

Airports Economic Regulatory Authority Of India

Order No.3/2011-12

AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi -110 003

Date of Order: 26th July, 2011

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**In the matter of Multi Year Tariff Proposal submitted by
Kerala State Industrial Enterprises Limited for the services provided for Cargo
Facility at the Air Cargo Complex, Calicut International Airport, Calicut**

Kerala State Industrial Enterprises Limited (KSIEL) have submitted their Multi Year Tariff Proposal (MYTP) for the services provided for the Cargo facility at Calicut International Airport, Calicut in respect of the 1st control period of 5 years starting w.e.f 01.04.2011, vide their application dated 20.05.2011. KSIEL, is a Government of Kerala Undertaking, operating the Air Cargo Complex at Calicut Airport since 1995. KSIEL is also operating another cargo complex attached with Trivandrum International Airport.

2.1 KSIEL have submitted the MYTP as per Chapter II of the Airports Economic Regulatory Authority of India (Terms and Conditions for Determination of Tariff for Services Provided for Cargo Facility, Ground Handling, and Supply of Fuel to the Aircraft) Guidelines, 2011 (the Guidelines).

2.2 As stipulated in the Guidelines, the Authority shall follow a three stage process for determining its approach to the regulation of a regulated service –

- (i) Materiality Assessment;
- (ii) Competition Assessment;
- (iii) Assessment of reasonableness of the User Agreements between the service providers and the users of the regulated services.

2.3 In respect of the regulated service(s) provided for the cargo facility at the airport, the Authority considers that materiality of the service is linked to the cargo volume at the major airport. The materiality shall be assessed based on cargo volume in MT at the major airport as a percentage of cargo volume in metric MT at all major airports, in terms of Clause 4.3 of the Guidelines. It is observed that the percentage share of cargo volume for Calicut International Airport, as per April-2009 to March'2010 AAI statistics, is 0.9% which is less than 2.5% Materiality Index fixed for the subject service. Hence the regulated service is deemed '**not material**'.



2.4 As per the Guidelines (Clause 3.2 of the Guidelines), based on the assessment of materiality, when such regulated service is deemed 'not material', the Authority shall determine tariff(s) for the service provider(s) based on a light touch approach. In the instant case, the regulated service being provided by KSIEL at Air Cargo Complex, Calicut International Airport, Calicut is 'not material' and shall come under the light touch approach for tariff determination.

3.1 In view of the position stated above, the Authority, vide Consultation Paper No.08/2011-12 dated 22.06.2011, proposed for stakeholder consultation that the cargo service being rendered by KSIEL at the Air Cargo Complex, Calicut International Airport, Calicut is "not material"; hence, the Authority may adopt a "light touch approach" for determination of tariff for the 1st Control Period w.e.f. 01.04.2011.

3.2 In response to the Consultation Paper, the comments have been received only from KSIEL and Airports Authority of India (AAI).

3.3 KSIEL have, vide their letter No. ACC/60(02)/433 dated 05.07.2011, submitted that the assessment made in the Consultation Paper for a light touch approach is as per the Guidelines issued by the Authority.

3.4 Further, it has been submitted that:

- (i) The cargo tariffs at Calicut Air Cargo Complex were last revised on 01.04.2007 and are lower when compared to the rates prevailing at other cargo complex.
- (ii) KSIEL was called upon to spend substantial amount on infrastructural requirements while commissioning the new Export Bay and Administrative Complex at the Calicut Air Cargo Complex.
- (iii) KSIEL has also been required to provide fully furnished office accommodation, EDI service centre along with attached facilities, residential accommodation, transport facilities to the Customs staff (as per the "Handling of Cargo in Customs Areas Regulation, 2009") resulting in unanticipated escalation in the costs borne by them.

3.5 In view of the above, KSIEL have submitted that it has become imperative to revise the tariff to continue its operation in a smooth and viable manner. While KSIEL were considering an increase w.e.f. 01.04.2011, the subject service had come under the ambit of AERA. Hence, making it mandatory to seek the permission of this Authority before implementing any such tariff revision.

3.6 KSIEL have suggested that any revision in tariff shall now be from a prospective date and have submitted that the Authority may consider the aspects mentioned above before passing appropriate orders after considering the submissions of other stakeholders.

3.7 AAI, vide letter No. ED/Cargo/1351/13(2)/2011/1294 dated 07.07.2011, have stated that an MOU between AAI and KSIE Ltd. was entered on 05.08.2002 for cargo handling operations at Calicut Airport. As per the MOU, KSIE Ltd., customs appointed custodian at Calicut Airport, will utilize the buildings and other facilities provided by AAI for handling/processing of export cargo and other allied activities, on 25:75 revenue sharing between AAI and KSIEL, respectively. AAI have stated that the same has since been revised to 30:70



revenue sharing between AAI and KSIE Ltd., while extending the said MOU for further period of 5 years w.e.f. 17.08.2007 to 16.08.2012. Further, the MoU also states that KSIEL, will be responsible to collect all export and allied charges from the exporters, airlines, agents etc.

3.8 KSIEL have clarified that as per the MOU entered in to with AAI, the export cargo handling at Calicut Airport is being carried out on land allotted by AAI within the airport premises while the import cargo operations are being carried out from premises owned by KSIEL.

4. The Authority has carefully considered the submissions made by KSIEL, as at para 3.4 to 3.6, and finds that it is, presently, considering the MYTP submitted by the KSIEL. The tariff(s) will be determined pursuant to the Annual Tariff proposal (ATP) to be filed within 75 days of the MYTP being decided by the Authority (Clause 7.4 of the Guidelines refers). Therefore, KSIEL, shall have sufficient time to undertake stakeholder consultation and submit a revised tariff, if required, for the consideration of the Authority.

5. Upon careful consideration of material available on record, submissions made by the stakeholders and submissions made by the KSIEL, the Authority, hereby orders that:

- (i) Services provided for the cargo facility by the Kerala State Industrial Enterprises Ltd, at Calicut Air Cargo Complex at Calicut International Airport, Calicut are 'not material'. Hence these shall be regulated under 'light touch' approach during the first control period of 5 years commencing 01.04.2011.
- (ii) KSIEL may submit the ATP for the first tariff year of the first control period for the consideration of the Authority within a period of 75 days of the issue of this Order in accordance with the Guidelines.

**By the Order of and in the
Name of the Authority**


**(Sandeep Prakash)
Secretary**

To,

**M/s Kerala State Industrial Enterprises Ltd.,
St. Joseph Press Building,
Cotton Hill,
Trivandrum – 695 014
(Through Shri Febi Varghese, Managing Director)**

