



E-WAY BILLS – A MEASURE TO CURB TAX EVASION

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In the era of series of reforms and GST implementation, the government has finally managed to introduce the E-Way Bill for movement of goods on Inter-state transaction. The free movement of goods across the nation without any barriers in between is one of the main aims of GST. E-way bill is one of the major reforms in GST regime and would bring a ground – breaking change in the way, the movement of goods is governed in the country. E-Way bill is nothing but the description of the goods being moved. This is going to be a major toll for preventing the GST evasion.

The e-way bill was introduced on trail basis w.e.f. 16th January, 2018. E-Way bill for interstate movement of goods was initially set to be implemented all over India from February 1, 2018 along with 13 states which are agreed to implement the same for the intra state transportation of goods but due to the technical glitches in the IT System, it has been introduced from 1 April 2018 for intrastate movement of goods. States are free to choose any date for the implementation of e-way bill system before 1st June, 2018. From 1st June 2018 e-way bill rules will be applicable to all states on uniform basis for the intrastate movement of goods.

New rules introduced after 1st February, has given some relief to small businesses, FMCG, Courier and e-commerce companies. In the above background, this article intends to throw light on the E-way bill rules and procedures.

The E-way bill systems gets its birth from Section 68 of the Central Goods and Services Tax Act, 2017 (CGST Act), which empowers the Government to require the person-in-charge of a conveyance carrying any consignment of goods, exceeding the value, as may be specified to carry with him documents and such devices that may be prescribed. Thus, the E Way bill is just the beginning and the Government has powers where they can very well prescribe much more than the e-Way Bill in the future.

What is an e-Way bill?

e-Way bill is a document which is to be generated online from the e-Way Bill Portal at the time of interstate movement of goods for more than 50Kms and having a value of more than Rs. 50000/- through a motorized conveyance. e-Way bill can also be generated through SMS, Android App, and by Site-to-Site Integration (through the API).

Each e-Way bill generated will have a unique identification number, which will be available to the supplier, recipient and transporter. This number is known as e-Way bill number (EBN).

When e-way bill be generated or issued:

E-way bill be generated in the interstate movement of goods only if the value of the goods in a vehicle/conveyance exceeds Rs. 50000/- either each invoice or in aggregate of all the invoices –

- In relation to a supply,
- For a reason other than a supply,

- Due to inward supply from an unregistered person.

Value of Rs. 50000/- includes transaction value as per Invoice inclusive of all the taxes, excluding the value of exempt goods that are being carried along the taxable goods and billed together.

For the purpose of e-way bill, supply means:

- A supply made for a consideration in the course of business.
- A supply made for a consideration which may not be in the course of business
- A supply without consideration,

Therefore, in a normal circumstance the supply of the goods means a:

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

Therefore, e-way bill is compulsory to generate in all types of movements of goods.

However, the E-way bill shall be generated mandatory irrespective of the value of the goods, i.e. even if the value of the goods is less than Rs. 50000/- in the following cases;

- ▶ Interstate movement of goods for Job work – E-Way bill to be generated by the principal or the Job worker
- ▶ Handicraft goods being transported from one State to another by a person who has been exempted from the requirements of obtaining registration under clauses (i) and (ii) of section 24 – to be generated by the said person irrespective of the value of the consignment.

In case where both exempted and taxable goods are moved, then the value of taxable goods will be considered for the purpose of generating e-way bill. This will give a great relief to the FMCG companies, which normally moves all kinds of goods together. Further, in a situation, where the goods are supplied by an unregistered supplier to a registered person, the movement shall be said to be caused by such registered person. This may result in practical hardships to the registered person procuring materials from the unregistered persons.

In case, the goods to be transported are supplied through an e-commerce operator, the information may be furnished by such e-commerce operator or the transporter.

Who will generate the E-way bill?

- ❖ **By a Registered Person** – In case where goods of more than Rs 50,000 in value are moved then e-way bill must be generated by a Registered Person. If the value of goods is less than Rs. 50000/- then a registered person or the transporter may choose to generate and carry e-way bill.
- ❖ **By Unregistered Persons** – Unregistered persons are also required to generate e-Way bill for the movement of goods. Whereas if 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. Which means that in such a case registered person should generate the e-way bill.
- ❖ **By a 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.

A chart shows who and when e-way bill will be generated:

Who has to generate	When to generate	Part	Form
Every Registered person	Before movement of goods	Fill Part A	Form GST EWB-01
Registered person is a consignor or consignee (mode of transport may be owned or hired) OR is recipient of goods	Before movement of goods	Fill Part B	Form GST EWB-01
Registered person is a consignor or consignee and goods are handed over to the transporter of goods	Before movement of goods	Fill Part B	The registered person shall furnish the information relating to the transporter in Part B of FORM GST EWB-01
Transporter of goods	Before movement of goods		Generate e-way bill on the basis of information given by the registered person

An unregistered person under GST and recipient is registered	Compliance to be done by Recipient as if he is the Supplier.		<p>1. If the goods are transported for a distance of less than 50 Km 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 B of FORM GST EWB-01.</p> <p>2. 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</p>
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Furnishing the details of the Supply:

The documents that the person-in-charge of a conveyance must carry have been prescribed under rule 138 of the CGST Rules 2017 as amended by Notification No. 12/2018. The reading of the above said rule provides that a registered person causing the movement of goods shall furnish information relating to the said goods as specified in Part A of FORM GST EWB-01 (E-way Bill).

- Invoice/ Bill of Supply/ Challan related to the consignment of goods
- Transport by road – Transporter ID or Vehicle number
- Transport by rail, air, or ship – Transporter ID, Transport document number, and date on the document

Furnishing the details of the Conveyance:

The details of the conveyance through which the goods are being transported shall be furnished in Part B of the E-way bill. The mode of transportation may be either own or hired conveyance or by railways or by air or by vessel. Further, where the goods are transported by railways or by air or vessel, the serial number and date of the Railway Receipt or the Air Consignment Note or Bill of Lading, shall also be furnished in Part B of the E-way bill.

Where the distance involved in the movement of goods is less than 50km, Part B of the E-way bill need not be furnished, however, furnishing the details in Part A of the E-way bill shall be mandatory. However, the method to compute the distance is not prescribed in the act or the rules.

In the event where goods are transported by railways, railways shall not allow recipients to take delivery of goods unless E-way bill produced at the time of taking delivery of goods.

Where the goods are handed over to the transporter, the registered person shall update the details of the transporter on the common portal and the transporter can update Part B of the E-way bill.

In a scenario goods are transfer from one conveyance to another, the consignor or the recipient, or the transporter shall, update the details of conveyance in Part B of the e-way bill before such transfer and further movement of goods.

Consolidated E-Way Bill:

In a scenario, where multiple consignments are intended to be transported in one conveyance, the transporter may indicate the serial number of e-way bills generated for each consignment and a consolidated E-way bill in FORM GST EWB-02 may be generated by him prior to the movement of goods.

Moreover, if the consignor or the consignee has not generated GST EWB-01 and the value of goods carried in the conveyance is more than INR 50,000/-, then the transporter shall generate Form GSTEWB-01 based on the invoice or bill of supply or delivery challan and may also generate a consolidated e-way bill. Under the new rules relief is given to e-commerce and courier companies for not generating the e-way bill in case the individual consignment value is less than Rs. 50000/- even if the consolidated consignment value is more than Rs. 50000/-.

Validity and Cancellation of E-Way Bill:

To calculate the validity of the e-way bill, the distance to be covered by all the modes combined must be taken into consideration. The validity provided in the rules is as under:

Sl. No.	Distance	Validity period
1.	Upto 100 km.	One day in cases other than Over Dimensional Cargo
2.	For every 100 km or, part thereof thereafter	One additional day in cases other than Over Dimensional Cargo

3.	Upto 20 km	One day in cases of Over Dimensional Cargo
4.	For every 20 km or, part thereof thereafter	One additional day in cases of Over Dimensional Cargo

Powers has been granted to the Commissioner to extend the validity period of E-way bill for certain categories of goods as may be specified.

Further, where due to some circumstances of an exceptional nature, the goods could not be transported within the validity period, the transporter may generate another e-way bill after updating the details in Part B of E-way bill.

The details of the E-way bill shall also be furnished to the recipient or the supplier of the goods depending on the person who has generated the E-way bill. The supplier or the recipient shall communicate his acceptance or rejection of the consignment covered by the e-way bill within 72 hours of generation of E-way bill. If, he fails to do so, it shall be deemed that he has accepted the said details. If the E-way has been rejected, it shall stand immediately invalid and goods cannot be further moved. The E-way bill may be cancelled within 24 hours of its generation, if the goods are not transported or not transported as per the details furnished in the e-way bill. The common portal does not allow the modification of details mentioned in Part A of the E-way bill once generated. Thus, in case details furnished in the E-way bill is incorrect the same can be modified only by generating a new E-way bill and cancelling the E-way will generated earlier. However, if the E-way bill is verified during transit it cannot be cancelled.

Exemption from E-way bill:

E-way bill shall not be required in the following cases;

- Goods being transported are specified in Annexure to rule 138 of CGST and the SGST rules;
- Goods are being transported by a non-motorized conveyance
- 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
- 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
- Goods being transported are alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas or aviation turbine fuel; and
- Goods being transported are treated as no supply under Schedule III of the Act.
- Movement of goods within such areas as are notified under clause (d) of sub-rule (14) of rule 138
- Goods are being transported are
 - 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;
- Goods being transported are transit cargo from or to Nepal or Bhutan
- Movement of goods caused by defence formation under Ministry of defence as a consignor or consignee
- Consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail
- Empty cargo containers are being transported
- Goods are being transported upto 20KM from the place of the business of the consignor to a weigh bridge for weighment or from the weighbridge back to the place of the business of the said consignor subject to the condition that the movement of goods is accompanied by a delivery challan issued in accordance with rule 55.

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

The person in charge of a conveyance shall 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.

A registered person may obtain Invoice Reference Number lieu of the tax invoice and produce the same for verification by the proper officer.

Verification, Inspection and Detention of documents and conveyances:

The proper officer authorized by the commissioner may intercept any conveyance to verify the E-way bill or the E-way bill number during the movement of goods.

On receipt of specific information on evasion of tax and obtaining necessary approval from the Commissioner, physical verification of a specific conveyance can also be carried out by any other officer.

The Proper officer shall record online, a summary report of every inspection of goods in transit in Part A of FORM GSTEWB-03 within 24 hours of inspection and the final report in Part B of FORMGST EWB-03 within three days of such inspection.

No physical verification of the conveyance shall be carried out, if verification of goods being transported has been done during transit at one place within the State or in any other State, unless a specific information relating to evasion of tax is made available subsequently.

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.

Mandatory Information to be Furnished in E-way bill:

Part A		Part B	
GSTIN of Supplier			
Place of Dispatch		Vehicle Number for Road	
GSTIN of Recipient		Transport Document Number/Defence Vehicle	
Place of Delivery		No. /Temporary Vehicle Registration No./Nepal	
Invoice or Challan Number		or Bhutan Vehicle Registration No.	
Invoice or Challan Date			
Value of Goods			
HSN Code			
Reason for Transportation			

How to generate the E way Bill:

E-Way Bill can be generated on the e-Way Bill Portal. All you need is a Portal login. Every registered person, unregistered person or transporter can apply for the login ID at the eway portal. One e-Way bill needs to be generated against each Invoice.

The transporter can also re-assign another transporter by updating transporter ID on the eway bill portal. Once transporter re-assigns another transporter, seller cannot make any changes to assigned transporter.

So, the user has to generate different delivery challans against the invoice based on the different Transporter ID, because different e-way bills against a single invoice is not possible and will also cause the problem in populating the data in the GSTR-1.

Penalty Provisions:

When it is found that the goods are moving without e-way bill or where the details are partially declared, the proper officer has proper authority to detain or seize such conveyance or goods, and such shall be released after the payment of applicable tax or penalty as provided under section 129 of CGST Act, 2017.

If the E-way bill is not issued in accordance with the provisions contained in rule 138, the same will be considered as contravention of rules, and a taxable person who transports any taxable goods without the cover of specified documents (e-way bill is one of the specified document) shall be liable to a penalty of rupees 10000 or tax to be avoided, whichever is greater.

In case where the transporter is required to generate the e-way bill, but he fails to generate the e-way bill a penalty of Rs. 10000/- may be imposed or tax sought to be evaded (wherever applicable) whichever is greater, further liable for confiscation of goods and seizure of the vehicle.

Conclusion:

A very short span of time is given to understand the intricacies of this new way bill system and there may arise many practical challenges in the beginning. There are a few practical issues and lack of clarity in E-way bill rules and it is likely that the lawmakers would come out with appropriate explanations so that the purpose of the introduction of E-Way bill and the fundamental goal of "One Nation-One Tax" is achieved and it does not cause any hardships in ease of doing business.