

1235/सामिन (ऐर)

09/07/2014

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## COCHIN INTERNATIONAL AIRPORT LTD.

CIAL/FIN/AERA

July 4, 2014

Shri Alok Shekhar , IAS

Secretary

Airports Economic Regulatory Authority

AERA Building

Safdarjung Airport

New Delhi-110 003.

Sir,

Sub : In the matter of Determination of Tariff for Aeronautical Services in respect of Cochin International Airport, Cochin, for the first control period (01-04-2011 to 31-03-2016)

Kind reference is invited to AERA email dated 04/07/2014 wherein the AAI letter No.AAI/CHQ/REV/AERA/MYTP-CIAL/2014 dated 30-06-2014 was forwarded for the comments of CIAL .

CIAL in its letter to AERA dated 08.05.2014 contains all the charges prevailing at Cochin Airport which interalia includes those charges specifically indicated in the above refered AAI letter and hence complete in all respect (Reference Annexure II of letter) . However, in the covering letter we have made certain comparisons of major revenue items from where substantial revenues are generated. Further due to non availability of data all small items of revenue could not be compared.

Moreover, comparison is made wherever comparable services are rendered by two entities. For eg, Cochin Airport renders security services to airlines by forming a separate security wing in the company ,however, AAI does not provide security services to airlines ,hence perhaps they may not charge Xray charges/security charges etc from Airlines.

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Similarly CIAL has adopted a different model in respect of its Cargo operations by acting as the custodian of both domestic , International and perishable cargo activities. However, at Trivandrum Airport, which is the nearest AAI airport of Cochin, the cargo activities are outsourced to KSIE. In fact the rate charged by KSIE at Trivandrum airport is higher than that Cochin Airport. Details of cargo charges prevailing in all AAI airports are not available with CIAL and not sure where in all AAI airports, AAI itself acts as Cargo Operator.

It would be seen above that all rates charged at Cochin Airport is indicated in the Annexure 2 of the referred letter and comparison in the covering letter is made wherever comparable services/figures are available and based on materiality.

Thanking you,

*Regards.*

Yours faithfully,

  
(V.J.KURIAN, IAS)  
MANAGING DIRECTOR


1215/समिति (एर)  
07/07/2014

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## COCHIN INTERNATIONAL AIRPORT LTD.

CIAL/FIN/AERA/2014-15  
July 4, 2014

Shri Alok Shekhar, IAS  
Secretary  
Airports Economic Regulatory Authority  
AERA Building  
Administrative Complex  
Safdarjung Airport  
New Delhi-110 003.

  
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OSD-II

Sir,

Sub : In the matter of Determination of Tariff for Aeronautical Services in respect of Cochin International Airport, Cochin, for the first control period (01-04-2011 to 31-03-2016)

Kind reference is invited to IOCL letter dated 27-06-2014, HPCL letter dated 03-04-2014 addressed to Secretary, AERA, and the clarifications sought by AERA vide e-mail dated 30-06-2014 and state the following factual positions about the Fuel Throughput Charges at Cochin International Airport.

The complainants IOCL/HPCL does not have any contractual agreement with CIAL to operate ATF facilities at Cochin International Airport. CIAL had given an exclusive right to BPCL to put up refueling facilities and supply fuel to aircraft calling at Cochin International Airport. This agreement is in existence since inception of this airport and they had been paying a small royalty of Rs.5/- per KL during the initial years. As per Clause No.2.5(c), the royalty of Rs.5/- per KL was fixed for the sales volume of ATF supplied to aircraft at Cochin International Airport, as long as the selling is based on the administered pricing mechanism and upon cessation of administered pricing mechanism of ATF, the rate of royalty will be reviewed between the parties and re-fixed according to the market conditions. Based on this agreement, BPCL had been paying Rs.5/- per KL from June-1999 to 2007-08 and thereafter during 2008-09, the rate was fixed at Rs.35/- per KL. In fact, CIAL did not insist for the market rate during the intermittent years, despite the dismantling of administrative pricing mechanism of ATF since 2002 onwards. Subsequently, CIAL and BPCL have initiated discussions to re-fix the throughput charges from April 2009 and the rates have been finalized during

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the meeting held on 06/11/2009 wherein it was refixed at Rs.70/- per KL for the year 01-04-2009 to 31-03-2010 and thereafter, the royalty payable will be escalated cumulatively by 20% every year for a further period of five years. It was also agreed that the rate of royalty with effect from 01-04-2015 will be discussed and finalized during the month of March-2015.

The above contractual arrangement has been effectively functioning in CIAL till date. As such, no agreement or understanding is in existence or possible with IOCL/HPCL in whatsoever manner, as the exclusive right has already been awarded to BPCL for a period of 20 years.

In the meantime, AERA came into existence on 01-09-2009 and as per the Act, the Airport Operations, Cargo, Ground Handling and Fuel Supply was defined as Aeronautical Services, for which, the rate are to be determined through a Traffic Determination Process. Accordingly, each category of service providers including fuel suppliers were directed to file the tariff proposals to AERA before 30-07-2011. CIAL in full compliance of the said directions, has filed the Multi Year Tariff Proposal for its Airport Operations and Cargo Operations. Similarly, the Ground Handling Operator of M/s.CIAL namely BWFS has also filed the tariff proposal with AERA. However, the fuel service providers of Cochin International Airport have not filed any tariff proposals, as required under the AERA Order No.17/2010 dated 31-03-2011. In the meantime, AERA vide letter dated 24-03-2011 has also ordered that the airport operators are permitted to continue charging the tariffs at the existing rates in the interim period from 01-04-2011 upto the date of new tariff, as may be approved. As regards CIAL, the determination process was not completed in all respects till date and therefore, we continued to charge the rates either as per the approved tariffs for Landing, Parking etc and in respect of other charges such as Ground Handling, fuel supply etc, the rates applicable as per relevant agreements were charges. As such, no tariff revision has occurred at Cochin International Airport during these periods. Perhaps, it may be the reason that all stakeholders of CIAL, including BPCL, who operates the ATF facility, has been paying the aeronautical charges to CIAL. Further, it has become a practice of IOCL and HPCL to take recourse on an Interim Order of AERA issued vide Order dated 24-03-2011 and tries to establish an ambiguity in the

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whole issue with certain ulterior commercial motives, which are very well known to them and CIAL. In this regard they are trying to misinterpret certain regulatory processes by selectively picking out few lines out of the one Interim Order issued by AERA.

We would like to reiterate and conclude the following facts in respect of IOCL/HPCL comments:

1. CIAL does not have any contractual agreement with IOCL and HPCL and their continuation or discontinuation of activities at Cochin International Airport will be based on contractual agreement. Further issue of Airport Entry Permits to any agency will be guided by the security and other airport sector applicable directions/orders issued by DGCA/BCAS from time to time.
2. IOCL and HPCL are repeatedly trying to create an ambiguity on the regulatory processes to achieve certain ulterior commercial interest at Cochin International Airport by misinterpreting an Interim Order of AERA on a selective basis.
3. The agreement with BPCL is for 20 years' period and the rate charged by CIAL is based on the relevant clauses in existence in the agreement. Further, any subsequent negotiated settlements are also covered under the relevant clauses of the agreement dated 19<sup>th</sup> May 1997 and which have a currency of 20 years period. Neither BPCL nor CIAL has so far violated any contractual obligation falling under this agreement.

Therefore, we would urge AERA to issue clarification on AERA's order dated 24-03-2011 regarding the rates of ATF or the matter may be once for all cleared during the final tariff orders for CIAL.

Thanking you,

Yours faithfully

(V.J.KURIAN, I A S)  
MANAGING DIRECTOR