

VEHICULAR CHECK UNDER GST REGIME

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RELEVANT SECTIONS

- ▶ **SECTION 68 : INSPECTION OF GOODS IN MOVEMENT**
- ▶ **SECTION 129 : DETENTION, SEIZURE & RELEASE OF GOODS & CONVEYANCE**
- ▶ **SECTION 130: CONFISCATION OF GOODS & CONVEYANCE; LEVY OF PENALTY**
- ▶ **SECTION 122 : PENALTY FOR CERTAIN OFFENCES**

RELEVANT RULES

- ▶ **RULE 138** : Information provided before commencing movement of goods & generation of e-waybills
- ▶ **RULE 138A** : Documents and devices to be carried by a person-in-charge of a conveyance
- ▶ **RULE 138B** : Verification of documents and conveyances
- ▶ **RULE 138C** : Inspection and verification of goods
- ▶ **RULE 138D** : Facility for uploading information regarding detention of vehicle
- ▶ **RULE 138E** : Restriction of generation of PART-A where returns not filed consecutively for two months
(Notification No.74/2018 dt.31-12-2018)

RELEVANT CIRCULARS

- ▶ **Circular No. 41/15/2018-GST Dated.13-04-2018**
- ▶ **Circular No. 49/23/2018-GST Dated.21-06-2018**
- ▶ **Circular No. 61/35/2018-GST Dated.04-09-2018**
- ▶ **Circular No. 64/38/2018-GST Dated.14-09-2018**

POWERS OF VEHICULAR CHECK UNDER GST

- ▶ **SECTION 129** : provides for detention, seizure and release of goods and conveyances in transit
- ▶ **SECTION 130** : provides for the confiscation of goods or conveyances and imposition of penalty

PROPER OFFICER FOR VTC[Section 68(3)]

Inspection of goods in movement, and verification of documents and devices related to such movement of goods

- ▶ (1) Any Officer not below the rank of Deputy State Tax Officer of the circle as authorized by the Assistant Commissioner of State Tax of the circle concerned, or
- ▶ (2) Any Officer not below the rank of Deputy State Tax Officer of the division as authorized by the Joint Commissioner of State Tax of the division concerned, or
- ▶ (3) Any Officer not below the rank of Deputy State Tax Officer as authorized by the Joint Commissioner of State Tax or Additional Commissioner (GR-I) of state Tax or Special Commissioner of State Tax of State Enforcement Wing

DETAILS TO BE VERIFIED

- ▶ Ewaybill
- ▶ Not covered by any documents
- ▶ Invalid GSTINS
- ▶ Invoice not matching with ewaybill
- ▶ Undervaluation
- ▶ Incorrect tax values & rates

DETAILS TO BE VERIFIED

- ▶ Ewaybill rejected by other party
- ▶ Ewaybill validity expired
- ▶ Invalid vehicle type
- ▶ Ewaybill part-b not entered
- ▶ Ewaybill part-b not matching
- ▶ Different commodity
- ▶ Reason for extension not acceptable

VIOLATION & PENALTY

Violation of provisions as laid down under Section 68 read with Rule 138

- ▶ Consignment of Goods value exceeding Rs.50,000
- ▶ Not covered by Tax invoice/ Bill of supply/ Delivery challan & awaybill

PENALTY PROVISIONS

SECTION 129(1)(a) :

- ▶ (i) Applicable tax and penalty equal to 100%
(if owner comes forward)
- ▶ (ii) applicable tax and penalty equal to 50% of the value of goods reduced by the tax amount paid, (if owner does not come forward);
- ▶ (iii) upon furnishing a security equivalent to the amount payable as above

VIOLATION & PENALTY (contd.,)

PENALTY PROVISIONS

SECTION 130:

Uses any conveyance as a means of transport for carriage of goods in contravention of the provisions of this Act [Section 130(1)(v)]

- ▶ Liable for confiscation & penalty 100 % under Section 122
- ▶ Fine in lieu of confiscation (not exceeding market value of goods minus tax charged)
- ▶ fine and penalty leviable shall not be less than the amount of penalty leviable under sub-section (1) of section 129

APP FOR EWAYBILL VERIFICATION & DATA CAPTURING

- Download app in a Android Tab/ Mobile
- Login using credentials
- Enter ewaybill no for verification or use scan cam to capture QR code
- Verify the ewaybill details
- Accept or reject
- In case of rejection, enter details in EWB-03 Part-A

APP FOR EWAYBILL VERIFICATION & DATA CAPTURING

- Update details in Part- B
- Issue detention order in MOV-06
- Final Order in MOV-09
- Upload Summary order MOV-09 in DRC-07
- Create liability in liability register
- If unregistered, create temporary ID for making payment

PROCEDURE FOR INTERCEPTION, DETENTION, RELEASE AND CONFISCATION

- ▶ Authorization of officers to conduct interception & inspection of conveyances & goods
- ▶ Interception of conveyance, verification of documents & inspection of goods
- ▶ Production of documents related to goods & conveyance for verification
- ▶ If no discrepancies noticed, the conveyance shall be allowed to move
- ▶ If fails to produce required documents or officer intends to undertake inspection - detention

- ▶ Record statement of person in charge of conveyance(**FORM GST MOV-01**)
- ▶ Issue an order for physical verification/inspection of the conveyance, goods (**FORM GST MOV-02**)
- ▶ With in 24hrs of issuing **MOV-02**, upload a report in Part-A of EWB-03 e-waybill portal
- ▶ Complete inspection proceedings **within 3 days** from the date of issue of order of physical verification in **MOV-02**

- ▶ Beyond 3 days, obtain written permission from concerned authorities in **MOV-03** & serve the same on person in charge of conveyance
- ▶ After physical verification, prepare a report **MOV-04** & serve a copy of report on person in charge
- ▶ Upload final report of inspection in **Part-B of EWB-03**(within 3 days of physical verification)
- ▶ If no discrepancies are found, issue release order in **MOV-05**
- ▶ If discrepancies found, detain vehicle under Section 129 by issuing order of detention in **MOV-06**

- ▶ After detention, issue notice in **MOV-07** specifying tax & penalty payable.
- ▶ Where person in charge/owner comes forward to pay tax & penalty, release the goods & conveyance by an order in **MOV-05**.
- ▶ Upload final orders in **MOV-09** on common portal
- ▶ Tax & penalty accrued from above proceedings shall be added in **electronic liability register**

- ▶ Payments made shall be credited to electronic liability register by debiting **electronic cash ledger or electronic credit ledger** (Section 49)
- ▶ Goods & conveyance can also be released after obtaining a bond in **MOV-08** along with a security in the form of bank guarantee equal to the amount of tax & penalty payable
- ▶ If objections filed, consider such objections and pass a speaking order in **MOV-09**, quantifying the tax and penalty payable

- ▶ If tax & penalty not paid **within 7 days** from the date of the issue of the order of detention in **MOV-06**, action under **Section 130** initiated by serving a notice in **MOV-10**, proposing confiscation of the goods and conveyance and imposition of penalty.
- ▶ Order of confiscation shall be passed in **MOV-11**, after taking into considering objections & served on the person concerned.

- ▶ Provide an opportunity of being heard before passing confiscation order.
- ▶ Once confiscation order passed, the title of such goods shall stand transferred to the State Government
- ▶ In the said order, a suitable time not exceeding **3 months** shall be offered to make the payment of tax, penalty and fine imposed in lieu of confiscation and get the goods released

- ▶ Upload confiscation order on common portal and demand shall be added in the electronic liability register.
- ▶ Once confiscation order passed in **MOV-11**, the final order in **MOV-09** passed earlier with respect to the said goods shall be withdrawn

- ▶ If payment is not made within time as specified in **MOV-11**, auction the goods and/or conveyance by a public auction and remit the sale proceeds to the account of the State Government.
- ▶ Suitable modifications in time allowed for the service of notice or order for auction or disposal shall be done in case of **perishable and/or hazardous goods**.

VARIOUS FORMS FOR VEHICULAR CHECK

Form Name	Purpose
GST MOV-01	Statement of owner, driver or person in charge of the vehicle
GST MOV-02	Order for physical verification and inspection of goods, conveyance or documents
GST MOV-03	Order for extension of time beyond 3 days for inspection
GST MOV-04	Physical verification report
GST MOV-05	Release order
GST MOV-06	Order of detention
GST MOV-07	Notice specifying tax and penalty amount
GST MOV-08	Bond for provisional release of goods/ conveyance
GST MOV-09	Order of demand of tax and penalty
GST MOV-10	Notice for the confiscation of goods
GST MOV-11	Order of confiscation of goods and conveyance and demand of tax, fine and penalty

Actions available to the owner

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graph TD; A[Actions available to the owner] --> B[Accept the tax and penalty]; A --> C[Dispute the tax and penalty];
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Accept the tax and penalty

- He can either pay the tax and penalty
- He can furnish a bank guarantee equal to the said amount
- The tax amount along with the penalty shall be paid within 7 days
- Thereafter, an order releasing the goods is passed in Form GST MOV-05

Dispute the tax and penalty

- In this case, the officer shall consider the objections and pass a speaking order in the said amount
Form GST MOV-09

CREATION OF LIABILITIES IN COMMON PORTAL(GSTN)

- ▶ 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 create liability.

CREATION OF LIABILITIES IN COMMON PORTAL(GSTN)

- ▶ 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.
- ▶ A summary of every order in **MOV-09** and **MOV-11** shall be uploaded electronically in **GST-DRC-07** on the common portal

CREATION OF LIABILITIES IN COMMON PORTAL (GSTN)

Steps	Activity	IT procedures to be followed
Step – 1	Creation of liability by order in Form DRC 07	Go to the statutory function module – click on Determination of tax / Fraud – click on issue orders – Form DRC 07 will be visible. Enter the necessary information, upload an order – Approve it by DSC. Wait for 10 minutes to find the approved DRC 07 in the list of Issued Orders.
Step – 2	Creation of CPIN (Common Portal Identification Number) in PMT 06 for OTC deposit, if tax and penalty is collected in cash. If the tax payer has made the e-payment and submits the challan, this step is not required.	Revert back to home screen after DRC 07 is generated. Go to the payment module – enter GSTIN – PMT 06 will be visible. Enter the tax, penalty, interest at appropriate boxes. Select the option for deposit in cheque. Select the nearest bank for deposit – Generate the challan. Print the generated challan (available in PDF file) of two copies (One for office and one for bank). In the printed challan, mention the name and designation of the officer, who is depositing the tax, interest and penalty, on behalf of the tax payer.

CREATION OF LIABILITIES IN COMMON PORTAL (GSTN)

Step – 3	OTC deposit of CPIN in Form PMT 06 in selected Bank for remittance of the tax, penalty and interest collected into the IGST, CGST, SCGT and Cess accounts	DDO to issue the cheque as per the total amount of tax, penalty and interest as reflected in CPIN in Form PMT 06. In the cheque, mention “Yourself (deposit of GST)” at Pay to line – Deposit the CPIN in Form PMT 06 along with the cheque – After successful remittance, the bank will provide the CIN (Challan Identification Number).
Step – 4	Offsetting the liability against the demand made in DRC 07	Go to the Services Module – Click on Tax Payer details – Cash Ledger (which will now reflect the tax, penalty, interest deposited in Bank) – Quick Link (found at middle of the right scrolling bar) – click on payment towards demand – Enter the demand of tax, interest and penalty raised under IGST Act, CGST Act, SGST Act and Cess as the case may be. Click on offset liability found at last part of the page. System will automatically credit and debit the cash ledger as per the demand reflected in the DRC 07. Get print of the DRC 07, Cash ledger before deposit in the bank and Cash ledger after offsetting the liability for office record for future reference.

QUESTIONS

&

ANSWERS

**THANK
YOU**