



Office of the Principal Secretary & Commissioner,
State Goods and Services Tax Department,
Government of Kerala, Thiruvananthapuram

No CT/8709/2018-C1

Dated 29/06/2018

Circular No .17...../2018

Sub:- SGST Dept.- Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances- Reg.

Ref:- Circular No. 41/2018 issued by CBEC

The Central Board of Excise and Customs has already issued circular prescribing the procedure to be followed while doing vehicle checking. Similar instructions have to be issued from the State side also.

Sub-section (1) of section 68 of the Kerala State Goods and Services Tax Act, 2017 (hereinafter referred to as the "KSGST Act") stipulates that the person in charge of a conveyance carrying any consignment of goods of value exceeding a specified amount shall carry with him the documents and devices prescribed in this behalf. Sub-section (2) of the said section states that the details of documents required to be carried by the person in charge of the conveyance shall be validated in such manner as may be prescribed. Sub-section (3) of the said section provides that where any conveyance referred to in sub-section (1) of the said section is intercepted by the proper officer at any place, he may require the person in charge of the conveyance to produce the documents for verification, and the said person shall be liable to produce the documents and also allow the inspection of goods.

1.1 Rules 138 to 138D of the Kerala State Goods and Services Tax Rules, 2017 (hereinafter referred to as the "KSGST Rules") lay down, in detail, the provisions relating to e-way bills. As per the said provisions, in case of transportation of goods by road, an e-way bill is required to be generated before the commencement of movement of the consignment. Rule 138A of the KSGST rules prescribes that the person in charge of a conveyance shall carry the invoice or bill of supply or delivery

chalan, as the case may be; and in case of transportation of goods by road, he shall also carry a copy of the e-way bill in physical Form or the e-way bill number in electronic Form or mapped to a Radio Frequency Identification Device embedded on to the conveyance in such manner as may be notified by the Commissioner.

1.2 Section 129 of the KSGST Act provides for detention, seizure and release of goods and conveyances in transit while section 130 of the KSGST Act provides for the confiscation of goods or conveyances and imposition of penalty. In this regard, various references have been received regarding the procedure to be followed in case of interception of conveyances for inspection of goods in movement and detention, seizure and release and confiscation of such goods and conveyances. In order to ensure uniformity in the implementation of the provisions of the KSGST Act across Kerala, the Commissioner, in exercise of the powers conferred under section 168 (1) of the KSGST Act, hereby issues the following instructions:

- a. The Government, as per SRO 487/2017 has already notified officers authorizing them to discharge different duties as per the KSGST Act. The officers so authorized shall conduct interception and inspection of conveyances and goods in the jurisdictional area specified to them.
- b. The proper officer, empowered to intercept and inspect a conveyance, may intercept any conveyance for verification of documents and/or inspection of goods. On being intercepted, the person in charge of the conveyance shall produce the documents related to the goods and the conveyance. The proper officer shall verify such documents and where, prima facie, no discrepancies are found, the conveyance shall be allowed to move further. An e-way bill number may be available with the person in charge of the conveyance or in the Form of a printout, sms or it may be written on an invoice. All these Forms of having an e-way bill are valid. Wherever a facility exists to verify the e-way bill electronically, the same shall be so verified, either by **logging on to <http://mis.ewaybillgst.gov.in> or the Mobile App or through SMS by sending EWBVER to the mobile number 77382 99899 (For e.g. EWBVER 120100231897).**
- c. For the purposes of verification of the e-way bill, interception and inspection of the conveyance and/or goods, the proper officer under rule 138B of the KGST Rules shall be the officer who has been assigned the functions under sub-section (3) of section 68 of the KSGST Act as per order No. GSTC 24614/2017/CT dates 06/07/2017 of the Commissioner of State Tax.
- d. Where the person in charge of the conveyance fails to produce any prescribed document or where the proper officer intends to undertake an inspection, he shall record a statement of the person in charge of the conveyance in Form GST MOV- 01. In addition, the proper officer shall issue an order for physical

verification/inspection of the conveyance, goods and documents in Form GST MOV-02, requiring the person in charge of the conveyance to station the conveyance at the place mentioned in such order and allow the inspection of the goods. The proper officer shall, within twenty four hours of the aforementioned issuance of Form GST MOV-02, prepare a report in Part A of Form GST EWB-03 **and upload the same on the common portal.**

- e. Within a period of three working days from the date of issue of the order in Form GST MOV-02, the proper officer shall conclude the inspection proceedings, either by himself or through any other proper officer authorized in this behalf. Where circumstances warrant such time to be extended, he shall obtain a written permission in Form GST MOV-03 from the Deputy Commissioner (Intelligence) or an officer authorized by him, for extension of time beyond three working days and a copy of the order of extension shall be served on the person in charge of the conveyance.
- f. On completion of the physical verification/inspection of the conveyance and the goods in movement, the proper officer shall prepare a report of such physical verification in Form GST MOV-04 and serve a copy of the said report to the person in charge of the goods and conveyance. The proper officer shall also record, **on the common portal**, the final report of the inspection in Part B of Form GST EWB-03 within three days of such physical verification/inspection.
- g. Where no discrepancies are found after the inspection of the goods and conveyance, the proper officer shall issue forthwith a release order in Form GST MOV-05 and allow the conveyance to move further. Where the proper officer is of the opinion that the goods and conveyance need to be detained under section 129 of the KSGST Act, he shall issue an order of detention in Form GST MOV-06 and a notice in Form GST MOV-07 in accordance with the provisions of sub-section (3) of section 129 of the KSGST Act, specifying the tax and penalty payable. The said notice shall be served on the person in charge of the conveyance.
- h. Where the owner of the goods or any person authorized by him comes forward to make the payment of tax and penalty as applicable under clause (a) of sub-section (1) of section 129 of the KSGST Act, or where the owner of the goods does not come forward to make the payment of tax and penalty as applicable under clause (b) of sub-section (1) of the said section, the proper officer shall, after the amount of tax and penalty has been paid in accordance with the provisions of the KSGST Act and the KSGST Rules, release the goods and conveyance by an order in Form GST MOV-05. Further, the order in Form GST MOV-09 shall be uploaded on the common portal and the demand accruing from the proceedings shall be added in the electronic liability register and the payment made shall be credited to such electronic liability register by debiting

the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the KSGST Act.

- i. Where the owner of the goods, or the person authorized by him, or any person other than the owner of the goods comes forward to get the goods and the conveyance released by furnishing a security under clause (c) of sub-section (1) of section 129 of the KSGST Act, the goods and the conveyance shall be released, by an order in Form GST MOV-05, after obtaining a bond in Form GST MOV-08 along with a security in the Form of bank guarantee equal to the amount payable under clause (a) or clause (b) of sub-section (1) of section 129 of the KSGST Act. The finalization of the proceedings under section 129 of the KSGST Act shall be taken up on priority by the officer concerned and the security provided may be adjusted against the demand arising from such proceedings.
- j. Where any objections are filed against the proposed amount of tax and penalty payable, the proper officer shall consider such objections and thereafter, pass a speaking order in Form GST MOV-09, quantifying the tax and penalty payable. On payment of such tax and penalty, the goods and conveyance shall be released forthwith by an order in Form GST MOV-05. The order in Form GST MOV- 09 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the KSGST Act.
- k. In case the proposed tax and penalty are not paid within seven days from the date of the issue of the order of detention in Form GST MOV-06, action under section 130 of the KSGST Act shall be initiated by serving a notice in Form GST MOV- 10, proposing confiscation of the goods and conveyance and imposition of penalty.
- l. Where the proper officer is of the opinion that such movement of goods is being effected to evade payment of tax, he may directly invoke section 130 of the KSGST Act by issuing a notice proposing to confiscate the goods and conveyance in Form GST MOV-10. In the said notice, the quantum of tax and penalty leviable under section 130 of the KSGST Act read with section 122 of the KSGST Act, and the fine in lieu of confiscation leviable under sub-section (2) of section 130 of the KSGST Act shall be specified. Where the conveyance is used for the carriage of goods or passengers for hire, the owner of the conveyance shall also be issued a notice under the third proviso to sub-section (2) of section 130 of the KSGST Act, proposing to impose a fine equal to the tax payable on the goods being transported in lieu of confiscation of the conveyance.
- m. No order for confiscation of goods or conveyance, or for imposition of penalty,

shall be issued without giving the person an opportunity of being heard.

- n. An order of confiscation of goods shall be passed in Form GST MOV-11, after taking into consideration the objections filed by the person in charge of the goods (owner or his representative), and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such goods shall stand transferred to the State Government. In the said order, a suitable time not exceeding three months shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released. The order in Form GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the KSGST Act. Once an order of confiscation of goods is passed in Form GST MOV-11, the order in Form GST MOV-09 passed earlier with respect to the said goods shall be withdrawn.
- o. An order of confiscation of conveyance shall be passed in Form GST MOV-11, after taking into consideration the objections filed by the person in charge of the conveyance and the same shall be served on the person concerned. Once the order of confiscation is passed, the title of such conveyance shall stand transferred to the State Government. In the order passed above, a suitable time not exceeding three months shall be offered to make the payment of penalty and fines imposed in lieu of confiscation and get the conveyance released. The order in Form GST MOV-11 shall be uploaded on the common portal and the demand accruing from the order shall be added in the electronic liability register and, upon payment of the demand, such register shall be credited by either debiting the electronic cash ledger or the electronic credit ledger of the concerned person in accordance with the provisions of section 49 of the KSGST Act.
- p. The order referred to in clauses (n) and (o) above may be passed as a common order in the said Form GST MOV-11.
- q. In case neither the owner of the goods nor any person other than the owner of the goods comes forward to make the payment of tax, penalty and fine imposed and get the goods or conveyance released within the time specified in Form GST MOV- 11, the proper officer shall auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the State Government.
- r. Suitable modifications in the time allowed for the service of notice or order for auction or disposal shall be done in case of perishable and/or hazardous goods. **(Circular No. 49/2017 of CBIC)**
- s. Whenever an order or proceedings under the KSGST Act is passed by the proper

officer, a corresponding order or proceedings shall be passed by him under the CGST Act and if applicable, under the Goods and Services Tax (Compensations to States) Act, 2017. Further, sub-sections (3) and (4) of section 79 of the CGST Act/respective State GST Acts may be referred to in case of recovery of arrears of central tax/State tax/Union territory tax.

- t. The procedure narrated above shall be applicable mutatis mutandis for an order or proceeding under the IGST Act, 2017.
 - u. Demand of any tax, penalty, fine or other charges shall be added in the electronic liability ledger of the person concerned. Where no electronic liability ledger is available in case of an unregistered person, a temporary ID shall be created by the proper officer on the common portal and the liability shall be created therein. He shall also credit the payments made towards such demands of tax, penalty or fine and other charges by debiting the electronic cash ledger of the concerned person.
 - v. A summary of every order in Form GST MOV-09 and Form GST MOV-11 shall be uploaded electronically in Form GST-DRC-07 **on the common portal.**
3. The Format of Form GST MOV-01 to GST MOV-11 annexed in Circular 41/2018 of CBEC can be followed.


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COMMISSIONER