GST and Documentation for Transportation of Goods by Road

Transportation plays a vital role in bringing sustainable growth and development in the country as it primarily facilitates trade, exchange and travel which needs to move goods across the places. Undoubtedly the most popular mode of transportation in India is through road. Transportation of Goods through road is mainly done by Transport Agencies. As per the statistics of National Highways Authority of India, about 65% of freight and 80% of passenger traffic is carried by the roads. In the present article, we shall discuss provisions relating to Goods Transportation under GST law – the formalities, financial flows and inevitably, the tax structure related to the same.

Tax on Transportation Service

The levy of Service Tax on "Transportation of Goods by Road Service" has always been a contentious issue. The Finance Act, 1997 had levied Service Tax on Goods Transport Operators which was subsequently withdrawn in 1998 with effect from original date of levy. Thereafter, Service Tax was again imposed on Transportation of Goods by Road service rendered by a Goods Transport Agency (popularly known as GTA) by the Finance Act, 2004 with effect from 1st January 2005. The provisions related to reverse charge has always been associated with GTA Service, be it 1997 (Goods Transport Operator), 2005 (Goods Transport Agency), 2012 (Negative list concept) or 2017 (Goods and Services Tax – GST). The basic provisions prevailing under Service Tax have been continued under the GST regime with widened tax base.

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What does GTA Mean?

The term "Goods Transport Agency" (GTA) has not been defined in the GST Laws, but has been defined by the way of explanation to Entry No. 9(iii) of Notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017, *"Goods Transport Agency means any person who provides service in relation to transport* *of goods by road and issues consignment note, by whatever name called".* In fact this definition has been copied from Section 65B (26) of the Finance Act, 1994 as applicable in Service Tax regime. So we can say that GTA is basically a person, who provides services in relation to transportation of goods by road and issues a consignment note.

How to Determine whether Services Received are From GTA?

Individual truck/tempo operators who do not issue any consignment note are not covered within the meaning of the term GTA. As a corollary, the services provided by such individual transporters who do not issue a consignment note will be covered by the entry at s. no. 18 of notification no. 12/2017-Central Tax (Rate), and exempt from GST.

The definition of GTA as discussed in the aforesaid paragraph provides issue of consignment note as a pre-condition. Usually goods are handed over to GTA for which he issues receipt commonly known as consignment notes and undertakes to transport the goods to the consignee. It signifies that the lien on the goods has been transferred to the transporter and he is responsible for safe delivery of goods to the consignee.

In cases where GTA is not involved, usually transportation is undertaken by way of hiring of vehicle and hence lien on the goods is not created and the vehicle operator does not issue consignment note. This indicates the point that, while one might hire out vehicles for goods transport, but those issuing a consignment note (receipt of goods) are considered as a GTA.

Scope of Transportation Services

The significance of the term 'in relation to' in the definition of GTA has been clarified to include not only the actual transportation of goods, but any intermediate/ancillary service provided in relation to such transportation, like loading/unloading, packing/unpacking, trans-shipment, temporary warehousing, etc, if these services are not provided as independent activities but as means for successful provision of GTA Service.

The Transportation of Goods may or may not be an isolated activity. The contract between the consignor and transporter will determine whether the scope of activity is restricted to GTA or includes aforesaid activities. If more than one activity is provided by transporter, including transportation of goods by road, then Section 8 ought to be pressed into service. The service provider ought to determine whether the service is a simplisitor GTA service or whether the service provided by him would be more aptly classifiable under composite/ mixed supplies. It is important to analyse these activities minutely to find out whether activity can be considered as composite or mixed supply. GTA service covers other intermediate/ ancillary services such as-

- Loading/unloading
- Packing/unpacking
- Trans-shipment
- Temporary warehousing etc.

Reverse Charge under GST

As per Section 9(1), tax shall be paid by the taxable person, as defined under Section 2(107) and collected in such manner as may be prescribed. However as per Section 9(3), tax shall be paid on reverse charge by the recipient of notified goods/ services. Section 9(3) treats recipient as the person liable to pay tax. Reverse charge itself has been defined under Section 2(98) and includes tax payable under Section 9(3) and 9(4). Further recipient has been defined under Section 2(93) both in case of goods and services and also in case where consideration is payable and not payable respectively.

According to Section 9(3) of CGST Act, 2017, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient. In exercise of the power conferred by the said section, Notification No. 13/2017-Central Tax (Rate), dated 28th June 2017, was issued by the Government, to specify category of services covered under reverse charge, which *inter alia* notified the following categories of persons are liable to discharge the tax under Reverse Charge Mechanism for GTA services:

a) any factory registered under or governed by the Factories Act, 1948; or
b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or
c) any co-operative society established by or under any law; or
d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or
e) anybody corporate established, by or under any law; or
f) any partnership firm whether registered or not under any law including association of persons; or
g) any casual taxable person;

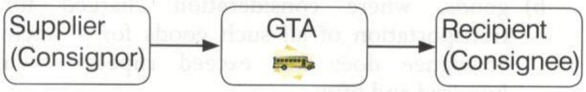
located in the taxable territory.

Thus GST on GTA is liable to be paid on reverse charge only if service is provided to any of the aforesaid seven service recipients. Further condition is that the aforesaid service recipients ought to be located in taxable territory for Notification No.13/2017 Central Tax (R) to apply.

Explanation (a) to the makes it abundantly clear that only the person who pays freight/ liable to pay freight located in taxable territory shall be treated as service recipient.

Thus if the person liable to pay freight/ person who pays freight is located outside taxable territory, then thought the service recipient fall under any of the seven categories, yet Notification No.13/2017 Central Tax (R) shall not apply. However there is an exemption in such cases, which has been discussed in the later parts of the article.

As per the above notification, the person **who pays or is liable to pay freight** for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the receiver of service.



Payment is by Sender (Consignor)

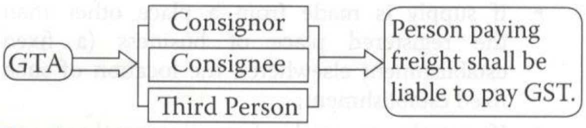
If the sender of goods (consignor) pays to the GTA, then the sender will be treated as the recipient and he will pay GST on reverse charge basis.

Payment is by Receiver (Consignee)

If the liability of freight payment lies with the receiver (Consignee), then the receiver of goods will be treated as a receiver of transportation services and he will pay GST on reverse charge basis.

Payment by third person

It may so happen that goods are transported between agent and buyer, and freight is being paid by the principal, in this case, the principal is liable to pay GST.



Registration

Every supplier making taxable supply of goods or services needs to get registered under the GST law the address from where he effects supply. However, small businesses, making taxable supplies from state or union territory other than special category States and having all India aggregate turnover below Rupees 20 lakh (10 lakh if business is in special category states) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

However, in terms of powers conferred under Section 23(2) of the CGST Act, 2017, the Government may exempt from obtaining registration under this Act. Accordingly, in exercise of the powers conferred therein, the Government issued Notification No. 5/2017-Central Tax dated 19th June 2017, exempting a person who is engaged in making only supplies of taxable goods/services on which reverse charge applies from obtaining registration under GST.

Thus, a GTA does not have to register if he is exclusively engaged in rendering services to persons, who is liable under RCM as the recipient of supply, even if the turnover of GTA exceeds the threshold limit of ₹ 20 lakh/10 lakh.

It is to be noted that the transporters have to mandatorily enrol on the e-way bill portal to get their 15 digit unique transporters ID, irrespective of the fact whether they are registered or not with GST Authorities. The transporter ID is known as TRANSIN.

Scheme of payment of Tax

Under the GST regime, there are two options available to GTA to discharge his GST liability. The GTA can either opt for non-ITC route or for ITC route. However once the GTA has opted to avail ITC, he cannot opt back to non-ITC scheme due to specific condition inserted in rate Notification No.11/17 CT (R) by Notification No.20/2017 Central Tax (R)

A. Scheme Non ITC

Under this scheme the GST @ 5% (Central+State/ Integrated) shall be paid by the person who is availing the service of GTA under reverse charge mechanism and there is no tax liability on GTA. This route is very convenient to GTA but no input tax credit is available to GTA on the inward supplies.

B. Scheme ITC

Under this scheme, the GTA shall charge GST @ 12% (Central+State/ Integrated) on supplies made by him under forward charge. In such a case GTA has to charge GST of 12% in his invoice, collect GST from the service recipients and thereafter remit to the government exchequer. The service recipient can avail the GST paid on GTA service subject to provisions to Section 16 and 17 of the CGST/ SGST Act. One should always bear in mind that where tax is paid without ITC, the cost of providing service will always be higher than with ITC.

It is pertinent to note that, the person availing the service is always eligible for ITC irrespective of whether tax is paid by him @12% or GTA @ 5%, irrespective of rate of tax on the services.

Moreover, wherever tax is paid under RCM, for supplier of service it is considered as exempt supply. In case GTA also provides other services in addition to GTA, then ITC reversals under Rule 42 or 43 of CGST/SGST Rules have to be borne in mind by GTA.

Exemptions under GST

A. Based on the Service Provider

The services by persons other than GTA/Courier

Agency for transportation of goods by road are exempt as per entry No. 18 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017, services by way of transportation of goods-

a) by road except the services of-

(i) a goods transportation agency;

(ii) a courier agency;

b) by inland waterways, are exempted.

Earlier, in Service Tax, this exemption was provided by way of entry in the negative list.

B. Based on the Service Receiver

In service tax regime and until exemption has been provided, GTA were liable to pay tax on the services provided to persons other than those covered under reverse charge. As per the below mention exemption, if services are provided to persons other than those covered under RCM as discussed earlier, GTA shall be exempted from payment of tax.

Notification No. 32/2017-Central Tax (Rate), dated 13th October 2017, exempts services provided by a goods transport agency to an unregistered person, including an unregistered casual taxable person, other than the person liable under reverse charge mechanism.

C. Based on the goods transported

Exemption based on nature of goods transported has been provided in entry no. 21 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017. As per the said entry, GST will not be payable if transportation of following goods takes place via GTA –

a) agricultural produce;

d) milk, salt and food grain including flour, pulses and rice;

e) organic manure;

f) newspaper or magazines registered with the Registrar of Newspapers;

g) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or

h) defence or military equipments.

Earlier, in Service Tax, this exemption was provided by way of entry in the mega exemption notification.

D. Based on Origin/destination

Exemption has been provided to supply of services associated with transit cargo for material transportation to landlocked countries i.e. Nepal or Bhutan. The exemption has been provided by Notification No. 30/2017- Central Tax (Rate) dated 29th September 2017.

E. Based on nature of service

Exemption has been provided, to persons supplying a means of transportation of goods, to a goods transport agency on hire, vide entry No. 22 to Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017.

Earlier, in Service Tax, this exemption was provided by way of entry in the mega exemption notification.

F. Based on value

Exemption based on value of transportation service has been provided in entry no. 21 of Notification No. 12/2017-Central Tax (Rate), dated 28th June 2017, GST will not be payable if transportation of following goods takes place via GTA –

a) goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;

b) goods, where consideration charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred and fifty;

Earlier, in Service Tax, this exemption was provided by way of entry in the mega exemption notification.

Place of Supply of GTA under GST

Determination of place of supply is not only important to find out whether the services of GTA are in the nature of intra-state or inter-state supply. It is important to find out whether it can be considered as zero rated supply. The location of supplier and place of supply has to be considered to determine place of supply.

Location of supplier has been defined in IGST act as follows:

- If supply is made from a registered place of business, the location of such place of business;
- If supply is made from a place other than the registered place of business (a fixed establishment elsewhere), the location of such fixed establishment;
- If supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply;
- In other cases, the location of the usual place of residence of the supplier.
- A Mirror provision exists for location of service recipient.

Section 12(8) of IGST Act determines the Place of Supply of GTA service in case the GTA and service recipient are located in India. As per Section 12(8), if the GTA and the services recipient are located in India, then the place of supply of services shall be as follows:

(a) a registered person, shall be the location of such person.

(b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation. (However, services to unregistered persons is now exempt)

Section 13(9) of IGST Act determines the Place of Supply (POS) in case either the GTA/ service recipient are located outside India. As per Section 13(9), POS shall be the place of destination of such goods.

Documentation

With the introduction of e-Way Bill (EWB) under GST, every person who effects movement of goods shall generate an e-Way Bill covering the said goods. Prior to GST, there was no concept of e-Way Bill under Central Excise while various VAT laws had prescribed similar document as an additional document for transportation of goods. Since it is an important provision introduced under GST, it is necessary for all consignors/consignees/ transporters to be aware of the required compliance and the obligations imposed.

The person in charge of the vehicle should carry Invoice, bill of supply, delivery challan as applicable and a copy of the e-way bill in physical form or the e-way bill number in electronic form or e-way bill number written on invoice/bill of supply/ delivery challan. However, the Commissioner may, by notification, require the transporters to carry an invoice, bill of supply or bill of entry or a Delivery Challan, where the goods are transported for reasons other than by way of supply instead of an e-way bill, if the circumstances so warrant. Here we like to discuss in brief about documents individually.

1. Tax Invoice

A Tax Invoice must be issued for every taxable supply containing information like item or service descriptions, quantities, date, prices and discounts, if any. It also includes the total value and the tax charged on the supply. A Tax Invoice is required to provide confirmation or evidence that a supply of goods took place. It is also necessary so that the recipient is eligible to claim ITC.

2. Bill of Supply

Bill of Supply is a document to be issued by a registered person supplying exempted goods or services or both or paying tax under the provisions of section 10 of CGST Act, 2017 i.e. composition scheme.

3. Delivery Challan

Delivery challan can be issued for transportation of goods without an invoice or bill of supply, in the following instances:

- Supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known.
- Transportation of goods for job work.
- Transportation of goods for reasons other than by way of supply.
- Other supplies as notified by the Board.

When goods have been transported using a delivery challan, the supplier is required to issue a tax invoice on delivery of goods as per time prescribed by law. The delivery challan should be issued in accordance with rules of the Act.

4. Consignment Note

A consignment note is a document issued by a goods transportation agency against the receipt of goods for the purpose of transporting the goods by road in a goods carriage. If a consignment note is issued, it indicates that the lien on the goods has been transferred (to the transporter) and the transporter becomes responsible for the goods. The word "consignment note" is not defined in the Act.

However, as per Rule 54(3) of CGST Rules, 2017, where the supplier of taxable service is a goods transport agency supplying services in relation to transportation of goods by road in a goods carriage, the said supplier shall issue a tax invoice or any other document in lieu thereof, by whatever name called, containing the following particulars in addition to other information as mentioned under rule 46 of CGST Rules, 2017:

a) The gross weight of the consignment
b) Name of the consigner and the consignee
c) Registration number of goods carriage in which the goods are transported
d) Details of goods transported
e) Details of place of origin and destination
f) Goods and Services Tax Identification Number of the person liable for paying tax whether as consigner, consignee or goods transport agency

5. E-way bill

E-way bill is a mechanism to ensure that goods being transported after providing requisite information to the authority and is an effective tool to track movement of goods and check tax evasion. The provisions related to e-way bill are contained in Section 68 of the CGST Act, 2017. As per the said section, the Government 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. E-way bill also needs to be generated by a registered supply due to inward supply from an unregistered person.

When an e-way bill is generated a unique e-way bill Number (EBN) is allotted which will be the point of reference for verification and establishing the genuineness of the movement of goods and the information so generated will be available to all the three parties involved in the supply chain i.e., the supplier, recipient, and the transporter.

A. Generation of e-way bill

The generation of EWB-01 is the liability of registered person, who causes movement of goods, if suppliers fails to generate EWB then it is liability will be upon recipient of goods. This indicates/ concludes generally liability to generate EWB by GTA is secondary. **However, if both supplier and recipient fail to generate EWB, then it is the transporter's responsibility to generate this for hassle-free movement of goods.** Also, on an authorisation from a registered person, the transporter may generate the same, electronically on the common portal along with such other information. Although updation of Part B is responsibility of transporter.

Further, there can be few circumstances where transporter will have to generate EWB/updation of Part B. Some of the circumstances are discussed below:

Case 1. If vehicle breaks down during transit, then the transporter can cause to repair the vehicle and continue the journey. If he has to change the vehicle, then he has to enter the new vehicle details for that EWB on the web-site using 'Update vehicle number' option and continue the journey with new vehicle.

Case 2. If the goods having e-way bill has to pass through transhipment and through different vehicles. Some of the consignments are transported by the transporter through transhipment before it is delivered to the recipient at the place of destination. Hence for each movement from one place to another, the transporter needs to update the vehicle number in which he is transporting that consignment.

Case 3. There are chances that consignee refuses to take delivery of goods or rejects the goods for quality reason or for any other reasons. Under such circumstance, the transporter can get one more e-way bill generated with the help of supplier or recipient by indicating supply as 'Sales Return' and with relevant document details and return the goods to supplier as per his agreement with him.

B. Consolidated E-way bill

Consolidated e-way bill is a document containing the multiple e-way bills for multiple consignments being carried in one conveyance. Thus, the transporter carrying multiple consignments of various consignors and consignee in one vehicle can generate and carry one consolidated e-way bill in form EWB-02, instead of carrying multiple e-way bills. The consolidated e- way bill can have the goods or e-way bills which will be delivered to multiple locations as per the individual EWB included in the consolidated EWB.

C. Uploading information regarding detention of vehicle

Where a vehicle has been intercepted and detained for a period exceeding thirty minutes, the transporter may upload the said information in FORM GST EWB-04 on the common portal.

D. Revalidation of e-way bill

An e-way bill is valid for periods as listed below, which is based on the distance travelled by the goods. Validity is calculated from the date and time of generation of e-way bill.

Type of conveyance	Distance	Validity of EWB
Other than Over dimensional cargo	Less Than 100 Kms	1 Day
	For every additional 100 Kms or part thereof	additional 1 Day
For Over dimensional cargo	Less Than 20 Kms	1 Day
	For every additional 20 Kms or part thereof	additional 1 Day

Validity on 1 day is not 24 hours, it will end at midnight (00.00 hour) of the next day. Validity of e-way bill can be extended by the generator of such e-way bill or transporter either four hours before the expiry or within four hours after the expiry of e-way bill.

E. Road Transportation other than GTA

a. Own vehicle

Even in the cases where the buyer/supplier uses its own vehicle to deliver/carry the goods they are required to generate e-way bill. The e-way bill is mandatory in both cases whether buyer or supplier uses own vehicle. The buyer/supplier must enter the vehicle number of their own vehicle say truck, tempo, car or three wheeler in Part B.

b. Hired vehicle

Even in the cases where the buyer/supplier uses hired vehicle to deliver/carry the goods they are required to generate e-way bill. The buyer/supplier must enter the vehicle number of the hired vehicle say Truck, tempo even cab in Part B.

c. Public conveyance

The responsibility of e-way bill generation of under this mode of transportation will be of consignor or consignee. The buyer/supplier must enter the vehicle number of the public conveyance say Bus in Part B.

Conclusion

In this write-up we tried to cover every provisions relating to Transportation of Goods by Road under GST, although at some places we referred section and/or rules to facilitate reader to go through the provisions in detail by refering the same. Thanks for reading. ■

I suppose leadership at one time meant muscles; but today it means getting along with people. - Mahatma Gandhi