

Finance Act, 1987

Chapter V - Foreign Exchange Conservation (Travel) Tax

(1) This Chapter extends to the whole of India.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Section 99 - Definitions

In this Chapter, unless the context otherwise requires, -

(a) "authorised dealer" means a person for the time being authorised under section 6 of the Foreign Exchange Regulation Act, 1973, (46 of 1973), to deal in foreign exchange;

(b) "dealing", in relation to foreign currency, means purchasing or selling foreign currency;

(c) "foreign currency" means any currency other than Indian currency;

(d) "foreign exchange" means foreign currency and includes -

(i) all deposits, credits and balances payable in any foreign currency, and any drafts, traveller's cheques, letters of credit and bills of exchange, expressed or drawn in Indian currency but payable in any foreign currency;

(ii) any instrument payable, at the option of the drawee or holder thereof of any other party thereto, either in Indian currency or in foreign currency or partly in one and partly in the other;

(e) "foreign travel" means a travel, the whole or any part of which is outside India;

(f) "money changer" means a person for the time being authorised under section 7 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), to deal in foreign currency;

(g) words and expressions used but not defined in this Chapter shall have the meanings assigned to them in the Foreign Exchange Regulation Act, 1973 (46 of 1973).

Section 100 - Foreign Exchange Conservation (Travel) Tax

(1) With effect from the date of commencement of this Chapter, there shall be levied on all foreign exchange released for any foreign travel by any person, a tax [hereafter in this Chapter referred to as the foreign exchange conservation (travel) tax] at the rate of fifteen per cent. of the rupee equivalent of the amount of foreign exchange released.

(2) In accordance with the rules made under this Chapter, the foreign exchange conservation (travel) tax shall be collected by the authorised dealer or money changer and paid to the credit of the Central Government.

Section 101 - Power To Exempt

Notwithstanding anything contained in this Chapter, the Central Government may, by notification in the Official Gazette, and subject to such conditions and limitations as may be specified therein, exempt wholly or to such extent as may be specified in the notification, any release of foreign exchange for any foreign travel or class or category of foreign travel from the payment of tax leviable under this Chapter if that Government is satisfied that it is necessary or expedient so to do, having regard to the purposes of the foreign travel and any other special circumstances.

Section 102 - Penalties

(1) Every person intending to undertake a foreign travel and holding foreign exchange in relation to which the tax payable under this Chapter has not been paid shall, in addition to his liability to pay the tax, be liable to pay a penalty not exceeding twice the amount of the tax he would have paid under the provisions of this Chapter.

(2) Every authorised dealer or money changer who fails to collect the tax leviable under this Chapter, or after collecting such tax fails to pay the tax to the credit of the Central Government under sub-section (2) of section 100 shall, in addition

to the payment of the tax, if any, so collected, be liable to pay a penalty not exceeding twice the amount of the tax he would have collected or, as the case may be, twice the amount of the tax collected but not paid to the credit of the Central Government.

(3) No penalty shall be leviable under sub-section (1) or sub-section (2), if the authority specified under sub-section (4), for reasons to be recorded in writing, waives the amount of penalty so payable.

(4) Subject to the provisions of sub-section (3), any penalty under this section may be adjudged, collected and paid to the credit Central Government by such authority and in such manner as may be specified in the rules made under this Chapter.

Section 103 - Protection Of Action Taken In Good Faith

No suit or other legal proceeding shall be lie against the Central Government and no suit or prosecution or other legal proceeding shall lie against any officer of the Central Government, or of the State Government or against any authorised dealer or money changer for anything in good faith done or intended to be done in pursuance of this Chapter or the rules made thereunder.

Section 104 - Power To Make Rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for -

(a) the collection of the foreign exchange conservation (travel) tax, the authorities by whom adjudication of penalties or other functions under this Chapter shall be discharged, the manner in which such tax or penalties due under this Chapter shall be payable, the manner in which such tax or penalties shall be collected and paid to the credit of the Central Government and the procedure for claiming refund of any amount paid under this Chapter;

(b) the procedure for adjudication of penalties;

(c) appeals against orders made under this Chapter, the manner in which and the time within which such appeals may be preferred and the fees payable therefor;

(d) the returns and other particulars and information which may be required to be furnished for the purposes of this Chapter, the persons or authorities by or to whom or which, and the intervals at which, such returns, particulars and information shall be furnished;

(e) any other matter which is to be, or may be, provided for by rules under this Chapter.

Section 105 - Rules And Notifications To Be Laid Before Parliament

Every rule made under this Chapter and every notification issued under section 101 shall be laid as soon as may be after it is made or issued before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both House agree in making any modification in the rule or notification or both Houses agree that the rule should not be made or the notification should not be issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.
