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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 99

New Delhi, 19 June, 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 from the Visakhapatnam Port Trust for fixation of tariff for sprinkling water on dusty cargo stacks as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/17/2003-VPT

The Visakhapatnam Port Trust (VPT)

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Applicant

ORDER

(Passed on this 5th day of June 2003)

This case relates to a proposal received from the Visakhapatnam Port Trust (VPT) for fixation of tariff for sprinkling water on dusty cargo stacks.

- 2.1. The VPT has made the following points in its proposals:
- (i). It is predominantly a bulk cargo handling port and about 85 % of the dry cargo is dusty in nature. Most of the commodities are handled by semi-mechanised means wherein cargoes are discharged from vessels and transported by lorries to the stacking areas and vice-versa. In this process dust is generated at various locations.
 - (ii). In order to comply with ISO 14001 requirements, it has taken various pollution control measures like plantation of 2,30,000 saplings in and around operational areas, to utilize treated water by sewage treatment plant for sprinkling the dusty cargoes with the help of trade handling such cargoes, etc.
 - (iii). The various port users, who have been handling such dusty cargoes, were requested to constantly sprinkle water at the respective dust generating points/locations. The respective port users by means of tank trucks carrying water were carrying these out. The port used to supply water generated at its sewage treatment plant, pumps and power at free of cost to the user. However, since the pumping is done through a contractor, the charges paid for the same were collected from the respective port users by the VPT.
 - (iv). It has now commissioned a mechanical dust suppression system at a cost of Rs.7.18 crores, to have more sophisticated and advance system for dust suppression. This system covers the staking areas such as west ore berth stacking areas, G.C.B. stacking areas and areas north and south of S-4 conveyor belts. This system deploys a total of 172 numbers of sprinkler.
 - (v). The operation and maintenance cost for one year works out to Rs. 13.67 lakhs as a contract has been awarded to M/s. Mecons limited for a period of five years at Rs. 68.33 lakhs and the estimated power charges will be Rs. 51.23 lakhs per annum. Thus, the direct operating cost works out to Rs. 64.90 lakhs per annum (Rs. 13.67 lakhs + Rs. 51.23 lakhs).
 - (vi). It has now decided to recover atleast direct operating cost incurred for the above system. It has further stated that hitherto various users are required to transport the water in their own tank trucks at their own cost to the various required points. With the commissioning of the new mechanised system, this particular cost to the various users is reduced.
 - (vii). The need to recover at least direct operating cost was explained to the trade. It has been decided to levy a rate of Re. 0.80 per metric tonne of cargo from the users, which utilise the stacking areas covered under the mechanised sprinkling system as water sprinkling charges.

2.2 The VPT has sought approval of this Authority to collect a charge of Re. 0.80 per tonne on all those cargoes/users who utilise the stacking area covered under the mechanised sprinkling system with effect from 1 March 2003.

3.1 In accordance with the consultative procedure prescribed, the VPT proposal was forwarded to the concerned user organisations for their comments.

3.2. A copy of the comments received from the above users were forwarded to the VPT as feedback information.

3.3. A joint hearing in this case was held on 8 May 2003 at the VPT premises. At the joint hearing, the VPT and the concerned users have made their submissions.

3.4. At the joint hearing, the VPT furnished copies of documents showing the principle of 'polluters pay' enunciated by the Supreme Court.

3.5. The VPT has furnished further written submission, which is summarised as follows:

- (i). It had implemented the proposed rate with effect from 1 February 2003 as per the consensus arrived with the users during the deliberation held on 29 January 2003.
- (ii). It has also stated that when the manual sprinkling system was in operation, the expenditure on power consumption was Rs. 1.87 lacs per annum.

3.6. Subsequently, the VPT has stated that due to introduction of sprinkler system, there is a decline of about 100 trucks movement per day. This has resulted in decrease in pollution on account of vehicular emission and dust generation corresponding to the reduction in truck movement.

4. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be available in our website www.tariffauthority.org.

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

- (i). Commissioning of the sprinkling system is to contain pollution caused by dusty cargo handled at the Visakhapatnam Port. Effectively, the new system contains not only the air pollution caused by dusty cargo but also reduces pollution on account of vehicular emission since the trucks used to sprinkle water earlier would be redundant after commissioning of the sprinkling system. As has been correctly pointed out by the SAIL, the action taken by the port deserves to be complimented,
- (ii). The VPT has pointed out the principle of 'polluters pay' set out by the Supreme Court. In any case, the users were paying to a private contractor for sprinkling water in the earlier system which they have to pay now to the port since the port is providing the service.
- (iii). The TNEB has objected to the proposal of the VPT on the ground that the sprinkling system installed by the port does not cover the entire stack yard. This objection is not found to be relevant since the VPT has proposed to levy the water sprinkling charge only from the quantum of cargo which utilise the stacking areas covered by the sprinkling system.

- (iv). The SAIL and TNEB have demanded that the cost of providing and operating the sprinkling system should be borne by the port itself. As has been pointed out earlier, the concerned users were availing such services earlier from the private contractor against payment. Further, the VPT has made a substantial investment in the sprinkling system; and, on its part it has proposed to forego the return on such investment. The port has sought to recover the direct operating cost towards the newly installed sprinkling system. The approach adopted by the VPT is not found to be unreasonable.
- (v). The VPT has worked out the proposed rate by considering the operating cost including the electricity cost and an estimated traffic of 8 MT. It is noteworthy that the port has admitted that it provided electricity free of cost for pumping water in the earlier system of operation. The claim that the electricity was supplied free of cost should be seen in the limited sense that the concerned users were not required to pay directly for the cost of electricity consumed. Cost plus model was adopted while fixing the tariff of the VPT at the time of the last general revision. It is, therefore, reasonable to assume that the cost supplying electricity to this facility was also included in the overall expenditure and taken as overhead which means its burden has been spread over the charges of various activities of the VPT. Since segregation of this cost from such tariff items at this stage is difficult, it will be appropriate to consider only the incremental cost of electricity for operating the sprinkling system. If the incremental cost of electricity is considered, the direct operating cost will be Rs 63.03 lacs per annum instead of Rs 64.90 lacs projected by the VPT. Considering the traffic base of 8 MT to recover the direct operating cost, the rate for water sprinkling will work out to 78 p. per tonne. It may not be unrealistic to expect that the traffic base will grow in future. In recognition of this aspect, water sprinkling charges can be pegged at 75 p. per tonne. The rate fixed now can be reviewed at the time of the next general revision of scale of rates.
- (vi). The VPT has intimated that it has implemented the rate proposed by it with effect from 1 February 2003 after discussion with the users and hence requested for an approval of its proposal with retrospective effect from 1 February 2003. It has to be recognised that the facility created by the VPT is being used since 1 February 2003. In order to regularise the charges collected for utilisation of such facility since 1 February 2003, as a special case, the water sprinkling charge at the VPT is approved retrospectively with effect from 1 February 2003. The VPT had recovered ad hoc charges at the proposed rate of 80 p per tonne since 1 February 2003. Since the final rate approved is less than the rate proposed, the VPT is advised to adjust its billing retrospectively and refund the excess collection made so far.

6. In the result, and for the reasons give above, and based on a collective application of mind, this Authority approves water sprinkling charge of 75 paise per tonne on all cargo / users that utilise the stacking area covered under the mechanised sprinkling system of the Visakhapatnam Port Trust with retrospective effect from 1 February 2003.

7. The VPT is directed to incorporate this provision in its Scale of Rates appropriately.

(A.L. Bongirwar)
Chairman