

E-Way Bill – A Critical Analysis

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Introduction:

The way bill system is not new to trade and industry, but the talk of a way bill only ruffles feathers. What is e-way bill? Why e-way bill? Why are check posts required? Do you require e-way bill for movement of goods within the States? What happens when movement of goods are not accompanied by way bills? What happens when an incorrect way bill is issued? These are the few common questions (amongst others) which every business would have. An attempt is made to clarify such issues in this article.

The way bills or transit documents existed for the last 3 to 4 decades in various forms, basically to avoid or curb evasion that was rampant in those days. Abolition of Check Posts is one of the key advantages of the GST regime which has resulted in faster and smooth transportation of goods across State borders. However, mobile squads and a few check posts will continue to exist which will act as a check on defaulters and violators. E-Way bill was introduced as a vital cog of the GST regime on the insistence of various State Governments, but it has proved to be quite cumbersome. The main grouse of the trade has of course been that even with the introduction of the GST regime the inspector raj would persist in the form of E-way Bills.

In terms of Section 68 of the CGST Act, 2017 read with Rule 138A of the CGST Rules, 2017 for transportation of goods by road (or other modes), a document called an **Electronic Way Bill** is required to accompany the goods during their movement, if the value of the goods exceed a certain prescribed limit. The information / data on e-way bills generated will be matched with the outward supplies (sales) statement called as Form GSTR -1 to ensure that the supplies are legitimate and are properly documented.

The Centralized software platform for E-Way bill system is developed by the NIC (National Informatics Centre) along with GSTN. Provisions relating to e-Way bill were introduced throughout the country from 1.04.2018 for inter-State movement of goods. The provisions relating to e-Way bill for the intra state transactions was / will be introduced phase wise. The following is the list of states wherein e-Way bill is applicable for intra-State movement of goods with effect from the dates mentioned therein-

States Notifying e-Way bill for intrastate movement of goods	Date of notification
Assam	16-May-18
Nagaland	01-May-18
Arunachal Pradesh, Madhya Pradesh, Meghalaya, Puducherry and Sikkim	25-Apr-18

Bihar, Haryana, Himachal Pradesh, Jharkhand and Uttarakhand	20-Apr-18
Andhra Pradesh, Gujarat, Kerala, Telangana and Uttar Pradesh	15-Apr-18
Karnataka	01-Apr-18

Vide Notification No 15/2018 dated 23.03.2018 the Central Government has appointed first day of April 2018 as the date on which the provisions e-Way Bill Rules shall come into force. The provisions relating to inspection, search, seizure and arrest shall mutatis mutandis apply in relation to IGST. Hence Rules relating to E-Way bill, though promulgated in CGST Rules would apply with equal force for inter-state movement of goods.

I. WHO SHALL GENERATE AN E-WAY BILL:

1. The persons responsible to generate the e-Way bill are:
 - (i) The person causing movement of goods if consignment value exceeds 50,000/-:
 - Ordinarily, the consignor;
 - Where the consignor is not a registered person, the Consignee;
 - (ii) The Transporter, where an e-Way bill has not been generated as cited supra in respect of movement of goods;
2. In case of inter-State movement of goods, irrespective of the value of goods, the following persons would be responsible for raising an e-way bill:
 - Principal/job worker;
 - An unregistered consignor of handicraft goods for inter-State movement, who is exempt from registration under Section 24(i) and (ii);
3. The registered person can authorize a transporter or e-commerce operator or a courier agency to furnish the information in Part A of Form GST EWB-01, on behalf of the registered person.
4. Unregistered transporter can enrol on the common portal and generate e-Way bill on behalf of its customers;
5. Any Person (unregistered recipient) can enrol & generate the e-Way bill for movement of goods for his/her own use
6. Any person desirous of generating may voluntarily generate an e-Way bill even when value of consignment is lesser than 50,000 Rupees. If the goods are moved by unregistered person and handed over to the transporter for transportation of goods then either of them can generate an e-Way bill (EWB). The unregistered person can generate EWB as an unregistered person.

Practical Intricacies

- a. *In cases of outward supply returns (**sales returns**), the customer or the transporter shall be the person causing the movement of goods and hence shall be responsible to generate the e-Way bill.*

- b. In case of **high sea sales**, since the supply is effected before the goods cross the customs frontiers, an e-Way bill is not required. However, the ultimate buyer will be required to generate an e-Way bill (if the consignment value exceeds Rs. 50,000) to move goods from the port to the place of business.
- c. In case a customer is purchasing and moving the goods himself and the value exceeds Rs. 50,000/-, an e-Way bill can be generated by the taxpayer or supplier based on the invoice issued to him. The customer may also enrol as a citizen and generate the e-Way bill himself.
- d. In case the consignee or recipient refuse to take the delivery of goods, the transporter can get one more e-Way bill generated with the help of the supplier/recipient by indicating the supplies as sales return with relevant document.
- e. If the individual bills are less than Rs. 50,000/- but the total value of goods in a conveyance exceed Rs. 50,000/- the transporter shall be responsible / liable to raise an e-Way bill since the individual parties will not be liable to generate an e-Way bill.

II. PROCEDURAL ASPECTS

The following is the basic procedure to generate an e-Way bill

1. Furnish information in **Form GST EWB-01 (PART A and PART B) before** the commencement of movement of goods (on **www.ewaybillgst.gov.in**)
2. PART A contains the consignment details which cannot be changed later which is as under

GSTIN	GSTIN of supplier and recipient of goods. (If unregistered, “URP” shall be entered)
Place of Dispatch / Delivery	It shall indicate the PIN Code of the places of Dispatch / Delivery. Option available to enter the addresses of these places (not mandatory)
Document Number	It shall contain reference of Invoice No., Bill of supply No., Delivery Challan No.
Document Date	Date shall be based on the date of document, as specified above.
Value of Goods	Value shall be determined in accordance with Section 15 and shall include CGST, SGST or UTGST, IGST and Cess, if any
HSN Code	If Annual Turnover (in preceding FY) is less than Rs. 5 Cr. - 2 Digits If Annual Turnover (in preceding FY) is more than Rs. 5 Cr. - 4 Digits
Reason for Transport	Following are the available options: (i) Supply (ii) Export / Import (iii) Job Work (iv) SKD / CKD – i.e., Semi Knocked Down / Completely Knocked Down (v) Recipient not known (vi) Line Sales (vii) Sales Returns (viii) Exhibition or fairs (ix) For own use (x) Others

3. PART-B contains the details of the conveyance to be entered as under

Vehicle No. for road	Vehicle registration No. as per the Regional Transport Office (RTO)
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Transport Document No./ Defence Vehicle No./ Temporary Vehicle Registration No./ Nepal/Bhutan Vehicle Registration No.	Indicates Goods Receipt Number (GRN) or Railway Receipt Number or Airway Bill Number or Bill of Lading number or forwarding Note Number or Parcel bill number
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4. A unique e-Way number (EBN) will be generated on the portal after the details as mentioned above are filled.
5. Obtain a print of the details along with the unique (EBN) generated after the details are uploaded
6. Move the goods under the cover of the e-Way bill **and** the 'tax invoice' or such other document
7. Acceptance / rejection of the e-Way bill to be made within 72 hours of details being available on portal (**OR** time of delivery of goods if earlier than 72 hours) – **Else it results in deemed acceptance**
8. PART A slip is a temporary number generated after entering all the details in PART-A. This can be shared or used by the transporter or the client who can later enter the details in PART B and generate the e-Way bill. This is useful when you have prepared the invoice and when transporter details are not available. This is temporarily stored on the portal and once the transporter details are entered in PART B the e-Way bill can be generated.
9. The details of conveyance are not required to be declared if the distance between the place of consignor and the place of transporter is less than 50 Kms. It is not required even where the distance between the place of transporter and the place of consignee is less than 50 Kms.
10. Where the goods are transported by railways or by air or vessel, the e-Way bill shall be generated on the common portal in Part B of Form GST EWB-01. Where the goods are transported by railways, the railways shall not deliver the goods unless the e-Way bill is produced at the time of delivery. The time period for filling details in Part B shall be furnished within fifteen days of furnishing details in Part A.
11. Where the goods are transported by the registered person using his own conveyance or public conveyance by road then Part B of Form GST EWB-01 must also be filled in addition to part A of Form GST EWB 01.
12. Transporters not registered under GST who wish to cause the movement of goods shall enroll on the portal to get a 15-digit unique Transporter ID or TRANSIN. This can be shared by them to their clients who may enter this number while generating e-Way bills.
13. The particulars of PART A cannot be changed even in case of entering the wrong information. The only option left to the person is to cancel the e-Way bill. However, PART-B can be updated any number of times within the overall validity of the e-Way bill. The unique number generated is valid for a period of 15 days.
14. If the e-Way bill has been verified by a Proper Officer during its transit, it cannot be cancelled.

Practical Intricacies

- a. *If a person has more than one registered place of business, he can create sub users for a particular place of business place and generate the e-Way bill with that business location as the place of dispatch. This helps when there are multiple places of business and goods are moved from each of those premises. A maximum of 3 sub users can be created for every additional place of business.*
- b. *If the selected transporter denies carrying goods, or goods are not transported or transported in the manner specified, the e-Way bill should be cancelled within 24 Hours. If 24 hours have elapsed, then the other party (supplier/recipient) must be requested to cancel the e-Way bill within 72 hours.*
- c. *Even if there are multiple invoices belonging to the same consignor and consignee, separate and multiple EWB's shall be generated. Multiple invoices cannot be clubbed to generate one e-Way bill. However, the multiple EWB's can be clubbed into one consolidated e-Way bill if the goods are being moved in a single conveyance.*
- d. *Where the goods are transported from one conveyance to another then the details of conveyance in the E-Way bill in Part B should be updated. The authorized transporter can assign the e-Way bill to any enrolled or registered transporter for further transportation. The new transporter can alone update PART-B.*
- e. *PART-B has to be updated each time the vehicle changes in the case of multimodal transport.*

III. VALUATION ASPECTS

1. The consignment value means the value determined under section 15 of the CGST Act. Such value **shall include** CGST, SGST, UTGST, IGST and cess charged if any. Customs shall also be includible. The consignment value ought to exclude freight charges paid to transporter and shipping charges charged by e-commerce operator, since they do not form part of assessable value u/s 15 of the CGST Act.
2. The consignment value shall however **exclude** value of exempted goods only in cases where the invoice is issued in respect of **both** exempted and taxable supply of goods.

Practical Intricacies

- a. *The value in e-Way bill in case goods are sent on lease basis will be the lease rental charges to be received and not the value of goods leased [Explanation 2 to 138(1)]*
- b. *The consignment value shall be only the value of the goods being moved and shall not include any service element. Further, the HSN codes of only the goods shall be specified and not of the services in the invoice.*
- c. *There are few issues that arise in respect of which one does not find an answer in law which are:*

- i. *What is the value that is to be entered in e-way bill in case where the goods are being moved in multiple conveyances (which are not in semi-knocked down or completely knocked down conditions) and a single invoice is raised?*
- ii. *Whether the value to be entered is total invoice value or does the value of consignment be entered for each e-way bill raised?*
- iii. *What happens in cases where the goods are so large in size that they have to be transported in multiple conveyances and value of the consignment cannot be determined? Some of the experts opine that, in such cases, value of the invoice must be entered and it could be supported by a covering letter stating why the goods are being moved in multiple conveyances at the same time on a single invoice.*

IV. VALIDITY OF THE E-Way BILL

- a. The e-Way bill generated shall have a limited validity during which the goods have to be moved which is summarized as under:

In case of Other than over dimensional Cargo	Up to 100 Km.	1 day
	For every 100 Km. or part thereof thereafter	1 additional day
In cases of Over dimensional Cargo	Up to 20 Km.	1 day
	For every 20 Km. or part thereof thereafter	1 additional day
The E-Way bill generated shall be valid in every state and every Union territory		

- b. **Practical Intricacies**

- *The distances of all the modes of transport must be combined and considered.*
- *The approximate distance in the following cases is calculated as under:*
In case of exports - movement of consignment from consignor's place to the place where consignment is leaving the country after customs clearance.
In case of imports - movement of consignment from place where consignment reached the country to destination after clearance from customs.

- c. *The validity of e-Way bill commences when the first entry is made in Part-B (Vehicle entry) or first transportation document number entry in rail/ air/ ship.*
- d. *Validity is not re-calculated for subsequent entries in Part-B.*
- e. *The maximum distance that can be entered in the e-Way bill is 3,000 kms which is expected to be increased. The portal doesn't calculate the distance based on the pincodes between the source and destination points but distance is manually entered.*
- f. *If the vehicle meets with an accident the following two circumstances unfold-*

Circumstance	Procedure
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<i>Accident within validity of e-Way bill</i>	<i>If vehicle is required to be changed- the person / transporter who uploaded details in PART A shall change details of PART B. e-Way shall continue to be valid.</i>
<i>Expiry of validity due to accident</i>	<i>This would count as “exceptional” in nature and the transporter may generate a fresh e-Way bill by updating details in PART B of e-Way bill</i>

- g. **Over Dimensional Cargo (ODC)** shall mean cargo carried as a single indivisible unit which exceeds the limits prescribed under Rule 93 of Motor Vehicles Act, 1988. **ODC** is that which **protrudes outside the loading deck** of the vehicle transporting the cargo. Definition of ODC is to resist industry from transporting normal cargo unnecessarily as ODC for small economic benefits compromising road user’s safety.
- h. The validity period can be extended by the transporter after updating the details in Part B of FORM GST EWB-01 in exceptional cases such as natural calamity, law and order issues, transshipment, delay, accident of conveyance, etc.
- i. Each day shall be counted as the period expiring at midnight of the day immediately following the date of generation of e-Way bill. This is explained by the following examples-
- (i) Suppose e-Way bill is generated at 4 AM on 4th March. Then first day would end on 12 PM of 4th March and the second day would end on 12 PM of 5th March.
- (ii) Suppose e-Way bill is generated at 11:50 PM on 6th April. Then the first day would end on 12 PM of 6th April and the second day would end on 12 PM of the 7th April
- j. The details of e-Way bill generated shall be made available to supplier when the information is furnished by the recipient or the transporter. It will also be made available to recipient when the information is furnished by the supplier or the transporter. The supplier/ recipient respectively shall communicate their acceptance or rejection of the consignment within 72 hours or delivery of goods whichever is earlier.
- k. The E-Way shall not be valid unless the information in Part B of Form GST EWB-01 is furnished. After generation of E-Way bill, the unique number shall be made available to the supplier, recipient and the transporter on the common portal.

V. EXEMPTION FROM GENERATION OF E-Way BILL

- i) When the following goods are being transported -
- 1) Liquefied petroleum gas for supply to household and non-domestic exempted category (Non Domestic Exempted Category) customers
 - 2) Kerosene oil sold under Public Distribution System
 - 3) Postal baggage transported by Department of Posts
 - 4) Natural or cultured pearls and precious or semi-precious stones; precious metals and metals clad with precious metal (Chapter 71)
 - 5) Jewellery, goldsmiths’ and silversmiths’ wares and other articles (Chapter 71)
 - 6) Currency
 - 7) Used personal and household effects
 - 8) Coral, unworked (0508) and worked coral (9601)

- ii) Where goods are transported in non-motorized conveyance
- iii) Where goods are transported from Port/ Airport/ Air cargo complex/ Land customs station to ICD/Container Freight station by the Customs department
- iv) Where goods are transported from ICD/container freight station to port/ airport/ air cargo complex/ and customs station under custom bond, or from one customs station or customs port to another customs station or customs port, or movement anywhere in India under customs supervision or under customs seal
- v) Where goods are transported in specific areas to be notified
- vi) Exempted goods (other than de-oiled cake)
- vii) Alcoholic liquor for human consumption, petroleum crude, high speed diesel, motor spirit, natural gas or aviation turbine fuel
- viii) Movement of goods from or to Nepal and Bhutan
- ix) Supply of goods falling under Schedule III
- x) Intra-state movement of goods, as mentioned in Notification 7/2017 (CTR) dated 28th June, 2017, from Canteen Store Department (CSD) to unit run canteen and authorized customers, and from unit run canteen to authorized customers.
- xi) Intra-state movement of heavy water and nuclear fuels, as mentioned in Notification No. 26/2017 (CTR) dated 21st September, 2018 by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd
- xii) Movement of goods caused by defense formation under Ministry of defense as a consignor or consignee.
- xiii) Where the consignor of goods is the Central Government, Government of any State or a local authority for transport of goods by rail.
- xiv) Where empty cargo containers are being transported.
- xv) Movement of goods from place of business of consignor to weighbridge and vice-versa, where the distance is up to 20 Kms within the state (However goods in this case must be accompanied by a delivery challan)

VI. DOCUMENTS TO BE CARRIED BY PERSON IN CHARGE OF CONVEYANCE

- The documents and devices to be carried are as follows:
 - a. Invoice, Bill of Supply or Delivery Challan
 - b. Copy of e-way bill in manual or electronic form. Carrying E-Way Bill is not applicable for movement of goods by rail or by air or vessel. E-Way bill number mapped to a RFID device attached to a conveyance shall also suffice.
 - c. The registered person may obtain Invoice reference number from common portal by uploading a tax invoice issued in Form GST INV-1 and produce the same for verification

in lieu of tax invoice. Such Invoice Reference number shall be valid for 30 days from the date of uploading.

- A unique Radio Frequency Identification Device (RFID) shall be embedded on to the conveyance to map the e-Way bill to the Radio Frequency Identification Device prior to the movement of goods. The class of persons who have to get this device embedded will be notified by the Commissioner. As on date, there are no class of persons that have been notified.
- In certain circumstances, the Commissioner may notify a person in charge of the conveyance to carry the following documents instead of E-Way Bill:
 - a. Invoice or Bill of Supply or Bill of Entry
 - b. Delivery Challan where goods are transported for reasons other than supply
- The difference between Rule 55A and 138A(5) is that in the former cases, e-Way Bill is not required to be generated whereas in the latter case, e-Way Bill is required to be generated but because of the specific circumstance, the person in charge is allowed to transport goods by the Commissioner.
- Rule 55A has been inserted into CGST Rules by Notification No.3/18 CT dated.23.1.18 as per which, a person in charge of the conveyance shall carry a copy of the tax Invoice or the bill of supply in the aforesaid cases where E-Way Bill is not required to be generated.

VII. VERIFICATION OF DOCUMENTS AND CONVEYANCE

- The Proper Officer is permitted to intercept any conveyance to verify the E-Way bill (either in physical or electronic form) for all intra and interstate movement of goods. He is also permitted to physically verify the goods.
- The Commissioner shall get RFID Reader installed at places where verification is to be carried out. The verification of movement of vehicles on which RFID has to be installed shall be done through such readers. Thus, the e-Way Bills mapped to the RFID on the conveyances can be verified.

VIII. INSPECTION AND VERIFICATION OF GOODS

- 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 24 hours of Inspection.
- The Final Report in Part B of Form GST EWB-03 shall be recorded within 3 days of such Inspection.
- Such physical verification shall be done only once during the entire journey, unless specific information relating to tax evasion is made available subsequently.

IX. DETENTION OF CONVEYANCE

Information regarding uploading details of a detained vehicle need to be uploaded on the common portal. Where a vehicle has been intercepted and detained for a period exceeding 30 minutes, the transporter can upload the said information in FORM GST EWB-04 on the common portal. This acts as a deterrent for unwarranted harassment, if any be erring revenue officials.

X. SPECIFIED PROCEDURES

- **Delivery Challan** – This document is used for transportation of goods without issue of an Invoice. The consignor should issue the delivery challan in lieu of Invoice in following cases:
 - Transportation of goods for job work,
 - Transportation of goods for reasons other than by way of supply,
- Where goods are being transported on a delivery challan in lieu of invoice, the same shall be declared in Part A of EWB-01.
- Where goods are sent from one job worker to another job worker the challan may be issued either by the principal or the job worker sending goods to another job worker. The challan issued by the principal may be endorsed by the job worker. Such endorsement cannot be done in case the goods are sent by job worker on piece meal basis.
- The e-Way bill shall be generated either by the principal or by the registered job worker in case of interstate movement irrespective of consignment value. Where the job worker is not registered, the principal shall generated E-Way Bill both at the time of sending and receiving the goods.

A. Semi Knockdown/Complete Knockdown goods:

- Where the goods are being transported in a semi knocked down or completely knocked down condition:
 - the supplier shall issue the complete invoice before dispatch of the first consignment
 - the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice
 - each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice
 - the original copy of the invoice shall be sent along with the last consignment
- Where the goods are being transported in a semi knocked down or completely knocked down condition then E-Way bill has to be generated for movement of **each consignment** against the copy of original invoice and delivery challan.
- Such a procedure has to be followed even when the goods of a single invoice are being moved in multiple vehicles simultaneously.

B. E-Way “Bill to” “Ship to” transactions

- In case the transaction is “Bill to/Ship to” transaction wherein the invoice is raised by the supplier to its buyer but consignment of goods has to be made to customer on the direction of buyer. In such scenario the E-Way bill has to be raised by Supplier.
- For example, there are three parties “A” from Bangalore and B from Chennai and C from Mumbai. A (Bangalore) orders B (Chennai) to dispatch the goods directly to C (Mumbai) E-Way. It has been clarified that two tax invoices are to be generated. One between A to B and another between B to C. However, either A or B can generate the e-Way bill. It should be noted that only one e-Way bill is required to be generated as per the following procedure.

CASES	Case -1: Where e-Way Bill is generated by ‘B’, the following fields shall be filled in Part A of GST FORM EWB-01	Case -2: Where e-Way Bill is generated by ‘A’, the following fields shall be filled in Part A of GST FORM EWB-01:
Bill From:	In this field details of ‘B’ are to be filled.	In this field details of ‘A’ are to be filled.
Dispatch From:	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of ‘B’.	This is the place from where goods are actually dispatched. It may be the principal or additional place of business of ‘B’.
Bill To:	In this field details of ‘A’ are to be filled.	In this field details of ‘C’ are to be filled.
Ship to:	In this field address of ‘C’ is to be filled.	In this field address of ‘C’ is to be filled.
Invoice Details:	Details of Invoice-1 are to be filled	Details of Invoice-2 are to be filled

- The transporter should carry E-Way bills along with copy of Invoice as raised by A to B and shipped to C. The said transaction will be an inter-State supply.
- In e-Way bill form, there are two portions under ‘TO’ section. In the left hand side “Billing To” GSTIN and trade name is entered and in the right hand side “Ship to” address of the destination of the movement is entered.
- Suppose the principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker’s place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply. E-Way Bill must be generated by A and sent along with its invoice to the premises of job worker. The E-Way Bill so raised must be carried by transporter.
- Sometimes, the supplier prepares the bill from his business premises to consignee as per the business requirements. This is known as “Billing from” and “Dispatching From”. E-Way bill has provisions for this as well. In the e-Way bill there are two portions under ‘From’ section. In the left hand side “Bill from” suppliers GSTIN and trade name are entered and in the right hand side “Dispatch From” address of the dispatching place are entered.

