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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 94

New Delhi, 21 May 2004

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby reduces the ceiling rates of all vessel-related charges prescribed in the Scale of Rates of Jawaharlal Nehru Port Trust as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/19/2004-JNPT

ORDER

(Passed on this 4th day of May 2004)

The Jawaharlal Nehru Port Trust (JNPT) filed a proposal before this Authority in January 2002 for a general review of its Scale of Rates (SOR). This Authority had passed an order on 27 August 2002 on the proposal of the JNPT for the general revision of Scale of Rates which was notified in the Gazette of India on 5 September 2002.

2.1. The analysis of the JNPT proposal was made based on the financial position for the years 2002-03 and 2003-04. The summarized cost position accepted by this Authority during the tariff revision exercise is as follows:

Sl. No.	Activity	2002-03		2003-04	
		(Rs. In Lakhs)	(in percentage)	(Rs. In Lakhs)	(in percentage)
1.	Port as a whole	(+) 2186.34	(+) 5.25%	(+) 2711.60	(+) 5.89%
2.	Container	(-) 1590.14	(-) 8.01%	(-) 172.62	(-) 0.76%
3a.	Liquid Bulk Cargo	(+) 809.35	(+) 59.00%	(-) 291.31	(-) 26.06
3b.	Dry Bulk Cargo	(-) 5384.87	(-) 425.74%	(-) 4985.49	(-) 398.04%
4.	Marine	(+) 6664.94	(+) 45.44%	(+) 6454.19	(+) 40.09%
5.	Estate	(+) 1437.94	(+) 32.12%	(+) 1513.46	(+) 31.63%

2.2. With reference to the above cost position, the following decisions on vessel-related charges were taken by this Authority:

“It will be seen that the Port as a whole shows a surplus for the years 2002-03 and 2003-04, which are the relevant years for this tariff revision exercise. The Marine and Estate activities also show substantial surpluses, which go to cross-subsidise the huge deficit in the Bulk handling activity. The Container handling activity shows a small deficit for the two years. This deficit also will not exist if the wrong allocation of cost of berths under this activity and corresponding berth hire income considered under the Marine activity is rectified.”

“The Marine activity shows a surplus of a very high order. Since the Port as a whole also depicts a surplus position, there is scope for reduction of the vessel-related charges. Since the JNPT has made a categorical statement at the joint hearing about its intention to propose separately reduction in vessel-related charges, this Authority does not like to effect *suo motu* reductions in vessel-related charges. It is reasonable to allow six months time for the JNPT to come up with a suitable proposal of reducing VRCs. If it does not happen within the stipulated time limit, this Authority will be constrained to proceed *suo motu* to alter the charges based on the information available. Users may also send their proposals, if any, in this regard.”

3. Subsequently, the JNPT vide its letter dated 28 November 2002, inter alia, assured that it would submit a specific proposal regarding vessel related charges by end of December 2002. No such proposal was, however, received from JNPT so far.

4. It is noteworthy that the JNPT has not challenged the decision of this Authority about reduction in the vessel-related charges. In fact it has even agreed to submit a suitable proposal by December 2002. Sufficient time has been allowed to the JNPT thereafter, but response from its end is still awaited. It is therefore, necessary for this Authority to initiate a *suo motu* review of the vessel-related charges at the JNPT, as already decided in its order dated 27 August 2002, without any further loss of time.

5.1. Ordinarily, any review and readjustment in the charges in this case will have to be with prospective effect since giving retrospective effect will create lot of complication in the billing. That being so, for determination of level of tariff in this case, the position relevant for the next two financial years would be necessary. In the absence of any response from the JNPT, we are constrained to carry out this *suo motu* review based on the cost position considered earlier in the order dated 27 August 2002. Based on the estimates for 2003-04 considered earlier, the container handling, liquid bulk handling and dry bulk handling activities put together reported a total deficit of Rs.5449.42 lakhs during the year 2003-04. Even if it is presumed that the surplus available in the marine activity would have fully contributed towards deficit in these 3 activities, though it may not necessarily be the correct position in view of the surplus available in the estate activity also, still there would be a surplus of Rs.1004.77 lakhs available under the marine activity. This surplus would be 15.56% of the estimated operating income under the marine activity. Since the surplus is estimated after allowing admissible costs and permissible return, it may not be unreasonable to conclude that the vessel-related charges at the JNPT are pegged at 15.56% more than the level warranted by the usual cost plus approach. Based on the estimated cost position for 2003-04, there is, therefore, a scope for reduction of the vessel-related charges by 15.56%.

5.2. It has to be recognized that a change in the unit of berth hire was introduced with effect from 1 June 2003. In view of the recent appreciation in Indian rupee vis-à-vis US dollar, the exchange rate considered for estimation of income for 2003-04 at the time of the last general revision may not, perhaps, give a true picture. In view of these two developments, there could be reduction in the estimated operating income for 2003-04 and hence the surplus position under the marine activity. Again, in the absence of any details available from the JNPT, it is not possible to reasonably estimate the impact in the net surplus for the year 2003-04. In any case, allowing a cushion for drop in the net surplus for 2003-04, the vessel-related charges at the JNPT can be in the first instance reduced by 10% immediately.

6.1. As mentioned earlier, determination of tariff follows a forward-looking model. The following developments at the JNPT subsequent to the last general revision of its Scale of Rates in August 2002 need to be borne in mind as they will significantly impact the financial position of the port:

- (i). While fixing the existing Scale of Rates of JNPT, an estimated throughput of 7.6 lakh TEUs for 2003-04 was considered. Reports appeared recently in the print media indicate that the JNPT Container Terminal had handled over 1 million TEUs in 2003-04.
- (ii). Royalty from NSICT for the year 2003-04 was estimated at 1 million TEUs. Reports indicate that NSICT had handled around 1.2 million TEUs during the year 2003-04.
- (iii). The estimated income from marine activity for the year 2003-04 may have varied on the positive side due to the steep increase in container traffic.
- (iv). The cost analysis made at the time of the last general revision revealed that the operations at the Bulk Terminals incurred a heavy loss and had to be cross-subsidised from the surplus available in the marine / estate activities. This position would undergo a change with the conversion of the Bulk Terminal into 3rd Container Terminal and the proposed plan to operate the converted terminal under BOT arrangement.

- (v). The shallow water berths at JNPT had already been pressed into commercial operation which would have also contributed to the revenue of JNPT.

6.2. In view of these developments, it can be reasonably believed that the financial position of the JNPT would have undergone favourable change.

7. Taking into consideration these developments, there can be a case for effecting *suo motu* reduction in vessel-related charges by more than 10%. Following the usual tariff validity cycle of two years prescribed, the next review of the Scale of Rates of the JNPT will fall due in September 2004. The actual financial position for the past two years and the estimated financial positions for the next two years would be scrutinized by us as a part of that exercise. Based on the position emerging then, this Authority will decide on further adjustment in tariff at JNPT. In order to carry out such scrutiny and publish the revised Scale of Rates well within time, the JNPT is advised to submit its proposal with all relevant cost details by 31 July 2004. If the JNPT does not come up with its proposal for the next general review of Scale of Rates within the stipulated time limit, this Authority will again take up this case in August 2004 *suo motu* to decide on further reduction in the vessel-related charges based on the information available.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority decides reduction in the vessel related charges at JNPT as follows:

- (i). The ceiling rates of all vessel-related charges prescribed in the Scale of Rates of JNPT will be reduced by 10%. The reduction in rates will come into effect after expiry of 30 days from the date of notification of this Order in the Gazette of India.
- (ii). There appears to be a case for further reduction in the charges at the JNPT. A decision on this aspect will be taken after analysis of the cost position at the time of the next general review of the Scale of Rates of JNPT which is due in September 2004. For this purpose, the JNPT should submit its proposal by 31 July 2004.

(**A.L. Bongirwar**)
Chairman