

Airports Economic Regulatory Authority of India

Order No. 18 /2013-14

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

**Date of Order: 24th May, 2013
Date of Issue : 21st June, 2013**

In the matter of Annual Tariff Proposal submitted by M/s Cambata Aviation Pvt. Ltd. for First and Second Tariff Years of the first control period for providing Ground Handling Services at Chennai International Airport, Chennai.

M/s Cambata Aviation Pvt. Ltd., (Cambata) submitted their Multi Year Tariff Proposal (MYTP) for first control period commencing 01.04.2011 in respect of the tariff for the ground handling services provided at Chennai International Airport, Chennai. The Authority considered the submissions made Cambata and issued Consultation Paper No. 31/2012-13 dated 26.11.2012 for Stakeholder Consultation. Pursuant to the stakeholder(s) Consultation, the Authority issued Multi-Year Tariff Order (MYTO) No. 31/2011-12, dated 05.12.2011, as under:

- (a) *"It shall adopt a "light touch approach" for the Ground Handling Services provided by Cambata Aviation Pvt. Ltd.(Cambata) at Chennai International Airport, Chennai for the first control period starting w.e.f 01.04.2011.*
- (b) *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. 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 nay party in this manner".*

2. Thereafter, Cambata vide their submission dated 28.06.2012, 23.07.2012 and 27.08.2012, submitted the Annual Tariff Proposal (ATP) for the first tariff year



(2011-12) and second tariff year (2012-13) of the first control period for ground handling services at Chennai International Airport, Chennai.

3. The Authority considered the ATP(s) submitted by Cambata and issued Consultation Paper No. 31/2012-13 on 26.11.2012 for stakeholder(s) Consultation.

4. In response to the proposal contained in Consultation Paper No. 31/2012-13, comments were received from Airports Authority of India (AAI) and M/s Bhadra International India Limited (Bhadra).

5.1 AAI had vide their letter dated 30th November 2012, in response to above Consultation Paper, stated that:

".....AAI has already positioned a Ground Handling Agency and M/s Air India are also providing ground handling services as per Ground Handling Regulations -2007 formulated by Government of India. Hence, M/s Cambata Aviation Private Limited carrying out ground handling activities at Chennai & Kolkata airports is not tenable as they are also one of the non-entitled agencies.

Hence, we request you to kindly not to further process the Multi Year Tariff Proposal for Chennai airport by any non-entitled agencies without the specific recommendation of the airport operator..."

5.2. Bhadra had vide their letter dated 05.12.2012, on the above said Consultation paper, stated that:

"...M/s Cambata Aviation Pvt. Ltd. has been misusing AERA's order No. 31/2011-12 and making a camouflaged misrepresentation to the airline industry as an authorized Ground Handling Service Provider at Chennai Airport whose tariff rates are under consideration of approval by AERA.

*As a duly appointed Ground Handling Service provider by Airports Authority of India against an open competitive bidding in which M/s Cambata chose to abstain, we have been informed that neither M/s Cambata have been appointed as Authorised Ground Handling Services Provider nor their case has been recommended to appropriate Central Government Authorities by Airport Authority of India for security clearance at any stage. In view of the above facts the status of M/s Cambata is no more than that of a **"Non Entitled Agency"** only.*

In view of the above, Bhadra strongly believes that as M/s Cambata has neither been authorized nor security cleared to operate at Chennai airport. Therefore consideration of a request from them for approval of the tariff for provision of Ground Handling Services may not be sustainable.



..... earnestly request AERA to withdraw its Order No. 31/2011-12 and not proceed with approval process of Multi Year Tariff Proposal for Chennai Airport as submitted by M/s Cambata”.

5.3 In response to comments of AAI and Bhadra, Cambata vide their letter dated 04.01.2013, furnished its reply to the Authority as under:

“We had then informed AERA that we have been providing Ground Handling Services at Chennai Airport from 2005 even though our’ appointment as Ground Handling Agency is not in accordance with Ground Handling Regulations 2007, however AAI has permitted us to render our services to various international m 2007, our Security Clearance is a matter which is sub judice in the Delhi High Court.”

... Secondly as per Ground Handling Regulations 2007 of the Government of India MoCA, at Chennai & Kolkata Airports, the AAI were to appoint and position 3 ground handlers inclusive of Air India which till date has not been accomplished. We did not participate in the AAI tender for Chennai & Kolkata region airports as we had sought clarifications from AAI in relation to their tender terms and conditions document. As AAI did not revert with the clarifications to our query nor accede to our request for a bidders meet, we placed on record with AAI our right to participate should the terms and conditions of the tender be revised. As on today we have been advised that Bhadra International has not fulfilled AAI’s all tender conditions.

In view of the above we requested AAI to allow us to continue at Chennai until a third ground handler is appointed and positioned, with a commitment that we will participate as and when the tender for a third handler is announced. We have even agreed and currently pay the same amount of royalty/Licence Fee @32.5% as applicable to Bhadra International to AAI at Chennai”

6.1 The Authority considered the submission and sought the following clarifications from AAI.

- (a) *The meaning and significance of “non-entitled agency” vis-à-vis rendering services and for the purpose of determination of tariffs for such services.*
- (b) *Whether by virtue of being “non-entitled agency”, AAI has prohibited Cambata from providing ground handling services at Chennai airport (i.e. by not issuing security passes etc. to employees of M/s Cambata).*
- (c) *Whether AAI wants the Authority not to determine tariffs in respect of ground handling services provided by Cambata at Chennai airport despite the fact that Cambata is providing ground handling services at Chennai airport and whether such non-determination would tantamount*



to contempt of court – in view of the fact that the matter related to Ground Handling Regulations is pending decision before the Hon'ble Supreme Court.

6.2 AAI have, vide letter no. COM/931/1.1/GHA/Policy/2012/ 407 dated 14th March, 2013 forwarded its clarifications. However, AAI did not specifically clarify the issues raised by the Authority.

6.3 AAI mentioned that *"non-entitled agencies are those agencies who are not authorized to undertake ground handling services at airports in terms of Gazette Notification dated 18.10.2007 related to Airports Authority of India Ground Handling Regulations, 2007"*. However, AAI did not explain the significance of non-entitled agency vis-à-vis an agency rendering such ground handling services for the purpose of determination of tariff for such services.

6.4 To the Authority's query - whether Cambata has been prohibited from providing ground handling services at Chennai airport (by virtue of it being "non-entitled agency"), AAI submitted that *"this agency has been permitted to provide ground handling services temporarily in view of the direction of the Bureau of Civil Aviation Security (BCAS) conveyed vide their letter No. CAS-7(23)/2007-DIV-I (Cambata Court Case) dated 3.12.2012 consequent upon the order dated 3.12.2012 of Hon'ble Delhi High Court in the Writ Petition No.(C) 5959/20012 between M/s Cambata Aviation and Union of India"*.

6.5 Further, the Authority sought clarification on whether AAI wants the Authority not to determine tariff in respect of ground handling services provided by Cambata at Chennai Airport. In response, AAI stated that the *"...grant of approval in respect of tariff proposed by Cambata is not in accordance with the ground handling requirements. AAI is only requesting AERA not to process the case with regard to Chennai as AAI had already given license to another agency for ground handling operations, in addition to the National Carrier"*.

6.6 Clarifications regarding whether such non-determination would tantamount to contempt of court in view of the fact that the matter is pending decision before the Hon'ble Supreme Court, is awaited from AAI.

6.7 Further, AAI also stated that *"under such circumstances any approval of charges by AERA may create certain legal hurdles to remove all the non-entitled agencies from ground handling operations"*. *"However, if there are any directions from the Competent Authority/Hon'ble Court in regard to continuation of M/s Cambata Aviation in ground handling operations at Chennai Airport, the same would complied by AAI"*.

6.8 In view of the above, the Authority observed that AAI has not dis-allowed Cambata from providing ground handling services at Chennai International Airport and that Cambata continues to provide this service. Thus tariff proposal submitted by



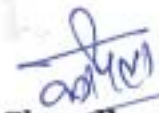
Cambata has to be considered by the Authority and tariffs for aeronautical service provided by it at the major airport, i.e. Chennai International Airport, have to be determined under the Airport Economic Regulatory Authority of India Act, 2008 (AERA Act). However, the Authority also observed that mere determination of tariffs based on a particular tariff proposal should not be treated by anyone as a permission to provide that service in any manner.

ORDER

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

- (i) The maximum tariffs for the first tariff year (w.e.f 01.04.2011 to 31.03.2012) and for second tariff year (w.e.f . 01.04.2012 to 31.03.2013) for ground handling services provided by M/s Cambata Aviation Pvt. Ltd at Chennai International Airport are determined as at **Annexure-I**.
- (ii) The instant determination permits M/s Cambata Aviation Pvt. Ltd. to only charge/levy certain tariffs for ground handling services provided by it at Chennai International Airport, and does not confer any rights/claims whatsoever on M/s Cambata Aviation Pvt. Ltd. for appointment as service provider for providing any service at Chennai International 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 (Retd.)]
Secretary

To,

**M/s Bhadra International India Limited,
B-4/62, Safdarjung Enclave,
New Delhi-110029
(Through Shri Prem Bajaj, Chairman & Managing Director)**



CAMBATA AVIATION PVT LTD
CHENNAI

Form F14 (b) - Annual Tariff Proposal for Tariff Year- 1 (2011-12)

GROUND HANDLING SERVICES

Aircraft Type	Maximum		Discount/Surcharge
	(IN USD)	(IN INR)	
B777	1800	90,000	NIL
B777-(F)	2000	100,000	NIL
A330-200	2300	115,000	NIL
B747F	4400	220,000	NIL
A330	2500	125,000	NIL
A300-(F)	2550	127,500	NIL
B747-200-(F)	5300	265,000	NIL

CARGO DOCUMENTATION SERVICES	
A/c Type	DO fees- per MAWB (in Rs.)
A330	725
A8300F	725
B-747/767	950

1. Please note that as per the agreement signed with all airlines our tariffs are quoted in USD and for ATP-Purposes the same have been converted at the average rate of 1 USD=INR 50
2. Our tariffs given above are inclusive of royalties payable to Airport Operators.
3. Under Cargo Services we issue only Deliver Orders on behalf of airlines



CAMBATA AVIATION PVT LTD
CHENNAI

Form F14 (b) - Annual Tariff Proposal for Tariff Year-2 (2012-13)

GROUND HANDLING SERVICES

Aircraft Type	Maximum		Discount/Surcharge
	(IN USD)	(IN INR)	
B777	1800	100,800	NIL
B777-(F)	2000	112,000	NIL
A330-200	2300	128,800	NIL
B747F	4400	246,400	NIL
A330	2500	140,000	NIL
A300-(F)	2550	142,800	NIL
B747-200-(F)	5300	296,800	NIL

CARGO DOCUMENTATION SERVICES	
A/c Type	DO fees- per MAWB (in Rs.)
A330	800
AB300F	800
B-747/767	1050

1. Please note that as per the agreement signed with all airlines our tariffs are quoted in USD and for ATP Purposes the same have been converted at the average rate of 1 USD=INR 56
2. Our tariffs given above are inclusive of royalties payable to Airport Operators.
3. Under Cargo Services we issue only Deliver Orders on behalf of airlines

