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No. 276	**NEW DELHI, the 9 October, 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 approves the proposal of the Kandla Port Trust for fixation of wharfage charges for transhipment of crude oil at Vadinar as in the Order appended hereto.

(S. Sathyam)

Chairman

Tariff Authority for Major Ports

Case No.TAMP/50/2001-KPT

The Kandla Port Trust ------------ Applicant

O R D E R

(Passed on this 20th day of September 2001)

This case relates to a proposal received from the Kandla Port Trust (KPT) regarding fixation of wharfage charges for transhipment of crude oil with retrospective effect from 1 April 2000**.**

2**.**1**.** The KPT has made the following points in support of its proposal**:**

(i)**.** The transhipment of crude oil was started in the year 1998-99 from the Vadinar Lighterage point at KPT**.**

(ii)**.** The process involves transhipment of crude oil brought in by the mother vessels to various smaller daughter vessels belonging to the Indian Oil Corporation Limited (IOCL) and the Shipping Corporation of India (SCI) for distribution to various refineries located in different parts of the Country**.** The entire transhipment operation is carried out within the port limits**.**

(iii)**.** Since the lighterage point operations are carried out in mid-sea and do not involve much services from the port except the grant of right to use the KPT waters**;** and also**,** keeping in view the fact that the IOCL is the only major user of this facility**,** it was considered appropriate to enter into an agreement with the IOCL for recovery of the charges**.**

(iv). Keeping in view the rates charged by the neighboring minor ports in competition; and, the fact that the Administered Price Mechanism (APM) is going to be dismantled soon whereupon the IOCL shall cease to be the sole canalising agent for import of curde oil and the import of crude oil could be sourced by other refineries themselves on their own, the following rates of wharfage for handling of crude oil (effective retrospectively from 1 April 2000) were mutually agreed upon by the KPT, IOCL and the SCI in their meeting held on 18 September 2000:

(a). Rs. 4 per MT for handling 6 MMT of crude oil.

(b). Rs. 6 per MT after completion of handling 6 MMT by way of transhipment.

(v). The proposal along with a copy of the draft agreement in this regard was sent to the Ministry of Shipping (MOS) for approval; and, the MOS directed the KPT to take up the matter with the TAMP.

(vi). In view of the above directions from the MOS, the KPT decided to incorporate a separate rate of wharfage for its transhipment operations in the Scale of Rates to be applicable to all port users and not to a specific user or class of users on account of the following reasons:

(a) The rates agreed to by the IOCL & SCI were based on certain traffic projections; and,

(b) two separate rates for the same service cannot be prescribed.

The matter was once again discussed with the officials of the IOCL and the SCI, on 9 April 2001 for arriving at a single wharfage rate for the transhipment operation; and, it was mutually agreed by the KPT, IOCL and the SCI to fix a rate of Rs. 5 PMT for the transhipment of crude oil at Vadinar with retrospective effect from 1 April 2000.

2.2. In this backdrop, the KPT has requested to approve a wharfage rate of Rs. 5 per MT for transhipment of crude oil at Vadinar with retrospective effect from 1 April 2000. The proposal was endorsed by the Board of Trustees of the KPT in its meeting held on 4 May 2001.

3. In accordance with the procedure prescribed, a copy of the proposal was forwarded to the various concerned representative bodies of port users and Public Sector Oil companies for comments. (A list of major users of the facility was also obtained from the KPT) The Comments received are summarised below:

The Oil Co-ordination Committee (OCC)

(i). The APM for the refineries was discontinued from 1 April 1998; and since then, the pricing of the products is done based on import parity. Similarly, the cost incurred by the refineries for crude oil (indigenous as well as imported) is also based on import parity. Therefore, any increase in the rate of wharfage on crude oil at Vadinar will have an adverse impact on the economics of concerned oil refineries in terms of higher cost of crude oil.

(ii). The matter may be referred to the IOCL for obtaining its views since the IOCL brings in the crude oil for its refineries in Vadinar.

The Shipping Corporation of India Limited (SCI)

(i). It is confirmed that wharfage rate of Rs.5 per metric tonne for crude oil at Vadinar lighterage point at KPT was mutually agreed by the KPT, IOCL and the SCI in the meeting held on 9 April 2001 at the KPT.

The Indian Oil Corporation Limited (IOCL)

(i). We abide by the minutes of the meeting held at the KPT office on 9 April 2001 between the KPT, IOCL and SCI.

(ii). Since we do not have any further comments, no joint hearing is necessary.

The Hindustan Petroleum Corporation Limited (HPCL)

(i). An MOU with the IOCL has been signed for transportation of crude oil on an integrated/industry basis and the IOCL in turn has signed a Contract of Affreightment (COA) with the SCI.

(ii). The issue regarding payment of wharfage for transhipment at Vadinar lighterage point was discussed in the industry meeting with the IOCL, which has been communicated by the IOCL to the Authority.

4.1. A copy of the comments from the above port users / representative bodies of port users was forwarded to the KPT as feed back information.

4.2. The KPT has responded in this regard stating that it has no further comments to offer, since both the major users viz. IOCL and SCI and also the HPCL have agreed to and confirmed a wharfage rate of Rs.5 per metric tonne.

5. Since the major users engaged in the transhipment operation have conveyed their agreement with the proposal of the KPT, a joint hearing in this case has not been set up.

6. With reference to the totality of information collected during the processing of this case, and based on a collective application of mind, the following position emerges:

(i). This is yet another proposal from the KPT for a piecemeal revision of its Scale of Rates and with retrospective effect at that.

(ii). (a). This Authority in its Order dated 14 February 2001 in the case relating to fixation of hire charges of floating crafts of the KPT advised the Port to submit a comprehensive proposal for review of its Scale of Rates by May 2001. This advice is yet to be (even) acknowledged by the KPT.

(b). In its Order dated 28 June 2001 relating to enhancement of free days for storage of Timber logs at the KPT, this Authority categorically asserted that it would not entertain any more piecemeal revision proposal from the KPT until a comprehensive review of its Scale of Rates was done.

(c). The instant proposal was received on 8 June 2001, i.e. before the Order mentioned at (b) above was passed. That being so this (piecemeal) revision proposal has been taken up for consideration.

(iii). With the amendments made in the MPT Act in 1997, no major port trusts can legally levy any charge for the services provided and/or use of their properties without such levy being authorised/approved by this Authority. Mutual agreement and signing of contract with users cannot alter this legal position. Strangely, it required an advice from the Ministry of Shipping for the KPT to realise this unambiguous legal position!

(iv). In the instant case, an agreed proposal has been presented before this Authority. Both the rate and giving retrospective effect to that have been agreed to between the KPT, IOCL and SCI. The comments offered by the HPCL and the OCC clearly indicate that IOCL is the nodal agency for transportation of crude oil on integrated industry basis. That being so, this Authority does not have any reservation in approving the proposal.

(v). The OCC has, however, indicated that the proposed charge will have an adverse effect on refineries. It is relevant here to mention that transhipment operation takes place within the port limits of the KPT. Levy of wharfage on cargo handled at anchorages is an existing practice in many of the major ports. For example, at the Mormugao Port Trust such charges are prescribed at 60% of the normal wharfage rate. At the KPT, wharfage on handling crude is levied at Rs.12/- PMT. Considering the normal wharfage rate of Rs.12/- PMT, the proposed rate of Rs.5/- PMT for transhipment of crude oil cannot be said to be unreasonable.

(vi). In the light of dismantling of the APM very soon, there may be more agencies other than the IOCL importing crude oil. In order to encourage them by providing incentives, it shall be appropriate for the KPT to introduce a suitable volume discount scheme. The KPT is advised to come up with an appropriate proposal in this regard within 6 months.

7. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves a wharfage rate of Rs.5/- PMT in respect of crude oil transhipment at Vadinar with retrospective effect from 1 April 2000, as proposed by the KPT.

8**.** The KPT is directed to amend its Scales of Rates accordingly**.**

(**S. Sathyam**)

Chairman
