

The Supreme Court solves the tri-partite dispute among Passengers, Travel Agents and Airlines.

The Supreme Court in four connected Writ Petitions¹ which were in the nature of a Public Interest Litigation, had to deal with the issue of refunding the full amount collected by the Airlines for the tickets of flights cancelled in wake of the lockdown and subsequent restrictions imposed by the Government of India to contain COVID-19.

The Ministry of Civil Aviation (“**MoCA**”) had issued an advisory to all stake holders in the civil aviation sector vide an Office Memorandum (“**Memorandum**”) dated 16th April, 2020 stating that if the passengers had booked tickets during the lockdown to travel in the lockdown period and the payments were received by Airlines, the same shall be refunded in full without levying any cancellation charge for both domestic and international air travel. It was further stated that the refund shall be made within a period of three weeks from the date of request of cancellation and the Directorate General of Civil Aviation (“**DGCA**”) shall monitor the compliance of the same.

The Petitioners contended that instead of refunding the amounts, Airlines were choosing to provide a credit shell with validity of one year, which was in violation of Civil Aviation Requirements of May, 2008 (“**CAR**”) which were issued by the DGCA, as the decision to claim a refund or take a credit shell should be with the passenger and not a default practice of the Airline. Moreover, the said Memorandum did not deal with tickets booked before the lockdown was imposed.

It was further contended by one of the Petitioners being, the Travel Agents Federation of India, that the Memorandum was silent on travel agents who had booked tickets for passengers even before receipt of fare amount from the passengers and if the refunds are not made to them, they would suffer undue hardship. However, as per the existing regulatory mechanism the travel agent, if any, involved in the purchase of any ticket on behalf of any passenger remains only a via media, leaving the principal contract between the airline and the passenger only.

¹ Diary No. (Civil) 10966 of 2020, W.P.(C)No.570 of 2020, W.P.(C)No.952 of 2020 and W.P.(C)No.595 of 2020

With the intervention of the Supreme Court the dispute was finally settled for refund of domestic and international travel tickets as under:

1. Booking during the lockdown period (from 25th March, 2020 to 24th May, 2020) for travel during lockdown period - Airline to refund full amount collected without any cancellation charges within a period of three weeks from the date of cancellation. If booking is done through a travel agent, refund shall be given by the Airline immediately to the agent who will transfer the amount to the passenger.
2. Booking at any period of time but for travel after 24th May, 2020 – refund of fares to the passenger to be governed by the provisions of CAR.
3. In all other cases, the Airline to refund amount to the passenger within 15 days from 1st October, 2020. If on account of financial distress, any Airline is unable to do so, they shall provide credit shell equal to the amount of fare collected, in the name of passenger, and the same maybe utilized on any route on or before 31st March, 2021. If the tickets are booked through a travel agent, the passenger can :
 - i. Utilize the credit shell on any route of their choice only through the travel agent who has booked the ticket,
 - ii. Transfer the credit shell to any person including the travel agent through whom the ticket was booked.
 - iii. If credit shell is not utilized by 31st March, 2021, Airline shall refund the amount to the travel agent who will transfer the amount to the passenger.

If passengers transfer the credit shell to travel agents, the same can be utilized by the travel agent for third party use. If passengers transfer the credit shell to a third person, the same can be utilized only through the agent who has booked the ticket at the first instance, thus protecting the interest of the travel agent. The concerned Airline shall honour such transfers by devising a mechanism to facilitate the same.

4. In all cases where credit shell is issued there shall be an incentive to compensate the passenger from the date of cancellation upto 30th June, 2020 in which event the credit shell shall be enhanced by 0.5% of the amount for every month or part thereof between the date of cancellation and 30th June, 2020. Thereafter the value of the credit shell shall be enhanced by 0.75% of the face value per month upto 31st March, 2021.

The DGCA was directed to ensure strict compliance of the abovementioned directions by issuing necessary instructions to all concerned. Thus, the Supreme

Court took into consideration the difficulties of the passengers, travel agents and Airlines, and in a harmonious manner resolved their disputes.