(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

TARIFF AUTHORITY FOR MAJOR PORTS

G.No.60 **New Delhi,** **10 February, 2016**

NOTIFICATION

In exercise of the powers conferred under 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 Indira Container Terminal Private Limited (ICTPL) for fixation of tariff to be charged for RORO and Container Operations at its Offshore Container Terminal (OCT) developed within the Mumbai Port Premises, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/51/2015-ICTPL

Indira Container Terminal Private Limited - - - Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R

(Passed on this 15th day of January 2016)

This case relates to the Proposal received from Indira Container Terminal Private Limited (ICTPL) for fixation of tariff to be charged for RORO and Container Operations at its Offshore Container Terminal (OCT) developed within the Mumbai Port Premises.

2. This Authority had passed an Order dated 9 April 2012 disposing of the proposal received from the Indira Container Terminal Private Limited (ICTPL) for General Revision of its Scale of Rates for its operations at the Ballard Pier Station (BPS) Container Terminal at Mumbai Port Trust (MBPT). The said Order was notified in the Gazette of India on 24 April 2012 vide Gazette No.99. The validity of the Scale of Rates was prescribed till 31 March 2012.

3.1. In the proceedings relating to the above mentioned Order, the MBPT and ICTPL had submitted that migration of ICTPL from BPS to Off Shore Container Terminal (OCT) was expected by March 2013. Accordingly, the ICTPL vide our letter dated 5 July 2012 was advised to file its proposal for fixation of tariff for its operations at OCT at least three months prior to commencement of commercial operations. The ICTPL vide its letter dated 6 July 2012 had responded stating that needful will be done at the required time well within the proposed date of commencement of operations at OCT.

3.2. Since we had not received any proposal from the ICTPL for fixation of the tariff for its operations at OCT, we had, vide our letter No. TAMP/39/2005-Misc. dated 24 June 2013 requested ICTPL to apprise us in this regard.

3.3. In response, the ICTPL vide its letter No. FIN/TAMP/2013-14/068 dated 24 June 2013 had made the following submissions :

(i). ICTPL has ceased operations at the Ballard Pier Station from 2 December 2012 as per the terms of the License Agreement signed with Mumbai Port Trust. However, as on date, the Company could not migrate its operations to the Offshore Container terminal as the construction phase of the offshore container terminal is yet to be completed, due to Mumbai Port Trust not fulfilling their obligations under the License Agreement. This has led to Mumbai Port Trust extending the COD to 31 March 2014. Therefore, the ICTPL has not filed any proposal, for fixation of tariff for its container operations at the Offshore Container Terminal.

(ii). ICTPL assures that it shall be filing its proposal for tariff fixation for handling the container traffic at the Offshore Container Terminal within the required time limit of three months, before commencement of commercial operation at OCT.

4.1. In this backdrop, the ICTPL has filed its proposal dated 29 June 2015. The main points made by ICTPL in its proposal are summarized below:

(i). The proposal is for fixation of tariff to be charged for RORO and Container Operations at its Offshore Container Terminal developed within the Mumbai Port Premises.

(ii). The ICTPL has expected the raise of 80.73% over current tariff rates charged by MBPT for the RORO vessel (Car Carriers) and 80.73% increase for Container handling, over the current tariff rates charged by MBPT.

(iii). The ICTPL is going to handle the Container and Other cargo i.e Vehicle Cargo. The details of Container Traffic and Other Cargo Items for three years are as follows :-

	Y+1	**Y+2**	**Y+3**
Other Cargo- Vehicles (Nos)	1,45,000	1,59,500	1,75,450
Containers (TEUs) Loaded :			
(a) 20 ft containers	2,057	2,160	2,268
(b) 20-40 ft containers	1,373	1,440	1,514

(iv). The Income, Operating Expenses and Net/Surplus of Deficit projected by ICTPL in its proposal is as follows:

(₹ in lakhs)

Sr.No	Particulars	Y+1	Y+2	Y+3
(i)	Income:			
(a)	Other Cargo- Motor Vehicle Income	9,014.77	9,895.28	10,863.85
(b)	Container Handling Income	222.47	233.47	245.31
(c).	Vessel Related Income	1260.30	1386.33	1524.96
	Total Income	10497.54	11515.08	12634.11
(ii).	Expenditure	685.53	1409.23	1430.88
(iii).	Net/Surplus (after depreciation and return and interest)	-	231.50	1229.31

(v). Income from RORO Activities

Service item	Basis of charge	Current Tariff Rates Applied by MbPT		At Current MBPT Tariff Rates	Tariff after proposed increase	Higher Tariff rates after increase
		US$	%	INR in Lacs	INR in Lacs	
Vehicles (RORO activity)						
Berth Hire charges	per GRT per hour	0.0092		697.34	1,260.30	0.0166
Wharfage & Handling charges	Ad-Valorem		0.48 %	4,872.00	8,805.13	0.868%
Storage	Days		640.00	116.00	209.65	832.00
Stevedoring	No of Vehicles		59.75	86.64	156.58	77.68

(vi) (a). The reason for the increase in the rates from the MBPT rates, is that the facility is a new facility.

(b). The capacity utilization in proposal is seen to be between 16%-19% for the three years. The reason for capacity utilization been less than 60% is that operational capacity of the OCT is much higher than what is required for handling RORO activities.

5. In accordance with the consultation process prescribed, a copy of the proposal dated 29 June 2015 received from the ICTPL was circulated to the MBPT and concerned users / user organisations seeking their comments on 09 July 2015 followed by a reminder letters dated 03 August 2015. The comments received from MBPT and the users / user organisations were forwarded to ICTPL as feedback information. The ICTPL has not responded to the comments of MBPT and any of the users / user organisations.

6.1. The comments made by the MBPT are given below :

(i). MBPT Board vide TR NO. 26 dated 30.5.2015 has accorded approval to permit ICTPL for alternate use of the OCT for handling car carriers for a period of one year from the date of operation on trial basis with tariff at 130% of the present level of tariff of MBPT subject to approval by TAMP with revenue share of 55% to the MBPT and 45% to ICTPL.

(ii). In view of above, it is stated that the ICTPL's tariff proposal shall contain SOR only for that commodity / facility for which MBPT Board has accorded approval for its operation.

6.2. The ICTPL vide its communication dated 29 June 2015, has framed its tariff proposal for handling of both vehicles as well as containers for a period of three years. Thus, the traffic, income, expenditure projections and the proposed Scale of Rates, take into account the handling of both vehicles and containers for a period of three years. Given that the MBPT has specifically stated that it has accorded approval to ICTPL for handling car carriers for a period of one year, we have vide our letter dated 05 August 2015 requested ICTPL to review its proposal in line with the specific approval accorded by the MBPT and submit its revised proposal. This was followed by reminders dated 26 August 2015 and 14 September 2015.

6.3. In this regard, the ICTPL vide its letter No OPS/TOP/TAMP/L/61/09/15 dated 30 September 2015 stated that ICTPL is in discussions with MBPT and original equipment manufacturers with regard to tariff to be charged for RORO operations at OCT and thus, requested us to allow them some more time for furnishing the requisite information. However, since the letter did not indicate any specific time frame for submission of requisite information, it was decided to wait till 31 October 2015 for submission of the requisite information by the ICTPL.

6.4. As no communication was forthcoming from the ICTPL, the ICTPL was reminded vide our letter dated 30 October 2015. This was followed with a subsequent reminder dated 2 December 2015.

7. In this backdrop, the ICTPL vide its letter No. OPS/TOP/TAMP/L/076/12/15 dated 15 December 2015 has made the following submissions :

(i). The project revival process has progressed as the company has submitted the required report from KPMG to MBPT. The report is being currently vetted by MBPT through SBICAPS. The ICTPL is awaiting the report after which the same will be placed for approval from the Ministry of Shipping.

(ii). It is understood from MBPT officials, that, this process will take at least 3-4 months to complete.

(iii). Under these circumstances, the ICTPL requests for withdrawal of the application for Tariff proposal and to submit a fresh proposal after the entire revival process is completed.

8. In the result, and for the reasons given above, and based on a collective application of mind this Authority is inclined to close the ICTPL case in reference as withdrawn. The revised proposal as and when filed by ICTPL will be processed afresh.

(T.S. Balasubramanian)
Member (Finance)