

1. IMMEDIATE CLARIFICATIONS

1.1 Clarity on interpretation of ‘consignment’ in order to determine the value of INR 50,000

- ▶ As per Rule 138(1) of the CGST Rules, an e-way bill is required to be generated in case ‘consignment value’ exceeds fifty thousand rupees. However, Rule 138(7) provides that where the value of goods carried in the conveyance is more than fifty thousand rupees, the transporter shall generate Form GST EWB-01.
- ▶ The FAQ provided on the CBEC website (enclosed as Exhibit 1) states as follows:

Quote

An e-way bill has to be prepared for every consignment where the value of the consignment exceeds Rs.50,000/-. Where multiple consignments of varying values (per consignment) are carried in a single vehicle, e-way bill needs to be mandatorily generated only for those consignments whose value exceeds Rs.50,000/-.

Unquote

- ▶ It is imperative that the above FAQ is issued by way of a clarification that the value of INR 50,000 per consignment is to be determined at an invoice level. This is crucial to ensure absolute clarity on interpretation of the term ‘consignment’ not only for courier companies but also trade – as the entire requirement and generation of e-way bill is incumbent on the said definition.
- ▶ Incrementally, there are instances where a tax invoice has a taxable value and an invoice value. Clarification should also be issued that the reference to “value” for generation of the e-way bill is tax value and not invoice value.

Recommendation:

- ▶ Given the above guidance, Rule 138(7) must be amended as follows:

Quote

(7) Where the consignor or the consignee has not generated FORM GST EWB-01 in accordance with the provisions of sub-rule (1) and the value of goods carried ~~in the conveyance~~ **for a consignment** is more than fifty thousand rupees, the transporter shall generate FORM GST EWB-01 on the basis of invoice or bill of supply or delivery challan, as the case may be, and may

also generate a consolidated e-way bill in FORM GST EWB-02 on the common portal prior to the movement of goods.

Unquote

- ▶ Additionally, it must be clarified that consignment value is the ‘taxable value’ and not the ‘invoice value’ ie the threshold of INR 50,000 must be applicable to value of goods excluding the GST payable.
- ▶ It is imperative that the above clarification is issued at the earliest as development of entire company systems and processes for movement of goods and generation of e-way bills (between customers, vendors who are consignors as well as courier companies) will hinge on this understanding.

2. INTERNATIONAL MOVEMENT OF CONSIGNMENTS THROUGH COURIER

2.1 Exemption from requirement of E-way bill generation for import of parcels into India

- ▶ Consignments that are imported into India by courier are subject to the stringent clearance process of the Indian customs authorities for not only permissibility of import (ie whether the goods are restricted/ prohibited to be imported), but also classification in accordance with the ITC(HS) system, appropriate valuation under the customs valuation code and lastly, the deposit of appropriate customs duty including Integrated Goods and Services Tax (IGST) (under Section 5(1) of the IGST Act, 2017). The entire process of customs clearance is in accordance with the Courier Import & Export (Clearance) Regulations, 1998.
- ▶ In light of the fact that IGST has already been assessed by the Indian Government on the imported courier parcels and duly paid at the time of customs clearance, we submit that further monitoring of such imported consignments should not be warranted for GST purposes. The Bill of Entry (BoE) issued and assessed by the Indian Customs should serve as sufficient proof of the above and be considered sufficient document for further movement of the goods within India. Accordingly, the recommendation is that the e-way bill requirement should be waived in case of imported consignments imported by ‘Authorised Courier’ (as recognized by the Indian Customs authorities).
- ▶ Notwithstanding the above, it will not be practically possible for courier companies to mandate millions of importers to fill up details in Part A of Form GST EWB-01 (which they are currently not required to do) or alternatively expect the courier companies to complete the same itself.

The proposed process of generation of e-way bill will lead to significant delays in clearance of goods and only vitiate the entire special clearance process that has been developed for courier consignments by the customs. The e-way bill requirement will also add to congestion at airports and warehouses and will not only be damaging to the courier industry but also to other industries

who operate on the back of time sensitive deliveries made by courier companies (such as pharma, e-commerce, etc).

Having a requirement of e-way bills for imports into India has the potential of negatively impacting India's Logistics Performance Index.

- ▶ Therefore, given that there is no risk of tax evasion (as IGST duty would be paid at the port of clearance), the Government must consider eliminating the need for costly, time consuming data submission obligation for courier companies.

- ▶

Recommendation:

- ▶ The requirement to generate e-way bill for import shipments should be waived. The assessed BoE should be considered as a sufficient document for movement of such imported goods. Details filled in BoE are already captured in ECCS. Accordingly, GSTN should be linked with ECCS for data retrieval and checking. The format of BoE may be amended to include additional details, if required.
- ▶ For any need based audit, GSTN may consider seeking information from Customs' or consignee or in rare cases from registered transport service provider.

2.2 Customs bonded movement from one airport to another should be exempted for export consignments

- ▶ As per Rule 138(14) of the CGST Rules, no e-way bill is required to be generated where the goods are being transported from the port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by customs.
- ▶ In case of outbound international shipment (ie export) through courier, there may be multiple movements involved from one airport to another. For example, where goods are to be exported from Rajasthan to London, the goods may first be bought from Rajasthan airport to Maharashtra airport and then exported to London.

Existing rules require e-way bill generation/ updation for any such movement of goods.

Since the movement is from one airport to another (which typically involves customs bonded airports), the same should not require an e-way bill or amendment in Part B of GST EWB-01 considering that the entire movement is customs bonded and any scope of tax evasion is already eliminated.

Recommendation:

- ▶ The requirement to generate e-way bill for custom bonded movements from one airport to another of consignments by courier companies intended must be done away with.

3. DOMESTIC INTER-STATE MOVEMENT OF CONSIGNMENTS THROUGH COURIER

3.1 Extend conditional limit of 10kms for filing Part B of GST EWB-01 for first mile delivery

- ▶ The Rule 138 of the CGST Rules prescribing the provisions for e-way bills, provide a relaxation to the transporter from filling Part B of GST EWB-01, where the goods are transported for a distance of less than ten kilometers within the State or Union territory from:
 - a. Place of business of the consignor to the place of business of the transporter for further transportation (Third Proviso to Rule 138(3))
 - b. Place of business of the transporter finally to the place of business of the consignee (Proviso to Rule 138(5))
- ▶ It is pertinent to note that the distance of 10 kilometers is insufficient in the context of door-to-door delivery operations. For a courier company, a 10 km limit will mean that it will be required to furnish Part B of GST EWB-01 for majority of the transactions as the limit of ten kilometers would never be met in large metropolitans.
- ▶ We understand that the intention of this provision is to ease compliances for the first and last mile delivery; however, with the restriction of ten kilometers, the same may not be achieved. For example, in case goods are to be picked up from Vashi, Mumbai for delivery to Bhopal, the goods will be first brought from Vashi to the consolidation centre of the courier company at Andheri (East) and thereafter, moved from the Mumbai Airport to the Bhopal airport in Madhya Pradesh. The distance from Vashi to the Andheri (East) consolidation centre will cross the 10ks limit, thus requiring that an E-way bill be generated for the first mile and last mile.
- ▶ In case of courier companies, a bulk of the goods come into the process and system upon reaching the courier consolidation centres. Here the goods brought from various destinations are dropped, sorted and packed in larger parcels based on destination. Until then, the goods may be brought into the consolidation centre through various motorized and non-motorised modes, even including local trains (eg, as cited above in case of movement from Vashi to Andheri East). Since the consolidation centres of all courier companies are GST registered, it is our recommendation that the movement of goods from consignor to such registered consolidation centre of the courier companies, should be within a radius of 50kms should be excluded.

Recommendation:

- ▶ Part B of Form GST EWB-01 shall not be mandatory for first mile delivery from consignors' premises to the courier companies closest consolidation centre consolidation hub within a radius of 50 Kilometers. The same should be allowed on the basis of information provided by the consignor in Part A of Form GST EWB-01.
- ▶ Rule 138(3) – third proviso should be amended as under:

Quote

Provided also that where the goods are transported for a distance of less than ~~ten~~ fifty kilometres radius within the State or Union territory from the place of business of the consignor to the place of business of the transporter for further transportation, the supplier or the transporter may not furnish the details of conveyance in Part B of FORM GST EWB-01.

Unquote

3.2 Responsibility to fill Part A of Form GST EWB-01 should no devolve on the transporter under any circumstance

- ▶ Details such as the value of consignment, invoice number, Invoice Date, GSTIN of recipient, HSN, etc., will not be available with the transporter and therefore, the statutory responsibility to generate the e-way Bill should be on the consignor/ consignee and not on the transporter.
- ▶ The person 'causing movement of goods' must be liable to generate the Form GST EWB-01. Such clarification is critical especially in the context of Airway Bills where one Airway Bill contains details of multiple invoices and generating separate e-way Bills for each consignment would not be possible for the transporter. Therefore, the consignor/ 'person who causes movement of goods' as per Rule 138(1) must be liable to generate the e-way Bill.

Recommendation:

- ▶ Part A of Form GST EWB -01 should be made mandatory for all consignors/ consignee – registered and unregistered for supplies above INR 50,000 ie the person causing the movement of goods must be liable to generate the e-way bill.

3.3 Validity period of e-way bills

- ▶ On commencement of movement of goods, various operational scenarios like road condition, transport frequency, time needed for consolidation of shipments for economic viability, customer on vacation, wrong customer address, customer not ready with import duty payment, vehicle break

down, public holidays, vehicle inspection / detention/accident etc. determine transit time instead of pure distance matrix. Therefore, prescribing a distance-time matrix would not be practical in the aforesaid instances.

Recommendation:

- ▶ The e-way bill Rules should allow extension of an e-way bill in case of expiry before the delivery of goods with an appropriate reasoning online by way of a drop down by the GSTN.
- ▶ Proviso to Rule 138(10) must be amended as follow:

Quote

Provided further that where, ~~under circumstances of an exceptional nature~~, the goods cannot be transported within the validity period of the e-way bill, the transporter may generate another e-way bill after updating the details in Part B of FORM GST EWB-01.

Unquote

3.4 Alerts on cancellation of e-way Bill

- ▶ Rule 138(9) provides that where an e-way bill has been generated, but goods are either not transported or do not meet the details furnished in the e-way bill, the e-way bill may be cancelled electronically on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within 24 hours of generation of the e-way bill.

Recommendation:

- ▶ Upon cancellation of E-waybill by a customer, alert to be provided to the transporter within 24 hours. Alert also to be provided for expiry of the E-waybill beyond the period specified in Rule 138(10) of the CGST Rules.

3.5 No HSN in case of C2C movement ie movement between unregistered consignor and unregistered consignee

- ▶ Where an E-way Bill is required to be generated for movement of goods from an unregistered person to another unregistered person, then the HSN Code required to be populated in Part A of Form GST EWB-01 should not be mandatory.

- ▶ HSN code is mandatory for the purpose of identification of the goods and the applicable GST thereon. As the movement of goods is between two unregistered persons, there would be no GST leviable and therefore, no question of tax evasion.

Recommendation:

- ▶ In case of C2C movements ie a movement of parcels between an unregistered consignor and unregistered consignee, HSN Code may not be made mandatory field to be filled in Form GST EWB-01.



3.6 Other Operational Issues

3.6.1 Issues pertaining to Transport ID

- ▶ Issues concerning Transporter ID - On the E-way Bill portal, where the Transport ID/ Vehicle Number is required to be captured, the transporter is unable to populate such details if the 'mode' of movement of goods is selected as:
 - ✓ Air; or
 - ✓ Ship; or
 - ✓ Rail(Please refer screenshot attached herewith as Exhibit 2)

Recommendation:

- ▶ An incremental option by way of a tab known as 'Courier/ Small Cargo' should be inserted which allows insertion of Transporter details as required for end to end movement of goods.
- ▶ Currently the transporter ID is getting captured on the basis of any data entered by the consignor/ consignee without any check. It is suggested that the transporter ID should have a check and balance in order to verify the sanctity of the transporter ID. For instance, there should be a drop down of registered transporters (rather than having to type out the name/ number). If the transporter does not have a registered transport ID, then only the name should not be accepted.

3.6.2 Other clarifications required

- ▶ In case of reverse logistics, ie a parcel has been delivered and the same is returned (either as a return or non-availability of consignee), the same original invoice used for delivery should be accepted for generating the E-waybill for the return journey of the parcel. This is a very

regular scenario in the courier industry who caters to several ecommerce players / market places.

- ▶ Clarity on mis-routed goods e.g. goods meant for delivery in Maharashtra are incorrectly sorted & forwarded to Gujarat.

Clarity on transitional provisions as on 1 Feb 2018, for goods that in transit on such date of implementation of e-way bill provisions, are muc