

## **Chapter III**

# **Enforcement Functions of the Department**



## CHAPTER-III

### ENFORCEMENT FUNCTIONS OF THE DEPARTMENT

Compliance verification is of high importance in a self-declaration model like EWB system. However, the Analytical Reports generated by NIC were not used by departmental officers to identify potential tax evasion cases. The absence of online recording for both the summary and final inspection reports indicate a deviation from the prescribed rules in intercepting goods in transit and a lack of monitoring by higher authorities. Failure to record reports online hinders the automation of E-Way Bill verification and monitoring activities. Guidelines for interception of goods in transit were not followed. The information on cases booked on interception of vehicles was not passed on to the State/ Central jurisdictional authorities for further action.

#### 3.1 Enforcement Functions of the Department

EWB system is a self-declaration model wherein by way of a digital interface the person causing the movement of goods uploads the relevant information prior to the commencement of movement of goods and generates an authorisation for transportation of the said goods. The self-declaration model emphasises the need for a compliance verification mechanism which can be done through verification of EWBs.

Audit verified the functions viz., operational preparedness, effectiveness of anti-evasion measures and inter and intra departmental co-ordination in monitoring E-Way bill related transactions. For this purpose, Audit selected eight offices<sup>30</sup> of the Deputy Commissioner (Intelligence) out of the 15 offices.

Shortcomings noticed on verification of records relating to the period 1 April 2018 to 31 March 2022 are discussed below:

#### 3.2 Operational Preparedness

The check posts operated manually during the pre-GST regime were abolished consequent to introduction of GST. EWB System was introduced with effect from 1 April 2018 to track both inter-state and intra-state movement of goods having value above ₹50,000. Enforcement Squads were deployed to verify the EWBs by intercepting the vehicles.

##### 3.2.1 Notification for embedding RFID on vehicles

As per Rule 138A(4) of the SGST Rules, 2017, the Commissioner may, by notification, require a class of transporters to obtain a unique 'Radio Frequency Identification Device' (RFID) and get the said device embedded on to the conveyance and map the EWB to the RFID prior to the movement of goods. Through this, the transaction genuinely covered by EWB is duly recorded/

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<sup>30</sup> Kollam, Pathanamthitta, Kottayam, Ernakulam, Palakkad, Kannur, Wayanad and Kasaragod.

mapped to RFID and could be verified without loss of time avoiding the possibility of harassment.

Audit noticed that department did not notify the class of transporters for obtaining RFID in Kerala.

On this being pointed out (March 2024), Government stated (May 2024) that though RFID implementation is outlined in Rule 138A(4) of SGST Rules, 2017, it is a discretionary provision. Kerala has effectively utilised an Automatic Number Plate Recognition (ANPR) System for monitoring goods movement. It enables the verification of all vehicles, regardless of the commodities they transport, thereby ensuring comprehensive monitoring of tax compliance. The utilisation of the ANPR system showcases a proactive and effective approach to monitoring goods movement, contributing to enhanced tax compliance and administrative efficiency.

The response of Government is inadequate since ANPR cameras were being rolled out in 23 locations only covering inward vehicle movement into the State and 18 of these locations only are operational. Further, in the six locations<sup>31</sup> identified by department for ANPR camera installation as a digital wall, the cameras were not installed. This makes it impossible to verify all vehicles. Enabling monitoring of vehicle movements throughout the State is crucial for tracking commodities such as timber, iron and steel, plywood and arecanut, identified by the State as prone to evasion. Introducing RFID devices would assist the enforcement team in intercepting vehicles transporting these evasion-prone commodities.

### **3.2.2 Use of EWB Officer module by departmental officers**

The EWB Officer Module aims to automate verification and monitoring activities to enhance transparency and accountability among departmental officers, provide insightful MIS and Analytical Reports to aid in tax evasion identification and improve efficiency by minimizing routine paper-based tasks, allowing officers to focus on more strategic intelligence work.

Audit observed that departmental officers were not using the EWB Officer module extensively as discussed below:

- **MIS Reports for departmental officers**

As on 31 March 2022, 1,318 users<sup>32</sup> have registered in the officer's module. However, analysis of the information revealed that during March 2022, 539 users out of 1,318 users have logged in to the application. 277 users (21.02 *per cent*) have logged into the application more than 20 times in the month. 166 users (12.59 *per cent*) were logged in for less than 10 times. This indicates that the registered users were not using the module regularly.

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<sup>31</sup> Kuridikkad, BPL Junction, Sathrapady Junction near NIDA Kanjikode, Parapirivu Junction near NIDA Kanjikode, Wise Park Road and Chemanampathy State Boarder (Letter dated 9 November 2020 of the Deputy Commissioner (Intelligence) SGSTD Palakkad).

<sup>32</sup> Generated from J3 Usage of Reports by Officers.

This was brought to the notice of department in August 2023 and to Government in March 2024. Reply has not been received (December 2024).

- **Comprehensive Analytics Reports on EWBs**

The Comprehensive Analytics Reports on EWB provides a unified view of all analytics and reports. There were 104 reports<sup>33</sup> available in the portal.

As of March 2022, only 36 users registered for access into Comprehensive Analytics Reports. Out of the 36 users, in addition to the State Nodal Officer, only one Deputy Commissioner and one State Tax Officer viewed the Analytics Reports. The details of usage of Analytical Reports on EWBs by departmental officers are given in **Appendix-XIV**.

Audit noticed that 91 *per cent* of the officers registered in the system did not access the Analytics Reports which indicate underutilisation by departmental officers.

On this being pointed out (March 2024), Government stated (April 2024) that to prevent excessive load on the servers, NIC issues only limited number of login credentials. The reply is not specific to the Audit point as audit observed that out of 36 officers with login credentials, only two officers relating to assessment were using the Analytics Reports.

### **3.2.3 Discrepancies undetected due to non-usage of MIS Reports**

Audit generated six Analytics Reports from the portal and the observations are illustrated below:

#### **3.2.3.1 EWBs generated by Citizen (H5 Report)**

“EWBs generated by Citizen (H5 Report)” provides details of EWBs generated by unregistered persons who can generate EWBs by registering their mobile phone number in the EWB common portal. Under Section 22 of the SGST Act, 2017, suppliers exceeding prescribed aggregate turnover<sup>34</sup> are liable for registration in their supplying state. Rule 16 of SGST Rules, 2017, prescribes that if the Proper Officer finds that a liable person has not registered, they may issue temporary registration with effect from the date of order.

Audit noticed that during the period from 2018-19 to 2021-22, 1,094 unregistered persons had generated 3,114 EWBs. Of these, 258 unregistered persons have generated EWBs with value more than the threshold limit of ₹40 lakh in a year. Though this report is available in Comprehensive Analytics Report, Audit noticed that the report is not used by the Intelligence and Enforcement units for widening the tax net.

These were brought to the notice of department in October 2023 and to Government in March 2024. Reply has not been received (December 2024).

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<sup>33</sup> As on 19.10.2023.

<sup>34</sup> Exceeding twenty lakh rupees for services or forty lakh rupees for goods.

### 3.2.3.2 Taxpayers with high values based on constitution of business and HSN (C-11 Report)

C-11 Report provides detailed insights into taxpayers with significant values of EWBs categorized by type of supply, HSN code and registration status. Audit generated one such report viz., outward supply report for the year 2021-22 with respect to cancelled Taxpayers (proprietorship) engaged in trading of arecanut (HSN code 0802).

Audit noticed that a taxpayer in Taxpayer Services Circle, Palakkad East, who generated 10 EWBs during September 2021 for an assessable value of ₹11.25 crore, did not discharge the tax liability. Despite this, department did not initiate any action to complete the assessment and to create the tax liability. The tax and penalty payable are ₹1.12 crore.

These were brought to the notice of department in October 2023 and to Government in March 2024. Reply has not been received (December 2024).

### 3.2.3.3 High risk patterns in generation of EWBs (C8, C9, C10 and O11 Report)

Audit verification of the reports generated for the period 2021-22 revealed certain high-risk patterns and variances in generation of EWBs, which need to be examined by the department as discussed below:

#### Cancellation of EWB

- In the case of 856 users (as supplier) 100 *per cent* of their EWB were shown as cancelled. For 363 users (as supplier), more than 50 *per cent* of the EWB generated were shown as cancelled<sup>35</sup>.
- In the case of 2,941 users (as recipient), 100 *per cent* of the EWB generated against them, as recipient, were shown as cancelled. For 770 users (as recipient), more than 50 *per cent* of the EWB generated against them, as recipient, were shown as cancelled<sup>36</sup>.

#### Rejection of EWB

- For 40 users, 100 *per cent* of EWB supplied to them were shown as rejected<sup>37</sup>. For two users (as recipient), more than 50 *per cent* of EWB supplied to them were shown as rejected.
- For four users (as suppliers), 100 *per cent* of the EWB generated have been rejected<sup>38</sup>.

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<sup>35</sup> C8 – Taxpayers with high cancelled EWB.

<sup>36</sup> C10 – Taxpayers (recipients), with high cancelled EWB.

<sup>37</sup> O11 – Taxpayers rejecting high number of EWB.

<sup>38</sup> C9 – Taxpayers with high rejections of EWB.

Audit observed that the EWB Analytics Reports generated by NIC were not utilised by either the enforcement squads or by Taxpayer Services Circles or by the investigation wing.

This was brought to the notice of department in August 2023 and to Government in March 2024. Reply has not been received (December 2024).

**Recommendation 6:**

*Government may utilise the Analytics reports generated by NIC to find the high-risk taxpayers and for scrutiny of returns or for investigation which would improve the efficiency of preventive functions.*

### 3.3 Effectiveness of Preventive Functions

#### 3.3.1 Non recording of summary report and final report on interception of goods in transit

Under Rule 138C of the SGST Rules, 2017, a summary report of every inspection of goods in transit shall be recorded online by the Proper Officer in Part A of FORM GST EWB-03<sup>39</sup> within twenty-four hours of inspection and the final report in Part B of FORM GST EWB-03 shall be recorded within three days of such inspection.

Audit collected the information regarding the cases booked during 2018-19 to 2021-22 in relation with the EWB from all the three JC (Intelligence and Enforcement) offices and cross verified the same with the EWB-03 verification report generated from the EWB MIS portal. The number of cases booked and the number of cases in which summary and final inspection report recorded were as given in **Table- 3.1**.

**Table- 3.1**  
**Details of cases booked, summary and final inspection report recorded**

| Period    | Number of cases |                         |                                  |
|-----------|-----------------|-------------------------|----------------------------------|
|           | Booked          | Summary report recorded | Final inspection report recorded |
| 2018-2022 | 21,699*         | 6,655 <sup>#</sup>      | 6,172                            |

\* Number from monthly diaries of enforcement officers.

<sup>#</sup> Generated from E-Way bill portal.

Audit observed that -

- In 15,044 booked cases, which comes to 69.33 *per cent* of the total cases booked, summary report and final inspection report were not recorded online.

<sup>39</sup> Verification Report by the Enforcement Officers.

- Out of the 6,655 cases where summary report on inspection was recorded in 483 cases, the final inspection reports were not recorded.

The lack of recording of verification report shows that prescribed procedures were not followed during the interception of goods in transit and higher authorities did not monitor the process. This non-recording of records online defeats the automation of the complete EWB verification and monitoring activities to bring transparency and increase accountability of departmental officers.

On this being brought to notice (March 2024), Government stated (November 2024) that the department has issued strict instructions to concerned proper officers in charge of the Enforcement squads through the Zonal Joint Commissioners (Intelligence & Enforcement) to comply with the recommendations of Audit.

***Recommendation 7:***

***Government may issue instructions to the Enforcement Officers to record the reports online and the higher authorities may monitor the activities of the Enforcement Squad.***

### **3.3.2 Guidelines for interception of goods in transit**

Tax and penalty levied on interception of conveyance under Section 129(1) of the SGST Act, 2017, will be recorded in the electronic liability ledger. Commissioner of State Taxes issued<sup>40</sup> guidelines for interception of conveyance, detention, seizure and release of goods. For unregistered persons, a temporary ID will be created by the Proper Officer on the common portal to record the liability.

Audit scrutinised 200 orders of the Enforcement Squads in the selected eight offices in respect of offences booked during the movement of goods and the observations noticed are detailed below:

- In nine cases (**Appendix - XV**) even though the consignor and consignee were having GST registration number under Kerala jurisdiction, the demand and settling of tax and penalty were made by creating temporary registration in the common portal.
- In seven cases (**Appendix - XVI**), the tax and penalty of ₹0.07 crore was not added to the electronic liability ledger.

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<sup>40</sup> Circular No. 17/2018 dated 29 June 2018.



On this being pointed out (March 2024), in respect of creation of temporary ID, Government stated (May 2024) that in one<sup>41</sup> case, the taxpayer remitted the penalty demanded and hence no further action is required. In respect of non-credit of tax and penalty in the electronic liability ledger, Government stated (May 2024) that in three<sup>42</sup> cases, temporary ID was created because the consignees come under central jurisdiction and in all three cases demands were paid. The reply is not acceptable as the creation of temporary ID is permitted only for unregistered person and if temporary ID created for registered taxpayer, the offences would not get recorded in the profile of such taxpayer in GSTN. Reply in the remaining cases has not been received (December 2024).

**Recommendation 8:**

***Government may issue instruction to the Proper Officers to create timely demand of tax and penalty in the electronic liability ledger.***

### **3.4 Inter and intra Departmental Co-ordination in monitoring E-Way Bill related transactions**

The Preventive Units are entrusted with enforcement functions related to EWB and the taxpayers discharge tax liability through periodic returns subject to scrutiny by jurisdictional authorities. To ascertain the inter and intra departmental co-ordination, Audit verified 200 offence cases booked by selected eight offices and the findings are discussed below.

#### **3.4.1 Non-identification of taxpayers who failed to generate E-Way bills**

Under Rule 138 of the SGST Rules, 2017, an E-Way bill must be generated and carried along during transportation of goods, if the value of the consignment exceeds ₹50,000.

The number of cases booked by the enforcement wing in the State and the number of cases booked due to non-generation of EWBs are given in the following **Table- 3.2**.

**Table- 3.2**  
**Details of cases of booked due to non-generation of EWB**

| Year         | Number of cases booked | No. of cases due to non-generation of EWB | Percentage of cases due to non-generation of EWB |
|--------------|------------------------|-------------------------------------------|--------------------------------------------------|
| 2018-19      | 5,041                  | 2,654                                     | 52.65                                            |
| 2019-20      | 3,920                  | 2,389                                     | 60.94                                            |
| 2020-21      | 6,184                  | 3,612                                     | 58.41                                            |
| 2021-22      | 6,554                  | 3,882                                     | 59.23                                            |
| <b>Total</b> | <b>21,699</b>          | <b>12,537</b>                             | <b>57.78</b>                                     |

Source: Monthly diary of Enforcement Wing.

<sup>41</sup> OR No.VC/111/165/2019-20.

<sup>42</sup> OR No.05/2019-20, OR No.94/2019-20 and OR No.32/2020-21.

From the table, it can be seen that the percentage of cases due to non-generation of EWBs increased from 52.65 *per cent* in 2018-19 to 59.23 *per cent* in 2021-22, indicating that the concept of generation of EWB had not taken roots completely. Department failed to identify taxpayers not generating EWBs and did not scrutinize records of those penalised for non-compliance.

Audit scrutiny of the records of an offence case<sup>43</sup> by Enforcement Squad revealed that a taxpayer under TPSC, Kuthuparamba did not generate EWBs for any of the invoices raised during 2018-19. During 2018-19, the taxpayer had generated 92 invoices having assessable value more than ₹50,000. The total assessable value was ₹0.89 crore with GST of ₹0.16 crore.

On this being pointed out (March 2024), Government stated (May 2024) that in the GST scenario, intelligence-based investigation activities are yielding more revenue and have a deeper and sharper impact. Hence devising a system by sparing more officials in Enforcement wing was not rational and will likely result in a decline in state revenue. It was also mentioned that a high number of verifications of E-Way bills and checking of vehicles were undertaken by the current Enforcement squads and E-Way bill reports were widely used by the intelligence units. The Government further stated (November 2024) that the Enforcement Squad operations, including intensified vehicle checking, are in place. Further, ANPR cameras installed at various border areas detect vehicles without EWBs and in such instances, an alert is sent to the nearby Enforcement Squad prompting them to detain the vehicle.

However, the reply did not specifically address the issue raised.

***Recommendation 9:***

***Government may devise a mechanism to detect taxpayers who transported goods without generating EWBs.***

**3.4.2 Non-pursuance of Intelligence based enforcement action on the taxpayers with Central tax administration**

Officers of both Central and State taxes are authorised to initiate Intelligence based enforcement action on a taxpayer irrespective of the administrative assignment of the taxpayer to any authority<sup>44</sup>.

Audit verified three cases booked by the Enforcement Squads of the State on three taxpayers administered by the Central Tax Authorities and noticed that department did not initiate action for further investigation. Audit verified the records of all the three taxpayers and evasion of tax was noticed as given below:

- Goods transported by a Taxpayer registered under Ottappalam Range, were intercepted three times (3 November 2020, 27 January 2021 and 30 January 2021) leading to offense cases. Audit verified the records of the taxpayer and found that 365 EWBs for an outward supply of ₹16.42 crore

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<sup>43</sup> OR No.12/2020-21 of Mobile Squad Thaliparamba.

<sup>44</sup> CBIC DO F.No. CBEC/20/43/01/2017-GST (Pt.) dated 5 October 2018.

were generated during 2020-22. Audit noticed that the taxpayer reported a tax liability of ₹3.62 crore in GSTR-1 but only discharged ₹2.47 crore through GSTR-3B, resulting in a shortfall of ₹1.15 crore. Furthermore, the taxpayer filed a NIL GSTR-1 for July 2021 and did not submit subsequent returns, even though four EWBs were generated from July 2021 onward for an assessable value of ₹0.36 crore and a GST liability of ₹0.06 crore, leading to non-discharge of tax liability of ₹1.21 crore.

- Goods transported by another Taxpayer registered under Ottappalam Range, were intercepted on 28 July 2020, resulting in an offense case. Audit noticed that the taxpayer generated EWBs for 16 invoices in 2020-21 with an assessable value of ₹2.75 crore and IGST of ₹0.49 crore, which were not included in GSTR-1 and discharged tax liability.
- Goods transported by a Taxpayer registered under Thamarassery Range, were intercepted on 15 October 2021, leading to an offense case. Audit noticed that the taxpayer generated 80 EWBs for an outward supply of ₹21.20 crore with GST of ₹1.03 crore in 2021-22. However, they filed returns for August 2021 only, discharging a tax liability of ₹0.17 crore, resulting in a short discharge of tax liability of ₹0.86 crore.

Audit observed that no follow up action was taken by the State Tax Authorities against the taxpayers, on the basis of the offence cases booked by the Enforcement Squad, though empowered and found that these information were not shared with Central Tax Authorities. Had the information on booking of offence was used properly, the tax evasion could have been mitigated.

These were brought to the notice of department in October 2023 and to Government in March 2024. Reply has not been received (December 2024).

### **3.4.3 Passing of information on booked cases to the Taxpayer Services Circles**

Section 17(5) of the SGST Act, 2017, states that ITC cannot be claimed for any tax paid on interception of goods in transit. According to Section 37 of the Act, *ibid*, all outward supplies must be reported in GSTR-1 and these reports will auto-populate in the consignee's GSTR-2A. Further, Section 61 of the Act, *ibid*, requires the Proper Officer to review taxpayer returns for accuracy and address any discrepancies.

Audit verified 200 booked cases pertaining to eight selected offices and noticed that department did not have a system for passing the information of booked cases to the jurisdictional authorities or to the investigation wing for further verification and scrutiny. Audit scrutiny of the records of the taxpayers revealed the following discrepancies:

- (a) In 92 cases (**Appendix - XVII**), the ITC on the transactions for which tax of ₹0.27 crore was collected under Section 129 of the SGST Act, 2017, has been passed on through GSTR-1. However, there was no system to pass the information of booked cases to the Proper Officers.

On this being pointed out (March 2024), the Government stated (October 2024) that in one case under TPSC Kollam ASMT-10 has been issued.

(b) In 27 cases (**Appendix - XVIII**), the tax and penalty were imposed for transportation of excess quantity, the value of the excess quantity was not reported in GST returns. Consequently, subsequent recipients would not assess the excess quantity. The value determined on the excess quantity was ₹0.27 crore with GST of ₹3.75 lakh. The information was not passed on to the jurisdictional officers of the recipients of goods.

On this being pointed out (March 2024), Government stated (May 2024 and November 2024) that in two<sup>45</sup> cases the taxpayer paid the tax and penalty demanded and as per Section 129(5) of the SGST Act, 2017, action was deemed to be concluded. Further in two cases<sup>46</sup>, verification of the cases are under process and detailed reply will be furnished. Reply in the remaining cases have not been received (December 2024).

Government further stated (November 2024) that the issues highlighted in the para has been addressed, the relevant data on such cases has been shared with the Jurisdictional authorities (Taxpayer Services Circles). It was further stated that the department has initiated two operations, Anti Fake Invoice drive and Anti Bogus Registration drive to identify taxpayers who are in the practice of irregular passing of Input Tax and using bogus registrations.

***Recommendation 10:***

***Government may devise a system for using the input received from the cases booked for further investigation and passing on information to the jurisdictional authorities.***

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<sup>45</sup> OR No.161/2019-20 and OR No.84/2020-21.

<sup>46</sup> OR No.153/2019-20 and OR No.11/2021-22.