

CUSTOMS

Clarification regarding Import by EOU/EHTP/STP/BTP without payment of duty by following Rule 5 of Customs (import of Goods at Concessional Rate of Duty) Rules, 2017

Central Government vide *Circular No. 10/2018 dated 24th April, 2018* clarified the issues faced by EOUs regarding imports due to requirement of submitting information to the DC/AC of Customs at the Custom Station of importation by way of forwarding a copy of such information by the Jurisdictional DC/AC of Customs under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

As per Rule 5 of Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, EOUs are required to provide information in duplicate regarding estimated quantity and value of goods to be imported to Jurisdictional DC/AC of Customs. EOU is also required to submit one set of the said information to DC/AC of Customs at the Custom Station of importation who shall allow the benefit of exemption notification to the importer. Thus, Rule 5 nowhere prescribes that information provided by EOU under sub-rule(1)(a) of said Rule 5 is required to be approved by Jurisdictional DC/AC of Customs on prior basis for imports. It appears that the misconception is arising out of wrong interpretation of sub-rule (3) of Rule 5 of the said rules wherein it has been prescribed that the Jurisdictional DC/AC of Customs shall forward one copy of said information received from importer to DC/AC of Customs at the Custom Station of importation. However, this forwarded copy by Jurisdictional DC/AC of Customs is not a prerequisite for allowing duty free import by the DC/AC of Customs at the Custom Station of importation.

The Board further prescribes that Jurisdictional DC/AC of Customs of EOU/EHTP/STP/BTP shall ensure that the intimation received are properly scrutinized so that only eligible goods granted by Jurisdictional Development Commissioner are imported duty free by the EOUs. After prompt scrutiny, one copy of such information shall be forwarded to DC/AC of Customs at the Custom Station of importation as prescribed under sub-rule (3) of the Rule 5 of said rules. The DC/AC of Customs at Custom Station of importation would reconcile the Bill of Entry against which goods were imported duty free by EOU on receipt of such information from Jurisdictional DC/AC of Customs. In case of any discrepancies noticed, the DC/AC of Customs at Custom Station of importation would inform the Jurisdictional DC/AC of Customs for taking necessary steps to protect revenue.

[Circular No. 10/2018 dated 24th April, 2018]

Central Goods & Service tax (Fourth Amendment) Rules,2018

The Central Government vide [Notification No. 21/2018- Central Tax dated 18th April ,2018](#) has notified following rules further to amend the Central Goods and Service Tax Rules ,2017.

| Particulars | Existing provision | Revised provision |
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| Rule : 89 Refund of input tax credit on account of inverted duty structure. | Maximum Refund Amount = {(Turnover of inverted rated supply of goods) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods Explanation: "Net ITC" shall have the same meanings as assigned to them in sub-rule (4). | Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods and services . Explanation: "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both. |
| Rule : 97 Consumer welfare fund | All credits to the consumer welfare fund shall be made under sub rule (5) of rule 92 | All amounts of duty/central tax/ integrated tax /Union territory tax/cess and income from investment along with other monies specified in sub-section (2) of section 12C of the Central Excise Act, 1944 (1 of 1944), section 57 of the CGST Act, 2017 (12 of 2017) read with section 20 of the IGST Act, 2017 (13 of 2017), section 21 of the UTGST, 2017 (14 of 2017) and section 12 of the GST (Compensation to States) Act, 2017 (15 of 2017) shall be credited to the Fund |
| Audit of consumer welfare fund | - | Accounts of the Fund maintained by the Central Government shall be subject to audit by the Comptroller and Auditor General of India. Remarks: Earlier there was no provision for audit of consumer welfare fund. Now, by this insertion fund shall be subject to audit by the Comptroller and Auditor General of India. |

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| <p>Meeting of committee</p> | <p>The Committee shall meet as and when necessary but not less than once in three months.</p> | <p>The Committee shall meet as and when necessary, generally four times in a year at such time and place as the chairman of the committee deem fit after giving 10 days notice in writing to every member which shall contain the particulars like place, date and hour of the meeting and also contain the statement of business to be transacted thereat. Further, no proceedings of the committee shall be valid, unless it is prescribed over by the chairman or vice- chairman and attended by a minimum of three other members.</p> <p>Remarks:</p> <p>Earlier it was mandatory for committee to meet once in three months now, Committee shall meet as and when necessary, generally four times in a year following the prescribed procedure.</p> |
| <p>Power of committee</p> | <p>-</p> | <p>The Committee shall make recommendations:-</p> <p>(a) for making available grants to any applicant;</p> <p>(b) for investment of the money available in the Fund;</p> <p>(c) for making available grants (on selective basis) for reimbursing legal expenses incurred by a complainant, or class of complainants in a consumer dispute, after its final adjudication;</p> <p>(d) for making available grants for any other purpose recommended by the Central Consumer Protection Council (as may be considered appropriate by the Committee);</p> <p>(e) for making available up to 50% of the funds credited to the Fund each year, for publicity/ consumer awareness on GST, provided the availability of funds for consumer welfare activities of the Department of Consumer Affairs is not less than twenty</p> |

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| | | five crore rupees per annum. |
| Explanation to Form GST ITC-03 | The value of capital goods shall be the invoice value reduced by 5 percentage points per quarter of a year or part thereof from the date of invoice. | The value of capital goods shall be the invoice value reduced by 1/60th per month or part thereof from the date of invoice. Remarks: Earlier the registered person who has availed ITC and later on opt for composition scheme or whose supply become wholly exempt is required to pay an amount equivalent to credit of input tax availed on capital goods by reducing 5 percentage points per quarter Now, the value of capital goods will be taken as invoice value reduced by 1/60th per month. |
| | - | Final Return form has been released. Remarks: Section 45 of CGST Act ,2017 provides that every registered person required to furnish a final return therefore form for filing final return has been provided |
| <i>[Notification No. 21/2018- Central Tax dated 18th April ,2018]</i> | | |

Clarification on taxability of “tenancy rights “under GST

Doubts have been raised as to whether tenancy premium shall attract GST when stamp duty and registration charges is levied on the said premium. Further, in case of transfer of tenancy rights, a part of the consideration which accrues to the outgoing tenant is liable to GST or not.

In this regard Central Government vide [Circular no. 44/18/2018 dated 2nd May, 2018](#) has provided that merely because a transaction or a supply of tenancy rights involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the scope of supply of goods and services and from the payment of GST on tenancy premium.

Further, it has been clarified that transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable. However, grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt [Sl. No.12 of notification no. 12/2017-Central tax (rate)].

[\[Circular no. 44/18/2018 dated 2nd May, 2018\]](#)

Clarification on the manner of filing the Quarterly Return by Composition Dealers in FORM GSTR-4

Doubts are being raised about the manner of filing the quarterly return by composition dealers in **FORM GSTR-4**. In particular, there is a doubt with respect to the instruction at Sl. No. 10 appended to the said FORM which reads as below:

For the tax periods July, 2017 to September, 2017 and October, 2017 to December, 2017, serial 4A of Table 4 shall not be furnished.

In this regard, it is hereby clarified that since auto-population of the details of the inward supplies including supplies on which tax is to be paid on reverse charge is not taking place, taxpayers who have opted to pay tax under the composition levy shall not furnish the data in serial number 4A of Table 4 of **FORM GSTR-4** for the tax periods January, 2018 to March, 2018 and subsequent tax periods.

[\[PIB Release ID 178724 dated 17th April, 2018\]](#)

Roll-out of e-Way Bill system for Intra-State movement of goods in the States / Union Territory of Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim and Puducherry from 25th April, 2018

E-Way Bill system for Inter-State movement of goods has been rolled-out from 01st April, 2018. As on 13th May, 2018, e-Way Bill system for intra-State movement of goods has been rolled out in the States/ Union Territory of Andhra Pradesh, Arunachal Pradesh, Bihar, Gujarat, Haryana, Himachal Pradesh, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Meghalaya, Nagaland, Sikkim, Telangana, Tripura, Uttarakhand, Uttar Pradesh and Pondicherry. E-Way

Bills are getting generated successfully and till 13th May, 2018 more than four crore and fifteen lakh e-Way Bills have been successfully generated which includes more than one crore e-Way Bills for intra-State movement of goods.

In addition to it, e-Way Bill system for intra-State movement of goods has been implemented in **Assam from 16th May, 2018 & Rajasthan from 20th May, 2018.**

With the roll-out of e-Way Bill system in these States/ Union Territory, it is expected that trade and industry will be further facilitated insofar as the transport of goods is concerned, thereby eventually paving the way for a nation-wide single e-Way Bill system. Trade and industry and transporters located in these States/ Union Territory may obtain registration/ enrolment on e-Way Bill portal namely <https://www.ewaybillgst.gov.in> at the earliest without waiting for the last date.

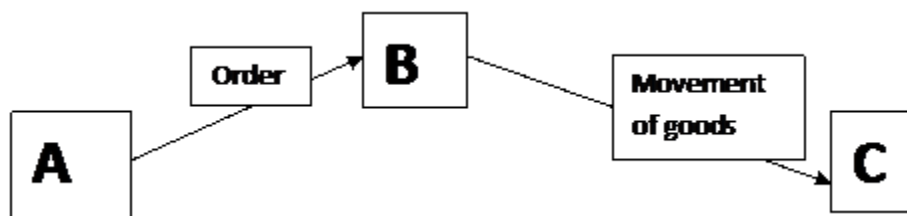
Comment: The given press release indicates the successful implementation of the E-way bill in majority of the States and it will soon be implemented across India.

[PIB Release ID 178859 dated 23rd April, 2018.]

Issues regarding “Bill To Ship To” for e-Way Bill under CGST Rules, 2017

A number of representations have been received seeking clarifications in relation to requirement of e-Way Bill for “Bill To Ship To” model of supplies. In a typical “Bill To Ship To” model of supply, there are three persons involved in a transaction, namely:

- ‘A’ is the person who has ordered ‘B’ to send goods directly to ‘C’.
- ‘B’ is the person who is sending goods directly to ‘C’ on behalf of ‘A’.
- ‘C’ is the recipient of goods.



2. In this complete scenario two supplies are involved and accordingly two tax invoices are required to be issued:

- **Invoice -1**, which would be issued by ‘B’ to ‘A’.
- **Invoice -2** which would be issued by ‘A’ to ‘C’.

3. Queries have been raised as to who would generate the e-Way Bill for the movement of goods which is taking place from ‘B’ to ‘C’ on behalf of ‘A’. It is clarified that as per the CGST Rules,

2017 either 'A' or 'B' can generate the e-Way Bill but it may be noted that only one e-Way Bill is required to be generated as per the following procedure:

Case -1: Where e-Way Bill is generated by 'B', the following fields shall be filled in Part A of GST FORM EWB-01:

| | | |
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| 1. | Bill From: | In this field details of 'B' are supposed to be filled. |
| 2. | Dispatch From: | This is the place from where goods are actually dispatched. It may be the principal or additional place of business of 'B'. |
| 3. | Bill To: | In this field details of 'A' are supposed to be filled. |
| 4. | Ship to: | In this field address of 'C' is supposed to be filled. |
| 5. | Invoice Details: | Details of Invoice-1 are supposed to be filled |

Case -2: Where e-Way Bill is generated by 'A', the following fields shall be filled in Part A of GST FORM EWB-01:

| | | |
|----|-------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| 1. | Bill From: | In this field details of 'A' are supposed to be filled. |
| 2. | Dispatch From: | This is the place from where goods are actually dispatched. It may be the principal or additional place of business of 'B'. |
| 3. | Bill To: | In this field details of 'C' are supposed to be filled. |
| 4. | Ship to: | In this field address of 'C' is supposed to be filled. |
| 5. | Invoice Details: | Details of Invoice-2 are supposed to be filled |

Comment: This is an important clarification which resolves a highly-debated topic and it clarifies that only one E-way bill needs to be generated following the given procedure.

[PIB Release ID 178856 dated 23rd April, 2018]

Two Group of Ministers Constituted to consider the issues relating to “Incentivizing digital payments in the GST regime” & “Imposition of Cess on Sugar under GST”.

Subsequent to the decisions taken in the 27th GST Council meeting, two Group of Ministers (GoMs) have been constituted.

The first GoM shall consider the issues relating to “Incentivizing digital payments in the GST regime” headed by Shri Sushil Kumar Modi, Deputy Chief Minister, Bihar and the Second GoM shall consider issues relating to “Imposition of Cess on Sugar under GST” headed by Shri Himanta Biswa Sarma, Finance Minister, Assam

Both the GoMs shall submit their reports within a period of 15 days.

[PIB Release ID 179138 dated 4th May, 2018]

