

Airports Economic Regulatory Authority of India

Order No. 10/2011-12

AERA Building,
Administrative Complex,
Safdarjung Airport ,
New Delhi - 110 003

Date of Order : 21st September , 2011

Date of Issue : 26th September , 2011

**In the matter of delay in submission of Multi Year Tariff Proposal by M/s
Cambata Aviation Private Limited for Ground Handling Services at Chennai
and Ahmedabad Airports**

As per clause 7.1 of the Guidelines issued by the Authority for services provided for Cargo facility, Ground Handling and Supply of Fuel to aircrafts, all service provider(s) were required to submit to the Authority for its consideration, a Multi Year Tariff Proposal (i.e. MYTP) for the first control period (from 01.04.2011 to 31.03.2016), within two months of the date of issue of the Guidelines.

2.1 The Authority vide Order No. 17/2011-12 dated 31.03.2011 extended the time limit for submission of MYTP by Independent Service Providers (ISP(s)) upto 30.04.2011 and also ordered that w.e.f. 01.04.2011, the ISPs may continue to charge the tariffs as were prevalent on 01.09.2009 or as may have been approved/determined by the Authority thereafter and upto the date when new tariff(s) as may be approved by the Authority became applicable.

2.2 M/s Cambata Aviation Pvt Ltd (hereinafter referred to as Cambata the service provider), which provides ground handling services at IGI Airport Delhi, CSI Airport Mumbai, Chennai International Airport and SVP International Airport Ahmedabad, was, therefore, required to file MYTPs for all these airports for the consideration of the Authority by 30.04.2011. Cambata, vide their letter dated 29th April 2011, submitted a proposal seeking approval of the charges for its ground handling services at Delhi and Mumbai Airports which was found to be a combined proposal, that too incomplete and not in line with the Guidelines issued by the Authority.

2.3 The Authority, vide its letter no. AERA/20019/CGF-G/2010-11/Vol.III dated 13.05.2011, conveyed to Cambata the above and also, in the meantime, granted a personal meeting with its officials and its consultants to Cambata on 25.05.2011, wherein the required clarifications were given to the service provider. During discussions, officials from Cambata also acknowledged the fact that the ground handling services were being rendered by them at major airports other than Delhi and Mumbai also.



2.4 However, Cambata, vide letter dated 15.06.2011, submitted the MYTPs/ proposals/information in respect of Delhi and Mumbai airports only and not in respect of the other major airports viz Chennai and Ahmedabad, at which they were operating. Subsequently, Cambata vide letter no. CAPL/AERA/148/06-11 dated 10.06.2011 informed the Authority that the MYTPs in respect of their operations at Chennai and Ahmedabad airports were not filed earlier as they were under the impression that the Order of the Authority was applicable only to approved Ground Handlers and therefore sought time upto 15.07.2011 for submission of the MYTPs in respect of these airports.

2.5 The Authority in its 42nd Meeting held on 21.06.2011, accepted the request of Cambata, to extend the time line for submission of tariff proposals in respect of Chennai and Ahmedabad Airports upto 15.07.2011. It was however submitted to the Authority in its 45th meeting held on 04.08.2011 that Cambata had neither submitted their MYTPs in respect of other major airports where ground handling services were being provided by them nor sought for extension of time for submitting the same. The Authority observed interalia that the service provider i.e. Cambata had failed to comply with the directions issued by the Authority, despite the extension granted to them and assistance provided over a period of more than 3 months.

2.6 The Authority therefore decided the following :-

- (i) The interim arrangement ordered vide Order No. 17/2010-11 dated 31.03.2011 may be treated to become ineffective w.e.f. 16.07.2011. An appropriate Direction may be issued to M/s Cambata Aviation immediately in the matter.
- (ii) In view of M/s Cambata Aviation having failed to comply with the guidelines of the Authority, M/s Cambata and the COO of the Company being the person incharge, prima facie appears to be liable to fine under Section 38 of the Act and accordingly, to issue appropriate Show Cause Notice.

2.7 Accordingly, a Direction was issued on 11.08.2011 by the Authority directing Cambata to stop charging tariff in respect of ground handling services relating to aircraft, passengers and cargo provided by them at Chennai and Ahmedabad Airports w.e.f 16.07.2011. The Authority also issued Show Cause Notices to Cambata Aviation (Noticee1) and to the COO, M/s Cambata Aviation (Noticee2) vide notice dated 11.08.2011 requiring them to Show Cause to the Authority, within 14 days from the date of receipt of the notice as to why fine should not to be imposed on them under Section 38 read with Section 40 of the Act.

3. Cambata submitted the MYTP in respect of ground handling services provided by them at Chennai International Airport vide their submission dated 17.08.2011. Thereafter, vide letter dated 19.08.2011, Cambata submitted the MYTP in respect of ground handling services provide by them at SVP International Airport, Ahmedabad. Further vide letter dated 23.08.2011, Cambata referred to the Show Cause Notice dated 11.08.2011 and regretted that they had shifted their accounts office from Mumbai to Delhi during that period and in the process of shifting the office, unfortunately and inadvertently missed the deadline for submission of information for Chennai and Ahmedabad, and that had also overlooked requesting for a further extension. Cambata also confirmed that they ceased billing their customers for services provided at both



Ahmedabad and Chennai Airports, effective 16.07.2011. Cambata also requested the Authority to reconsider and not impose a fine or penal action on M/s Cambata Aviation Private Limited and Mr. A.P.M. Casserly, Chief Operating Officer for non compliance. Cambata requested for an appointment for a personal hearing. Further, Mr. APM Casserly, the COO has vide an e-mail dated 02.09.2011 tendered his personal apologies for the delay in the submission of the details by Cambata and requested in expediting the necessary Order to enable them to bill for their services in Chennai and Ahmedabad.

4. Pursuant to the aforesaid submission, Cambata and Mr.A.P.M.Casserly, Chief Operating Officer, were requested to remain present on 21.09.2011 at 1200 hrs. for personal hearing before the Authority.

5. Shri Bharani Kumar, CFO of M/s Cambata Aviation Pvt Ltd appeared on behalf of noticee1 and noticee2 and submitted as under:

- (i) He deeply regrets the delay in filing of MYTP, however it was not intentional.
- (ii) They have submitted the MYTPs in respect of all the airports where they are providing aeronautical services.
- (iii) He reiterated the written submissions made vide their reply dated 23.08.2011.
- (iv) He requested that a lenient view may be taken in the matter.

6. The Authority perused the records and carefully considered the submissions made on behalf of noticee 1 and noticee 2, including in the personal hearings held on 21.09.2011 and observed as under:

- (i) Cambata have failed to file the requisite MYTP in respect of Ahmedabad and Chennai Airports within the extended timeline of 15.7.2011. The tariff proposal is required to be submitted to enable the Authority to discharge its functions under section 13(1)(a) and section 13(1)(e) of the AERA Act, 2008.
- (ii) The Authority had, vide the Guidelines issued on 10.1.2011, required the necessary tariff proposals to be submitted by 10.3.2011, which was subsequently extended upto 30.4.2011. The Authority had also issued a direction under section 15 of the Act to all service providers including Cambata, to act in accordance with the guidelines.
- (iii) It is an admitted fact that Cambata have failed to submit the requisite proposals in respect of Chennai and Ahmedabad Airports and, therefore, have contravened the provisions of the section 13(1)(a) and section 13(1)(e) of the AERA Act, 2008. Further, they have failed to comply with the directions issued by the Authority under section 15 of the Act. As such, Cambata have committed an offence punishable under section 38 of the Act.
- (iv) It is an admitted fact that Shri A.P.M. Casserly, Chief Operating Officer, i.e., noticee 2 is the person-in-charge and, hence, is liable to be punished



under section 38 read with section 40 of the Act for the above mentioned facts of omission and commission.

7. The Authority also noted that while the noticee 1 and noticee 2 have committed offences punishable under section 38 of the Act, there are certain mitigating circumstances:

- (i) Cambata have submitted the requisite proposals in respect of Chennai and Ahmedabad Airports on 17.08.2011 & 19.08.2011, respectively.
- (ii) It has been confirmed vide letter No. CAPL/AERA/153/08-11 dated 23.08.2011 that Cambata have complied with the directions of the Authority and have stopped charging tariff at Chennai and Ahmedabad Airports w.e.f. 16.07.2011 as the same had not been approved by the Authority.
- (iii) The delay in submission of the proposals has been regretted.

8. Keeping in view the observations made above, the Authority decided to take a lenient view and while holding noticee 1 and noticee 2 punishable of offences under section 38 of the Act, it decided that in the facts and circumstances of the case the show cause notices may be disposed off with a caution to both the Noticees to be more vigilant in future.

9. Ordered Accordingly.

**By the Order of and in the
Name of the Authority**


**(Capt. Kapil Chaudhary)
Secretary**

To,

1. M/s Cambata Aviation Pvt. Ltd.,
East Wing, 5th Floor,
M.Karve Road, Church Gate,
Mumbai – 400020
2. M/s Cambata Aviation Pvt. Ltd.,
East Wing, 5th Floor,
M.Karve Road, Church Gate,
Mumbai – 400020
(Through: Mr. APM Casserly, Chief Operating Officer)

