

Airports Economic Regulatory Authority of India

Order No. 13/2014-15

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

Date of Order: 14<sup>th</sup> October, 2014  
Date of Issue: 15<sup>th</sup> October, 2014

**In the matter of tariff (s) for Aeronautical Services in respect of IGI Airport, New Delhi – continuation of existing tariffs beyond 31.10.2014.**

In continuation of this Authority's Orders No. 39/2013-14 dated 18.03.2014 (issued on 26.03.2014) & 04/2014-15 dated 21.04.2014 (issued on 02.05.2014), the Authority notes the following:

1. The Authority's tariff order 03/2012-13 dated 20.04.2012 (issued on 24.04.2012) was challenged by DIAL before the Ld. AERAAT by way of statutory Appeal No.10/2012. Similar cross appeals were also preferred by the Federation of Indian Airlines, Lufthansa German Airlines and IATA. The said appeals were accompanied by an application for stay of tariff order dated 20.04.2012 (issued on 24.04.2012) which were not pressed/not granted by the Ld. AERAAT. Sometime in December 2013, DIAL also preferred IA No.35 of 2013 inter-alia seeking a direction that the Authority not proceed to decide tariff for the Second Control Period until Appeal No.10/2012 is disposed off by the Ld. AERAAT. Notice was issued thereon by the Ld. AERAAT's order dated 05.12.2013. The said application was not specifically pressed thereafter and the appeals continued to be heard from time to time.
2. DIAL then filed Writ Petition (Civil) No.5476/2014 before the Hon'ble Delhi High Court inter-alia praying as under:-
  - (i) *The Appeal No.10 of 2012 should be decided as expeditiously as possible in a time bound manner;*
  - ii) *the existing status quo in respect of the Aeronautical Tariff for IGI Airport, New Delhi dated 20.04.2012 should continue till final disposal of the Appeal, in line with the extensions granted by the Respondent No. 2 on 26.03.2014 and 02.05.2014"*
3. The said Writ petition came up before a Learned Single Judge of the Hon'ble High Court of Delhi who passed an order dated 03.09.2014, which is extracted below in its entirety for convenience:

*"The petitioner has filed the present petition inter alia praying as under:-*

- i) *The Appeal No. 10 of 2012 should be decided as expeditiously as possible in a time bound manner;*



ii) the existing status quo in respect of the Aeronautical Tariff for IGI Airport, New Delhi dated 20.04.2012 should continue till final disposal of the Appeal, in line with the extensions granted by the Respondent No. 2 on 26.03.2014 and 02.05.2014.

By an order dated 20.04.2012, the Tariff for the Control Period of five years ending on 31.03.2014 has been fixed. The said tariff was further extended upto 31.10.2014, by an order dated 21.04.2014.

It was pointed out that the Airports Economic Regulatory Authority Appellate Tribunal (AERAAT) is not functioning currently as the term of the erstwhile constituents had come to an end.

Although, it is expected that the said Appellate Tribunal (AERAAT) would be constituted shortly and a direction for the expeditious disposal of the appeal, obviously, cannot be granted.

With regard to the second prayer that the tariff as fixed on 20.04.2012 should continue till final disposal of the appeal, it is submitted that the respondent had extended the tariff fixed on 20.04.2012 till 31.10.2014, by an Order dated 21.04.2014 which reads as under:-

“In continuation of this Authority’s Order No.39/2013-14 dated 26.03.2014, the Authority further orders that:

i) Aeronautical tariff(s) approved by the Authority vide Order No.03/2012-13 dated 24.04.2012 shall continue upto 31.10.2014 or until the final determination of the tariffs for the second control period (i.e. 2014-2019), whichever is earlier.

ii) The revenue so collected by the airport operator (DIAL) during such period shall be adjusted from the Aggregate Revenue Requirement for the Second control period starting w.e.f. 01.04.2014.”

In the given circumstances, it is expected that either the tariff fixed earlier would continue or a fresh arrangement would be made after 31.10.2014 for a further period after 31.10.2014. If no such arrangement is made or order is passed by any authority i.e. AERA or AERAAT, the order passed on 21.04.2014 shall continue till further orders are passed by any competent authority.

The petition and the application are disposed of with the aforesaid directions.

[Emphasis above supplied by the Authority]

4. Being unsatisfied with the above, DIAL has then preferred LPA No. 670/2014 which came up on 29.09.2014, on which hearing the Ld. Division Bench of the Hon’ble High Court of Delhi was pleased to pass the following interim order:

“We have heard Mr. Rajiv Nayar, Senior Advocate and Mr. Gopal Jain, Senior Advocate appearing on behalf of the appellant as well as Mr. Sanjay Jain, Learned ASC appearing for the Respondent No.1 and Mr. Atul Nanda, learned Senior Advocate appearing for the Respondent No.2.

*It is observed that no notice is served on Respondent No.3 Federation of Indian Airlines (FIA) even in the writ petition.*

*Issue notice to respondent No.3 FIA by all modes including dasti, returnable on 11.11.2014.*

*The tariff determined by the Respondent No.2 for the First Regulatory Period shall be continued until further orders.*

*However, this shall not preclude the Respondent No.2 to determine the tariff for the Second Regulatory Period following due process of law. The statement of the learned senior counsel for the appellant that the information as sought by the Respondent No.2 for determination of the tariff for the Second Regulatory Period will be made available within three weeks from today is placed on record”.*

5. The Authority is in the process of determining the tariff for the second control period and is cognizant of the fact that the issue of Consultation Paper is likely to take some time. Hence in the interest of avoidance of a regulatory vacuum and further to the above order of the Hon'ble Delhi High Court that pending a fresh determination for the Second Regulatory Period the present tariff Order dated 20.04.2012 (issued on 24.04.2012) shall continue, the Authority extends the operation of tariff Order dated 20.04.2012 (issued on 24.04.2012) upto 31.01.2015 or until the final determination of the tariffs for the second control period (i.e. 2014-2019), whichever is earlier. Needless to say, and in due deference to the Hon'ble High Court, this is subject to and is to be read along with the above quoted order dated 29.09.2014 passed by the Hon'ble Delhi High Court in LPA 670/2014 and further orders as may be passed in the matter.

6. The revenue so collected by the airport operator (DIAL) during such period shall be adjusted from the Aggregate Revenue Requirement for the Second control period starting w.e.f. 01.04.2014.

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

*Alok Shekhar*  
**(Alok Shekhar)  
Secretary**

**To,**

**Delhi International Airport (P) Limited  
New Udaan Bhawan,  
Opp. Terminal 3, IGI Airport,  
New Delhi- 110 037  
(Through: Shri Srinivas Bommidala, Managing Director)**

