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Tariff Authority for Major Ports

G.No.208

New Delhi, 27 September 2002

NOTIFICATION

In compliance of a direction issued by the Government of India under Section 111 of the Major Port Trusts Act, the Tariff Authority for Major Ports hereby closes the case relating to the representation made by M/s. J.M. Baxi & Co., against the discharge norms adopted for bagged ammonium nitrate for levy of penal berth hire charges by the Visakhapatnam Port Trust as in the Order appended hereto.

(S. Sathyam)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/54/2002-VPT

M/s. J.M. Baxi and Co.	- - -	Applicant
	Vs	
The Visakhapatnam Port Trust	- - -	Respondent

ORDER

(Passed on this 20th day of September 2002)

This case relates to a representation made by M/s. J.M. Baxi & Co., against the discharge norms adopted for bagged ammonium nitrate for levy of penal berth hire charges by the Visakhapatnam Port Trust.

2.1. So far, the regulatory intervention of this Authority 'to frame Scale of Rates' has been taken to encompass the following routes:

- (i). Consideration of a 'proposal' received from a Port Trust / Private Terminal.
- (ii). Consideration of a 'representation' received from a port user or a representative body of port users.
- (iii). Initiation of action *suo motu*.

2.2. It is noteworthy that the Transaction of Business Regulations of this Authority have also been framed accordingly with an emphasis on a consultative process to promote participation in the proceedings of the greatest number of interested parties.

3. The representation in reference was registered as a tariff case and processed further following the consultative procedure prescribed.

4. Before this case could be taken up for final consideration, the Government of India (in the Ministry of Shipping) vide its communication No.PR-14019/36/2001-PG dated 9 September 2002 has issued a 'policy direction' to this Authority under Section 111 of the MPT Act to refrain in future from entertaining representations made by individual parties, as this Authority has no power of adjudication in individual cases under the provisions of the MPT Act. This direction has been issued despite this Authority's argument that the scope of Section 111 *ibid* covers issue of directions on 'question of policy' and any dispute about jurisdiction can only be seen to be a legal issue having no scope for resolution through a policy direction.

5. In terms of the provisions of Section 111 of the MPT Act, this Authority is bound by the directions on questions of policy given by the Central Government.

6. For the reasons given above, this Authority is unable to take up the representation in reference for final consideration. In the result, the case in reference is closed, as directed by the Government, for want of jurisdiction.

(S. Sathyam)
Chairman