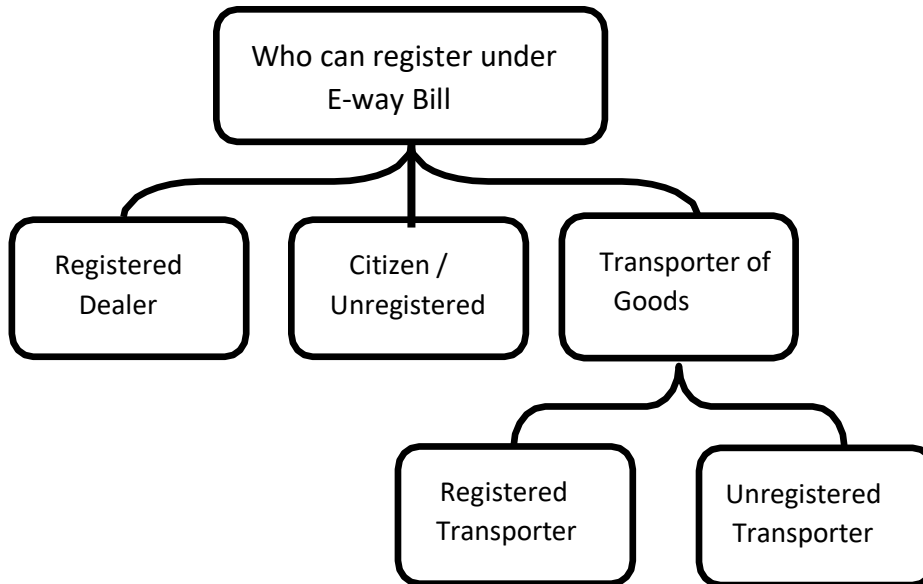
An EWB contains two parts - **Part A** to be furnished by the registered person who is causing movement of goods of consignment value exceeding INR 50,000/- and **Part B** (transport details) is to be furnished by the transporter.

Where the goods are transported by a registered person, whether as consignor or recipient, the said person shall have to generate the EWB (by furnishing information in **Part A** on the common portal). Where the EWB is not generated by the registered person and the goods are handed over to the transporter for transportation of goods by road, the registered person shall furnish the information relating to the transporter 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-01

In a nutshell, EWB is to be generated by the consignor or consignee himself (if the transportation is being done in own/hired conveyance or by railways or by air or by vessel) or the transporter (if the goods are handed over to a transporter for transportation by road). Where neither the consignor nor consignee generates the EWB and the value of goods is more than INR 50,000/- it shall be the responsibility of the transporter to generate it.

In case the goods to be transported are supplied through an e-commerce operator, the information in **Part A** may be furnished by such e-commerce operator.

WHO CAN REGISTER AND GENERATE E-WAY BILL



FAQ / ISSUE BASED NOTE

After the introduction of E-way bill there were many questions and confusion among the suppliers, so followings are the some of the most frequently asked questions.

1. What is the purpose of e-way bill?

Ans. The whole purpose behind the introduction of e-way bill is to track the movement of goods and ensure payment of tax in relation thereto, wherever applicable.

2. Is there any threshold for generating an e-way Bill?

Ans. E-way bill is required to be generated for goods of consignment value exceeding Rs. 50,000 (for the state of Maharashtra the limit is Rs.1 lakh). However, such threshold is not applicable where the goods are transported for job work purpose.

3. When the e-way bill is required to be generated?

Ans. E-Way Bill is required to be generated before the commencement of movement of goods through motorized vehicle.

4. Whether e-way bill is required to be generated for transportation of goods by own conveyance?

Ans. Yes, e-way bill is required to be generated for transportation of goods whether by own conveyance or hired one.

5. Whether e-way bill is required for transportation of goods only by road?

Ans. No. e-way bill is required to be generated for transportation of goods by all modes of transport viz. road, air, ship and rail. The details of mode of transport such as road, rail, air or ship need to be selected based on the mode of transportation of goods. In case of transportation of goods by road, and the details of vehicles are available with the registered person, the same may be mentioned and EWB can be generated after filling **Part B** of the EWB. In case the details of vehicle are not available or the same will be mentioned by the transporter of goods, the EWB may be mapped to the transporter for updating the vehicle information by assigning the EWB by mentioning the transporters name and transporters ID.

6. What is the validity period of e-way bill?

Ans. E-way bill generated shall be valid for 1 day upto 100 km and 1 additional day for every 100 kms or part thereof thereafter.

PRACTICAL CHALLENGES

1. Multiple invoices/delivery challan cannot be clubbed to generate one e-way bill. Each invoice shall be considered as one consignment for the purpose of generating e-way bills. However, after generating all these EWBs, one Consolidated EWB may be prepared by transporter for transportation purpose, if all such goods are going in one vehicle.
2. Each invoice/delivery challan shall be considered as one consignment and therefore for each invoice one e-way bill has to be generated irrespective of same or different consignors or consignees.
3. Where goods are transported for the purpose other than supply, where the invoice cannot be issued, the e-way bill can be raised against any other document like delivery challan, bill of supply etc. The value of such goods may have to be determined as per valuation provisions under GST.
4. There was confusion about the transportation of goods through courier agencies but for the purpose of movement of goods, courier agencies may be regarded as the transporter of the goods. Therefore, an e-way bill would be applicable even for movement of goods as courier provided consignment value exceeds INR 50,000/-. There could be different business practices followed in case of courier industries which needs to be suitably considered for generating an e-way bill.
5. The e-way bill once generated cannot be edited or modified. In such a situation, e-way bill generated with wrong information has to be cancelled and generated a fresh again. The cancellation is required to be done within twenty-four hours from the time of generation.
6. The e-way bill once generated cannot be deleted. However, it can be cancelled by the generator within 24 hours of generation. If it has been verified by any proper officer within 24 hours, 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.

- 7.** The responsibility is cast on the registered person who causes the movement of goods. Hence, primary liability to raise E-way bill is on consignor. However, if consignor fails to generate the e-way bill, it may be generated by transporter also.

In case of supply of goods by an unregistered person to registered person, the liability to generate e-way bill is on the recipient.

- 8.** No EWB is required for movement of goods upto a distance of 20 Km from the place of business of consignor to a weighbridge for weighing 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. Once the movement is terminated and goods are received back in the factory, then invoice can be raised and another e-way bill needs to be generated for movement of goods for sale to the customer.

- 9.** E-way bill is required to be generated even in case of movement of goods within 10 km. The relaxation updating part B (vehicle details) is given only in cases of movement of goods from the place of business of consignor to the business of transporter for further movement of such goods, therefore, in all other cases, e-way bill needs to be generated even if the distance to be covered is less than 10 km.

- 10.** There is no need to generate E-Way bill when the goods are exempted from the tax but in case of inter-state transfer of handicraft goods by a person exempted from obtaining registration is required to generate E-way bill. In case of inter-state transfer of goods by principle to job worker, E-way bill is required to be generated irrespective of its consignment value.

CERTAIN JUDGEMENTS ON SEIZURE AND PENALTY

Ever since the introduction of the e-way bill rules, stakeholders have been debating issues relating to compliance. Following judicial decision may be useful in case of disputes.

M. R. Traders vs. Assistant State Tax Officer ALEXANDER THOMAS, J. WP (C) NO. 2713 OF 2020(L) (JANUARY 31, 2020)

Minor difference in address cannot be ground for detention and penalty

ISSUE-

Competent Authority had detained goods of assessee under transport as well as vehicle on ground that address shown in invoice was different from address shown in E-Way bill. He further issued on assessee a notice under section 129(3) specifying amount of tax and penalty payable for release of goods and vehicle.

Decision-

It was held that the address shown in the invoice is different from the address shown in the E-Way bill etc. is only a clerical mistake and is not a serious mistake which should justify the detention and penalty proceedings and It is ordered that the vehicle and goods detained shall be immediately released by the 1st respondent to the petitioner on his furnishing bank guarantee for the amounts.

Godrej Consumer Products Ltd. vs. ACST & E-Cum Proper Officer Circle Baddi ROHIT CHAUHAN ORDER NOS. 2986-91 (FEBRUARY 11, 2020)

Typographic errors in E-way bill can be treated as minor Errors and cannot become the reason for interception.

ISSUE –

Due to a typographic error while generating E-Way bill, petitioner mentioned approx. distance between Puducherry to Himachal Pradesh as 20 Kilometers instead of 2000 Kilometers, as a result of which, a validity of one day had been calculated by E-Way bill portal instead of twenty days. On very next day

interception of consignment happened before reaching destination, and a penalty of equal to tax amount was imposed.

Decision-

As per the decision of Hon'ble Kerala High Court, it appears that the mistake in entering distance in E-Way bill is a typographic error and may be treated as a minor one. Therefore, the appeal of the appellant is accepted and the order of the Assistant Commissioner State Taxes & Excise-Cum proper officer Baddi Circle-II is set aside and the penalty of Rs. 500/- under SGST and Rs. 500/- under CGST u/s 125 of CGST/HPGST Act, 2017 is imposed on the Appellant in accordance to CBIC Circular No. 64/38/2018-GST, dated 14th September.

Umiya Enterprise vs. Assistant State Tax Officer ALEXANDER THOMAS, J.W.P. (C). NO. 1141 OF 2020(P) (JANUARY 31, 2020)

Wrongly Charging CGST and SGST in E-way bill instead of IGST cannot justify the detention.

ISSUE-

Competent Authority had detained goods of assessee in transit from one State to another State as well as vehicle on ground that no IGST was collected in tax invoice and passed order demanding tax and penalty

Decision-

Assessee submitted that in the tax invoice the element of tax happened to be wrongly shown as CGST and SGST at the rate of 9 per cent as against IGST of 18 per cent. This was an inadvertent mistake committed by the new accountant of the supplier. But in the E-Way bill the tax had been correctly declared as IGST Rs. 1.20 lakhs. It is ordered that the goods and vehicle shall be released forthwith by the 1st respondent to the petitioner, on his executing a simple bond and without insisting on the petitioner furnishing bank guarantee for the demanded value. Thereafter the 1st respondent will take necessary action to comply with the other directions for the finalization of the adjudication proceedings.

VSL Alloys (India) Pvt. Ltd. vs. State of U.P. And Another (APRIL 13, 2018)

Non Generation of Part B of EWB cannot be a ground for interception

ISSUE-

Is detention and seizure warranted where the transport was under proper documentation and only vehicle details were not noted in Part-B of the e-way bill?

Decision-

It was held that merely non mentioning of the vehicle no. in Part-B cannot be a ground for seizure of the goods, the order of seizure is totally illegal and once the petitioner has placed the material and evidence with regard to its claim, it was obligatory on the part of the authorities to consider and pass an appropriate reasoned order. In this case, no reasons are assigned nor any discussion is mentioned in the impugned order of seizure and notice of penalty. The seizure and show cause notice were quashed and the goods / vehicle were directed to be released.

Akash Traders [2018] 94 taxmann.com 309 (Allahabad High Court) dated 08.01.2018

Difference in shape and size of goods cannot be the reason for seizure.

ISSUE-

The petitioner was carrying popular woods in his vehicle, which is subject to detention. Tax had been paid and EWB was also been issued and produced before authorities. The one and only ground for seizing the goods is that the size of the wood planks were unequal. No penalty order was passed

Decision-

The Hon'ble High Court of Allahabad ordered release of goods, conveyance and documents by providing security equal to value of goods shown in the invoice. The security required to be furnished was directed to be in a form other than cash or bank guarantee.

CONCLUSION:

The e-way bill provisions aim to remove the ills of the erstwhile waybill system prevailing under VAT in different states, which was a major contributor to the bottlenecks at the check posts. Moreover, different states prescribed different e-way bill rules which made compliance difficult.

The e-way bill provisions **under GST** have brought in a uniform e-way bill rule applicable throughout the country. The physical interface has paved way for the digital interface and facilitated faster movement of goods. It is bound to improve the turnaround time of vehicles and help the **logistics industry** by increasing the average distances travelled, reducing the travel time as well as costs.

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