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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 65

New Delhi,

09 March 2010

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the New Mangalore Port Trust for fixation of final wharfage on cargo handled at Jetty No.10 for the years from 2000-01 and 2001-02 as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/38/2007 - NMPT

New Mangalore Port Trust

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Applicant

ORDER

(Passed on this 23rd day of February 2010)

This Authority had vide Order No.TAMP/31/2004-NMPT dated 18 November 2004 fixed the wharfage rate for Jetty No.10 for the years 1996-97 to 1999-2000.

2. After several reminders and follow up, the New Mangalore Port Trust has filed the proposal for fixation of the final wharfage charges for Jetty No 10 for the years 2000-01 and 2001-02 vide its letter dated 16 July 2007. The wharfage rate proposed by the port is Rs.73.32 per tonne for the year 2000-01 and Rs.87.24 per tonne for the year 2001-02. The port has stated that the MRPL has confirmed the calculations relating to the proposed wharfage charges subject to its observation on two points relating to non-maintenance of sufficient balance in escrow account and non-reduction of depreciation on the common assets of the port.

3. The usual consultation procedure prescribed with the concerned user Mangalore Refinery and Petrochemicals Limited (MRPL) was completed and the feedback of the port on the comments of the MRPL was obtained.

4. The main objections made by the MRPL regarding the calculations of the proposed wharfage rate are summarised below:

- (i). The MRPL argued that the portion of the pension contribution which pertained to years prior to 1996-97 should not be considered since the jetty commenced operations in the year 1996.
- (ii). The MRPL does not agree with the port's method of withdrawal of the amount from the Escrow Account. It has argued that the port is supposed to maintain accruals on account of Return on Investment (ROI) as charged actually by the port plus depreciation on common assets which is not setoff against loan repayment besides refunds arising on account of excess wharfage collected by port cumulatively upto the respective years. It has requested for detailed workings from the port in this regard for verification.

5. The NMPT has stated that the pension liability adopted in the calculation of wharfage has been re-examined with reference to the actuarial valuation done by the Life Insurance Corporation and the proportionate amount chargeable to Jetty comes to Rs.3.40 crores as against Rs.5.84 crores considered in the proposal. With regard to the point made about withdrawal from the Escrow account, the port has furnished details and submitted that the MRPL had derived extra benefit of Rs.843.63 lakhs which also needs to be adjusted. Due to above modification, the port has expressed the necessity to adjust these figures in the current proposal or in the proposal for the subsequent years.

6.1. A joint hearing in this case was held on 17 December 2009 at the port premises. At the joint hearing, the MRPL has reiterated its objection. The NMPT has submitted that it had revised its proposal to accommodate some of the demands of the MRPL. The MRPL has requested for atleast 30 days to verify the figures in the revised proposal and furnish its response which was agreed upon by this Authority. The NMPT agreed that no useful purpose will be served by continuing with the proceedings initiated based on its old proposal and therefore has agreed to close this case.

6.2. Though the port has claimed about filing a revised proposal, it has furnished only its comments on 8 December 2009, which were shared with the MRPL. Therefore, no revised proposal stated to have been filed by the port is pending with this Authority.

7.1. In view of the above, this Authority decides to close this case as withdrawn. The revised proposal to be filed by the port for the years 2000-01 and 2001-02 is still awaited. The NMPT is advised to file its revised proposal along with comments of MRPL within one month from the date of notification of this Order in the Gazette. The revised proposal when received from NMPT will be treated afresh.

7.2. Despite repeated request by us and the Order of the Hon'ble High Court, the port has not filed any proposal for fixation of wharfage rate for Jetty No.10 for the subsequent years i.e. from 2002-03 onwards and hence this Authority is not in a position to fix the wharfage rate for these years. The NMPT is directed to file the proposal for fixation of wharfage rate from the years 2002-03 onwards till the subsidence of the MOU within one month from the date of notification of this Order in the Gazette. Before forwarding the calculations and proposed wharfage rate to this Authority, the NMPT is advised to have the figures verified by the MRPL, as per the usual practice followed so far.

(Rani Jadhav)
Chairperson