Bankruptcy, Insolvency and CSR in Aviation

Turbulence in the Air

Several airlines across globe are cutting flights and grounding aircraft due to travel curbs

Many are putting their travel plans on hold

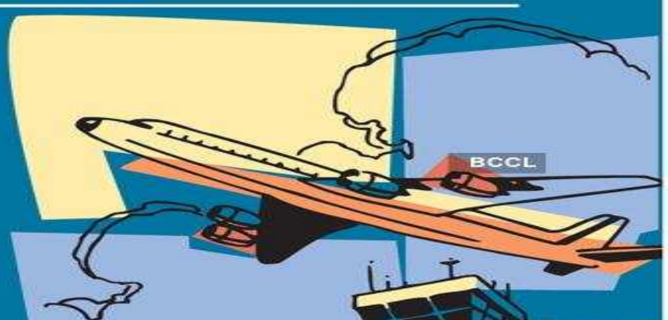
Forward bookings outweighed by cancellations

Qatar Airways and Delta Air Lines, besides some African carriers have already reduced capacity into Indian market

CAPA SAYS

Cash reserves are running down

Only a coordinated action by govts and industry can save airlines



Air Costa

- The bankruptcy court has ordered corporate insolvency resolution process for the grounded South Indian low-cost air carrier, Air Costa, owned by the Vijayawada-based Lingamaneni family’s LEPL Projects.

- Air Costa is the second Indian airline, after Jet Airways NSE -0.33 %, to undergo court-monitored debt resolution process under the Insolvency and Bankruptcy Code. Aviation regulator Director General of Civil Aviation had in June 2017 suspended the flying licence of the airline, making it officially wind up operations.

Con..

- The Amaravati bench of the National Company Law Tribunal (NCLT) appointed MS Mano Ranjani as the interim resolution professional for the airline, responding to a petition by German aircraft maintenance firm MTU Maintenance Berlin-Brandenburg GmbH (MTU-Berlin) as an operational creditor.

Con..

- The German firm said the low-cost air carrier didn't make the required payments for the lease of aircraft engines and also defaulted on payments under maintenance agreements.

  Air Costa promoter Ramesh Lingamaneni said in a statement that LEPL was solvent with strong fundamentals. The airline has also accused the German company in the NCLT of supplying defective engines, that too with a delay, causing it losses. It also challenged other claims of the operational creditor.

Con..

- MTU-Berlin said Air Costa had in November 2014 entered into an aircraft engine lease agreement with its associate MTU Maintenance Lease Services, Netherlands. It had entered also into a separate agreement with MTU-Berlin for engine maintenance, repair and overhaul (MRO) services and another MRO pact with MTU Maintenance Canada.

Con..

- In September 2016, the Indian company signed a settlement agreement with MTU-Canada for consolidation and settlement of dues, then totalling around $1.99 million, it claimed.

  MTU-Berlin has submitted to the NCLT bench, headed by Justice Mohammed Ajmal, that though Air Costa claimed transferring $0.5 million, it didn’t receive any amount. The carrier also failed to pay instalments thereafter despite repeated reminders, it alleged. MTU-Canada then moved a London court, which in March 2017 directed Air Costa to pay $2.46 million with an interest of $95,635, it said.

Con..

- Air Costa disputed the contents of MTU-Berlin’s demand notice and the dues. Following this, the German firm moved the NCLT, seeking corporate insolvency resolution process.

  Air Costa argued that the MTU entities failed to supply the leased engine in time that caused severe losses to it, including loss of bookings and grounding of aircraft. The engine, delivered late, also had oil leakages beyond permissible limit and developed technical snags, it claimed. Disputing the validity of the settlement agreement, Air Costa said it was coerced to enter into unreasonable settlement agreement, which should be treated null and void. It also argued that the London court’s orders were not maintainable since they were passed ex parte.

Con..

- The NCLT bench observed that Air Costa did not raise the issue of deficiency in services nor the delayed delivery of engine while entering into settlement agreement with the MTU entities and agreed to pay the dues quantified. Refusing to go into the validity or otherwise of the settlement agreement, the tribunal observed also that Air Costa didn’t question the settlement agreement in any appropriate forum till it received the legal notice from MTU entities in July 2017.

Jet Airways Case

- Jet Airways, which was the country’s second largest by market share till last year and was grounded in April 2019, is the first airline to undergo resolution under IBC. It is also the first airline under the new laws to undergo cross-border insolvency.

Con.

- Jet posted losses in eight out of ten fiscals between 2008-2018 and began showing signs of increasing stress in August last year, when it delayed salary payments of some employees. The airline has been grounded for over eight months, after lenders refused to provide emergency funding to continue operations.
- Since April, lenders made multiple attempts to sell the airline before they finally dragged Jet Airways to NCLT in June. The tribunal had directed that Jet, being a matter of “national importance”, should be resolved expeditiously.

Con..

- Under IBC, bids were again invited for Jet's revival. Things took a turn for the worse when Etihad Airways, Jet's erstwhile strategic partner, said it would not participate in the resolution process. It is understood that Etihad wanted assurance that criminal proceedings would not be initiated against the airline.
- Reviving an airline which has been grounded for eight months is a near impossible task. But without clarity on Jet's slots, which are among the airline's most valuable assets, Synergy is yet to seal the deal.

Con..

- The slots were redistributed among other airlines after Jet was grounded. Slots allow an airline to enter and exit airports at scheduled times. The cash-strapped airline, grounded in April 2019, owes more than Rs 8,000 crore to banks, with those from the public sector having significant exposure.
- On June 20, 2019, The NCLT admitted the insolvency petition filed by the lenders' consortium led by State Bank of India (SBI) against Jet Airways. The tribunal has also appointed Ashish Chhauchharia of Grant Thornton as the resolution professional for the crippled airline.

CSR in Aviation

- The civil aviation industry in India has been one of the fastest growing industries in the country in recent years. India is currently the world's third largest domestic civil aviation market and expected to become the largest in the next 10 to 15 years.
- The number of passengers carried by domestic airlines during 2017 was 117.1 million, registering a growth of 17.31 per cent compared to 2016. During FY16, international passenger traffic increased by 7.72 per cent. All of these figures are expected to steadily rise in the next decades.

Corporate Social Responsibility (CSR)

- Airports in India are managed and maintained by the Airports Authority of India (AAI) under the ministry of civil aviation. The biggest ones are typically operated under a public-private partnership model (PPP) and come under the ambit of the CSR Act of 2013. We take a look at the CSR and sustainability initiatives of a few of the country’s well-known airports.

Indira Gandhi International Airport (IGIA)

- Indira Gandhi International Airport (IGIA), Delhi Airport is run and managed by the GMR Group. Its CSR work closely follows that of GMR Varalakshmi Foundation (GMRVF), the CSR arm of the GMR Group which seeks to develop social infrastructure and improve the quality of life of communities around the locations where the group has a presence. The foundation focuses on education, health, hygiene and sanitation, community development, and empowerment and livelihoods.

Mumbai International Airport Pvt. Ltd’s (MIAL)

- CSR policy document spells out the following areas for its CSR activities: training to promote nationally recognised sports, healthcare, education, protection of art and culture, gender equality and empowering women, environmental sustainability, and slum development.
- These are taken up directly or through GVK foundation, GVK Airport Foundation, or GVK EMRI (Emergency Management and Research Institute), in and around the areas where the company, subsidiaries and associates operate, though this isn’t a hard-and-fast rule. The organisation has a list of economic, social and environmental targets that are listed in its annual report, which is in accordance with the Comprehensive option of the GRI G4 Guidelines.

Bangalore Airport

- Bangalore International Airport Limited’s (BIAL) CSR activities are in the areas of rural development, watershed management, education, healthcare, sports, and protecting cultural heritage. It runs a sustained engagement model with 18 non-profits and other organisations from the surrounding areas of the airport.

The Rajiv Gandhi International Airport (RGIA)

- The Rajiv Gandhi International Airport (RGIA) in Hyderabad is operated and managed by the GMR Group. The CSR activities for GHIAL (GMR Hyderabad International Airport Limited) are conducted through GMRVF. As expected, the areas of intervention are the same as the Foundation’s, taken up in 5 villages around the airport, while other extension services are spread in more than 20 villages.

Cochin Airport

- As per the CSR policy outlined in its official document, the CSR focus areas are to be in education, water and irrigation, health, social empowerment, and environment. However, in FY17, it spent its entire CSR fund of Rs 400 lakh on the *Suchitwa Mission*, which is a Kerala state government project on sanitation and solid and liquid waste management

Sources - https://thecsrjournal.in/csr-by-airports-in-india-stuck-in-the-air/