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| TELEPHONE No. : 011-24622495 Aeronautical : VIDDYAYX E-Mail: dri@dgca.delhi.nic.in Fax 011-24652760 | GOVERNMENT OF INDIA AERONAUTICAL INFORMATION SERVICES DIRECTOR GENERAL OF CIVIL AVIATION OPPOSITE SAFDARJUNG AIRPORT NEW DELHI-110003 | AIC Sl. No. 12/2019 11.04.2019 |
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File No.09/18/2008-IR

This AIC is issued for dissemination of the directions of Ministry of Civil Aviation in their letter No. AV.20036/10/2019-AD dated 10.4.2019.



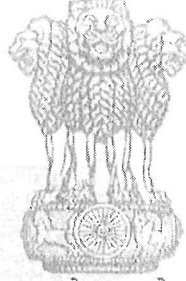
(B.S. BHULLAR)

Director General of Civil Aviation

AMENDMENT TO ORDER NO. 18/2018-19 IN THE MATTER OF DETERMINATION OF AERONAUTICAL TARIFFS IN RESPECT OF KEMPEGOWDA INTERNATIONAL AIRPORT, BENGALURU FOR THE SECOND CONTROL PERIOD (01.04.2016-31.03.2021)

The Airports Economic Regulatory Authority (AERA), had issued Order No. 18/2018-19 in the matter of determination of Aeronautical Tariff for Aeronautical Services in respect of Kempegowda International Airport, Bengaluru for the second control period from 1st April 2016 to 31st March, 2021. The said Order was challenged by Bangalore International Airport Limited before the Hon'ble Telecom Disputes settlement and Appellate Tribunal (TDSAT) vide Appeal No. 8 of 2018. AERA has now issued Amendment to Order no. 18/2018-19. A copy of the Amendment Order is enclosed herewith.

2. These charges shall come into effect from the date as prescribed by AERA.



सत्यमेव जयते

Airports Economic Regulatory Authority of India

Amendment to Order no. 18/2018-19

In the matter of Determination of tariffs for Aeronautical Services in respect of
Kempegowda International Airport, Bengaluru,
for the Second Control Period (01.04.2016 to 31.03.2021)

Date of Order: 04th April, 2019

भा.वि.आ.वि.प्रा.

AERA Building
Administrative Complex
Safdarjung Airport
New Delhi – 110 003



1. Background

- 1.1 Airports Economic Regulatory Authority of India ("AERA" or "Authority") had issued Order No. 18/ 2018-19 ("Order") in the matter of determination of Aeronautical Tariff for Aeronautical Services in respect of Kempegowda International Airport, Bengaluru for the second control period from 1st April 2016 to 31st March 2021.
- 1.2 The said Order was challenged by Bangalore International Airport Limited ("BIAL") before the Hon'ble Telecom Disputes Settlement & Appellate Tribunal ("TDSAT") vide Appeal No. 8 of 2018. BIAL had also filed an Application, M. A. No. 449/ 2018 praying for interim relief by way of staying of the impugned Order and the rate card and permitting the Appellant to collect charges as per the rate card for the First Control Period.

2. TDSAT Order

- 2.1 Hon'ble TDSAT had, issued a judgement on 14th March 2019 ("TDSAT Order"), disposing off the aforementioned M. A. No. 449/ 2018.
- 2.2 TDSAT Order reads as below:

"8. We have been informed by learned senior counsel for the appellant that UDF rate difference between the first control period and second control period results in a revenue difference of Rs. 50 crore per month approximately. In facts of the case, we are of the opinion that if first control rates in respect of UDF (domestic and International) are provided for a period of 4 months, additional revenue generated will cover the admitted capital expenditure gap and also provide reasonable cushion to override cash flow problems.

9. In view of the discussion above, we direct AERA to issue suitable orders preferably within three weeks, to effect UDF rates (domestic and International) as per the first control period for a limited period of 4 (four) months. It is clarified that the definition of transit passengers will remain as per the latest modified Orders. It is further clarified that the funds generated on account of enhanced UDF rates must be used only for Capital Expenditure of the expansion project and in accordance with the procedure prescribed in the concession agreement. The

Amendment to Order no. 18/2018-19



interim arrangement is made without any prejudice to the rights and contentions of both the parties and will be subject to the final outcome of the petition...”

- 2.3 BIAL has submitted letter dated 15th March 2019 to the Authority with reference to the TDSAT Order and requested for issuance of appropriate orders.

3. Authority's review

- 3.1 Authority has carefully perused the TDSAT Order. Authority notes that TDSAT in its interim order has directed AERA to issue order for collection of UDF at rates applicable to the first control period for a period of 4 months, in order to make available additional cash to cover the gap in funding the expansion projects. The Authority also notes that this Interim Order is without prejudice to the rights and contentions of both the parties with respect to the appeal on the Order made by BIAL and its proceedings thereof.
- 3.2 Authority notes that the additional UDF to be collected based on implementation of the said Order will leave additional revenues in the hands of BIAL beyond the eligible Aggregate Revenue Requirement (“ARR”). The Authority notes that this will have to be suitably considered at the time of determination of tariff for Aeronautical services in future.
- 3.3 The Authority notes that these additional collections and any further earnings from them (e.g. In the form of Interest etc.) till the utilisation would need to be tracked and reviewed separately. The Authority notes that BIAL has to maintain the additional collections (UDF collected as per new rate over the UDF to be collected as per the rates detailed in the Order) together with any interest thereon, in a separate bank account to be opened for the said purpose.
- 3.4 The Authority also, while noting Hon'ble TDSAT Order that the stated additional collection should be used only for Capital Expenditure of the Expansion Project, orders BIAL to use the funds generated from such incremental UDF, only for funding of expansion projects, as a means of last resort.
- 3.5 The Authority will review the collections and the usage in detail, at the time of determination of tariff in next control period.
- 3.6 The above Order is proposed to be implemented with effect from 16th April 2019 for a period of 4 months.

Amendment to Order no. 18/2018-19




4. ORDER

4.1 Based on the above, the Authority Orders that:

- 4.1.1. The UDF rates for Domestic and International embarking passengers shall be Rs.306 and Rs.1226 respectively instead of Rs. 139/- and Rs. 558/- for domestic and International embarking passengers respectively, for the ticket procured during limited period from 16th April 2019 to 15th August 2019.
- 4.1.2. BIAL shall maintain a separate bank account wherein the excess UDF collections, together with any income viz Interest thereon shall be deposited and maintained.
- 4.1.3. BIAL shall use the funds from the said bank account only for the purpose of Capital Expenditure for the expansion project and after all the other sources of funding are exhausted.
- 4.1.4. The Authority will review the additional collections made by BIAL pursuant to this Order and the actual expenditure incurred for the expansion project and consider the same appropriately at the time of determination of tariff for the next control period and subject to outcome of final Order of TDSAT in this matter.
- 4.1.5. All other terms of Order 18/ 2018-19 shall remain unchanged.

भा.वि.आ.वि.प्रा.
AERA

By the Order of and in the
Name of the Authority


(Geetha Sahu)
AGM (F)

To

Bangalore International Airport Limited
Alpha-2 Building
Kempegowda International Airport
(Through: Shri Hari Marar, Managing Director)

Amendment to Order no. 18/2018-19

