

(Published in Part – III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No. 40

New Delhi, 31 March, 2003

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 closes the proposal received from the Visakhapatnam Port Trust about prescribing a suitable increase in lease rentals for its lands for the quinquennium 1998-2003 as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/50/2002 - VPT

The Visakhapatnam Port Trust

Applicant

ORDER

(Passed on this 17th day of March 2003)

This case relates to a proposal received from the Visakhapatnam Port Trust (VPT) about prescribing a suitable increase in lease rentals for its lands for the quinquennium 1998-2003.

2. The issue relating to the approach adopted by the VPT to decide its own revised lease rentals based on the valuation obtained from the District Revenue Authority (DRA) came into a sharp focus when this Authority took up a representation made by the Andhra Petro Chemicals Limited. In its Order passed on 21 March 2002 in that case, this Authority has observed that the valuation given by the DRA is only an input for determination of the current lease rent and the lease rent so arrived at becomes legally enforceable only when it is approved by the Tariff Authority. In this backdrop, the VPT was directed to obtain the approval of this Authority for lease rentals of different zones of its lands before their inclusion in its Scale of Rates and to apply only such approved rates in both new leases and revision of the rates in the existing leases if the lease agreement provides for periodic revision.

3.1 In pursuance of the Order of this Authority, the VPT has filed the proposal now under consideration. The VPT has made the following main points in its proposal:

- (i). Almost all the on-going leases are covered by a clause in the respective agreement which stipulates that the lease rentals will be revised every five years as per the rates fixed by the DRA.
- (ii). The Govt. of India has advised that the Ports should augment its finances by adopting current market rates for working out land lease rentals so that the revenue could supplement the core functions of a Port.
- (iii). The VPT considers that it should adopt current market rates in respect of new cases of allotments including extension of the expired leases. In this regard, the VPT adopts the basic value of lands obtained from the DRA in respect of new cases of allotment including rental of expired leases.
- (iv). Considering the appreciation in the value of lands from 1993-98, the DRA has suggested an increase of 30% hike in the lease rentals over the rates applicable for the previous quinquennium.
- (v). The approach adopted in revising lease rentals is generally found to be not acceptable to the users and many of the allotment of lands are stalled. There is, therefore, a need to adopt a reasonable rate acceptable to both VPT and the users.

3.2. In this backdrop, the VPT has requested this Authority to examine all relevant issues in totality and prescribe a suitable increase in quinquennium valuation for the year 1998-2003 over the previous quinquennium which will be applicable to on-going leases and also to prescribe a suitable basic/market value of land applicable to new cases including rentals.

4. The proposal of the VPT was circulated to all the main lessees of the Port and representative bodies of users for their comments. In their comments, the users have highlighted the following main points:

- (i). Value of land arrived at by the DRA are based on valuation obtained for small pieces of residential sites which cannot be adopted for large chunk of VPT lands used for industrial activity.
- (ii). The VPT lands allotted initially were in a marshy, low lying area and the lessees had to spend on developing the lands. Fixation of lease rentals should take into consideration the fact that the VPT has not incurred any development cost on these lands.

5. It is a noteworthy that the proposal of the VPT is not a definite one. Significantly, this Authority has adopted the guidelines issued by the Government for fixing lease rental for the port trust lands. The policy guidelines of lands / waterfront management of major ports issued by the Government in April 1995 prescribe that all the major ports shall constitute a Committee under the Chairmanship of the respective port Chairman, representatives of the MOST and District Revenue Authorities, etc for recommending the Scale of Rates for leasing lands / waterfront after taking into consideration the cost of development of land, fair return of capital investment, market rent, etc. This requirement was pointed out by us to the VPT with an advice to propose a suitable Scale of Rate for its lands with the detailed justification therefor alongwith the recommendation of the rate fixation Committee and the details of value of comparable lands obtained from the DRA.

6. A joint hearing in this case was held on 22 January 2003 at the VPT premises. At the joint hearing, the VPT expressed its intention to recast its proposal in line with and, after following the procedure prescribed in the guidelines given by the Government. The VPT requested three months time for submitting its revised proposal to be formulated accordingly.

7. In view of the above position, it is clear that no useful purpose will be served by keeping this case open indefinitely since the port trust itself has agreed to revise its original proposal.

8. In the light of the position explained above, and based on a collective application of mind, this Authority decides to close this case as withdrawn. The revised when received from the VPT will be considered afresh following the usual consultation procedure adopted by this Authority.

(A.L. Bongirwar)
Chairman