

[F.No. AERA /20011 /DCSC/2010-11]

Consultation Paper No.12/2010-11



Airports Economic Regulatory Authority of India

Proposal of Delhi Cargo Service Centre for approval of the Tariff for Terminal Storage and Processing Charges, Handling and X-Ray machine usage and other charges

New Delhi: 05th January, 2011

**AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003**

The Delhi Cargo Service Centre (DCSC) has vide its proposal dated 06.12.2010 (**Annexure-I**) sought the approval of the Authority in respect of the Tariff, i.e TSP Charges applicable to shippers/consignees/agents and the TSP, handling and X-Ray machine usage and other charges on Airlines.

2. A brief background in this regard is given below:

- (i) M/s Domestic Air Cargo Agents Association of India (DACAAI) filed an application dated 30.04.2010 against the levy of TSP, X-Ray screening charges, Unitization and De-unitization charges by DCSC at its newly created Common User Domestic Cargo Terminal (CUDCT) at IGI, Airport, New Delhi. DACAAI submitted that, presently, all domestic airlines provide the warehouse and X-Ray screening facilities and undertake the process of unitization / de-unitization; that they never charged separately for these facilities ; that the overall freight charges charged by the airlines were inclusive of the charges for these facilities ;that M/s. Delhi International Airport Pvt. Ltd (DIAL) has commissioned common user terminal for domestic cargo at IGI Airport and concessioned it to DCSC ; and that DIAL has proposed to charge, cargo handling charges under the heads of unitization charges, de-unitization charges and X-Ray screening charges. DIAL and DCSC had not obtained any approval from the Authority for the levy of TSP, X-Ray screening charges, Unitization and De-unitization charges.
- (ii) The Authority vide letter dated 30.04.2010, addressed to M/s DIAL stated that in terms of Section 2 (a) (v) of the Act, any service provided for the cargo facility at **an airport is an “aeronautical service”, and tariff for such service at the major airports is to be determined by the Authority, in terms of Section 13(1)(a) of the Act.** IGI airport New Delhi is a major airport and, therefore, imposition of any new charges in respect of cargo facility or change in rates of any existing charges would require previous approval of the Authority.
- (iii) DCSC vide its letter dated 14.05.2010, inter-alia, submitted that there has been no increase in the charges for cargo services at CUDCT at IGIA; that CUDCT is an extension of Cargo Services being provided at IGIA; and that the charges for services offered are identical or lower for similar services at the International Cargo Terminal in Delhi as well as other locations in the country.
- (iv) DIAL, vide its letter dated 26.06.2010, stated that CELEBI is handling and operating the brownfield cargo terminal, servicing the international cargo operations and DCSC, which is undertaking the setting up and operation of the Greenfield Cargo Terminal, is servicing the domestic cargo operation from the CUDCT till the new Greenfield Terminal is developed and commissioned by DCSC, which is expected by January, 2011. Eventually both the cargo terminals (i.e. Brownfield Cargo Terminal and the Greenfield Cargo Terminal) shall offer, undertake and service both domestic and international Cargo terminal services thereby bringing in the desired competition as mandated in OMDA.

- (v) DCSC in its additional submission vide letter dated 26.06.2010 inter-alia, submitted that, earlier, as airlines were performing domestic Cargo handling (i.e. unitization, de-unitization) and X-Ray screening, these charges were in built by the Airlines as part of freight charges. Now, Cargo handling services are being provided by DCSC as Cargo terminal operator and the X-ray screening is being handled by DIAL, these charges are not extra costs; but only reallocation of charges; that TSP is a standard charge levied at all the airports in the country having Common User Domestic Cargo facility for the facilities provided at the terminal and is, thus, not a new charge; that the CUDCT has been developed at IGI Airport now and the charges have been levied in line with prevalent practice at other airports; and that the TSP charges at IGI Airport are identical or lower among all the other airports having similar facility.
- (vi) DACAAI, vide letter dated nil (received on 07.07.2010) submitted that creation of Cargo Service Centre for domestic cargo is a new development. Hence, charges introduced are also new charges which needs approval of the Authority and submitted that domestic cargo was never processed through Common User Terminal but was tendered to the Airlines directly who did not levy any charges for the services.
- (vii) The Authority, in its 19th Meeting (No.13/2010-11) held on 23.09.2010 considered the issue in detail. Upon careful consideration of the material available on records, the Authority was of the opinion that the processing of domestic cargo at Cargo Service Centre is a new activity which was earlier being done by airlines themselves; that this new activity is being carried out by a new entity viz. DCSC. TSP and other related charges for handling of such cargo, therefore, appear to be new charges and DCSC and DIAL, as the case may be, are required to obtain previous approval of the Authority for the same. Therefore, the levy of such charges without previous approval of the Authority is in contravention of S.13(1)(a) of the Act and continuance of such levy is a continuing contravention of the statutory provisions. The Authority also observed that the submission of information has been delayed by the concerned entities and both DIAL and DCSC have refrained from clarifying whether the charges being levied from domestic cargo carriers are new in so far as such carriers or their agents are concerned.
- (viii) In view of the observations made as at (vii) above, the Authority in exercise of powers conferred on it under Section 15 read with Section 13 of the Act, issued directions (Direction No.03/2010-11 dated 06.10.2010) to DCSC to stop charging the TSP charges, Unitization and De-unitization charges and M/s. DIAL to stop charging the X-Ray screening charges with effect from 01.05.2010, in respect of domestic cargo at the IGI Airport, New Delhi.
- (ix) Aggrieved by the said direction, DCSC filed an appeal under Section 18 of the Act **before the Hon'ble AERA Appellate Tribunal to quash and set aside the said direction and issue an appropriate order or direction to the Authority not to fix any tariff in respect of the 'Non-Aeronautical Service' under the OMDA and other Transaction documents entered in to by DCSC.**

- (x) Meanwhile, DACAAI vide its letter No.Nil dated 25.10.2010, addressed to the Authority requested implementation of the Direction No.03/20010-11 issued by the Authority. The Authority, in its 22nd Meeting held on 04.11.2010 decided that following action may be taken before this matter is considered further:
- a. DIAL and DCSC may be asked to confirm compliance with the Direction No. 03/2010-11 dated 6.10.2010 within 10 days.
 - b. Penal provisions of the Act may also suitably be brought to their notice.
 - c. DACAAI may be asked to substantiate its claim that the directions have not been implemented by DIAL and DCSC with documentary evidence.
- (xi) The Authority vide its letter dated 09.11.2010, addressed to DIAL and DCSC sought confirmation regarding the compliance of the subject Direction by 19.11.2010 failing which the Authority may be constrained to take further necessary action in the matter, as per law, without any further reference to DIAL/DCSC. By way of a separate communication dated 09.11.2010, DACAAI was also asked to substantiate its claim that the directions have not been implemented by DIAL and DCSC with documentary evidence.
- (xii) M/s DCSC vide letter dated 19.11.2010 submitted that direction dated 06.10.2010, has been complied with under protest and that it has not invoiced any customer TSP, unitization and de-unitization charges for services rendered in respect of domestic cargo at CUDCT at IGI Airport.
- (xiii) DCSC, thereafter, withdrew the **appeal filed by them before the Hon'ble Tribunal. Hon'ble Tribunal vide** Order dated 01.12.2010 disposed off the appeal and related petition as withdrawn.

3.1 **Instant proposal of DCSC** - DCSC, has at the outset, drawn the attention of Authority to the serious financial difficulties their company is facing, since, on one hand, they are unable to charge and collect user charges for the services rendered while on the other hand, they are regularly incurring expenditure for operating the facility including staff cost so as not to inconvenience the trade and industry by stopping handling services.

3.2 **M/s DCSC has forwarded two tariff proposals for the Authority's consideration:**

- a) Tariff Proposal for levy of Terminal Storage and Processing Charges applicable to shippers/consignees/agents;
- b) Tariff Proposal for levy of TSP, handling and X-Ray machine usage and other charges to Airlines.

3.3. DCSC has justified the proposal on following grounds :

- (i) **The base reference for fixation of traffic is AAI's notified tariff** for various cargo handling services. Other references for tariff fixation are existing cargo handling rates at International cargo terminals at Mumbai, Delhi, Chennai & Bangalore Airport the only reference for comparison of domestic cargo handling tariff.

- (ii) The rate proposed by company for domestic cargo handling is lower than that applicable to international cargo since number of activities and process on domestic side is comparatively lesser than at International side.
- (iii) The TSP charges for International cargo is Rs. 4.5 per Kg (assuming cargo to stay in warehouse for at least 3 days before custom clearance) whereas the TSP charges for domestic cargo is Rs. 0.70 per Kg per day.
- (iv) There is no palletisation or de stuffing in domestic cargo, unlike international cargo.
- (v) The tariff proposed has been arrived at, through extensive consultation with DACAAI in March 2010. In fact, the earlier proposed rate for TSP was higher than the current proposed rate which was brought down through consultation process.
- (vi) DCSC have in their submissions stated that DACAAI had never opposed the proposed tariffs through any mode of communication – emails or meetings.
- (vii) As regards handling rates and security charges, DCSC have stated that several meetings were held with Airlines as a result of which the current proposed rate has been lowered as compared to the earlier higher rate proposed. The domestic airlines have signed letter of intent (LOI) accepting the proposed tariff.
- (viii) Pursuant to Concession Agreement, the present interim cargo handling terminal is leased out to DCSC by DIAL on payment of Rs. 5 crore, which shall be operated by company until November 2011, subsequent to which the entire operation will be shifted to Greenfield Air Cargo terminal. As such, the sum of Rs. 5 crore has been written off within this period i.e. May 2010 to November 2011.
- (ix) Further, as per Financial Plan at Annexure 07 to **DCSC's** proposal , the rate of equity return is not more than 7%, even though the expected rate of return is around 30%. The lower return has been adopted to attract customers before moving into Green field Cargo Terminal.
- (x) Prior to setting up of common user facility, airlines were handling their cargo through a makeshift arrangement near old domestic terminal causing traffic obstruction and becoming security hazard. The common user facility offers better infrastructure with proper facilities.

DCSC have requested for approval of tariff on the basis of justification given above rather than based on regulated asset pricing model. Further they have stated that this being an interim facility, detailed examination of tariff proposal be dispensed with.

3.4 DCSC has forwarded copies of correspondence with DACAAI and those had with the concerned airlines viz. Kingfisher, Go Air, Indigo Air, Spicejet airlines, which broadly highlight the following:

- (i) DACAAI is not against the TSP payment, but only against the mode of payment proposed by DCSC. DACAAI have confirmed the TSP charges and their willingness to pay the same, but stressed for routing the TSP charges through

Airway Bill. DACAAI have clearly indicated that its members are not ready for payment of TSP charges in cash or through PDA account which has been due to the bad experience had at the airports of BLR/HYD.

- (ii) DCSC vide a mail to all the airlines has brought out that a meeting was held with the representatives of Kingfisher, Go Air, Indigo Airlines and Spicejet wherein the airlines were generally satisfied with the procedures with a request to implement the new rates from 16.05.2010.
- (iii) DCSC has forwarded the proposed IATA SGHA to the concerned airlines. Kingfisher vide mail dated 21.04.2010 has accepted interalia, the handling rates fixed by DCSC and also conveyed acceptance of TSP charges in AWB.
- (iv) Copies of LOI signed with Interglobe on 26.04.2010, with Spicejet on 29.04.2010 and with Kingfisher on 21.04.2010 have been forwarded by DCSC in support of their claim that the airlines have accepted the TSP, handling and X-Ray machine usage and other charges.
- (v) DCSC vide mail dated 06.05.2010 to all the airlines has conveyed the terms and conditions agreed between them in the meeting held on 06.05.2010 wherein, interalia, all the airlines have agreed to include the TSP charges in the AWB. They have however, refused to sign an additional agreement but have informed that collection of TSP charges could be covered in a side letter or the present SGHA Annex B modified to include agreed TSP charges to be put on the AWB.
- (vi) The summary record of discussion had by DIAL with DCSC and the airline operators on 12.08.2010 has been submitted wherein the timeline/action on behalf of each has been outlined.

3.5. DCSC has submitted a financial plan based on the following assumptions and considerations:

- (i) The financial plan covers a period of 19 months from May, 2010, i.e., the time **when DCSC's operations commenced from the Interim Domestic Terminal to November, 2011, i.e., when the Green Field terminal is expected to be ready.**
- (ii) DCSC have assumed that the operations of Interim Domestic Terminal will be shifted to the Green Field terminal once it is ready by 30.11.2011 as per the project plan of the company.
- (iii) It has been stated that the data/numbers furnished in the financial plan for the period ending 31.03.2011 are based on historical recording of transactions in the **books of the company from April'2010 to October' 2010 and** management estimates for the rest of the financial year.
- (iv) It has been assumed that from 01.01.2011 business of the company will be reduced by 30% as the second operator will be allowed to operate and handle domestic cargo and management expects some migration of clients to the new operator.
- (v) DCSC have paid a sum of Rs.5 crores to DIAL for operation of Interim Domestic Terminal as per clause 2.9.1(d) of the Concession Agreement entered between DCSC and DIAL on 19.11.2009.

- (vi) DCSC have apportioned, in the financial plan, 15.83% of the Cost of Handling Equipment and IT Hardware deployed at the interim terminal (Rs.0.37 crores) for the period of actual use considering the life of the assets of 10 years.
- (vii) The sum of Rs.5 Crores along with the Cost of Handling Equipment and IT Hardware deployed at the interim terminal have been shown as depreciation and has been totally written off within the 19 month period.
- (viii) DCSC have reflected the amount of concession fees payable to DIAL (@ 24% of gross revenue as per clause 3.1.1 of the Concession Agreement). The total amount of concession paid is estimated to be Rs.8.64 crores against a projected turnover of Rs.36 crores in the 19 month period.
- (ix) DCSC have accounted for the Airport land license fees (Rs.0.75 crores) payable to DIAL effective 1st April, 2011, after taking into consideration 7.5% upward increase as per clause 3.4 of the Concession Agreement.
- (x) A total amount of Rs.1.26 crores (for the 19 month period) has been provided by DCSC as business support service expenses payable to the shareholders of the DCSC, in the nature of marketing support, know-how, development of brand equity and general facilitation for cargo handling @ 3.5% of gross revenue, as per clause 3.7 of the Share Transfer cum Shareholders Agreement.
- (xi) Further, DCSC has stated that *“The management has neither paid nor provided for the remuneration of top management viz; Managing Director and other Directors of the company in this financial plan”*.
- (xii) The effective rate of Income Tax taken by DCSC on book profits generated from operations carried out at Interim Domestic Terminal is @ 30.90%, currently applicable to corporate entities.
- (xiii) DCSC have submitted that the amount of capital deployed for the Interim Domestic Terminal Operation comprises of Equity Share Capital contribution made by both the shareholders of DCSC.

4.1 The proposal submitted by the DCSC has been examined.

4.2 It is observed that DCSC has approached the Authority for approval of the Tariff applicable to shippers/consignees/agents, i.e, the TSP and also the Tariff for TSP, handling and X-Ray machine usage and other charges to Airlines.

4.3 The proposal has been broadly justified on following grounds:

- (i) the existing tariff for similar services;
- (ii) consultation process adopted by them with the Association of Domestic Cargo Agents (DACCAI) in March’10 and with Airlines in April’10; and
- (iii) earning a fair rate of return.

4.4 The base reference taken by DCSC for fixation of tariff for various cargo services **has been AAI’s** notified tariff. Other references for tariff fixation are existing cargo handling rates at International cargo terminals at Mumbai, Delhi, Chennai & Bangalore Airport, the only reference for comparison of domestic cargo handling tariff.

4.5 According to DCSC, the rates proposed for domestic cargo handling are lower than that in respect of the existing international cargo handling since number of activities and process on domestic side is comparatively lesser than at international side and that there is no palletisation or de-stuffing in domestic cargo, unlike international cargo.

4.6 DCSC has stated that prior to setting up of the independent cargo handlers in Bangalore, no airport was having common user domestic terminals for handling of domestic cargo and hence the tariff at Bangalore airport is the only reference for comparison of domestic cargo handling tariff.

4.7 The papers submitted by DCSC show that the tariff proposed has been arrived at, through extensive consultation with DACAAI and airlines. DCSC has stated that DACAAI had not opposed the proposed tariffs through any mode of communication – emails or meetings. Further, the handling and security charges leviable on airlines, appear to have been arrived at after extensive consultations with Airlines. The airlines have also signed a letter of intent (LOI) accepting the proposed tariff.

4.8 The rates proposed by DCSC applicable to shippers/consignees/agents in comparison with the rates being charged by the HIAL & BIAL are as under.

S.No	Charges proposed by DCSC- (figures in Rs per KG)			Rates at HIAL / BIAL (SATS & Menzies) (Inbound)		Rates at HIAL / BIAL (Outbound - figures in Rs per KG) (Min/ Rs/Kg)		
	Invoiced	Cash		Min	Per/ KG	HIAL	BIAL-SATS	BIAL-Menzies
1	TSP Charges							
a	General Cargo	0.70	0.65	100	0.65	125/1.1	125/4.9	125/1.1
b	Special Cargo							
	Live Animal	1.40	1.35	100	2.05	200/2.1	250/9.8	200/2.1
		1.40	1.35	200	2.05	200/2.1	250/9.8	200/2.1
	Dangerous Gds	1.40	1.35	100	2.05	200/2.1	250/9.8	200/2.1
	Valuable Cargo							
c	Couriers	0.70	0.65	100	0.75	125/1.2	200/5.5	125/1.1
2	Demurrage Charges							
a.	General Cargo	0.70/kg/day		125	0.65	200/1.25	125/0.65	200/1.25
b.	Special Cargo							
	Live Animal	1.40/kg/day		200	2.05	250/2.2	200/2.05	250/2.2
		1.40/kg/day		100	0.75	250/2.2	100/0.75	250/2.2
	Dangerous	1.40/kg/day		100	0.75	250/2.2	100/0.75	250/2.2

S.No	Charges proposed by DCSC- (figures in Rs per KG)		Rates at HIAL / BIAL (SATS & Menzies)		Rates at HIAL / BIAL (Outbound - figures in Rs per KG) (Min/ Rs/Kg)		
			(Inbound)				
	s Gds						
	Valuable Cargo						
c.	Couriers	0.70/kg/day	-	-	-	-	-

It is noted that DCSC has not proposed any separate rates for inbound/outbound cargo and have also not proposed any minimum charges in the tariff proposal unlike minimum charges applicable at HIAL & BIAL.

Further, as per the minutes of the meeting held on 06.05.2010, with the domestic airlines and DIAL, DCSC agreed to revise its handling rates offer to the airlines until 31.07.2010 and offered a rate of INR 0.80/kg for the outbound cargo handled at DCSC Terminal i.e., till such time the inbound also moves to DCSC terminal, after which the agreed rate of INR 0.70/kg will apply for both Inbound and Outbound cargo. Further, it has also been recorded that the DCSC agreed to remove the minimum charges condition. Hence the proposal submitted appears to be for both inbound and outbound cargo with no minimum rates as agreed to by DCSC in para 10 of the amended Minutes of the Meeting.

4.9 As regards the proposed tariff for levy of TSP, handling and X-Ray machine usage and other charges to Airlines, the same are tabulated below. The same has been compared with the rates that has been mutually agreed to with the domestic airlines Spicejet, Kingfisher, Go Air and Indigo (corresponding rates for HIAL & BIAL have not been furnished)

Outbound & Inbound Handling Charges proposed by DCSC (figures in Rs / Kg)		Indigo	Kingfisher	Spicejet	GoAir
1.Outbound & Inbound Cargo	0.80	0.95 subject to a min. of Rs.500/- per flight	0.95	0.95	0.80
2.Trans-shipment Cargo & Offloaded Cargo	1.20	1.35 subject to a min. of Rs.100/- per shipment	1.25	1.40	1.20
3. Storage Charges beyond Free Period of 24 hrs.	0.80	0.95 subject to a min. of Rs.100/- per shipment per day	0.95/kg/day	0.95/kg/day	0.80/kg/day
4. X-Ray Machine Usage Charges) (except Airlines Stock)	0.75	0.75 subject to a min. of Rs.100/- per shipment	0.75	0.75	0.75
5.X-Ray Machine Charges (except Airlines Stock) if provided by	0.75	X Ray M/c Screening charges - 0.75 subject to a min. of Rs.100/- per	0.75	Nil	0.75

handling company		shipment			
6. TSP & Demurrage charges	As applicable to shippers/Consignees	-	-	-	-

4.10 In addition to the above rates, DCSC has also sought approval of the Authority on the following charges for additional services being offered by them. It is observed that Kingfisher and Go Air are two of the domestic airlines who have entered in to agreements for availing the services at the rates mentioned hereunder:

Additional Services & Charges proposed	
DGR acceptance check	INR 1400/- per AWB subject to maximum of 20 pieces per AWB. Additional pieces will be charged @ INR 75/- per additional piece
Dry Ice acceptance checklist	INR 700/- per AWB
Live Animal acceptance and Handling	INR 2110/- per AWB
Valuable Handling	INR 750/all most - per AWB

4.11 Further, DCSC has submitted that the present interim cargo handling terminal is leased out to DCSC by DIAL on payment of Rs.5 crore which shall be operated by company until 30.11.2011, subsequent to which the entire operation will be shifted to Greenfield Air Cargo terminal and as such, the sum of Rs.5 crore has been written off within this period i.e. May 2010 to November 2011.

4.12 It has also been submitted that the entire investment is from the own funds of the company and the rate of equity return is **not more than 7%, even though DCSC's** expected rate of return is around 30%. The lower return has been adopted to attract customers before moving into Green field Cargo terminal.

5.1 The proposal was considered by the Authority in its 26th meeting held on 04.01.2011.

5.2 It was noted that DIAL, in terms of the provisions of OMDA, through competitive bidding process, appointed through grant of concession two unrelated entities for the provision of the cargo services at the IGI Airport, as under:

- (a) In respect of the existing cargo terminal (Brownfield Cargo Terminal) M/s.Celebi Delhi Cargo Terminal Management India Private Limited; and
- (b) In respect of the proposed new cargo terminal (Greenfield Cargo Terminal) M/s.Delhi Cargo Service Center Pvt. Ltd. (DCSC)

Celebi is, presently, handling and operating the Brownfield Cargo Terminal and is servicing the international cargo operations and DCSC which is undertaking the setting up and operation of the Greenfield Cargo Terminal is servicing the domestic cargo operation from the Common User Domestic Terminal (CUDCT) till the new Greenfield Terminal is developed and commissioned by DCSC which is expected by January, 2011. Both the cargo terminals (i.e. Brownfield Cargo Terminal and the Greenfield Cargo Terminal) shall offer, undertake and service both domestic and international Cargo terminal services thereby bringing in the desired competition as mandated in OMDA which is expected to be achieved by January 2011. Cargo Service Centre (CSC) has a 74% equity stake in DCSC and is retaining and exercising the management control of DCSC.

5.3. **The Authority's approach in respect of Cargo Services wherever such services are** provided by Independent Service Providers, has been finalized vide Order No.05/2010-11 dated 02.08.2010. Draft Guidelines for determination of tariff for services for Cargo facility, Ground handling and supply of fuel to aircraft at airports have also been issued. However, DCSC has requested approval of tariff on basis of justification given above rather than based on Regulated Asset pricing model and have also stated that this being an interim facility, detailed examination of tariff proposal be dispensed with.

5.4. The Authority further observed that:

- (i) DCSC have withdrawn the appeal filed before the AERA Tribunal against the Direction No.03/2010/11 dated 06.10.2010 issued by the Authority. Further, they have also confirmed that pursuant to the Directions issued, no charges are being levied on the users, under protest.
- (ii) DCSC have submitted that they are facing financial difficulties as on one hand, they are unable to charge and collect user charges for the services rendered while on the other hand, they are regularly incurring expenditure for operating the facility including staff cost so as not to inconvenience the trade and industry by stopping handling services
- (iii) The instant application made by DCSC seeks approval of the Authority for the tariff applicable to shippers/consignees/agents i.e the TSP and the tariff for TSP, handling and X-Ray machine usage and other charges to Airlines.
- (iv) The subject determination is an ad hoc determination of the cargo tariff in the CUDCT for a period of 19 months from May, 2010, i.e., the time **when DCSC's** operations commenced from the CUDCT to November, 2011 when the green field terminal is scheduled to be in place.
- (v) The tariff applicable to shippers/consignees/agents, i.e , the TSP has been arrived through extensive consultation with DACAAI in March 2010.
- (vi) The TSP applicable to shippers/consignees/agents as compared with the rates at BIAL and HIAL appear to be lower and reasonable.
- (vii) The tariff for TSP, handling, X-Ray machine usage and other charges leviable on the Airlines, have been arrived after consultation with the domestic airlines viz., Spicejet, Kingfisher, GoAir and Indigo.

- (viii) The proposal submitted by DCSC is for both inbound and outbound cargo with no minimum rates as agreed to by DCSC in para 10 of the amended Minutes of the Meeting held with stakeholders on 06.05.2010.
- (ix) The proposal to approve the tariff based on comparison with other entities and user agreements instead of detailed financial analysis appears to be justified in as much as the rates proposed are applicable to an interim terminal with a life of 19 months, of which 8 months have already elapsed.

6. In view of the above, the Authority has decided to propose approval of the tariff as proposed by the DCSC (**Annexure-II**), w.e.f. 01.05.2010 and upto 30.11.2011 for stakeholder consultation. *This ad-hoc determination is proposed to be reviewed at the stage of tariff determination for the first cycle and thereafter at such intervals as the Authority may decide.*

7. The Authority solicits feedback, comments and suggestions from stakeholders on the proposal contained in para 6 above. Comments/submissions may please be furnished to the Authority, **latest by Wednesday, 19th January, 2011**, at the following address:

Shri Sandeep Prakash
Secretary
Airports Economic Regulatory Authority of India
AERA Building,
Administrative Complex,
Safdarjung Airport, New Delhi- 110003
Email: sandeep.prakash@era.gov.in, sandeep.moca@nic.in
Tel: 011-24695040
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Yashwant S. Bhawe
Chairperson



CARGO SERVICE CENTER

Delhi

Dated: 6th December 2010

To,
The Chairman,
Airports Economic Regulatory Authority
Safdarjung Airport
New Delhi

Re: Your direction vide letter No. AERA/20011/DIAL-C/2010-11(03/2010-11) dated 6/ 10/ 2010.
Interim Tariff for Cargo Handling Services at Common User Domestic Cargo Terminal (CUDCT)
at IGI Airport, New Delhi.

Dear Sir,

This has reference to you order bearing your reference no. AERA/20011/DIAL-C/2010-11(03/2010-11) (hereafter referred as 'the impugned order') dated 6th Oct. 2010 and therein issuing direction to Delhi Cargo Service Center Pvt. Ltd. (hereafter referred as 'the company') to stop charging the TSP Charges, Unitization and De-unitization charges with effect from 1/5/2010 in respect of domestic cargo at the IGI Airport, New Delhi.

It is hereby informed that the company has received a notice from AERA dated 30th Apr. 2010 and dated 8th Jun. 2010 to which the company has provided detailed reply vide our letter dated 14th May 2010 and 26th Jun. 2010.

It was the considered opinion of the company and also confirmed by the legal advice received then that as per Operation, Maintenance and Development Agreement (hereafter referred as 'OMDA') between Airports Authority of India (hereafter referred to as 'AAI') and Delhi International Airport Ltd (hereafter referred as 'DIAL'), cargo handling was considered as Non Aeronautical and there was no need to seek an approval of AERA for any tariff proposal. Further, rules were not framed by AERA for seeking approval for tariff by cargo handling companies.

Being aggrieved by the said impugned order, the company after seeking legal advice filed an Appeal before the Hon'ble AERA Appellate Tribunal under the provisions of AERA Act, 2008 (Appeal no. 4 of 2010). However, on further discussions and advice of our legal advisors the Company decided to withdraw its Appeal and approach AERA for reconciliation over the matter and seek reversal of your impugned order. Accordingly the appeal was withdrawn on date 1st Dec 2010 and the copy of the said withdrawal is enclosed with this letter.

I would like to draw your kind attention to the serious financial difficulties my company has been put to by your said impugned order. Since, on one hand I am unable to charge and collect user charges for the services rendered while on the other hand I have to incur regular expenditure on operating the facility including staff cost, so as to not inconvenience the trade and industry by stopping the handling services.

Delhi Cargo Service Center Private Limited

Registered Office: A-294/1, Road No. 6, NH 8, Mahipalpur Extension, New Delhi - 110 037

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www.cscindia.in



CARGO SERVICE CENTER

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Delhi

I therefore request withdrawal of your said impugned order and urgent consideration of our tariff proposal and approval effective 1st May 2010. The tariff proposal and detailed justification for the same is enclosed with this letter alongwith all the supporting documents.

I look forward to your early reply.

Yours sincerely


Radharaman Panicker
Director & CEO



Encl.: a) Withdrawal Order Copy of Appeal No. 4 of 2010 & Review Application No. 1 of 2010.

b) Proposal for tariff levied/ to be levied at CUDCT, IGI New Delhi.

AIRPORTS ECONOMIC REGULATORY AUTHORITY APPELLATE TRIBUNAL
NEW DELHI

Review Application No. 01 of 2010

IN

APPEAL NO. 04 OF 2010

[Under Section 18(2) of the Airports Economic Regulatory Authority of India Act, 2008 against the impugned Order No. AERA/20011/DIAL-C/2010-11(03)/2010-11) dated 06.10.2010 passed by the Airports Economic Regulatory Authority).

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Shri Rahul Sarin
Member

Hon'ble Ms. Pravin Tripathi
Member

In the matter of :

Delhi Cargo Service Center
Private Ltd.

... Review Applicant/Appellant

Versus

Airports Economic Regulatory Authority
& Anr.

... Respondents

Appearances : **Shri Abhishek Sharma, Advocate for the Review**
Applicant/Appellant.

Ms. Sugandha, Advocate for Shri Atul Nanda,
Advocate for the Respondents.

ORDER

1st December, 2010

It is stated by the learned counsel for the appellant that the appellant wants to withdraw the appeal as well as the review petition to move the appropriate authority. The appeal and the review petition are disposed of accordingly.



उत्पादित प्रमाणित प्रती
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[Signature]
अनुभाग अधिकारी / Section Officer,
प्रतिस्पर्धा अपील अदालत
Competition Appellate Tribunal
नई दिल्ली / New Delhi

[Signature]
[Dr. Arijit Pasayat]
Chairman

[Signature]
[Rahul Sarin]
Member

[Signature]
[Pravin Tripathi]
Member

[Handwritten initials]



PROPOSAL FOR TARIFF LEVIED/TO BE LEVIED AT COMMON USER DOMESTIC CARGO TERMINAL (CUDCT) AT IGI AIRPORT BY DELHI CARGO SERVICE CENTER PVT LTD (DCSC) EFFECTIVE 1ST MAY 2010

USERS OF THE FACILITY: a. Shippers and Consignees and or their agents

b. Airlines operating from the said facility

I. **Tariff Proposals:**

(a) Tariff Proposal for levy of Terminal Storage and Processing Charges (hereafter referred as TSP) applicable to Shippers/ Consignees/ Agents (Refer Annexure 1).

(b) Tariff Proposal for levy of TSP, Handling, and X- Ray Machine Usage & Other Charges to the Airlines (Refer Annexure 2).

II. **Justification for the proposed tariff**

1. Referenced against existing tariff for similar service:

AAI's notified for Tariff for various cargo handling services has been base reference for fixation of traffic.

The other references for fixation of tariff are existing cargo handling rates at international air cargo terminals at Mumbai, Delhi, Chennai and Bangalore. The reason why the rates proposed by the company for domestic cargo handling is lower than that existing in international cargo side that the numbers of activities and process at domestic side are comparatively lesser than at International side. Further on the inbound side, there is no storage of cargo envisaged since there is no Custom Clearance required, thus allowing for speedy clearance and delivery of incoming cargo to customer(s). As such against the TSP charges of Rs.4.5 per kg for international (the assumption is that cargo will stay in the warehouse for atleast three (3) days before it is custom cleared), the TSP charges for domestic cargo at our facility is Rs.0.70 per kg per day. (Refer Annexure 4 giving differences between domestic and international cargo handling). Also in terms of handling, unlike international cargo, there is no palletisation or de-stuffing happening in the domestic cargo. It is however envisaged that palletization cargo movement will soon come in practice in domestic cargo as well.

It may be noted that prior to setting up of independent cargo handlers in Bangalore, no airport was having common user domestic terminals for handling of domestic cargo. So tariff at Bangalore airports are the only reference for comparison of domestic cargo handling tariff (Refer Annexure 3).



2. Arrived through consultative process:

The tariff proposed by company was circulated to stakeholder customer much before start of operation in May 2010.

In terms of fixation of TSP charges, the company had carried out extensive consultation with the association of domestic cargo agent (DACCAI) as early as in March 2010. It may be noted that the earlier proposed rate for TSP was higher than the current proposed rate as stated in this application (refer annexure 5 and annexure 1) and was brought down through this consultative process. It would be interesting to note that not once through any methods of communication – emails or meetings have the agents or their association- DACCAI has opposed to the proposed tariff. Neither have they opposed the tariff in their letter dated 30/4/2010 addressed to AERA. Copies of all the correspondences with DCCAI are attached and marked as Annexure 5. → ?

Similarly in terms of handling rates and security charges, the company had also carried out extensive meetings with airlines. As early as in April 2010 the company has forwarded a written proposal for various handling rates for the services requested by the Airlines, consequent to which the airlines signed a Letter of Intent (hereafter referred as LOI) accepting the proposed tariff. Thereafter, two (2) meetings were held with the airlines –on 6th May and 18th Aug 2010, whereupon the rates were further trimmed down given the fact that the volumes of cargo handled were higher than projected. It is noteworthy that the rates to which they signed the initial LOI reflected a higher handling rate than the current proposed rate. It is also interesting to note that the domestic airlines approached the company collectively as a body for fixation of tariff rather than individually. Copies of the above said correspondences with the Airlines, LOI and Minutes of Meeting are attached collectively and marked as Annexure 6.

3. Earning fair return on investment

As you may kindly appreciate that pursuant to Concession Agreement the present interim cargo handling terminal is leased out to DCSC by DIAL on payment of Rs.5 crore and which shall be operated by the company until Nov 2011. It would be relevant to note that the entire operation will be shifted to the Greenfield Air Cargo Terminal being built by the company once it is functional by Nov 2011. As such the sum of Rs.5 crore has been written off within this period i.e. May 2010 to Nov 2011. Further the company has made investment in handling equipment and IT systems required for efficient operation. Considering the life of these equipments and systems, a proportionate value has only been taken for this facility. The entire investment is from the own funds of the company.

As you may kindly appreciate on pursuing the financial plan (Annexure 7), the rate of equity return is not more than 7% even though our expected rate of return is around 30%. The



reason why we are going for lower return now is to attract the customers who were till now not used to a common user or third party handled services. We are using this base to develop our client relationship before we move into our Greenfield Cargo terminal.

4. Other justification

It must be noted that prior to set up of this common user facility, the airlines were handling their cargo through a makeshift arrangement near the old domestic terminal. The result was that cargo was being handled and processed on the road side causing traffic obstruction and also becoming a security hazard. The common user facility offers a much better infrastructure with proper facilities for everyone over an area of nearly 5000 sq met of carpet area.

It must also be noted that DCCA in its representation to AERA never questioned the TSP rates but only stated that DCSC should take approval from AERA for tariff fixation.


Conclusion

Based on the above justification, I request you to approve the above tariff as presented on basis of justification given above rather than based on the Regulated Asset pricing model being proposed by you vide your white paper. Further this being an interim facility, detailed examination of the tariff proposal be dispensed with.

Also request you to approve the tariff effective 1st May 2010 on the grounds that

- a. Services have been rendered by DCSC to its clients based on existing understanding and payment received against services rendered.
- b. Expenditures have been incurred and also during the period from when the charging has been kept in abeyance pursuant to your order.
- c. Not making the order effective 1st May 2010 will cause severe financial harm to our company and will not be fair to us.

Yours Sincerely


Radharaman Panicker
Director & CEO





List of Annexure:

S. No.	Particulars
Annexure 1	Tariff Proposal for levy of TSP Charges applicable to Shippers/ Consignee or their Agents.
Annexure 2	Tariff Proposal for levy of TSP, Handling and X- Ray Machine Usage Charge & Other Charges to be levied to Airlines.
Annexure 3	Benchmark rates at various Airports in India.
Annexure 4	Comparison table of activities undertaken for International vs. Domestic Cargo Handling
Annexure 5	Sequence of correspondences/ meetings addressed to DACCAI (Copy of relevant correspondence also attached).
Annexure 6	Sequence of correspondences/ meetings addressed to Airlines (Copy of relevant correspondence/ minutes of meetings/ Letter of Intent also attached).
Annexure 7	Certified copy of Performa Financial Statement for the returns on investment given the proposed tariff.

Annexure-II

Tariff of charges proposed by DCSC

I. Tariff Proposal for levy of Terminal Storage and Processing Charges (TSP) applicable to shippers/consignees/agents

S.No	CHARGES		
1	TSP CHARGES	If invoiced	If paid in
	Cash		
a.	General Cargo	INR 0.70/kg	INR 0.66/kg
b.	Special Cargo		
	Live Animal	INR 1.40/kg	INR 1.35/kg
	Dangerous Goods	INR 1.40/kg	INR 1.35/kg
	Valuable Cargo	INR 1.40/kg	INR 1.35/kg
c.	Couriers	INR 0.70/kg	INR 0.65/kg

2	DEMURRAGE CHARGES	
a.	General Cargo	INR 0.70/kg/day
b.	Special Cargo	
c.	Live Animal	INR 1.40/kg/day
	Dangerous Goods	INR 1.40/kg/day
	Valuable Cargo	INR 1.40/kg/day
c.	Couriers:	INR 0.70/kg/day

II. Tariff Proposal for levy of TSP, handling and X-Ray machine usage and other charges to Airlines.

OUTBOUND & INBOUND HANDLING	
1 Outbound & Inbound Cargo	INR 0.80 per kg.
2 Trans-shipment Cargo & Offloaded Cargo	INR 1.20 per kg.
3 Storage Charges beyond Free Period of 24 hrs.	INR 0.80 per kg.
4 X-Ray Machine Usage Charges) (except Airlines Stock)	INR 0.75 per kg
5 X-Ray Machine Charges (except Airlines Stock) if provided by Handling company	INR 0.75 per kg.
6 TSP & Demurrage charges	As applicable to

	shippers/Consignees
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ADDITIONAL SERVICES & CHARGES	
1.DGR acceptance check	INR 1400/- per AWB subject to maximum of 20 pieces per AWB. Additional pieces will be charged @ INR 75/- per additional piece
2. Dry Ice acceptance checklist	INR 700/- per AWB
3. Live Animal acceptance and Handling	INR 2110/- per AWB
4. Valuable Handling	INR 750/- per AWB