



ELECTRONIC WAY BILL FOR TRANSPORT OF GOODS IN GST

CMA V. S. DATEY

Background

On introduction of GST w.e.f. 1-7-2017, many States have removed the physical barriers at State border for transport of goods by road. This has speeded up movement of goods to some extent.

In absence of physical restrictions on movement of goods, some control is essential to ensure that goods are not clandestinely removed and sold. Hence, a system of e-way bill is proposed to be introduced.

Provisions relating to E-way Bill have been made by amending rule 138 and inserting rules 138A to 138B in CGST Rules, 2017. These rules have been inserted vide Notification No. 27/2017 - Central Tax dated 30-8-2017.

However, these rules will be made effective from date to be notified. Earlier, it was announced that the provisions of e-way bill will be effective from October, 2017. This is possible only if GSTN system is ready by that time. Looking at the pathetic situation of GSTN, it is doubtful if that system will be ready by October, 2017. If the e-way bill system is enforced in haste, then there will be chaos as is presently happening in filing of GSTR-3B returns and other forms.

We can only hope and pray that provisions of e-way bill are made effective only after GSTN system is ready and tested.

It is also doubtful whether transporters are equipped to follow these procedures.

Overview of the provisions of e-way bill

The salient aspects of e-way bill provisions are as follows -

- The provisions apply when value of consignment exceeds ₹50,000.
- Consignor who is registered is required to upload information in Part A of form GST EWB-01, electronically, before movement of goods commences.
- If consignor is not registered but consignee is registered, the consignee is required to upload the details electronically [rule 138(1) of CGST Rules]
- If goods are transported in own conveyance or by air, railways or vessel, the consignor/consignee is also required to generate e-way bill form GST EWB-01 electronically on the common portal after furnishing information in Part B of form GST EWB-01 [rule 138(2) of CGST Rules]
- If goods are transported by road by transporter, the consignor/consignee shall furnish information relating to transporter in Part B of form GST EWB-01. Transporter will generate the e-way bill [rule 138(3) of CGST Rules]
- If the transport is less than 10 Kms from place of supplier to place of transporter, details of conveyance may not be furnished. In many cases, this limit is not sufficient.
- On submission of such information, a unique e-way bill number (EBN) will be generated by system.
- If goods are transhipped from one conveyance to other, details have to be submitted in form GST EWB-01 [rule 138(5) of CGST Rules]
- If consignments are consolidated in one conveyance, consolidated e-way bill in form GST EWB-02 should be generated [rule 138(6) of CGST Rules]
- If consignor or consignee does not generate any form, transporter himself must generate form GST EWB-01 [rule 138(7) of CGST Rules]
- The e-way bill generated is valid for one day transport of goods is less than 100 Km. Further, one additional day is allowed for every 100 Kms after first 100 Km. If goods could not be transported within that period, fresh e-way bill should be generated [rule 138(10) of CGST Rules]
- Exemptions have been provided from provisions of e-way bill in case of transport of exempted goods, goods under customs clearance, LPG, kerosene, pearls, diamonds, jewellery, currency, coral and household effects.
- Invoice Reference Number can be generated by uploading invoice and then physical copy of invoice may not be carried. This number will be valid for 30 days [rule 138A(2) of CGST Rules]
- Transporters may be asked to obtain unique Radio Frequency Identification Device (RFID) [rule 138A(4) of CGST Rules]
- Road checks may be made and reporting of road checks has been provided [rule 138C of CGST Rules].
- If a vehicle is intercepted and detained for more than 30 minutes, the transporter may upload the said information in form GST EWB-04 on the common portal [rule 138D of CGST Rules] [not clear what action will be taken and by whom]

Information to be furnished prior to commencement of movement of goods and generation of e-way bill

The consignor is required to furnish specified details before movement of goods commences, if value exceeds ₹50,000 electronically in Part A of form GST EWB-01. If the consignor is unregistered, the consignee is required to furnish the information.

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, furnish information relating to the said goods in Part A of form GST EWB-01, electronically, on the common portal [rule 138(1) of CGST Rules]

Movement deemed to be caused by consignee if goods supplier by unregistered person - If the goods are supplied by an unregistered supplier to a recipient who is registered, the movement shall be said to be caused by such recipient if the recipient is known at the time of commencement of the movement of goods [*Explanation 1* to rule 138(3) of CGST Rules]

Generation of e-way bill if transport in own vehicle or hired vehicle or by rail, vessel or air

If 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 by railways or by air or by vessel, the said person or the recipient may generate the e-way bill in form GST EWB-01 electronically on the common portal after furnishing information in Part B of form GST EWB-01 [rule 138(2) of CGST Rules]

Though the word used is 'may', really he must generate such e-way bill.

The information in Part A of form GST EWB-01 shall be furnished by the consignor or the recipient of the supply as consignee where the goods are transported by railways or by air or by vessel [*Explanation 2* to rule 138(3) of CGST Rules] [Really, even otherwise, this is obvious].

Generation of e-way bill by transporter if transport is by road

If the e-way bill is not generated under rule 138(2) and the goods are handed over to a transporter for transportation by road, the registered person shall furnish the information relating to the transporter in Part B of form GST EWB-01 on the common portal.

The e-way bill shall be generated by the transporter on the common portal on the basis of the information furnished by the registered person in Part A of form GST EWB-01 [rule 138(3) of CGST Rules]

Generation of e-way bill by transporter if not generated by consignor - If the consignor or the consignee has not generated form GST EWB-01 in accordance with the provisions of - Rule 138(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, as the case may be, and may also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods [rule 138(7) of CGST Rules]

Option to generate e-way bill even if value less than ₹50,000 - The registered person or 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 [first proviso to rule 138(3) of CGST Rules]

Unregistered person can also generate e-way bill - If the movement is caused by an unregistered person either in his own conveyance or a hired one or through a transporter, he or the transporter may, at their option, generate the e-way bill in form GST EWB-01 on the common portal in the manner specified in this rule [second proviso to rule 138(3) of CGST Rules].

E-way Bill generated is valid all over India - The e-way bill generated under this rule or under rule 138 of the Goods and Services Tax Rules of any State shall be valid in every State and Union territory [rule 138(13) of CGST Rules]

Relaxation if goods transported from place of consignor to transporter and distance less than 10 Km

If the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of form GST EWB-01 [third proviso to rule 138(3) of CGST Rules]

Ten Kilometers relaxation not sufficient in many cases - Ten Kilometers relaxation is really not sufficient in many cases. In many cases, the railway yard or port or airport or godown of transporter may be much beyond 10 Kms. In big cities, much more allowance is required.

Generation and cancellation of e-way Bill through SMS

The facility of generation and cancellation of e-way bill may also be made available through SMS – Explanation to rule 138(14) of CGST Rules.

Generation of e-way bill number (EBN) by GSTN

Upon generation of the e-way bill on the common portal, a unique e-way bill number (EBN) will be generated by GSTN. This number shall be made available to the supplier, the recipient and the transporter on the common portal [rule 138(4) of CGST Rules].

Procedure by transporter after generation of e-way bill

The procedure to be followed by transporter is as follows -

Transshipment of goods to another conveyance - Any transporter transferring goods from one conveyance to another in the course of transit shall, before such transfer and further movement of goods, update the details of conveyance in the e-way bill on the common portal in form GST EWB-01:[rule 138(5) of CGST Rules]

Details of conveyance not required for final delivery to consignee - If the goods are transported for a distance of less than ten kilometres within the State or Union territory from the place of business of the transporter finally to the place of business of the consignee, the details of conveyance may not be updated in the e-way bill [proviso to rule 138(5) of CGST Rules]

Ten Kilometers relaxation is really not sufficient in metropolitan cities. In big cities, more allowance is required.

Multiple consignments in one conveyance - After e-way bill has been generated in accordance with the provisions of rule 138(1), where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated in respect of each such consignment electronically on the common portal and a consolidated e-way bill in form GST EWB-02 maybe generated by him on the common portal prior to the movement of goods [rule 138(6) of CGST Rules]

Supplier can use the information to furnish details in GSTR-1 return

The information furnished in Part A of from 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 [rule 138(8) of CGST Rules]

Information to unregistered supplier - If the information has been furnished by an unregistered supplier in form GST EWB-01, he shall be informed electronically, if the mobile number or the email is available [proviso to rule 138(8) of CGST Rules]

Cancellation of e-way bill

If an e-way bill has been generated under this rule 138 of CGST Rules, but goods are either not transported or are not transported as per the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, within 24 hours of generation of the e-waybill:

Thus, if there is accident to truck, the driver should first rush to cancel e-way bill before sending injured persons to hospital and even before informing police and owner of vehicle about accident !

An e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B [rule 138(9) of CGST Rules]

Validity of e-way bill generated

An e-way bill or a consolidated e-way bill generated under this rule shall be valid as follows – (1) Upto 100 Km – one day[really only 24 hours] (2) One day for every 100 Km or part after first 100 Km[each day of 24 hours] [rule 138(10) of CGST Rules]

The Commissioner may, by notification, extend the validity period of e-way bill for certain categories of goods as may be specified therein:

Meaning of ‘relevant date’ for purposes of rule 138(1) - 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 twenty-four hours – *Explanation* to rule 138(1) of CGST Rules.

Fresh generation of e-way bill if validity expired - Under circumstances of an exceptional nature, if the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of from GST EWB-01 [second proviso to rule 138(10) of CGST Rules].

Intimation of acceptance of details by recipient

The details of e-way bill generated under rule 138(1) shall be made available to the recipient on the common portal, if he is registered, He shall communicate his acceptance or rejection of the consignment covered by the e-way bill [rule 138(11) of CGST Rules.]

Where the recipient referred to in rule 138(11) does not communicate his acceptance or rejection within seventy two hours of the details being made available to him on the common portal, it shall be deemed that he has accepted the said details.

Note that the communication is not of receipt of goods by recipient (consignee) but only acceptance of details as contained in the e-way bill. What it really means that his acceptance as the goods are meant for him only and his name, as recipient, is not false or incorrect.

Transport of goods for which e-way bill is not required

No e-way bill is required to be generated in following cases [rule 138(14) of CGST Rules].

- (a) The goods being transported are specified in Annexure (see below)
- (b) The goods are being transported by a non-motorised conveyance.

(c) The goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs; and
(d) In respect of movement of goods within such areas as are notified under rule 138(14)(d) of the GST Rules of the concerned State. Thus, each State has been delegated powers to grant exemptions from provisions relating to e-way bill.

Goods for which e-way bill not required as per Annexure to rule 138(1)

Following items are included in Annexure to rule 138(10). For transport of these goods, e-way bill is not required.

- All items exempted under Notification No. 2/2017-CT (Rate) and 2/2017-IT (Rate) both dated 28-6-2017. The major among them are as follows - Fresh Meat, Fish, Chicken, Eggs, Milk, Butter Milk, Curd, Natural Honey, Fresh Fruits And Vegetables, coffee beans, wheat, rice, Flour, Besan, Bread, Prasad, Salt, Bindi, Sindoor, Stamps, Judicial Papers, Printed Books, Newspapers, Bangles, Handloom, Pooja equipment, jute, khadi, national flag, raw silk.
- Passenger baggage (9803)
- Specified Puja samagri
- Liquefied petroleum gas (LPG) for supply to household and non domestic exempted category (NDEC) customers
- Kerosene oil sold under PDS
- Postal baggage transported by Department of Posts
- Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
- Jewellery, goldsmiths' and silversmiths' wares and other articles (Chapter 71)
- Currency
- Used personal and household effects
- Coral, unworked (0508) and worked coral (9601).

Some more exemptions are required – The relaxations are good but not sufficient. Relaxations are required in following cases – (a) transporting goods from port, airport or railway yard to factory or godown of taxable person (b) Sending material for job work or repairs within the city (c) Sending cranes, bull dozers, cement mixers to site (d) Sending construction material to and from site.

Documents and devices to be carried by a person-in-charge of a conveyance

The person in charge of a conveyance shall carry - (a) the invoice or bill of supply or delivery challan, as the case may be; and (b) a copy of the e-way bill or the e-way bill number, either physically or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner [rule 138A (1) of CGST Rules]

Invoice Reference Number (IRN) can be obtained by supplier electronically

A registered person (supplier) may obtain an Invoice Reference Number (IRN) from the common portal by uploading on the 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 [rule 138A (2) of CGST Rules].

If such IRN is obtained, it is not necessary for transporter to carry physical copy of tax invoice, unless specifically ordered.

Commissioner can require that physical copy of tax invoice of delivery challan should be carried – Even if rule 138A(1)(b) of CGST Rules enable dispensing with carrying physical copy of tax invoice, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill-(a)tax invoice or bill of supply or bill of entry; or(b) a delivery challan, where the goods are transported for reasons other than by way of supply [rule 138A(5) of CGST Rules]

Auto population of information in part A if IRN obtained - If the registered person uploads the invoice under rule 138A(2), 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 [rule 138A(3) of CGST Rules].

Radio Frequency Identification Device (RFID) by specified transporters

The Commissioner may, by notification, require a class of transporters to obtain a 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 (RFID) prior to the movement of goods [rule 138A(4) of CGST Rules].

Road checks and Verification of documents and conveyances

The Commissioner or an officer empowered by him in this behalf may authorize the proper officer to intercept any conveyance to verify the e-way bill or the e-way bill number in physical form for all inter-State and intra-State movement of goods [rule 138B(1) of CGST Rules]

The Commissioner shall get Radio Frequency Identification Device readers (RFIDR) installed at places where the verification of movement of goods is required to be carried out and verification of movement of vehicles shall be done through such device readers where the e-way bill has been mapped with the said device [rule 138B(2) of CGST Rules]

The physical verification of conveyances shall be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in this behalf:

Physical verification on basis of specific intelligence - 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 the Commissioner or an officer authorised by him in this behalf [rule 138B(3) of CGST Rules]

Inspection and verification of goods during road checks

A summary report of every inspection of goods in transit shall be recorded online by the proper officer in Part A of FORM GST EWB-03 within twenty four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection [rule 138C(1) of CGST Rules]

No further verification in same State if once verification done - the physical verification of goods being transported on any conveyance has been done during transit at one place within the State or in any other State, no further physical verification of the said conveyance shall be carried out again in the State, unless a specific information relating to evasion of tax is made available subsequently [rule 138C (1) of CGST Rules]

Transporter can upload details if vehicle detained for more than 30 minutes

If 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 [rule 138D of CGST Rules]