

Inland Air Travel Tax Rules, 1989

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Inland Air Travel Tax Rules, 1989

In exercise of the powers conferred by Section 448 of the Finance Act, 1989 (13 of 1989), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement :-

(1) These rules may be called the Inland Air Travel Tax Rules, 1989.

(2) They shall come into force on the 1st day of July, 1989.

2. Definitions :-

In these rules, unless the context otherwise requires,-

(a) "Act" means the Finance Act, 1989 (13 of 1989) ;

(b) "Assistant Collector of Customs" means an officer appointed as such under Section 4 of the Customs Act, 1962 having jurisdiction under the said Act over Delhi ;

(c) "Central Excise Officers" has the same meaning as in the Central Excises and Salt Act, 1944;

(d) "Collector of Customs" means an officer appointed under Section 4 of the Customs Act as Collector of Customs, Delhi or Additional Collector of Customs, Delhi ;

(e) "Collector of Customs (Appeals)" means an officer appointed as such under Section 4 of the Customs Act, 1962 ;

(f) "Customs Act" means the Customs Act, 1962 (52 of 1962) ;

(g) "Officers of Customs" has the same meaning as in the Customs Act;

(h) "tax" means the inland air travel tax leviable under Chapter V of the Act;

(i) "treasury" means-

(ii) the Customs House treasury ; or

{iii) The Reserve Bank of India constituted under Section 3 of the Reserve Bank of India Act, 1934 , or any branch of the State Bank of India constituted under Section 3 of the State Bank of India Act, 1955 , or a bank constituted under S.3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, or under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), wherein the Central Government has an account in its behalf.

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(1) Collection of tax- 'The tax shall be collected by a carrier authorised under sub-section (2) of Section 42 of the Act at the time of issuing a ticket to a passenger or his agent for embarking on inland journey : Provided that in a case where due to some reasons tax is not collected at the time of issuing a ticket, the tax shall be collected by the carrier before a passenger embarks on inland journey.

2 (2). The amount of tax collected under sub-rule (1) shall be indicated separately by the carrier on the ticket issued to a passenger or his agent for embarking on inland journey.

1. Rule(3) renumbered as sub-rule(1) and inserted in Rule(2) by Inland Air Tax (Amendment) Rules, 1994 dated 12th August, 1994

2. Inserted vide " THE INLAND AIR TRAVEL TAX RULES, 1989"

Dt.12th August, 1994 Published in Ministry of Finance(Deptt. of Revenue), Noti. No. G.S.R. 635(E), No. 2/94-Inland Air TravelTax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

3. . :-

4. Refund of tax :-

(1) In a case where a passenger, having purchased a ticket, decides not to embark on an inland journey, the amount of tax collected for such a journey shall be refunded to him or his agent in full by the carrier in the same manner as the fare is refunded.

(2) In any other case, a passenger or his agent claiming refund of any tax paid by him to the carrier may move an application to the carrier for refund of such tax before the expiry of a period of two years from the date of payment of the tax or the last date of the journey in respect of which refund is being claimed, whichever is later.

(3) On receipt of an application under sub-rule (2), if the carrier is satisfied that the amount of tax paid has been erroneously collected and should be refunded, he may refund the amount to the passenger or his agent accordingly.

(4) Where a carrier, having paid into the treasury an amount by way of tax, finds that the same has been paid erroneously, he may prefer a claim by making an application for refund to such amount to the Assistant Collector of Customs, before the expiry of a period of two years from the date of payment of the tax in respect of which the refund is claimed.

(5) If on receipt of an application under sub-rule (4), the Assistant Collector of Customs is satisfied that the amount of tax erroneously paid should be refunded, he may make an order accordingly.

5. Non-payment or short payment of tax :-

(1) Where any tax due has, for any reason, either not been paid or has not been paid in full by a passenger or his agent, the carrier may, within two years from the last date of the journey, make a demand in writing to the passenger or his agent to pay the amount.

(2) Where any tax collected by a carrier has, for any reason, either

not been paid or has not been paid in full into the treasury under Rule 6 or has been erroneously refunded under sub-rule (3) of Rule 4, the Assistant Collector of Customs may, within a period of two years from the relevant date, serve notice upon the carrier concerned, requiring him to show cause why he should not pay the ¹["amount of tax specified in the notice and the interest, if any, payable thereon"]: Provided that where any tax had not been paid or has not been paid in full or has been erroneously refunded by reason of collusion or any wilful misstatement or suppression of facts by the carrier, the provisions of this sub-rule shall have effect as if for the words "two years" the words "five years" were substituted.

(3) The Assistant Collector of Customs, after considering the representation, if any, made by the carrier on whom notice is served under sub-rule (1), shall determine the amount of tax to be paid by such carrier (not being in excess of the amount specified in the notice) and thereupon such carrier shall pay ² ["the amount of tax so determined and the interest, if any, payable thereon"].

(4) For the purpose of sub-rule (2), the expression "relevant date" means-

{a) in case where the tax has not been paid or has not been paid in full, the date of commencement of the inland air journey to which the non-payment or the under payment, as the case may be, relates, or the date on which the carrier files the relevant return under these rules, whichever is later ;

(b) in a case where the tax has erroneously been refunded under Rule 4, sub-rule (4) of the date on which the refund was made.

1. Substituted for "amount specified in the notice ", vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 635(E), No. 2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

2. Substituted for "the amount so determined", vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R.635(E), No. 2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

6. Tax to be paid into the treasury :-

The tax collected in any month by any carrier shall be paid by such carrier before the expiry of ¹["fifteen days"] from the end of that month into the treasury : [****2 ***]

1. In Rule 6, for the words "thirty days", the words "fifteen days" shall be substituted, by Inland Air Travel Tax (Amendment) Rules, 2002. ,Noti. No. F. No. 306/4 /2000-FTT (No.1/2002, Inland Air Travel Tax, 3, date. 04/01/2002, Gaz. of India, Exty., Part. II, Sec. 3(i), No. 8, date. 04/01/2002, page.1.

2. Omitted for "Provided that the Collector of Customs may on sufficient cause being shown and having regard to the system of accounting adopted by any carrier allow such carrier to pay the tax within a further period not exceeding ninety days.", vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 635(E), No.2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

7. Return regarding tax collected, etc :-

¹ .Every carrier required under Rule 6 to pay the tax into the treasury shall file, in respect of every month before the expiry of thirty days from the end of that month, before the Collector of Customs, a return in the Form annexed to these rules, showing amount of tax collected, amount refunded and the amount paid into the treasury : Provided that the Collector of Customs may, having regard to the number of flights operated by a carrier, exempt such carrier from filing Part B of the said Form.

1. Substituted for " 7 . Return regarding tax collected, etc .-Every carrier required under Rule 6 to pay the tax into the treasury shall file, in respect of every month before the expiry of sixty days from the end of that month, before the Collector of Customs, a return in that Form annexed to these rules, showing the amount of tax collected, amount refunded and the amount paid into the treasury : Provided that the Collector of Customs may, having regard to the system of accounting adopted by any carrier allow such carrier to file such returns within a further period not exceeding ninety days, ", vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R.635(E), No. 2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

8. Preservation of records by carrier :-

Copies of all treasury challans or vouchers against which amounts collected as tax are paid into the treasury returns and all other documents relating to air inland journey shall be preserved by the carrier for a period of five years from the date on which such challans, vouchers, returns or other documents were prepared:

Provided that the Collector of Customs may, by order in writing and for reasons to be recorded thereon, require any carrier to preserve for a longer period than the said period of five years any such copy of challan, voucher, return or other document and the carrier against whom such order is made shall comply with such order.

8A. Penalty for failure to comply with the provisions of the rules :-

1 .-

(1) Any carrier who fails to indicate the amount of tax collected on the ticket issued to a passenger or his agent shall be liable to a penalty of rupees five hundred for each such ticket where the amount of tax has not been indicated.

(2) Any carrier who fails to file a return showing the amount of tax collected, amount refunded and the amount paid in the treasury in the manner as specified under Rule 7 shall be liable to a penalty which shall not be less than rupees two thousand but which may extend to rupees twenty thousand and to a further penalty not exceeding rupees five hundred for each day after the date when the return was due to be filed in accordance with the provisions of the said rule.

(3) Any carrier who fails to file a copy of the passengers' manifest in the manner required under the Rule 7-A shall be liable to a penalty which shall not be less than rupees two thousand but which may extend to rupees twenty thousand and to a further penalty not exceeding rupees five hundred for each day after the date when manifest was due to be filed in accordance with the provisions of the said rule.

1. Inserted vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 635(E), No. 2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

9. Adjudication of penalties :-

In every case in which any person is liable to penalty under Section 46 of the Act, such penalty may be adjudged by the Assistant Collector of Customs.

10. Issue of show-cause notice before levy of penalty :-

No order imposing any penalty on any person shall be made unless such person-

(a) is given a notice in writing informing him of the grounds on which it is proposed to impose a penalty,

(b) is given an opportunity of making a representation in writing within such reasonable time as may be specified in the notice, against the grounds for imposition of the penalty mentioned therein; and

{c) is given a reasonable opportunity of being heard in the matter : Provided that the notice referred to in clause {a) and the representation referred to in clause (b) may, at the instance of the person concerned, be oral.

11. Appeal :-

(1) Any person aggrieved by any decision or order passed under the Act, or these rules, by the Assistant Collector of Customs may, within three months from the date of communication of such decision or order, appeal to the Collector of Customs (Appeals), Delhi : Provided that the appellate authority may, if satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of three months.

(2) The appellate authority may, after giving an opportunity to the appellant to be heard if he so desires, and after making such inquiry as may be necessary, pass such order as it thinks fit, confirming, modifying or annulling the decision or order appealed against : Provided that no order enhancing any penalty shall be passed by the appellate authority: Provided further that where the appellate authority is of the opinion that any tax has not been paid or has not been paid in full into the treasury under Rule 6 or has been erroneously refunded under sub-rule (4) of Rule 4, no order directing the payment of such tax shall be passed unless the appellant is given notice within the time limit specified in sub-rule (2) of Rule 5 to show cause against the proposed order.

11A. Deposit, pending appeal, of tax and interest demanded or penalty levied :-

1 .-Where any appeal under Rule 11 relates to any tax and the interest, if any payable thereon or any penalty levied under the Act or these rules, the person desirous of appealing against such decision or order shall, pending the appeal, deposit with the Assistant Collector of Customs, the tax demanded and the interest, if any, payable thereon, or the penalty levied : Provided that where in any case the Collector (Appeals) is of the opinion that the deposit of tax demanded and the interest, if any, payable thereon, or the penalty levied would cause an undue hardship to such person, the Collector (Appeals) may dispense with such deposit subject to such conditions as he may deem fit to impose so as to safeguard the interests of revenue.

1. Inserted vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 635(E), No. 2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

12. Powers of revision of Collector :-

(1) Collector of Customs may, of his own motion or on the application of any aggrieved person, call for and examine the record of any proceedings in which an Officer of Customs subordinate to him has taken any decision or passed an order under the Act or these rules (not being an order passed in appeal under Rule II) for the purpose of satisfying himself as to the legality or propriety of any such decision or order and may pass such order thereon as he thinks fit: Provided that no order enhancing any penalty shall be passed under this rule unless the person affected by the proposed order has been given a reasonable opportunity of showing cause against it : Provided further that where the Collector of Customs is of the opinion that any tax has not been paid or has not been paid in full into the treasury under Rule 6 or has been erroneously refunded under sub-rule (4) of Rule 4, no order directing the payment of such tax shall be made unless the person affected by the proposed order is given notice to show cause against it within the time limit specified in sub-rule (2) of Rule 5.

(2) No proceeding shall be initiated under this rule in respect of any

decision or order after the expiry of a period of one year from the date of such decision or order.

(3) An Officer of Customs appointed as Additional Collector of Customs under Section 4 of the Customs Act, 1962 shall not be competent to exercise any powers of revision under this rule.

13. Revision by Central Government :-

(1) The Central Government may, of its own motion or on the application of any person aggrieved by any order passed under Rule 11 or Rule 12, annul or modify such order.

(2) An application under sub-rule (1) shall be made within six months from the date of the communication to the applicant of the order against which the application is being made: Provided that the Central Government may, if it is satisfied that the applicant was prevented by sufficient cause for presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months.

(3) No order enhancing any penalty shall be passed under this rule, unless, within one year from the date of the order sought to be annulled or modified, the person affected by the proposed order has been given a notice to show cause against it.

(4) Where the Central Government is of the opinion that any tax has not been paid or has not been paid in full into the treasury under Rule 6 or has been erroneously refunded under sub-rule (4) of Rule 4, no order directing the payment of such tax shall be made under this rule, unless the person affected by the proposed order has been given notice to show cause against it within the time limit specified in sub-rule (2) of Rule 5.

14. Recovery of sums due to Government :-

1 , -

(1) Where any tax, interest or penalty is not paid by a carrier, the Assistant Collector of Customs may, after the tax, interest or penalty has been determined under the rules, proceed to recover the amount of such tax, interest or penalty by one or more of the modes specified in sub-rule (2), sub-rule (3) or sub-rule (4).

(2) The Assistant Collector of Customs may require any person, from whom any amount is due to the carrier, to deduct the tax, interest or penalty so determined from the said amount and such

person shall comply with the requisition by the Assistant Collector of Customs and shall pay the amount so deducted to the credit of the Central Government : Provided that nothing in this sub-rule shall apply to any part of the amount exempt from attachment in execution of a decree of a civil court under Section 60 of the Code of Civil Procedure, 1908 (5 of 1908).

(3) The Assistant Collector of Customs may prepare a certificate signed by him specifying the amount due and send it to the Collector of the district in which the carrier owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said carrier the amount specified thereunder as if it were an arrear of land revenue.

(4) On a specific authorisation being granted by the Collector of Customs, the Assistant Collector of Customs may distrain or arrest any aircraft and any other property belonging to, or under the control of, the carrier and detain the same until the tax, interest or penalty so determined is paid: and in case any part of the tax, interest or penalty or of the cost of the distress or arrest or of the keeping of the aircraft or other property distrained or arrested, remains unpaid for the space of thirty days next after any such distress or arrest, may cause the said aircraft or other property to be sold and with the proceeds of such sale may satisfy the tax, interest or penalty and the costs including the cost of sale remaining unpaid, and shall render the surplus, if any, to the carrier.

1. Substituted for " 14 . Recovery of sums due to Government .- Where any tax demanded from any person or any penalty payable by any person under Chapter V of the Act is not paid, the Assistant Collector of Customs may prepare a certificate signed by him specifying the amount due and send it to the Collector of the district in which the said person owns property or resides or carries on business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified thereunder as if it were an arrear of land revenue. ", vide " THE INLAND AIR TRAVEL TAX RULES, 1989" Dt.12th August, 1994 Published in Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 635(E), No. 2/94-Inland Air Travel Tax, dated August 12, 1994, published in the Gazette of India, Extra., Part II, Section 3(i), dated 12th August, 1994, pp. 4-5, No. 341 [F. No. 311/4/92-FTT]

15. Power to inspect :-

(1) Every Officer of Customs authorised in this behalf by a special

or general Order of a Gazetted Officer of Customs shall for the purpose of ascertaining whether or not the requirements of the Act or these rules have been complied with, at any reasonable time, have access to any premises of any carrier and have powers to require any person found therein, who for the time being is in charge thereof to produce of him for his inspection any books of accounts, returns or other documents and to furnish to him such other information as he may reasonably require for the purpose of ascertaining whether the requirements of the Act or these rules have been complied with.

(2) Every such officer shall also have free access to any aircraft engaged in the carriage of passengers on an inland journey and have powers to require any person on board to produce any of the aforesaid documents and to furnish the aforesaid information, for the said purpose.

16. Power to search aircraft or premises :-

If an Officer of Customs not below the rank of an Assistant Collector of Customs has reason to believe that any document which in his opinion will be useful or relevant to any proceeding under the Act or these rules are secreted in any aircraft or any premises of a carrier, he may authorise any Officer of Customs or Central Excise Officers to search for such documents.