

**Airports Economic Regulatory Authority of India**

**Order No. 31/2011-12**

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

Date of Order : 28<sup>th</sup> November, 2011  
Date of Issue : 5<sup>th</sup> December, 2011

**In the matter of Multi Year Tariff Proposal for 1<sup>st</sup> Control Period submitted by Cambata Aviation Pvt. Ltd., for providing Ground Handling Services at Chennai International Airport, Chennai.**

Cambata Aviation Pvt. Ltd. (Cambata), have vide their application dated 29.04.2011, and subsequent communication dated 30.06.2011 submitted their Multi Year Tariff Proposal (MYTP) for the first control period commencing 01.04.2011, in respect of the tariff for the services provided for ground handling facility at Chennai International Airport, Chennai.

2. Briefly, the facts of the case are as under:-

- 2.1 Cambata have sought approval for the tariff for ground handling services for the first control period (period of 5 years commencing 01.04.2011) based on a "light touch approach" as specified in Chapter V 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-
- a) Materiality Assessment;
  - b) Competition Assessment;
  - c) Assessment of reasonableness of the User Agreements between the service providers and the users of the regulated services.

The ground handling service being provided at Chennai International Airport, Chennai has a materiality index of 11.3%, which is greater than 5% materiality Index fixed for the subject service, hence the service is deemed as "material", in terms of Clause 4.3 of the Guidelines.



- 2.3 As per the information furnished by Cambata in Form F1 (b) on the Competition Assessment, following service providers are rendering similar service at Chennai International Airport:
- (i) M/s Air India
  - (ii) M/s Bhadra International India Ltd.
- 2.4 The Guidelines provide that where a regulated service is being provided at a major airport by two or more service providers(s), it shall be deemed 'competitive' at that airport. In the instant case with the total number of players being two, the service is deemed 'material but competitive.'
- 2.5 It was observed that in the instant case the ground handling services at Chennai International Airport, Chennai being provided by Cambata is "material but competitive" and hence may be regulated under light touch approach for tariff determination.
- 2.6 The Authority, vide its Order No.17/2010-11 dated 31.03.2011, while extending the timeline for submission of MYTP by the Independent Service Providers (ISP(s)) upto 30.04.2011 had also decided that, in the interim, all ISP(s) may continue to charge the tariffs as prevalent on 01.09.2009 or as may have been approved/determined by the Authority thereafter with effect from 01.4.2011 and upto the date when the new tariffs as may be approved by the Authority became applicable and that this interim arrangement would be subject to the condition that the concerned independent service providers submit the MYTP latest by 30.04.2011. In case any service provider(s) fails to submit MYTP on or before 30.4.2011, the interim arrangement in respect of such service provider (s) would cease to be effective.
- 2.7 The Authority also noted that Cambata had submitted the MYTP for ground handling services provided by them in respect of Chennai International Airport, Chennai as per the timelines prescribed in the Guidelines.
- 3.1 The Authority, vide Consultation Paper No. 18/2011-12, dated 26.09.2011 proposed for stake holder consultation that the ground handling services provided by Cambata at Chennai International Airport, Chennai are "material but competitive" and hence the Authority may adopt a "Light Touch Approach" for determination of tariff in the first control period w.e.f. 01.04.2011.
- 3.2 In response to the Consultation Paper, comments have been received from Cambata Aviation Pvt. Ltd. vide their letter no. NIL dated 10.10.2011, Airports Authority of India (Chennai airport) vide their letter no. AAM/C.2114/Vol.III/2006/2568-69 dated 10.10.2011 and M/s Bhadra International India Pvt. Ltd., vide their letter no. BHADRA/AERA/MYTP/2011-12 dated 07.10.2011.



3.3 In its comments on the Consultation Paper, Bhadra has inter-alia stated that:-

*“Airports Authority of India (AAI) had invited global tenders in 2009 for selection of ground handling service provider as per Regulation 3 (iii) of Regulation 2007. AAI selected through competitive bidding M/s Bhadra International India Ltd. from amongst others for Chennai, Kolkata, Trivandrum, Calicut, Coimbatore, Trichy and Mangalore airports. M/s NAS Kuwait was selected for Goa, Pune and Ahmedabad airports.*

*M/s Cambata Aviation Pvt. Ltd., opted not to participate in the said tenders for these airports invited by AAI and no award has been made to Messrs. Cambata Aviation by AAI to provide the ground handling services at the airports at Chennai, Kolkata, Trivandrum, Calicut, Coimbatore, Trichy and Mangalore and as such they come under the category of non-entitled entities (that is, not approved ground handlers).*

*In terms of regulation 3(4) of Regulations 2007, entities not governed by these regulation shall not be permitted to provide/undertake ground handling services with effect from January 2009 which the Appropriate Authority has been extended till 31.12.2010.*

*In view of the above fact, M/s Cambata Aviation should not be allowed to continue at Chennai and Ahmedabad airports. Approving of MYTPs of Cambata Aviation for the above named airports under the above circumstances will seriously jeopardize the very sensitivity of the selection of the ground handling service provider through global competitive bidding. Further, since M/s Cambata Aviation Pvt. Ltd. has not participated in the tender as per Regulation 3(iii) and it is understood that they have not obtained the security clearance for Chennai and Ahmedabad, approving of MYTPs of Cambata Aviation will have far reaching legal ramifications & consequences.”*

4. The Authority considered the submissions made by the stakeholders and observed that:

- (i) Cambata is providing ground handling services at Chennai airport and has submitted MYTP for 1<sup>st</sup> Control Period for consideration by the Authority.
- (ii) Though AAI had notified the Ground Handling Regulations, the same have been challenged in courts by different entities and this matter is,



presently, pending before the Supreme Court, which has ordered that status quo is to be maintained.

- (iii) Bhadra has stated that Cambata should not be permitted to continue at Chennai and Ahmedabad. However, AAI has not stated that Cambata is not to be permitted to provide ground handling services at Chennai airport. Further, none of them have denied the fact that Cambata is providing ground handling services at Chennai airport. Thus, the fact remains that Cambata is providing ground handling services at Chennai airport. As per AERA Act, the Authority is mandated to determine the tariffs for aeronautical services. Ground handling being an aeronautical service and Chennai being a major airport, the Authority is required to determine tariffs for ground handling services provided at Chennai airport. As Cambata is providing this service, hence, the Authority has to determine tariffs for ground handling services provided by Cambata at Chennai airport.
- (iv) AAI in their comments on the Consultation Paper, have invited reference to the Airports Authority of India (General Management, Entry for Ground Handling Services) Regulation of 2007 and submitted that Cambata Aviation is a non-entitled entity, to provide ground handling services at Chennai Airport and that permission given to Cambata is on temporary basis pending appointment of licensees as per the ground handling services. AAI has further stated that the details given in Form 1(b) i.e. Competitive Assessment is not correct and only two authorized agents have been approved by AAI at Chennai Airport as on date and the same are Air India and Consortium comprising M/s Bhadra International India Ltd. along with M/s Novia International Consulting Aps as per the AAI ground handling regulation of 2007. Hence the determination of tariff for the 1<sup>st</sup> control period w.e.f. 01.04.2011 in respect of Cambata only be for the period as permitted to provide temporary service at Chennai Airport. But, they have indicated that the approval of tariff be permitted for the period as permitted to provide temporary service at Chennai Airport.
- (v) Thus, while, Bhadra has submitted that the MYTP should not be considered, AAI has submitted that determination of tariff for the 1<sup>st</sup> control period w.e.f. 01.04.2011 in respect of M/s Cambata Aviation Pvt. Ltd. should only be considered up to which they are permitted to provide temporary ground handling services at Chennai Airport.
- (vi) The Order and Guidelines for determination of tariff for the Independent Service providers rendering cargo facility, ground handling and supply of fuel to aircraft at a major airport have been finalized based on extensive stakeholder consultation.
- (vii) In the instant case, Cambata's MYTP had been put up for stakeholder consultation in terms of provisions under the AERA Act, 2008 and also



as per the Order and Guidelines referred above. The Authority had put up for stakeholder consultation following issues:

*“The ground handling service provided by Cambata at Chennai Airport, is “material but competitive”. Hence, the Authority may adopt a “Light Touch Approach” for determination of tariff for the 1st Control period w.e.f 01.04.2011. ”*

- (viii) The Authority is to regulate aeronautical tariff for the aeronautical services as per the mandate of AERA Act, 2008. Cambata is providing an aeronautical service (i.e. ground handling) at Chennai Airport which is a major airport. Thus, tariff for aeronautical services in respect of ground handling is to be determined by the Authority. Cambata have furnished their MYTP for the Authority's consideration and approval. The Authority has since considered the proposal and put up for stakeholder consultation its views to regulate their service under light touch approach, as the service is deemed 'material and competitive'. The determination of tariff by Authority, for the aeronautical services being rendered by Cambata, is in accordance with the AERA Act.
- (ix) Further, it needs to be made clear that AERA's order of determination of tariff for ground handling services currently being provided by Cambata at Chennai airport is, in no way, to be construed as grant of any licence/permission to Cambata to provide such services in future, as the aspect of appointment of various service providers for ground handling services is governed by the relevant Regulations and is to be decided by the relevant competent authority. For this purpose, AERA's order will not affect rights of any party in this matter. In view of the above, the Authority may adopt a light touch approach for determination of tariff for the 1st Control period w.e.f. 01.04.2011 for the ground handling service provided by Cambata at Chennai Airport, as the service is “material but competitive”.

**ORDER:**

5. Upon careful consideration of material available on record, the Authority, in exercise of its powers conferred by Section 13(1) (a) of the Act hereby orders that:

- (a) The services provided by Cambata Aviation Pvt. Ltd., the Ground handling Service provider at Chennai International Airport, Chennai are “material but competitive”. Hence the Authority will adopt a “light touch approach” for determination of tariff for the 1<sup>st</sup> Control Period w.e.f 01.04.2011.
- (b) Cambata Aviation Pvt. Ltd., may submit its Annual Tariff Proposal 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.

- (c) This order of determination of tariff for ground handling services- currently being provided by Cambata at Chennai airport, is being issued under and in accordance with the provisions of AERA Act and will, in no way, be construed as modifying/altering the provisions of any agreement/arrangement etc., including provision of termination/suspension etc., that Cambata may have with AAI or any other Authority/Government etc. The instant determination permits Cambata to only charge/levy certain tariffs for ground handling services provided by it at Chennai airport, and does not confer any rights/claims whatsoever on Cambata for appointment as service provider for providing any services at Chennai airport. Further, for this purpose, this order will not affect the rights of any party in this matter.



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

  
**(Capt. Kapil Chaudhary)  
Secretary**

**To**

**M/s Cambata Aviation Pvt. Ltd.,  
East Wing, 5<sup>th</sup> Floor,  
M.Karve Road, Church Gate,  
Mumbai – 400 020  
(Through: Mr. APM Casserly, Chief Operating Officer)**

