

Airports Economic Regulatory Authority of India

Order No. 01/2009-10

New Delhi

Date of Order 4th November, 2009

Date of Issue 6th November, 2009

In the matter of M/s Delhi International Airport Pvt. Ltd.

Subject: Request dated 31.8.2009 of M/s Delhi International Airport Pvt. Ltd. for extension of time for submission of information in regard to review of levy of Development Fee (DF) at IGI airport, New Delhi.

Authority has received a letter Ref: DIAL/2009-10/MoCA-DF/ dated 31.8.2009 from M/s Delhi International Airport Pvt. Ltd (DIAL) requesting for permission to submit the data required for review of DF levied at Indira Gandhi International Airport (IGI Airport), New Delhi by February 2010.

2. It is observed that the Central Government vide letter No. AV.24011/002/2008-AD dated 9.2.2009 had conveyed their approval under Section 22A of the Airports Authority of India Act, 1994 for levy of DF by DIAL at IGI airport, New Delhi @ Rs.200/-per departing domestic passenger and @ Rs.1300/- per departing international passenger, inclusive of all applicable taxes, purely on an 'ad-hoc' basis, for a period of 36 months, w.e.f. 01.03.2009. The approval is subject to review, specifically upon following milestones:

- (a) DIAL would submit final project cost estimates within 6 months of the commencement of levy, i.e., latest by 31.08.2009. The project costs so submitted, including amount of contingencies, and their utilization shall be audited by an independent technical auditor to be appointed by AAI or as the Regulator/Government may decide.
- (b) DIAL would undertake a review of the bidding process in respect of the hospitality district. They may approach the Government with the outcome of the review within 6 months of the commencement of levy, i.e., latest by 31.8.2009.



Above approval was also subject, inter-alia, to the condition that the final determination of levy may be made by the Government/Regulator upon compliance with (a) and (b) above.

3. Subsequently, Central Government, vide Notification No. GSR 317(E) dated 12.5.2009 have notified the establishment of the Authority w.e.f. 12.5.2009. Therefore, by virtue of section 54 of the AERA Act, 2008, section 22A of the AAI Act, 1994 stood amended w.e.f. the date of establishment of the Authority in the manner specified in the Schedule to the Act. Consequently, in respect of 'major airports', the DF could be levied at the rate as may be determined by the Authority under section 13(1) (b). The IGI airport, New Delhi is a major airport as the annual passenger throughput thereat is in excess of 1.5 million. Accordingly, the DIAL have made the subject request to the Authority.

4. The levy of DF was approved by the Central Government to bridge the funding gap of Rs.1827 crores (ceiling amount), in view of the inability of DIAL to raise the originally anticipated amount of Rs.2739 crores as refundable security deposits from commercial property development at the IGI airport. Based on the bids received by DIAL at the relevant time, it was ascertained, on behalf of the Central Government, that DIAL may be able to raise an amount of Rs.912 crores, on this count. It was also observed that the bidding process required a review so as to obtain optimum returns out of the commercial property development. DIAL was, accordingly, required to review the bidding process and approach the Government/ Regulator with the outcome of the review latest by 31.8.2009.

5. It was also submitted by DIAL, at the relevant time before the Central Government, that the original estimated project cost of Rs.8975 crores is likely to increase and may actually be of the order of about Rs.10500 crores (DIAL's letter No. DAL2008-09/MoCA-DF/2643 dated 14.1.2009). It was further stated that they were still in the process of awarding various packages of the project. Therefore, project cost is likely to get crystallized by June, 2009 only.

6. It is evident from the records obtained from the Central Government that in absence of the estimation of final project cost and due to the review of the bidding process and consequent uncertainty about realization from refundable security deposits, the Central Government was not in a position to make a final determination of the funding gap which is required to be bridged through levy of DF. It is due to this reason that the approval was granted on 'ad-hoc' basis subject to review upon submission of final project cost estimate and information regarding realization on account of refundable security deposit from commercial property development within a period of 6 months.



7. Vide their captioned letter dated 31.8.2009, DIAL have stated that:

- (a) Out of the 13 asset areas (total 45 acres), it has been able to licence 8 asset areas (29.26 acres). The quantum of lease deposits raised/committed from these assets is Rs.864 crores. In respect of balance 5 asset areas, they have decided to go for rebidding, which is likely to take 4-6 months.
- (b) Considering the stiff timeline of completion of the project, DIAL had to go in for parallel design and construction methodology for completion of the project. The project was, for the sake of convenience, divided into various packages and awarded accordingly. The number of packages (as on 31.8.09) stood at 114, out of which 91 packages had been awarded and balance 23 were pending. Of the 23 pending packages, 9 were under examination. Among the packages already awarded some cost elements were variable with market conditions. Hence, the final project cost could undergo change over the next few months. In this light, it expected to complete the final estimation of project cost only by end of February 2010.

8.1 The aforesaid request of DIAL was placed for stakeholder consultation by the Authority vide Consultation Paper No.1/2009-10 dated 10.9.2009. The comments/submissions were requested for by 30.9.2009.

8.2 The comments were received from International Air Transport Association (IATA) and Emirates Airlines.

8.3 IATA, vide letter dated 30.9.2009, made several observations and recommended the following for the consideration of AERA:

- (i) The airport needs to clearly justify to AERA and the airlines that all options of financing have been explored and that pre-funding through levying a DF is the most beneficial financing option for the industry. The fact that the industry at this stage would be adversely affected by advance payment of airport development costs as opposed to deferred payment should be an important consideration. In the absence of such justification, the DF should not be approved.
- (ii) If DF can be shown to be most viable financing option, then a reasonable period of time must be set aside for effective consultation between airport and airlines as stipulated by ICAO. Effective consultation demands that the airport provides full transparency of its costs and that the charges developed comply with ICAO's principles of cost-related and non-discriminatory charging.



8.4 Similarly, Emirates Airlines vide letter dated 30.9.2009, made several observations and submitted that the levy of DF is discriminatory and not in compliance to ICAO principles. They would challenge the charge on the basis of OMDA agreement and financial performance of DIAL.

8.5 The submissions received from IATA and Emirates Airlines, as above, were communicated to DIAL for their comments. DIAL, vide letter No. nil dated 23.10.2009, inter-alia, stated that the observations made by IATA and Emirates do not relate to their present request, i.e., extension of time to file final project cost.

9.1 The matter was considered in detail in the meeting of the Authority held on 29.10.2009.

9.2 Shri Kiran Kumar Grandhi, MD, DIAL and Shri Sidharath Kapoor, CFO, DIAL, who were in attendance, apprised the Authority as under:

- (a) The project has been further sub-divided into 117 packages as against 114 packages reflected in their letter dated 31.8.2009. Out of these, 97 packages have already been awarded, 12 are under evaluation and 8 are yet to be floated. The balance packages, i.e., those under evaluation and those yet to be evaluated would be awarded by end of December, 2009.
- (b) The value of 12 packages under evaluation is tentatively estimated to be Rs.170 crores whereas value of 8 packages, yet to be floated, is estimated to be Rs.30 crores.
- (c) The project is being financed through a mix of debt and internal resources including DF. Out of the total debt component of about Rs.5000 crores, an amount of about Rs.1750 crores was to be raised as ECB. Due to the change in financial conditions, ECB lenders have renegotiated the interest rates from LIBOR + 300 basis points to LIBOR + 500 basis points. Therefore, the project cost is likely to increase further due to higher interest cost. The interest capitalization in the project cost is now estimated to be Rs. 831 crores as against Rs. 659 crores estimated originally.
- (d) As on 30.9.2009, the Gross Assets capitalised in the books of Company were Rs.2646 crores. Further the value of assets under capitalization, as on same date, was Rs.6132 crores.
- (e) In the commercial property development, out of 13 asset areas, 8 assets have, already, been awarded as submitted vide their letter dated 31.8.2009. Balance 5 asset areas are under bidding. Bids are likely to be received by end November, 2009 and after evaluation and negotiation it is expected to complete the final award by 31.12.2009.



- (f) Till 30.9.2009, the DF was billed for Rs.310 crores, out of which Rs.265 cores had been collected and the balance was outstanding with the airlines.
- (g) Project will be completed by 31.3.2010, whereafter only the work of maintenance and minor rectification would be undertaken by DIAL.

9.3 The Authority has deliberated the issue in detail and, particularly, the following aspects:

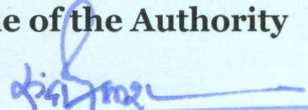
- (i) As per the estimates submitted by the DIAL representatives before the Authority, the final award of the project, as well as the review of hospitality district is likely to be completed by end December 2009.
- (ii) The levy had been approved on 'ad-hoc' basis. At that time stakeholder consultation did not take place due to non availability of the information, as indicated in para 2.1.5. It would, therefore, be appropriate that the review is undertaken at the earliest so that DF could be finally determined.
- (iii) The project completion date is determined to be 31.3.2010. Hence the firming up of project cost must be available much before that date.

10. Having pursued the records and upon due consideration of the submissions made by DIAL and various stakeholders, the Authority passes the following Order.

ORDER

11. The time for submission of information in terms of clauses (a) and (b) of para 1 of Ministry of Civil Aviation's letter No. AV.24011/002/2008-AD dated 9.2.1009 is extended upto 31.1.2010. DIAL should submit the requisite information latest by the extended date of 31.1.2010 so that the Authority would be in a position to deliberate on the same.

By the Order of and in the
name of the Authority


(Sandeep Prakash)
Secretary

**M/s Delhi International Airport (P) Limited,
New Udaan Bhawan,
Terminal 3, Opp. ATS Complex,
International Terminal, IGI Airport,
New Delhi – 110037.**



Copy to:

1. Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, New Delhi.
2. Chairman, Airports Authority of India, Rajiv Gandhi Bhawan, New Delhi.

Internal :

1. PS to Chairperson
2. ✓ Order Folder
3. Subject F.No. AERA/20011/DIAL-DF/2009



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