

FOREIGN TRAVEL TAX RULES, 1971

CONTENTS

1. Short title and commencement
2. Definitions
3. Issue of ticket for international journey specifying taxable fare and amount of tax
4. Tax to be paid into Treasury
5. Up-to-date travel tariffs to be furnished
6. Claim for refund of tax
7. Refund, set off and adjustment by the carrier
8. Payment of collection charges
9. Notice for payment of tax not paid or underpaid or erroneously refunded
10. Adjudication of penalties
11. Issue of show cause notice before levy of penalty
12. Appeal
13. Powers of revision of Collector
14. Revision by Central Government
15. Recovery of sums due to Government
16. Power to inspect
17. Power to search ship, aircraft or premises

FOREIGN TRAVEL TAX RULES, 1971

In exercise of the powers conferred by Sec. 49 of the Finance (No. 2) Act, 1971 (32 of 1971), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement :-

- (1) These rules may be called the Foreign Travel Tax Rules, 1971.
- (2) They shall come into force on the 15th day of October, 1971.

2. Definitions :-

In these rules, unless the context otherwise requires,-

- (1) "Act means the Finance (No. 2) Act, 1971 (32 of 1971);
- (2) "Appellate Collector of Customs" means an officer appointed as such under Section 4 of the Customs Act, 1962
- (3) "Assistant Collector of Customs" means an officer appointed as

such under Section 4 of the Customs Act, 1962 and having jurisdiction under the said Act over the place where the principal office of the carrier is situated;

(4) "Collector of Customs" means an officer appointed under Section 4 of the Customs Act, 1962 as Collector of Customs or Additional Collector of Customs and having jurisdiction under the said Act over the place where the principal office of the carrier is situated;

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

(6) "Officer of Customs" has the same meaning as in the Customs Act;

(7) "principal office", in relation to a carrier, means the office of the carrier in the territories to which Chapter VII of the Act extends or where the carrier has two or more offices in the said territories, such one of those offices as the carrier may, with the approval of the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 (54 of 1963), specify in this behalf;

(8) "regulations" means the regulations made under Section 50 of the Act;

(9) "tax" means the foreign travel tax leviable under Chapter VII of the Act;

(10) "taxable fare" means the fare on which the tax is chargeable;

(11) "taxable journey" means an international journey in respect of which tax is leviable and includes a journey in respect of which exemption from payment of tax (wholly or partly) has been granted under Section 46 of the Act;

(12) "ticket" means the document issued by or on behalf of the carrier, which evidences the contract of carriage for an international journey by a passenger and includes a miscellaneous charges order, pre-paid ticket advice, voucher or any other instrument authorising the issue of such document;

(13) "Treasury" means,-

(i) the Customs House Treasury, or

(ii)- the Reserve Bank of India or any branch of the State Bank of

India wherein the Central Government has an account in this behalf.

3. Issue of ticket for international journey specifying taxable fare and amount of tax :-

(1) No carrier shall permit any person to undertake and no person shall undertake an international journey as a passenger otherwise than by a ticket.

(2) No carrier shall deliver a ticket to any person for the purpose of a taxable journey unless the taxable fare and the amount of tax due in respect of the said journey as specified on the ticket:

Provided that where exemption from the payment of tax has been granted under Section 46 of the Act, the carrier shall specify the same on the ticket.

4. Tax to be paid into Treasury :-

The tax collected by any carrier in any month in accordance with sub-section (2) of Section 45 of the Act shall be paid by such carrier before the expiry of sixty days from the end of that month into the Treasury at the place at which the principal office of such carrier is situated :

Provided that the Collector of Customs may, having regard to the system of accounting adopted by any carrier, allow such carrier to pay the tax before the expiry of a longer period than the period of sixty days aforesaid :

Provided further that where the tax is actually collected by any agent, representative or other person referred to in Cl. (b) of Section 44 of the Act, he shall pay the tax so collected to the carrier on whose behalf he has collected the fare and such carrier shall pay it into the Treasury as aforesaid.

5. Up-to-date travel tariffs to be furnished :-

Every carrier undertaking the carriage of passengers on an international journey shall furnish to the Collector of Customs or his nominee up-to-date travel tariffs (including all corrections and amendments thereto) on the basis of which the fares for passenger tickets are calculated for the time being, at least ten days before such tariffs or corrections and amendments become operative :

Provided that copies of such tariffs in force on the date of commencement of these rules shall be furnished within ten days of

such commencement.

6. Claim for refund of tax :-

(1) A carrier may claim refund of any amount paid by him by way of tax in respect of an international journey by a passenger or of a portion of such amount, if he is duly authorised in this behalf by the passenger, ¹ [or of any amount paid by him by way of tax, whether through oversight, inadvertance or clerical error,] by making an application for such refund to the Assistant Collector of Customs before the expiry of six months from the date on which the right to claim refund first accrued.

Explanation.- In respect of a refund claim arising as a result of cancellation of portion, or modification of an international journey, the date on which the right to claim refund first accrued under this sub-rule shall be deemed to be date entered in the refund document, of the carrier, evidencing refund of fare by the carrier to the passenger.]

(2) If, on receipt of any such application, the Assistant Collector of Customs is satisfied that the whole or any part of the tax paid should be refunded, he may make an order accordingly,

1. Substituted by G.S.R. 734, dated 6th July, 1974

7. Refund, set off and adjustment by the carrier :-

Notwithstanding anything contained in rule 6, where tax has been collected in respect of an international journey and such journey has been cancelled or the itinerary of such journey has been modified before the commencement of the journey, the carrier required under rule 4 to make payment of such tax into the Treasury may refund authorise any person acting on his or its behalf to refund the tax collected or as the case may be, so much of such tax as is refundable on account of the modification in the journey and if the tax has already been paid under rule 4 into the Treasury, the carrier may set off or adjust the amount so refunded against any amount which the carrier is liable to pay into the Treasury under that rule :

Provided that every refund, set off or adjustment as aforesaid shall be shown by the carrier in the relevant return required to be submitted by him under the regulations and duly and fully accounted for by him to the satisfaction of the Assistant Collector of Customs.

8. Payment of collection charges :-

The Collector of Customs shall, as soon as may be after the end of ¹ [each financial year], pay to a carrier collection charges at the rate of one per cent. of the amount of tax paid by the carrier into the Treasury during that year as reduced by the refunds, if any, made during that year to the carrier.

1. Substituted by G.S.R. 734, dated 6th July, 1974

9. Notice for payment of tax not paid or underpaid or erroneously refunded :-

(1) When any tax due has, for any reason whatever, either not been paid or has not been paid in full into the Treasury under rule 4 or has been erroneously refunded under rule 6 or has been erroneously refunded, set off or adjusted under rule 7, the Assistant Collector of Customs may within six months from the relevant date, serve notice upon the carrier concerned, requiring him to show cause why he should not pay the amount specified in the notice :

Provided that where any tax has not been paid or has not been paid in full or has been erroneously refunded, set off or adjusted by reason of collusion or any wilful mis-statement or suppression of facts by the carrier, the provisions of this sub-rule shall have effect as for the words 'six months', the words 'two years' were substituted.

(2) 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 due from such carrier (not being in excess of the amount specified in the notice) and thereupon such carrier shall pay the amount so determined.

(3) For the purpose of sub-rule (1), the expression 'relevant date' means-

(a) in a case where the tax has not been paid or has not been paid in full, the date of commencement of the taxable 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 the regulations, whichever is later;

(b) in a case where the tax has been erroneously refunded under

rule 6, the date of payment of such refund; and

(c) in a case where the tax has been erroneously refunded, set off or adjusted under rule 7, the date of commencement of the taxable journey to which the tax relates or the date on which the carrier files the relevant return under the regulations, whichever is later.

10. Adjudication of penalties :-

In every case in which any person is liable to penalty under Section 47 of the Act, such penalty may be adjudged by an officer of customs mentioned in Sec. 3(c) or Sec. 3(d) of the Customs Act:

Provided that no officer of customs mentioned in S.3(d) of the Customs Act, 1962 shall be competent to impose a penalty exceeding two thousand five hundred rupees in any such case.

11. 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 Cl (a) and the representation referred to in Cl (b) may at the instance of the person concerned, be oral

12. Appeal :-

(1) Any person aggrieved by any decision or order passed under the Act, these rules or the regulations, by any officer of customs mentioned in Sec 3 (c) or Sec 3((d) of the Customs Act, may, within three months from the date of communication of such decision or order, appeal to the Appellate Collector of Customs to whom appeals against the orders of such officer of customs ordinarily lie under the Customs Act

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 4 or has been erroneously refunded under rule 6 or has been erroneously refunded, set off or adjusted under rule 7, no order directing the payment of such tax shall be passed unless the appellant is given notice within the time-limit specified in rule 9 to show cause against the proposed order

13. Powers of revision of Collector :-

(1) An officer of customs mentioned in Sec 3(a) of the Customs Act 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 passed any decision or order under the Act, these rules or the regulations (not being an order passed in appeal under rule 12 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 officer of customs mentioned in Sec 3(a) of the Customs Act is of the opinion that any tax has not been paid or has not been paid in full into the Treasury under rule 4 or has been erroneously refunded under rule 6 or has been erroneously refunded, set off or adjusted under rule 7, 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 rule 9

(2) No decision or order passed by an officer of customs shall be

revised under this rule by the officer of customs mentioned in Sec 3(a) of the Customs Act of his own motion and no application for the revision of any such decision or order shall be entertained, after the expiry of two years from the date of such decision or order

(3) An officer of customs appointed as Additional Collector of Customs under Sec 4 of the Customs Act shall not be competent to exercise any powers of revisions under this rule.

14. Revision by Central Government :-

(1) The Central Government may, on the application of any person aggrieved by any order passed under rule 12 or rule 13 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 from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of six months

(3) The Central Government may of its own motion annul or modify any order passed under rule 12 or rule 13.

(4) 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 notice to show cause against it

(5) Where the Central Government is of opinion that any tax has not been paid or has not been paid in full into the Treasury under rule 4 or has been erroneously refunded under rule 6 or has been erroneously refunded, set off or adjusted under rule 7, 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 rule 9.

15. Recovery of sums due to Government :-

Where any tax demanded from any person or any penalty payable by any person under Chapter VII of the Act is not paid, the officer of customs mentioned in S.3(d) of the Customs Act, 1962 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

16. 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, these rules or the regulations 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 to him for his inspection any tickets, 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, these rules or the regulations have been complied with

(2) Every such officer shall also have free access to any ship or aircraft engaged in the carriage of passengers on an international 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.

17. Power to search ship, aircraft or premises :-

(1) If an officer of customs not below the rank of an Assistant Collector of Customs has reason to believe that any documents which in his opinion will be useful or relevant to any proceeding under the Act, these rules or the regulations, are secreted in any ship, aircraft or any premises of a carrier, he may authorise any officer of customs to search for such documents

(2) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), relating to searches shall, so far as they are applicable, apply in relation to searches under this rule. Now see. Code of Criminal Procedure, 1973 (2 of 1974)