

## CHAPTER II: MINISTRY OF CIVIL AVIATION

### Airline Allied Services Limited

#### 2.1 Review of operations of Airline Allied Services Limited

##### 2.1.1 Introduction:

Airline Allied Services Limited (AASL) was incorporated in September 1983 as a wholly owned subsidiary of erstwhile Indian Airlines Limited (IAL) (now Air India Limited) and commenced its operations from 1996 under the brand name 'Alliance Air'. AASL was intended to operate and function with pilots/ engineers recruited from the market on contractual basis, as a lean and thin organisation and to have a competitive and low cost structure as compared to IAL.

AASL operated in the domestic market and provided connectivity between Tier 2 and Tier 3 cities. It operated in synergy with Air India as a feeder airline to its network. The administrative, logistic and other support were provided to the company by its parent company i.e. Air India Limited. The Company received viability gap funding (VGF) for its operations in North-East and other parts of the country. The Company had submitted its proposal under the Regional Connectivity Scheme announced (October 2016) by Ministry of Civil Aviation for 26 routes against which 15 routes, where no other bidders had submitted bids, were awarded to AASL. AASL had accumulated losses of ₹1746 crore as on 31 March 2017. The net worth of the company was fully eroded and was (-) ₹1344 crore. The details of financial performance of the Company are given in the table below:-

#### Financial Position of AASL

(₹ in crore)

	2013-14	2014-15	2015-16	2016-17
Revenue from operations	241.69	226.63	268.20	366.19
Other income	0.70	1.32	5.66	9.62
Total income	242.39	227.95	273.86	375.81
Expenditure	495.35	416.42	476.25	668.48
Loss for the year (after exceptional and extraordinary items)	249.40	183.92	198.75	282.72

The company operated aircrafts all of which were leased aircrafts. The details are given in the table below:

#### Fleet Position of AASL

Aircraft type	Whether on lease or owned	As on 31 March 2014	As on 31 March 2015	As on 31 March 2016	As on 31 March 2017
ATR 42-320	Leased	04	04	03	02
CRJ 700	Leased	04	04	03	00
ATR 72-600	Leased	00	02	05	08
<b>Total</b>		<b>08</b>	<b>10</b>	<b>11</b>	<b>10</b>

The objective of audit was to assess the efficiency, effectiveness and economy of operations of AASL during the period from 2014-15 to 2016-17. The criteria adopted for the audit included norms and guidelines for operation and maintenance of aircrafts, provisions of service level agreements and agreements entered into with lessors of the

aircrafts, decisions of Board of Directors, Standards for crew deployment and provisions of Memorandum of Understanding (MoU) entered into with North Eastern Council (NEC) and other State Governments/agencies. AASL did not furnish information listed at **Annexure-I** to this Report.

Audit had reviewed the operations of AASL for the period 2008-09 to 2010-11 and audit findings were presented in Paragraph 2.3 of CAG's Report No.8 of 2012-13, Compliance Audit Report (Commercial). Action Taken Note on the audit findings was, however, awaited from the Ministry of Civil Aviation, Government of India (January 2018).

## 2.1.2 Audit findings:

### 2.1.2.1 Acquisition of Aircrafts on lease

All the aircrafts in the existing fleet of the Company were to be re-delivered<sup>1</sup> during the years 2014 and 2015 (ATR 42-320 aircrafts by February 2014 and CRJ Aircrafts by July 2015). In view of this, AASL invited bids to acquire eighteen ATR-72-600 aircrafts on lease basis, to maintain uninterrupted operations, as per details given below:

Sl. No.	Dates of invitation /finalisation of tenders	No. of aircrafts & Delivery schedule as per tender	Name of lowest bidder and number of aircrafts	Aggregate monthly cost per aircraft	Schedule of delivery
1.	November 2013/ May 2014	8 (February 2014 to December 2014).	M/s Avation for 2 aircrafts M/s GECAS for 3 aircrafts	USD 332933 USD 336152	December, 2014 to October 2015
2.	September 2014/ October 2015	3 (2015-16)	M/s Elix Aviation Capital Limited, Dublin for 3 aircrafts	USD 315589	April 2016- July 2016
3.	January 2016/ December 2016	10 (2016-17)	M/s Dubai Aerospace Enterprises (DAE) Limited for 10 aircrafts	USD 307386	May 2017 onwards

Audit scrutiny of the bidding process revealed that the committee formed for evaluating the financial viability of leasing of eight aircrafts listed at Sl. No. 1 did not find the proposal financially viable. Thereafter, the parameters affecting the financial viability were revised twice (April 2013 and August 2013) to make the lease proposal financially viable. However, audit review of operations of aircrafts during 2015-16 and 2016-17 revealed that the actual performance relating to parameters used for assessment of financial viability was lower than those considered for calculation of financial viability as detailed in the table below:

Parameters	Parameter as per assessment	Actual performance	Difference
Maximum block hours utilised per aircraft	3654	2266	1388
Seat factor (%)	76	68.6	7.4
Revenue per km in ₹	13.19	10.00	3.19

Audit also noted that no evaluation of financial viability was carried out before initiating the procedure for acquisition of 10 aircrafts listed at Sl. No. 3 of table in the year 2016-17 despite the actual performance of newly inducted aircrafts being available.

<sup>1</sup> *The aircrafts taken on operating lease are returned to the lessor upon expiry of the lease terms. The lease agreements specify delivery conditions to ease transferability of the asset to a follow-on lessee*

The Management stated (November 2017) that estimates were reworked on the basis of the parameters normally assumed in aviation industry parlance. The company was financially not in a position to acquire the aircraft on outright purchase basis. The route economics could be worked out on actual basis only after the Company commenced operations on the routes. The Management further intimated that for the year 2017-18 (up to September 2017) Aircraft utilisation had increased to 7.98 hours per day per aircraft (i.e. approx. 3000 Block Hours per annum).

The reply was not acceptable because as per records, the estimates were modified to make the proposal appear as economically viable. Further, details of the parameters stated by the Company as normally adopted in aviation industry were not made available to audit. Although, the company was financially not in a position to purchase aircrafts, the fact remained that the analysis did not include comparison of cost of acquisition through outright purchase and the cost of leasing. Further, the utilisation (7.98 hours) as mentioned in the reply is also less than the utilisation of 10.01 hours per day per aircraft assumed while assessing economic viability.

### 2.1.2.2 Availability of Pilots and utilisation of aircrafts

The fleet operated by AASL included three types of aircrafts viz. CRJ 700, ATR 42-320 and ATR 72-600. On the basis of standard norm of 5.25 sets<sup>2</sup> of pilots required for effective and optimum utilisation of each aircraft, the requirement of pilots for operation of the available aircrafts and their actual availability for the period covered in audit are given in the table below:

#### Availability of Pilots

Period	Type of aircraft											
	CRJ				ATR 42				ATR 72			
	AA	NR	AP	S	AA	NR	AP	S	AA	NR	AP	S
2014-15	3.83	40	21	48	3.67	39	41	-	1.33	14	12	14
2015-16	3.00	32	15	53	2.75	29	22	24	4.00	42	21	50
2016-17	2.44	26	7	73	2.00	21	16	24	7.5	79	47	41

Notes: AA= Average number of aircrafts available  
 NR= Normative requirement of Pilots (No.)  
 AP= Actual number of Pilots available  
 S = Shortage (in %)

It may be seen from the above that the Company faced shortage of pilots for operating all the types of aircraft in all the years from 2014-15 to 2016-17 except in respect of ATR 42 for the year 2014-15. The shortage in availability of pilots ranged between 14 *per cent* (in year 2014-15 for ATR 72 type of aircrafts) and 73 *per cent* (in year 2016-17 for CRJ type of aircrafts).

Audit observed that there was underutilisation of all types of aircraft during the period 2014-15 to 2016-17. The utilisation of aircrafts during the period 2014-15 to 2016-17 was as given in table below:

<sup>2</sup> one set includes one Commander Pilot (P-1) and one Copilot (P-2)

## Utilisation of Aircrafts

Period	CRJ			ATR 42			ATR 72		
	TA	TU	UU	TA	TU	UU	TA	TU	UU
2014-15	8200	4208	49	8650	6362	26	625	401	36
2015-16	5233	2441	53	6509	4866	25	11117	6273	44
2016-17	3283	1796	45	5267	4411	16	20325	13217	35
<b>Total</b>	<b>16716</b>	<b>8445</b>	<b>49</b>	<b>20426</b>	<b>15639</b>	<b>23</b>	<b>32067</b>	<b>19891</b>	<b>38</b>

Note: TA= Total effective availability<sup>3</sup> (in hrs)  
 TU= Total utilisation (in hrs)  
 UU= Under utilisation (in %)

It is seen from the table that the underutilisation ranged from 16 *per cent* for ATR 42 aircraft in 2016-17 to 53 *per cent* for CRJ aircraft in 2015-16. One of the reasons for the underutilisation of aircrafts was the shortage of pilots. However, in the absence of information furnished by Company, the extent of underutilisation could not be assessed in audit.

The Management in its reply (November 2017) attributed the shortage of pilots to the existing pilots leaving the Company upon induction of ATR-72-600 in place of CRJ aircrafts and to lack of pilots trained to fly ATR-72-600. The company stated further that efforts made to hire pilots to ensure required availability did not materialise.

The reply of the Management indicated that the availability of pilots was not addressed while leasing the aircraft resulting in inefficient utilisation of aircrafts.

### 2.1.2.3 Maintenance and Grounding of Aircrafts

Audit observed that aircrafts had to be grounded for prolonged periods due to non-availability of spares, components and float engines as detailed below:

#### A. Grounding of ATR 72-600 fleet

##### A.1 Delay in component support arrangement

Induction of ATR 72-600 aircrafts commenced in December 2014. The company, however, did not invite tenders for component/spares arrangement at the time of induction. Instead, an Interim Maintenance Services Agreement (IMSA) was entered (July 2015) into with M/s ATR for supply of component/spares. A tender for component support arrangement was floated in February 2016, against which bids were received but were not finalised. AASL, however, decided (October 2016) to include ATR 72-600 aircrafts under the existing Global Maintenance Support Agreement (GMSA) for ATR 42. A comparison (October 2016) of the cost of repairs for the period January 2016 to March 2016 under GMSA and IMSA by AASL revealed that repairs under GMSA were cheaper by ₹0.93 crore. The differential amount for the entire period of IMSA from July 2015 to December 2016, were, however, not furnished by the Company (February 2018). Substantial savings may have accrued if the component support arrangements were made through competitive bidding or if the ATR 72-600 aircrafts were included under the GMSA instead of entering into IMSA from induction stage.

<sup>3</sup> *The total effective availability was calculated after reducing the actual period of groundings. Further, the availability of aircrafts was considered at par with envisaged utilisation in absence of details of routes available*

## A.2 Delay in float engine arrangement

The Company considered (April 2013) maintenance of 12 *per cent* of total number of engines as float to avoid groundings due to engine failures, but did not implement the proposal. Consequent to the engines of two different aircrafts developing snags during May 2016, a request for proposal (RFP), from known vendors was called (June 2016) for repair of the damaged engines and to take on loan two engines for the intermediary period. Instead of awarding the work to the lowest bidder, it was decided (June 2016) to take the engine on loan basis and get the damaged engines repaired from M/s Pratt & Whitney, Canada (PWC) who was third lowest bidder, after negotiations. This was in violation of guidelines of Central Vigilance Commission (CVC) issued on 20 January 2010 mandating negotiations with the lowest bidder only, except in exceptional circumstances. Audit also observed that as per the offer submitted by M/s PWC, the Turn Around Time (TAT) for repair of engines was 45 days, but such stipulation was not incorporated in the agreement. Both the engines were sent for repair in July 2016 and repair was completed in February 2017 and May 2017. Audit observed that in the absence of arrangements for float engines, one aircraft remained grounded from 18 May 2016 to 24 July 2016 for which period, a rent of ₹2.96 crore was paid by the company.

Even though the engines of two aircrafts developed snags in May 2016, the proposal to maintain a float inventory of two engines was considered only in December 2016 and was finalised in August 2017 after delay of 2.5 years from the date of induction of ATR 72-600 aircraft, in December 2014 and 14 months after the two engines developed (May 2016) snags.

The Management stated (November 2017) that the company inducted new ATR 72-600 aircraft, which were not heavy on repair and maintenance. Hence, company preferred IMSA as an interim arrangement. Further, tender was floated for taking two overhauled engines in March 2017. Since no bidder matched the technical requirements, a fresh tender was issued in June 2017 which was finalised in August 2017. Contract for repair and provision of two engines was awarded to M/s Pratt & Whitney as M/s PWC (SEA) had original equipment manufacturer (OEM) facility and such facilities would have access to a pool of spares and spare engines of OEM.

The reply is not acceptable since the provision of components/spares and float engine were considered while preparing the cost estimates (April 2013) and their cost was included in the estimated cost of acquisition of aircrafts. Hence, arrangements for assured supply of components/spares and float engine for optimal utilisation of aircraft should have been ensured. Further, the fact that Request for Proposal for float engines was called from known vendors indicated that vendors other than M/s PWC were also available and could have been availed of by the Company.

## B. Grounding of CRJ fleet

Audit observed that 3110 flying days were available during the three years i.e. 2014-15, 2015-16 and 2016-17, for operation of the aircrafts in CRJ fleet. Out of this, four CRJ aircrafts viz. VT RJB, VT-RJC, VT-RJD and VT-RJE were grounded for 595 days<sup>4</sup> i.e.

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<sup>4</sup> 595 days have been worked out after considering 5 per cent of the fleet availability for scheduled/unscheduled maintenance. (626-31=595 days)

19.13 *per cent* of total 3110 flying days. Excess grounding resulted in payment of lease rental amounting to ₹19.59 crore for the idle period as given in **Annexure-II**.

Further audit review indicated that,

- Aircraft VT-RJD was grounded for a period of 322 days<sup>5</sup> between November 2013 and January 2016 due to non-availability of spares. The lease rentals paid during the period of grounding was ₹27.39 crore of which ₹10.28 crore<sup>6</sup> pertained to the period of audit. The aircraft was put into operation in January 2016 after repair, however, it was again grounded from February 2016 to August 2016 (123 days) during which a lease rent of ₹3.99 crore was paid. Thereafter the aircraft flew for two months before redelivery of the aircraft to the lessor. Further, as the aircraft was underutilised for a period of 1526 days out of 2738 days, an amount of ₹0.48 crore was paid to lessor towards such underutilisation (56 *per cent*) till June 2016 as per lease conditions of this agreement
- Even though a tender for comprehensive engine support arrangement was floated (August 2008) after the fleet was inducted in October 2007, the tender has not been finalised (January 2018). Absence of float engine arrangement resulted in prolonged grounding of aircraft/s due to snag/failure of engine. Aircraft VT-RJC remained grounded for 230 days from December 2010 to July 2011 and 569 days from June 2012 to January 2014. As the above period of grounding did not come under the period of audit, the lease rentals for the grounded period has not been included in this report.
- AASL was required to pay Maintenance Reserve (MR) on monthly basis as per the agreement entered into with various lessors. The MR was required to be utilised on a subsequent date upon the occurrence of eligible maintenance event. In order to claim the MRs, the eligible activities were required to be undertaken at Maintenance Repair and Overhaul (MRO) facilities approved by the Federal Aviation Administration (FAA), or the European Aviation Safety Agency (EASA). However, audit observed that most activities eligible for claiming MR were carried out by agencies which were not approved by FAA/EASA. As a result, the required reimbursements could not be claimed and the accumulated MRs were passed on to the lessor at the time of redelivery without utilisation.

The Management stated (November 2017) that aircraft VT-RJD was grounded for prolonged period due to major maintenance. Since the Company was facing liquidity crunch, the grounding of other aircrafts was avoided by cannibalising the spares and components of this aircraft to other aircrafts in its CRJ fleet. Further, engine support for CRJ aircrafts could not materialise as shortlisted vendor placed stringent conditions overriding the tender conditions. The cost of leasing engines to be used as float engine was high and hence, in-house facilities were used to reduce ground time and cost . This also provided greater control to the Company.

The reply is not acceptable for the following reasons:

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<sup>5</sup> *Grounding period is considered after excluding the period of credit hold imposed for Auxiliary Power Unit, engine, spares and 77 days for 'C' Check & Airworthiness Review Certificate*

<sup>6</sup> *Dollar exchange rate as on 31 March of respective year has been considered*

- (i) While cannibalizing of parts of VT-RJD aircraft has been carried out by swapping 197 different parts to other aircrafts belonging to CRJ fleet, during the period from 11 December 2013 to 4 January 2016, the underlying reason for the shortage of spares leading to cannibalization was liquidity problems faced by the Company. The suppliers of spares had also placed the Company on credit hold for 250 days during the period from 25 February 2014 to 12 November 2015.
- (ii) The Company stated (March 2018) that cannibalization of aircraft components was against its policy as it rendered the aircrafts unserviceable and also incapable of generating any revenue.
- (iii) The cost of float engine had also been considered while assessing the financial viability for leasing of CRJ Fleet. The optimal utilisation of aircrafts necessitated spares/float engine arrangement.

Therefore, the grounding of aircrafts resulting in payment of lease rentals for idle period was largely due to liquidity issues faced by the Company, which needs to be addressed on a priority basis to avoid extensive cannibalisation of parts against the stated policy of the Company.

### **C. Grounding of ATR 42-320 fleet**

Audit observed that 3144 flying days were available for operation of four aircrafts belonging to ATR 42-320 fleet, during three years from 2014-15 to 2016-17. Out of these, four aircrafts were grounded for 677 days<sup>7</sup> i.e. 21.53 *per cent* of total 3144 flying days. The grounding of aircrafts resulted in payment of lease rental for this period amounting to ₹7.08 crore apart from loss of opportunities to earn revenue during the period as given in **Annexure-III**.

Further, audit observed that aircraft VT-ABA was grounded (September 2013) for yearly check but it remained grounded for 425 days till November 2014 due to lack of spares and consequent cannibalisation of aircraft, leading to payment of idle lease rent of ₹4.81 crore.

The Management stated (November 2017) that due to acute liquidity crunch, payments to vendors for GMSA were delayed and the company was put on credit-hold leading to groundings. The aircraft VT-ABA was grounded for major maintenance but by cannibalizing the spares and components of this aircraft to other aircrafts of ATR 42-320 category, the fleet was kept operational.

The reply was not acceptable since management was in the business of operating aircrafts and hence, maintenance of stock of critical spares/components was necessary.

#### **2.1.2.4 Memorandum of Understanding with various agencies for payment of Viability Gap Funding**

AASL had been providing services to various State Governments and North Eastern Council, on the basis of Viability Gap Funding (VGF) provided by the concerned State

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<sup>7</sup> 677 days have been worked out after considering 5 per cent of the fleet availability for scheduled/unscheduled maintenance. (713-36=677 days)

Government/agency as per Memorandum of Understanding (MoU) entered into with them. A review of operations covered under various MoUs revealed that an amount of ₹72.95 crore was recoverable from the beneficiary agencies/ States as given in **Annexure-IV**.

The Management replied (November 2017) that in the case of Bangalore-Puducherry-Bangalore sector & Bengaluru and Mysuru sector; the operations were started in anticipation of sufficient passenger load. In respect of Kolkata-Durgapur-Kolkata sector, the operations were stopped at the explicit request of BAPL. In respect of Kochi-Agatti sector, enhancement of the hourly cost was taken up with Lakshadweep Administration/MHA but the same was not agreed to. Further, in respect of operations in North Eastern Region, Management stated that vigorous efforts are being made to realize the sum of ₹60.91 crore. The Company has been continuously/vigorously taking up the matter with the State Governments / agencies for realisation of outstanding VGF/dues.

The reply was not acceptable since unrealistic projections/assumptions on potential traffic were adopted while agreeing to operate the flights. Resultantly, the assured VGF got exhausted before the expected term of operation. Further, no penal provision to safeguard the interests of the Company were included in the Agreements. Consequently, the dues could not be recovered.

#### **2.1.2.5 Redelivery of aircrafts**

The aircrafts were required to satisfy certain redelivery conditions at the time of redelivery upon expiry of the lease term as per the lease agreements entered into with lessors. In case these conditions were not met, the lessee had to undertake the repair prior to redelivery or actual payment had to be made to the lessor in lieu of non-compliance with such conditions. Monthly payments were also required to be made by lessee towards maintenance reserve (MR) as per lease agreement. The MR was required to be utilised for meeting expenditure on certain maintenance activities (eligible events) at EASA/FAA approved Maintenance Repair and Overhauling (MRO) centres during the lease term or for satisfying the conditions at the end of lease term. However, Audit observed that AASL failed to fully utilize such accumulated MRs since the eligible activities were not carried out at the FAA/EASA approved MRO centres. This resulted in retention of balance MRs amounts to USD 8.92 million<sup>8</sup> by the lessor at the time of redelivery. Further non-fulfillment of redelivery conditions, compelled AASL to opt for buyout/ redelivery settlement option at USD 6.494 million<sup>9</sup> and the time taken for finalisation of such arrangement also resulted in payment of additional lease rental of USD 3.226 million (equivalent to ₹22.73 core) during the intermediate period. The details of payment are given in **Annexure-V**.

The Management replied (November 2017) that the liability for payment of lease rent/MR ceased only after the aircraft was duly accepted by the Lessor and considering the long period required for completion of redelivery processes, it was considered financially prudent to opt for redelivery buyout. Regarding the residual amount of MR remaining unutilised, it was stated that the same remained with the lessor as per the lease

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<sup>8</sup> *Amount in equivalent Rupees could not be worked out due to non-availability of dates of actual payments made by AASL to lessor*

<sup>9</sup> *Amount in equivalent Rupees could not be worked out due to non-availability of dates of actual payments made by AASL to lessor*



agreement. In case of aircraft VT-RJE no Lease Rent and MR had been paid to the Lessor after August 2016 and any further pay-out upto January 2017 would be included in the buy-out settlement of redelivery.

The Management agreed that non-maintenance of aircrafts as per redelivery requirements compelled AASL to opt for buyout alternative. The transfer of unutilised MRs to the lessor was admitted by the management. The AASL would be liable to pay lease rent until the redelivery aircraft VT-RJE was duly accepted by the lessor.

#### **2.1.2.6 Outdated Delegation of Powers and Non-existence of manuals**

The rules governing Delegation of Administrative and Financial powers in AASL were framed in 1996 with no updation / amendments carried out in 21 years in spite of changes in the magnitude of business and quantum of expenditure. Resultantly, there were instances when the required approval of the competent authority as mentioned in the delegation of powers were not obtained. Further, the company did not prepare manuals for carrying out various activities of different departments/sections. This resulted in absence of written guidelines, procedures and practices for evaluation of the specific activities or functions of departments.

The Management replied (November 2017) that the instrument of delegation of powers shall be updated shortly on the lines suggested and as per evolving business needs and that preparation of manuals for each department would be undertaken on priority basis.

#### **2.1.2.7 Lack of internal controls in mapping of revenue**

Passenger revenue or ticketing of passengers was major source of revenue for AASL. Audit observed that the filing of fares for all the sectors operated by Alliance Air was being done by Air India. The sales were being mapped through the revenue accounting system of Air India. AASL received ticket-wise, coupon-wise details of revenue from Air India. The company was relying on the debit/credit advice given by the parent company. No system for reconciliation of the details received with the real time data was prevalent in AASL in the absence of which, correctness of the details received could not be assessed in audit.

The statutory auditors and the internal auditors in their report relating to financial year 2015-16, had also expressed their inability to comment upon completeness and accuracy of such transactions and recommended the need for reconciliation.

The Management replied (November 2017) that the number of discrepancies were minimal and that AASL was contemplating its own reservation and ticketing system through online portal.

#### **2.1.3 Conclusion**

The losses incurred by the Company and its negative net worth could be attributed to deficiencies in assessment of economic viability of leased aircrafts, extensive grounding of aircrafts due to shortage of pilots and lack of spares. The absence of support agreement and float engine agreements resulted in prolonged grounding of aircrafts and payment of infructuous lease rental of ₹29.63 crore (₹2.96 crore due to delay in float engine arrangement, ₹19.59 crore due to excessive grounding of CRJ aircrafts and ₹7.08 crore

due to grounding of ATR 42-320 Aircrafts) apart from potential revenue losses. Inadequate provisions in the agreements governing payment of viability gap funding resulted in outstanding dues of ₹72.95 crore from State governments, NEC and other agencies. Ineffectiveness in maintenance of the aircrafts and failure to engage approved agencies resulted in redelivery conditions not being met and the company being compelled to opt for expensive buyouts, long disputes with the lessor and infructuous lease rental payments of ₹22.73 crore during the intervening period. This also resulted in retention of significant amount of Maintenance Reserves by the lessor.

The matter was referred to the Ministry in December 2017; their reply was awaited (February 2018).

## **Airports Authority of India**

### **2.2 Review of execution of contracts for construction of runway, buildings and other structures at airports in Northern Region**

#### **2.2.1 Introduction**

The Airports Authority of India (AAI) came into existence on 01 April 1995 by merging the International Airports Authority of India with the National Airports Authority. AAI is entrusted with the responsibility for creating, upgrading, maintaining and managing civil aviation infrastructure both in air and on surface in the country. AAI operates 137 airports (including international, domestic, custom and civil enclaves at defence airfield).

The AAI has been modernising the airports by expanding/ constructing new terminal buildings, runways, aprons, taxiways etc. to create world class facilities for passengers and other users at the airports. In addition, AAI has been undertaking construction and repair and maintenance works on deposit work basis<sup>10</sup>.

Audit conducted a review of construction contracts exceeding ₹10 crore, executed by AAI in its Northern Region, over the five years from 2012-13 to 2016-17. The objective of the review was to assess efficiency and effectiveness of planning for development of airport infrastructure, awarding and execution of contracts and system of monitoring of the works executed by AAI. Out of 18 construction contracts exceeding ₹10 crore each, 11 contracts as listed in **Annexure-VI** were selected for review in Audit. These contracts were examined with reference to provisions of policy of Ministry of Civil Aviation (MoCA) on airports infrastructure, Works Manual of AAI, Technical Instructions issued by AAI as well as guidelines issued by Central Vigilance Commission (CVC) from time to time.

#### **2.2.2 Audit Findings**

##### **2.2.2.1 Time Overrun of work**

Audit observed that out of 11 contracts reviewed, 10 contracts were completed with a delay ranging from three months in respect of construction of new Integrated Terminal

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<sup>10</sup> *The term 'Deposit works' is applied to works of constructions or repair and maintenance, the cost of which is not met out of funds of AAI, but being financed from funds from Government of India or other public sector undertakings, which may have to be deposited with AAI*

Building at Chandigarh International Airport to 61 months in respect of Balance work of construction of New Terminal Building at Khajuraho airport as detailed in **Annexure-VI**. The reasons for delay attributed to AAI were non-availability of site, delay in obtaining environmental clearance, approval from Director General of Civil Aviation (DGCA)<sup>11</sup> and Notice to Airmen (NOTAM)<sup>12</sup>, delay in approval of drawings and change in the scope of work after award of contracts. Reasons for delay in individual contracts as analysed in audit are as under:

**A. Delay in completion of work of runway at Jaipur Airport**

The work for extension and strengthening of runway at Jaipur airport was approved by Board of Directors of AAI in June 2008. However, the work was deferred due to austerity measures. Based on the decision of the Board of Directors in its meeting held on 21 December 2010, tenders were invited for the work in April 2011. The work, however, could not be awarded to the lowest bidder viz. M/s B.R. Arora & Associate Private Limited as the Central Bureau of Investigation (CBI) had registered a case against the agency for fraudulent work at other airports (Varanasi and Lucknow).

The work was retendered in October 2011 after including CAT-II lighting system in its scope and was awarded (April 2012) to the successful bidder viz. M/s GHV India Private Limited at ₹76.47 crore. However the contractor could not start the work till October 2012 due to non-availability of NOTAM which was received only on 28 October 2012. Subsequently, DGCA imposed restriction (7 November 2012) from December 2012 to February 2013 on all construction works at Jaipur airport due to necessity to use Jaipur as an alternate airport for Indira Gandhi International Airport, Delhi during foggy weather that prevailed during the above period. In view of this AAI foreclosed (December 2012) the contract.

Tenders were invited again in July 2013 and the work was awarded (December 2013) to M/s GR Infraprojects Limited at ₹95.92 crore. The scheduled date of completion of the work was 1 July 2015. Subsequently, on the instructions of the Directorate General of Civil Aviation (DGCA) to equip Jaipur Airport with CAT-III B lighting, the scope of work awarded to M/s GR Infraprojects was increased (January 2015) by ₹20.47 crore approx. The work under this contract could not also be started till March 2014, due to non-availability of NOTAM.

Audit observed that, as per clause 11.1.1 of the Works Manual of AAI, the AAI was required to initiate action for taking over possession of work site immediately after accord of technical sanction to the detailed estimates. For taking over the work site, AAI was required to obtain NOTAM from DGCA. However, AAI did not initiate the process of obtaining mandatory approval for NOTAM from DGCA before award of runway work. This contributed to a delay of 15 months (December 2012 to March 2014) and additional expenditure of ₹19.45 crore, as compared to the value of work in the

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<sup>11</sup> *Technical Instruction (TI) No. 101 dated 21 July 2014 of AAI states that for all licensed AAI managed airports prior approval from DGCA is required before commencement of any work. Further it states that Concept/Design Stage safety assessment should be done before tendering and DGCA approval for the same should be obtained well in advance to avoid delay in execution*

<sup>12</sup> *A Notice to Airmen (NOTAM) is a notice filed with an aviation authority to alert aircraft pilots of potential hazards along a flight route or at a location that could affect the safety of the flight. NOTAM is part of Aeronautical Information Services regulated as per Civil Aviation Requirements issued under the Aircraft Rules, 1937*

foreclosed contract awarded to M/s GHV India Private Limited, which was attributable to the increase in the price indices. Further, due to revision in the scope of work, the work was delayed by another 8.5 months beyond the scheduled completion date.

The Management stated (December 2017/January 2018) that all the activities of subject work were taken up on time by AAI at different levels and that there was no delay on their part. Prolongation of execution of work/contract, if any, was due to the procedure, circumstances/delays at different levels/units situated at different locations/stations. AAI further stated that in order to streamline the various processes involved in CAT III B work, AAI has brought out (February 2017) a Standard Operating Procedure for the same. It further added that increase in cost was due to increase in cost indices.

Reply of the Management was not acceptable as they did not obtain approval for NOTAM from DGCA till March 2014. Thus delay of 15 months had already occurred before increasing the scope of the contract due to introduction of CAT III-B system in January 2015.

**B. Delay in completion of work of Solar Photo Voltaic Power Plant at Jaipur Airport**

A licensed airport is required to seek prior approval of the safety regulator i.e. the Director General of Civil Aviation (DGCA) for aerodrome projects that change/add facilities, infrastructure, that may affect the safety of aircraft operation as per Rule 83(2) of Aircraft Rules, 1937. AAI awarded (February 2016) to M/s. Ujaas Energy Limited the work of Supply, Installation, Testing and Commissioning of Ground Mounted 1800 kWp Solar Photo Voltaic Power Plant without obtaining required approval from DGCA. The work was scheduled to be completed by August 2016. However, AAI applied for the approval of DGCA only in July 2016. DGCA granted the approval only in January 2017 due to non/delayed submission of necessary documents by AAI. Thus due to poor planning on the part of AAI, the work was yet to be completed (January 2018). Resultantly, AAI lost an opportunity to save an amount of ₹0.26 crore due to non-availability of envisaged generation by solar PV system, during the period September 2016 to January 2018.

The Management stated (December 2017/January 2018) that this being a design based tender, the design height and site plan was to be prepared by the agency after award of work. After approval of the design submitted by the agency, height clearance was obtained from the No Objection Certificate (NOC) cell of AAI and documents were submitted to DGCA for approval. DGCA asked for glare clearance analysis which involved engaging specialised agency and submission of report which took additional time. The Management further stated that the delay was due to getting NOC and DGCA approval (January 2017) and accordingly Detailed Project Report, Array structure and Bill of Material could be approved subsequently.

Reply of the Management indicated that the Management did not anticipate the requirements of work as well as necessary documents that would be required by DGCA for granting approval to the above work. Thus, against the estimated period of six months required for completion of the work indicated in the Letter of Award, the work remained incomplete (January 2018) even after a lapse of 18 months since the scheduled completion date in August 2016.

**C. Delay in construction of Office Complex and Central Air Traffic Flow Management (C-ATFM) Center at New Delhi**

The Board of Members of AAI approved (October 2012) the work of implementation of Central Air Traffic Flow Management (C-ATFM), New Delhi at an estimated cost of ₹180.77 crore which included an amount of ₹37.38 crore related to the construction of Office Complex and C-ATFM Center at Moti Bagh. After a visit by Member (ANS), the location of the project was changed (October 2014) from Moti Bagh to Vasant Kunj after considering the space and facilities like auditorium, conference rooms etc. available at the Indian Aviation Academy at Vasant Kunj. At Vasant Kunj, the construction work of Office complex and C-ATFM was awarded (January 2016) to M/s Sunehari Bagh Builders Private Limited for an amount of ₹11.53 crore with scheduled completion period of 12 months from the date of award of the work. Audit observed that the work was yet to be completed and the progress achieved was 89 *per cent* till February 2018.

Failure of the Management in assessing the suitability of land at Moti Bagh for construction of Office Complex and C-ATFM center as well as possible cost savings through use of common facilities like auditorium, conference rooms etc. already being developed at Indian Aviation Academy at Vasant Kunj led to change of location of Office Complex and C-ATFM center, two years after approval by the Board and resulted in delay in awarding the work and its completion.

The Management stated (November 2017/January 2018) that the main reasons attributed to delay in completion of work were initial delay in handing over of site by AAI, closure of works by National Green Tribunal (NGT) in National Capital Region and slow progress of work on the part of contractor etc. Due to change in location of site, the consultant had to re-work all the designs thereby consuming more time for submission of the revised drawings. The Management also stated that the site was changed on administrative grounds and there was no financial burden on AAI. While audit agrees that there was no additional financial burden, the fact remains that the time overrun resulted in delayed execution of work.

**D. Delay in completion of work of construction of Indian Civil Aviation Academy and its Hostel Block, New Delhi**

The Board of Members of AAI approved (February 2011) the work of construction of Indian Civil Aviation Academy and its hostel block. AAI awarded the consultancy work to M/s KNY Projects Private Limited for the design, drawing etc. for the project in February 2012 and the contract for construction work could finally be awarded to M/s C&C Construction Limited in April 2013 after a lapse of 25 months from the date of approval of the Board. The scheduled completion date of the project was November 2014.

Audit observed that there was further delay of 39 months (November 2014 to January 2018) and 99 *per cent* of work was completed till January 2018. Of this, delay of six months was attributed to AAI due to delay in transfer of complete site and non-availability of drawings. The balance delay of 33 months was due to the slow progress of work and limited deployment of resources by the contractor for which AAI recovered (upto September 2017) ₹3.50 crore as liquidated damages.

The Management stated (November 2017/January 2018) that there was no delay in award of contract and that the consultant completed the work as per scope of work. Further, there was an initial delay in handing over the site to the agency due to non-receipt of approval from the Forest Department for the cutting of trees. The reply of the Management did not clarify the reasons for delay of one year in appointment of the consultant.

**E. Delay in completion of work of construction of new Civil Enclave<sup>13</sup> at Jaisalmer Airport**

Board of Members of AAI approved the construction of new Civil Enclave at Jaisalmer Airport in February 2008. The bids invited in November 2008, for construction of Main Terminal Building including allied works were not considered (March 2009) since the rates quoted were very high as compared to the estimated cost. The work was re-tendered in August 2009 and awarded in March 2010 to M/s Era Infra Engg. Limited at contract price of ₹32.60 crore with the scheduled completion period of 12 months from the 25<sup>th</sup> day after the date of issue of letter of award (LOA). The LOA was issued pending environmental clearance, which was received from the Ministry of Environment & Forest (MoEF) in May 2010. Audit observed that against the scheduled completion date of April 2011, the work was completed in February 2013 after a delay of 22 months. AAI got 'in-principle approval' from Bureau of Civil Aviation Security (BCAS) and DGCA in August 2017 for operating New Civil Enclave.

Audit observed that even after more than nine years from the date of approval of the project, the new Civil Enclave was not operational (September 2017). As a result of this the projected revenue of ₹26.30 crore (from 2009-10 to 2016-17) could not be generated.

The Management informed (December 2017/January 2018) that the airport has been operationalised in October 2017.

**F. Delay in completion of construction of New Terminal Building at Khajuraho Airport.**

Board of Members of AAI approved the construction of New Terminal Building Complex at Khajuraho in February 2006. The work was awarded (June 2007) to M/s IDEB Construction Project Private Limited at ₹57.81 crore with scheduled completion period of 15 months calculated from the 10th day after issue of the letter of award. M/s. IDEB could complete work valuing ₹9.57 crore upto February 2009 and the contract was rescinded (February 2009) due to non-performance by the contractor. The balance work was valued at ₹50.95 crore and contract was awarded (December 2009) to M/s Avantika-GHRA (JV) (at the risk and cost of M/s IDEB). The scheduled completion date of the project was 2 December 2010. The work was finally completed on 31 December 2015 after a delay of 61 months.

Audit observed that there were repeated revisions of the ground floor plans and first drawings during the contract period which resulted in changes in the locations of various installations and facilities and delayed the completion of project. Consequently, while considering final extension of time, delay of 27 months (approx.) was attributed to AAI

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<sup>13</sup> *A civil enclave is an area allotted for the use of civil aircraft and civil aviation related services at an airport belonging to the Armed Forces*

on account of reasons such as change in ground floor plan, delay in finalisation of drawings of fire detection & alarm systems, inclusion of additional floor and delay in approval of alternate variety of granite for flooring after ban imposed on approved variety etc.

Remaining delay of 34 months was attributed to contractor for which maximum Liquidated Damages amounting to ₹5.09 crore<sup>14</sup> was levied. However on a petition of the contractor, the City Civil Court Hyderabad passed an order against AAI in June 2017 holding AAI responsible for all delays. AAI has, however, filed an appeal against the decision of the Court.

The Management stated (January 2018) that an appeal under Section 37 of the Arbitration and Conciliation Act, 1996, has been filed (August 2017) in High Court of Judicature for the State of Telangana and Andhra Pradesh and further action will be taken as per the directions of Hon'ble Court.

The Management reply was not acceptable as the appeal was for considering the delay attributable to the contractors and levy of LD accordingly. The reply of the Management is silent about the delay of 27 months that was attributable to AAI due to repeated revisions of ground floor plan and first drawings during contract period and highlight lapses on the part of the Management in proper planning and co-ordination in execution of works.

#### **2.2.2.2 Deficiencies in Planning, Pre award and Execution activities**

##### **A. Undertaking of unviable Projects**

Ministry of Civil Aviation formulated a 'Policy on Airport Infrastructure' in November 1997. Sub-para (7) of Para 14 titled 'Financing of Airport Infrastructure' of the said policy provided that AAI would invest only in projects with demonstrated economic viability and positive rate of return and wherever Government compels AAI to invest in a unviable project for the fulfilment of social objectives, the initial capital cost of the project and the recurring annual loss sustained by AAI on this account, would be reimbursed.

Audit observed that AAI did not adhere to the above policy in the following cases:

##### **A.1 New Civil Enclave at Jaisalmer Airport**

Despite the fact that the work of new Civil Enclave was not economically viable, AAI undertook and completed (February 2013) the work incurring an expenditure of ₹32.15 crore. However, the new Civil Enclave could not be operationalised till September 2017 as brought out in Para 2.1.5 above. *This issue was highlighted in Report 9 of C&AG of India for the year 2017 (Para No. 2.3(a)).*

##### **A.2 Kishangarh Airport**

Feasibility Report of the airport prepared in August 2012, pointed out that Kishangarh Airport was not economically viable considering the traffic movement of aircrafts and passengers at 3300 and three lakh per annum, respectively, adopting 2015-16 as the

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<sup>14</sup> *At the rate of 1.5 per cent of contract value per month of delay subject to maximum of 10 per cent of contract value*

base year. A growth rate of 6 per cent for first year, 8 per cent for next 10 years and 10 per cent for further 10 years was assumed in the report. The Feasibility Report stated that even if Government of India provided the cost of development of Kishangarh Airport, the Airport was not viable as the Internal Rate of Return was negative. The Report recommended levy of user development fee (UDF) at the rate of ₹250 per departing and ₹100 per arriving passenger, to make the airport economically viable.

AAI approached (August 2012) Planning Commission for 'in-principle' approval and budgetary support for Kishangarh Airport. 'In-principle' approval was received in September 2012, subject to the condition that the requisite land would be made available by the Government of Rajasthan. Planning Commission also suggested that development of airport through PPP mode should be explored as Grants-in-aid would not be granted. The Board approved (April 2013) the development of Kishangarh Airport at an estimated cost of ₹160.05 crore on the directions (January 2013) of Ministry of Civil Aviation (MoCA) to AAI to obtain approval of its Board for funding of the project. AAI incurred an expenditure of ₹91.93 crore up to September 2017 on developing the airport and the work was in progress. Further, AAI has estimated a net surplus of ₹15.74 crore over a period of 25 years (from 2017-18 to 2040-2041) of operations of Kishangarh Airport, as appraised to Board of Members in their 153 meeting held on 18 April 2013.

Audit observed that AAI did not explore the possibility of development of airport on PPP mode. Further, the decision of the Government of India/MoCA not to extend/commit any budgetary support/Grants-in-aid to the unviable project of Kishangarh Airport was also not in line with the 'Policy on Airport Infrastructure' referred above.

The Management stated (January 2018) that with the introduction of Regional Connectivity Scheme the construction of infrastructure at Kishangarh would be justified.

Though, as per 'Policy on Airport Infrastructure' referred above, the capital expenditure incurred on the development of an unviable airport like Kishangarh Airport and operating losses likely to be sustained by AAI during the coming years, were required to be reimbursed by Ministry of Civil Aviation / Government of India, no records of efforts made by AAI to get the reimbursement was noticed in audit. AAI did not also explore the possibility of running the airport through PPP mode. Further, financing an unviable project through internal resources of AAI was in contravention of Airport infrastructure policy.

### **A.3 New Terminal Building at Khajuraho Airport**

Board of AAI approved (2006) construction of the New Terminal Building at Khajuraho Airport at preliminary estimated cost of ₹75.32 crore as referred in para 2.1.6 above. AAI decided to fund the project from its internal resources even though the IRR of the project was negative. AAI incurred an expenditure of ₹63.01 crore (December 2015) on construction of Terminal Building. Further, in the first year after its commissioning i.e. during year 2016-17, AAI had incurred a loss of ₹30.58 crore. Audit observed that the decision of AAI to construct the new terminal building was in contravention of the Airport Infrastructure Policy. Audit did not find any evidence of the efforts made by AAI to get the capital expenditure and the loss sustained on operations of Khajuraho Airport, reimbursed from GoI/MoCA.



The Management stated (January 2018) that the temples at Khajuraho were UNESCO World Heritage Site and attracted large number of international tourists and befitting world class airport terminal was therefore required at Khajuraho.

The Management reply was not tenable as the policy on airport infrastructure clearly stated that AAI will only invest in projects with demonstrated economic viability and positive rate of return and in case of non-viable projects for the fulfilment of social objective, the initial capital cost of the projects and the recurring annual loss sustained by the AAI on this account will be reimbursed.

## **B. Non-adherence in conditions of Notice Inviting Tender/Works Manual/Contract Agreement**

The contracts executed in AAI are governed by the terms and conditions stipulated in the Works Manual of AAI, Notice Inviting Tenders and the General conditions of contract forming part of the Contract Agreement. Audit reviewed 11 contracts and the following instances of deviations from the stipulated conditions were noticed:

### **B.1 Non-adherence to General Conditions of Contract**

Test check of the 11 contracts revealed that deviations were noticed in respect of the following clauses of General Conditions of Contract

- **Clause 1** of the General Conditions of Contract (GCC) stipulated that contractor was required to submit an irrevocable Performance Guarantee for an amount equal to 5 *per cent* of the tendered amount, within 30 days from date of issue of letter of acceptance/ work order. The performance guarantee was to remain in force till the stipulated date of completion of the work and contractor was required to extend the validity of performance guarantee to cover any extended period for completion of work.
- **Clause 2 of the General Conditions of Contract** (GCC) relating to 'Compensation for delay' stated that in case of delay in completion of contract, liquidated damages (LD) would be levied @ 0.5 *per cent* of contract value per week of delay subject to maximum of 10 *per cent* of the contract value.
- **Clause 10 CA of the General Conditions** (GCC), stipulated that the amount of the contract shall be varied if after submission of the tender, there was increase/decrease in price of materials specified in the contract compared to the prices prevailing at the time of the last stipulated date for receipt of tenders (including extensions, if any) for the work. Further, for the work done during the justified period, the index prevailing at the time of stipulated date of completion or the prevailing index of the period under consideration, whichever is less, shall be considered. The Clause further provided that if actual purchase price of material is less than the base price and the cost index at the time of purchase of material is greater than or equal to the cost index at the time of last date of receipt of tender then, this clause would not be applicable.
- **Clause 46 of the General Conditions** (GCC) (Clause 13 of pre revised GCC), stipulated that the contractor was required to take Contractors' All Risk insurance policy in the joint name of AAI and contractor, against all losses or damages in

addition to insurance policy towards liabilities under Workmen's Compensation Act<sup>15</sup>, before commencing the work. It further provided that, if the contractors and/or his subcontractor (if any) failed to take and keep in force the insurance, AAI without being bound to, was required to take and keep in force any such insurance and pay such premium as was necessary for that purpose. AAI could deduct the amount so paid from any money due or which might become due to the contractors or recover the same as a debt due from the contractors.

The deviations from the above mentioned clauses noticed in respect of the 11 works are as under:

### **B.1.1 Indian Civil Aviation Academy, New Delhi**

The work of construction of Indian Civil Aviation Academy was approved (February 2011) by Board of Members of AAI and was awarded (April 2013) after a lapse of 25 months to M/s C & C Construction Limited as stated in Para 2.2.2.1-D.

In this regard, Audit observed the following:

- (i) The Performance Guarantee amounting of ₹4.68 crore submitted by the contractor expired on 08 November 2016. AAI relaxed the condition governing value of guarantee and permitted (6 February 2017) the contractor to submit a bank guarantee (BG) for ₹1 crore valid up to 31 December 2017 as against the BG for ₹4.68 crore, in violation of clause 1 of GCC. The BG was submitted on 06 February 2017. Thus there was no BG for the work during the period from 09 November 2016 to 05 February 2017. The relaxation for submission of BG of lesser amount was also against the financial interests of AAI since they contravened the conditions of the contract.
- (ii) Despite considerable delay on the part of contractors which required imposition of maximum LD @ 10 *per cent* of award value, as per clause 2 of GCC, AAI levied reduced LD resulting in short levy of ₹5.87 crore.
- (iii) Despite reduction in price indices of cement and steel during the execution of work, no adjustment on account of reduction in price index for cement and steel was made, while finalizing the 49<sup>th</sup> RA bill submitted (September 2017) by the contractor, as required by clause 10 CA of GCC.
- (iv) The contractor failed to keep the Contractors' All Risk insurance policy in force from December 2016 onwards. AAI, recovered (February 2017) an amount of ₹4 lakh from 38<sup>th</sup> Running Account Bill (RAB) of the contractor instead of obtaining a policy in terms of Clause 46 of GCC referred above. The action of AAI was inadequate since the amount of ₹4 lakh recovered by AAI might not be sufficient to cover up possible losses that might arise during the course of construction of work of ₹93.65 crore.

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<sup>15</sup> *As per Clause 3 of the Workmen's Compensation Act, 1923, employer's liability for compensation, if personal injury is caused to a workman by accident rising out of and in the course of his employment, his employer shall be liable to pay compensation in accordance with the provisions of 'Chapter II' of the Act*

The Management stated (November 2017/ January 2018) that bank guarantee for lower amount was accepted after obtaining necessary approvals and that the acceptance of lower amount was due to the requirements of the work and that there was no undue favour to the contractor. It further stated that final amount of LD would be levied and recovered after granting final extension of time. The escalation was being worked out and recovery on account of reduction in price indices would be effected from the next Running Account Bill to be paid to the contractor. Regarding absence of valid insurance policy, the Management stated that an amount of ₹4 lakh was recovered towards the cost of making the insurance policy i.e. the amount which the contractor would have saved by not renewing the insurance policy. The Management further stated that Workmen compensation Policy was already obtained from the agency and was valid till 28 June 2018.

The reply of the Management was not acceptable as AAI extended undue favour to the contractor by accepting the Performance BG for reduced amount in contravention of contract conditions. Further, the contractor was required to obtain the Contractors' All Risk insurance policy and Workmen's Compensation insurance policy during the entire period of contract. The amount of ₹4 lakh recovered by AAI might not be sufficient to cover possible liabilities and losses that might arise during the course of construction of work of ₹93.65 crore. AAI remains exposed to unforeseen financial liabilities in the absence of valid insurance cover, as 99 *per cent* of the project is complete (January 2018).

### **B.1.2 National Aviation University, Fursatganj**

Audit observed that, in violation to the Clause 46 of GCC, the Workmen's Compensation policy (in joint name of AAI and contractor) was taken only on 17 June 2017 although the work commenced on 26 August 2013.

The Management replied (January 2018) that due to transfer of Engineering In-Charge, enforcement of Clause 46 (b) of the contract was inadvertently missed out. However, there was no claim made on AAI under Workmen's Compensation Act. The Management further stated that necessary recovery for the amount, which the contractor would have saved by not renewing the insurance policy, was being made from the contractor.

The fact remained that the Management did not adhere to the terms of the contract and AAI was exposed to unforeseen financial liabilities.

### **B.1.3 New Terminal building at Khajuraho**

Audit observed that as per Clause 46 of GCC, the contractor was required to take the insurance for the period up to the completion of contract i.e. 31 December 2015 while executing the balance work of construction of the above work referred to in para 2.1.6 and 2.2.1 (c) above. However, the Contractor's All Risk (CAR) Insurance was valid only up to 31 July 2015 and Workmen's Compensation Insurance Policy was valid only up to 10 November 2015.

The Management stated (January 2018) that necessary recoveries have been made in this regard. However, the fact remained that there being no insurance cover in vogue AAI was exposed to unforeseen financial liabilities.

## **B.2 Non-adherence to conditions as per NIT**

### **B.2.1 Central Air Traffic Flow Management (C-ATFM) and Associated offices, Vasant Kunj, New Delhi**

One of the qualifying requirements as per the Notice inviting tender for works having estimated cost of more than ₹5 crore was that the contractor should have satisfactorily completed the required number and value of works of similar nature (viz. construction of Airport Terminal Building/Star Hotel Building/Embassy Building/Large Shopping Commercial Complex/Mega mall/Modern office complex) during the last seven years. Further, as per criteria for short listing of bidders, in respect of any agency already working with AAI, the performance in the work already entrusted was to be reviewed and the application of the agency whose performance was not satisfactory was liable to be rejected.

Audit observed that AAI awarded the work of construction of C-ATFM and Associated offices to M/s Sunehari Bagh Builders Private Limited on the basis of experience of the contractor in constructing a swimming Pool. The experience of the contractor did not meet the desired criteria of experience as indicated in the NIT, and the bid was liable to be rejected. However, AAI awarded the work to M/s Sunehari Bagh Builders Private Limited.

The Management stated (December 2017/January 2018) that the work was executed at CRPF Academy which was an institutional building. Moreover the scope/nature of work executed satisfied the requirements of proposed work and hence the tender opening committee considered the bidder as eligible.

Reply of the Management was not acceptable as construction of swimming pool could not be treated as similar to works listed in the NIT viz. “construction of Airport Terminal Building/Star Hotel Building/Embassy Building/Large Shopping Commercial Complex/Mega mall/Modern office complex, as defined in NIT.

### **B.2.2 Main Terminal Building and allied works at Jaisalmer Airport**

AAI invited (June 2009) tenders for construction of Main Terminal Building and allied works at Jaisalmer Airport. M/s ERA Infra Engineering Limited, emerged as the lowest bidder as referred in Para 2.1.5 above. As per the criteria stipulated in Notice Inviting Applications, for shortlisting of bidders in respect of any agency already working with AAI, the performance was to be reviewed and application of the agency whose performance was not satisfactory was liable to be rejected.

M/s ERA Infra Engineering Limited, before being shortlisted for this work, had executed the construction of Integrated Cargo complex at Netaji Subhash Chandra Bose International Airport (NSCBI), Kolkata in December 2006 which was completed with a delay of 10 months. It was also awarded (September 2008) the work of construction on New Expandable Modular Integrated Terminal Building at Raipur Airport, which was also delayed. AAI issued (September 2009) show cause notice to M/s ERA Infra Engineering on account of slow progress, inadequate resource mobilisation, delay in finalisation of vendors, unsatisfactory execution and poor quality of work and the agency was debarred (October 2009) from future tenders of AAI till successful completion of Terminal Building at Raipur Airport.

Audit observed the following:

- (i) Instead of excluding M/s ERA Infra Engineering from the shortlisted bidders, in view of the review of his past poor performance at NSCBI airport, Kolkata and Raipur airport, AAI obtained an undertaking from the contractor to improve performance and ensure timely completion of work in future, and awarded the work of construction of Main Terminal Building and allied works at Jaisalmer Airport also to him. The project was completed (February 2013) after delay of 22 months, of which 18 months were attributed to the contractor.
- (ii) Despite considerable delay on the part of contractor which required the imposition of maximum LD @ 10 per cent of award value (as per the clause 2 of GCC), AAI levied ₹1.96 crore as LD as against the maximum LD of ₹3.26 crore, resulting in a short levy of ₹1.30 crore.

The Management in their reply (January 2018) confirmed that awarding of work ignoring the poor performance of M/s ERA Infra Engineering at Kolkata and Raipur Airports resulted in delayed completion of the work. It further stated that for Jaisalmer Airport work LD was recovered as per AAI Technical Circular dated May, 2013 approved by the competent authority.

The reply is not acceptable as the Technical Circular of May 2013 only laid down the manner of assessing the loss to AAI on the basis of expenditure incurred by it on deployment of staff for the unjustified extended period. Further, as Clause 2 of GCC did not contain any reference to the circular which was issued after completion of the work, its provisions were not enforceable on the parties entering into a contract.

### **B.3 Non-adherence to Works Manual of AAI at Integrated Office Complex for AAI and DGCA at Lucknow Airport**

Clause 13.7 of Works Manual of AAI stipulated that while carrying out a deposit work by AAI, the concerned client department would be required to pay in advance the gross estimated expenditure in one lump sum unless authorised specially by the Competent Authority.

Audit observed that in case of construction of Integrated Office Complex for AAI and DGCA at Lucknow Airport, DGCA deposited an amount of ₹1.18 crore only as against the estimated gross expenditure of ₹2.08 crore<sup>16</sup> before commencement of work. Further, as against the expenditure of ₹2.46 crore incurred by AAI for completion of work done on behalf of DGCA, an amount of ₹1.18 crore only was received by AAI till August 2017.

The Management stated (January 2018) in their reply that a letter for demand for balance amount towards this work has been issued to DGCA in August 2017.

#### **B.3.3 Delay in decision making and lack of coordination in the work of CAT III-B lighting system, at Jaipur Airport**

In compliance with the recommendation (23 April 2014) of MoCA to equip the Jaipur Airport with CAT III-B lighting system as stated in para 2.1.1 above, the competent authority granted in-principle approval (September 2014) for construction of the Part Parallel Taxiway (PPT) instead of turning pad at Jaipur Airport. Accordingly, the scope

<sup>16</sup> *Approved estimated cost of construction of 2560 sqm was ₹11.68 crore of which 457 sqm pertained to DGCA. Thus amount payable by DGCA= ₹11.68 crore\*457.00 sqm / 2560.00 sqm = ₹2.08 crore*

of work for extension and strengthening of runway for operation of wide bodied Jet Aircrafts of 'E' category including of CAT-II Lighting System at Jaipur Airport, awarded (24 December 2013) to M/s GR Infrastructure Limited, was revised (June 2015) to include construction of PPT as an additional work costing ₹11.27 crore.

Audit observed the life span of rigid pavement was longer than the flexible pavement. The contractor was initially requested to construct the PPT in rigid pavement since this option was economical compared to flexible pavement. Despite the willingness expressed (24 December 2014) by Contractor for the rigid pavement option, management took more than five months to the decision (June 2015). However, by that time, the contractor refused to carry out the work due to demobilisation of machinery from the site. Due to urgency of work and to meet the deadline by winter season, 2015, the competent authority approved construction of PPT on flexible pavement<sup>17</sup> costing ₹11.27 crore as an additional work to the existing contractor. Had, AAI taken the decision to construct the PPT in rigid pavement (costing ₹10.84 crore) promptly, it could have saved ₹0.43 crore and could use the PPT for longer duration.

Management stated (January 2018) that implementation of CAT III-B lighting work was not a routine airport development work and had to be carried out in on operational airport without compromising on aircraft operations, safety and security. Therefore, some of the hindrances, which were beyond the control of AAI, such as procurement of navigational aids etc. could not be foreseen. The time considered for carrying out the work (i.e. 18 months) for CAT III-B operation was found to be on lower side with reference to the time period required for completion of all the activities of CAT III-B complied airport. Management further stated that all the activities of subject work were taken up in time by AAI and that delay in execution of work/contract was due to the procedure, circumstances/delays at different levels. Management also stated that in order to streamline various processes involved in CAT III-B work, AAI has brought out a Standard Operating Procedure (SOP).

The Management reply was not acceptable as 'in-principle approval' by the competent authority was accorded in September 2014, whereas the final decision was taken by the Work Advisory Board (WAB) only in June 2015. Moreover, management reply is silent on the delay in taking decision regarding construction of PPT with rigid pavement.

### **2.2.2.3 Idling of Assets**

#### **A. New Terminal Building Complex at Khajuraho Airport**

The work was awarded (June 2007) to M/s IDEB Construction Project Private Limited with a completion period of 15 months. Due to slow progress, the work was rescinded (February 2009) and balance work was awarded (December 2009) to M/s Avantika-GHRA (JV) which was finally completed in December 2015 after a delay of 61 months as referred in Para 2.2.2.1-F, 2.2.2.2-A3 and 2.2.2.2-B.1.3 above.

Audit observed that escalators and elevators worth of ₹2.17 crore supplied in March 2009 remained uninstalled and idle till May 2015. Further, due to delayed completion of work

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<sup>17</sup> *The flexible pavement, having less flexural strength, acts like a flexible sheet (e.g. bituminous road). On the contrary, in rigid pavements, wheel loads are transferred to sub-grade soil by flexural strength of the pavement and the pavement acts like a rigid plate (e.g. cement concrete roads)*

of terminal building, the dedicated feeder (comprising substation equipment and DG sets worth of ₹4.66 crore and 33 KV substation worth of ₹1.20 crore completed in July 2011) could not be used till December 2015 for its intended purpose.

The Management stated (January 2018) that the progress of construction of Terminal Building was poor and accordingly the contract for main Terminal Building had to be rescinded. Therefore, site was not available for installation of the E & M equipment's at Khajuraho through the E & M composite contracts.

The reply of the Management was not acceptable since lack of coordination and improper execution of works delayed the construction of terminal building, which ultimately resulted in non-utilisation of other assets.

## **B. Main terminal Building and allied works of New Civil Enclave at Jaisalmer**

The work was awarded (March 2010) to M/s ERA Infra Engineering Limited which was completed in February 2013 after a delay of 22 months. However, the New Civil Enclave at Jaisalmer had not become operational till September 2017 as stated in Para 2.2.2.1-E and 2.2.2.2-A1 above.

Audit observed that though the expenditure on the project was capitalised in May 2013, as the New Civil Enclave remained non-operational, AAI continued to use the old building for passenger movement. Equipment worth ₹4.25 crore installed at the Main Terminal Building viz. conveyor belt, x-ray baggage machine, Electrical installations, CCTV Cameras, furniture & fixture and Solar plants etc. remained idle during May 2013 (date of capitalisation) to September 2017.

The Management stated (December 2017/January 2018) that the new Terminal building was put to use in October 2017 with the operationalisation of the airport. Reply of the Management is silent about the idling of assets during May 2013 to September 2017.

### **2.2.3 Conclusion**

Projects executed by AAI resulted in time overrun arising due to non-availability of complete land without hindrance before award of work, delays in obtaining mandatory clearances and approvals from DGCA and changes in the site already selected for a work. This indicated a need for more efficient planning of development projects of airport infrastructure.

AAI also undertook construction of unviable airport projects using its internal resources. This was in contravention of the provisions of the 'Policy on Airport Infrastructure' (November 1997).

Audit also noticed the cases of non-adherence by Management of AAI to the conditions of Notice Inviting Tender, contractual provisions and the provisions of AAI Works Manual, which indicated ineffective managerial control of the construction works.

The matter was referred to the Ministry in December 2017; their reply was awaited (February 2018).

### 2.3 Charging inadmissible expenses to Escrow Account by Delhi International Airport Limited

**DIAL charged to PSF (SC) Account an amount of ₹115.63 crore (till 31 March 2016) towards rent for CISF accommodation at Monkey Farm, Mahipalpur on notional basis i.e. without incurring any cost for providing the accommodation. Charging rent for CISF accommodation on notional basis was against the provisions of State Support Agreement and Standard Operating Procedure for Accounts/Audit of Passenger Service Fee (Security Component). This resulted in a deficit/reduction in balance of PSF (SC) Escrow Account by ₹115.63 crore.**

Airports Authority of India (AAI) entered into (4 April 2006) an Operation, Management and Development Agreement (OMDA) with Delhi International Airport Limited (DIAL). In compliance with the terms and conditions of OMDA, AAI handed over (3 May 2006) Indira Gandhi International Airport (IGI Airport) to DIAL. Eventually, the accommodation for Central Industrial Security Force personnel being maintained by AAI at Monkey Farm, Mahipalpur, in the vicinity of IGI Airport, was also taken over by DIAL.

Ministry of Civil Aviation (MoCA), Government of India directed (9 May 2006) Passenger Service Fee (PSF), to be collected from embarking passengers by the respective Airport Operator viz. AAI, a Joint Venture Company or a private operator. PSF levied included Security Component (SC) (65 per cent) and Facilitation Component (35 per cent). PSF (SC) collected at an airport operated by a JVC or a private operator is utilised at the airport concerned to meet the security related expenses of that airport. The amount collected by the airport operator, through the airlines, is kept in an escrow account and thus held in fiduciary capacity. The amount of security component deposited in the escrow account could be withdrawn by JVC/Private Operator only for specified purposes as per Para 3.5(ii) of Standard Operating Procedure (SOP)<sup>18</sup> issued by MoCA vide Order No. F.No.AV.13024/047/2003-SS/AD dated 19 January 2009.

During the course of audit of annual accounts of PSF (SC) Escrow Account for the year 2015-16, Audit noticed that DIAL debited the PSF (SC) Escrow Account by an amount of ₹115.63 crore<sup>19</sup> (till 31 March 2016) towards the rent for the CISF accommodation, comprising 39358 sqm. of open land and 7,859 sqm. of built up space, at Monkey Farm, Mahipalpur, New Delhi.

Audit observed that:

<sup>18</sup> Para 3.5(ii) of S.O.P. stipulated purposes of withdrawal and their order of priority as: (a) to pay amounts towards taxes including Income Tax on PSF (SC) income as per provisions of Income Tax Act, 1961, Service Tax or any other statutory dues, (b) To pay for security related expenses to CISF, (c) To pay other security related expenses in terms of MoCA Order dated 20-06-2007 or any other decision of MoCA/BCAS or any other government agency, from time to time

<sup>19</sup> License Fee for the period from 2006-07 to 2015-16:

Area	License Fee	₹ crore
Built up area of 7,859 sqm.	@ ₹732.34/ sqm/ month in 2006-07 with annual escalation @7.50 per cent	97.71
Open space of 39358 sqm.	@ ₹269.45/ sqm/ month in 2006-07 with annual escalation @7.50 per cent	17.92
	<b>TOTAL</b>	<b>115.63</b>



- In the second meeting of OMDA Implementation Oversight Committee (OIOC) held on 11 December 2006, DIAL had committed that it would not make any profit from the security component of PSF but would only meet the security cost related to IGI Airport.
- PSF (SC) Escrow Account was to be utilised only for payment of specified expenses related to CISF. However, in the instant case DIAL was not incurring any cost for providing accommodation to CISF. Hence, the expenditure charged by DIAL to PSF (SC) Escrow Account, towards rent in respect of CISF accommodation at Mahipalpur, on notional basis was not an eligible expenditure as per Standard Operating Procedure prescribed by MoCA.

The Ministry of Civil Aviation replied (February 2017) that:

- a) DIAL was not prohibited under OMDA/State Support Agreement (SSA) from charging rent for Monkey Farm, Mahipalpur, which formed part of the 'Demised Premises' leased to DIAL.
- b) CISF is the nominee of Government of India for carrying out the security function of GoI and DIAL was not charging any rent for the operational space provided to CISF at IGI Airport. As per SSA 50 *per cent* rent could be charged for back office.
- c) DIAL had informed MoCA in November 2009 that rental for non-operational area occupied by CISF and part of demised premises would be charged to PSF (SC).

Reply of the Ministry was not acceptable in view of the following:

- (i) Clause 3.3.2 of the State Support Agreement stipulated that DIAL should provide to GoI, or its designated nominees/representatives, such space requirements as reasonable so as to enable GoI, or its designated nominees/representatives to provide the GoI Services at the Airport. It was further provided that operational space for provision of GoI Services at the Airport should be at no cost to GoI, or its designated nominee/representatives and back office space should be provided at 50 *per cent* of the applicable commercial rent for other back office rentals/office rentals at the Airport. The space provided for residential accommodation of CISF at Monkey Farm, Mahipalpur was neither in the 'Operational Area' nor in the 'Back Office Area' of airport. Hence, DIAL was not eligible to charge rent for the same
- (ii) Reply was silent on the action taken by MoCA on the intimation given by DIAL in November 2009 for charging rent on non-operational area occupied by CISF and part of demised premises. As informed by DIAL, the Ministry did not respond to DIAL's letter dated 20 November 2009.

Thus, without incurring any cost for providing accommodation to CISF at Monkey Farm, Mahipalpur, DIAL started charging PSF (SC) Account with the rent for CISF accommodation on notional basis. This indicated failure of MoCA in safeguarding the financial interests of the Government of India.

The charging of ₹115.63 crore (till 31 March 2016) to PSF (SC) Account by DIAL, towards rent for CISF accommodation at Monkey Farm, Mahipalpur on notional basis i.e.

without incurring any cost for providing the accommodation, was against the provisions of State Support Agreement and Standard Operating Procedure for Accounts/Audit of Passenger Service Fee (Security Component). This resulted in a deficit/ reduction in balance of PSF (SC) Escrow Account by ₹115.63 crore.

#### 2.4 Undue favour to the contractor

**An amount of ₹8.24 crore, was recoverable by AAI from the contractor for delay of more than 31 weeks attributable to the contractor in completing New Terminal Building at Varanasi Airport as per contractual provisions. While granting final extension of time, the competent authority charged an amount of ₹0.25 crore only towards compensation/LD on the contractor. Thus, short levy of LD, against the provisions of the contract, constituted an undue favour to the contractor.**

Airports Authority of India (AAI) awarded (August 2007) the work of construction of new Terminal Building at Varanasi Airport to M/s LANCO Infratech Limited at the contract price of ₹82.39 crore. The scheduled date of completion of the work was 18 November 2008. As per clause 32 (a) of General Conditions of the Contract (GCC) signed between both the parties, in case of delay in completion of the work, liquidated damages (LD) were required to be levied at the rate of 0.5 *per cent* of contract value per week of delay subject to maximum of 10 *per cent* of the contract value.

The Contractor could not complete the work by the scheduled date of completion of the work. Based on the hindrances occurred up to end of July 2008, AAI granted extension of time for completion of the work by the Contractor up to 31 March 2009 without levy of LD. The Contractor, however, could complete the work only on 12 January 2011. In response to a show cause notice issued (May 2011) by AAI to the Contractor for levying of LD for delayed completion of work, the Contractor requested for grant of final extension of time up to 12 January 2011 without levy of LD, citing reasons like shifting of location of Terminal Building, delay in receipt of drawings/approvals from design consultant, revision in position of service building, roads and car park, revision in roofing and glazing of Terminal Building etc. AAI considered that out of total delay of 652 days in completion of work after 31 March 2009, a delay of 432 days (i.e. after 31 March 2009 to 06 June 2010) was attributable to AAI and delay of 220 days (w.e.f. 07 June 2010 to 12 January 2011) was attributable to the Contractor. Accordingly, AAI granted (July 2011) final extension of time without levy of LD up to 06 June 2010 and with levy of compensation of ₹0.25 crore for the period from 07 June 2010 to 12 January 2011.

Audit observed that as per provisions of clause 32 (a) of GCC, an amount of ₹8.24 crore (i.e. 10 *per cent* of the contract value of ₹82.39 crore), was recoverable by AAI from the Contractor for delay of more than 31 weeks (i.e. 220 days) in completion of the work. Thus, short levy of compensation/LD amounting to ₹0.25 crore was against the provisions of the contract.

The Management of AAI stated (May 2017) that:

- (i) Compensation / liquidated damages for unjustified delay was recovered in terms of Clause 32 of the Contract. Further, compensation/LD were quantified based on direct loss sustained by AAI in the form of expenditure on deployment of staff during the unjustifiable extended period. Accordingly, cost incurred by the Company on the staff deployed had been recovered for

the unjustified period of delay. The Management further stated that the above practice was followed by AAI in all contracts.

- (ii) Compensation for unjustified delay was recovered from the agency in terms of direct loss to AAI in accordance with power conferred to Competent Authority i.e. Member (Planning) referred to in Serial number 24 of Schedule 'E' to GCC.
- (iii) The agreement contained provision for compensation for delay and not penalty. The compensation was to be enforced as per the procedure prescribed in AAI's Works Manual, in line with the legal requirement of the Indian Contract Act for maintainability of the action taken. Further, the intent of the Clause relating to Compensation for delay was to levy compensation for delayed performance, if fault or delay or hindrance was attributable to the Contractor and there was proof of loss occasioned thereby.
- (iv) As the compensation for delay / liquidated damages had been recovered from the Contractor after quantifying the direct loss to AAI, this had not resulted in any undue favour to the Contractor.

Reply of the Management was not acceptable in view of the fact that:

- (i) The reply was contradictory to the action taken by the Management in the case of construction of New Terminal Building at Khajuraho Airport, where the Management had worked out an amount of ₹2.18 crore towards direct loss to AAI in the form of the cost of deployment of staff (₹0.30 crore) and accrued interest of ₹1.88 crore (at the rate of 18 *per cent* on capital expenditure of ₹10.00 crore which remained unutilised) during the unjustifiable extended period of 383 days. However, while granting (June 2009) the final extension of time to the contractor (M/s IDEB), LD at the maximum rate of 10 *per cent* of the contract value of ₹57.81 crore, i.e. ₹5.78 crore was levied towards delay of 383 days in terms of Clause 32(a) of GCC.
- (ii) Serial Number 24 of Schedule 'E' to General Conditions of Contract referred in the reply did not deal with computation of the quantum of compensation/LD to be recovered from the agency. The provision only stipulated that the Member (Planning) of AAI would be the Authority competent to grant extension of time under the contract.
- (iii) Penalty was a sum so stipulated in the contract with the object of coercing the party into performing the contract. However, liquidated damages were a genuine, covenanted pre-estimate of damages which the parties have agreed at the time of contracting that, in the event of breach, the party in default should pay a stipulated sum of money to the other. Further, as per the provisions of Section 74 of the Indian Contract Act and the judgment given by the Hon'ble Supreme Court of India in case of ONGC v/s Saw Pipes, it was not essential for a party to prove actual losses before claiming reasonable compensation. Further, as Clause 32(a) of GCC did not contain any reference to the Works Manual of AAI, the provisions of works Manual were not enforceable on the parties entering into a contract.

- (iv) Clause 32 (a) of GCC clearly stipulated the rate of compensation as 0.5 *per cent* of contract value per week of delay subject to maximum of 10 *per cent* of the contract value. However, the Management did not apply the rate of compensation as stipulated in the Contract.

Thus, short levy of compensation / LD by AAI for delay attributable to the Contractor M/s LANCO Infratech Limited, in completion of New Terminal Building at Varanasi Airport was against the provisions of the contract and constituted an undue favour by AAI to the Contractor.

The matter was referred to the Ministry in November 2017; their reply was awaited (February 2018).

### **2.5 Short levy of liquidated damages**

**Airports Authority of India decided to recover reduced liquidated damages to be levied for delay, contrary to the terms of contract. This resulted in undue benefit to the contractors and loss of revenue of ₹18.18 crore to AAI in respect of construction of new Integrated Terminal building at Civil Enclave, Goa.**

Airports Authority of India (AAI) awarded a contract for construction of New Integrated Terminal Building at Civil Enclave, Goa to M/s. Consolidated Construction Consortium Limited (CCCL) at ₹204.73 crore with the scheduled completion date as 15 May 2012. However, the actual date of completion was 27 March 2015.

Clause 32 of the contract entered into with M/s CCCL stated that in the event of the contractor failing to maintain the required progress or completing the work as stipulated in the contract, he/they shall be liable to pay compensation/Liquidated damages @ 0.5 *per cent* of contract value per week of delay subject to maximum of 10 *per cent* of the contract value.

Audit observed that the related work awarded to CCCL, was completed on 27 March 2015 with a delay of 1046 days (16 May 2012 to 27 March 2015) against which the delay attributable to the contractor was 536 days. The amount of Liquidated Damages applicable under Clause 32 of the contract for this delay of 536 days, worked out to ₹20.47 crore (10 *per cent* of the contract value of ₹204.72 crore). However, AAI approved (March 2016) extension of time (EOT) up to 07 October 2013 by 510 days for justified hindrance and levied compensation of only ₹2.29 crore for the unjustified hindrance period of 536 days from 8 October 2013 to 27 March 2015. Thus there was a short recovery of LD to the extent of ₹18.18 crore.

The Management stated (October 2016) that the compensation is levied only to the extent of direct losses accruing to AAI on account of delay in completion of the project and compensation for delay/liquidated damages had been recovered from the contractor as per Annexure of the Technical Circular issued by Member Planning of AAI considering the administrative cost incurred for the execution of the project.

The Ministry stated (May 2017) that the unjustified delay of 528 days was on account of executing agency i.e. M/s CCCL. The loss to the department on account of engagement of staff for the unjustified delay had been calculated in accordance with the Technical Circular of May 2013. The penalty to be levied on account of AAI, worked out to

₹2.51 crore, to cover for the increased establishment cost incurred by AAI towards engagement of manpower during the unjustified period of delay.

The reply is not tenable due to following reasons.

- i. Clause 32 of the Contract clearly stipulated that the contractor was liable to pay the amount of LD as a percentage of the value of the Contract. Thus recovering an amount, less than that stipulated in the Contract, was not as per the provisions of the Contract and hence not justified and amounted to extending undue favour to the contractors.
- ii. As per Section 74 of the Indian Contract Act dealing with compensation for breach of contract where a penalty has been stipulated to be levied, the party complaining of the breach, when the contract has been broken is entitled to receive from the party who has broken the contract, the amount so named, whether or not actual damage or loss have been proved to have been caused or not, if the sum is named in the contract as amount to be paid in case of such breach.
- iii. The Management's reply that the loss to the department on account of engagement of staff for the unjustified delay had been calculated in accordance with the Technical Circular of May 2013 is not acceptable. The terms of contract were agreed by both the parties and therefore were binding on the Contractor. Since, the Contract specifically provided for recovery of Liquidated damages, in case of delay, the Company should have recovered the LD at the rate specified in the Contract.

Thus, due to the undue benefit given to the contractors by non-recovery of amount of LD as stipulated in the Clause 32 of the contracts, AAI had to forego a revenue of ₹18.18 crore.

The matter was referred to the Ministry in October 2017; their reply was awaited (February 2018).

[Air India Limited](#)

## **2.6 Irregular payment of Incentive to cabin crew**

**Payment of incentive to the cabin crew by Air India without approval of the Board of Directors of Air India Limited (AIL) or the Ministry of Civil Aviation resulted in irregular expenditure of ₹11.95 crore, for the years 2015-16 and 2016-17.**

Pay and allowances of Cabin crew of Air India Limited are governed by terms and conditions of their appointment. As per Para 1.18/1.19 of said terms and conditions, the crew would be paid an hourly payment, layover/meal allowance and supplementary layover/meal allowance, as applicable to their grade when they performed flying duties. The crew members were bound to accept flight duties/standby duties in between flight duties within the prescribed flight duty time limit (FDTL), as assigned by the Management.

The crew was required to undertake any flying and ground duties, including the operation of special or chartered flights as per Para 1.46 of the terms and conditions of appointment

of the cabin crew. As per agreement (September 2008) entered into by the Company with the Air India Cabin Crew Association, the cabin crew was eligible for flying allowance.

The flying allowance was structured in slab rates with flying allowance increasing with the increase in number of flying hours. The underlying principle was to fly more and earn more. The agreement did not provide for payment of any additional allowance for flying normal duty hours.

In addition to the above allowances, prescribed by the Agreements with the Cabin crew members, Company paid the following additional allowances, for flying hours within the normal range of duty hours, without obtaining the approval of Board of Directors of the Company or the Ministry of Civil Aviation.

- i. The Company paid ₹25,000 for flying for more than 475 hours every year and or ₹50000 for flying of 950 hours every year, as flying star awards with effect from January 2014. The Company paid a total amount of ₹10.41 crore<sup>20</sup> during the Financial Years (F.Y.) 2015-16 and 2016-17 as flying star awards of cabin crew and for flying 475/950 hours in the calendar years 2014 and 2015.
- ii. Air India operated Charter flight to ferry Haj Pilgrims, every year, during the Haj period (August to October). The Company decided (August 2015) to pay Haj incentive allowance of ₹10000, to each crew member who did not take more than 2 days leave in a month during the Haj season 2015 to incentivize and to improve availability of cabin crew. The Haj Allowance was further increased (June, 2016) to ₹15000/ per crew member during Haj season 2016. All the cabin crew, irrespective of whether they were involved in Haj operation or not, were being paid the Haj incentive. The additional expenditure towards payment of Haj allowance for flying normal duty hours amounted to ₹1.54 crore<sup>21</sup> for the years 2015 and 2016.

Audit observed that:

- a) The directions (June 2014) of Director General of Civil Aviation (DGCA) relating to Flight duty and flight Time limitation, stipulated that the crew could fly up to a maximum of 1000 hours in any period of 365 days for both domestic and international operations. Therefore, payment of additional allowance, as Star Allowance, for flying 475 hours and 950 hours lacked justification as the flying hours were within the maximum flying hours of 1000 hours per year per cabin crew, prescribed by DGCA. No separate allowance was therefore, warranted.
- b) Department of Public Enterprises (DPE) had stated that, no further allowance/benefit/perks was admissible outside the 50 per cent ceiling of basic pay except Dearness Allowance, House Rent Allowance and City Compensatory Allowance as mentioned in DPE OM dated 26 November 2008, dealing with revision of structure of pay of executives and non-unionised executives in all Central Public

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<sup>20</sup> *The Company paid an amount of ₹4.71 crore as flying star awards to 1243 cabin crew members, during the Financial Year (F.Y.) 2015-16 for flying 475/950 hours in the calendar year 2014 and ₹5.70 crore to 1530 cabin crew members during the F.Y. 2016-17 for flying 475/950 hours in the calendar year 2015*

<sup>21</sup> *Air India paid Haj allowance of ₹56.50 lakh during the year 2015 and ₹97.65 lakh 2016*

Sector Enterprises. Payment of 'star allowance' and 'Haj allowance' was therefore, contrary to guidelines of DPE, applicable to all public sector enterprises.

- c) An independent committee under the chairmanship of Justice D.N. Dharmadhikari (JDC), had been set up (May 2011) by the Ministry of Civil Aviation for harmonisation of wage costs between Air India and erstwhile Indian Airlines<sup>22</sup>. The Committee (JDC) submitted (January 2012) its recommendations to Ministry of Civil Aviation (MoCA) which was accepted by MoCA in June 2012. As per the recommendations of the Committee, total emoluments to be paid to pilots, engineers and cabin crew would be fixed only with the approval of the Union cabinet as dispensation like flying allowance, license allowance etc. would fall outside the DPE guidelines and deviations from such guidelines required approval of the Cabinet. No such approval was seen to be obtained by the Company while recommending additional allowances.
- d) Para 8.5.2 of the Report No. 40 of 2016 of Comptroller and Auditor General of India on Turnaround Plan and Financial Restructuring Plan of Air India Limited had highlighted substantial under-utilisation of the Cabin crew by the Company during the period from 2013 to 2015. The report pointed that only 40 per cent to 70 per cent of the cabin crew were utilised for over 70 hours a month. It was observed that 12 per cent to 27 per cent of the available crew were being utilised for upto 50 hours only. Despite the under utilisation of available crew, the Company allowed payment of additional allowances in form of star allowance and Haj allowance.

Thus, payment of allowances without obtaining the prior approval of Board of Directors of the Company and Ministry of Civil Aviation resulted in irregular expenditure of ₹11.95 crore towards payment for the Haj incentive and star award incentive, during the years 2015 and 2016.

The Management (November 2017) stated that:

- 1) There is a cap of maximum 1000 hours in a period of 365 consecutive days and the crew were also entitled to 54 days of various types of leave which further reduced their utilisation. During the period of Haj Operation, the availability of crew was vital and hence this incentive was paid as a measure to ensure availability of cabin crew during Haj period.
- 2) Incentives were paid to ensure that the crew operated, up to the maximum limits, at times even by not availing their entitled leave particularly in the context of shortage of crew. The hours available after considering the requirements prescribed by the Director General of Civil Aviation (DGCA) were not enough to ensure smooth operations during Haj season and the Company had to incentivise the crew to work longer period upto the maximum limit prescribed by DGCA.
- 3) The Company saved on the Hotel cost at Medina and Jeddah by not providing layover at Saudi Arabia. By avoiding such night stop at Madinah (MED)/ Jeddah (JED), the Company not only saved US\$ 850 per person per night respectively, but also avoided unproductive night stops thereby increasing crew availability and

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<sup>22</sup> *Air India (AI) and Indian Airlines (IA) had different human resource management practices prior to their merger (2007) as they were operating in different markets*

utilisation. There had been large savings on account of this as compared to the incentive paid. As per the recommendations of the Committee, the total emoluments to be paid to the cabin crew would be done only after the approval of the Union Cabinet as dispensation like flying allowance, license allowance etc. would fall outside the scope of DPE guidelines and such deviations would require approval.

- 4) Approvals of senior Management had been obtained for the payment.

The reply of the Management is not tenable due to the following:-

- i. The Management in its reply furnished a copy of the minutes of meeting held on 5 January 2015 with Ministry of Civil Aviation, wherein it was decided that attractive Incentive schemes must be introduced for cabin crew who performed well and were flying regularly with high utilisation of hours. Audit observed that as per the minutes of the meeting held in January 2015, with the Ministry, the discussion was to introduce an attractive scheme. No specific approval was obtained from the Ministry of Civil Aviation or Board of Directors of Air India Limited for payment of Star award incentive or Haj allowance. Besides, the payment of star awards commenced in January 2014, even before the meeting was held.
- ii. The Management's claim that it was saving on the Hotel cost at Saudi Arabia by not providing layover at MED/JED airports thus justifying Haj allowance and Incentives does not hold good as the crew was already being paid an additional \$100 as Quick Turnaround Allowance in addition to the Haj allowances of ₹15000/- per crew as well as layover allowances.

In the light of the financial crunch faced by the company and the dependence for equity support on the Government of India, for the working capital requirements of the Company, the additional payment of ₹11.95 crore as incentive to the cabin crew during the years 2014-15 and 2015-16 lacked justification.

The matter was referred to the Ministry in December 2017; their reply was awaited (February 2018).

### ***2.7 Additional expenditure on appointment of retired cabin crew***

**Air India Limited appointed retired cabin crew members to tide over the shortage of cabin crew in its Mumbai station on contract basis at a higher compensation instead of appointing cabin crew on contract basis at lower fixed pay and allowances. This resulted in additional expenditure of ₹7.20 crore during the period from January 2016 to July 2017.**

Air India Limited (Company/AIL) in a meeting (February 2014) of the senior executives of the Company, to discuss action to be taken to mitigate the disruption of services on account of shortage of cabin crew, decided to engage a Placement Agency and process recruitment of 100 cabin crew on immediate basis. The Committee also decided to engage retired cabin crew on six months contract at Mumbai and Delhi.

The Company subsequently decided (December 2014) as a short term plan to recruit retired staff members as cabin crew to tide over the shortage of cabin crew which was



resulting in cancellations/delays of flight. The Company accordingly appointed retired cabin crew on contract basis during from January 2015. The Company continued to appoint the retired persons as Cabin crew (ranging from 10 to 32 crew members during various months) even during the calendar year 2016 and 2017. The Company however, did not take any action to process recruitment of 100 personnel as cabin crew on contract basis as decided during February 2014.

As per the terms of the Contract, the retired cabin crew was eligible to draw consolidated emoluments, based on last drawn pay and flying allowances based on actual flying hours, at the applicable rate. The total payment made by the Company to the retired cabin crew amounted to ₹9.16 crore during the period from January 2016 to July 2017.

The Company had been appointing cabin crew on contract basis from Air India Express Limited (erstwhile Air India Charters Limited), from September 2011 onwards. On 7 March 2015, the Company signed harmonisation contracts of cabin crew flying with AIL according to which all the existing contracts of airline attendants of Air India Charters Limited (AICL) who were flying with AIL were to be converted into contracts with AIL directly and harmonised with effect from 1 April 2015. The new contract was valid until 2017.

Audit observed that the cabin crew members recruited on contract basis were paid compensation (salary and allowances) which was substantially lower, as compared to that of the retired staff of AIL employed on contract basis. Thus, it was financially prudent for the Company to avail the services of the cabin crew taken on contract basis from an outside placement agency<sup>23</sup>, instead of appointing its retired cabin crew. Hiring retired cabin crew instead of taking the crew on contract basis, resulted in additional expenditure of ₹7.20 crore<sup>24</sup> for the period from January 2016 to July 2017.

Thus, by not initiating process to recruit the cabin crew on contract basis during 2015 and continued hiring of the retired cabin crew at a substantially higher rate of compensation, even during 2016 and 2017, (considering the rate of monthly fixed allowance of the existing staff on contract basis contracts were valid until 2017) Air India had incurred an avoidable expenditure of ₹7.20 crore<sup>25</sup> during 2016 and 2017.

The Management in its reply (24 November 2017) stated that:

1. The requirement of cabin crew increased due to augmentation of fleet and expansion of network.
2. Extensive training was given to the Cabin crew which was aircraft specific. After induction of the cabin crew as trainees a lead time of 3-4 months was required before they started flying.
3. In September 2016, MoCA had authorised AIL to engage services of retired staff on contract for a period of one year extendable for another year.

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<sup>23</sup> As decided in the meeting held on 02 February 2014

<sup>24</sup> Amount worked out by comparing the actual compensation paid to the retired employees for actual flying hours as against the compensation that would have been required to be paid to the Contractual employees for same flying hours on same route

<sup>25</sup> The Monthly fixed salary (excluding allowances) for the existing contractual staff was ₹13,500 whereas the monthly fixed payment (excluding allowances) of the retired cabin crew who have completed at least 60 hours of flying in a month ranged from 26251 to 130645 per month depending on the last salary drawn and number of hours completed in the month by the respective member

The reply is not acceptable in view of the following.

- i. If the Company had initiated action on the Management's decision (February 2014) to appoint cabin crew on contract basis, during December 2014, when the Company started recruiting retired cabin crew, it could have inducted the required number of cabin crew by January 2016, to replace the retired persons appointed at higher compensation, even after considering the lead time of appointment and training time of three to four months.
- ii. MoCA vide letter dated 22 September 2016 authorised the CMD, Air India to engage staff on short-term contract basis at his level for a period of one year, which may be extendable at the maximum by another year, subject to the Air India Board being kept informed of such recruitments. However, there was no record of approval of the Board as directed by MoCA. Further, the appointment of Contract staff was subject to an upper ceiling of 250 personnel. However as on 1 April 2015, the Company had already appointed 364 cabin crew personnel on contract basis.

Thus, the Company incurred an additional expenditure of ₹7.20 crore on the pay and allowances due to appointment of the retired cabin crew of the Company instead of appointment of cabin crew on contract basis from Air India Express Limited at its Mumbai station during the period from January 2016 to July 2017.

The matter was referred to the Ministry in January 2018; their reply was awaited (February 2018).