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Tariff Authority for Major Ports

G.No. 51

New Delhi, 12 April, 2003

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 disposes of the proposal received from the New Mangalore Port Trust for fixation of ad-hoc wharfage rate for the cargo handled at oil Jetties No.10 and 11 for the year 2002-2003 as in the Order appended hereto.

(A.L. Bongirwar)
CHAIRMAN

Tariff Authority for Major Ports
Case No. TAMP/56/2002-NMPT

The New Mangalore Port Trust

Applicant

ORDER

(Passed on this 28th day of March 2003)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for fixation of an ad-hoc wharfage rate for the year 2002-03 for the cargo handled at Jetties No. 10 and 11 dedicated for the Mangalore Refinery and Petrochemical Limited (MRPL). Ad-hoc wharfage rates proposed by the NMPT for the year 2002-03 for Jetties No. 10 and 11 are as follows:

- (i). Rs. 148.49 for Jetty No.10 upto 15 May 2002; and, Rs. 144.70 from 16 May 2002 to 31 March 2003.
- (ii). Rs. 80.67 PMT for Jetty No. 11 from 16 May 2002 to 31 March 2003.

2.1. The proposal received from the NMPT was forwarded to the MRPL for their comments. The MRPL has raised the following main objections with reference to the computation of the wharfage rate:

- (i). The traffic figures adopted by NMPT are not realistic. The traffic projections should be based on actuals instead of Budget Estimates.
- (ii). The interest cost on outstanding balances works out to only Rs. 14 crores as against Rs. 20.50 crores considered by the NMPT.
- (iii). The dredging cost should be considered based on the agreement with the Dredging Corporation of India (DCI) instead of Budget Estimates.
- (iv). Depreciation should be reduced from the loan repayment amount in accordance with the direction of the TAMP.
- (v). The interest income on Escrow account balance on Jetty No. 11 has not been considered by the NMPT.
- (vi). It has reiterated its earlier view about not allowing return on investment in calculation of wharfage rate.

2.2. Taking into consideration the above points, the MRPL have suggested ad hoc rates of Rs. 37.56 PMT for Jetty No. 10 and Rs. 20.42 PMT for Jetty No. 11 for the year 2002-03.

3.1. It may be relevant to mention that the MRPL has filed a Writ Petition in the High Court of Karnataka against the Order passed by this Authority on 19 July 2000. It has mainly challenged the issue relating to allowing Return on Investment (ROI) on the NMPT assets.

3.2. The NMPT has also filed Writ Petitions in the High Court of Karnataka for a review of the Authority's Orders passed on 21 March 2002 rejecting the review petitions filed by the NMPT on three specific issues viz. credit back of vessel related income, credit back of escrow account interest and consideration of repayment of loan in excess of depreciation while computing the wharfage rate.

4. A joint hearing in this case was held on 20 March 2003. At the joint hearing, notwithstanding the disputes about computation of the wharfage rate, both the NMPT and the MRPL agreed for an adhoc rate of Rs.71/- PMT for both the Jetties No.10 and 11 for the year 2002-03 without going into the cost details and without prejudice to their rights and contentions in the Writ Petitions pending before the High Court of Karnataka.

5. Although there were lot of arguments, 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 2002-03 at the joint hearing held on 20 March 2003 without going into the cost details. Both the parties have submitted a written agreement jointly signed by them indicating their willingness to accept an adhoc wharfage rate of Rs. 71/- PMT for both the Jetties No. 10 and 11 for the year 2002-03. Since a mutually agreed rate has evolved and recognizing 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 Jetties No. 10 and 11 for the year 2002-2003 as mutually agreed to between the NMPT and the MRPL.

6. In the result, and for the reasons given above, this Authority approves an ad-hoc wharfage rate of Rs.71/- PMT on cargo handled during the year 2002-03 for Jetties No. 10 and 11 at the NMPT subject to determination of final wharfage charges based on actual and admissible costs.

(A.L. Bongirwar)
Chairman