

SKKA IDT ALERT

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IS E-WAY BILL MANDATORY FOR EVERY MOVEMENT/SUPPLY?

In GST Regime, for quick and easy movement of goods across India without any hindrance, all the check posts are abolished. However, to monitor the movement of goods for controlling any tax evasion, the E-way Bill system has been introduced. Electronic Waybill 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.

While there is need to know about e-way bill rules as infracting the rules is punishable with several consequences, it is equally important to know the cases when e-way bill is not required to be generated. In this article, we will discuss the situation or cases where movement of goods does not mandate the generation of an e-way bill irrespective of value of goods.

✚ Statutory Requirements

Section 68 stipulates that the Government may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices as may be prescribed.

Rule 138 of the WBGST 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".

✚ What is the E-Way Bill ?

Electronic waybill commonly known as E-way Bill is a document required to be carried by a person in charge of the conveyance carrying any **consignment of goods of value exceeding fifty thousand rupees** (Value as per section 15 declared in an Invoice/Bill of Supply/Delivery Challan including taxes but exclude value of Exempt supply of goods) as mandated by the Government in terms of section 68 of the Goods and Services Tax Act read with rule 138 of the rules framed thereunder. It is generated from the GST Common Portal (www.ewaybillgst.gov.in) by the **registered persons or transporters** who causes movement of goods of consignment before commencement of such movement. An unregistered transporter will be issued transport ID on enrolling on the e waybill portal after which e waybill can be generated.

An e-way bill form GST EWB-01 contains two parts: -

PART A- (comprising of details of GSTIN of supplier & recipient, place of delivery (PIN Code), Tax invoice, Bill of supply, delivery challan, or Bill of entry) number and date, value of goods, HSN code, and reasons for transportation; and Part B comprising of transporter details (Vehicle number).to be furnished by the registered person who is causing movement of goods of consignment value exceeding Rs.50000/- and

PART B- Comprising of Transport details.

E-way bills can be generated only after entering the details of PART-B (E-way bill without part-B is not a valid document for movement of goods).

✚ Exceptions to E-Way bill requirement

E-way bill is not required to be generated in the following cases: -

(a) If the value of the consignment is less than Rs. 50,000(except in cases of mandatory e waybill provisions like the movement of handicraft goods and movement of goods for interstate job work).

(b) Where the goods being transported are the ones given below

- Liquefied petroleum gas for supply to household and non-domestic exempted category customers
- Kerosene oil sold under Public Distribution System (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;
- Jewellery, goldsmiths' and silversmiths' wares and other articles
- Currency
- Used personal and household effects;
- Unworked and worked coral;

(c) Where the goods are being transported by non-motorized conveyances.

(d) If goods are transported from a port, airport, air cargo complex or land customs station to an inland container depot or a container freight station for clearance by the Customs Department

(e) In respect of movement of goods within such areas as are notified under rule 138(14)(d) of the state or union territory GST Rules in that Particular state or UT.

(f)Where the goods (other than de-oiled cake),being transported ,are specified in [Notification No. 2/2017](#)– Central Tax (Rate) dated the 28th June 2017.

(g) where the 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.

(h) where the supply of goods being transported is treated as no supply under Schedule III of the CGST Act

(i) where the goods being transported are transit cargo from or to Nepal or Bhutan.

(j) Where the goods being transported – (1) under customs bond from an inland container depot or a container freight station to a custom port, airport, air cargo complex and land

customs station, or from one custom station or customs port to another customs station or custom port, or (2) under customs supervision or under customs sea

(k) Goods exempted under notification No. 7/2017– Central Tax (Rate) dated 28th June 2017 (supply by CSD to unit run canteens and authorized customers) and notification No. 26/2017– Central Tax (Rate) dated 21st September 2017 (consists of heavy water and nuclear fuels)

(l) In respect of movement of goods within such areas as are notified under rule 138 (14)(d) of the state or UT GST Rules in that state or UT.

(m) Any movement of goods caused by defence formation under ministry of defence as a consignor or consignee.

(n) Where Government or local authorities transport goods by rail as a consignor

(o) where empty cargo containers are being transported.

(p) If goods are transported to a weighbridge within 20kms and back to the place of business covered under a Delivery Challan (DC)

(q) Where empty cylinders for packing liquefied petroleum gas are being moved for reasons other than supply.

✚ Consequences of non-conformance to E-way bill rules

If e-way bills, wherever required, are not issued in accordance with the provisions contained in Rule 138 of the WBGST Rules, 2017, the same will be considered as contravention of rules. As per Section 122 of the WBGST 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 Rs.10,000/- or tax sought to be evaded (wherever applicable) whichever is greater. Furthermore, as per Section 129 of the 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 200% penalty and detention or seizure.

✚ Our Comments

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. It prevents tax evasion by ensuring that the correct tax is collected from the right person at the right time. Following the e-way bill rules strictly is eminent under the GST regime as non-generating the e-way bill can result in both monetary penalty and detention and seizure of goods. Additionally, even if a taxpayer falls under any of the above categories, he should ensure that a copy of the tax invoice or a bill of supply should be carried during the movement of goods in accordance with rules and regulations prescribed under the law.

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