

सत्यमेव जयते

Airports Economic Regulatory Authority of India

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**In the matter of Provision of Compensation in lieu of Fuel Throughput Charges at
Dr. Babasaheb Ambedkar International Airport, Nagpur.**

21st August, 2020

**AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003**



1. Introduction

The Airports Economic Regulatory Authority (AERA) is a statutory body constituted under the Airports Economic Regulatory Authority of India Act, 2008 vide Gazette Notification dated 5th December 2008. AERA was established by the Government, to create a level playing field and foster healthy competition among major airports, to encourage investment in airport facilities, to regulate tariffs for aeronautical services etc.

2. Functions of AERA

The main functions of AERA are:

- to determine the tariff for the aeronautical services;
- to determine the amount of the development fees in respect of major airports;
- to determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934 (22 of 1934);
- to monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorized by it in this behalf.

3. Back Ground

In accordance with the provisions contained in Section 13 of Airports Economic Regulatory Authority of India Act (AERA Act), 2008, the Authority determined aeronautical tariffs of Dr. Babasaheb Ambedkar International Airport, Nagpur, for the First Control Period i.e. 01.04.2016 to 31.03.2021 vide Order No. 25/2017-18 dated 30.11.2017.

3.1 As detailed in Table 23 under para 9.2 of the aforesaid Order, the Authority determined Rs.275.39 crores as the total discounted Aggregate Revenue Requirement (ARR) as per Regulatory Building Blocks for the entire 1st Control Period. Fuel Throughput Charge (FTC) was one of the components to achieve this revenue requirement along with other revenues from aeronautical services such as Landing, Parking & Housing, UDF, etc.

3.2 The Fuel Throughput charges (FTC) considered as part of ARR by the Authority as per the above Tariff Order is given in table -1 below:

Table - 1

	FY 2020-21
FTC Charges per KL (in Rs)	540.80 / KL
Revenue (Rs. in crores)	4.27

4. Ministry of Civil Aviation vide letter no.AV.13030/216/2016-ER (Pt.2) dated 08.01.2020 has decided to discontinue the levy of airport operator charge or fuel throughput charge in any manifestation at all airports. Para 4 of the said letter reads as under:

"Keeping in view all aspects of the matter, in light of the need to uphold affordability and sustainability of air passenger and air cargo transportation as per the National Civil Aviation Policy 2016, it has been decided as follows:



- (i) Levy of airport operator charge or fuel throughput charge in any manifestation shall be discontinued at all airports, airstrips and heliports across India with immediate effect.
- (ii) AERA/ Ministry of Civil Aviation, as the case may be, should take into account the amount in this revenue stream and duly compensate the Airport Operator/ MIHAN by suitably recalibrating other tariffs during their determinations of airport tariffs."

5. Considering the above policy decision of MoCA, the Authority vide letter no. AERA/ 20015/FT/2010-11/Vol.II dated 15.01.2020 advised the Airport Operators at all 'major' airports to implement the aforesaid MoCA letter with immediate effect. AERA, also advised the Airport Operators to submit their proposal for compensation, if any, due to discontinuation of Fuel Throughput Charges (FTC) for consideration of the Authority.

6. Accordingly, the Multi-modal International Cargo Hub and Airport at Nagpur (MIHAN) vide letter no. MIL/780/2020/1472 dated 09.07.2020 had submitted its proposal for compensation in lieu of discontinuation of levy of FTC at Dr. Babasaheb Ambedkar International Airport, Nagpur (MIHAN). In its submissions MIHAN had calculated the expected revenue loss on this account to be Rs.5.06 crores for the period 15.01.2020 to 31.03.2021 and proposed the shortfall to be recovered through increase in Landing charges.

The shortfall in revenue for the period 15.01.2020 to 31.03.2021 as submitted by MIHAN is given in Table-2 below:

Table-2 Proposal of MIHAN - Shortfall in FTC Revenue/ Increase sought in Landing charges

Period for which Loss of FTC Revenue claimed by MIHAN	15.01.2020 to 31.03.2020	FY 2020-21	Total FTC loss claimed by MIHAN for 1st Control Period
FTC Revenue Projections as per AERA Tariff Order (Rs. in crores)	0.79	4.27	5.06 (A)
Projected revenue from Landing Charges as per Order no.25/2017-18	4.63 (22.20/12*2.5)	24.84	29.47 (B)
Ratio of FTC Loss to Rev from landing			17.18% (A / B%)



7. Authority's Examination

The Authority carefully examined the proposal of MIHAN in reference to the letter no. AV.13030/216/ 2016-ER (Pt.2) dated 08.01.2020 issued by MoCA.

7.1 The Authority, noted that consequent to the amendment in AERA Act 2008, MIHAN Nagpur Airport, is no longer a 'major' airport. The old AERA Act 2008 has been replaced by AERA (Amendment) Act 2019 which came into effect vide Gazette Notification dated 26-09-2019 wherein the definition of a 'major' airport stands amended – the earlier passenger threshold limit of 1.5 mppa has been revised to 3.5 mppa.

However, in terms of the clarification issued in this regard by Ministry of Civil Aviation (MoCA) vide letter no. AV.20036/9/2017-AD dated 14.01.2020, the aeronautical tariff as already determined by AERA for Nagpur Airport shall continue to be applicable till the end of the current control period (FY 2016-2021) i.e. up to 31.03.2021 and AERA will continue to be the regulator during this period.

Accordingly AERA decided to look into/examine the proposal of MIHAN to compensate them for loss of revenue due to abolishment of FTC.

7.2 The Authority as per Order No.25/2017-18 had expected that MIHAN would generate revenue from Landing Charges and FTC during FY 2020-21 of the 1st Control Period as detailed below in table 4:

Table – 3 Projected Revenue from Landing / FTC as per Tariff Order

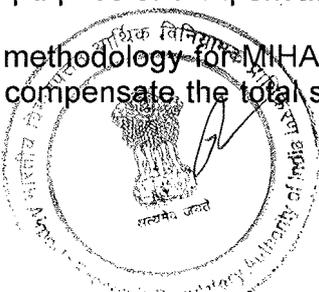
(Rs. in crores)	
	FY 2020-21
Revenue from Landing charges	24.84
Revenue from FTC	5.06

7.3 The Authority observed that the tariff for Dr. Babasaheb Ambedkar International Airport, Nagpur, has been determined up to 31.03.2021 i.e. the 1st Control Period (01.04.2016 to 31.03.2021) of which the 5th tariff year FY 2020-21 is in progress. Therefore, the expected shortfall in revenue from FTC may not be more than the FTC revenue projected for FY 2019-20 & FY 2020-21 as per the AERA Tariff Order No. 25/2017-18.

Further, the Authority observed that MIHAN in its Proposal had considered the ratio of projection of FTC revenues (shortfall) to the landing charges for the period 15.01.2020 to 31.03.2021 to calculate the increase in landing charges and had accordingly proposed for a 17.18% increase in landing charges.

The Authority, however, noted that since the shortfall is occurring in FY 2020-21 i.e. fifth tariff year (incl. pro rata 2.5 months of FY2019-20) of the Control Period, and, is also being compensated in FY 2020-21, the ratio to be considered should be, total expected shortfall in FTC / ARR for the period from 15.01.2020 to 31.03.2021 to the projected revenue from landing charges for FY 2020-21. The Authority has adopted a similar methodology in the case of other AAI Airports for the purpose of compensation in lieu of abolition of FTC.

Accordingly, adopting the same methodology for MIHAN, Nagpur, the Authority, had in the Consultation Paper proposed to compensate the total shortfall in FTC of Rs.5.06 crores for



the period from 15.01.2020 to 31.03.2021 by allowing an increase of 20% in Landing Charges for the remaining part of the First Control Period as per calculations shown in Table- 4 below:

Table-4 Increase in Landing Charges Proposed by the Authority

		FY 2020-21
A	Projected Revenue from Landing charges as per Tariff Order for FY 2020-21 (Rs. In Crores)	24.34
B	Total Shortfall in FTC / ARR considered by the Authority for compensation (pro rata for 2.5 months in FY 2019-20 plus 12 months in FY 2020-21) (Rs. In Crores)	5.06
	Ratio of FTC Shortfall to Landing charges A / B %	20%

7.4 The Authority, observed that, the hitherto abolished FTC, was one of the components of operational expenses for the Airlines, charged to them by the Oil suppliers (OMCs) as a pass through expense by adding it to the cost of fuel (ATF). The Airport Operators were charging FTC to the Oil suppliers as 'royalty', in addition to Land Rent.

Therefore, in effect, abolishing FTC, is expected to directly result in a reduction in the cost of ATF to the Airlines, to that extent, besides also avoiding the cascading effect of taxes, and, thus serves to monetarily benefit the Airlines. Any compensation, therefore, should be recovered from the Airlines. The Authority, viewed that it is not inclined to pass on the burden of compensation to the passengers in the form of increased UDF charges.

Accordingly, the Authority proposed to compensate this shortfall in FTC / ARR revenues to the Airport Operator (MIHAN) by increasing the Landing Charges by 20% as Revised Landing Charges.

Further as already stated in para 7.0 above, MIHAN Nagpur Airport, is no longer a 'major' airport. However, as clarified, the aeronautical tariff as already determined by AERA for Nagpur Airport for First control Period (FY 2016-2021) shall continue to be applicable till the end of the current Control Period i.e. up to 31.03.2021, and, AERA will continue to be Regulator during this period.

Thus, Nagpur Airport shall be out of the regulatory ambit of AERA with effect from 01.04.2021, till it attains the revised passenger threshold of 3.5 MPPA and again declared a 'major' Airport. Therefore, this proposal for compensation through increase in tariff, if implemented, will remain effective up to 31.3.2021. The tariff beyond 31.03.2021 shall be determined by the appropriate authority.

8. The Authority, having examined the submissions made by MIHAN, issued the Consultation Paper No. 31/2020-21 dated 22.07.2020 proposing the following for Stakeholders' Consultation:

- (i) The Authority proposes to increase Landing Charges at Dr. Babasaheb Ambedkar International Airport, Nagpur, for the period w.e.f. 15.08.2020 to 31.03.2021 to recover the shortfall in FTC Revenues of Rs.5.06 crores.
- (ii) To true up revenue based on actuals while determining tariff for 2nd Control Period.



9. STAKEHOLDER'S COMMENTS

In response to the Consultation Paper, the comments have been received from the following stakeholders:

INDIGO Airlines

M/s Indigo Airlines has stated that AERA and/or MoCA should not implement an increase of airport charges/tariff, of any nature whatsoever, due to the adverse financial impact on the airlines experienced in the wake of Coronavirus (COVID-19) outbreak. However, without prejudice to the above, in the event it is proposed to compensate MIHAN Nagpur Airport by way of increase in airport charges, the following may be taken into consideration:

I) Recalibration of tariff to be done during tariff determination under 2nd Control Period

The MoCA letter states that AERA should take into account the amount of FTC revenue stream and "duly compensate MIHAN, Nagpur by suitably recalibrating other tariffs during their determination of airport tariffs."

Indigo has pointed out that the above direction by MoCA and more particularly the words 'determination of airport tariffs', clearly indicates that the intent and direction of MoCA is to adjust or amend tariff and to take into account the loss of FTC revenue for each airport, during the process of regular tariff determination at the beginning of the respective 'Control Period' of MIHAN, Nagpur Airport. Therefore, considering that MIHAN airport is in the final year of its 'Control Period' (FY 2016-2021), any recalibration or adjustment due for the tariff determination should take place only during the next Control Period (2nd) in regular course of tariff determination.

II) Revision of User Development Fee (UDF) as per MIHAN Nagpur Airport Proposal

Indigo has suggested that any compensation in lieu of abolishment of FTC should be made entirely through 'pass through charges' i.e. UDF citing that AERA has proposed increase of UDF while considering the compensation proposal of AAI airports at Visakhapatnam, Goa, and Pune.

III) Stakeholders' Consultation Meeting

Indigo has submitted that AERA has not conducted any Stakeholders' meeting in relation to the Consultation Paper.

10. PUBLIC NOTICE

The comments received from Indigo & MIHAN were uploaded on AERA's website vide Public Notice No. 11/2020-21 dated 07.08.2020.

11. MIHAN's VIEW ON STAKEHOLDERS' COMMENTS :

MIHAN has submitted (mail dated 12.08.2020) that Aeronautical Income is the only major source of income, funds of which are utilized for repairing and maintaining requisite infrastructure and facilities. In view of current situation due to COVID 19, MIHAN India Ltd. (MIL) revenue has also declined to a greater extent resulting in severe financial constraints.



MIHAN has stated that no additional or new kind of aeronautical charges have been sought in this proposal.

Regarding Indigo's suggestion for compensation in the form of increase in UDF, MIHAN has stated that to compensate revenue loss from fuel throughput charges, the basic determining factor shall be fuel consumption by aircraft. Aircraft movement plays a major role and not the number of passengers on board. It may happen that in case of a particular movement, occupancy percentage (no. of passengers) may vary while the consumption of fuel will be same for a particular journey. Thus compensating a revenue loss of fuel throughput charges (which was based on fuel consumption by the aircrafts as required for a particular movement) by increase in UDF (which is based on no. of passengers i.e. occupancy of aircraft) is not prudent and is inappropriate.

12. AUTHORITY'S VIEW ON STAKEHOLDER'S COMMENTS

12.1 The Authority carefully examined the comments of Stakeholders and is of the view that AERA had considered FTC as one of the aeronautical charges to recover the target revenue determined for 1st control period i.e. 01.04.2016 to 31.03.2021. The discontinuation of FTC from 15.01.2020 has created gap in actual revenue vis-à-vis the target revenue as per tariff order. The present crisis due to COVID-19 outbreak has affected all the stakeholders across aviation industry and this may further reduce the recovery of ARR. Hence, any delay in implementation of this Order is not appropriate in view of fund required by the Airport Operator for the capital investments in progress and day to day operation at these airports.

12.2 FTC was a part of fuel cost for airlines and abolition of FTC and consequent avoidance of cascading effect of taxes has direct benefit for airlines. Even if the Airlines has to pay additional landing charges equal to the amount of oil throughput charges, they still benefit to some extent from the savings on account of Taxes. Hence, the Authority, does not feel it will be appropriate to charge the passenger and pass on the entire saving/benefit to the Airlines.

The Airlines ticket pricing depends on strategy/policy adopted by Airlines to further their business, and, the elements/costing of the airline ticket price is not fully known. The Authority feels that charging of additional landing charges in lieu of FTC should not impact ticket pricing as the Airlines must have considered the impact of FTC amount in the pricing policy before its abolishment. Moreover, the Authority feels that the Airlines shall even then have all the freedom to pass on the additional landing charges to the passenger, if they so wish.

12.3 To clarify the comments raised by Indigo regarding compensation through UDF, it is to be noted that at the Civil Enclaves of Goa, Pune, Vizag, the Landing Charges accrue to Defence Authorities and not to the AAI.. The same has been adequately explained in the Order for respective airports.

Further, it is reiterated that as per established principles, the Authority, ensures a balanced mix of the aeronautical charges (LP&H, UDF, etc.) during regular determination of tariff, however, this particular instance is a 'one off exercise.'

12.4 Regarding Indigo's comments on conduct of stakeholders meeting the Authority decides not to conduct the same in view of following:

a) The Authority observed that MoCA has conducted numerous rounds of stakeholder's consultations and considered the deliberations of two industry working groups representing Airline Operators, Airport Operators, Fuel



Infrastructure Facility Providers, Oil Marketing Companies etc. before abolishing the FTC.

- b) The Authority is not considering any new revenue to the Airport Operator in addition to already determined ARR vide Order No.25/2017-18 dated 30.11.2017 wherein aeronautical tariffs were finalized after extensive Stakeholders Consultation process. The aeronautical tariffs were finalized after duly considering the cross subsidy from non-aeronautical revenue.
- c) Abolition of FTC, which directly benefits the airlines as they can avail input tax credit, necessitates recalibration of other tariffs to compensate/ cover the shortfall in ARR of the Airport Operator.
- d) The Authority, by inviting detailed comments, had given an opportunity to all the Stakeholders to express their views on the Consultation Paper.

The Authority, therefore, taking into consideration the above decides to increase the existing Landing Charges at Dr. Babasaheb Ambedkar International Airport, Nagpur, by 20% for the remaining 1st Control Period to recover the loss on account FTC/ARR revenues during the balance period of 1st Control Period.

ORDER

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

- (i) The Authority has decided to allow to **Revised Landing Charges** at Dr. Babasaheb Ambedkar International Airport, Nagpur, for the period **w.e.f. 01.09.2020 to 31.03.2021**, or, till the determination of aeronautical charges for the 2nd Control Period, to recover the shortfall in FTC Revenues of Rs.5.06 crores in lieu of abolition of FTC. The Revised Landing Charges approved by the Authority is annexed as "**Annexure - I**";
- (ii) To true up the Revenue based on Actuals while determining tariff of Dr. Babasaheb Ambedkar International Airport, Nagpur, for the 2nd Control Period;
- (iii) **The Revised Landing Charges will be applicable w.e.f. 01.09.2020.**

By the Order and in the name of the Authority


(Col Manu Sooden)
Secretary

To
Airports Authority of India,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi -110 003.

Copy to: Secretary, Ministry of Civil Aviation, Rajiv Gandhi Bhawan, Safdarjung Airport New Delhi-110003.



Dr. Babasaheb Ambedkar International Airport, Nagpur**Revised Landing Charges Approved by the Authority to be applicable for the period from 01.09.2020 to 31.03.2021****I) LANDING CHARGES****Rate per landing - International Flight**

Weight of the Aircraft	Existing Rate Per Landing Order No. 25/2017-18 (In ₹)	Revised Rate Per Landing Approved by AERA (In ₹)
Up to 10,000 Kgs	Rs. 183.15/- per 1,000 Kgs	Rs. 220/- per 1,000 Kgs
10,001 Kgs to 20,000 Kgs	Rs. 1831.50/- Plus Rs. 268.95/- per 1,000 Kgs in excess of 10,000 Kgs	Rs. 2200/- Plus Rs.323/- per 1,000 Kgs in excess of 10,000 Kgs
20,001 Kgs to 50,000 Kgs	Rs. 4521/- Plus Rs. 531.30 per 1,000 Kgs in excess of 20,000 Kgs	Rs. 5430/- Plus Rs. 638/- per 1,000 Kgs in excess of 20,000 Kgs
50,001 Kgs to 1,00,000 Kgs	Rs. 20,460/- Plus Rs. 620.40 per 1,000 Kgs in excess of 50,000 Kgs	Rs. 24570/- Plus Rs.744/- per 1,000 Kgs in excess of 50,000 Kgs
Above 1,00,000 Kgs	Rs. 51,480/- Plus Rs. 707.85 per 1,000 Kgs in excess of 1,00,000 Kgs	Rs.61,770/- Plus Rs.849/- per 1,000 Kgs in excess of 1,00,000 Kgs

Rate per Landing - Domestic Flight

Weight of the Aircraft	Existing Rate Per Landing Order No. 25/2017-18 (In ₹)	Revised Rate Per Landing Approved by AERA (In ₹)
Up to 10,000 Kgs	Rs. 100.65 per 1,000 Kgs	Rs. 121/- per 1,000 Kgs
10,001 Kgs to 20,000 Kgs	Rs. 1,006.50/- Plus Rs. 176.55 per 1,000 Kgs in excess of 10,000 Kgs	Rs. 1210/- Plus Rs. 212/- per 1,000 Kgs in excess of 10,000 Kgs
Above 20,000 Kgs	Rs. 2,772/- Plus Rs. 346.50/- per 1,000 Kgs in excess of 20,000 Kgs	Rs.3330/- Plus Rs.416/- per 1,000 Kgs in excess of 20,000 Kgs

Note: All the above Charges are excluding of GST. GST at the applicable rates are payable in addition to above charges.

II) Fuel Throughput Charges for the period from 01.04.2020 to 31.03.2021

	Unit	As per AERA Order No. 25/2017-18	Abolished by MoCA w.e.f. 15.01.2020
Fuel Throughput Charges	INR per KL	540.80	'NIL'

Note: All other charges, and terms & conditions, as determined vide AERA Order No. 25/2017-18 dated 30.11.2017 shall remain applicable.

