

## **Top 5 challenges in E-way bill under GST**

Recently, in the GST council meeting held on March 10, 2018, it was recommended that the e-way bill for inter-State movement of goods across the country shall be implemented from 01<sup>st</sup> April 2018. Further, in case of intra-State movement of goods, e-way bill system will be introduced w.e.f. a date to be announced in a phased manner but not later than 01<sup>st</sup> June, 2018. Even upon the recent updation of the e-way bill rules with necessary amendments thereon, following remains to be the top 5 challenges that the businesses may face in e-way bills under GST.

### **1) Postponement of e-way bill system:**

**Issue:** E- way bill system is set to be implemented w.e.f 1<sup>st</sup> April 2018 for inter-state supplies. However, business are afraid that if the portal is not fully ready, functional and wholesome to implement the same in real time situation then the same issues as faced earlier may creep in. Post earlier implementation date of 1<sup>st</sup> Feb 2018, industry has faced a lot of difficulty in making the e-way bills in the portal in so much so that e-way bills were not getting generated online and business had to prepare and issue manual e-way bills for safety and needless to say movement of goods itself was stalled by many businesses having a direct impact on business operations.

Not many assesses have really undertaken a trial run after the earlier disruption of the portal and it is seen that the timeline available with them to get equipped with the portal is very less. Further, considering various legal issues in applicability of e-way bill being unsettled, the challenge is amass especially for the businesses where volume of transactions is high.

Therefore, it is an important concern of the Trade & Industry that the IT infrastructure developed is capable enough to handle such a huge load of lakhs and lakhs of way bills and the entire Industry trying to log in at the same time.

It is important to note that issues faced in filing of GST returns in the portal were more procedural and may not have stalled the business operations in substance but if the similar issues continues in the e-way bill system then this can have a larger impact as the movement of goods get stalled leading to direct impact on business operations and increased corruption and non-compliance.

**Relevant section:**

**Recommendation:**

## **2) Clarification on applicability of GST on intra-state supplies**

**Issue:** One of the recommendations of the recently held GST council meeting states that for the purpose of intra-state movement of goods, the respective states can provide for the timelines for the implementation of E-way bill and the same should not be beyond 1<sup>st</sup> June 2018. However, it is to highlight that similar recommendation was given in past and which has created humongous confusion among trade and industry in so much so that even after the final implementation date there was no clarity as to which states have come and which is outside the strides of e-way bill system. Many states issued notification in the last moment with few rolling back the notifications creating tremendous confusion as much that even the tax experts in the nation were not clear and unsure in recommending their clients about implication of e-way bill outside their state which fully defeats the very purpose of “One Nation One Tax”. Therefore, it is suggested to avoid such general recommendation and mandate all states to come into the ambit of E-way Bill system on the same date whenever it gets implemented so that facing of this issue again in June 2018 can be well avoided.

**Relevant section:**

**Recommendation:**

## **3) E-way bill on Bill to ship To Transaction (i.e. Billing Party is different and consignee is different)**

**Issue:** Earlier, government in its FAQ have categorically specified that in case of a Bill To Ship To transactions transporter has to carry 2 e-way bills one being generated by the supplier to billed to party and other by billed to party on the actual consignee. However, recently it has been specified in the recommendations of the GST council meeting released as a press note

that movement of goods on account of Bill To Ship To will be handled through the capturing of place of dispatch in PART-A of e-way bill.

The above statement given as indication that in case goods are billed to X but moved to Y then the only single e-way bill is sufficient wherein the consignor needs to generate the e-way bill giving the GSTIN of X and place of dispatch details of Y i.e. actual consignee.

Since, the press note did not culminate into any clarification and also no amendment has been carried out in the rules in this regard, therefore the baggage of earlier understanding of e-way bill system on this transaction is going to create high confusion among industry and trade and this can be a major area of concern if remain unaddressed. Therefore, a suitable clarification in this regard with an appropriate amendment in the rules must be brought out so that confusions and ambiguity that prevailed earlier do not get prolonged.

#### **Relevant section:**

#### **Recommendation:**

#### **4) Extension of validity of E-way bill:**

**Issue:** Earlier it was stated that if the goods are not transported within the period of validity of the e-way bill then ***in the cases of circumstances of exceptional in nature***, the transporter may generate another e-way bill. This led to lot of confusion as to what amounts to circumstances of exceptional nature and whether multiple e-way bills can be generated for the same transaction.

However, this issue is now been partially addressed wherein it is stated that the circumstances of exceptional in nature also includes transshipment of goods and further in this scenario, instead of generating a new e-way bill altogether the validity of the existing e-way bill itself can be extended.

However, even after the amendment it has not been properly clarified as to in which situations precisely one can say that the delay is caused due to circumstance of an

exceptional in nature and such generic wordings can only lead to more disputes. For instance, situations like traffic jam, speed limit for specific type of goods, sorting of goods based on its destination, genuine delays etc be termed as circumstances exceptional in nature.

Further, this right of extending the validity in the amendment is given only to the transporter and the same is not available to consignor/ consignee of the goods therefore what happens in a scenario where the consignor/ consignee does not authorize the generation of e-way bill to the transporter and does it by itself then how such consignor/ consignee be able to extend the validity.

**Relevant section:**

**Recommendation:**

#### **5) Rejection of E-way bill while goods in transit:**

**Issue:** The e-way bill once generated cannot be deleted. However, it can be rejected by the recipient within 72 hours of its generation or actual delivery (whichever is earlier). Since, the rights have been given to the recipient to reject the e-way bill after its generation, therefore what if such recipient either deliberately or out of mistake rejects the e-way bill while the goods are already removed by the consignor and the same are in transit when such rejection takes place. Therefore, various open issues in this situation is how a transporter or consignor shall know on real time basis about such rejection while the goods are in transit, whether the consignor/ transporter can reinstate the e-way bill or has to generate the new e-way bill and whether the movement of such goods can continue while the position of such way bill is in reject status.

**Relevant section:**

**Recommendation:**

**Conclusion:**

Apart from the above highlighted challenges in the e-way bill system, there can be many more which may come to limelight once the system is implemented, therefore government must avoid implementation of this system in this manner which is looking to lead towards similar fate as that of preparation and filing of GST returns especially when then this can have a larger impact as the movement of goods get stalled leading to direct impact on business operations and increased corruption and non-compliance.

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