

Detention, Seizure & Confiscation Vis a Vis
E-way Bill

M/s. Jignesh Kansara & Associates
Chartered Accountants



*Private and Confidential. Not for
Circulation.*

State wise EWB Position as of 1st May 2018

Mandatory Phase of **Inter state** started from 1st April 2018

Karnataka has started EWB even for **intra state from 1st April 2018**

From 15th April Gujrat, Uttar Pradesh, Telagana, Kerala & Andhra Pradesh have started EWB for Intra state.

From 20th April, Tripura, Bihar, Jharkhand, Haryana, Himachal & Uttrakhnand have started EWB for Intra State.

From 25th April Arunachal Pradesh, Madhya Pradesh, Meghalaya, Sikkim and Puducherry have started EWB fro Intra State.

Maharashtra has deferred Intra State EWB till 1st June 2018

State wise EWB Position as of 1st May 2018

From 1st June 2018, across all States and UT EWB will be mandatory even for Intra State movement

CBIC has prescribed Circular no. 41 for procedural issues of Detention, Seizure and Confiscation.

Bihar has kept threshold limit of Rs. 200000 for intra State EWB

In Gujarat Intra State EWB is compulsory only for 19 commodities (see next slide)

In Haryana Intra State EWB is compulsory only for 8 commodities

e- WayBill Entry Form

[* indicates mandatory fields for E-Way Bill and • indicates mandatory fields for GSTR-1]

Transaction Details

Transaction Type • Outward Inward Sub Type • Supply Export Job Work SKD/CKD Recipient Not Known For Own Use Exhibition or Fair Others

Document Type • Tax Invoice Document No • Document Date • 08/04/

Bill From

Name SUPER TYRE

GSTIN • 27AIQPP2567F1ZT

State • MAHARASHTRA

Despatch From

Address SHOP NO.5GROUND FLOORRA

DHARAMKANTA KASHIMIRA RC

Place

Pincode • 401101 MAHARASHTRA

Bill To

Name Name

GSTIN •

State • -State-

Ship To

Address

Place

Pincode • -State-

From where goods are moved

Final Destination

Item Details

©Powered By National Informatics Centre

Press Release - Bill to Ship to

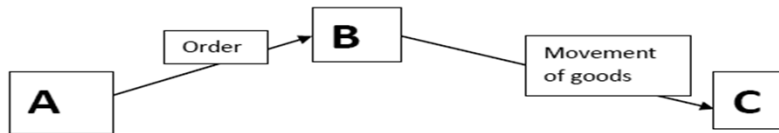
Press Release

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.



M/s. Jignesh Kansara & Associates

Slide 5

Press Release - Bill to Ship to

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:

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

Page 1 of 2

M/s. Jignesh Kansara & Associates

Slide 6

Press Release - Bill to Ship to

		'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.

Supply V/S Movement

- EWB is must for **every Movement** (except excluded / lesser than threshold) of **Goods in India** irrespective of Supply
- Instance of **Supply without movement of Goods**. Goods sold on as is where is basis, Supply of Services etc – No EWB
- Instance of **Movement of Goods without Supply**. Intra Branch Transfer – EWB required
- Instance where **Value of Supply of Service and Value of Goods might differ** - Job worker Returning Processed Inputs. Invoice for Job Work Charges (Supply) / Delivery Challan for delivery of Goods
- If actual value of goods can't be ascertained / Movement is for reason other than supply, Goods can be moved on Challan and EWB with approximate values
- Service Providers if moving Goods, e.g. Works Contractor sending Cement from his Godown to Construction Site . EWB is required for such movement.

Delivery Challan

CGST Rule 55(1)

For the purposes of-

- (a) supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known,
 - (b) transportation of goods for **job work**,
 - (c) transportation of goods for reasons **other than by way of supply**, or
 - (d) such other supplies as may be notified by the Board,
- the consigner may issue a **delivery challan**.....

Where goods are being transported on a delivery challan **in lieu of invoice**, the same shall be declared as specified in rule 138. CGST Rule 55(3)

Delivery Challan

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. CGST Rule 55(4)

Contents of DC has to be as per 55(1) & 55(2)

Goods / Consignment Subject to EWB can move without invoice in qualifying situation (DC etc) but can't move without EWB

Delivery Challan

Section 2 (32)

“Continuous Supply of goods”

means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and **for which the supplier invoices the recipient on a regular or periodic basis** and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

Even for Continuous Supply of Goods, DC will have to be issued .

Delivery Challan

Rule 55A CGST

Tax Invoice or bill of supply to accompany transport of goods.-

The person-in-charge of the conveyance **shall carry a copy (???) of the tax invoice or the bill of supply**

issued in accordance with the provisions of rules 46, 46A or 49

in a case **where such person is not required to carry an e-way bill under these rules**

Circular no. 10 (Jewellery) and Circular no. 22 (Artist) also permits Interstate movement of goods on DC.

Penal Provisions

General Penalty
Sec 122

Detention
Sec 129

Confiscation
Sec 130

Only in case of 130, 122 will be applicable.
129 and 122 are mutually exclusive.

Detention Vs Seizure Vs Confiscation

Detention

- Not allowing access to the owner of the goods by a legal Order/notice
- However the ownership of goods still lies with the own

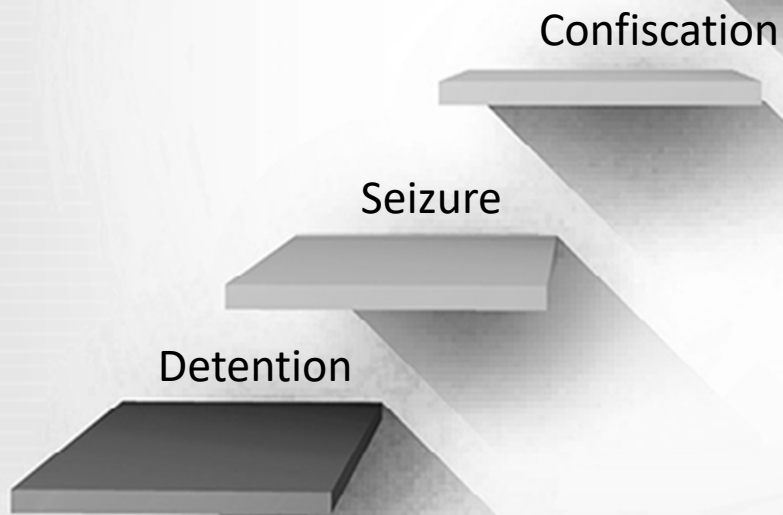
Seizure

- Seizure is taking over of actual possession of the goods by the department
- Seizure can be made only after inquiry/investigation

Confiscation

- Once confiscation takes place, the ownership as well as the possession goes out of the hands of the original owner and into the hands of the Government Authority.

Detention Vs Seizure Vs Confiscation



Detention, Seizure and Release Sec 129

• **Notwithstanding anything contained in this Act**

• 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 thereunder**

• **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 detention or seizure**

Procedure for Release from detention

Option 1: **Actual Payment** of Tax and Penalty

Paid by	If goods are taxable	If goods are exempt
Owner of goods	100% Tax + Penalty @ 100% of Tax	2% of value of goods Or Rs. 25,000 Whichever is less
Owner does not come forward for payment	100% Tax + [Penalty @ 50% of value of goods Less Tax Paid]	5% of value of goods Or Rs. 25,000 Whichever is less

Option 2: Provisional Release : On **Furnishing security** equivalent to amount payable as above in prescribed form and manner as prescribed (CGST Rules 140)

49(4) CGST , ITC balance can't be used for payment of Interest, Penalty etc.
17(5)(i), ITC of tax paid as per Sec 74, 129 and 130 is blocked.

M/s. Jignesh Kansara & Associates

Slide 17

Detention, Seizure and Release

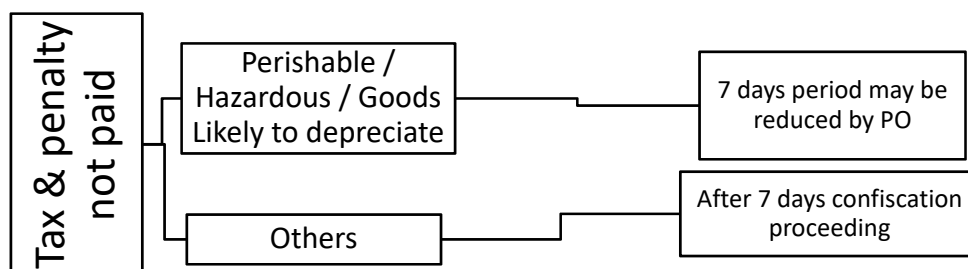
Procedure to be followed by Proper officer (PO) before detention

PO **shall issue a notice** specifying tax + penalty payable

PO shall **pass an order** for payment of tax and penalty.

PO **shall serve an order** of detention or seizure on the person transporting the goods

On payment of amount, *all proceedings in respect of the notice specified shall be deemed to be concluded.*



M/s. Jignesh Kansara & Associates

Slide 18

Bond and security for Provisional release of seized goods

140 CGST Rule : Provisional Release of Goods without payment of Tax

Person seeking provisional release

Execute of Bond for value of Goods +

Bank Guarantee of Tax + Interest + Penalty

Before Provisional Release

On appointed day and place such person to produce Goods for inspection / adjudication., If Tax payer fails to appear on appointed day security shall be encashed and adjusted against Tax, Interest and Penalty

Remedies against Detention Order

Remedies

Pay full Tax + Penalty under dispute, release Goods and file appeal

Pay only 10% of disputed amount and file Appeal

File Writ with Jurisdictional High Court

Remedy against Detention Order

Option 1 : Filing Appeal

Pay Tax + Penalty and get goods Released

Prefer Appeal (Sec 107 & Rule 108)

Within 3 months from the date on which decision / order is communicated

Appeal and Further Appeal ????

Payment to be made before filing Appeal

100% payment towards **Admitted** Tax, Interest, Fine and Penalty

10% of **Disputed** Tax, Interest, Fine and Penalty

Option 2 : File write to Jurisdictional High Court – Try for Urgent Listing – Alternatively try for provisional release on Bond without Bank Guarantee – **Preferable**.

Remedy against Detention Order

Bharat Iron Store & Another Versus Union of India, Secretary and 3 others

2018 (4) TMI 1141 - ALLAHABAD HIGH COURT

When a Petitioner has equally efficacious remedy of filing an appeal against section 107 of UPGST act, 2017 then he must take recourse to the statutory remedy available to him under that law instead of requesting a Writ of Certiorari

No right to Writ – Only in cases where natural justice is violated or Provisions are challenged or officer has exceeded its jurisdiction .

Right to Trade – Fundamental right

Confiscation Sec 130

- **Notwithstanding anything contained in this Act, if any person**
 - **supplies or receives any goods in contravention of any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or**
 - **does not account for any goods on which he is liable to pay tax under this Act; or**
 - **supplies any goods liable to tax under this Act without having applied for registration; or**
- M/s. Jignesh Kansara & Associates 23

Confiscation Sec 130

- **contravenes any of the provisions of this Act or the rules made thereunder with intent to evade payment of tax; or**
 - **uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act or the rules made thereunder unless the owner of the conveyance proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance**
 - **then, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty under section 122**
- M/s. Jignesh Kansara & Associates 24

Confiscation Sec 130

Adjudicating officer shall give option to Pay “ **fine in lieu of confiscation**”

Section 130 Fine in lieu of confiscation is in addition to Tax Amount + Section 122 Penalty

No Confiscation without **opportunity of being heard**

On confiscation the **title** of goods or conveyance **vest in the Government**

PO shall take and hold possession of confiscated property with the help of Police

If Fine / 122 Penalty, Tax etc not paid within 3 months, PO to dispose of such Goods / conveyance and deposit the proceeds in Treasury

Circular no. 41 /15/2018 GST

Circular deals with

- Interception of conveyance for inspection of goods in movement and detention &
- Release and confiscation of such Goods and Conveyance.
- Who could authorise ?
- The **jurisdictional Commissioner (State + Centre)** or an officer authorised by him for this purpose by Written Order
- What is Effect of authorisation ?
- Such officer/officers will be **designated as the proper officer/officers** to conduct interception and inspection of conveyances and goods in the **jurisdictional area** specified in such order,

Circular no. 41 /15/2018 GST

What are powers of such PO ?

Conducting **Interception and inspection** of Goods and Conveyance

What are allowed forms of EWB ?

Printout

SMS (whatsapp ?)

EBN Written on Invoice

Can EWB be verified by Intercepting Officer online?

Yes . <http://mis.ewaybillgst.gov.in>

Or by sms EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).

Sequence of Events Leading to Detention of Goods

1. PO (Proper Officer) may intercept any conveyance **for verification of documents**
2. Person in charge to **shall produce** the documents related to the goods and the conveyance.
3. The PO shall **verify** such documents
4. **If Prima facie no discrepancy**, Conveyance can move further
5. If person in charge of conveyance **fails to produce** prescribed document , PO to **record statement of owner / Driver / Person in charge** of Goods and conveyance in FORM GST MOV-01 and thereafter shall issue order for physical inspection in FORM GST MOV-02. This statement will be Prima facie evidence of illegal movement of Goods.

Sequence of Events Leading to Detention of Goods

Brief Contents of FORM GST MOV-01

- **Statement of the Owner / Driver/ Person In Charge** of the Goods and Conveyance
- Name, Address, Identification of Owner / Driver etc.
- Affirmation No other documents with driver or in the conveyance relating to the goods in movement other than tendered to PO

Sequence of Events Leading to Detention of Goods

6. If Prima facie **documents are in order still if PO intend to go for inspection** , PO shall record statement in GST MOV-1 and issue order for physical inspection in FORM GST MOV-02. In this form officer to record reasons for seeking inspection e.g.
 - Genuineness of Goods in Transit (Quantity etc.) & docs requires further verification.
Form is silent about HSN
 - Prima Facie documents are defective
 - E way Bill / Other documents not tendered etc

Sequence of Events Leading to Detention of Goods

7. On receipt of Order in GST MOV-2, Person in charge of conveyance to **Park conveyance at place mentioned in order (at his risk and responsibility)** and allow inspection of Goods & documents and not to move goods and conveyance till further order. **(No movement without Release order)**

8. **Within 24 hours** from issue of FORM GST MOV-02 , PO to prepare online **Interim report** in PART A of Form GST EWB-03 **(even if Interim report is clean unless release order is passed no further movement)**

9. **Within 3 working days** from issue of FORM GST MOV-02, PO to conclude proceedings by submitting online final report in Part B of GST EWB-03

Sequence of Events Leading to Detention of Goods

Rule 138C (1) talks of only 3 days working days is brainchild of Circular. This addition of words can hamper movement of conveyance by almost 5 days if truck is intercepted say on Friday.

Logic of 24 hours for interim report but 3 working days for final report not clear.
Whether day ends at Mid night ?

10. Where circumstances so warrants PO shall obtain a written permission in Form GST Mov-03 from Authority authorising him for extension of time beyond 3 working days and copy of extension order be served upon person in charge of conveyance **(Ultravires Rule 138C, extension is not mentioned in Rules).. No upper limit fixed for extension.** Person in charge / Owner has no right even to raise objections against this extension.

Sequence of Events Leading to Detention of Goods

Brief Contents of Order (Form **GST Mov-03**) of extension of time for inspection beyond Three working days

- To be approved by / signed by JC / ADC
- Reason for seeking extension to be recorded by PO and approved by JC / ADC

Whether Further extension is possible?

Sequence of Events Leading to Detention of Goods

11. PO to prepare **final report of physical verification Form GST MOV-04** and serve on person in charge of conveyance. For final inspection report PO can take help of any other proper officer (may be valuation officer). PO to also prepare Part B of Form GST EWB-03 online. Form EWB-03 Part A and Part B will not be served on Person in charge.
12. In GST MOV-4, PO will try to compare Description of Goods and Quantity as per underlying document and as per actuals.
13. If **No discrepancy** is found, PO to pass **release order** in Form GST MOV-05 forthwith

Sequence of Events Leading to Detention of Goods

FORM GST MOV-05 (Release Order) can be issued in 3 situations

- Goods / Conveyance was verified and no discrepancy was noticed
- Goods / Conveyance were detained, applicable Tax and Penalty as per Section 129 is paid or Bond / Bank Guarantee is submitted
- Goods / Conveyance were confiscated. Applicable Tax, Penalty, Fine in lieu of confiscation as per Section 122 and 130 is paid.

? What if by the time Release Order is issued, Eway bill validity already expired? Whether such situation falls under “Situation of Exceptional Circumstance” and therefore eligible for extension or in situation of Release order Eway bill is not required for further movement.

Sequence of Events Leading to Detention of Goods

14. If discrepancy is found, PO to pass order of detention (Sec 129) – Form GST MOV-06 & Notice of detention in Form GST MOV-07 and serve both on person in charge of conveyance. Order should specify Tax and Penalty payable, Reason for detention (Discrepancies etc.)

Person in charge / Owner is called upon to show cause within 7 days as to why Tax and Penalty should not be levied/ Goods should not be seized. Further Detention Notice contains **direction to owner / person in charge to appear** on particular date and time. Failure to furnish reply or appearance leads to ex parte decision.

15. Demand (100% Tax and 100% Penalty) to be uploaded/added on Common Portal (Electronic Liability Register) Form GST Mov-09

Sequence of Events Leading to Detention of Goods

Which Government will get revenue in case of Detention / Confiscation ? **Does this mean even in Detention Situation GST will have to be paid as per Place of Supply Provisions ?**

Whether GST officers are cross empowered for the purpose of Detention and Confiscation? Do we have GST Council approved Draft Notification ?

16. Penalty to be paid by debiting electronic cash ledger, ie cash payment (ITC can't be used)

17. Tax may be paid by Electronic credit ledger if sufficient balance is available else to be paid by debiting electronic cash ledger.

Sequence of Events Leading to Detention of Goods

18. If Tax and detention penalty is paid by owner or person authorised by him or any other person as per Section 129(1), **officer to release the goods and conveyance** by Order in FORM GST MOV-05

19. If owner or person authorised by him or any other person is coming forward to pay tax **by furnishing security**, Such person to **execute Bond** in FORM GST MOV-08, equivalent to value of goods and **furnish bank guarantee** equivalent to Tax and Penalty payable. Thereafter PO to pass provisional release order in FORM GST MOV-05

20. In case of provisional release **finalisation proceeding to be taken on priority. (Time limit is not prescribed for adjudication ???)**. If tax payer does not turn up for finalisation proceedings, security provided may be used against demand.

Sequence of Events Leading to Detention of Goods

21. Against Detention Penalty and Tax, **Objection if any can be filed**. PO to consider such objections and pass speaking Detention order in Form GST Mov-09
22. If Detention Penalty and Tax is **not paid within 7 days** (hazardous goods / goods diminishing in value – time limit can be reduced by PO), **section 130 action (Confiscation Proceedings)** to be initiated by issuing **Notice in Form GST MOV10**

Sequence of Events Leading to Confiscation of Goods

1. Where PO is of the opinion that movement of goods is to **evade** payment of tax he may directly initiate Confiscation Proceedings ignoring Detention Provision Penalty altogether

Relevant extract from Notice :

As the goods were transported without any valid documents, it is presumed that the goods were being transported for the purposes of evading the taxes

Section 129 (Detention) and Section 130 (Confiscation) both start with wordings **Notwithstanding anything contained in this Act**. Whether Circular can provide superiority to either of this Section. More particularly when 129(6) specifically lays down situation when 130 action can be taken.

Sequence of Events Leading to Confiscation of Goods

2. Notice in Form GST Mov 10 to specify :
- Quantum of Tax and Penalty leviable u/s 130 &
 - Fine in lieu of confiscation payable
 - For owner of Conveyance, Fine in lieu of confiscation = Tax amount

 - Person in charge / Owner is called upon to show cause within 7 days as to why Goods / Conveyance shall not be confiscated and Tax ,Penalty & fine in lieu of confiscation should not be levied

 - Further confiscation Notice contains **direction to owner / person in charge to appear** on particular date and time. Failure to furnish reply or appearance leads to ex parte decision. Opportunity of being heard to be given to Owner of goods / conveyance . Parties may file their objection.

Sequence of Events Leading to Confiscation of Goods

3. Confiscation order of Goods to be passed in FORM GST MOV-11 after considering objection raised and shall be served on Parties concerned

4. **On passing of confiscation order title of such goods shall stand transferred to Govt.**

5. PO to give **time not exceeding 3 months** to make payment of Tax + Penalty + fine in lieu of confiscation

6. On uploading of Form GST –MOV-11 Demand to be uploaded/added on Common Portal (Electronic Liability Register)

7. Penalty / Fine in lieu of confiscation to be paid by debiting electronic cash ledger

Sequence of Events Leading to Confiscation of Goods

8. Tax may be paid by Electronic credit ledger if sufficient balance is available else to be paid by debiting electronic cash ledger
9. **On passing of Confiscation order in GST-MOV-11, Detention order in GST-MOV-9 stands withdrawn.**
10. Similar procedure to be followed for confiscation of conveyance, PO may pass combined order for confiscation of goods and conveyance.
11. **If Tax/ Penalty / Fine in lieu of confiscation etc is not paid within 3 months, PO to auction the Goods / Conveyance**

Issues in Detention / Confiscation

1. **What if owner of Goods / vehicle is not registered, whether he has to take registration to pay Tax, penalty and Fine in lieu of confiscation?**
2. Whether Tax Payer is required to show Goods Detained / Confiscated in GST Returns ?
3. Why CGST Rule 140 ask for both Bond for Value of Goods And Bank Guarantee equivalent to Tax, Interest and Penalty in case of Detention of Goods ?. Isn't it Bank Guarantee enough
4. Goods were seized. Due to perishable in nature of Goods market value as on day of seizure is 1 Lakh, whereas Tax, Penalty payable is say Rs. 1.5 Lakh. How much Tax and Penalty will be paid by Tax payer?

Issues arising from circular no. 41

- Whether Circular can insert forms in Rules in the name of Instructions / administrative guidance ?
- Any specific reasoning for detailed procedures and forms have been notified by way of circular instead of notification?
- Whether CBIC has misread Section 164 and 168 of CGST Act?.
- Circular could have once again clarified intention of 138C(2) – No re-inspection in same movement unless specific information of evasion.
- Whether Notices and Orders relating to Detention and Confiscation will be made available to owner of Goods / Conveyance in addition to serving on Driver?

Issue for Deliberation # 1

Client is a service provider. Renting costly camera on hire for movie and post production. Cameras and such other equipment's are transported from clients godown to place of shooting.

- # 1. Whether EWB applicable. Client is service provider but moving goods.
- # 2. Presuming EWB is applicable what HSN to be written in EWB. HSN of goods or service?
- # 3. What will be taxable value. Taxable value of renting or taxable value of goods.
- # 4. If we are required to put value of camera ie goods in EWB , which runs into few crores but rental income in lacs. Whether or not authority will question huge disagreement between value as per EWB and as per GSTR 1?
- # 5. How to find out value of goods/camera in example. Is it Cost price or market price of such or similar goods or cost price less 5% for every quarter?

Issue for Deliberation # 2

Car Dealers keeps their inventory at Stock yard which is far away from city limit. Typically few vehicles are kept at show room for display purpose. Once buyer identifies Vehicle / Model No / Colour variation etc and on completion of payment formalities Chosen Car / model is manually driven from Stock Yard to Show Room for RTO formalities / Delivery Purpose.

Whether EWB is required for such movement of self driven car from stock yard to say Show Room ?

Issue for Deliberation # 3

Goods are despatched through say 3 Trucks against a single Invoice. As of now there is a provision to fill only One Vehicle No. in e-way bill. If goods are loaded say in two - three trucks against one Invoice (Which is very common in Heavy Engineering Industries), How to generate EWB in such case?.

Solution :

Before commencement of movement , Prepare Complete Invoice for entire Consignment
Raise Separate DC for 3 Trucks (applicable consignment on each truck) and refer Invoice Number in DC – Approximate value if not ascertainable

Prepare 3 EWB based on 3 DC

Respective Truck will carry respective DC, EWB and Certified Copy of Invoice.

Last moving vehicle will carry original invoice in additional to EWB and DC

Exception to cardinal rule one invoice one EWB.

Issue for Deliberation # 4

Input Sent to Job-work say Cost Rs. 1,00,000

Job Work Charges agreed say 25000

Job worker is Returning Inputs after Process.

Job Worker has raised Invoice for Rs. 25000

What value to needs to be entered in Part –A for Return Movement? Ie Rs. 100000/
25000/ 125000 ???

Solution : Value to be disclosed in Part A will be value at the time of commencement of
Movement ie 125000/-

Issue for Deliberation # 5

Employee is carrying Goods worth say 1 Lakh with him from his office to
customer place. En route Metro / Local Train / Taxi etc were used as
mode of Transport. (“Motorised Conveyance”)

Whether EWB is required ? If yes How to generate ?

Issue for Deliberation # 6

Whether EWB is applicable to Service Provider?

EWB Applicability is qua movement of Goods as defined (Refer Sec 2(52) CGST) . Service Provider e.g. Job worker if causes movement of Goods in relation to supply of his service , qua such movement of Goods EWB is applicable.

Issue for Deliberation # 7

Transporter Carrying 5 Cargo in a Truck represented by 5 Different Invoices having value 12000 each. Consignor and Consignee remains same. What is consignment Value in this Case?

As per Explanation 2 to Rule 138(1) each Invoice is Consignment. Therefore Consignor / Consignee may not be required to generate EWB. Since 138(7) is not in operation even Transporter is not required to generate EWB

Issue for Deliberation # 8

Works Contractor is Supplying Goods as a Part of Works Contact Service, whether EWB is required for movement of Goods ?

Since there is movement of Goods EWB is required.

2 Possibilities :

1 Invoicing is done simultaneously : EWB will be generated based on Invoice Raised

2 Lump sum Invoicing is done : EWB will be generated based on Delivery challan

Whether EWB is required even for Courier ?

Yes, except for Goods having consignment value less than 50,000 EWB is required even if Goods are Transported through Courier.

Issue for Deliberation # 9 & 10

What has to be done by the transporter if consignee is refuses to take goods or rejects the goods for quality reason?

Transporter can get one more e-way bill generated with the help of supplier or recipient by indicating supply as 'Sales Return'

Return the goods to supplier as per his agreement with him.

Is there any nexus between E way Bill and GSTR-1?

The information furnished in **Part A** of **FORM GST EWB-01** shall be made available to the registered supplier on the common portal who may utilize the same for furnishing details in **FORM GSTR-1**:

Optional

Delivery Challan details (other than supply details) can't be mapped

GSTR-1 Auto populate ?

Issue for Deliberation # 11

Who will generate EWB in DDP (Delivered Duty Paid) shipment. Foreign Seller has responsibility to deliver Goods to Indian importer, including Tax, duties and other charges?

Whether Agent of Foreign Seller will be person causing movement of Goods ?

Issue for Deliberation # 12 & 13

if consignor is moving goods from factory to railway yard, from where goods uploaded in railway rack for further transportation. Distance from Factory to railway yard is 40 km . In this case whether part A is enough, or Part B is also required?

XYZ Ltd is a merchant exporter. They purchase from ABC Ltd and asks them to send the consignment directly at the port from where goods are exported. Who will generate EWB and how

Issue for Deliberation # 14

A has imported Consignment from abroad for say Equivalent INR 1 crore and say 12% Custom Duty and 18% IGST.

Custom Authorities did not accept invoice value and case was referred for valuation. As per Customs, valuation works out to Say Rs. 1.5 Crore. While generating EWB what will be value of Goods and Tax.

Value of Goods = 1.5 Crore + 12% Custom duty ie Rs. 1.68 Crore

Value of Tax = IGST = 18% of 1.68 Crore ie Rs. 30. Lakhs

Questions / Thanks



Jignesh Kansara & Associates
 B-1208, Wall Street, Chakala
 Junction, Near Holy Family Church,
 Andheri East, Mumbai 93
Cell : +91 9987199329
Email : jignesh@jkaca.in
Website : www.jkaca.in

Thanks for your
time!