

# GST BULLETIN

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## Contents

### Notifications & Circulars

- No Penalty under GST for not producing 'Transit Form'.

### Government clarifications & Press Releases

- Govt. advises assessee to avail correct and bonafide credit
- Anti profiteering mechanism explained by Govt.
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- E-way bill to be compulsory from Feb 1

## Case Laws

### No Penalty under GST for not producing 'Transit Form'

Allahabad HC in Ramdev Trading Company and others v. State of U.P case held that in absence of any allegation or evasion of tax against assessee at detention and seizure stage or at the stage of issuance of notice of penalty, penalty imposed by Revenue under Section 129(3) of U.P GST Act is not sustainable.

HC Opined that imposition of penalty on ground that assessee had intention to evade tax by unloading goods inside the state of U.P, was an afterthought.

As regards to absence of Transit Declaration form with assessee, HC observed that though it amounted to a breach of Rules, yet, in entirety of facts and circumstances of this case, as admitted to Revenue, it appears that goods were being transported from Rajasthan to Assam.

Since goods were detained near exit point in State of U.P and there is no allegation that goods were being or had been unloaded inside the State of U.P., HC opined that goods were in fact being transported from Rajasthan to Assam as disclosed in Tax Invoice and other documents found accompanying goods and breach was purely technical.

As regards to misdescription of goods, HC observed that since the goods had originated from outside State and were being transported outside the State, proper officer should have, at most made an endorsement to that effect and allowed goods to pass through State of U.P.

**Comments:** HC stressed on the fact that the goods were been transported from one state to another state and UP was just a transit state.

## **Government clarifications & Press Releases**

### **Govt. advises assesseees to avail correct and bonafide credit**

Government in the press release stated that taxpayers availed extraordinarily high transitional credit of CGST which is neither commensurate with the trend of input tax credit of the industry nor as maintained by the taxpayer himself in the past. Some of these high

transitional credits may have a bonafide explanation or may be a case of bonafide mistake. However, government has been noted that high transitional credit has been claimed in many cases for which

perhaps no bonafide explanation exists. Analysis to identify such units is underway. Such behaviour leads to breach of trust between the taxpayer and the tax-administration, which is the bed-rock of self-assessment regime in GST.

**Comments:** Due to the lack of knowledge there were a lot of cases where wrong and ineligible credit initially.

### **Anti profiteering mechanism explained by Govt.**

The Government stated that they are committed to ensure all consumers enjoy the benefit of lower prices of goods and services under GST. Under GST, suppliers of goods and services must pass on any reduction in the rate of tax or the benefit of input tax credit to consumers by way of commensurate reduction in prices. If this is not done, the consumer's interest is protected by the National Anti-profiteering Authority which may order:

- (a) reduction in prices;
- (b) return of the amount not passed on with interest @ 18% to the recipient;
- (c) imposition of penalty; and
- (d) cancellation of registration of the supplier.

Affected consumers may file an application, in the prescribed format, before the Standing Committee on Anti-profiteering if the profiteering has all-India character OR before the State Screening Committees if the profiteering is of local nature.

The mechanism is as under:

- The aggrieved consumer may file application before anti profiteering committee.
- The state screening committee will then look into the application. If anti profiteering is confirmed with a prima facie evidence.
- Then the standing committee will take up the matter and look into the evidence. If the standing committee also confirms the prima facie evidence.
- The application will be forwarded to the Director General of Safeguards, CBEC will investigate the profiteering.
- After this, the investigated report will be sent to the National Anti-profiteering Authority for determining the profiteering and passing appropriate order to ensure consumers benefit from reduced prices.

**Comments:** Setting up of the Anti-profiteering Authority is a great way to protect the consumer interest.

### **E-way bill to be compulsory from Feb 1**

The 24th Meeting of the GST Council held Dec 16 through video conference under the Chairmanship of the Union Minister of Finance and Corporate Affairs, Shri Arun Jaitley. It was discussed about the implementation of e-way Bill system in the country. The GST council decided on the following points:

- i) The nationwide e-way Bill system will be ready to be rolled out on a trial basis latest by 16th January, 2018. Trade and transporters can start using this system on a voluntary basis from 16th January, 2018.
- ii) The Rules for implementation of nationwide e-way Bill system for Inter-State movement of goods on a compulsory basis will be notified with effect from 1<sup>st</sup> February, 2018. This will bring uniformity across the States for seamless inter-State movement of goods.
- iii) While the System for both inter-State and intra-State e-way Bill generation will be ready by 16th January, 2018, the States may choose their own timings for implementation of e-way Bill for intra-State movement of goods on any date before 1st June, 2018. There are certain States

which are already having system of e-way Bill for intra-State as well as inter-State movement and some of those States can be early adopters of national e-way Bill system for intra-State movement also. But in any case, the Uniform System of e-way Bill for inter-State as well as intra-State movement will be implemented across the country by 1st June, 2018.

**Comments:** The trade and transporters were facing undue hardship due to the separate e-way bills for each and every state. Having a uniform e-way bill will be hugely beneficial to the industry.

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