File No. AERA/20010/MYTP/AAI-Bhubaneshwar/CP-I/2018-19

Order No. 26/2020-21

सत्यमेव जयते

Airports Economic Regulatory Authority of India

In the matter of Provision of Compensation in lieu of Fuel Throughput Charges at Biju Patnaik International Airport (BBI), Bhubaneswar.

09th 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 Biju Patnaik International Airport (BBI), Bhubaneswar, for the 1st Control Period i.e. 01.04.2018 to 31.03.2023 vide Order No. 46/2018-19 dated 08.03.2019 (to be read along with Corrigendum to Order dated 14.03.2019).

3.1 As detailed in Table 57 under para 16.11 of the aforesaid Order, the Authority determined Rs.617.06 crores as the total discounted Aggregate Revenue Requirement (ARR) as per Regulatory Building Blocks for the entire 1st 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 2019-20	15.01.2020 to 31.03.2020	FY 2020-21	FY 2021-22	FY 2022-23
Charges per KL (in Rs)	322.52 / KL		322.52 / KL	322.52 / KL	322.52 / KL
Revenue (Rs. in crores)	3.59	0.75 (pro rata)	4.15	4.81	5.58

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.10.40 crores (at NPV) on account of discontinuation of FTC at Biju Patnaik International Airport (BBI), for the remaining period of First Control Period i.e.15.01.2020 to 31.03.2023. AAI proposed to recover the expected revenue loss in the form of increased UDF charges.

The shortfall in revenue from 15.01.2020 to 31.03.2023 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 to FY 2022-23	**Total FTC loss claimed by AAI**
FTC Revenue Projections as per AERA Tariff Order (Rs. in crores)	0.75	14.54	15.29
PV factor	*0.88*	*0.77 / 0.67 / 0.59*	
FTC Revenue Projections **(at NPV)**	**0.66**	**9.74**	**10.40**

6.1 AAI has requested AERA to consider allowing compensation for loss of FTC in the form of 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 for period up to FY 2020-23 (at NPV) (Rs. In Crores)		10.40 (A)	
No. of Departing Pax as per Tariff Order [50% of total traffic projections for period FY 2020-21, FY 2021-22 & FY 2022-23]		11034079 (B)	
Increase in UDF per Pax proposed by AAI (A / B)		Rs. 9/- approx	
Existing Rates of UDF as per AERA Tariff Order		Revision in UDF Rates proposed by AAI	
DOM	INTL	DOM	INTL
400	450	409	459

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.46/2018-19 had expected that AAI would generate revenue from Landing Charges and FTC during the 1st Control Period as detailed below in table 4:

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

(Rs. in crores)

	FY 2018-19 T_1	FY 2019-20 T_2	FY 2020-21 T_3	FY 2021-22 T_4	FY 2022-23 T_5
Revenue from Landing Charges	19.89	31.35	37.87	45.80	55.51
Revenue from FTC	2.82	3.59	4.15	4.81	5.58

7.2 The Authority observed that the tariff for Biju Patnaik International Airport (BBI), Bhubaneswar, has been determined up to 31.03.2023 i.e. the 1st Control Period (01.04.2018 to 31.03.2023) of which the 3rd tariff year FY 2020-21(T_3) is in progress. Therefore, the expected shortfall in revenue from FTC may not be more than the FTC revenue projected for FY 2019-20 (pro rata for 2.5 months), FY 2020-21 to FY 2022-23 as per the AERA Tariff Order No.46/2018-19.

Further, the Authority observed that, AAI, in its Proposal had calculated the shortfall in FTC revenues by taking the base year as FY 2018-19 for calculating the NPV (considering discounting rate as 14%) and had calculated the total expected shortfall as Rs.10.40 crores for the period from 15.01.2020 to 31.03.2023 as may be seen at table-2 above.

However, as the shortfall i.r.o. FY 2019-20 (from 15.01.2020 to 31.03.2020) and FY2020-21 is being compensated in FY 2020-21, which is already in progress, the Authority in its calculation had considered FY 2020-21 as base year for NPV purpose. Thus, the Authority calculated the expected total shortfall in revenue from FTC / ARR to be Rs.13.41 crores for the period from 15.01.2020 to 31.03.2023 which is 11% of expected revenue from Landing Charges for the same period as shown in table- 5 below.

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

(Rs. in Crores)

Projected Landing / FTC revenue as per Tariff Order No.46/2018-19		FY 2020-21 T_3	FY 2021-22 T_4	FY 2022-23 T_5	Total
Revenue from Landing Charges	A	37.87	45.80	55.51	**139.18**
Revenue from FTC (incl. 2.5 months pro rata rev for FY19-20)	B	4.90	4.81	5.58	**15.29**
PV factor	C	*1.00*	*0.88*	*0.77*	
Revenue from Landing Charges ***(at NPV)***	A*C =D	37.87	40.18	42.71	**120.76**
Revenue from FTC (i.e. Shortfall) ***(at NPV)***	B*C=E	4.90	4.22	4.29	**13.41**
Increase in Landing Charges proposed by Authority (in %age)	E/D*100				**11%**

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.

Therefore, 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. 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 the shortfall of Rs.13.41 crores in FTC / ARR revenues to the Airport Operator (AAI) by increasing the Landing Charges in the balance years of the ongoing 1st Control Period. The Authority, proposed to revise the existing Landing Charges from 01.07.2020 to 31.03.2023 and to true up the revenues based on actuals while determining the tariff of Biju Patnaik International Airport (BBI), Bhubaneswar, for the 2nd Control Period.

8. Therefore, the Authority, having examined the submissions made by AAI issued the Consultation Paper No. 16/2020-21dated 15.06.2020 proposing the following for Stakeholder Consultation:

(i) The Authority proposes to increase Landing Charges by increasing the existing rates by 11% in each of the tariff years FY 2020-21, FY2021-22 & FY2022-23 at Biju Patnaik International Airport (BBI), Bhubaneswar, i.e. for the period w.e.f. 01.07.2020 to 31.03.2023 or till the determination of aeronautical charges for the 2nd Control Period, to recover the shortfall in FTC Revenues of Rs.13.41 crores.

(ii) To true up revenue based on actuals while determining tariff for 2nd 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.28.40 crores (Rs.37.87*9/12). AAI, has, however, accepted the calculation of the Authority for FY 2021-22 & 22-23. AAI has thus calculated the revenue from landing charges for balance control period to be Rs.111.29 crores (28.40+40.18+42.71) (refer table-5), and, have therefore, requested to consider allowing an increase of 12% in Landing Charges to compensate the shortfall of Rs.13.41 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 2nd 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 concerned AAI airports in the present Consultation Paper is in the third year of its 'Control Period' (1st), any recalibration or adjustment due for the tariff determination should take place, only during the next Control Period (2nd) 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 2nd Control Period.

III) Stakeholders' Consultation Meeting

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

10. PUBLIC NOTICE

The comments received from FIA & AAI were uploaded on AERA's website vide Public Notice No. 09/2020-21 dated 02.07.2020.

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 1st Control Period i.e. 01.04.2018 to 31.03.2023. 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. 46/2018-19 dated 08.03.2019 (to be read along with Corrigendum to Order dated 14.03.2019) 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).

12.6 The Authority, noted that, whereas, AAI, has accepted the increase in Landing Charges as proposed in the Consultation Paper i.r.o. FY 2021-22 & FY 2022-23, however, in respect of FY 2020-21, AAI has pointed out that the revenue from Landing Charges has been taken for the full year i.e. 12 months of 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).

12.7 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 as well as loss from FTC is considered for 9 months period, in FY 2020-21, then the increase in rates will be almost the same as projected by the Authority in the Consultation Paper.

12.8 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 in the 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 for the ongoing control period.

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 the next i.e. the 2nd Control Period.

The Authority, therefore, taking into consideration the above, decides to increase the existing Landing Charges at Biju Patnaik International Airport (BBI), Bhubaneswar, by **11%** for the remaining 1st Control Period to recover the loss on account FTC/ARR Revenues expected during the balance period of First 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 AAI to revise Landing Charges by increasing the existing rates by 11% in each of the tariff years FY 2020-21, FY 2021-22 & FY 2022-23 at Biju Patnaik International Airport (BBI), Bhubaneswar, i.e. for the period w.e.f. 15.07.2020 to 31.03.2023, or, till the determination of aeronautical charges for the 2nd Control Period, to recover the shortfall in FTC Revenues of Rs.13.41 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 Biju Patnaik International Airport (BBI), Bhubaneswar, for the 2nd 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

Biju Patnaik International Airport (BBI), Bhubaneswar

Revised Landing Charges Approved by AERA to be applicable for the period from 15.07.2020 to 31.03.2023.

Existing Rate per Landing - International as per Order no. 46/2018-19 dated 08.03.2019 (to be read along with Corrigendum to Order dated 14.03.2019)

Weight of the Aircraft	FY 2020-21	FY 2021-22	FY 2022-23
Upto 25 MT	250 Per MT	260 Per MT	270 Per MT
Above 25 MT up to 50 MT	6240+468 per MT in excess of 25 MT	6490+487 per MT in excess of 25 MT	6749+506 per MT in excess of 25 MT
Above 50 MT up to 100	17940+541 per MT in excess of 50 MT	18658+562 per MT in excess of 50 MT	19404+585 per MT in excess of 50 MT
Above 100 MT to 200 MT	44980+624 per MT in excess of 100 MT	46779+649 per MT in excess of 100 MT	48650+675 per MT in excess of 100 MT
Above 200 MT	107380+749 per MT in excess of 200 MT	111675+779 per MT in excess of 200 MT	116142+810 per MT in excess of 200 MT

AERA Approved Revised Rate per Landing - International w.e.f. 15.07.2020

Weight of the Aircraft	FY 2020-21	FY 2021-22	FY 2022-23
Upto 25 MT	278 Per MT	289 Per MT	300 Per MT
Above 25 MT up to 50 MT	6950+519 per MT in excess of 25 MT	7225+541 per MT in excess of 25 MT	7500+562 per MT in excess of 25 MT
Above 50 MT up to 100	19925+601 per MT in excess of 50 MT	20750+624 per MT in excess of 50 MT	21550+649 per MT in excess of 50 MT
Above 100 MT to 200 MT	49975+693 per MT in excess of 100 MT	51950+720 per MT in excess of 100 MT	54000+749 per MT in excess of 100 MT
Above 200 MT	119275+831 per MT in excess of 200 MT	123950+865 per MT in excess of 200 MT	128900+899 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.

Existing Rate per Landing - Domestic as per Order no.46/2018-19 dated 08.03.2019 (to be read along with Corrigendum to Order dated 14.03.2019)

Weight of the Aircraft	FY20-21	FY21-22	FY22-23
Upto 25 MT	166 Per MT	173 Per MT	180 Per MT
Above 25 MT up to 50 MT	4160+291 per MT in excess of 25 MT	4326+303 per MT in excess of 25 MT	4499+315 per MT in excess of 25 MT
Above 50 MT up to 100	11440+333 per MT in excess of 50 MT	11898+346 per MT in excess of 50 MT	12374+360 per MT in excess of 50 MT
Above 100 MT to 200 MT	28080+406 per MT in excess of 100 MT	29203+422 per MT in excess of 100 MT	30371+439 per MT in excess of 100 MT
Above 200 MT	68640+458 per MT in excess of 200 MT	71386+476 per MT in excess of 200 MT	74241+495 per MT in excess of 200 MT

AERA Approved Revised Rate per Landing - Domestic w.e.f. 15.07.2020

Weight of the Aircraft	FY20-21	FY21-22	FY22-23
Upto 25 MT	184 Per MT	192 Per MT	200 Per MT
Above 25 MT up to 50 MT	4600+323 per MT in excess of 25 MT	4800+336 per MT in excess of 25 MT	5000+350 per MT in excess of 25 MT
Above 50 MT up to 100	12675+370 per MT in excess of 50 MT	13200+384 per MT in excess of 50 MT	13750+400 per MT in excess of 50 MT
Above 100 MT to 200 MT	31175+451 per MT in excess of 100 MT	32400+468 per MT in excess of 100 MT	33750+487 per MT in excess of 100 MT
Above 200 MT	76275+508 per MT in excess of 200 MT	79200+528 per MT in excess of 200 MT	82450+549 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 31.03.2023**

	Unit	As per AERA Order No. 46/2018-19	Abolished by MoCA w.e.f. 15.01.2020
Fuel Throughput Charges	INR per KL	322.52	**'NIL'**

Note: All other charges, and, terms & conditions, as determined vide AERA Order No.46/2018-19 dated 08.03.2019 (to be read along with Corrigendum to Order dated 14.03.2019) shall remain applicable.