

Airports Economic Regulatory Authority of India

Order No. 32/2011-12

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

Date of Order : 28th November, 2011

Date of Issue : 5th December, 2011

In the matter of Multi Year Tariff Proposal for 1st Control Period submitted by Cambata Aviation Pvt. Ltd., for providing Ground Handling Services at SVP International Airport, Ahmedabad.

Cambata Aviation Pvt. Ltd. (Cambata), have vide their application dated 19.08.2011, submitted their Multi Year Tariff Proposal (MYTP) for the first control period commencing 01.04.2011, in respect of the tariff for the services provided for ground handling facility at SVP International Airport, Ahmedabad.

2. Briefly, the facts of the case are as under:-

2.1 Cambata have sought approval for the tariff for ground handling services for the first control period (period of 5 years commencing 01.04.2011) based on a "light touch approach" as specified in Chapter V of the Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling, and Supply of Fuel to the Aircraft) Guidelines, 2011 (the Guidelines).

2.2 As stipulated in the Guidelines, the Authority shall follow a three stage process for determining its approach to the regulation of a regulated service-

- a) Materiality Assessment;
- b) Competition Assessment;
- c) Assessment of reasonableness of the User Agreements between the service providers and the users of the regulated services.

The ground handling service being provided at SVP International Airport, Ahmedabad has a materiality index of 2.2%, which is lesser than 5% materiality Index fixed for the subject service, hence the service is deemed as "not material", in terms of Clause 4.3 of the Guidelines.



- 2.3 As per the information furnished by Cambata in Form F1 (b) on the Competition Assessment, following service provider is rendering similar service at SVP International Airport, Ahmedabad:
- (i) M/s Air India
- 2.4 The Guidelines provide that where a regulated service is being provided at a major airport by two or more service providers(s), it shall be deemed 'competitive' at that airport. In the instant case with the total number of players being two, the service is deemed 'competitive.'
- 2.5 It was observed that in the instant case the ground handling services at SVP International Airport, Ahmedabad being provided by Cambata is "not material" and hence may be regulated under light touch approach for tariff determination.
- 2.6 The Authority, vide its Order No.17/2010-11 dated 31.03.2011, while extending the timeline for submission of MYTP by the independent service providers upto 30.04.2011 had also decided that, in the interim, all ISP(s) may continue to charge the tariffs as prevalent on 01.09.2009 or as may have been approved/determined by the Authority thereafter with effect from 01.4.2011 and upto the date when the new tariffs as may be approved by the Authority became applicable and that this interim arrangement would be subject to the condition that the concerned independent service providers submit the MYTP latest by 30.04.2011. In case any service provider(s) fails to submit MYTP on or before 30.4.2011, the interim arrangement in respect of such service provider (s) would cease to be effective.
- 2.7 The Authority also noted that Cambata had submitted the MYTP for ground handling services provided by them in respect of SVP International Airport, Ahmedabad as per the timelines prescribed in the Guidelines.
- 3.1 The Authority, vide Consultation Paper No. 19/2011-12 dated 26.09.2011 proposed for stakeholder consultation that the ground handling services provided by Cambata at SVP International Airport, Ahmedabad is "not material" and in accordance with the Guidelines, a "Light Touch Approach" may be adopted for determination of tariff in the first control period w.e.f. 01.04.2011.
- 3.2 In response to the said Consultation Paper, comments have been received from Cambata Aviation Pvt. Ltd., vide their letter no. NIL dated 10.10.2011 and M/s Bhadra International India Pvt. Ltd., vide their letter no. BHADRA/AERA/MYTP/2011-12 dated 07.10.2011.
- 3.3 In its comments on the Consultation Paper, Bhadra has inter-alia stated that:-



“Airports Authority of India (AAI) had invited global tenders in 2009 for selection of ground handling service provider as per Regulation 3 (iii) of Regulation 2007. AAI selected through competitive bidding M/s Bhadra International India Ltd. from amongst others for Chennai, Kolkata, Trivandrum, Calicut, Coimbatore, Trichy and Mangalore airports. M/s NAS Kuwait was selected for Goa, Pune and Ahmedabad airports.

M/s Cambata Aviation Pvt. Ltd., opted not to participate in the said tenders for these airports invited by AAI and no award has been made to Messrs. Cambata Aviation by AAI to provide the ground handling services at the airports at Chennai, Kolkata, Trivandrum, Calicut, Coimbatore, Trichy and Mangalore and as such they come under the category of non-entitled entities (that is, not approved ground handlers).

In terms of regulation 3(4) of Regulations 2007, entities not governed by these regulation shall not be permitted to provide/undertake ground handling services with effect from January 2009 which the Appropriate Authority has been extended till 31.12.2010.

In view of the above fact, M/s Cambata Aviation should not be allowed to continue at Chennai and Ahmedabad airports. Approving of MYTPs of Cambata Aviation for the above named airports under the above circumstances will seriously jeopardize the very sensitivity of the selection of the ground handling service provider through global competitive bidding. Further, since M/s Cambata Aviation Pvt. Ltd. has not participated in the tender as per Regulation 3(iii) and it is understood that they have not obtained the security clearance for Chennai and Ahmedabad, approving of MYTPs of Cambata Aviation will have far reaching legal ramifications & consequences.”

4. The Authority considered the submissions made by the stakeholders and observed that:

- (i) Cambata is providing ground handling services at Ahmedabad airport and has submitted MYTP for 1st Control Period for consideration by the Authority.
- (ii) Though AAI had notified the Ground Handling Regulations, the same have been challenged in courts by different entities and this matter is, presently, pending before the Supreme Court, which has ordered that status quo is to be maintained.



- (iii) Bhadra has stated that Cambata should not be permitted to continue at Chennai and Ahmedabad. However, it has not stated that Cambata is not to be permitted to provide ground handling services at Ahmedabad airport nor has it denied the fact that Cambata is providing ground handling services at Ahmedabad airport. Thus, the fact remains that Cambata is providing ground handling services at Ahmedabad airport. As per AERA Act, the Authority is mandated to determine the tariffs for aeronautical services. Ground handling being an aeronautical service and Ahmedabad being a major airport, the Authority is required to determine tariffs for ground handling services provided at Ahmedabad airport. As Cambata is providing these services, hence, the Authority has to consider and determine tariffs for ground handling services provided by Cambata at Ahmedabad airport.
- (iv) The Order and Guidelines for determination of tariff for the Independent Service providers rendering cargo facility, ground handling and supply of fuel to aircraft at a major airport have been finalized based on extensive stakeholder consultation.
- (v) In the instant case, Cambata's MYTP had been put up for stakeholder consultation in terms of provisions under the AERA Act, 2008 and also as per the Order and Guidelines referred above. The Authority had put up for stakeholder consultation following issues:

"The ground handling service provided by Cambata at SVPI Airport, Ahmedabad is "not material". Hence, the Authority may adopt a "Light Touch Approach" for determination of tariff for the 1st Control period w.e.f 01.04.2011. "

- (vi) Further, it needs to be made clear that determination of tariff for ground handling services - currently being provided by Cambata at Ahmedabad airport by the Authority is, in no way, to be construed as grant of any licence/permission to Cambata to provide such services in further, as this aspect of appointment of various service providers for ground handling services is governed by the relevant Regulations and is to be decided by the relevant competent authority. For this purpose, AERA's order will not affect rights of any party in this matter. Hence, the Authority may adopt a light touch approach for determination of tariff for the 1st Control period w.e.f. 01.04.2011 for the ground handling service provided by Cambata at Ahmedabad Airport, as the service is "not material".

ORDER:

5. Upon careful consideration of material available on record, the Authority, in exercise of powers conferred by Section 13(1)(a) of the Act, hereby orders that:



- (a) The services provided by Cambata Aviation Pvt. Ltd., the Ground handling Service provider at SVP International Airport, Ahmedabad are "not material". Hence the Authority will adopt a "light touch approach" for determination of tariff for the 1st Control Period w.e.f. 01.04.2011.
- (b) Cambata Aviation Pvt. Ltd., may submit the Annual Tariff Proposal for the first tariff year of the first control period for the consideration of the Authority within a period of 75 days of the issue of this Order in accordance with the Guidelines.
- (c) This order of determination of tariff for ground handling services - currently being provided by Cambata at Ahmedabad airport, is being issued under and in accordance with the provisions of AERA Act and is, in no way, to be construed as modifying/altering the provisions of any agreement/arrangement etc., including provision of termination/suspension etc., that Cambata may have with AAI or any other Authority/Government etc. The instant determination permits Cambata to only charge/levy certain tariffs for ground handling services provided by it at Ahmedabad airport, and does not confer any rights/claims whatsoever on Cambata for appointment as service provider for providing any services at Ahmedabad airport. Further, for this purpose, this order will not affect the rights of any party in this matter.

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


**(Capt. Kapil Chaudhary)
Secretary**

To

**M/s Cambata Aviation Pvt. Ltd.,
East Wing, 5th Floor,
M.Karve Road, Church Gate,
Mumbai – 400 020
(Through: Mr. APM Casserly, Chief Operating Officer)**

Copy to :-

**Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New
Delhi - 110003**

