

## CHAPTER III : MINISTRY OF CIVIL AVIATION

### 3.1 Unfruitful expenditure

**In spite of non-fulfilment of the conditions stipulated in the bidding documents, the Compact Technology Light Sport (CTLS) aircrafts were irregularly selected by Aero Club of India (ACI). Further, DGCA did not convey to ACI regarding withdrawal of approval given earlier to CTLS aircrafts. Resultantly, the CTLS aircrafts procured by ACI (December 2011) were lying idle (November 2015), defeating the purpose of their acquisition and rendering expenditure of ₹ 2.39 crore incurred as unfruitful.**

Aero Club of India (ACI) forwarded in March 2010 a proposal, to acquire Single Engine Trainer/Aerosports Aircraft, to Ministry of Civil Aviation (MoCA). In the meantime, ACI published (September 2010) the global tender enquiry for procurement of three Single Engine Trainer/Aerosports Aircraft with the stipulation that (i) technical bids would only be accepted for the aircrafts which were type certified as per Federal Aviation Regulation (FAR) 23 of Federal Aviation Administration (FAA) of USA or equivalent; and (ii) the aircraft should comply with Instrument Flying Rules (IFR) certification standards for Day & Night operations.

Out of eight bids received three bidders, namely M/s Thrust Aviation Services Pvt. Ltd. New Delhi (aircraft model CTLS, a Light Sports Aircraft, from Flight Design, Germany), M/s Pipistral, Slovenia (aircraft model Virus SW 100) and Aerosystem (India), New Delhi representing M/s Cessna Aircraft Co. USA (aircraft model Cessna 172) were found (December 2010) technically suitable and recommended for opening of commercial bid.

In response to a clarification sought (2 December, 2010) by ACI, while the tendering process for acquisition of aircraft was in progress, Director General Civil Aviation (DGCA) informed ACI (30 December, 2010) that CTLS aircraft had been accepted by DGCA since type rating certificate had been issued by R&D Directorate in May 2009. DGCA also informed that two CTLS aircrafts VT-BBC and VT-CNN have also been imported and being operated by M/s Academy of Carver Aviation Pvt. Limited, Mumbai (Carver).

The fact, however, was that despite having issued acceptance letter by DGCA on 5 May, 2009 in respect of CTLS aircraft, exclusively for flying training purpose, No Objection Certificate issued on 23 July, 2009 by the Directorate Flying Training for import of the above aircraft for flying training and

Certificate of Airworthiness (CofA)<sup>1</sup> issued by DGCA on 21 October 2009, M/s Carver could not use the aircrafts due to verbal instructions by a DGCA representative not to use the aircraft for conducting flying training. M/s Carver were pursuing the matter with DGCA and finally they sought (January 2011) from DGCA, a written response that whether they could use the above aircraft for flying training or not, and if not, the reasons thereof. DGCA examined (January-March, 2011) the matter with reference to the extant rules and it noticed that the aircrafts belonging to M/s Carver were not flying since the aircraft cannot be issued CofA as it was not type certified and also there were no regulations in place to cover such type of aircraft. DGCA informed M/s Carver (18 April, 2011) that the CTLS aircraft VT-CNN and VT-BBC held by them had not been issued Standard<sup>2</sup> CofA by FAA<sup>3</sup>, as such DGCA was not in a position to issue CofA for these aircrafts. DGCA further stated that the export CofA of these aircrafts have been issued by German Microlight Association and it has, therefore, been decided to treat these aircrafts as Micro Light and accordingly, aircraft will be issued with Permit to Fly<sup>4</sup> in lieu of CofA.

In the meantime, ACI opened (December 2010) the commercial bids of technically qualified bidders and M/s Thrust Aviation Services Pvt. Ltd. (M/s Thrust Aviation) was found to be the lowest bidder. ACI forwarded (8 March 2011) copies of the notes signed by the Finance Committee members, copy of the Attendance Sheet of the price bid opening meeting held on 15 December

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<sup>1</sup> Rule 15 of the Aircraft Rules, 1937 requires that all aircraft registered in India possess a current and valid Certificate of Airworthiness (CofA) before it is flown, unless it is flown for the purpose of flight test in the close vicinity of an aerodrome or the place of its departure. As per Accepted Airworthiness Standards stipulated in Civil Aviation Requirement (CAR) each aircraft, either manufactured in India or imported into India, for which a CofA is to be issued or validated, shall conform to the design standards and be in a condition for safe operation. To be eligible for issuance of CofA, an aircraft must be Type Certified, its type certificate validated or type accepted by DGCA.

<sup>2</sup> Standard CofA is one of the certificates which are mandatory if an aircraft is to be used in commercial operations. A standard CofA is issued in one of the categories like transport, commuter, normal, utility, acrobatic, manned free balloons and special class of aircraft. In contrast to a standard CofA, an aircraft may be issued with a special airworthiness certificate. Examples of aircraft which are not eligible for Standard CofA but may be eligible for special airworthiness certificates include agricultural aircraft, experimental aircraft and some ex-military aircraft.

<sup>3</sup> Federal Aviation Administration of USA.

<sup>4</sup> Permit to Fly is issued for the aircraft, which fails to satisfy the applicable airworthiness requirements, or for which it is failed to be stated that the same has satisfied the relevant requirements, but which has the capability to operate safe flight under certain circumstances, and which intend to achieve the purposes like research and development, proving the compliance with the regulations or certification specification, crew training, exhibition or air show, delivering or exporting the aircraft, market research etc.

2010 and the Comparative Sheet determining the lowest bidder (L1), to MoCA and sought sanction for procurement as well as release of funds.

Consequently, MoCA sanctioned (28 March 2011) the proposal for procurement of three Single Engine Trainer/ Aerosports Aircrafts and also released the Grants-in-Aid required for the purpose. Accordingly, ACI placed the purchase order (13 April, 2011) on M/s Thrust Aviation for procurement of three CTLS Aircrafts and an advance payment of ₹ 44.90 lakh was also made to them (29 April, 2011).

ACI requested (May 2011) DGCA to issue Registration Letters for three CTLS aircrafts being procured. DGCA intimated (June and September 2011) ACI that these aircrafts were not Type Certified/Type Accepted by DGCA in accordance with the Rules, as such, these would only be issued a 'Permit to Fly'. After incurring total expenditure of ₹ 2.39 crore, ACI received (16 December 2011) the three CTLS aircrafts, but these could not fly for want of CofA from DGCA.

While examining the matter of procurement of three CTLS aircrafts by ACI by using funds released by MoCA and which were lying idle, the Ministry constituted (March 2013) a committee, comprising officers from the Ministry and DGCA, to examine whether (i) Government procedures were properly followed in tender finalisation, (ii) the procured CTLS aircrafts satisfy the technical conditions specified in the bid or in-between there were changes made to favour any company, (iii) the selected supplier was eligible to be considered for the part II of the tender i.e. opening of the commercial bid, (iv) why payments were made to the company, even though the CofA was not issued by DGCA, and (v) to fix responsibility for the above lapses, if any. The MoCA directed (June 2013) DGCA to take action against the erring officers who in spite of there being no rules, issued certificate of airworthiness in 2009 in favour of M/s Academy of Carver Aviation Pvt. Ltd. (M/s Carver) and allowed CTLS aircrafts to fly and then gave permission to ACI for import of these aircrafts. Ministry also asked the DGCA to fix the responsibility of the concerned officers. MoCA further decided (December 2013) that DGCA should send formal proposals for amendment of all the relevant rules at the earliest and for the exemption from the specific rule(s), under Rule 160 of the Aircraft Rules, 1937. Accordingly, DGCA submitted (January 2014) a proposal to amend the Rules, which was under process and CTLS aircrafts, acquired by ACI, were still lying idle (November 2015).

Audit observed that:

- Despite CTLS not fulfilling both the bidding conditions mentioned in the introductory para above, M/s Thrust Aviation was selected as successful bidder and finally, after approval of the Ministry, awarded the purchase order.
- The DGCA, while dealing with the case of M/s Carver, was aware (March 2011) of the fact that CTLS aircraft did not meet requirements of Aircraft Rules, 1937 for issue of Certificate of Airworthiness, but they did not inform ACI of the same in order to put a timely stop to the process of procurement (April 2011) of uncertified aircraft.

While confirming the facts and figures contained in the audit observation, the Ministry replied (November 2015) that:

- (a) To enable operationalization of the CTLS aircrafts as per the rules, it was decided to amend the Aircraft Rules, 1937. Accordingly, a proposal to bring in CTLS aircraft in the rules has been initiated. Ministry further stated that amendment in statutory rules is a tedious and time consuming process and the matter is under active consideration of the Ministry.
- (b) ACI placed the order in April 2011 and 20 *per cent* advance was also paid. If the orders were cancelled, ACI would get the advance forfeited by M/s Thrust Aviation.

Ministry's reply at (a) above is incomplete, as Ministry should have also informed the action taken, if any, against the erring officers who inspite of there being no rules, issued Certificate of Airworthiness in 2009 in favour of CTLS aircrafts of M/s Carver and subsequently gave permission to ACI for import of these aircrafts. Ministry's reply at (b) is also not acceptable, because had the Ministry timely intimated ACI of the uncertified status of CTLS aircrafts, ACI might have put on hold releasing further payments to M/s Thrust Aviation. Ministry's reply was, however, silent on the matter of irregular selection of M/s Thrust Aviation.

It is evident from the above that in spite of non-fulfilment of the conditions stipulated in the bidding documents, the CTLS aircrafts were irregularly selected, resultantly, in absence of requisite approval from DGCA, these were lying idle (November 2015). Thus, besides the purpose of acquisition of CTLS aircrafts being defeated, the expenditure of ₹ 2.39 crore incurred was also rendered unfruitful.