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No. 348

New Delhi, the 27 December, 2001

**Tariff Authority for Major Ports**

**NOTIFICATION**

In exercise of the powers conferred by Sections 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 year 2001-2002 on cargo handled at its oil jetty No.10 as in the Order appended hereto.

( S. Sathyam )

Chairman

**Tariff Authority for Major Ports**

**Case No.TAMP/78/2001-NMPT**

**The New Mangalore Port Trust**

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**Applicant**

**O R D E R**

**(Passed on this 13th day of December 2001)**

This Authority had passed an Order on 27 October 1998 on the proposal made by the New Mangalore Port Trust (NMPT) for fixation of wharfage rate of Jetty No.10 for the year 1996-97. This Authority decided on some of the contentious issues and advised both the NMPT and the Mangalore Refinery and Petrochemical Limited (MRPL) to jointly rework the calculations along the lines indicated in the Order.

1.2. Subsequently, the NMPT submitted a revised proposal in which it had mentioned that both the NMPT and the MRPL were unable to arrive at a mutually acceptable basis for fixation of wharfage. It had furnished the details of the NMPT's and the MRPL's calculation and points of difference for consideration of this Authority. In this backdrop, this Authority considered the revised proposal received from the NMPT and passed another Order on 19 July 2000 setting out the guidelines to be followed for calculation of wharfage charges on cargo handled at the dedicated MRPL Jetty. In the said Order, the NMPT was directed to compute wharfage charges, for the years 1996-97, 1997-98, 1998-99 and 1999-2000 in line with the guidelines prescribed by this Authority. It was also advised to get the figures verified by the MRPL before forwarding the proposal for fixation of wharfage charges to this Authority.

2.1. The MRPL has filed a writ petition in the High Court of Karnataka against the Order of this Authority.

2.2. The NMPT has filed three petitions with this Authority requesting for review of three principles enunciated in our Order in reference.

3.1. The writ petition filed by the MRPL was only about the period 1996-2000. The current proposal made by the NMPT covers the period 2001-2002 and hence will not be hit by the pending litigation. In any case, the Karnataka High Court order gives the liberty to the NMPT to proceed to take action to fix wharfage charges in accordance with the MOU for the subsequent period. Since the wharfage rate for POL notified in the Scale of Rates of the NMPT may not pass on to the MRPL the benefit envisaged in the MOU, it becomes necessary to notify an ad-hoc wharfage rate for 2001-2002. In a joint hearing on this matter in Mumbai on 9 November 2001, the various options available were discussed.

3.2. Although there were lot of arguments initially, particularly in respect of reasonableness and admissibility of different cost elements and the traffic projection, both the NMPT and the MRPL have come to an agreement insofar as the ad-hoc charges leviable for the year 2001-02 at the joint hearing held on 9 November 2001. Both the parties have agreed to an ad-hoc rate of Rs. 71/- PMT for the year 2001-02. Since a mutually agreed rate has evolved and recognising the fact that such a rate is only going to serve as an interim rate subject to fixation of final rates, it may not be necessary to analyse in depth the various objections raised initially by both the parties on costing principles and figures as well as further scrutiny of various cost elements to ensure the reasonableness and their conformity with the guidelines already set. This Authority is, therefore, inclined to approve the ad-hoc rate of Rs. 71/- PMT for the year 2001-02 as mutually agreed to between the NMPT and the MRPL.

3.3. As has already been mentioned, review petitions filed by the NMPT on three specific issues are being processed separately as per the procedure adopted and will mature for final consideration of this Authority in due course. The NMPT has further requested that the ad-hoc rate as mutually agreed to between it and the MRPL may be notified immediately without waiting for the disposal of its review petitions. That being so, the ad-hoc rate for the year 2001-02 as mutually agreed to between the parties is approved subject to the condition that the final rate for the year 2001-02 as well as ad-hoc rate for the year 2002-03 will be prescribed based on admissible costs and principles set.

4. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves an ad-hoc wharfage rate of Rs. 71/- PMT on cargo handled during the year 2001-02 at the dedicated MRPL Jetty (Jetty No.10) at the NMPT subject to determination of final wharfage charges based on actual and admissible costs.

( **S. Sathyam** )

Chairman

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