

Study Circle Meeting

Hosted by – J B Nagar CPE Study Circle of **WIRC of ICAI**

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At : Hotel Kohinoor Continental, Andheri Kurla Road, Mumbai

GST

Goods &
Services
Tax



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COVERAGE

Export Under GST

- Export
- Zero Rated Supply
- Procurement at concessional Rate
- Deemed Export
- SEZ Export
- Duty Drawback

E- Way Bill

- Concept
- Mandatory E way Bill
- Procedure
- Exemptions
- Other

Recent Amendments

- Return Filing Due Dates
- RCM

EXPORTS IN GST



Important Definitions - Export

Sec 2(5) of IGST Act

“export of goods” with its grammatical variations and cognate expressions, means **taking goods out of India** to a place outside India;

Important Definitions – Export of Services

Sec 2(6) of IGST Act

“export of services” means the supply of any service when,—

- (i) the supplier of service is located in India;*
- (ii) the recipient of service is located outside India;*
- (iii) the **place of supply of service is outside India;***
- (iv) the payment for such service has been received by the supplier of service in convertible **foreign exchange;** and*
- (v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with *Explanation 1* in section 8;***

Case Study

Kams King Inc (Denmark) having a 100% subsidiary company in India Kams King India P Ltd, who

- 1. facilitates the supply of Goods in India for a agreed commission of 10% of sales.**
- 2. Providing market research consultancy services for a agreed lump sum consideration of Rs. 1.00 Lakh.**

Examine the levy of GST on above transactions

Zero Rated Supply

ZERO RATED SUPPLY

Sec 2(6) of IGST Act

“zero rated supply” means

(a) export of goods or services or both; or

(b) supply to unit in SEZ

(c) Developer of SEZ

(2) Subject to section 17 (5) i.e. Block Credit,

credit of input tax may be availed for making zero-rated supplies,
notwithstanding that such supply may be an exempt supply.

Option for Zero Rated Supply

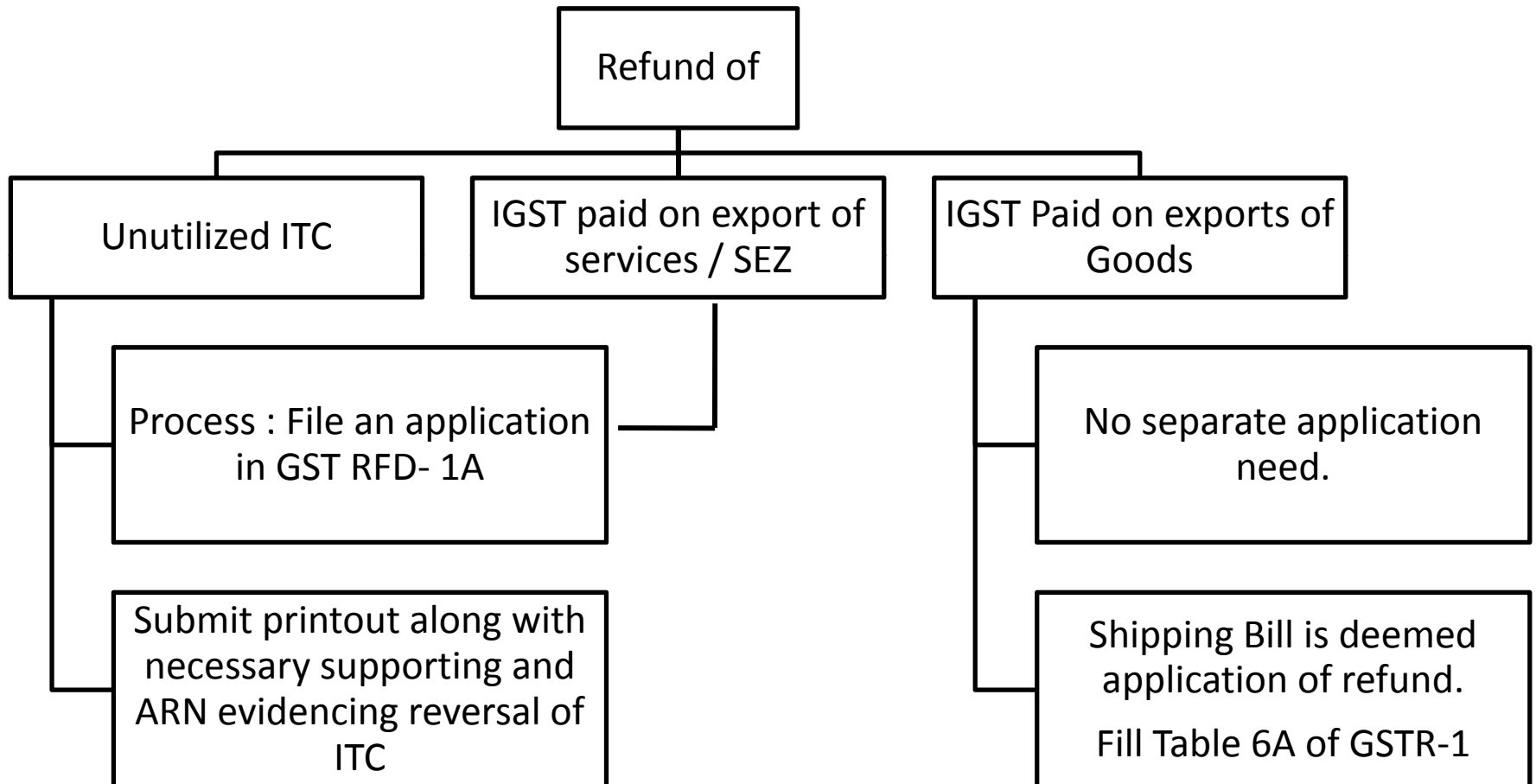
Without payment of Taxes

- Execute a LUT / Bond
- Export without payment of taxes
- Claim refund of unutilized ITC

With Payment of Tax

- Supply on Payment of IGST
- Claim refund of such tax paid on goods or services or both.

Refund



**Manual filing of refund for
inverted duty structure, deemed**

[Circular No.24/24/2017- GST dated 21st December, 2017](#)

Due to the non-availability of the refund module
claims on account of

- inverted duty structure,
- deemed exports and
- excess balance in electronic cash ledger

shall be filed and processed **manually** till further orders.

refund claims shall be filed on a monthly basis in **FORM GST RFD-01A**.

(persons having aggregate turnover of up to Rs 1.5 crore opting to file FORM GSTR-1 quarterly shall apply for refund on a quarterly basis.)

Registered persons must **give an undertaking**

Stating that the amount of refund sanctioned would be paid back to the Government if it is found that the requirements of the CGST Act have not been complied with

Merchant Exporter

Procurement at Concessional Rate

[NOTIFICATION 40/2017-CENTRAL TAX (RATE) DATED 23RD OCTOBER 2017]

Intra-State and inter state supply by a registered supplier to a registered recipient for export liable for GST@0.1% subject to the fulfillment of the following conditions:

(a) Registered Supplier:

- (i) To supply the goods to the registered recipient on a **tax invoice**;

(b) Registered Recipient:

- I. to export the goods **within ninety days** from the date of issue of invoice;
- II. To **indicate the GSTIN and the tax invoice number** of the supplier of the said goods in **the shipping bill** or bill of export, as the case may be;
- III. Is registered with an Export Promotion Council or a Commodity Board recognised by the Department of Commerce;
- IV. To place an order on for procuring goods at concessional rate and a copy to be provided to the jurisdictional tax officer of the registered supplier;
- V. To move the said goods from place of registered supplier–
- VI. Directly to the Port, ICD, Airport or Land Customs Station from where the said goods are to be exported; or
- VII. Directly to a registered warehouse from where the said goods have to move to the Port, ICD etc. From where the said goods are to be exported;

Procurement at Concessional Rate

[NOTIFICATION 40/2017-CENTRAL TAX (RATE) DATED 23RD OCTOBER 2017]

Aggregation and Export

viii) Firstly the goods shall move to a registered warehouse and after the aggregation, goods shall move to the Port, ICD, Customs Station etc. from where they shall be exported.

ix) After receipt of goods, registered recipient shall

- Endorse receipt of goods on tax invoice
- obtain acknowledgement copy from operator of registered warehouse
- and provide copy of both the documents to supplier & jurisdictional tax officer of supplier

x) After export of goods, he shall submit

- Copy of shipping bill / bill of export
- Tax invoice

To the supplier and jurisdictional tax officer of supplier

If Merchant exporter fails to export within 90 days, supplier will not be eligible for above mentioned exemption

Procurement at Concessional Rate

[NOTIFICATION 40/2017-CENTRAL TAX (RATE) DATED 23RD OCTOBER 2017]

Issues:

- I. What is a “Registered Warehouse” ?
- II. Whether one to one correlation is required to be maintained for the goods procured from a registered supplier at a concessional rate and the goods exported?
- III. Whether the said benefit of concessional rate is available to manufacturers purchasing raw materials for the purpose of export?
- IV. Whether the registered supplier is entitled for refund on account of an inverted duty structure?

Proviso to Section 54(3) of the CGST Act

Provided that no refund of unutilized input tax credit shall be allowed in cases other than- where the credit on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except notified supplies

[Refer-Notification for goods- 5/2017-CentralTax(Rate)dated28.06.2017 (As amended mainly in respect of woven fabrics in chapter 50 to 55, 60 and railways, tramways, coaches, wagons etc. in chapter 86.

SEZ Supply

SEZ Supply

Meaning of SEZ

Sec 2 (19) of IGST Act : *SEZ have a meaning as assigned to it in clause (za) of section 2 of the SEZ Act 2005*

SEZ unit has not been defined in the IGST Act, 2017. As per Sec. 2(zc) of the SEZ Act, 2005a "unit" means a unit set-up by an entrepreneur in a Special Economic Zone and includes an existing Unit, an Offshore Banking Unit and a Unit in an International Financial Services Centre, whether established before or established after commencement of this Act, which can further include:

- Free Trade Zones (FIZ)
 - Export Processing Zones (EPZ)
 - Industrial Parks/Industrial Estates (IE)
 - Free Zones/Free Economic Zones (FE/FEZ)
 - Bonded Logistics Parks (BLP)
 - Urban enterprise zones
- Beneficiary under SEZ act.
- SEZ Unit -> A unit which is located in a SEZ
 - SEZ Developer / Co Developer -> A person who develops a SEZ as per the framework designed by the Government

Taxability of supply to / by SEZ

Type of Supply : Section 7(5) IGST :

Supply of goods or services or both,—

*(b) **to or by** a Special Economic Zone developer or a Special Economic Zone unit;*

*shall be treated **as inter-State supply.***

Taxability of supply to / by SEZ

Examples

S.No	Situation	Taxability
1	DTA to SEZ	As per S.16 of IGST Act, any supply to a unit in SEZ is a zero rated supply. Hence the supply by A DTA unit to SEZ shall be subject to tax at Nil rate of duty.
2	SEZ to DTA	As per S.7 of the IGST Act, supply of goods by a SEZ unit shall be an inter-state supply irrespective of both the supplier and recipient being located in the same state. SEZ Unit shall collect IGST from DTA unit on such supply.
3	SEZ to Outside India <i>(Consideration received in FCE)</i>	The supply of services by a SEZ unit shall be treated as export of service which is a zero rated supply.
4	Imports (Outside India to SEZ)	Imports from unregistered person attract IGST under RCM. However special exemption is provided. Hence NO IGST

ITC on supply of Goods Services to SEZ

ITC on supply of Goods Services to SEZ

Subject to Section 17(5) , unit supplying goods or services or both to a unit located in SEZ or to a SEZ developer can claim ITC on the inputs or capital goods or input services used to provide a supply to SEZ units/SEZ developer.

Refund of supply made to SEZ

3 Options available with DTA unit for outward supply to SEZ

Option 1

A : Supply Goods / Services under Undertaking (LUT) and claim refund of Unutilized ITC

B : Supply Goods / Services under Bond and claim refund of Unutilized ITC

C : If Exporters part supplies is SEZ exports, follow either Option 1A or 1B as applicable. RTP can then utilize SEZ Export ITC for payment of GST Liability arising on Supplies within India. If SEZ Export ITC is fully utilised against Domestic GST Liability, he need not apply for refund at all

Option 2

Supply on payment of IGST and claim refund of such tax aid on goods or services or both supplied

The procedure of export under bond or LUT will apply to supplies to SEZ and SEZ Developer also

Additional Documents to be submitted for Refund by SEZ

1. Refund application in case of supply of goods to SEZ

Application for refund shall be filed by the supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorized operations, as endorsed by the specified officer of the Zone

2. Refund application in case of supply of services to SEZ

application for refund shall be filed by the supplier of services along with such evidence regarding receipt of services for authorized operations as endorsed by the specified officer of the Zone
statement containing the number and date of invoices and the details of payment,

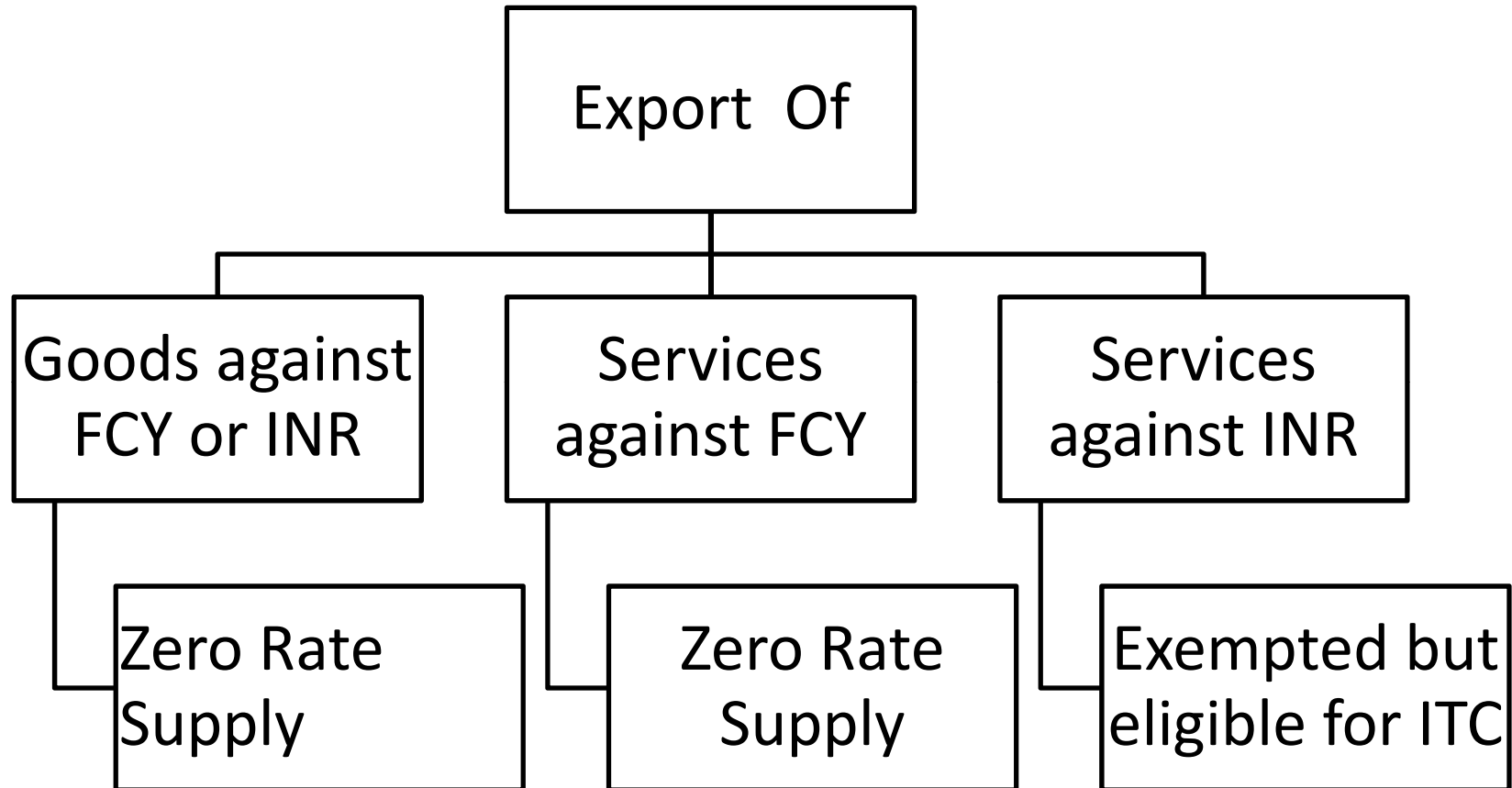
3. A declaration that SEZ unit or SEZ developer has not availed input Tax Credit of tax paid by supplier of goods or services.

Export to Nepal & Bhutan

Supply to Nepal & Bhutan (Recent Amendments)

Noti. No. 30/2017 CT Rates dt. 29/09/2017	Noti. No. 42/2017 IT (Rates) dated. 27/10/2017	Noti. No. 55/2017 CT dated. 15/11/2017
Supply of services associated with transit cargo to Nepal and Bhutan (landlocked countries) – Exempted	Supply of services to Nepal & Bhutan against Payment in INR are made exempted	Clarified that ITC in respect of input, input services & Capital Goods used in exports of services to Nepal & Bhutan is not a exempted supply hence no proportionate ITC is required to be reversed

Supply to Nepal & Bhutan (Recent Amendments)



Issues :

- Export of services to Nepal & Bhutan will be treated as ' Zero Rated Supply'?
- In not zero rated then whether exporter will be eligible for claim of refund ?

Duty Drawback

Changes in Duty Drawback Post GST

- Duty Drawback scheme with certain modifications will continue under the GST regime.
- **Simultaneous availment of drawback at composite rates (higher Rate) and refund of ITC or IGST under any of the above two options is not permissible.**
- However, drawback of customs portions (lower Rate) along with refund of ITC or IGST under any of the two options (Refund of ITC or IGST) is permissible.
- Drawback will be admissible only at lower rate determined on the basis of the custom duties paid on the goods imported for supplying goods for export. (Drawback rates already notified on 22nd September)

Changes in Duty Drawback Post GST

- **For transition period of 3 months, July to September, 2017, Drawback at higher composite rates will continue to be granted** subject to exporter making a declaration and certificate from Jurisdictional Proper office is required that
 - ✓ No Input Tax Credit (ITC) of CGST/IGST is claimed,
 - ✓ No refund of IGST paid on export goods is claimed and
 - ✓ No CENVAT credit is carried forward

- If no such certification, drawback will be restricted to the customs portion of drawback

UPDATES IN GST



CASE STUDY

Case Study

A Mumbai based tax consultant having income of Rs. 12 Lakh, not obtained GST registration. He is having a commercial property at surat, which is let out for Rs. 4 Lakh per annum. Does he required to obtain registration?

- What if the said property is a residential property and let out for residential purpose ?

Sec 24 of CGST Act

Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act,—

(i) persons making any inter-State taxable supply;

Exemption from Compulsory Registration

Notification No. 10/2017 – I T dated 13th Oct 2017

exempts those service providers whose annual aggregate turnover is less than Rs. 20 lakhs (Rs. 10 lakhs in special category states except J & K) from obtaining registration even if they are making inter-State taxable supplies of services.

Case Study

Does exporter of services are required to take registration even if his TO is below Rs. 20 lakh ?

Movement of Goods on Approval Basis

Movement of Goods on Approval Basis

Issue

- Various communications had been received particularly from the suppliers of jewellery etc... who are registered in *one State but may have to visit other States (other than their State of registration) and need to carry the goods (such as jewellery) along for approval.*
- Since the suppliers are not able to ascertain their actual supplies beforehand and while ascertainment of tax liability in advance is a mandatory requirement for registration as a casual taxable person, the supplier is not able to register as a casual taxable person

Movement of Goods on Approval Basis

Govt. by Circular No. 10/2017 dtd.18th October 2017 has in exercise of the powers conferred under section 168 (1) of the Central Goods and Services Tax Act, 2017, has clarified that for the purpose of uniformity in the implementation of the Act, it has been decided to clarify this matter as follows –

As per Rule 55(1)(c) of the CGST Rules,2017 which provided that “The supplier shall issue a delivery challan for the initial transportation of goods where such transportation is for reasons other than by way of supply”.



Further as per Rule 55(4) of the CGST Rules,2017 which provides that “Where the goods being transported are for the purpose of supply to the recipient but the tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue a tax invoice after delivery of goods”.

Movement of Goods on Approval Basis

Conclusion:

- Therefore as per Circular No 10/2017-GST it is understood that the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods.
- For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.
- It is further clarified that all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-state supplies and attract integrated tax in terms of Section 5 of the Integrated Goods and Services Tax Act, 2017

Advance receipt against supply of Goods

Advance receipt against supply of Goods

(Notification no 66/2017-Central Tax dated 2017)

- The Requirement to pay GST on Advances received was also proving to be burdensome for small dealers/Traders & manufacturers.
- It has now been Notified that taxpayers (annual aggregate turnover **above or below Rs 1.5 Crores, i.e. for all assessee's**) except for composition dealers, shall not be required to Pay GST at the time of receipt of Advances on account of supply of **GOODS.**
- *Earlier it was allowed only to taxpayers having annual aggregate turnover below Rs 1.5 Crores (except for composition dealers) (vide Notification no 40/2017 –Central Tax dated 13th October 2017)*
- The GST on such supplies shall be payable only when the supply of goods is made r.w. Sec. 12(2)(a) – Dt of Issue of Invoice.

Due Dates of Filing of Returns

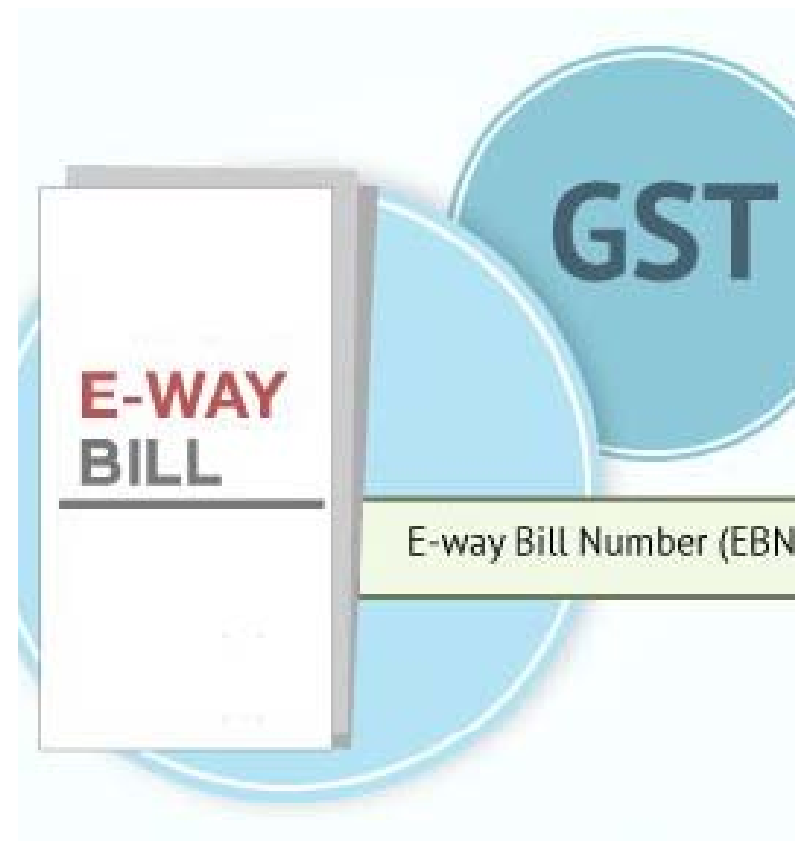
Due dates of filing of Returns

Period / Month	GSTR- 3B (Along with payment) (Noti. No 35/2017 & 56/2017)	GSTR-1		GSTR-2	GSTR-3
		<i>Taxpayer T O upto 1.5 Cr (57/2017)</i>	<i>Taxpayer T O more than Rs. 1.5 Cr (58/2017)</i>	<i>(Noti. No . 57/2017 & 58/2017)</i>	
July 17	25.08.2017	31.12.2017	31.12.2017	The extension of time limit for furnishing GSTR-2 and GSTR-3 for the month of July 2017 to March 2018 will be notified subsequently in official gazettee.	
Aug 17	20.09.2017		31.12.2017		
Sept 17	20.10.2017		31.12.2017		
Oct 17	20.11.2017	15.02.2018	31.12.2017		
Nov 17	20.12.2017		10.01.2018		
Dec 17	20.01.2017		10.02.2018		
Jan 18	20.02.2018	30.04.2018	10.03.2018		
Feb 18	20.03.2018		10.04.2018		
March 18	20.04.2018		10.05.2018		

Due dates of filing of Returns

<i>Form</i>	<i>Description</i>	<i>Due date prior to this Notification</i>	<i>Extended date</i>
GSTR ITC-01	Form to be filed by registered person after taking registration to the effect that he is eligible to avail the input tax credit	31stOctober ,2017	31stJanuary, 2018. <i>(Notification No. 67/2017 – Central Tax dated 21stDecember, 2017)</i>
FORM GSTR-5	Form of Return by non-resident tax payers [Foreigners]	11th December, 2017	31st January, 2018. <i>Notification No.68/2017 – Central Tax dated 21stDecember, 2017</i>
FORM GSTR-5A	Form and manner for submission of Return by persons providing online information and database access or retrieval services from a place outside India to a person in India other than a registered person	15thDecember 2017.	31st January, 2018. <i>Notification No. 69/2017 – Central Tax dated 21st December, 2017</i>

E-way bill



E-way Bill Mechanism

Following decisions were taken by the GST council in the 24th GST Council meeting for implementation of nationwide e-way Bill system :

- i) Trial basis model latest by **16th January, 2018**. Trade and transporters can start using this system on a voluntary basis from 16th January, 2018.
- ii) The Rules for implementation of nationwide e-way Bill system for **Inter-State movement of goods** on a compulsory basis will be notified with effect **from 1st February, 2018**.
- iii) While the System for both inter-State and intra-State e-way Bill generation will be ready by 16th January, 2018, the States may choose their own timings for implementation of e-way Bill for intra-State movement of goods on any date before 1st June, 2018. There are certain States which are already having system of e-way Bill for intra-State as well as inter-State movement and some of those States can be early adopters of national e-way Bill system for intra-State movement also. But in any case, the Uniform System of e-way Bill for inter-State as well as intra-State movement will be implemented across the country by 1st June, 2018.

What is an e-way bill?

E-way bill is

- a document required to be carried by transporter
- carrying any consignment of goods of value exceeding Rs. 50000/-
- mandated in terms of section 68 of the GST Act read with rule 138
- to be generated through common portal <http://e-waybill.nic.in>
- by the registered persons or transporters who causes movement of goods of consignment before commencement of such movement

Who all can generate the e-way bill

Every registered person who causes movement of Goods exceeding value Rs. 50000/-

- In relation to a 'supply'
- For reasons other than a 'supply' (say a return, Job work, approval basis)
- Due to inward 'supply' from an unregistered person

before commencement of such movement, **furnish information** relating to the said goods in Part A of FORM GST EWB-01, **electronically**, on the common portal.

Transporter will then generate e-way bill after furnishing details in Part-B of GST-EWB-01

GST- EWB-1

FORM GST EWB-01

(See rule 138)

E-Way Bill

PART-A		
A.1	GSTIN of Recipient	
A.2	Place of Delivery	
A.3	Invoice or Challan Number	
A.4	Invoice or Challan Date	
A.5	Value of Goods	
A.6	HSN Code	
A.7	Reason for Transportation	
A.8	Transport Document Number	
PART-B		
B.	Vehicle Number	

Code	Description
1	Supply
2	Export or Import
3	Job Work
4	SKD or CKD
5	Recipient not known
6	Line Sales
7	Sales Return
8	Exhibition or fairs
9	For own use
0	Others

E-way bill for consumer

Whether e-way bill is required, if the goods are being purchased and moved by the consumer to his destination himself.

YES. As per the rules, e-way bill is required along with the goods, if it is more than Rs 50,000.00. Under this circumstance, the consumer can get the e-way bill generated from the tax payer or supplier, based on the bill or invoice issued by him. Or the consumer can enroll and log in as the citizen and generate the e-way bill.

Registered person carrying goods himself

How to generate E-way bill when goods are carried by the registered person in his own vehicle?

The taxpayer can generate EWB with or without Part-B. Sometimes, the taxpayer wants to move the goods himself but wants to update the Part-B later as vehicle number is not available at that point of time. E-way bill expects the user to enter transporter ID or vehicle number. So as he wants to move the goods himself, he can enter his GSTIN as transporter Id and generate EWB. This indicates to the system that he is a transporter for that EWB.

How unregistered transporter generate E way Bill

If the transporter is not registered person it is mandatory to get enrolled on the common portal of e-waybill (<http://gst.kar.nic.in/ewaybill>) before generation of the e-way bill.

The unregistered transporter can enroll on the common portal and will be provided a **15 digit unique transporter ID** .

Later they can generate the e-way bill for movement of goods for his clients. Any person can also enroll and generate the e-way bill for movement of goods for his/her own use.

Transshipment

There may be requirement to change the vehicle number after generating the e-way bill or after commencement of movement of goods due to transshipment or due to breakdown of vehicle. In such cases, the transporter or generator of the e-way bill can update the changed vehicle number.

Multiple mode of transport

One e-way bill can go through multiple modes of transportation before reaching the destination. As per the mode of transportation, the EWB can be updated with new mode of transportation by using 'Update Vehicle Number'.

Let us assume

Goods are moving from to to		Mode of transport	What need to be done
Cochin	Mumbai	Ship	Update transport document number on the e-way bill system
Mumbai	Mumbai Airport	Road	Update Vehicle No
Mumbai Airport	Chandigarh	Air-cargo	Update Airway Bill number

Consolidated E-Way Bill (GST EWB-02)

What is consolidated e-way bill?

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance (goods vehicle). That is, the transporter, carrying the multiple consignments of various consignors and consignees in one vehicle is required to carry one consolidated e-way bill instead of carrying multiple e-way bills for those consignments.

FORM GST EWB-02

(See rule 138)

Consolidated E-Way Bill

Number of E-Way Bills	
E-Way Bill Number	

Amendment & Cancellation

If there is a mistake or wrong entry in the e-way bill, what has to be done?

If there is mistake, incorrect or wrong entry in the e-way bill, then it **cannot** be edited or corrected.

Whether the e-way bill can be cancelled? if yes, under what circumstances ?

Yes. e-way bill can be cancelled if either goods are not transported or are not transported as per the details furnished in the e-way bill. e-way bill can be cancelled **within 24 hours** from the time of generation.

Validity of an e-way bill

Sr. no.	Distance	Validity period
(1)	(2)	(3)
1.	Upto 100 km	One day
2.	For every 100 km or part thereof thereafter	One additional day

The Commissioner may extend the validity period of e-way bill for certain categories of goods.

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

Person in charge of a conveyance shall carry

- (a) the invoice or bill of supply or delivery challan, **and**
- (b) E-way bill or the e-way bill number,
either physically **or**
mapped to a (RFID)

The Commissioner may, by notification, require a class of transporters to **obtain a unique RFID** and get the said device embedded on to the conveyance and map the e-way bill to the RFID prior to the movement of goods:

Verification of documents and conveyances

- (1) The **Commissioner** or an empowered officer can **intercept any conveyance** to verify the e-way bill for all inter-State and intra-State movement of goods.
- (2) The Commissioner shall Get installed RFID reader at places where verification of movement of goods is required and movement shall be verified through such RFID readers where the e-way bill has been mapped with RFID.
- (3) **Physical verification** of conveyances shall be **carried out** by the **proper officer as authorized by the Commissioner** or an officer empowered by him in this behalf:

In case of specific information of evasion of tax, physical verification shall be carried out only after obtaining necessary approval from the Commissioner or an officer authorized by him in this behalf.

Inspection and verification of goods

- (1) A **summary report of every inspection** shall be **recorded online by the proper officer** in Part A of FORM GST INS - 03 **within twenty four hours of inspection** and the **final report in Part B** of FORM GST INS - 03 shall be recorded **within three days** of the inspection.
- (1) Once physical verification on any conveyance has been done
- within the State or in any other State,
 - **no further physical verification**
 - **unless specific information** relating to evasion of tax is made available subsequently.

Facility for uploading information regarding detention of vehicle

Where a vehicle has been intercepted and **detained for a period exceeding thirty minutes**, the transporter may upload the said information in FORM GST INS- 04 on the common portal.

Failure to comply

Notwithstanding anything contained in this Act, where any person transports any goods in contravention of the provisions of this Act or the rules made there under, then

Such goods,

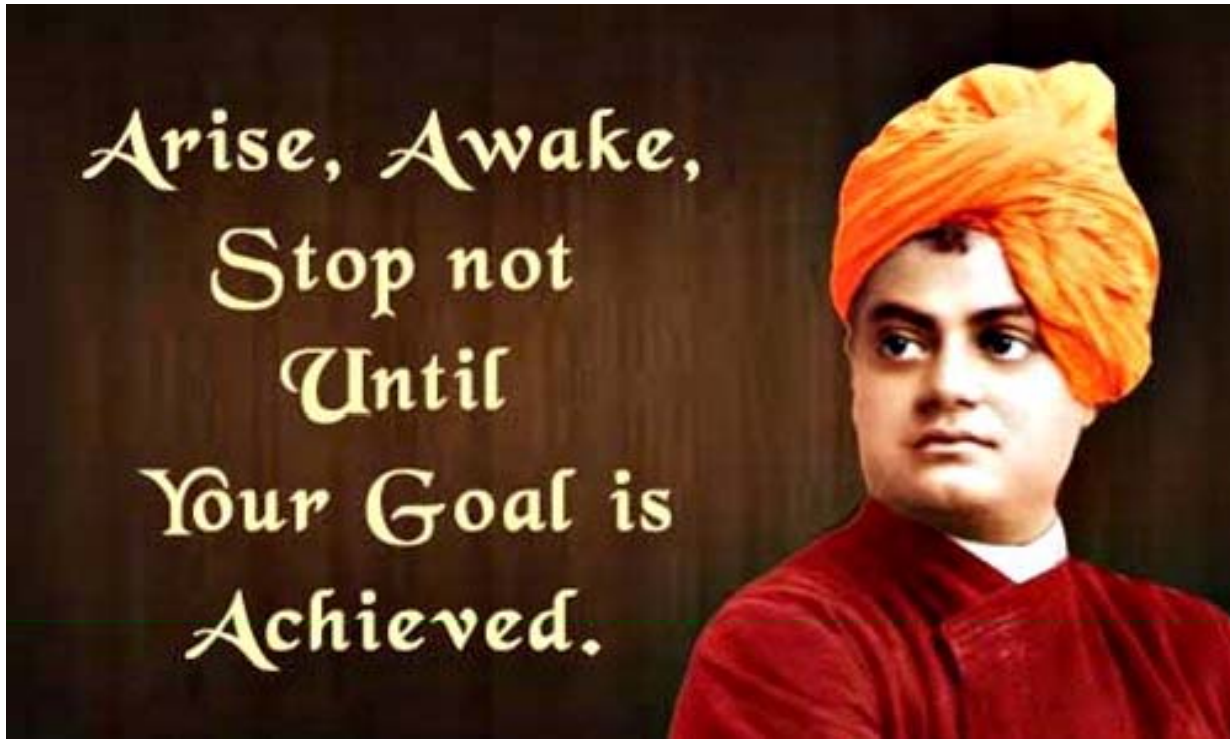
Vehicle &

Documents related to such goods and vehicle

Liable for Detention or seizure and will be released after payment

Type of Goods	Owner Available	Owner not Available
Taxable Goods	Tax + penalty 100%	(50% of value of Goods – tax amt paid thereon)
Exempted Goods	<u>(least of)</u> 2% of Value of Goods or Rs. 25000/-	<u>(least of)</u> 5% of Value of Goods or Rs. 25000/-

upon furnishing a security equivalent to the amount payable under clause (a) or clause (b)



Thank you

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