

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

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 120

New Delhi, 23 July, 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 approves the proposal of the Mormugao Port Trust for charging of a levy towards recovery of the additional cost on acquisition of Wet Dust suppression system on hire at the Mormugao Port Trust as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/90/2002-MOPT

The Mormugao Port Trust

Applicant

ORDER

(Passed on this 8th day of July 2003)

This case relates to a proposal received from the Mormugao Port Trust (MOPT) about charging of a levy towards recovery of the additional cost on acquisition of wet dust suppression system on hire.

2.1. The MOPT has made the following points in its proposal:

- (i). In order to satisfy the pollution control norms and also, as one of the requirements under ISO 14001, the port has to contain the level of dust concentration in the air to meet the regulatory norms.
- (ii). Since the Vasco city is near to the berths 10 and 11 (coal/coke berths) of the Port trust and the dust emanating from these coal berths is causing pollution problems, the port has entered into a contract for acquiring wet dust suppression system on hire at a cost of around Rs.60 lakhs per annum. This includes setting up of a loading station and provision of 3 mobile tankers alongwith chemical additives. These mobile tankers with fixed nozzles and manpower attached to it will be used for spraying water mixed with the additives on the coal stacks all the 3 shifts on all days at berth nos. 10 and 11.
- (iii). The cost proposed to be recovered does not include the cost of water and power, which is supplied by the port to the service provider free of cost.
- (iv). Since this is an additional cost incurred by the port, and is not covered under the wharfage charges collected on coal/coke, or considered during the recent revision of the Scale of Rates of the MOPT, it is proposed to fix a special levy towards recovery of this additional cost from the importers of coal/coke.
- (v). The Board of Trustees in its meeting held on 30 September 2002 has approved to levy a surcharge of Rs.2.25 per tonne on the coal/coke handled at Berth nos. 10 and 11 subject to the approval of the TAMP.
- (vi). Based on the quantity of 27.25 lakh tonnes of coal handled during the pervious year, the rate works out to Rs.2.22 per tonne (exclusive of the cost of power and water), which is rounded off and fixed at Rs.2.25 per tonne.

2.2. In this backdrop, the MOPT has requested the Authority to approve a levy charge of Rs. 2.25 Per tonne on the coal / coke handled at Berth Nos 10 and 11.

3. In accordance with the consultative procedure prescribed, the MOPT proposal was forwarded to concerned user organisations for their comments.

4. A joint hearing in this case was held on 17 June 2003 at the MOPT premises. At the joint hearing, the MOPT and the concerned users have made their submissions.

5.1. On a preliminary scrutiny of the proposal, the MOPT was requested to furnish additional information on the following points:

- (i). Exact cost of the wet dust suppression system.
- (ii). Quantity of coal/coke handled during 2002-03 and, the traffic projections for the next financial year 2003-04.

5.2. In response, the MOPT has furnished the following details:

- (i). The contract value of the wet dust suppression system is Rs.58,96,120/-, excluding the cost of water which would be supplied by the port.

- (ii). The quantity of coal / coke handled during the year:

(in lakh tonnes)

| | |
|---|-------|
| April to November 2002. | 16.11 |
| From December 2002 to March 2003 (projected) | 7.54 |
| Total | 23.65 |

- (iii). The Projected quantity for the year 2003-04 is 25.50 lakh tonnes.

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 will also be available at our website www.tariffauthority.org.

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

- (i). Recently, this Authority has approved a special rate for water sprinkling on dusty cargo at the Visakhapatnam Port Trust. This proposal is also on similar lines. The system at the VPT is owned by the Port; but, the facility is hired by the MOPT. This decision of the MOPT is perhaps due to the ongoing development of separate berths for handling coal/coke under BOOT arrangement.
- (ii). The Jindal Vijayanagaram Steel Limited (JVSL), the main user of this facility, has raised various objections including questioning the very necessity of charging a separate levy. It is relevant here to point out that the proceedings relating to VPT brought out the principle of 'Pollutors Pay' enunciated by the Supreme Court. Obviously, the port is not the pollutor. But, as a public trust and the person responsible to provide cargo handling facilities, the MOPT has provided pollution control system at the coal berths. It has to be recognised that any service / facility provided by a port trust will come with a cost. Port Trusts are generally self financing organisations and do not get any grant from the Government to support their recurring (even to a large extent, capital) expenditure. Further, the MOPT has clarified that the relevant expenditure was not reckoned for computing wharfage charges for coal / coke. That being so, it will not be

unreasonable for the MOPT to recover a separate charge to meet the expenditure on the dust suppression system.

- (iii). The argument of the JVSL about the need for spraying during the monsoon season is well countered by the MOPT. Apart from the fact that spraying of chemical mixed water on coal/coke cannot be completely dispensed with during monsoon, it is not clear whether it would be feasible and economical to have contract for providing this facility in parts. As has been pointed out by the MOPT, if monsoon period quantity is excluded from the purview of the proposed levy, the quantity of cargo handled during the remaining period will have to pay a higher rate as the annual expenditure to be recovered may not perhaps undergo any change due to such an arrangement.
- (iv). The MOPT has considered a traffic base of 2.75 million tonnes for the purpose of arriving at the proposed rate. As against this, the quantity of coal/coke traffic handled is around 23.65 lakh tonnes in 2002-03 (provisional) and 25.50 lakh tonnes in 2003-04 (estimated). In view of this position, the basis of the point made by the JVSL about traffic growth and additional revenue to the port is not clear.
- (v). Considering the annual expenditure of Rs 58.96 lakhs on dust suppression system and a traffic base of 2.75 million tonnes, the rate works out to Rs 2.14 per tonne. It does not appear necessary and appropriate to round off this rate to Rs 2.25, as is proposed by the MOPT. It can be pegged at Rs 2.15 per tonne.
- (vi). There has been a brief discussion at the joint hearing on the possibility of the concerned users forming a consortium and operating this facility instead of the Port providing such a service. The JVSL agreed to examine this proposition further and take up with the Port Trust. If this proposal materializes, it will be with prospective effect. Till such time, the Port will be providing this service. It is, therefore, necessary to fix a charge for the facility and service provided by the MOPT without waiting for the development in the matter relating to possible privatisation of the facility.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves a rate of Rs. 2.15 per tonne on coal / coke handled at Berth nos. 10 and 11 of the MOPT towards recovery of the expenditure on wet dust suppression system.

(A.L. Bongirwar)
Chairman

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

F. No. TAMP/90/2002-MOPT _sal from the Mormugao Port Trust for charging of a
levy towards recovery of the additional cost on
acquisition of Wet Dust Suppression System on hire
at Mormugao Port.

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

Jindal Vijayanagar Steel Limited (JVSL)

- (i). The proposed levy of Rs.2.25 PMT of coal and coke will adversely affect their bottom line particularly when steel industry reeling under severe pressure has started showing some signs of recovery.
- (ii). The levy is calculated based on the previous year imports of 27.25 Lakh MT of coal and coke. The traffic growth and the resultant revenue during the current year, which can easily take care of the expenditure on dust suppression scheme is not considered.
- (iii). The dust suppression scheme will not be required at all during monsoon.
- (iv). Use of additives in the water to be spread on coal may affect properties of coal. The dust suppression scheme, therefore, shall be implemented only after their confirmation for which necessary details shall be forwarded to them.
- (v). Any expenditure on pollution or environment control shall be treated as an investment and be absorbed by the MOPT to ensure that it remains a competitive port.
- (vi). It is requested not to approve this levy of Rs.2.25 PMT on import of coal and coke.

1.2. The MOPT has furnished its observations on the comments furnished by the JVSL. It has made the following points:

- (i). The rate of levy was worked out based on the previous year's quantity of 27.25 lakh M.T. of coal/coke. The JVSL has indicated a modest growth of 8% in the traffic during the current year, whereas actually, during the current year the quantity of import of

coal/coke is projected at 23.65 lakh tonnes only (R.E.2002-03) and BE 2003-04 is 25.50 lakh tonnes only. Therefore, the port will get only reduced revenue from the wharfage and storage charges during the current year as well as the next year.

- (ii). A contract for wet dust suppression system is awarded to keep the Vasco city and the areas surrounding the port free from pollution. Additionally already there are other contracts, which provide for sweeping of roads engaging mechanical sweeping machine (value- Rs.8.5 lakhs), watering of roads (value-Rs.7 lakhs), etc. The present proposal is to compensate only a part of the expenditure incurred by the port in controlling the dust menace caused by the handling of coal and coke.
- (iii). The spraying on the coal/coke, whilst handling, is a must to achieve the dust suppression and the same cannot be done away with during the monsoon season. The spraying of water mixed with DUSTRACT has to be kept in operation in order to use it during the dry spell in between. If the traffic during the monsoon season is to be excluded, per tonne rate has to be suitably increased to recover the cost of operations.
- (iv). The usage and effect of the surfactant/additives viz. 'DUSTRACT' on the properties of coke/coal for suppression of dust by the agency, M/s.Midway Systems Pvt. Ltd. was discussed at a meeting with the users on 11 December 2002. The users were convinced with the explanation.
- (v). The expenditure on pollution/environment control is an annual expenditure of recurring nature. It is not to be recovered separately but through increased wharfage. As the present contract is only a temporary arrangement on experimental basis, a separate levy per tonne is proposed which will remain in force during the currency of the contract.

2. A joint hearing in this case was held on 17 June 2003 at the MOPT premises in Goa. At the joint hearing the following submissions were made:

Mormugao Port Trust (MOPT)

- (i). (a). Last year coal traffic is 2.5 million tonnes; in 2001-02 the traffic was 2.75 million tonnes. There are around eight users with Jindal being the major user handling more than 60% of the traffic.

- (b). Since the operation is manual, lot of coal dust is generated. The coal berth is nearer to Vasco city.
- (ii). We were spending Rs 7 lakhs p.a. on road spraying and around Rs 8 lakhs p.a. on road sweeping. Still, we had to arrange spraying on stacks to contain pollution. We have now provided for adding chemical additives with water that is sprayed and Rs.57 lakhs have to be paid. Therefore, our total cost is around Rs 72 lakhs.
- (iii). At the proposed rate of Rs.2.25 per tonne we may still end up with deficit.
- (iv). The system deployed by users earlier was different.
- (v). If users can prove that they can contain pollution in a better way, they can run such a system. Our objective is that pollution must be contained.

Goa Chamber of Commerce & Industry (GCCCI)

- (i). It is a welcome initiative by the port.

Jindal Vijayanagar Steel Limited (JVSL)

- (i). We were doing this operation more effectively earlier.
- (ii). The cost should be borne by the Port.