

# **Place of Supply of Goods & E-Way Bills**



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**For WIRC of ICAI**

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# Dual structure of Indian GST

Centre & States simultaneously levy tax on a common tax base

Intra-State

Inter-State

Centre to levy CGST

State to levy SGST

Centre to levy IGST

# Determination of Nature of Supply (Domestic transactions)

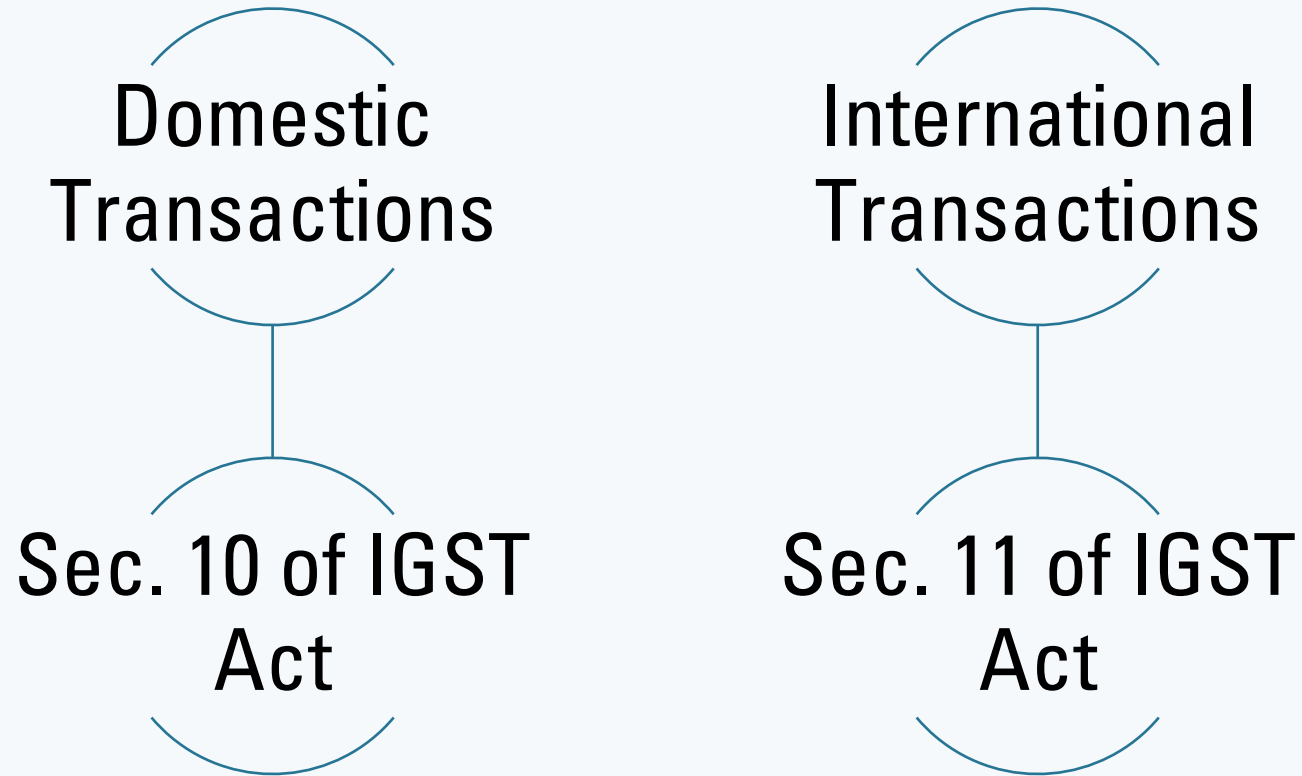
## Sec. 7 of IGST Act: Inter-State Supply

- Where **location of supplier** and **place of supply** are in
  - Two different States
  - Two different UTs
  - A State and a UT

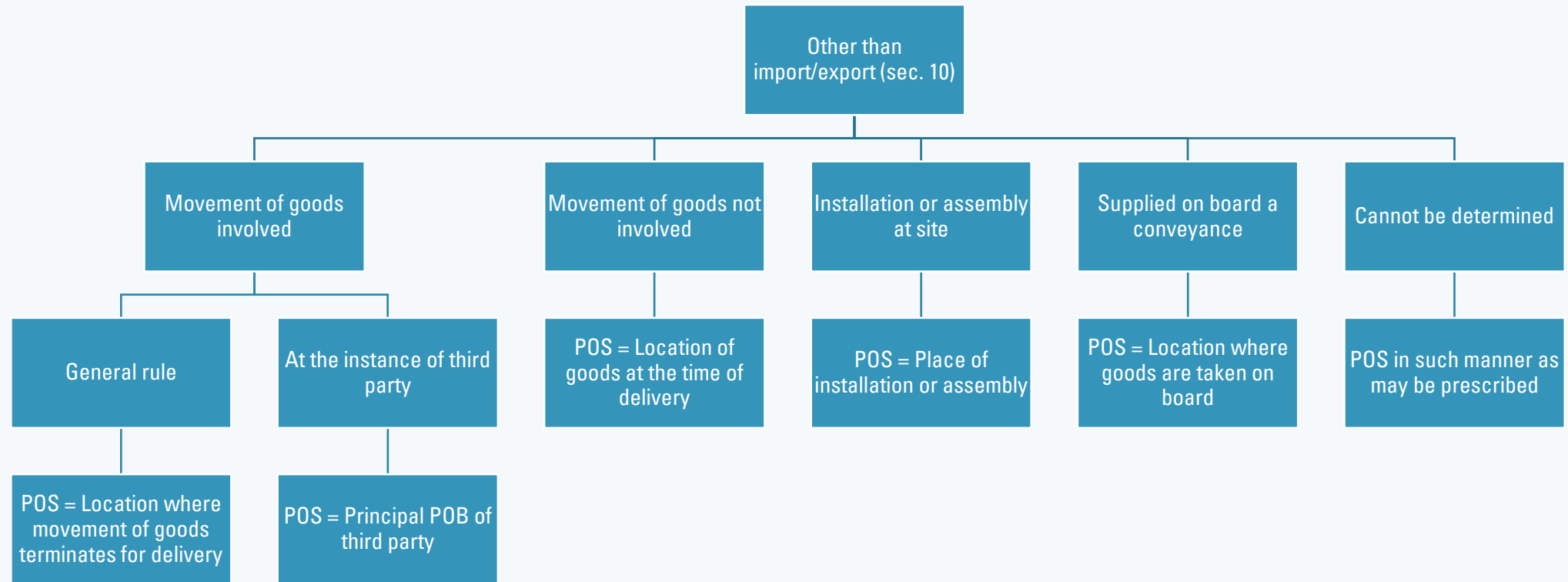
## Sec. 8 of IGST Act: Intra-State Supply

- Where location of supplier and place of supply are in the same State or same UT

# Place of Supply of Goods



# POS of Goods – Domestic Transactions



# Supply involving movement of goods

- 10(1)(a): Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient.
- **Illustration:** 'M' supplies goods from Mumbai by way of sale to 'B' of Bhopal. The supply by 'M' will involve movement of goods from Maharashtra to Madhya Pradesh. In this case place of supply of goods shall be Karnataka, where the movement of goods terminates for delivery to the recipient 'B'.

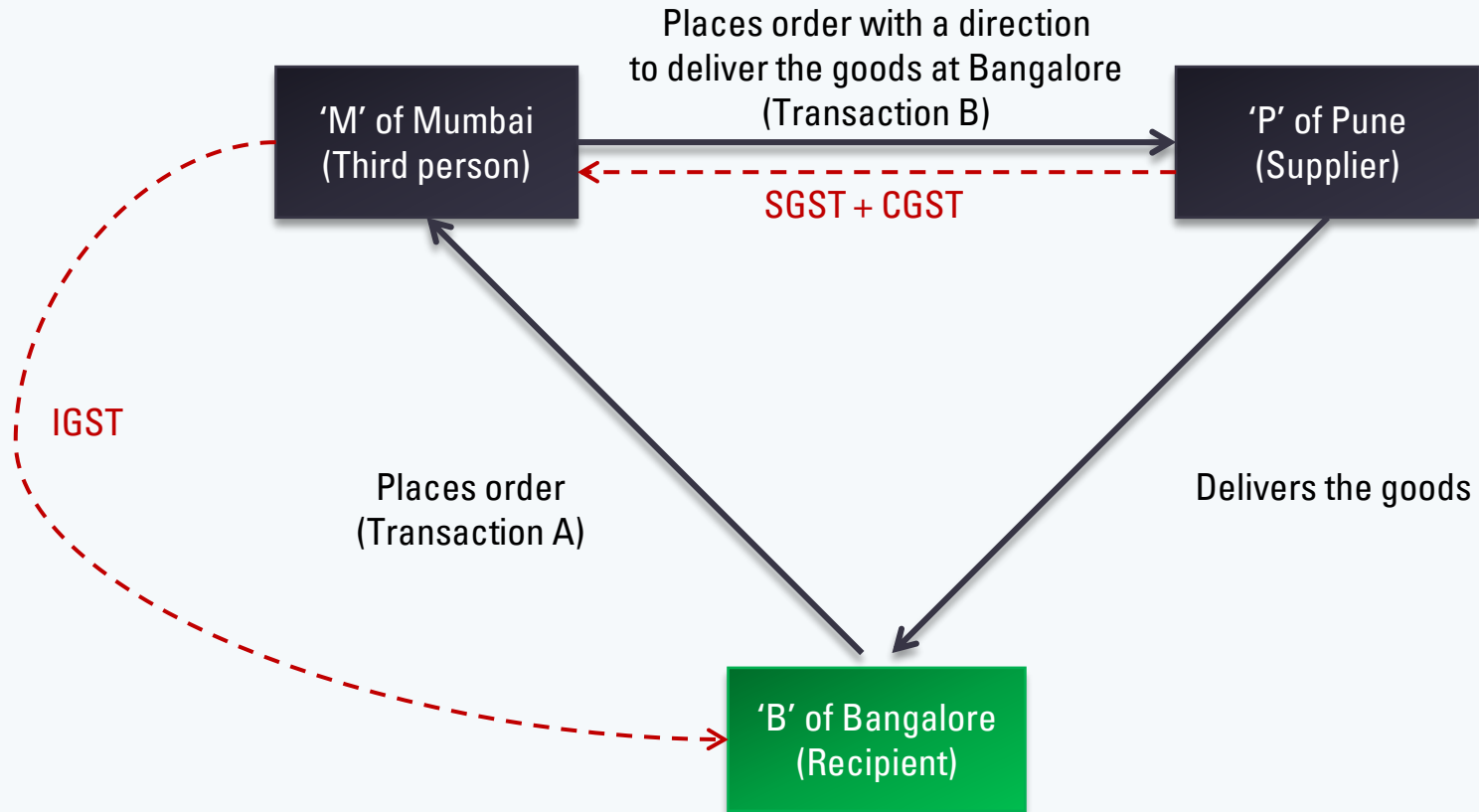
# Relevant case laws / advance rulings

- **Sterlite Technologies Ltd. [2021] 132 taxmann.com 246 (AAAR-GUJARAT):** In case of merchant trade transactions wherein goods are supplied from a place outside India to another place outside India without such goods entering into India, supply involves movement of goods, and such movement terminates for delivery at premises of buyer located outside India. As supplier is located in India and POS is outside India, it would be treated as inter-State supply of goods.
- **Penna Cement Industries Ltd. [2020] 116 taxmann.com 876 (AAR- TELANGANA):** In case of ex-factory inter-State sales, 'location of supplier' and 'place of supply' are falling under different States; thus, supply in question qualifies as inter-State supply and applicant is liable to charge IGST.
- **IAC Electricals (P.) Ltd. [2018] 93 taxmann.com 476 (AAR-WEST BENGAL):** Where assessee entered into two separate contracts with contractee – one for supply of material at ex-factory price and another for supply of allied services like transportation, insurance, loading/unloading, etc. for delivery of material at contractee's site; held that the first contract is no contract at all unless tied up with the second contract and, therefore, the recipient has not contracted for ex-factory supply of materials, but for the composite supply involving delivery of the goods at the contractee's site, which includes transportation, in-transit insurance, etc. Terms of the contracts are such that all these supplies are inseparable and, therefore, naturally bundled.

# Bill-to-ship-to transactions

- 10(1)(b): Where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person.
- Illustration: 'M' of Mumbai requests 'P' of Pune to deliver the goods to 'B' of Bangalore. Here, the POS for supply of goods by 'P' shall be the principal POB of 'M'.





Transaction B covered by Sec. 7(3): Place of supply of goods is the principal place of business of 'M' i.e. Mumbai (Maharashtra)

Transaction A covered by Sec. 7(2): Place of supply of goods is the place where movement of goods terminates for delivery i.e. Bangalore (Karnataka)

# Relevant case laws / advance rulings

- **High Tech Refrigeration & Air Conditioning Industries [2020] 117 taxmann.com 819 (AAR - GOA):**  
Supply of goods made by applicant from Goa on behalf of a third party registered outside Goa to a place in Goa must be taxed as inter-State supply of goods under section 10(1)(b).
- **Umax Packaging (A unit of Uma Polymers Ltd.) [2018] 100 taxmann.com 398 (AAR- RAJASTHAN):**  
ITC of IGST paid on 'bill-to-ship-to' model as per sec. 16 & 17 of CGST Act is allowable.

# Supply not involving movement of goods

- 10(1)(c): Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.
- Illustration: Sale on “as is where is” basis / constructive delivery

# Assembly/installation of goods at site

- 10(1)(d): Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly
- **Illustration:** Supply of furniture in SKD condition with assembly at customer's premises.

# Supply of goods on board a conveyance

- 10(1)(e): Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.
- Illustration: Goods taken on board a train from Mumbai to Delhi.

# Residual method of identifying POS of domestic transactions

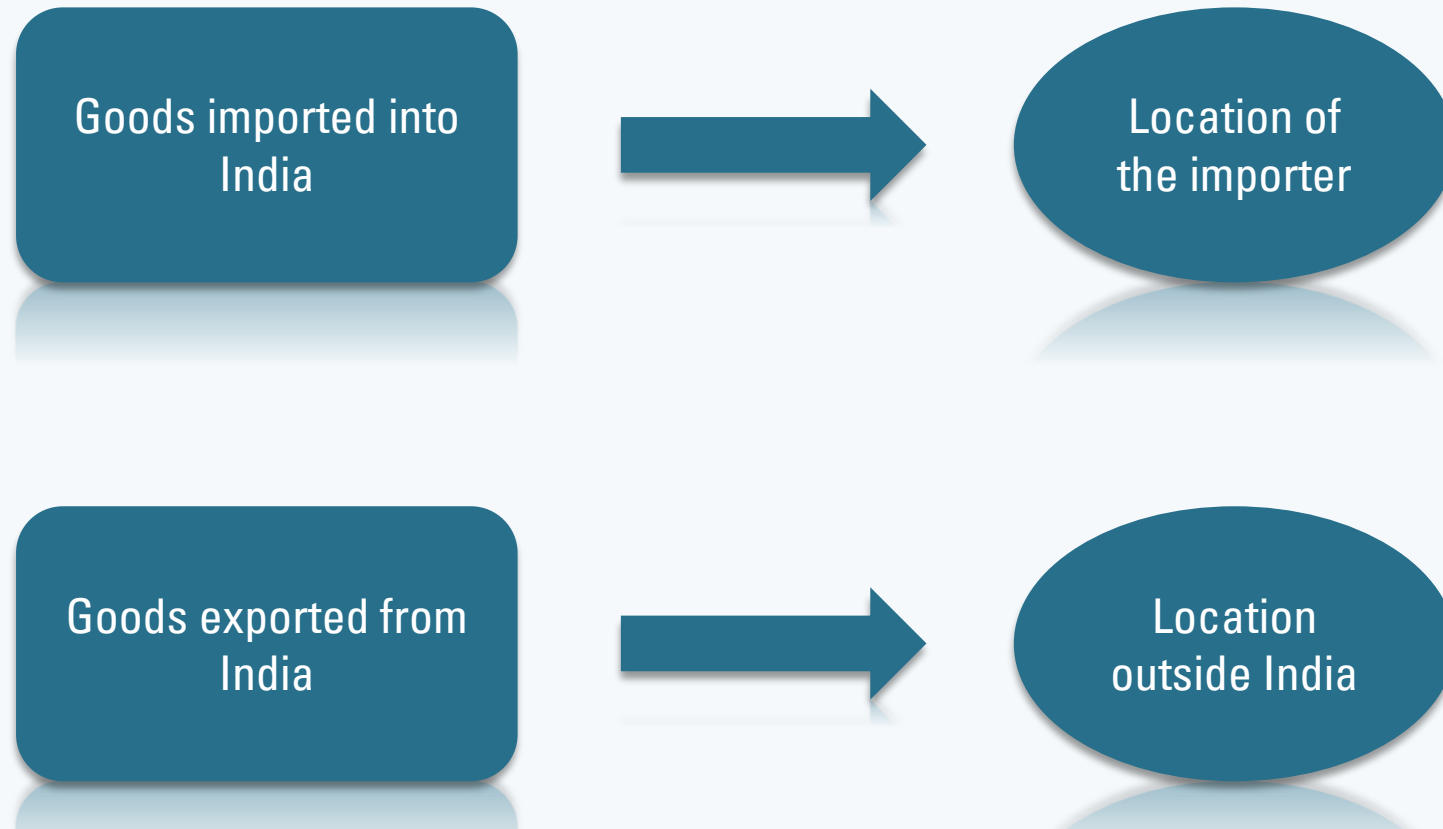
- Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

# Determination of nature of supply (Imports / Exports)

## Sec. 7 of IGST Act: Inter-State Supply

- Supply of goods when the supplier is located in India & the POS is outside India deemed to be a supply in the course of inter-State trade or commerce.

# POS of goods imported or exported






# Relevant case laws / advance rulings

- **Kamdhenu Agrochem Industries LLP [2021] 132 taxmann.com 273 (AAR - MAHARASHTRA):** Separate registration under GST is not required in a different State when imported goods are sold directly from Container Freight Station or on Direct Port Delivery basis before clearing them for home consumption and GST registration of importer in another State can be used to raise invoice
- **Gandhar Oil Refinery (India) Ltd. [2019] 106 taxmann.com 291 (AAR – MAHARASHTRA):** Importer can do business from its Head Office under GSTIN of Maharashtra and need not take separate registration in each State in which it imports and stores the goods.

# E-Way Bills

# Objectives of EWB

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- Single EWB for movement of goods across India
  - Hassle-free movement of goods for transporters throughout the country
  - Ease of tracking the movement of goods with EWB Number
  - Easier verification of goods by the officers and blocking the leakages in revenue

# Sec. 68 of CGST Act

- Govt may require the person in charge of a conveyance carrying any consignment of goods of value exceeding such amount as may be specified to carry with him such documents and such devices **as may be prescribed.**
- The details of documents required to be carried under sub-section (1) shall be validated in such manner **as may be prescribed.**
- Where any conveyance referred to in sub-section (1) is intercepted by the proper officer at any place, he may require the person in charge of the said conveyance to produce the documents prescribed under the said sub-section and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection.

# Rule 138(1) of CGST Rules

- Every **registered person** who **causes** movement of goods of **consignment value** exceeding **Rs. 50,000**
  - In relation to supply
  - For reasons other than supply
  - Due to inward supply from an unregistered person
- Shall furnish the information required in **Part A** of EWB-01 on the common portal along with other information required on the common portal
- **Before** the commencement of movement
- And a **unique number** will be generated on the portal

Consignment value = Value determined in accordance with sec. 15

- Includes GST & Cess
- Excludes value of exempt supply of goods

# Rule 138(1) of CGST Rules

Additional persons authorised to furnish information in Part A on behalf of regd person (only on authorisation from the regd person)

- Transporter
- Courier Agency
- E-commerce operator

Cases where EWB is mandatory irrespective of consignment value

- Inter-State movement of goods by principal to job worker
- Inter-State movement of handicraft goods by person who has been exempted from the requirement of registration under the Act

# Rule 138(2) of CGST Rules

## Transport of goods by road by a regd person

- Goods transported by regd person as a consignor or recipient of supply as the consignee
- Whether in his own conveyance or a hired one or a public conveyance, by road
- Said person shall generate EWB after furnishing Part B of EWB-01

## Transport of goods by rail / air / vessel by a regd person

- EWB shall be generated by regd person, being the supplier or recipient
- Information in Part B of EWB-01 to be furnished either before or after the commencement of movement
- Railways shall not deliver the goods unless EWB is produced at the time of delivery

# Rule 138(3) of CGST Rules

## Transport of goods by regd person through transporter

- Where goods are handed over to a transporter for transportation by road
- Regd person shall furnish information relating to transporter on the common portal
- EWB shall be generated by the transporter on the basis of information furnished by regd person in Part A
- Regd person / transporter may generate and carry EWB even if consignment value < Rs. 50,000

## Movement caused by unregistered person

- Either in his own conveyance or a hired one or through a transporter,
- Unregd person or the transporter may, at their option, generate EWB on the common portal in the manner specified in this rule.
- Where supplier is unregd and recipient is regd, movement of goods is deemed to have been caused by the recipient if he is known at the time of commencement of movement



# Validity of EWB

## Rule

EWB shall not be valid for movement of goods by road unless the information in Part B of EWB-01 has been furnished

Exception – Part B of EWB-01 may not be furnished (EWB will be valid only with Part A) in the following cases

Where goods are transported up to 50 km within the State / UT from the POB of consignor to the POB of transporter for further transportation

Where goods are transported up to 50 km within the State / UT from the POB of transporter finally to the POB of consignee

# Transfer of goods

## Rule

Where the goods are transferred from one conveyance to another, the consignor or the recipient, who has provided information in Part A of EWB-01, or the transporter shall, **before such transfer and further movement** of goods, update the details of conveyance in in Part B of EWB-01.

## Exception

Part B need not be updated where the goods are transported within the State from the POB of transporter finally to the POB of consignee

# Validity Period of EWB

For Over Dimensional Cargo (ODC) or multimodal shipment in which at least one leg involves transport by ship

- 1 day up to 20 km
- 1 additional day for every 20 km or part thereof thereafter

In case of others

- 1 day up to 200 km
- 1 additional day for every 200 km or part thereof thereafter

# Extension of Validity Period of EWB

- Under circumstances of exceptional nature, including trans-shipment, transporter may extend the validity period by updating Part B of EWB-01.
- Validity of EWB may be extended within **8 hours** from the time of expiry.

# Other provisions relating to EWB

- Upon generation of the EWB (Part A + Part B), a unique EWB number (EBN) is made available to the supplier, recipient and transporter on the common portal.
- Provision made for assigning the EWB from one transporter to another
- Provision made for consolidated EWB for transport of multiple consignments in one conveyance
- EWB once generated cannot be modified but can be cancelled within 24 hours of generation. Cancellation not possible if EWB has been verified in transit.

# Exemption from EWB

Goods specified in Annexure to rule 138

Goods transported by non-motorised conveyance

Goods transported from the customs port, airport, air cargo complex and land customs station to an inland container depot or a container freight station for clearance by Customs

Movement of goods within such areas as are notified by State GST Rules

Transport of alcoholic liquor for human consumption, petroleum crude, HSD, motor spirit (commonly known as petrol), natural gas or ATF

Supply of goods covered by Schedule III

# Exemption from EWB

Goods transported under customs bond from an inland container depot or a container freight station to a customs port, airport, air cargo complex and land customs station, or from one customs station or customs port to another customs station or customs port

Goods transported under customs seal

Transit cargo from or to Nepal or Bhutan

Goods exempted under Notifications No. 7/2017-CTR and 26/2017-CTR

Movement of goods caused by defence formation under Ministry of Defence

Where the consignor of goods is the Central Govt, State Govt or a local authority for transport of goods by rail

# Exemption from EWB

Transportation of empty cargo containers

Transportation of goods up to 20 km from POB of consignor to a weighbridge for weight or back, subject to the condition that movement is accompanied by delivery challan

Transportation of empty cylinders for packing LPG for reasons other than supply



# Restriction on generation of EWB in certain cases

- **No person** shall be allowed to furnish the information in **Part A** of EWB-01 in respect of any outward movement of goods of the following registered persons:
  - Composition taxpayer having not furnished FORM GST CMP-08 for two consecutive quarters
  - Regular taxpayer having not furnished GSTR-3B for two consecutive tax periods
  - Regular taxpayer having not furnished GSTR-1 for two months or quarters, as the case may be
  - Person whose registration has been suspended
- Commissioner empowered to allow furnishing of information in Part A by passing a reasoned order on an application by regd person in FORM GST EWB-05

*Thank you!*

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