

[F. No. AERA/20010/DIAL-DF/20010-11]
Airports Economic Regulatory Authority of India
Order No. 47/2015-16

**AERA Building,
Administrative Complex,
Safdarjung Airport,
New Delhi - 110003**

**Date of Order: 25th January, 2016
Date of Issue: 3rd February, 2016**

**Airport Operator: Delhi International Airport (P) Ltd.
Airport: Indira Gandhi International Airport (IGIA) New Delhi.**

In the matter of review of Development Fee at IGI Airport, New Delhi and determination of cut-off date to discontinue DF.

1 Brief facts

1.1 The Central Government had, vide its Order No. AV. 24011/002/2008-AD dated 09.02.2009, granted approval for levy of DF @ Rs. 200/- per departing domestic passenger and @ Rs. 1300/- per departing international passenger by M/s. Delhi International Airport Private Limited (DIAL), under section 22 A of the Airports Authority of India Act, 1994, purely on an ad hoc basis, for a period of 36 months w.e.f 01.03.2009 to fund the project. One of the conditions of approval was that the final determination of the levy be made by the Government/Regulator upon compliance of the following two milestones:

- a) DIAL would submit final project cost estimates within 6 months of the commencement of levy, i.e., latest by 31.08.2009. The project costs so submitted, including amount of contingencies, and their utilization shall be audited by an independent technical auditor to be appointed by AAI or as the Regulator/Government may decide.
- b) DIAL would undertake a review of the bidding process in respect of the hospitality district. They may approach the Government with the outcome of the review within 6 months of the commencement of levy, i.e., latest by 31.08.2009.

1.2 After establishment of this Authority, DIAL requested for extension of timeline for submission of project cost upto February 2010 instead of 31.08.2009 as indicated in Order No. 28/2011-12. After due consideration and in consultation with the stakeholders, this Authority had extended the timeline upto 31.01.2010. In the meantime, DIAL was permitted to continue levy of DF as approved by MOCA vide their letter dated 09.02.2009 on the assumption that final project cost would be restricted to the original estimate of Rs.8975 crores (as was projected to the Ministry

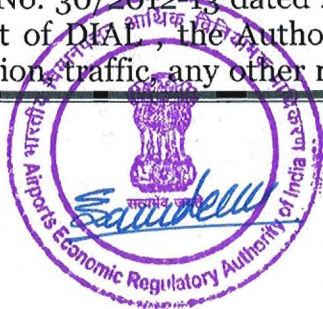


in October, 2009).

- 1.3 Thereafter, DIAL submitted the project cost estimates. As per DIAL, the final project cost was revised to Rs.12857 cores as against Rs.8975 cores. The total funding gap of Rs.3620 crores was accordingly, projected. The project cost was submitted by DIAL after audit by their internal auditors M/s.Brahmaiyya & Co. and with the approval of DIAL's Board.
- 1.4 The auditor's recommendations were examined by the Authority in consultation with the AAI and Ministry of Civil Aviation (MoCA). Views of DIAL were also obtained.
- 1.5 After careful consideration of the views of MoCA, AAI and DIAL, the Authority had formulated its tentative views and they were put forth for stakeholders consultation vide Consultation Paper No. 02/2011-12 on 21.04.2011 and stakeholder consultation meeting was also held on 09.05.2011 with the stakeholder to elicit their comments/ views in person. The minutes of the meeting were uploaded on the Authority's website.
- 1.6 In the meantime, the levy of DF was challenged before various appellate including the Hon'ble Supreme Court. However, the levy of DF, per-se, was upheld in the Supreme Court Order dated 26.04.2011 and vide Para 23 (v) of the judgment, Supreme Court had categorically held that henceforth any development fees that may be levied and collected by DIAL and MIAL, i.e. the lessees of Delhi and Mumbai Airports at the rates as may be determined by Airports Economic Regulatory Authority under Section 22A of the Airports Authority of India Act, 1994 as amended by the Airports Economic Regulatory Authority of India Act, 2008 and shall be credited to the Airports Authority and will be utilized for the purposes mentioned in clauses (a), (b) or (c) of Section 22A of the 1994 Act in the manner to be prescribed by the rules.
- 1.7 Subsequently, having perused the records and upon due consideration of all facts, circumstance and submissions made by the stakeholders, the Authority passed the following vide Order No. 28/2011-12:

"25. In exercise of powers conferred by Section 13(1)(b) of the AERA Act, 2008 read with Section 22A of the AAI Act, 1994, the rate of Development Fee to be levied by DIAL at IGI Airport, New Delhi is determined as Rs.200/- per embarking domestic passenger and Rs. 1300/- per embarking international passenger (exclusive of statutory levies, if any) to bridge the funding gap of Rs. 1230.27 crores (NPV as on 1.12.2011). The levy shall commence with effect from 01.12.2011 and at present, is estimated to continue for a period of 18 months upto May, 2013 (Stage -1). In respect of costs not incurred by DIAL as on 31.03.2010, the same shall be included in the project cost for the purposes of levy of DF subject to the condition that the costs as may be actually incurred by the time DF aggregating to the funding gap of Rs. 1230.27 crores (on NPV basis) was collected, the tenure of levy would be further extended to cover these costs as indicated in para 23.2 above. The Authority will review the monthly collections on the basis of audited figures provided by the AAI and DIAL and take appropriate decisions as may be required, based on such review."

- 1.8 Subsequent to the above, Authority further issued Order No. 12/2012-13 dated 25.07.2012 and Order No. No. 30/2012-13 dated 28.12.2012 to meet the DF. As per DF Order issued in respect of DIAL, the Authority is also required to review the billing of DF, its securitisation, traffic, any other means of finance during the tenure



of DF and make appropriate decisions as may be required.

- 1.9 The Authority also identified the allowable project cost, means of funding the project and the funding gap in respect of IGI Airport, Delhi in the tariff order for the airport. The details are given in the Table below:

Table 1: Allowable project cost, means of funding the project, and the funding gap as per Delhi Tariff Order No. 3/2012-13

Particulars	Rs. in crore	
Final project costs as submitted by DIAL in Applications		12,857.00
Items proposed to be excluded		
Apron	23.82	
Runway 10-28	37.50	
Escalation for reinforcement	35.67	
Upfront Fee	150.00	
Gross floor area 8652 sq.	107.15	
Total exclusions		354.14
Balance (Allowable Project Cost)		12,502.86
Means of Finance		
Equity capital and Share Application Money less upfront fee	2,300.00	
Rupee Term Loan	3,650.00	
Foreign currency loan	1,616.00	
Internal accruals	50.00	
Refundable Security Deposits	1,471.51	
Total Means of Finance		9,087.51
Funding Gap		3,415.35

2 DF securitisation by DIAL:

- 2.1 To cover the above financial gap, DIAL securitised DF over each year of the first control period and DIAL had submitted an Auditor certificate stating the actual drawdowns of loan availed by it. DIAL informed that portions of this loan have been used to repay the outstanding DF loan. However, during further reconciliation and based on updated certificates provided by DIAL, the Authority has noted that the actual DF draw down schedule is as given below:

Table 2: Securitization plus Expenditures on DF as considered by the Authority for 1st Control Period vide Its Order no. 40/2015-16

INR (Crores)	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
DF Securitization by DIAL	250.00	1577.00	0.00	867.08 #	510.67	36.62
Total						3241.37

#Rs. 1230.27 crores less (Rs. 342.92 crores DF loan balance out of Rs. 1827crores plus Rs20.19 crores released by AAJ during the period of suspension plus Rs. 0.08 crores- net short loan availed).



3 Reconciliation of DF amount:

- 3.1 The allowable DF was determined as Rs 3,415.35 Cr. The Authority had noted in DF order that the projected capital expenditure is Rs. 350 crore for "New ATC block" and the same is part of the sanctioned DF of Rs 3415.35 Crore. DIAL has not yet capitalized the "New ATC block" as the same is under construction. However, as on 31.12.2015, apart from securitized amount of Rs. 3204.75 crores plus Rs. 20.19 crores transferred by AAI, an amount of Rs. 159.82 crores has been incurred by DIAL, on the ATC block vide Independent DF Auditor's Report.
- 3.2 **ATC Block and CNS work status:** The ATC Tower and associated facilities have to be relocated in view of the expansion program of the Airport project. As per Clause 3.3.18 of the CNS-ATM agreement, the cost of re-location is to be borne by DIAL. MoCA have also informed that in terms of CNS-ATM agreement DIAL is obligated and would be bearing the cost. According to AAI / DIAL report, CNS equipment have been received and same are currently under installation. ATC tower cum technical block along with CNS equipment are likely to be capitalised soon and accordingly adjusted from RAB.
- 3.3 DIAL in its FY2011-12 financial statements has expensed out Rs. 162.12 crore and also accounted the remaining amount of Rs. 188.38 crore as capitalized. After considering the submission by DIAL and the financial statements, the Authority, vide its Decision No.16 of the Delhi Tariff Order No. 3/2012-13, allowed the interest to the tune of Rs. 350.50 crores incurred on securitised DF amount of Rs 1827 Crore as an O&M expense in FY 2011-12 in the first Control Period.
- 3.4 Airport Authority of India is the nodal agency to maintain Escrow account on DF. AAI, thus, was requested to submit their specific comments and recommendations on DF Auditors Report.
- 3.5 AAI and the Independent Auditors have confirmed the following details w.r.t. securitisation of DF and the expenditure incurred.

Table 3: DF securitization plus expenditures as per email dated 01.12.2015

TNR (Crores)	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16 (till September)
DF Securitization by DIAL	250.00	1577.00	0.00	867.08	510.67	36.62	106.48	13.58
Total					3204.75			3361.43

4 Examination

- 4.1 As per DF Order No. 28/2011-12 issued in respect of DIAL, the Authority is required to review the billing of DF, its securitization, traffic, any other means of finance during the above mentioned tenure of DF and make appropriate decision as may be required. The Authority had issued Order no. 12 / 2012-13 dated 25.07.2012 and Order No. 30 / 2012-13 dated 28.12.2012 based on review of DF. The current review is to arrive at the cut-off date for DF levy at IGIA and also to account for the DF collected and receivable.



Table 4 DF allowed Vs. utilisation by DIAL (Rs. In crores)

Particular	Total DF sanctioned (A)	DF loan securitization availed (B)	DF directly paid by AAI (C)	Expenditure allowed on actual basis against DF till Dec. 2015 (D)	Total E = (A+B+C+D)	Balance Expenditure allowed under DF (A-E)
DF loan amount	3415.35	3204.75	20.19	159.82	3384.76	30.59

- 4.2 The Authority, is of the view that accounting of DF on collection basis appears to be more appropriate as DF is a last resort of finance and the DF amount collected is to be accounted against payment of principal and its interest as part of prudent financial management.
- 4.3 The final cut off date has been determined taking into account data on collection basis. The Authority has noted from the Independent DF Auditor reports forwarded by E-mail dated 27.01.2016 that the DF principal outstanding is Rs. 167.89 crores as on 31.12.2015 as per details given below. It is also noted an outstanding (receivable) total amount of Rs. 77 crores is to be recovered from the various airlines.

Table 5 showing phasing of the DF repayment (Rs. In crores)

Particular	Total DF sanctioned	Amount accounted towards repayment of DF principal till Dec. 2015	Balance DF principal payable to DIAL w.e.f. 31.12.2015	Balance Expenditure allowed under DF	Total balance to be paid to DIAL	Recoverable from the airlines as per DF auditor report	Balance DF amount to be recovered from passenger
	(A)	(B)	(C)	(D)	E=(C+D)	F	G=(F-E)
Loan Amount	3415.35	3216.87	167.89	30.59	198.48	77.00	121.48*
Interest	350.50 paid O&M 330.67 through DF Passenger contribution						

*It includes Rs. 30.59 crores to be paid for ATC/CNS on expenditure basis

- 4.4 Keeping in view the average monthly collection of Rs. 30 crores, the balance DF is likely to be recovered by 30.04.2016 after taking into account the dues recoverable from airlines.
- 4.5 The Authority grants AAI six-month time after the cut-off date to reconcile and close the account, and to arrive at the over-recovery or under-recovery of DF.



ORDER

5. Upon careful consideration of material available on record, the Authority, in exercise of powers conferred by Section 13(1)(b) of the Airports Economic Regulatory Authority of India Act, 2008, hereby orders that:

- (i) The DF levy of Rs. 100 per embarking domestic passenger and Rs. 600 per embarking international passenger as approved vide Order No. 30/2012-13 dated 28.12.2012 at IGI Airport shall be continued only till 30.04.2016.
- (ii) The DF contribution by passengers till 30.04.2016 (2400 hrs IST) shall be accounted by raising bills based on passengers' contribution details in Airlines manifesto. DIAL/AAI shall take steps to collect the amounts due and the interest on belated payments from the airlines till all the outstanding receivables are realised.
- (iii) The AAI be granted six-months time after the cut-off date to reconcile and close the account, and to arrive at the over-recovery or under-recovery of DF.
- (iv) Based on AAI's report, the Authority shall review and decide on the treatment of over recovery or under recovery of DF and to close the DF Account.

By the Order of and in the
Name of the Authority



(Satish Sachdeva)
Under Secretary (F&A)

To,

Delhi International Airport Pvt. Limited,
New Udaan Bhawan,
Opp. Terminal 3, IGI Airport,
New Delhi - 110037

(Through: Shri. I. Prabhakara Rao, Chief Executive Officer)

