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Tariff Authority for Major Ports

G.No. 76

New Delhi, 14 May 2005

NOTIFICATION

In exercise of the powers conferred by Sections 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal received from the Visakhapatnam Port Trust for withdrawal of the existing volume discount scheme as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/10/2005 - VPT

Visakhapatnam Port Trust (VPT)

Applicant

ORDER

(Passed on this 25th day April 2005)

This case relates to a proposal from the Visakhapatnam Port Trust (VPT) for withdrawal of the existing Volume Discount Scheme w.e.f. 1 April 2005.

2. This Authority vide its Order number TAMP/92/2002-VPT dated 17 March 2003 had approved the proposal of VPT for introduction of a volume discount scheme w.e.f. 1 April 2003.

3.1. The VPT has stated that the rates prescribed by this Authority in its Scale of Rates are ceiling levels and the rebates are floor levels. The major ports, therefore, already have the flexibility to charge at reduced rates or grant higher rebates, if they so desire. In view of this flexibility already available to major ports to offer concession over the notified tariff, it has proposed to withdraw the existing Volume Discount Scheme w.e.f. 1 April 2005. It has stated that if an exporter or importer is required to be encouraged by providing incentives for handling higher throughputs, discounts will be allowed on the ceiling rates with the approval of the Board of Trustees.

3.2. The VPT has also forwarded a copy of the Resolution of its Board of Trustees approving this proposal in the meeting held on 2 March 2005.

4. In accordance with the consultative procedure prescribed, copy of the proposal was circulated to various concerned port users / representative bodies of port users for their comments.

5. Comments received from the users were forwarded to the VPT as feed back information / comments. In response to this, VPT has stated that it has no further comments to offer on the comments made by the users.

6. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details are also available at our website <http://tariffauthority.gov.in>

7. With reference to the totality of the information collected during the processing of this case, the following position emerges:

- (i). The existing volume discount scheme was approved by this Authority at the request of the VPT. Since the scheme was not formulated in a very scientific manner, the proposed volume discount scheme was approved on an experimental basis w.e.f. 1 April 2003 with a suggestion to the port to review the scheme at the end of the financial year 2003-2004.
- (ii). Some of the users like the Tamil Nadu Electricity Board (TNEB) and the Rasthriya Ispat Nigam Limited (RINL) have objected to the proposed withdrawal of the existing volume discount scheme.

The volume discount scheme was introduced to provide incentive to the users to handle additional cargo through the VPT as well as to retain the existing cargo. The volume discount scheme has already been in operation for the last two years. It has to be recognised that no tariff incentive scheme can run

indefinitely. It is significant to note that tariff in the SORs are fixed with reference to overall cost of providing the service. If necessary, the Tariff Regulator can reduce the basic rates in the SORs which is possible only at the general review conducted at periodic intervals. Offering any discount over the notified tariff is solely a commercial judgement of a port authority.

- (iii). It may be relevant here to recall that earlier the rates fixed by this Authority were 'the' rates for the port trusts and even any reduction of tariff required approval of this Authority. In view of this arrangement existed then, the volume discount scheme under review was introduced with the approval of this Authority. As per the present tariff setting arrangement in vogue, the rates prescribed by this Authority are ceiling level and rebates are floor level. The major ports, therefore, have the flexibility to charge lower tariff or offer higher rebates than the level prescribed by this Authority, if they so desire. The revised tariff guidelines recently announced by the Ministry of Shipping, Road, Transport & Highways (MSRTH) also affords this flexibility to major ports / private terminals to adopt sliding scale of rates to motivate greater performance by bulk/captive facility operators with a view to attract additional cargo within the overall ceiling rates prescribed on non-discriminatory and objective basis. Because of this flexibility available, as correctly pointed out by the VPT, it can reduce the notified rates wherever necessary based on its commercial judgment keeping in view the market dynamics. Viewed from this perspective, a separate volume scheme need not be imposed on the port by the Regulator.

It is noteworthy that this Authority had recently allowed withdrawal of the volume discount scheme on containers at the Cochin Port Trust at the request of the port. Incidentally, even the Tuticorin Port Trust has recently made a similar request for withdrawal of the concessional tariff for package marine charge which is under consideration of this Authority separately.

- (iv). The VPT has requested to approve its proposal with retrospective effect from 1 April 2005. The Orders passed by this Authority are generally with prospective effect. The revised guidelines for tariff fixation also provide for prospective implementation of the Order unless under exceptional circumstances.

In the instant case, the scheme operates on financial year basis. Making the Scheme inapplicable for the current financial year 2005-06 will inevitably warrant retrospective approval from 1 April 2005.

8. In the result and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of the VPT for withdrawal of the existing volume discount scheme w.e.f. 1 April 2005. Accordingly, the relevant provisions in the Scale of Rates of VPT in this regard are deleted.

(A.L. Bongirwar)
Chairman

**SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS /
DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THE JOINT
HEARING BEFORE THE AUTHORITY**

F. No. TAMP/10/2005– VPT - Proposal from the Visakhapatnam Port Trust (VPT) for withdrawal of the existing Volume Discount Scheme.

1. The comments received from the port users / representative bodies of port users are summarised below:

Tamil Nadu Electricity Board (TNEB)

- (i). Ministry of Shipping in its notification dated 21 August 2003 has directed to fix the Scale of Rates as ceiling rates and the major ports have been given the flexibility to charge at reduced rates if they so desire, but, the proposal of the VPT is to dispense with the existing volume discount scheme. The flexibility is given to the ports to charge lower rates than the existing tariff. It does allow the port to reduce the existing concessions enjoyed by the users and thereby increasing their expenditure.
- (ii). The TAMP may, therefore, impress upon the VPT not to withdraw the existing volume discount scheme. Instead the port may propose an improved volume discount scheme for the benefit of users.

Hindustan Petroleum Corporation Limited (HPCL)

- (i). It has not furnished any specific comments on this proposal.

Rashtriya Ispat Niqam Limited (RINL)

- (i). In view of capacity expansion envisaged within the next two to three years, appreciable increase is anticipated in imports of mainly coking coal, limestone and metallurgical coke. Withdrawal of the existing scheme at this juncture when it is likely to be eligible for higher discounts will result in foregoing huge discounts.
- (ii). In view of a private port coming up as a competitor to VPT, the VPT should in fact continue to allow the discounts in order to retain the existing port users.

Federation of Indian Mineral Industries (FIMI)

It has forwarded the views of RINL reiterating the points.
