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7 March, 2023

To,
The Chairperson,
Airports Economic Regulatory Authority,
AERA Building, Administrative Complex,
Safdarjung Airport,
New Delhi – 110 003.

Kind Attention – Shri. Balwinder Singh Bhullar Ji

Subject: Response to the AERA Consultation Paper No. 15/2022-23 issued on February 14, 2023 on determination of tariff for Cargo Handling Services for GMR Hyderabad Air Cargo (GHAC) at Rajiv Gandhi International Airport, Hyderabad, for the Third Control Period (FY 2021-22 to FY 2025-26)

Dear Sir,

We write in response to the Consultation Paper No. 15/2022-23 issued on February 14, 2023 by the Airports Economic Regulatory Authority of India ("AERA" or "Authority") in the matter of determination of tariff for Cargo Handling Services for GMR Hyderabad Air Cargo (GHAC) at Rajiv Gandhi International Airport (RGIV), Hyderabad for the Third Control Period (FY 2021-22 to FY 2025-26) (the 'Consultation Paper' or 'CP').

At the outset, we would like to express our sincere gratitude to AERA for inviting stakeholder comments on the Consultation Paper, and further acknowledging the impact of COVID-19 on the aviation sector.

Sir, you will appreciate that airlines which are the 'catalyst' for the global economy including the aviation sector, have been adversely impacted due to significant headwinds, including travel and fare restrictions during COVID-19, increase in prices of Aviation Turbine Fuel (ATF) and fluctuation in foreign exchange *etc.*

While the airline operations showed an upward trend from December 2020, however the brutal second wave of COVID-19 in March 2021 and subsequent emerging variants of COVID-19, as well as the geo-political instability caused due to the Russian – Ukrainian conflict which have resulted in adverse impact on global supply-chains, increase in inflation, triggered increased interest rates, devaluation of Rupee, decrease in consumer spending as well as looming recession fears and job cuts have again impacted the operations to a certain extent and resultantly prolonged the process of financial recovery.

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It appears as per the recent industry outlook reports issued by CAPA, Indian airlines are estimated to make a loss of approx. USD 1.4-1.7 billion in the current fiscal year FY 23. It also appears from the industry reports that the traffic recovery (number of flights and passengers) would take almost another one to three years for airline operations to reach pre COVID-19 levels. In the current situation, airlines in India are staring at significant losses and with limited financial support from the Government, airlines are constrained to implement severe cost control measures to sustain their operations. On the other hand, the same report mentions that Indian airports are expected to report significant profits in the region of USD 420 million for the FY23.

In the given circumstances, it is humbly submitted that it is imperative that AERA does not take any steps, including by way of approving the proposed high tariffs, during the Third Control Period, which would precipitate further adverse financial impact on the airlines. In this regard, we also humbly request AERA to not implement any Y-O-Y increase in tariffs during the Third Control Period and defer any increase in the same to the subsequent control period, given the scenario described above.

Without prejudice to the above, and as desired by AERA, please find below our recommendations/ comments on the Consultation Paper:

1. **Review of Tendering Process**
   (Refer 1.1.1, 1.1.3 & 1.1.4 of the CP)

   Authority may kindly note that "guiding principles issued by the International Civil Aviation Organization (ICAO) on charges for Airports and Air Navigation Services (ICAO DoC 9082), which lays down the main purpose of economic oversight which is to achieve a balance between the interest of Airports and the Airport Users. This policy document categorically specifies "that caution be exercised when attempting to compensate for shortfalls in revenue considering its effects of increased charges on aircraft operators and end users." The said policy document also emphasizes on balancing the interests of airports on one hand and aircraft operators, end users on the other, in view of the importance of the air transport system to States. This should be applied particularly during periods of economic difficulty. Therefore, the policy document recommends that States encourage increased cooperation between airports and aircraft operators to ensure that the economic difficulties facing them all are shared in a reasonable manner."

   It is general perception service providers has no incentive to reduce its expenses as any such increase will be passed on to the airlines through tariff determination mechanism process and indirectly airlines will be forced to bear these additional costs. There needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator.

   Sir, as this is particularly a period of economic difficulty for airlines, AERA is humbly requested to ensure that Airport Operator does not take the decision to award concession agreements solely on the revenue share being offered. Basing decisions solely on highest revenue share being offered breeds inefficiencies and tends to disproportionately increase the cost, as envisioned in the abovementioned guiding principle.

2. Cargo Volume Projections

(Refer 3.1.2, 3.2.3, 3.2.4 & 3.2.6, 8.2.11 and Table 3 & 4 of the CP)

It is humbly submitted that the impact on cargo volumes due to second Cargo Terminal Operator as well as establishment and operation of Second Cargo Terminal may be known only sometime after the commencement of operations of second Cargo Terminal Operator and Second Cargo Terminal. In addition, there is no impact of any competition for GHAC as they are the only service provider in terms of International cargo. It may also be noted that GHAC has already achieved pre pandemic domestic volumes, and projected to achieve pre pandemic international volumes by 2023-24. The operations have normalised and recovered from the impact of Covid-19. Past trends during abnormal times of Covid-19 may not show similar trends in the future after normalisation of operations.

Thus, Authority may please kindly note the following factors:

- The hike in tariff is proposed on the assumption of erosion of cargo volumes of GHAC due to second Cargo Terminal Operator and operation of Second Cargo Terminal. However, there is no historical data or trend to arrive at the loss of volumes as proposed.

- The hike in tariff is proposed on the basis of second Cargo Terminal Operator and operation of Second Cargo Terminal the assumption that cargo volumes will be bifurcated. At this juncture it may be premature to estimate the actual loss of volumes. We may be able to gauge the impact once the second Cargo Terminal Operator as well as Second Cargo Terminal is operational, for which as on date there is no firm timeline available for commencement of operation by the second cargo terminal operator.

Thus, is submitted that at this point in time, it may not be realistic to assess the impact of the aforementioned factors on the cargo volumes and therefore it is requested that Authority may rationalize the volumes significantly upwards while considering only a minimal impact from the above mentioned uncertain factors. Authority may thereafter true up the actual volumes during the 4th Control Period, when a clearer picture emerges.

In addition, we request AERA to conduct an independent expert study for Cargo Volumetric projections, in accordance with the Airport Economic Regulatory Authority of India Act, 2008 (AERA Act).

3. **Deferment of Capital Expenditure - Regulatory Asset Base**
Stoppage of non-safety/security related capital expenditure (Refer 4.2.3 and Table 5 & 7 of the CP)

In order to support the airlines to continue and sustain its operations due to adverse impact of Covid-19, all non-essential CAPEX proposed by GHAC should be put on hold/deferred to the Fourth Control Period, unless deemed critical from a safety or security compliance perspective.

Without prejudice to the above, in case GHAC` wants to make capital expenditure, then it should be at no additional expense to the airlines until the project is completed and put to use. Similarly, if any proposed Capex projects can be deferred from the Third Control Period to the Fourth Control Period, same should be considered by AERA.

In view of the upcoming second Cargo Terminal Operator, while on one hand GHAC is projecting lesser volumes, on the other hand it is suggesting increase in capital expenditure, which is contradictory. In particular, refer Table 7, the Capital Additions of "New Perishables Exports Terminal by modifying the existing domestic terminal space" of INR 28.53 Crores and "New Dedicated Express Cargo facility" of INR 34.74 Crores, appear to be unjustified additions due to the expected fall in business caused by second Cargo Terminal Operator. Authority is requested to kindly review the same,

It is humbly submitted that the proposed hike in tariff due to CAPEX planned in 3rd Control Period may be a bit premature as it would be possible to gauge only in the last year of 3rd Control Period (2025-26) whether significant work has progressed in development of infrastructure, procurement of latest equipment and repairs / renovation, as proposed in the CP. Thus, as the actual requirement and its actual impact would only be evident in the last year of 3rd control period (2025-26), Authority is humbly requested that the proposed hikes in tariff be deferred to the 4th Control Period based on ground realities at that time.

4. **Fair Rate of Return (FRoR)**
Return on Revenue (Refer 5.2.5 and Table 12 of the CP)

It is submitted that only a reasonable Fair Rate of Return (FRoR) to the service provider may be provided. It is observed that AERA has considered FRoR of 12.09%, which is the net of income tax return to the service provider, for the Third Control Period. However, while such fixed/ assured return favours the service provider, but it creates an imbalance against the airlines, which are already suffering from huge losses and are bearing the adverse financial impact through higher tariffs.

Due to such fixed/assured returns, service providers have no incentive to look for productivity improvement or ways of increasing efficiencies, take steps to reduce costs as they are fully covered for all costs plus their hefty returns. Such a scenario breeds inefficiencies and higher costs, which are ultimately borne mostly by airlines.

In the present scenario the assured return on investment through the proposed FROR to GHAC appears onerous for the airlines. In view of the above, AERA is requested to kindly review the proposed return on RAB to GHAC and requested to minimize the effect on the airlines.

5. Abolishment of Royalty Charges/ Concession Fee

Concession Fees (Refer 6.2.4 and 6.3.6 of the CP)

Any attempt to award the contracts by the airport operator on highest revenue share basis should be discouraged as it breeds inefficiencies and tends to disproportionately increase the cost.

It is general perception that service providers have no incentive to reduce their expenses, as most of any such increase would mostly be passed on to the airlines/stakeholders through the tariff determination mechanism process, and indirectly the airlines would be forced to bear these additional costs. There needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator.

As you are aware, royalty is in the nature of market access fee, charged (by any name or description) by the airport operator under various headings without any underlying services. These charges are mostly passed on to the airlines by the airport operator or other services providers.

It may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. Sometimes it is argued by the airport operators that 'Royalty' on 'Aero Revenues' helps in subsidizing the aero charges for the airlines, however royalty in 'Non-Aero Revenues' hits the airlines directly without any benefit.

We humbly submit the following:

i. The rates of royalty (concession fees) at RGIAL as mentioned in the Consultation Paper by GHAC for Cargo Services is 18% of Gross Revenue to the Airport Operator (and as high as 105% by some Ground Handling Service providers for International Freighter aircraft flights).

ii. In this regard, kindly refer to the submission of Federation of Indian Airlines (FIA) to AERA dated 30th July 2021 in response to AERA consultation paper No. 11/2021-22 dated 2 July, 2021 for determination of aeronautical tariffs in respect of Rajiv Gandhi International Airport, Shamshabad, Hyderabad for the third control Period. In this submission, FIA had submitted that the royalty charges are passed on to the airlines by the service providers, without any underlying services, and further, that it may be pertinent to note that market access fee by any name or description is not practiced in most of the global economies, including European Union, Australia etc. FIA had requested in the afore mentioned consultation paper to abolish such royalty which may be included in any of the cost items - aeronautical and non –aeronautical.

iii. In repose to the above mentioned submission by FIA, AERA had mentioned in the tariff order No. 12/2021-22 dated 31st August 2021 that the Authority had noted FIA's comments on royalty and cargo tariff and would take the suggestions into account while determining the said tariff for the Independent Service Provider.

iv. Accordingly, in response to the consultation paper No. 21/ 2021-22 dated 14/10/ 2021 for determination of tariff for the third control period (FY 2021-22 to FY 2025-26) in respect of M/s Globeground India Pvt. Ltd. (GGIPL) for providing ground handling services at RGIAL, SpiceJet in its response dated 28 October 2021 to the said consultation paper had submitted that there needs to be a mechanism for incentivizing the parties for increasing efficiencies and cost savings and not for increasing the royalty for the airport operator. SpiceJet had further reiterated and urged Authority to abolish such royalty (24% in the case of GGIPL) which may be included in any of the cost items.

v. However, the Authority had in its tariff order no. 31/2021-22 dated 23rd December 2021 noted that it considers the process of "Award of Contract" as non-regulatory in nature and is of the view that all such issues, including royalty share to Airport Operators, may be taken up by the Stakeholders with the Service Providers/Airport Operators in appropriate forums.

vi. Similar observations have been made by the Authority in other consultation paper for determination of aeronautical tariff (example Ahmedabad tariff Order No. 40/2022-23 dated 18th January 2023, in reference to consultation paper number No 10/2022-23 dated 20th October, 2022), wherein Authority has noted that the Authority has a separate tariff determination process for service providers providing Cargo, Ground Handling and Fuel Supply to aircraft where the royalty charges are addressed alongside a rigorous Stakeholders' consultation process.

vii. However, when the issue of royalty is taken up at the time of tariff determination process for service providers providing Cargo, Ground Handling etc., Authority has noted (refer tariff order 32/2022-23 dated 29th December 2023 in regard to determination of tariff for cargo handling services for M/s CDCTM at IGIAL) that the Concession Fee paid by the ISP to the Airport Operator is as per the Concession Agreement executed between the Service Provider and the Airport Operator, and further that the Authority was of the view that bidding process to award such contracts, based on which ISP pays Revenue Share to Airport Operator, is a non-regulatory issue and such matters may be dealt between the stakeholders at the appropriate forum.

viii. Thus it is observed that while Authority mentions that it has noted comments on royalty and would take the suggestions into account while determining the tariffs for independent service providers like CGF etc., at the time of issuing that tariff order, the Authority decided that:

a. Royalty is a non-regulatory issue and such matters may be dealt between the stakeholders at the appropriate forum.
b. this is a matter between the Independent Service Providers and the Airport Operator as per their agreement and that this is non-regulatory matter in nature.

Sir, it is humbly requested that royalty charges may please be abolished, whether be it for aeronautical and non – aeronautical services, as royalty when allowed by AREA as a fundamental concept on aero charges becomes an allowable charge, the concept of which is then extended by non-aero service providers like in-flight caterers, etc. and applied on airlines and drives up the cost of the airlines, These charges are mostly passed on to the airlines by the service provider without any underlying benefits, which is against the preamble of the National Civil Aviation Policy 2016 for increasing efficiency of airlines and reducing cost. Thus we once again humbly submit and urge AERA to abolish such royalty which may be included in any of the cost items

6. Operational Expenditure – Drastic Cost Cutting
Operating & Maintenance Expenditure (Refer 6.1.3 and Table 13 & 16 of the CP)

It may be noted that across various industries, instead of cost escalations, all the costs have been renegotiated downwards substantially. It may also be noted that cost incurred by GHAC impacts the airlines, as such cost is passed through or borne mostly by the airlines. In order to ensure that there is no adverse impact/increase in the tariff, we request AERA to kindly put on hold any increase in operational expenditure by GHAC not related to safety or security. Further, we submit that:

(i) Payroll Costs: The Y-o-Y increase after 2023-24 may please not be more than approx. 6%, in line with recent proposals of AERA in other consultation papers, rather than the proposed Y-O-y increase of 10%.
(ii) Administrative & General Expenses, Repair & Maintenance Expenditure, Utility Expenses: The Y-o-Y increase after 2023-24 may please not be more than approx. 5%, in line with recent proposals of AERA in other consultation papers.
(iii) Utilities and Outsourcing Costs: The Y-o-Y proposed by GHAC is 18-20% in electricity and water charges. The Y-o-Y increase after 2023-24 may please not be more than approx. 5%, in line with recent proposals of AERA in other consultation papers

In view of the above, GHAC may please be directed to pass on cost benefits to the airlines.

7. Air Freight Station (AFS)
(Refer 7.1.7of the CP)
Since the Air Freight Station (AFS) would an off-Airport common user facility and would be offering services for handling and temporary storage of import / export goods loaded on ULDs, it would reduce the congestion of cargo in airports and the cost is also saved. Implementing the same would be hugely beneficial for all customers who

are in the business of "Import & Export". It will also help online connectivity, along with document filing where agents do not have to come to the airports. All activities, such as Customs documentation and examination, Cargo Acceptance Check, Security Checks, and warehousing will be carried out at the AFS.

It would also streamline the cargo operations, as a provision for having a bonded trucking service for the export cargo from the offline airport to the airline operating station would make is economically viable and competitive pricing. More importantly, it will help to save on demurrage charges, as it will help customers take the delivery of cargo within one or two days. There would be no congestion at the custodian warehouse.

In view of the above, decentralization would help in break the warehousing monopoly, and would benefit the cargo business by letting market forces determine lower TSP charges, and should be encouraged. In addition, it is recommended that the AFS should also have provisions for Airline's self-handling setup, which can also support the airlines for remote advance cargo acceptance and cost-effective operations.

8. Aggregate Revenue Requirement

Tariff (Refer 8.2.5, 8.2.9 and Table 19 of the CP)

Authority is requested to carefully peruse the reasons for the restructuring of the Tariff Rate Card, such that there are no hidden cost impact or imbalance on the users. The ISP proposal for the charges is very high as 15 to 20 % increase, which may be note is not as per the CPI and this is opposed strongly. To enhance business, the service provider must target volumes instead of rate increase, which should be competitive in comparison to road and sea shipping.

The % increase on the charges especially on the domestic handling is exorbitant with a year on increase from 50% to18%. The freight charges in the domestic market are softening due to various modes of competition, especially with road connectivity between major cities and ease in logistic movement from state to state. In case of an increase in airfreight, the volumes will tend to decrease as there will be a market shift by the freight community.

Currently airlines have been struggling to support the cargo business post COVID-19, as there have been drop in volumes of pre-Covid levels in terms of per flight and this needs to be strengthened for the next few years to enhance the infra requirement as projected. To offset the high fuel prices and low % freights we request to defer these increases beyond the level of 2 to 3% on year on year basis.

DOMESTIC charges % increase YoY								
GENERAL CARGO	CATEGORY	2022-23	2023-24	% change	2024-25	% change	2025-26	% change
	OUTBOUND(BUP)	1.06	1.59	50%	1.88	18%	2.21	18%
	INBOUND(BUP)	1.06	1.59	50%	1.88	18%	2.21	18%
INTERNATIONAL charges % increase YoY								
GENERAL CARGO	CATEGORY	2022-23	2023-24	% change	2024-25	% change	2025-26	% change
	OUTBOUND(TSP)	1.1	1.5	36%	1.77	18%	2.09	18%
	INBOUND(TSP)	4.75	4.75	0%	4.75	0%	4.75	0%

We humbly request AERA to kindly consider our submission as mentioned above, and review the proposed tariffs in light of the same, as the proposed rates of tariff are very high, especially in the back drop of COVID-19. It is in the interest of all the stakeholders not to implement such high tariffs in order to encourage middle class people to travel by air, which will help in sharp post COVID-19 recovery of the aviation sector. Customers of airlines have limited capacity to pay for the air fares, and when the cost of travel goes up (caused in part due to high service provider charges), the air traffic goes down, leading to further losses and financial crisis for airlines.

In the given circumstances, it is humbly submitted that it is imperative that AERA does not take any steps, including by way of approving the proposed high tariffs, during the Third Control Period, which would precipitate further adverse financial impact on the airlines. In this regard, we also humbly request AERA to not implement any Y-O-Y increase in tariffs during the Third Control Period and defer any increase in the same to the subsequent control period, given the scenario described above.

9. **Profitability Analysis**
P&L Summary (Refer 9.2.1 and Table 21 of the CP)

In the current situation, airlines in India are staring at significant losses and with limited financial support from the Government, airlines are constrained to implement severe cost control measures to sustain their operations. On the other hand, it is noted that as per the proposed P&L Summary (Table 21), the service provider is expected to report significant profits. This contradiction of service providers to airlines making profits, while the airlines themselves making losses is contradictory in principle. We request Authority to reconsider this anomaly which would be caused by the proposed hikes.

We hope that your good self will positively consider the above recommendations/ comments as it will help in achieving the affordability and sustainability of the aviation sector including airlines, which is also outlined as a key objective in the National Civil Aviation Policy, 2016.

We look forward to your continued support in these challenging times.

Thanking you in advance,

Yours Truly,

For SpiceJet Limited

Suryavir Singh Bisht
Sr. General Manager – Regulatory Affairs

Copy to:

Director (P&S Tariff), Airports Economic Regulatory Authority of India