



ELECTRONIC WAY BILL (E-WAY BILL) – PROVISIONS AND OBLIGATIONS UNDER GST LAWS

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Introduction:

After roll out of GST from 1st July 2018, the Central Government, in exercise of powers conferred by section 164 of CGST Act, 2017 has introduced rule 138 to Central Goods & Service Tax Rules, 2017 which was notified vide **Notification no. 27/2017 – Central Tax dated. 30th August 2017**. Further Notification No. 74/2017 – Central Tax, dated. 29th December, 2017 has notified the 1st day of February, 2018 as the date from which the provisions set out in Rule 138 is applicable. Rule 138 of the CGST Rules, 2017 provides for the e-way bill mechanism and in this context it is important to note that “information is to be furnished prior to the commencement of movement of goods” and “is to be issued whether the movement is in relation to a supply or for reasons other than supply”.

1. What is Electronic Way Bill (E-Way Bill):

It is basically a compliance mechanism wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates e-way bill on the GST portal. It ensures that goods being transported comply with the GST Law and is an effective tool to track movement of goods and check tax evasion.

- As per Rule 138 of the CGST Rules, 2017, every registered person who causes movement of goods (which may not necessarily be on account of supply) of consignment value more than **₹50000/-** is required to furnish above mentioned information in **part A of e-way bill**. The **part B** containing transport details helps in generation of e-way bill.
- E-way bill is an electronic document generated on the GST portal evidencing movement of goods. It has two Components-Part A comprising of details of GSTIN of recipient, place of delivery (PIN Code), invoice or challan number and date, value of goods, HSN code, transport document number (Goods Receipt Number or Railway Receipt Number or Airway Bill Number or Bill of Lading Number) and reasons for transportation; and Part B comprising of transporter details (Vehicle number).

2. When should e-Way Bill be issued?

E-way bill will be generated when there is a movement of goods of value more than ₹50,000/-

- ❖ In relation to a ‘supply’
- ❖ For reasons other than a ‘supply’ (may be sales return)

- ❖ Due to inward ‘supply’ from an unregistered person

For this purpose, a supply may be either of the following:

- ❖ A supply made for a consideration (payment) in the course of business
- ❖ A supply made for a consideration (payment) which may not be in the course of business
- ❖ A supply without consideration (without payment)

In simpler terms, the term ‘supply’ usually means a:

- ❖ Sale – sale of goods and payment made
- ❖ Transfer – branch transfers for instance
- ❖ Barter/Exchange – where the payment is by goods instead of in money

E-Way Bills must be generated on the common portal for all these types of movements.

3. Who should generate the e-way bill and why:

- E-way bill is to be generated by the consignor or consignee himself if the transportation is being done in own/hired conveyance or by railways by air or by Vessel.
- If the goods are handed over to a transporter for transportation by road, E-way bill is to be generated by the Transporter.
- Where neither the consignor nor consignee generates the e-way bill and the value of goods is more than ₹50,000/- it shall be the responsibility of the transporter to generate it.

❖ **Registered Person** - E-way bill must be generated when there is a movement of goods of more than ₹50,000 in value to or from a Registered Person. A Registered person or the transporter may choose to generate and carry e-way bill even if the value of goods is less than ₹50,000.

❖ **Unregistered Persons** - Unregistered persons are also required to generate e-Way Bill. However, where a supply is made by an unregistered person to a registered person, the receiver will have to ensure all the compliances are met as if they were the supplier.

❖ **Transporter** - Transporters carrying goods by road, air, rail, etc. also need to generate

e-Way Bill if the supplier has not generated an e-Way Bill.

- ❖ **Others** - Where goods are sent by a principal located in one State to a job worker located in any other State, the e-way bill shall be generated by the principal irrespective of the value of the consignment. Where handicraft goods are transported from one State to another by a person who has been exempted from the requirement of obtaining registration, the e-way bill shall be generated by the said person irrespective of the value of the consignment.

4. How is it generated? The Rule provides for a specified form – GST EWB:

An abstract of e-way bill generation is given below for reference

<i>Who shall issue</i>	<i>When to Issue</i>	<i>Form to be used / Remarks</i>
<i>Every Registered person under GST</i>	<i>Before movement of goods</i>	<i>Fill Part A. Form GST EWB-01</i>
<i>Registered person is consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods</i>	<i>Before movement of goods</i>	<i>Fill Part B Form GST EWB-01</i>
<i>Registered person is consignor or consignee and goods are handed over to transporter of goods</i>	<i>Before movement of goods</i>	<i>Fill Part B The registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01</i>
<i>Transporter of goods</i>	<i>Before movement of goods</i>	<i>Generate e-way bill on basis of information shared by the registered person in Part A of FORM GST EWB-01</i>
<i>An unregistered person under GST and recipient is registered</i>	<i>Compliance to be done by Recipient as if he is the Supplier.</i>	<i>(i) If the goods are transported for a distance of ten 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 may not furnish the details of conveyance in Part</i>

		<i>B of FORM GST EWB-01.</i> <i>(ii) If supply is made by air, ship or railways, then the information in Part A of FORM GST EWB-01 has to be filled in by the consignor or the recipient</i>
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- To generate the e-way bill, documents /details such as (i) invoice/ bill of supply/ challan related to the consignment of goods (ii) for transport by road – transporter ID or vehicle number (iii) transport by rail, air, or ship – transporter ID, transport document number, and date on the document are required.
- Reason of transportation may be, **supply, export or import, job work, SKD or CKD, recipient not known, line of sales, exhibition or fairs or own use others** which is to be chosen in the e-way bill be format.
- 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.
- In the above case, the registered person will not have to upload the information in **Part A of FORM GST EWB-01** for generation of e-way bill and the same shall be auto populated by the common portal on the basis of the information furnished in **FORM GST INV-1**.
- Upon generation of the e-way bill on the common portal, **a unique e-way bill number (EBN) generated by the common portal**, shall be made available to the supplier, the recipient and the transporter on the common portal.
- The details of e-way bill generated 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. In case, the recipient **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.**

5. Validity of e-Way Bill:

- An e-way bill is valid for the periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date (relevant date) and time of generation of e-way bill –

Relevant Distance coverage	Validity of EWB
Less Than 100 Kms	1 Day
For every additional 100 Kms or part thereof	additional 1 Day

- 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.**
- In general, the validity of the e-way bill cannot be extended. However, **Commissioner may extend the validity period only by way of issue of notification for certain categories of goods which shall be specified later.**
- Further, if under circumstances of an exceptional nature, 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 FORM GST EWB-01.**

6. Cancellation of E-Way Bill:

- Where an e-way bill has been generated under this rule, 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, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.
- However, an e-way bill cannot be cancelled if it has been verified in transit in accordance with the provisions of rule 138B of the CGST Rules, 2017.
- The facility of generation and cancellation of e-way bill will also be made available through SMS.

7. Issue of E-WAY Bill in case of multiple consignments in single Vehicle:

- As stated above, an e-way bill has to be prepared for every consignment where the value of the consignment exceeds ₹50,000/-. Where multiple consignments of varying values (per consignment) are carried in a single vehicle, e-way bill needs to be mandatorily generated only for those consignments whose value exceeds ₹50,000/-.
- This does not however preclude the consignor/ consignee/ transporter to generate e-way bills even for individual consignments whose value is less than ₹50,000/- per consignment.
- For multiple consignments being carried in the same vehicle, the transporter to prepare a consolidated e-way bill by indicating serial number of each e-way bill, on the common prior to commencement of transport of goods.

8. Issue of E-Way Bill in case of multiple Vehicle used for same consignment:

- In case of long route transport, there may be multiple vehicles are required to be used for carrying the same consignment to its destination. Besides above there may be unforeseen exigencies which require the consignments to be carried in a different conveyance than the original one.
- Under above situations, the rules provide that 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 the conveyance in the e-way bill on the common portal in **FORM GST EWB-01.**

9. Carry of documents by in charge of Conveyance:

- Under Rule 138A, a person in charge of a conveyance has to carry the invoice or bill of supply or delivery challan, as the case may be and 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.
- However, where circumstances so warrant, the Commissioner may, by notification, require the person-in-charge of the conveyance to carry the following documents instead of the e-way bill:
 - ❖ Tax invoice or bill of supply or bill of entry; or
 - ❖ A delivery challan, where the goods are transported for reasons other than byway of supply.
- 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 prior to the movement of goods.

10. E-Way bill to be issued whether for supply or otherwise:

- E-way bill is to be issued irrespective of whether the movement of goods is caused by reasons of supply or otherwise.
- In respect of transportation for reasons other than supply, movement could be in view of export/import, job-work, SKD or CKD, recipient not known, line sales, sales returns, exhibition or fairs, for own use, sale on approval basis etc.

11. Exceptions to e-way bill requirement:

No e-way bill is required to be generated in the following cases

- Transport of goods as specified in Annexure to Rule 138 of the CGST Rules, 2017

- Goods being transported by a non-motorized conveyance;
- Goods 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;
- In respect of movement of goods within such areas as are notified under rule 138(14)(d) of the SGST Rules, 2017 of the concerned State; and
- Consignment value less than ₹50,000/-

12. Consequences of non-conformance to E-way bill rules:

E-way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138 of the CGST Rules, 2017, the same will be considered as contravention of rules.

- **Section 122 of the CGST Act, 2017:** A taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified documents) shall be liable to a penalty of ₹10,000/- or tax sought to be evaded (wherever applicable) whichever is greater.
- **Section 129 of CGST Act, 2017:** Where any person transports any goods or stores any goods while they are in transit in contravention of the provisions of this Act or the rules made there under, all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable to detention or seizure.

13. Enforcement Rule 138B & 138 C:

- 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.
- The physical verification of conveyances may also be carried out by the proper officer as authorized by the Commissioner or an officer empowered by him in this behalf. Physical verification of a specific conveyance can also be carried out by any officer, on receipt of specific information on evasion of tax, after obtaining necessary approval of the Commissioner or an officer authorized by him in this behalf.
- **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.**
- Once 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.

- 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.***

Conclusion:

The e-way bill provisions under GST will bring in a uniform e-way bill rule which will be applicable throughout the country. The physical interface will pave way for digital interface which will facilitate 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.