

APAO/AERA/ 2025-26**Date: 5th April 2025**

Shri Ram Krishan,
Director (P&S, Tariff)
Airports Economic Regulatory Authority of India (AERA),
3rd Floor, Udaan Bhawan,
Safdarjung Airport,
New Delhi – 110 003

Subject: APAO's response to Consultation Paper No.08/2024-25 dated 10th March 2025 in the matter of determination of Aeronautical Tariff for Mumbai International Airport, Mumbai (BOM) for the Fourth Control Period (01.04.2024 to 31.03.2029)

Dear Sir,

This is in reference to the Consultation Paper No: 08/2024-25 dated 10th March 2025 issued by AERA in the matter of determination of aeronautical tariff for Mumbai International Airport, Mumbai (BOM) for the fourth control period (01.04.2024 – 31.03.2029) wherein written comments were sought from stakeholders.

Please find below the submission of APAO for the kind consideration of AERA:

1. Non – Implementation of Hon'ble TDSAT Judgement:

Para 1.9.4 The Authority has carefully examined the issue of implementation of the above-mentioned orders of the Hon'ble TDSAT. The Authority has utmost regards for the directions of the Appellate Authority. However, the Authority has challenged these orders in Hon'ble Supreme Court under section 31 of AERA Act, 2008, and Hon'ble Supreme Court is presently hearing the matter. Thus, the issues raised in the Civil Appeal filed by the Authority are not finally settled and the Hon'ble Supreme Court is seized up of the matter. Therefore, the Authority notes that under such circumstances if it decides to implement the Hon'ble TDSAT order without finally settling the issues before the Hon'ble Supreme Court and increase in tariff is effected considering MIAL's submissions on the basis of Hon'ble TDSAT judgments for the Fourth Control Period, then it shall lead to a significant increase in Aeronautical tariff which will have to be borne by the Airport users as MIAL will start recovery of increased tariff from the Airport users. If at a later stage, the Civil Appeals filed by the Authority are upheld or decided in its favor, then it will not be possible to refund the excess charges collected from the Airport users during this period on account of the increase in tariff. Due to all these factors, MIAL would have unjust enrichment at the cost of Airport users. All these factors clearly establish that considering MIAL submissions of giving effects to Hon'ble TDSAT judgments without finally settling the issues before Hon'ble Supreme Court, is not in public interest, more so when the Hon'ble Supreme Court is seized up of all these issues and is hearing these Civil Appeals. On the contrary, public interest would be better served if Authority takes the decisions on the basis of final decision of Hon'ble Supreme Court of India on these issues.

Para 1.9.5 Considering the above and in public interest, the Authority proposes to continue the tariff determination exercise consistent with the decisions taken in the

Tariff Order for the Third Control Period. The final decision regarding the issues raised by the Authority in the Civil Appeal will be taken once the matter attains finality in the proceedings before the Hon'ble Supreme Court.

APAO Comments: The Authority has not implemented Hon'ble TDSAT Order dated 6th October 2023 which deals with various issues raised by MIAL in their Second and Third Control Period Order. The decision of the Authority is solely based on the public interest and increase in the tariffs which may impact the public adversely.

We humbly submit that it is the prime responsibility of the Authority to ensure the economic viability of the airport operators. However, the Authority has always emphasized public interest but at the cost of the airport operator's economic viability. If the airport operators are not economically viable then it is more harmful to all the other stakeholders due to operational inefficiencies setting in at the airport which would indirectly raise costs for all the other stakeholders besides affecting the quality of services for air passengers.

In addition to the above, even considering on legal grounds, it is the responsibility of the Authority to implement the Hon'ble TDSAT Judgement (being an Appellate Tribunal) unless there is a stay ordered on the judgement by the Hon'ble Supreme Court. In the current scenario, there is neither a stay nor an injunction by Hon'ble Supreme Court. Hence, we earnestly request the Authority to implement the TDSAT Judgment while approving the tariff of Fourth Control Period

2. **Legal Expenses:** Legal Expenses are necessary for the public infrastructure organization due to the involvement of vast number of the stakeholders, and there are several litigations where MIAL would be mandatorily a party even though it is not having a direct relationship with the stakeholder. Furthermore, there are many inconsistencies in the regulatory philosophies of the AERA for each control period which were appealed by the MIAL to the Appellate Tribunals & the Hon'ble Supreme Court, to protect its integrity & economic viability.

Thus, the costs are very much required for MIAL in order to efficiently operate the Airport, ensure its economic viability, and the concession provided by the Government of India viz. SSA to MIAL doesn't have any restrictions towards legal expenses unlike the concessions of the recently privatized airports referred by the Authority. The actions of the Authority would mean to re-write the concession provided by the Government of India on its own without any sound reasoning.

We humbly request the Authority, to verify the exact reasons on legal expenses incurred by MIAL in the 4th Control Period and true-up these amounts.

3. **Cost of Debt capped at 10.3%:** The Authority has to consider the fact that the loans obtained by MIAL during the covid period where the entire travel & leisure industry was adversely impacted. The Authority has not provided any reasoning with regard on this specific matter in the consultation paper for not considering the covid related impacts and resultant downgrade in ratings. The Authority's reasoning is based only of its analysis of MCLR rates which clearly shows the unfairness of the Authority. We

request the Authority to therefore kindly consider the actual cost of debt rather than artificially capping the same at 10.3%

4. **Financing charges of Bridge to Bond:** At the peak of COVID, long term financing for Infrastructure sector had become extremely scarce. MIAL, with the support of Adani Group received a lifeline in the form of short-term financing referred to as bridge to bond loan for which it has incurred financing charges of Rs 100 Cr. We request the Authority to allow the actual expenses incurred by MIAL on this short-term financing in line with the directions of TDSAT.
5. **Tariff Card:** We support rebalancing in the tariff structure as proposed by MIAL and request the Authority to kindly approve the rate card as proposed by MIAL resulting in substantial reduction of landing and parking charges, and the complete withdrawal of Aerobridge Charges.

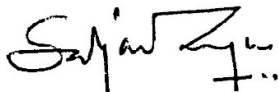
We earnestly request the Authority to give a serious consideration to the points raised by us in the above response, before issue of the final order determining the aeronautical tariff for Mumbai International Airport, Mumbai (BOM) for the Fourth Control Period.

In case any other information/ clarification is required in this connection, please inform the undersigned.

Thanking you,

Yours Sincerely

For The Association of Private Airport Operators (APAO)

A handwritten signature in black ink, appearing to read 'Satyan Nayar', is positioned above the printed name.

Satyan Nayar

Secretary General

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