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New Delhi, the 25th May, 2001

Tariff Authority for Major Ports

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 fixes the wharfage charges on iron ore exported by the Kudremukh Iron Ore Company Limited (KIOCL) from the New Mangalore Port during the year 1999-2000, as in the Order appended hereto.

(**S. Sathyam**)

Chairman

Tariff Authority for Major Ports

Case No. TAMP/25/2001-NMPT

**The New Mangalore Port Trust
(NMPT)**

...

Applicant

ORDER

(Passed on this 16th day of May 2001)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for fixation of final wharfage for the Kudremukh Iron Ore Company's (KIOCL) ore exported through the NMPT for the year 1999-2000.

2. The NMPT has stated that the wharfage rate for the iron ore exported by the KIOCL through the NMPT is calculated with reference to actual expenditure incurred during the year concerned. The methodology of fixation of wharfage rates in respect of the KIOCL ore is in accordance with the decision taken in the Inter-Secretarial meeting between the Secretary (MOST) and the Secretary (Steel) held on 27 May 92. It was decided in that meeting that the wharfage rate for KIOCL should be fixed annually based on the actual expenditure towards the various components as detailed below:

- (i). Share of operating expenditure of Traffic Department.
- (ii). 75% of the actual dredging expenditure.
- (iii). Depreciation.
- (iv). Share of Management and Administration overheads.

- (v). Interest on Capital.
- (vi). Return on Capital.

3. The NMPT has stated that the wharfage rate for 1999-2000 has been worked out taking into consideration the sharing of certain elements of expenditure between MRPL, KIOCL and NMPT as per the bilateral agreements. The final rate for the year 1999-2000 has been worked out based on the actuals, and has been fixed at Rs.30.76 PMT.

4. The NMPT has also intimated that the method of calculation of wharfage has been checked by the KIOCL who, after verification of records, have confirmed the rate in writing.

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

- (i). The proposal of the NMPT to fix the wharfage on iron ore exported by the KIOCL through the NMPT for the year 1999-2000 @ 30.76 PMT is a case of retrospective approval of rates. There is no difference of opinion between the Port and the user in arriving at an agreed rate. This Authority had earlier approved the wharfage rate in respect of iron ore exported by the KIOCL through the NMPT for the years 1995-96, 1996-97, 1997-98 and 1998-99 on the same analogy. The approved rate of wharfage on Kudermukh iron ore was Rs.32.49 PMT for the year 1998 - 99.
- (ii). The method adopted for computation of wharfage in this case is slightly different from the approach followed by this Authority. For instance, expenditure on maintenance dredging, which is a vessel related expenditure, is considered for arriving at this cargo related charges. The return on investment is also considered in a different manner.
- (iii). An MOU signed between a Port and the user of the port facility can not bind this Authority in fixing tariff for such services. In the instant case, it is to be ensured that the method adopted by the NMPT does not cause undue burden on users other than the KIOCL. The NMPT has now come up with a proposal for a general revision of its Scale of Rates; and, in this context, the financial/cost position of various activities is being examined. If the scrutiny reveals that allocation of all relevant costs to the KIOCL activity is not made properly, this Authority may prescribe a different method for fixing wharfage on KIOCL cargo prospectively. Till that happens, the existing method which has been in vogue for nearly 10 years now is allowed to continue.

6. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of the NMPT for fixation of wharfage rate for iron ore exported by the KIOCL during the year 1999-2000 from New Mangalore Port @ Rs.30.76 PMT.

7. This is obviously a case of retrospective prescription of tariff. But, the Ministry of Law has certified that this Authority has the power to prescribe tariffs with retrospective effect. And, in this case, since there is only one user concerned, who has also concurred with the proposal, no particular difficulty is likely to be caused by the retroactive Order.

(**S. Sathyam**)

Chairman

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