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Tariff Authority for Major Ports

G No.270

New Delhi,

14 October 2013

NOTIFICATION

In exercise of the powers conferred by Sections 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Cochin Port Trust (COPT) for amendment to the general note governing Lease Rentals approved vide Order No.TAMP/33/2007-COPT dated 4 May 2010 which was incorporated in general revision of Scale of Rates of COPT approved vide Order No.TAMP/49/2011-COPT dated 1 April 2013 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/30/2013-COPT

Cochin Port Trust

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Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. C.B. Singh, Member (Economic)

ORDER

(Passed on this 25th day of September 2013)

This case relates to the proposal received from the Cochin Port Trust (COPT) for amendment to the general note governing Lease Rentals approved vide Order No.TAMP/33/2007-COPT dated 4 May 2010 which was notified in the Gazette of India on 11 June 2010 vide Gazette No.160.

1.2. Para 14 (xxii) of the Order No.TAMP/33/2007-COPT dated 4 May, 2010 states that the revised rates and conditionalities will become effective after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall be in force for five years. Accordingly, the revised lease rental came into effect from 11 July 2010.

2. Subsequently, this Authority approved general revision of Scale of Rates of COPT vide Order No.TAMP/49/2011-COPT dated 01 April, 2013. The revised rates for estate rental approved vide Order No.TAMP/33/2007-COPT dated 4 May, 2010 was incorporated as it is at Chapter VII – Estate Rentals in the Scale of Rates of COPT.

3.1. The COPT in the current proposal filed vide its letter dated 6 August 2013 has proposed amendment to the general note no.1 to Chapter VII - Estate Rentals approved vide Order No.TAMP/33/2007-COPT dated 4 May 2010 which was incorporated in the Scale of Rates of COPT. The COPT has made the following main points in its proposal:

- (i). The existing note number 1 in the General Note to Chapter VII – Estate Rentals approved vide Order dated 4 May 2010 is as follows:

“All the base rates mentioned above are subject to an automatic annual escalation of 2%.”

- (ii). The same has been included in the General Revision of the Scale of Rates of the COPT approved vide Order dated 1 April 2013 under Chapter VII – Estate Rentals.

- (iii). The Port has requested to amend the said existing note no.1 as follows by indicating the effective date of implementation of rates of Lease Rental so as to provide more clarity and transparency to the users:

*“All the base rates mentioned above are **effective from 11.07.2010** and are subject to an automatic annual escalation of 2%”.*

3.2. The port has requested to consider the proposal for amendment in the Gazette Notification No.159 and 160 both dated 11 June 2010 and issue necessary order.

3.3. The COPT vide its letter dated 1 August 2013 has filed a separate proposal for a few amendments in the existing Scale of Rates of the port approved vide Order No.TAMP/49/2011-COPT dated 1 April 2013. The above amendment proposed in the general note number 1 in the Estate Schedule is proposed in its proposal dated 1 August 2013 as well.

4. The proposal of the COPT to prescribe the effective date of implementation of the revised lease rental approved in the Order of May 2010 is to bring in clarity in its application and to avoid any ambiguity. That being so, consultation with users followed in normal course and holding of joint hearing was not felt necessary in this particular case.

5. As already stated in para 1.2. above, the revised lease rentals for port lands including the lands at Vallarpadam, Puthuvypeen, Bolgatty and Goshree areas approved vide Order No.TAMP/33/2007-COPT dated 4 May 2010 is effective prospectively after expiry of 30 days from the date of Notification of the Order in the Gazette of India. The said Order was notified in the Gazette no.160 on 11 June 2010. Accordingly, the revised lease rental came into effect from 11 July 2010. The rates approved are valid for five years period.

6.1. As per Note 1 under the General note to the Chapter relating to Estate rental, the rate prescribed therein is subject to annual indexation of 2%. This is as per the Land Policy for Major Port Trusts, 2010 issued by the Government. Accordingly, the revised lease rental are effective from 11 July 2010 for the subsequent period subject to annual escalation of 2%.

6.2. While approving general revision of Scale of Rates of COPT for services relating to cargo, vessel and miscellaneous items, the Chapter relating to Estate Rentals approved in the Order of May 2010 was incorporated as it is in the SOR approved vide Order dated 1 April 2013. This seems to have led to ambiguity regarding the date of implementation of the rates prescribed for Estate Rental and also for applying subsequent annual escalation on the rates prescribed.

6.3. The proposal mooted by COPT for amendment in the general note is to remove this ambiguity by specifying the effective date of implementation of the rates in the general note under Chapter – VII Estate Rentals and hence is approved.

6.4. It is seen that the COPT has proposed the amendment in the General Note number 1 in the Orders No.TAMP/33/2007-COPT and No.TAMP/31/2009-COPT both dated 4 May 2010 relating to revision of Estate rentals of the COPT which were notified in the Gazette of India vide Gazette Nos.160 and 159 respectively. The ambiguity referred by the COPT does not arise in these Orders relating to lease rental as the relevant Order clearly states the effective date of implementation is after expiry of 30 days from the date of notification of the Order in the Gazette of India. The ambiguity arises only while applying the Scale of Rates of COPT which was approved in different time period i.e. in April 2013 whereas the revised rates for Estate rentals incorporated in the general SOR of port are effective from 11 July 2010. Therefore, it is more relevant and appropriate to amend the General note 1 in the Scale of Rates of the COPT approved in the Order No.TAMP/49/2011-COPT dated 1 April 2013.

7. In the result, and for the reasons given above, and based on collective application of the mind, this Authority approves the amendment proposed by COPT and replaces the existing note no.1 under General Note to Chapter VII - Estate Rentals in the Scale of Rates of COPT approved vide Order No.TAMP/49/2011-COPT dated 1 April 2013 follows:

- (1) *“All the base rates mentioned above are effective from 11.07.2010 and are subject to an automatic annual escalation of 2%”.*

(T.S. Balasubramanian)
Member (Finance)