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New Delhi, the 12 June, 2001

TARIFF AUTHORITY FOR MAJOR PORTS

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 disposes of the proposal of the Visakhapatnam Port Trust about the revision of Local haulage charges of Port Railway as in the Order appended hereto.

(S. Sathyam)

Chairman

Case No. TAMP/54/2000-VPT

The Visakhapatnam Port Trust (VPT) ... Petitioner

O R D E R

(Passed on this 12th day of June 2001)

The Ministry of Surface Transport had, vide its letter dated 25 April 2000, informed that, in view of the express provision of the law, the TAMP would be the only concerned Authority empowered to decide port railway charges; and, it would be compulsory to publish the rates fixed by the TAMP in the official Gazette.

2.1. The proposal received from the VPT in June 2000 relating to its port railway charges was entertained and examined in this backdrop. The proposal contained in the main the following submission:

- (i). The Board of Trustees of the VPT in its meeting held on 30 March 95 approved enhancement of the local haulage charges in open terminals of the Eastern Sector by 110% and reduction of the local haulage charges in open terminals of the Western Sector by 25%.
- (ii). The Railway Board approved the proposal vide its letter dated 14 August 97 and made the revised rates effective from 1 September 1997.
- (iii). At this stage, a question arose about publication of the revised rates in the Gazette. Accordingly, the matter was referred to the Government.
- (iv.) The Government (in the MOST) clarified that the TAMP would be the only concerned Authority to decide the matter; and, it would be compulsory to publish the rates fixed by the TAMP in the official Gazette.
- (v). The rates approved by the Railway Board have been implemented with effect from 1 September 97.

2.2 Accordingly, the VPT requested this Authority to sanction the rates (as approved by the Railway Board) and notify them in the Gazette of India as being effective from 1 September 1997.

3. In the light of the legal position governing the subject, the VPT proposal was examined. In this context, the following issues arose for consideration.

(i). The rates proposed for our approval had already been approved by the Railway Board and have been in vogue since 1 September 1997.

(ii). Will it be appropriate for this Authority to notify the rates approved by the Railway Board without having its own scrutiny of the proposal?

(iii). At the same time, will it be appropriate for this Authority to sit in judgement over the rates approved by the Railway Board.

(iv) A scrutiny of the proposal, if necessarily to be carried out, will involve time. Since the proposed rates have already been implemented with effect from 1 September 97, alteration of them, if our scrutiny warrants, will create avoidable complications for the port and embarrassment to the Government.

(v). Given the situation, will it not be prudent for the Government itself in exercise of its inherent powers, to notify the rates already approved by the Railway Board.

4. This matter was considered by the Authority in its meeting on 26 September 2000. The Authority observed that the rates proposed by the VPT seeking its approval had already been approved by the Railway Board and had been in vogue since 1 September 97. The Authority found that it might not be prudent to notify the rates approved by the Railway Board without having its own scrutiny. At the same time, the Authority also did not like to sit in judgement over the rates already approved by the Railway Board. A blind and casual endorsement of the Railway Board resolutions might cast an indefensible burden on the TAMP. Not having itself scrutinised the proposal, it might be called upon to defend the Railway Board's scrutiny. This could land the Authority in a piquant situation causing embarrassment and (avoidable) hardship. The scrutiny of the proposal, if necessarily to be carried out, would not only involve time but also might lead to reduction or increase in the rates in vogue. Since the proposed rates had already been implemented, any alterations in them, if warranted, would create avoidable complications for the port and embarrassment to the Railway Board. That being so, based on a collective application of mind, the Authority decided to forward the VPT proposal to the Government for notification by it of the rates already approved by the Railway Board.

5. In pursuance of this decision, it was decided to forward the VPT proposal to the Government for notification by it of the rates already approved by the Railway Board. Accordingly, the proposal of the VPT was sent to the Ministry of Shipping on 3 October 2000 for appropriate further attention relating to notification in the Gazette of India. The Chairman of the VPT was also duly apprised of this position.

6.1. There has so far been no further communication in this regard either from the Ministry of Shipping or from the VPT. It is possible that the VPT is waiting for a formal response

from the Ministry of Shipping; and, it is equally possible that the Ministry has not taken cognizance of our communication dated 3 October 2000 leaving the matter to be dealt with in terms of the law by this Authority. If this were really to be the position, then, the proposal of the VPT would suffer by falling between two stools.

6.2. Upon a reconsideration of the case in this backdrop, therefore, we see that it will not be adequate or appropriate for the Authority to dispose of this case in the manner in which it has been done i.e. only through a letter to the Ministry of Shipping. It has to be recognised here that the proposal of the VPT had been registered as a case. In terms of the provision in Section 50(C) of the MPT Act, every Order of the Authority made in pursuance of this Act shall be published in the official Gazette.

7. In the result, and for the reasons given above, we pass this Order to formalise the transfer to the government of the VPT proposal, and close this case.

(S. Sathyam)

Chairman

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