

As per the provision of Rule 138 read with section 68 of CGST, every registered person carrying goods value more than Rs. 50000 needs to furnish detail of goods in Part A of e-way bill and needs to provide detail of conveyance in part B of e-way bill on the common portal before commencement of movements of goods.

In case of failure to furnish such details, penalties proceeding under section 122, 129 and 130 of CGST Act will be carried out.

Section	Penalties for not carrying E-way Bill
Sec 122(xiv)	<p><b>Penalty for certain offence:</b>            A taxable person, Registered person and any person, transports any taxable goods without the cover of documents as may be specified in this behalf i.e. e-way bill; shall be liable to a penalty of Rs. 10,000/- or tax sought to be evaded, whichever is higher.</p>
Sec 129	<p><b>Detention, seizure and release of goods and conveyance in transit</b>            As per Section 129 of the CGST Act'2017,  <b>Where any person transport or store any goods, in contravention of this act and rules contravention, all such goods and conveyance and documents shall be liable to detention or seizure, shall be released with penalty;–</b>  <b>Where the owner of the goods come forward to pay tax and penalties</b>  <b>In case of Taxable Goods; 100% of the tax payable &amp; penalty.</b>  <b>In case of Exempted Goods; 2% of the value of goods or Rs. 25,000/-, whichever is less.</b>  <b>Upon furnishing of security equivalent to amount above</b>  <b>Where the owner of the goods does not come forward to pay tax and penalties;</b>  <b>In case of Taxable Goods; 50% of the value of the goods reduced by the tax amount paid,</b>  <b>In case of Exempted Goods; 5% of the value of goods or Rs. 25,000/-, whichever is less.</b>  <b>Upon furnishing of security equivalent to amount above</b>  <b>No such goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.</b>  <b>No tax, interest or penalty shall be determined without giving an opportunity of being heard.</b>  <b>The goods so detained or seized shall be released, on a provisional basis, upon execution of a bond and furnishing of a security or on payment of applicable tax, interest and penalty payable (section 67(6) - Power of inspection, search and seizure)</b>  <b>On payment of tax and penalties, all proceeding shall be deemed to be concluded.</b></p>

	<b>In case of non-payment of tax and penalties, further proceeding u/s 130 shall be initiated</b>
Sec 130	<p><b>Confiscation of goods and conveyance and levy of penalties:</b></p> <p>Where the person transporting any goods or the owner of the goods fails to pay the amount of tax and penalty within 7 days of such detention or seizure, all such goods or conveyances shall be liable to confiscation and the person shall be liable to penalty as under</p> <ol style="list-style-type: none"> <li>a. Penalties which should not be more than market value of goods less tax there on</li> <li>b. Penalties which should not be less than penalties u/s 129(1) <ul style="list-style-type: none"> <li>• No order for confiscation of goods or conveyance shall be made without giving an opportunity of being heard.</li> </ul> </li> </ol>

### **Importance of filling Part B of Eway Bill**

In the recent order passed by High court of Madhya Pradesh in there order dated 05-07-2018, demand and penalties imposed Rs. 1,32,13,683 on M/s Gati Kintetsu Express Pvt Ltd by GST Appellate Authority & Joint commissioner of State Tax, Indore and Assistant Commissioner of State Tax, Indore has been confirmed.

#### **Facts of cases:**

1. The vehicle of M/s Gati Kintetsu Express Pvt Ltd was carrying goods from Pune(Wadki), Maharashtra to Noida via Indore and other different places.
2. Inspection was carried out of their vehicle on 27.04.2018.
3. On enquiry, the driver (person incharge of a conveyance) of the vehicle produced the bill and challan.
4. E-way bill on enquiry, it was found that the petitioner Transporter company who was transporting the goods has not uploaded/updated the part-B of the e-way bill which is a required. Such act violated the provision of Sec 68 of CGST Act 2017 and Rule 138 of CGST Act 2017.
5. Consequently proceeding was initiated under Section 129 of the Act and penalty was imposed under Section 122 of the Act since he was transporting the taxable goods without the cover of documents.

### **Ground by M/s Gati Kintetsu Express Pvt Ltd**

1. M/s Gati Kintetsu Express Pvt Ltd took ground that there was no intention on the part of the petitioner to evade payment of tax during Inter and Intra State Supply of Goods or services and due to technical error, part B of the e-way bill cannot be updated.
2. This ground got rejected with the view that the portal of the GST provides for an option of grievance in case the petitioner was having any problem in updating the Part-B of the e-way bill. No such grievance has been raised by the petitioner and no written grievance has been raised with regard to the updating the technical error could not have been considered.
3. In case the Part-B is not updated, the e-way bill is not genuine/legal and therefore, it is not a minor mistake or cannot be treated as a technical error when there is an option of raising a grievance on the GST portal itself.