

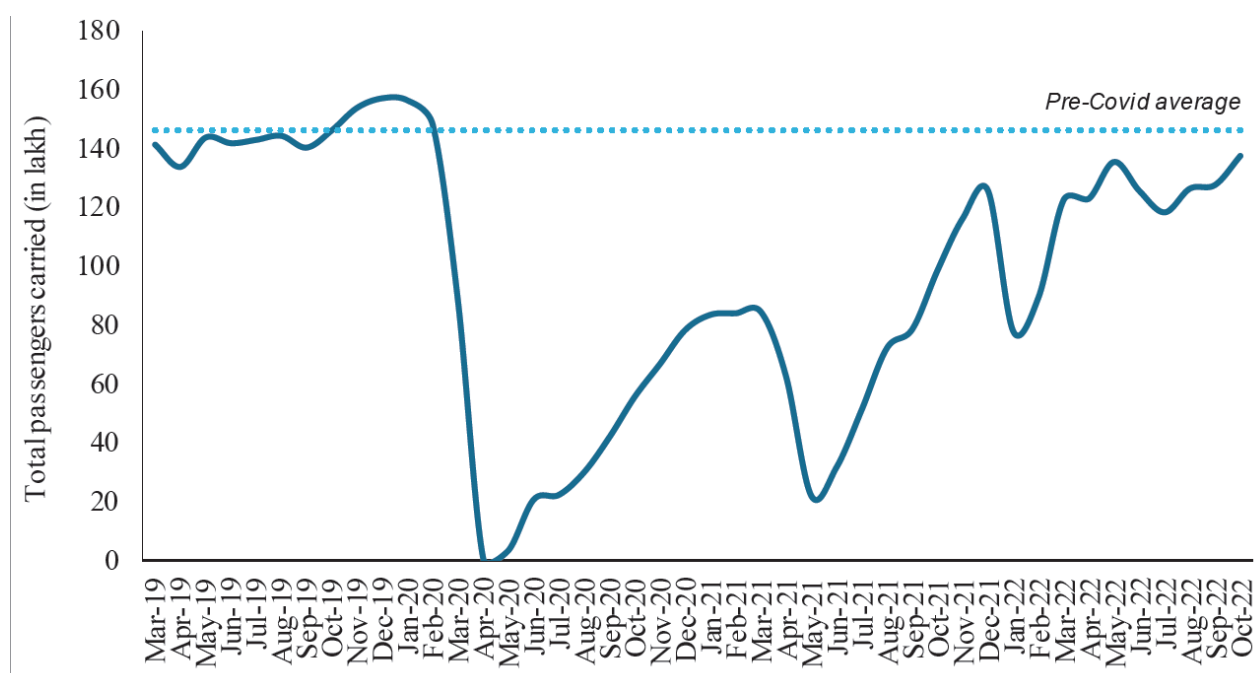
Union Budget 2023 – Bittersweet for Aviation Industry

Civil aviation, being one of the sectors which were severely impacted by the COVID-19 Pandemic, has gracefully rebounded like a phoenix in the past year nearly to its pre-COVID levels. Despite high expectations from the Union Government to ease out the existing financial load on account of high cost of fuel, high tax liabilities, shortage of funds, etc., this year's Budget has brought only a scant respite to the sector.

Performance in FY 2022-23

The Economic Survey for the FY 2022 - 23 published on January 31, 2023 records the re-growth of the aviation sector and takes note of the following:

1. Civil Aviation sector has significant untapped potential;
2. Regional Connectivity Scheme ("RCS") has stimulated affordable regional air connectivity.
3. Out of 59 (fifty nine) tourism RCS air routes, 51 (fifty one) are operational.
4. An amount of INR 104,19,00,000 (Indian Rupees one hundred four crore nineteen lakh) has been reimbursed to the Airport Authority of India ("AAI") in the form of Viability Gap Funding ("VGF") during FY 2021 and FY 2022.
5. Krishi UDAN 2.0 has facilitated transporting perishable food products, including horticulture, fishery, livestock and processed products, from 25 (twenty five) airports in hilly areas, north-eastern states and tribal areas.
6. For promoting Krishi UDAN 2.0 scheme, AAI provides a full waiver of landing, parking, terminal navigational landing charges (TNLC) and route navigation facility charges (RNFC) for Indian freighters and passenger-to-cargo aircraft.
7. During November 2022, total air cargo tonnage stood at 2,50,000 lakh (two lakh fifty thousand) MT, which is 89% of the pre-Covid levels.
8. Under 'Ude Desh ka Aam Nagrik' ("UDAN") scheme, the government has approved a budget of INR 4,500,00,00,000 (Indian Rupees four thousand five hundred crore) for revival of existing unserved/ underserved airports/airstrips. UDAN scheme focuses on the connectivity between the Tier-2(two) and 3 (three) cities in the country.
9. The Government has also accorded 'in-principle' approval for the setting up of 21 (twenty one) greenfield airports across the country.
10. While in FY 2021, there was a considerable decline in the air-traffic (a decline of 54%) as well as passenger traffic (a decline of 66%), FY 2022 saw a recovery, mainly led by the domestic sector. The total number of passengers carried in December 2022 stood at 1,50,10,000 (one crore fifty lakh ten thousand), which was 106.4% of the pre-Covid level (average between April 2019 to February 2020).



Key Announcements in Union Budget 2023:

Cost Allocation:

1. The Ministry of Civil Aviation (“**MoCA**”) has been allocated a total of INR 31,13,36,00,000 (Indian Rupees three thousand one hundred thirteen crore thirty six lakh) in FY 2023-24, comprising INR 30,26,70,00,000 (Indian Rupees three thousand twenty six crore seventy lakh) revenue and INR 86,66,00,00,000 (Indian Rupees eighty six crore sixty six lakh) capital. This allocation has come against a budget estimate for FY 2022-23 of INR 10,667,00,00,000 (Indian Rupees ten thousand six hundred and sixty seven crore) and revised estimate of INR 9,363,70,00,000 (Indian Rupees nine thousand three hundred sixty three crore seventy lakh).
2. Out of the total allocation, INR 1,144,49,00,000 (Indian Rupees one thousand one hundred forty four crore forty nine lakh) has been earmarked for AI Asset Holdings Ltd for servicing loans transferred to the special purpose vehicle (SPV) for the financial restructuring of Air India.
3. An amount of INR 130,00,00,000 (Indian Rupees one hundred thirty crore) has also been set aside for the medical benefits of retired Air India employees.
4. An amount of INR 1,244,07,00,000 (One thousand two hundred forty four crore seven lakh) has been earmarked for the regional airport connectivity scheme UDAN - ‘Ude Desh ka Aam Naagrik’ for revival of 22 (twenty two) airports, commencement of 100 (one hundred) RCS routes and VGF for north east connectivity.
5. In addition, under Internal and Extra Budgetary Resources (IEBR) i.e. public sector units through profits, loans and equity, the Centre has allowed the AAI to raise INR 3,448,21,00,000 (Indian Rupees three thousand four hundred forty eight crore twenty one lakh).

Demand for Grants:

1. For establishment expenditure involving Secretariat, Directorate General of Civil Aviation (“**DGCA**”), Bureau of Civil Aviation Security and Commissioner for Railway Safety, an amount of INR 511,74,00,000 (Indian Rupees five hundred eleven crore seventy four lakh) has been earmarked to be used for training projects, e-Governance of Civil Aviation (eGCA) project, infrastructure, procurement of security equipment, IT equipment and India’s contribution to International Civil Aviation Organization’s Cooperative Aviation Security Programme.

2. Along with minor allocation of grant for skill development and grants-in-aid for promotion/development of aero sports, an amount of INR 130,00,00,000 (Indian Rupees one hundred thirty crore) has been allocated for providing medical benefit to retired employees of Air India.
3. An amount of INR 33,00,00,000 (Indian Rupees thirty three crore) has been allocated for Production Linked Incentive (“**PLI**”) Scheme for drone and drone Components.

Other provisions:

1. 50 (fifty) additional airports, heliports, water aerodromes and advanced landing grounds will be revived for improving regional connectivity.
2. 11 (eleven) RCS Airports (Unserviced Airports / Underserved Airports) will be operationalized based on the proposals awarded under the Scheme.
3. Start-ups will be promoted to facilitate ‘Drone Shakti’ through varied applications and for Drone-As-AService (“**DrAAS**”). MoCA will take up with 15 (fifteen) identified Union Ministries to use DrAAS for which MoCA will handhold these Ministries by way of faster clearances and by bringing industry, academia and start-ups together.
4. The budget allocation for PLI for drones and drone component manufacturers is INR 120,00,00,000 (Indian Rupees one hundred twenty crore) spread over three financial years 2022-23 to 2024-25. Eligible manufacturers will receive PLI from 2022- 23 onwards to fund further research and development.
5. MoCA and DGCA will coordinate with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship to identify select Industrial Training Institutes (“**ITI**”) in each State and provide full support in starting drone training at these ITIs.
6. MoCA is streamlining the drone certification, drone registration and drone school approval processes in line with the liberalised Drone Rules, 2021. Drone pilot license has been abolished. The digital sky platform has been developed to provide single window solution for most drone permissions and approvals. All 5 (five) forms under Drone Rules, 2021 have been made online. Other functionalities will be added on an ongoing basis, based on emerging requirements and stakeholder feedback.

IFSC GIFT City:

To enhance business activities in GIFT IFSC, the following measures will be taken:

1. Delegating powers under the SEZ Act to IFSCA to avoid dual regulation;
2. Setting up a single window IT system for registration and approval from IFSCA, SEZ authorities, GSTN, RBI, SEBI and IRDAI;
3. Permitting acquisition financing by IFSC Banking Units of foreign banks;
4. Establishing a subsidiary of EXIM Bank for trade re-financing;
5. Amending IFSCA Act for statutory provisions for arbitration, ancillary services, and avoiding dual regulation under SEZ Act;
6. Recognizing offshore derivative instruments as valid contracts;
7. For countries looking for digital continuity solutions, Data Embassies will be set up in GIFT IFSC;
8. An International Arbitration Centre will be set up in the GIFT City for timely settlement of disputes under international jurisprudence.
9. Period of tax benefits to funds relocating to IFSC, GIFT City will be extended till March 31, 2025.

JSA Comment

Despite introduction and promotion of several provisions, a lot more remains to be achieved for and within the sector. The long drawn battle against high cost of Aviation Turbine Fuel (ATF), Excise Tax and GST, slow growth of the MRO services and Cargo Handling operations still continues.

Aviation Practice

JSA is known for its specialist domain knowledge in several infrastructure sectors such as aviation, energy, telecommunication, etc. JSA's expertise and cross-disciplinary approach along with substantial industry knowledge combine to put the Firm in a unique position to navigate the complexities that clients are facing in the aviation sector. JSA is one of the few firms with established knowledge and experience in the aviation sector, with specific expertise with respect to regulated areas being aeronautical tariff, non-aeronautical services, Operations Management and Development Agreement, State Support Agreement, Civil Aviation Policy et al. In fact, the Firm is recognised for its domain-focused specialised regulatory practice and strength in dealing with complex issues involving public policy, market economics, technology, finance and project management, balancing interests of both, the airport operator and airlines. JSA is regularly consulted by several government departments, regulators, airport operators, airlines, stakeholder associations and organisations, development financial institutions, industry bodies, suppliers, lenders and investors.

JSA has a vast experience in the aviation sector across all the three practice areas namely Corporate, Finance and Disputes Resolution. JSA's practice has contributed to several landmark and precedent-setting decisions passed by Consumer Fora, the Airports Economic Regulatory Authority Appellate Tribunal, Bombay High Court, Delhi High Courts and the Supreme Court of India.

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