



(Case No. 51 of 2013)

In Re:

Citizen Grievances Redressal Foundation

Informant

662/638, Kanyakumari Centre, Sir M.V. Marh, Andheri (E),

Mumbai -400069

And

Mumbai International Airport Pvt. Ltd

Opposite Party 1

Delhi International Airport Pvt. Ltd

Opposite Party 2

CORAM:

Dr. Geeta Gouri
Member

Mr. Anurag Goel
Member

Mr. M. L. Tayal
Member

Mr. Justice (Retd.) S. N. Dhingra
Member

Mr. S.L. Bunker
Member



Order under Section 26 (2) of Competition Act 2002

The information in question was filed by Citizen Grievances Redressal Foundation, Mumbai through Mr. Visvanath against Mumbai International Airport Pvt. Ltd. Mumbai (OP 1), and Delhi International Airport Pvt. Ltd. Delhi (OP 2) alleging that the opposite parties were abusing their dominant position, at their respective airports, by way of charging excessively high vehicle parking rates, in violation of the provisions of section 4 of the Competition Act, 2002 ('the Act').

2. The informant submitted that the parking charges at Delhi and Mumbai airports were excessively high while the parking rates charged at Kolkata and Chennai airports were relatively low. The details of the vehicle parking rates as given by informant at four of Mumbai and Delhi Airports are tabulated below:

| Duration | Rates (in Rs.) | |
|---|----------------|---------------|
| | Mumbai Airport | Delhi Airport |
| 0 – 30 min | 100 | 70 |
| 30 min – 2 hrs | 160 | 140 |
| 2 – 3 hrs | 230 | 210 |
| 3 – 4 hrs | 300 | 280 |
| For every subsequent hour upto 8 hrs (per hour) | 100 | 70 |
| 8 – 24 hrs | 1000 | 900 |
| Note: If ticket is lost pay Rs. 1000/- Fine + parking charges | | |



Rates in Case of Kolkata and Chennai Airport

| Type of Vehicle | Duration | Rate (in Rs.) |
|---------------------|------------------|-----------------|
| Coach/ Bus/ Truck | upto 4 hrs | 70 |
| Tempo/ SUV/ Minibus | ” | 70 |
| Car | ” | 60 |
| Two wheeler | ” | 15 |
| | Beyond 4 – 8 hrs | Double the rate |

Note: In case of Kolkata, beyond 8 hrs up to 24 hrs four times the rate and every 24 hr or part thereof four times more. In case of Chennai, beyond 8 hrs rates will be four times more up to 24 hours. 5 min free parking time will be allowed in front of the terminal building.

3. The Informant alleged that OPs were abusing their monopoly to arm twist the customers. It was submitted that airports all over the world offer car parking facilities to the air travellers at nominal charges and do not consider these charges as their main source of income as the two airports in India.

4. On the basis of abovementioned parking charges, informant prayed before the Commission to direct the two airports to bring down the rates to the level of the rates being charged, prior to privatization of these airports and also in line with to the rates charged by Kolkata and Chennai Airports.



5. From the facts, it is evident that informant has taken the relevant product market as “provisions of services for vehicle parking at each of the two airports” and the relevant geographic markets would be of Mumbai and Delhi airports respectively for OP 1 and OP 2.

6. It is inferred from the information available in public domain that the two airports were owned and operated by consortiums. This clearly indicates that the consortium had bid for the entire airport project and the contract went to the bidder offering the highest share of revenue to Airport Authority of India (AAI). As per the Operation, Management and Development Agreement entered into with (AAI), OPs at both airports had to provide aeronautical and non-aeronautical services. It was agreed that the Joint Venture would be free to fix the charges for non-aeronautical services. Vehicle parking at airports was included in non-aeronautical services and thus the joint ventures were free to fix the charges for said parking facility. At Chennai and Kolkata airports, the rates offered for both aeronautical and non-aeronautical services are regulated and approved in advance by AAI.

7. In a consortium bid project, competition is at the time of bidding and is known as ‘competition for the market’. Once the project is awarded the monopoly status of awardee is not an issue. Thus dominance of OP1 and OP2 is not an issue. However the violation of Sec 4(2)(a)(i) of the Act is to be seen in view of the allegation of fixing of charges of non-aeronautical services, which are not regulated in Mumbai and Delhi.

8. The relevant market is of the aeronautical and non-aeronautical services in the airport of Mumbai and of Delhi. It is in this context the pricing of non-aeronautical



services have to be viewed. To conclude that the pricing for vehicle parking charges at Delhi airport and Mumbai airport is excessive will mean accepting that a consortium prices its services individually based on individual costs (and hence price is excessive in relation to cost of provisioning). In case of an Airport project owned by a consortium, the earning from non-aeronautical services form a substantial part of income of the consortium and consortium is given liberty to charge for such services so as to recover the investments over a period of time and to meet overall maintenance and management of the airport. Thus each non-aeronautical service cannot be separately looked into from the point of view of cost audit or pricing to come to the conclusion if the price being charged was fair/ unfair. A comparison cannot be made with the charges of parking rates in Mumbai airport and Delhi airport with other airports.

9. It is evident from the data that OPs had 2-3 times more passengers than Kolkata and Chennai airports. It is a matter of fact that parking space is always limited at big airports. The principle of demand and supply would come into play to discourage passengers from using parking space at airport and to promote the culture of using public transport, fixing the parking rate as per the market demand is helpful. As such there does not appear to be any competition issues involved in this case.

10. For the reasons stated above, the Commission is of the *prima facie* opinion that merely because the parking prices of OPs are higher than other airports it is not a fit case for issue of directions for causing an investigation to be made by DG under section 26 (1) of the Act and the case deserves to be closed under section 26(2) of the Act.



11. The Secretary is directed to inform the parties accordingly.

New Delhi

Dated: 06/11/2013

Sd/-
(Dr. Geeta Gouri)
Member

Sd/-
(Anurag Goel)
Member

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