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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 180

New Delhi, 7 November, 2003

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby closes the case relating to a proposal of the New Mangalore Port Trust for fixation of wharfage rate for jetty number 10 for the years 1996-97 to 1999-2000 as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/13/2003-NMPT

The New Mangalore Port Trust

Applicant

ORDER

(Passed on this 22nd day of October 2003)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for fixation of wharfage rate for jetty number 10 for the years 1996-97 to 1999-2000.

2. In pursuance of the directions of this Authority issued vide its Order passed on 19th July 2000, the NMPT has submitted a proposal for fixation of wharfage rate for Jetty No.10 for the years 1996-1997 to 1999-2000. The wharfage rate proposed by the NMPT for Jetty No.10 are as follows:

Year	Rate per tonne (in Rs.)
1996-97	87.84
1997-98	78.43
1998-99	94.74
1999-2000	85.97

3.1. In this context, it may be relevant to mention that the MRPL has filed a Writ Petition in the Hon'ble High Court of Karnataka against the Order passed by this Authority on 19 July 2000. It has mainly challenged the issue relating to Return on Investment on the NMPT assets.

3.2. The NMPT has also filed Writ Petitions in the Hon'ble High Court of Karnataka for review of this Authority's Order 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 consideration of repayment of loan in excess of depreciation while computing the wharfage rate.

4.1. The NMPT proposal was forwarded to the MRPL for their comments. The MRPL has forwarded its comments without prejudice to the Writ Petition No.38445/2000 filed by it before the Hon'ble High Court of Karnataka.

4.2. The MRPL has made various observations about the calculation of wharfage rate made by the NMPT. It has pointed out that the NMPT has not complied with the direction of this Authority to establish one common cost centre for the oil jetty project; about considering the repayment of loan only to the extent it is in excess of the depreciation already accounted under the operating expenditure. It has pointed out that cash balance of specific funds and interest on the MRPL loan must be excluded while computing the wharfage rate, return on the NMPT assets should not be considered, etc. In the light of these observations, the MRPL has furnished revised working of wharfage rate for Jetty No.10.

4.3. The comments received from the MRPL were forwarded to the NMPT as feed back information.

5. Subsequently, the NMPT has sought clarification about the date of implementation of this Authority's decision (vide Order dated 9 August 2002) to consider depreciation only to the extent it is in excess of repayment of loan instalment. With reference to this point, it was clarified that this decision should be seen in continuation with

the guidelines prescribed in its Order dated 19 July 2000. The port was, therefore, advised to formulate its revised proposal after taking into consideration this particular guideline along with other guidelines stipulated in this Authority's Order dated 19 July 2000.

6.1. A joint hearing in this case was held on 20 March 2003 at NMPT premises. At the joint hearing, the NMPT made a slide presentation and the MRPL filed a written submission.

6.2. At the joint hearing, the NMPT and the MRPL both conceded that the earlier Orders of the Authority in this matter, though challenged by them before the High Court of Karnataka, were still in operation as no higher judicial forum had passed any order to the contrary. Without prejudice to their rights and contentions in the respective cases before the High Court, both the NMPT and MRPL agreed to re-work out the final wharfage rates jointly and present an agreed proposal within two months' time. They also agreed to update the proposal by including final wharfage rates for the years 2000-01 and 2001-02.

6.3. As agreed in the joint hearing, the NMPT was requested to submit its revised proposal for fixation of final wharfage rate for jetty number 10 by 31 May 2003. The time limit for submission of the agreed proposal was subsequently extended till 31 August 2003 at the request of the NMPT. The port has, however, not submitted its proposal. The NMPT was also reminded vide our letter dated 3 September 2003 to expedite submission of its proposal.

7. The NMPT has now vide its letter dated 12 September 2003 requested that the time for submission of the revised proposal may be further extended till 30 November 2003 since the port could not hold further discussions with the MRPL to resolve the pending issues due to commencement of its Statutory Audit of 2002-03 annual accounts, etc. It has stated that final rates have been worked out and sent to the MRPL for their verification.

8.1. This proposal has been registered as a 'tariff' case and hence it is not desirable to keep it pending indefinitely till submission of revised proposal by the port. Since the NMPT and the MRPL have already agreed to file a revised proposal, the original proposal is not relevant.

8.2. In this backdrop, and based on collective application of mind, this Authority decides to close this case. The NMPT is advised to submit its revised agreed proposal for fixation of wharfage rate for jetty number 10 for the years 1996-97 to 2001-02 by 30 November 2003 after taking into consideration the guidelines prescribed by this Authority.

(A.L. Bongirwar)
Chairman