E-WAY BILLS IN INDIA: STREAMLINING LOGISTICS OR ADDING COMPLEXITY

ABHINANDAN GHOSH

ASSOCIATE, A.C. BHUTERIA & CO.

CHARTERED ACCOUNTANTS

Introduction

The GST E-Way Bill is a crucial electronic document mandated under India's Goods and Services Tax (GST) system for the transportation of goods. It functions as a tracking mechanism to ensure tax compliance and curb tax evasion.

As per Section 68 of the CGST Act 2017, read with Rule 138 of the CGST Rules, the person in charge of a conveyance carrying goods valued over Rs. 50,000 must furnish details in Part A of FORM GST EWB-01 before the commencement of movement. Part B of the E-Way Bill, which contains transporter details, is generated by the transporter.

If a conveyance is intercepted by an officer, the person in charge must present supporting documents, such as the invoice, bill of supply, or delivery challan, along with a copy of the E-Way Bill in either physical or electronic form. The E-Way Bill is also linked to the QR Code on tax invoices, ensuring automated population of Part A of FORM GST EWB-01 when an e-invoice is uploaded.

In a nutshell, EWB is to be generated by the consignor or consignee himself (if the transportation is being done in own/hired conveyance or by railways or by air or by vessel) or the transporter (if the goods are handed over to a transporter for transportation by road). Where neither the consignor nor consignee generates the EWB and the value of goods is more than INR 50,000/- it shall be the responsibility of the transporter to generate it.

Recent Updates

Significant changes in the E-Way Bill system include the mandatory implementation of Multi-Factor Authentication (MFA) and new restrictions on document validity:

- **MFA Implementation:**
  - Mandatory for taxpayers with an Annual Aggregate Turnover (AATO) exceeding ₹100 Crores since 20th August 2023.
  - Optional for taxpayers with AATO exceeding ₹20 Crores since 11th September 2023.
  - **Mandatory from:**
    - 1st January 2025 for taxpayers with AATO exceeding ₹20 Crores.
    - 1st February 2025 for taxpayers with AATO exceeding ₹5 Crores.
    - 1st April 2025 for all remaining taxpayers.
- **Document Validity Restriction:**
  - E-Way Bills can only be generated for documents dated within the last 180 days.
  - For instance, from 1st January 2025, documents older than 5th July 2024 will no longer be eligible for E-Way Bill generation.

Benefits

- **Reduced Documentation:** Eliminates state-specific transport documents, leveraging RFID devices for seamless tracking and reducing the need for physical paperwork.
- **Cost Reduction:** Lowers administrative costs, improves tax compliance, and is expected to reduce logistics costs.
- **Faster & More Efficient Transportation:** Reduces checkpoints, enhancing efficiency and bridging the gap between India's trucking efficiency and that of developed nations.
- **User-Friendly Process:** The government's online portal allows quick and easy E-Way Bill generation, with ongoing improvements aimed at further simplification.
- **Enhanced Tax Compliance:** The system ensures all transported goods have proper documentation, reducing tax evasion risks.

Complexities

Although this facility has numerous benefits, there are certain issues associated with it:

- Multiple E-Way bills for Multiple Invoices- When multiple invoices are issued by the supplier to recipient, that is, for movement of goods of more than one invoice of same consignor and consignee, multiple EWBs have to be generated. That is, for each invoice, one EWB has to be generated, irrespective of the fact whether same or different consignors or consignees are involved. Multiple invoices cannot be clubbed to generate one EWB. However, after generating all these EWBs, one Consolidated EWB can be prepared for transportation purpose, if goods are going in one vehicle.

- While E-Way Bills are governed under GST, different states have their own additional rules, making compliance confusing for businesses operating across multiple states. Some states have Higher thresholds (e.g. ₹1,00,000 instead of ₹50,000) or exemptions for specific goods, leading to inconsistencies.

- The validity of an E-Way Bill is calculated based on distance (1 day per 200 km/20 kms). However, due to traffic congestion, bad road conditions, or unforeseen delays, transporters often find the validity expiring before goods reach their destination.

- If an E-Way Bill expires, businesses need to justify delays and request extensions, adding to the administrative hassle.

- Delays due to E-Way Bill issues can lead to higher storage and warehousing costs.

- There was confusion about the transportation of goods through courier agencies but for the purpose of movement of goods, courier agencies may be regarded as the transporter of the goods. Therefore, an e-way bill would be applicable even for movement of goods as courier provided consignment value exceeds INR 50,000/-. There could be different business practices followed in case of courier industries which needs to be suitably considered for generating an e-way bill.

- It is important to note that in the case of any mistake or incorrect entry in the E-way Bill, it cannot be edited or corrected (except for vehicle-related details). The only option is to cancel the E-way Bill and generate a new one with the correct details. However, cancellation is only possible within 24 hours of its generation, provided it has not been verified by officers in transit.

Case Laws-

Ever since the introduction of the e-way bill rules, stakeholders have been debating issues relating to compliance. Following judicial decision may be useful in case of disputes:

- **Calcutta High Court in the case of Asian Switchgear (P.) Ltd. Vs State Tax Officer [M.A.T. No. 32 of 2023/IA No. CAN 1 of 2023 Dated 01.12.2023]**

  Appellant submitted that appellant was transporting goods through a vehicle which suffered mechanical failure. Goods were then transferred to a new vehicle and transported. Subsequently, new vehicle was intercepted and detained while E-way bill was yet to expire. Appellant gave explanation that driver of old vehicle did not know law and, therefore, did not comply with same nor did he inform appellant about same. It was held that explanation given by appellant should have been evaluated in facts and circumstances of present case by Adjudicating Authority in light of fact that e-way bill was still valid in respect of first vehicle. Authority had to deal with defence raised by defaulter by a reasoned order. That is mandate of section 129 (3) and (4) of CGST Act . Adjudicating Authority has not done so. Appellate Authority had also overlooked such fact. Impugned order of Adjudicating Authority as upheld by Appellate Authority had violated principles of natural justice, inasmuch as it had not spoken on defence taken. Consequently, both orders were to set aside and matter was to be re-adjudicated.

- **Allahabad High Court in the case of Western Carrier India Ltd. Vs State of U.P WRIT TAX NO. 1020 OF 2023 Dated 15.09.2023]**

  Where goods in transit were carrying necessary documents in form of E-Way bill and invoice etc., in view of clarification issued vide Circular dated 31-12-2018, either consigner or consignee should be deemed to be owner and department ought to have considered transporter's prayer for release of goods and vehicle upon compliance of provisions contained under section 129(1)(a).

- **Allahabad High Court in the case of Precision Tools India Vs State of U.P [Writ Tax No. 415 of 2023 Dated 29.01.2024]**

  Assessee was penalized under section 129(3) of UPGST Act for not filling Part B of an e-way bill. Assessee claimed that technical difficulties prevented filling Part B and goods were custom-made for specific consignee. Assessee relied on previous judgment, Roli Enterprises, which established that non-filling of Part B without intent to evade tax did not result in penalization. It was held that High Court found no evidence of tax evasion intent by assessee, penalty under section 129(3) of UP GST Act, 2017 was quashed due to technical defect and lack of tax evasion intent.

- **VSL Alloys (India) Pvt. Ltd. vs. State of U.P. And Another (APRIL 13, 2018)**

  Non-Generation of Part B of EWB cannot be a ground for - Is detention and seizure warranted where the transport was under proper documentation and only vehicle details were not noted in Part-B of the e-way bill?
  Decision- It was held that merely non-mentioning of the vehicle no. in Part-B cannot be a ground for seizure of the goods, the order of seizure is totally illegal and once the petitioner has placed the material and evidence with regard to its claim, it was obligatory on the part of the authorities to consider and pass an appropriate reasoned order. In this case, no reasons are assigned nor any discussion is mentioned in the impugned order of seizure and notice of penalty. The seizure and show cause notice were quashed and the goods / vehicle were directed to be released.

- **Akash Traders [2018] 94 taxmann.com 309 (Allahabad High Court) dated 08.01.2018**

  Difference in shape and size of goods cannot be the reason for seizure.
  The petitioner was carrying popular woods in his vehicle, which is subject to detention. Tax had been paid and EWB was also been issued and produced before authorities. The one and only ground for seizing the goods is that the size of the wood planks were unequal. No penalty order was passed Decision- The Hon'ble High Court of Allahabad ordered release of goods, conveyance and documents by providing security equal to value of goods shown in the invoice. The security required to be furnished was directed to be in a form other than cash or bank guarantee.

Conclusion

The e-way bill provisions under GST have brought in a uniform e-way bill rule applicable throughout the country. The physical interface has pave way for the digital interface and facilitated faster movement of goods. It is bound to improve the turnaround time of vehicles and help the logistics industry by increasing the average distances travelled, reducing the travel time as well as costs. While the GST E-Way Bill system enhances tax compliance and efficiency, businesses continue to face procedural and compliance challenges. The introduction of MFA and document validity restrictions will further streamline the process but necessitate better awareness and readiness among taxpayers. Judicial pronouncements emphasize the need for a balanced approach in enforcement, ensuring businesses are not unduly penalized for procedural lapses where there is no tax evasion intent.

Businesses must proactively adapt to these regulatory changes to ensure seamless transportation and compliance with GST regulations.