File No. AERA/20010/MYTP/AAI-Chennai/CP-II/2016-17/Vol-I

Order No. 22/2020-21

सत्यमेव जयते

Airports Economic Regulatory Authority of India

In the matter of Provision of Compensation in lieu of Fuel Throughput Charges at Chennai International Airport, Chennai

02nd July, 2020

AERA Building

Administrative Complex

Safdarjung Airport

New Delhi – 110 003

1. INTRODUCTION

The Airports Economic Regulatory Authority (AERA) is a statutory body constituted under the Airports Economic Regulatory Authority of India Act, 2008 vide Gazette Notification dated 5th December 2008. AERA was established by the Government, to create a level playing field and foster healthy competition among major airports, to encourage investment in airport facilities, to regulate tariffs for aeronautical services etc.

2. FUNCTIONS OF AERA

The main functions of AERA are:

- to determine the tariff for the aeronautical services;
- to determine the amount of the development fees in respect of major airports;
- to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934 (22 of 1934);
- to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorized by it in this behalf.

3. BACK GROUND

In accordance with the provisions contained in Section 13 of Airports Economic Regulatory Authority of India Act (AERA Act), 2008, the Authority determined aeronautical tariffs of Chennai International Airport, Chennai, for the 2nd Control Period i.e. 01.04.2016 to 31.03.2021 vide Order No. 03/2018-19 dated 16.04.2018.

3.1 As detailed in Table 61 under para 16.3 of the aforesaid Order, the Authority determined Rs.2,229.20 crores as the total discounted Aggregate Revenue Requirement (ARR) as per Regulatory Building Blocks for the entire 2nd Control Period. Fuel Throughput Charge (FTC) was one of the components to achieve this revenue requirement along with other revenues from aeronautical services such as Landing, Parking & Housing, UDF, etc.

3.2 The Fuel Throughput charges considered as part of ARR by the Authority as per the above Tariff Order is given in table -1 below:

Table - 1

	FY 2020-21
Charges per KL (in Rs)	196.00 / KL
Revenue (Rs. in crores)	14.30

4. Ministry of Civil Aviation vide letter No.AV.13030/216/2016-ER (Pt.2) dated 08.01.2020 decided to discontinue the levy of airport operator charge or fuel throughput charge in any manifestation at all airports. Para 4 of the said letter reads as under:

> "Keeping in view all aspects of the matter, in light of the need to uphold affordability and sustainability of air passenger and air cargo transportation as per the National Civil Aviation Policy 2016, it has been decided as follows:
>
> *(i) Levy of airport operator charge or fuel throughput charge in any manifestation shall be discontinued at all airports, airstrips and heliports across India with immediate effect.*
>
> *(ii) AERA/ Ministry of Civil Aviation, as the case may be, should take into account the amount in this revenue stream and duly compensate the Airport Operator/ AAI by suitably recalibrating other tariffs during their determinations of airport tariffs."*

5. Considering the above policy decision of MoCA, the Authority vide letter no. AERA/ 20015/FT/2010-11/Vol.II dated 15.01.2020 advised the Airport Operators at all 'major' airports to implement the aforesaid MoCA letter with immediate effect. AERA, also advised the Airport Operators to submit their proposal for compensation, if any, due to discontinuation of Fuel Throughput Charges (FTC) for consideration of the Authority.

6. Accordingly, AAI vide letter no. AAI/CHQ/AERA/FTC/2020 dated 23.03.2020 submitted their proposal to compensate revenue loss of Rs.10.31 crores (at NPV) on account of discontinuation of FTC at Chennai International Airport, Chennai, for the remaining period of Second Control Period i.e.15.01.2020 to 31.03.2021. AAI proposed to recover the expected revenue loss in the form of increased UDF charges.

The shortfall in revenue from 15.01.2020 to 31.03.2021 calculated by AAI is given in table-2 below:

Table – 2 Shortfall in FTC Revenue as calculated by AAI

Period for which Loss of FTC Revenue claimed by AAI	15.01.2020 to 31.03.2020	FY 2020-21	Total FTC loss claimed by AAI for 2nd Control Period
FTC Revenue Projections as per AERA Tariff Order (Rs. in crores)	2.70	14.30	17.00
PV factor	0.6750	0.5921	
FTC Revenue Projections (at NPV)	1.81	8.50	**10.31**

6.1 AAI has submitted that, Chennai International Airport, Chennai, is going under PPP transaction. Further, that, since FY 2020-21, is the fifth (last) year of the ongoing Control Period (FY 2016-21), and, true up exercise will take time of 06 to 07 months, in the meanwhile AERA may consider allowing compensation in the form increase in UDF charges as per table-3 below.

Table – 3 Increase in UDF per Pax as Proposed by AAI

FTC Compensation claimed by AAI in FY 2020-21 (Rs. In Crores)		10.31 (A)	
No. of Departing Pax as per Tariff Order (50% of total traffic projections for FY 2020-21)		12997300 (B)	
Increase in UDF per Pax proposed by AAI (A / B)		Rs. 8/- approx	
Existing Rates of UDF as per AERA Tariff Order		Proposed Revision in UDF charges for FY 2020-21	
DOM	INTL	DOM	INTL
69	69	77	77

7. AUTHORITY'S EXAMINATION

The Authority carefully examined the proposal of AAI in reference to the letter no. AV.13030/216/ 2016-ER (Pt.2) dated 08.01.2020 issued by MoCA.

7.1 The Authority as per Order No.03/2018-19 had expected that AAI would generate revenue from Landing Charges and FTC during FY 2020-21 of the 2nd Control Period as detailed below in table 4:

Table – 4 Projected Revenue from Landing / FTC as per Tariff Order

(Rs. in crores)

	FY 2020-21
Revenue from Landing charges	40.10
Revenue from FTC	17.00

7.2 The Authority observed that the tariff for Chennai International Airport, Chennai, has been determined up to 31.03.2021 i.e. the 2nd control period (01.04.2016 to 31.03.2021) of which the 5th tariff year FY 2020-21 is in progress. Therefore, the expected shortfall in revenue from FTC may not be more than the FTC revenue projected for FY 2019-20 & FY 2020-21 as per the AERA Tariff Order No.03/2018-19.

Further, the Authority observed that AAI in its Proposal has calculated the shortfall in FTC revenues by applying Present Value (PV) factor. However, as per the accepted principles, PV (discount) factor is applied only in the beginning of a Control Period, and, in this case the shortfall is occurring in FY 2020-21 i.e. fifth tariff year (incl. 2.5 months in FY19-20) of the Control Period and is also being compensated in FY 2020-21, which is already in progress. Therefore, the Authority, has considered the actual projected FTC Revenue as in the Tariff Order No.03/2018-19 without applying the discount factor.

Accordingly, based on absolute projections as per the Tariff Order, the Authority calculated the expected shortfall in FTC / ARR for FY 2019-20 as Rs.2.70 crores (pro rata for 2.5 months) for the period from 15.01.2020 to 31.03.2020 and Rs.14.30 crores for FY 2020-21. Thus the expected total shortfall to be Rs.17.00 crores for the period from 15.01.2020 to 31.03.2021 which is 42% of expected revenue from Landing Charges for FY 2020-21 as shown in table 5 below:

Table 5. Calculation of Increase in Landing Charges Proposed by Authority in CP

		FY 2020-21
A	Projected Revenue from Landing charges as per Tariff Order (Rs. In Crores)	40.10
B	Total Shortfall in FTC Revenue considered by the Authority for compensation (pro rata for 2.5 months in FY 2019-20 plus 12 months in FY 2020-21) (Rs. In crores)	17.00
	Ratio of FTC Shortfall to Landing charges **A / B %**	42%

7.3 The Authority observed that, the hitherto abolished FTC, was one of the components of operational expenses for the Airlines, charged to them by the Oil suppliers (OMCs) as a pass through expense by adding it to the cost of fuel (ATF). The Airport Operators were charging FTC to the Oil suppliers as 'royalty', in addition to Land Rent.

The Authority, therefore, viewed that in effect, abolishing FTC, is expected to directly result in a reduction in the cost of ATF to the Airlines, to that extent, besides also avoiding the cascading effect of taxes, and, thus serves to monetarily benefit the Airlines. Any compensation, therefore, should be recovered from the Airlines. In view of this, the Authority, is not inclined to pass on the burden of compensation to the passengers in the form of increased UDF charges. However, AERA considers FTC as one of the aeronautical charges, hence, the shortfall can be compensated through aeronautical services only.

Accordingly, the Authority proposed to compensate this shortfall in FTC revenues to the Airport Operator (AAI) by increasing the Landing Charges by 42% as Revised Landing Charges from 01.07.2020 to 31.03.2021 which shall be trued up while determining tariffs of Chennai International Airport, Chennai, for the 3rd Control Period.

8. The Authority, having examined the submissions made by AAI, issued the Consultation Paper No.09/2020-21 dated 03.06.2020 proposing the following for Stakeholder Consultation:

(i) The Authority proposes to increase Landing Charges at Chennai International Airport, Chennai, by 42% for the remaining 2nd Control Period i.e. from 01.07.2020 to 31.03.2021 or till the determination of aeronautical charges for the 3rd Control Period, to recover the shortfall in FTC Revenues of Rs.17.00 crores.

(ii) To true up revenue based on actuals while determining tariff for 3rd Control Period.

9. STAKEHOLDER'S COMMENTS

In response to the Consultation Paper, the comments have been received from the following stakeholders:

Airports Authority of India (AAI)

AAI in its comments has submitted that the Landing revenue for FY 2020-21 may be taken proportionate to recovery period as 9 months instead of 12 months which comes to Rs.30.08 crores (40.10*9/12) and accordingly consider allowing an increase of 57% in Landing Charges to compensate the shortfall of Rs.17.00 crores in FTC Revenues.

Federation of Indian Airlines (FIA)

FIA has stated that AERA and/or MoCA should not implement an increase of airport charges/tariff, of any nature whatsoever, due to the adverse financial impact on the airlines experienced in the wake of Coronavirus (COVID-19) outbreak. However, without prejudice to the above, in the event it is proposed to compensate AAI airport by way of increase in airport charges, the following may be taken into consideration:

I) Recalibration of tariff to be done during tariff determination under 3rd Control Period
The MoCA letter states that AERA should take into account the amount of FTC revenue stream and "duly compensate the Airport Operator / AAI by suitably recalibrating other tariffs during their determination of airport tariffs."

FIA has pointed out that the above direction by MoCA and more particularly the words 'determination of airport tariffs', clearly indicates that the intent and direction of MoCA is to adjust or amend tariff and to take into account the loss of FTC revenue for each airport, during the process of regular tariff determination at the beginning of the respective 'Control Period' of the AAI airports. Therefore, considering that the AAI airport in the present Consultation Paper is in the last year of its 'Control Period' (2nd), any recalibration or adjustment due for the tariff determination should take place, only during the next Control Period (3rd) in regular course of tariff determination.

II) Revision of User Development Fee (UDF) as per AAI Proposal
FIA has urged AERA to reconsider UDF as a tariff head to be recalibrated, to provide compensation to AAI Airports citing that AAI in its proposal has asked for increased UDF towards compensation in lieu of FTC. FIA has further pointed out that the Authority has proposed an increase in UDF at the airports at Vishakhapatnam, Goa and Pune,

while its express intent as per the current proposal is not to burden the passengers with increased UDF.

FIA has suggested that as an alternative, the Authority, may consider allowing a balanced increase of tariff (for concerned AAI Airports), being spread equally over pass through charges (UDF) along with charges directly billed to airlines like Landing, Parking or Housing Charges, during the 3rd Control Period.

III) Stakeholders' Consultation Meeting

FIA has submitted that AERA has not conducted any Stakeholders' meeting in relation to the Consultation Paper.

Business Aircraft Operators Association (BAOA)

BAOA has raised objection on the proposal of the Authority to not enhance the UDF towards compensation in lieu of the abolished FTC. In this regard, BAOA has contended that most airlines have very thin margins of profit and find it difficult to sustain 'operational profitability' even with marginal increase in ATF charges. Further, that there is always stiff competition between the few airlines operating in India to maximize seat occupancy, and, any savings in 'operational costs', as perceived by AERA, would get quickly eroded by selling tickets at discounted price to achieve higher seat occupancy in each flight. Therefore, 'Authority's perception that, FTC's abolition would reduce operational costs for airlines, is not well founded.

BAOA has stated, the whole plea of the airlines here was to 'rationalize the costs of operations' by abolishing unfair charges to let operations become sustainable on long-term basis. In that context, FTC was an unfair charge and, eroding thin profit margins of already struggling airlines, both scheduled and non-scheduled.

BAOA has further stated that it is advisable to compensate airport operators, both in PPP model and under AAI, by spreading the amount over the large population of air passengers, whose number would continue to swell in future and, with higher seat occupancy in each flight, the airport operators would get more than adequately compensated for the loss of FTC revenue. Therefore, AERA should consider increasing UDF, as suggested by AAI.

10. PUBLIC NOTICE

The comments received from FIA, AAI & BAOA were uploaded on AERA's website vide Public Notice No. 07/2020-21 dated 18.06.2020.

11. AAI's VIEW ON STAKEHOLDERS' COMMENTS:

AAI has not given any specific comments, however, they have reiterated their proposal for increase in UDF for compensation in lieu of expected revenue loss due to discontinuation of FTC. On the comments of FIA regarding re-calibration or adjustment of tariff in the next Control Period, AAI have submitted that the suggestion may not be agreed to as AAI will not be able to recover the loss in the current Control Period.

12. AUTHORITY's VIEW ON STAKEHOLDER'S COMMENTS

12.1 The Authority carefully examined the comments of stakeholders and is of the view that AERA had considered FTC as one of the aeronautical charges to recover the target revenue determined for 2nd control period i.e. 01.04.2016 to 31.03.2021. The discontinuation of FTC from 15.01.2020 has created gap in actual revenue vis-à-vis the target revenue as per tariff order. The present crisis due to COVID-19 outbreak has affected all the stakeholders across aviation industry and this may further reduce the recovery of ARR. Hence, any delay in implementation of this Order is not appropriate in view of fund required by the Airport Operator for the capital investments in progress and day to day operation at these airports.

12.2 FTC was a part of fuel cost for airlines and abolition of FTC and consequent avoidance of cascading effect of taxes has direct benefit for airlines. Even if the Airlines has to pay additional landing charges equal to the amount of oil throughput charges, they still benefit to some extent from the savings on account of Taxes. Hence, the Authority, does not feel it will be appropriate to charge the passenger and pass on the entire saving/benefit to the Airlines.

The Airlines ticket pricing depends on strategy/policy adopted by Airlines to further their business, and, the elements/costing of the airline ticket price is not fully known. The Authority feels that charging of additional landing charges in lieu of FTC should not impact ticket pricing as the Airlines must have considered the impact of FTC amount in the pricing policy before its abolishment. Moreover, the Authority feels that the Airlines shall even then have all the freedom to pass on the additional landing charges to the passenger, if they so wish.

12.3 To clarify the comments raised by FIA, at the Civil Enclaves of Goa, Pune, Vizag, the Landing Charges accrue to Defence Authorities and not to the AAI,As there were no scope to compensate AAI through Landing charges the Authority, therefore, decided to compensate the loss of FTC revenue through UDF. The same has been adequately explained in the Order for respective airports.

Further, it is reiterated that as per established principles, the Authority, ensures a balanced mix of the aeronautical charges (LP&H, UDF, etc.) during regular determination of tariff, however, this particular instance is a 'one off exercise.'

12.4 Regarding FIA's suggestion for holding stakeholders meeting the Authority decides not to conduct the same in view of following:

a) The Authority observed that MoCA has conducted numerous rounds of stakeholder's consultations and considered the deliberations of two industry working groups representing Airline Operators, Airport Operators, Fuel Infrastructure Facility Providers, Oil Marketing Companies etc. before abolishing the FTC.

b) The Authority is not considering any new revenue to the Airport Operator in addition to already determined ARR vide Order No.03/2018-19 dated 16.04.2018 wherein aeronautical tariffs were finalized after extensive Stakeholders Consultation process. The aeronautical tariffs were finalized after duly considering the cross subsidy from non-aeronautical revenue.

c) Abolition of FTC, which directly benefits the airlines as they can avail input tax credit, necessitates recalibration of other tariffs to compensate/ cover the shortfall in ARR of the Airport Operator.

d) The Authority, by inviting detailed comments, had given an opportunity to all the Stakeholders to express their views on the Consultation Paper.

12.5 Regarding the comments of AAI, it is stated that the Proposal in the Consultation Paper was put forward after taking into account the likely loss due to abolishment of FTC and projected Landing Revenue during balance period of the Control Period (as per tariff order.). The Authority noted that AAI has pointed out that the revenue from Landing Charges has been taken for the full year FY2020-21 for calculation of increase in rates instead of 9 months (i.e. residual period of FY2020-21 w.e.f. 01.07.2020 to 31.03.2021). Here, the Authority notes that the Air Services were closed for almost 3 months due to the outbreak of Pandemic COVID-19. However, it is also noted that AAI has considered the loss of revenue from FTC for the full year FY 2020-21 instead of 9 months, whereas the amount of loss on account of FTC should also be lower due to closure of Air Services during the 3 months period. Therefore, if both the landing charges and loss from FTC is considered for 9 months of FY 2020-21, then the increase in rates will be almost the same as proposed in the Consultation Paper.

12.6 Notwithstanding, the above, it is also stated that the present crisis due to pandemic outbreak has affected the aviation industry and the Authority is not in a position to make any estimate regarding Landing Charge that will be collected by AAI during FY 2020-21 or loss due to abolition of FTC, till a clear picture regarding future operation/ business plan of Airport/Airlines emerges, and, ultimately there may be a substantial variance in both the revenue from Landing Charge as well as loss of FTC estimated by the Authority.

So the present proposal of increase in rates is more ad hoc in nature, to provide immediate relief, and, accordingly, the Authority also decides to true up this aspect of revenue considering time value of money while determining tariff for next i.e. 3rd Control Period.

The Authority, therefore, taking into consideration the above decides to increase the existing Landing Charges at Chennai International Airport, Chennai, by 42% for the remaining 2nd Control Period to recover the loss on account FTC/ARR Revenues during the balance period of Second Control Period.

ORDER

Upon careful consideration of material available on record, the Authority, in exercise of powers conferred by Section 13(1) (a) of the AERA Act, 2008 hereby orders that:

(i) The Authority has decided to allow to revise Landing Charges at Chennai International Airport, Chennai, for the period w.e.f. 15.07.2020 to 31.03.2021, or, till the determination of aeronautical charges for the 3rd Control Period, to recover the shortfall in FTC Revenues of Rs.17.00 crores in lieu of abolition of FTC. The Revised Landing Charges approved by the Authority is annexed as "**Annexure I**";

(ii) To 'true up' the revenue based on Actuals while determining tariff of Chennai International Airport, Chennai, for the 3rd Control Period;

(iii) **The Revised Landing Charges will be applicable w.e.f. 15.07.2020.**

By the Order and in the name of the Authority

(Ram Krishan)
Director (Policy & Statistics)

To,

Airports Authority of India,
Rajiv Gandhi Bhavan,
Safdarjung Airport,
New Delhi -110 003.

Copy to: Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, Safdarjung Airport New Delhi-110003.

Annexure - I

<u>Chennai International Airport, Chennai</u>

Revised Landing Charges Approved by the Authority to be applicable for the period from 15.07.2020 to 31.03.2021

I) LANDING CHARGES

Rate per landing - International Flight

Weight of the Aircraft	Existing Rate Per Landing Order No. 03/2018-19 (In ₹)	Revised Rate Per Landing Approved by AERA (In ₹)
Up to 25 MT	₹ 60 per MT	₹ 85 per MT
Above 25 MT up to 50 MT	₹ 1,500 + ₹ 65 per MT in excess of 25 MT	₹ 2,130 + ₹ 92 per MT in excess of 25 MT
Above 50 MT up to 100 MT	₹ 3,125 + ₹ 75 per MT in excess of 50 MT	₹ 4,438 + ₹ 107 per MT in excess of 50 MT
Above 100 MT to 200 MT	₹ 6,875 + ₹ 90 per MT in excess of 100 MT	₹ 9,763 + ₹ 128 per MT in excess of 100 MT
Above 200 MT	₹ 15,875 + ₹ 100 per MT in excess of 200 MT	₹ 22,543 + ₹ 142 per MT in excess of 200 MT

Rate per Landing - Domestic Flight

Weight of the Aircraft	Existing Rate Per Landing Order No. 03/2018-19 (In ₹)	Revised Rate Per Landing Approved by AERA (In ₹)
Up to 25 MT	₹ 30 per MT	₹ 43 per MT
Above 25 MT up to 50 MT	₹ 750 + ₹ 35 per MT in excess of 25 MT	₹ 1,065 + ₹ 50 per MT in excess of 25 MT
Above 50 MT up to 100 MT	₹ 1,625 + ₹ 40 per MT in excess of 50 MT	₹ 2,038 + ₹ 57 per MT in excess of 50 MT
Above 100 MT to 200 MT	₹ 3,625 + ₹ 45 per MT in excess of 100 MT	₹ 5,148 + ₹ 64 per MT in excess of 100 MT
Above 200 MT	₹ 8,125 + ₹ 55 per MT in excess of 200 MT	₹ 11,538 + ₹ 78 per MT in excess of 200 MT

Note: All the above Charges are excluding of GST. GST at the applicable rates are payable in addition to above charges.

II) Fuel Throughput Charges for the period from 01.04.2020 to 31.03.2021

	Unit	As per AERA Order No. 03/2018-19	Abolished by MoCA w.e.f. 15.01.2020
Fuel Throughput Charges	INR per KL	196.00	**'NIL'**

Note: All other charges, and, terms & conditions, as determined vide AERA Order No. 03/2018-19 dated 16.04.2018 shall remain applicable.