

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

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 35

New Delhi, 21 February 2004

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 received from the New Mangalore Port Trust for fixation of ad-hoc wharfage rate for the cargo handled at oil Jetties No.10 and 11 for the year 2003-2004 as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

2
Tariff Authority for Major Ports
Case No. TAMP/5/2004-NMPT

The New Mangalore Port Trust

- - - -

Applicant

ORDER

(Passed on this 11th day of February 2004)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for fixation of ad-hoc wharfage rate for the year 2003-04 for the cargo handled at Jetties No. 10 and 11 dedicated for the Mangalore Refinery and Petrochemicals Limited (MRPL). The NMPT has made the following main points in the proposal:

- (i). Calculation of adhoc rate for the year 2003-04 is done taking into account the income at actuals for nine months of operation during the current year. Tonnage as projected by the MRPL has been considered for fixation of the adhoc rate.
- (ii). The direction of the TAMP about treatment of loan repayment amount has been complied with in the computation of the adhoc rate without prejudice to the right and contentions of the port in the litigation pending before the Hon'ble High Court of Karnataka.
- (iii). Detailed calculation of the proposed adhoc rate is furnished. The NMPT has proposed an adhoc rate of Rs. 63/- PMT for Jetties No. 10 and 11 for the year 2003-04 as against the adhoc rate of Rs.71/- PMT approved for the year 2002-03.
- (iv). The MRPL has confirmed its acceptance to the proposed adhoc subject to final adjustment based on Annual Accounts at the year end. The MRPL has also agreed that various other pending issues raised by it can be addressed at the time of fixing the final rates and the rates are subject to change depending on the outcome of pending litigations.

1.2. In view of the mutual agreement between the port and the user, the NMPT has requested this Authority to approve the adhoc wharfage rate of Rs.63/- PMT for the year 2003-04.

2. Simultaneously, we received a communication from the MRPL confirming its consent given to the NMPT for accepting the proposed adhoc wharfage rate of Rs. 63/- PMT for cargo handled at Jetties Nos. 10 and 11 for the year 2003-04.

3.1. It may be relevant to mention that the MRPL has filed a Writ Petition in the High Court of Karnataka against the Order passed by this Authority on 19 July 2000. It has mainly challenged the issue of allowing Return on Investment (ROI) on the NMPT assets.

3.2. The NMPT has also filed Writ Petitions in the Hon'ble High Court of Karnataka for a review of the Authority's Orders passed on 21 March 2002 rejecting the review petitions filed by the NMPT on three specific issues viz. credit back of vessel related income, credit back of escrow account interest and credit back of depreciation of repayment of loan in the computation of the wharfage rate.

3.3. It may be relevant to mention that the Writ Petition filed by the MRPL is only about the period 1996-2000. The Hon'ble High Court of Karnataka has allowed the liberty to the NMPT to fix wharfage rate in accordance with the MOU for the subsequent period.

4. Since the proposed adhoc wharfage rate of Rs.63/- PMT for both the Jetties No. 10 and 11 for the year 2003-04 is mutually agreed between both the parties and also recognising the fact that such a rate is only going to serve as an interim rate subject to fixation of final rate, this Authority is inclined to approve the proposal without resorting to an elaborate analysis of the cost details.

5. It is to be noted that fixation of final wharfage rates for Jetty No. 10 for the years 1996-97 to 2001-02 is still pending. The NMPT has already been advised to submit, in consultation with the MRPL a suitable proposal by 30 November 2003. The NMPT has not submitted the revised proposal so far. The NMPT is again advised to file an agreed proposal for fixation of wharfage rate for Jetty No. 10 for the years 1996-97 to 2001-02. This proposal can also include final wharfage rates for Jetties Nos. 10 and 11 for the year 2002-03.

6. In the result, and for the reasons given above, this Authority approves an ad-hoc wharfage rate of Rs.63/- PMT on cargo handled during the year 2003-04 at Jetties Nos. 10 and 11 at the NMPT subject to determination of final wharfage charges based on actual and admissible costs.

(A.L. Bongirwar)
Chairman