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Tariff Authority for Major Ports

GNo. 89

New Delhi,

27 May 2008

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 Visakhapatnam Port Road Company Limited (VPRCL) for annual escalation in toll for the link road/flyovers connecting the Visakhapatnam Port to National Highway-5, as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/47/2006 - VPRCL

Visakhapatnam Port Road Company Limited

- - -

Applicant

ORDER

(Passed on this 22nd day of April 2008)

This case relates to a proposal received from the Visakhapatnam Port Road Company Limited (VPRCL) for annual escalation in toll fixed by this Authority for the link road/flyover connecting the Visakhapatnam Port to National Highway-5.

2.1. This Authority had passed an Order on 28 November 2006 granting adhoc approval of the toll for newly developed link road opened to the traffic from December 2006.

2.2. Subsequently, this Authority had passed an Order on 7 August 2007 fixing the final toll for the said road / flyover operated by the VPRCL. The said Order was notified in the Gazette of India on 16 August 2007 vide Gazette No. 164.

2.3. The VPRCL in its initial proposal which was circulated among the concerned parties had provided for an annual escalation in the toll based on Wholesale Price Index (WPI) of December 2005. Since the new National Highway Toll Policy for BOT project was under vetting by Ministry of Law, the VPRCL had subsequently agreed to file a separate proposal for determining the annual escalation in toll after the policy is approved by the Central Government.

2.4. In view of the above submissions made by the VPRCL, this Authority in its Order passed on 7 August 2007 stated that VPRCL can come up with a separate proposal for annual escalation in toll as and when the formula is approved by the Central Government.

3.1. In this backdrop, the VPRCL has filed a proposal for annual escalation in the existing toll w.e.f. 15 December 2007. It has proposed to escalate the existing toll based on the prevailing policy of National Highways Authority of India (NHAI) applying the following formula:

$$\text{Base Rate} \quad \times \quad \frac{\text{WPI}_1}{\text{WPI}_0}$$

Where, WPI_0 is the base WPI, i.e., of December 2005 (197.2)

WPI_1 is the WPI (obtained from the website of Office of Economic Advisor, Ministry of Commerce and Industry) at 215.2.

3.2. The VPRCL has, accordingly, proposed revised toll schedule applying annual escalation on the existing toll based on the above mentioned formula and rounding off the derived rates to Rs. 5/-.

3.3. The VPRCL has submitted that the new NHAI toll policy is not yet finalised. In case of BOT projects of NHAI, annual revision of user fee (toll) is effected from first anniversary of commercial operation. In its case, the collection of user fee started from 15 December 2006 and, therefore, as per the prevailing policy of NHAI for BOT projects, annual revision is due with effect from 15 December 2007. It has confirmed that the proposed formula for annual escalation in the existing toll is as per the prevailing policy of NHAI.

4.1. The Visakhapatnam Port Trust (VPT) has confirmed that the proposed annual revision in toll is based on the NHAI policy for port connectivity road projects and has, therefore, recommended approval of the proposal.

4.2. As already mentioned earlier, the initial proposal circulated to users already contained a provision for annual escalation taking the base WPI of December 2005. Introduction of annual escalation in the toll was only deferred till a new policy is available. In view of this and also recognising that the formula now proposed for annual escalation in toll is based on the existing formula prescribed by the Government in similar projects, it was not found necessary to follow the usual consultation with users once again.

5. The VPRCL has furnished clarification with reference to queries raised by this Authority on a few points on the subject proposal. Some of the main points made by the VPRCL are summarised below:

- (i). The toll rates proposed for the year 2006-07 in its initial proposal dated 8 November 2006 is based on WPI of 31 December 2005.
- (ii). The published WPI is generally available on the website after minimum five weeks time. Since the revision in toll is due from December 2007, it has proposed to consider the WPI_1 based on the available WPI five weeks before.

6. The VPRCL has not forwarded a copy of the prevailing policy of NHAI. It has, however, submitted copies of Gazette Notifications issued by the Ministry of Road Transport and Highways with reference to other BOT projects. The escalation formula prescribed by the Ministry of Road Transport and Highways in the Gazette Notifications is tabulated below:

Name of Project Date of Notification by the Ministry	Formula prescribed for escalation in fee (toll)	Where
1. Jaipur-Kishangarh on NH-8 notified on 20.12.2003	Base fee X $\frac{WPI-B}{WPI-A}$	WPI-A = WPI on 31.03.1997 WPI-B = WPI on 31 March preceding the fee revision date
2. Neelmangla-Tumkur on NH-4 notified on 24.12.2003	Base fee X $\frac{WPI_1}{WPI_0}$	WPI_0 = WPI on 31.03.1997 WPI_1 = WPI on 31 March preceding the fee revision date
3. Satara-Kagal on NH-4 notified on 05.05.2005	Base fee X $\frac{WPI_1}{WPI_0}$	WPI_0 = WPI on 31.03.1997 WPI_1 = WPI on 31 March preceding the fee revision date
4. Delhi-Gurgoan on NH-8 notified on 18.06.2007	Base fee X $\frac{WPI-B}{WPI-A}$	WPI-A = WPI on 01.04.2005 WPI-B = WPI on 31 December preceding the fee revision date
5. Mumbai – JNPT port connectivity project notified on 13.07.2005	Base fee X $\frac{WPI-A}{WPI-B}$	WPI-B = WPI on 31.03.2004 WPI-A = WPI on 31 March preceding the fee revision date

7. The notifications issued by the Ministry of Road Transport and Highways for other BOT Projects of similar nature forwarded by the VPRCL show that the base toll approved by the Ministry are subject to annual revision based on the prescribed formula. The formula for annual escalation in toll proposed by the VPRCL is found to be the same as prescribed by the Ministry of Road Transport and Highways for other BOT projects of similar nature. This Authority is, therefore, inclined to approve the formula for annual escalation in toll as proposed by VPRCL subject to modifications as explained in the subsequent part of this Order.

8. (i). The initial toll of VPRCL approved by this Authority is based on WPI of 31 December 2005. This was clearly brought out in the initial proposal of the VPRCL. The VPRCL has proposed to retain the same base WPI for determining annual escalation in the toll. The proposal of VPRCL to consider the base WPI as on 31 December 2005 (i.e. 197.2) is, therefore, accepted.
- (ii). The VPRCL has proposed to apply the WPI for the week ended on 22 September 2007 for applying annual escalation in toll. It has justified that it takes a minimum of five weeks to obtain the updated WPI in the website, hence the WPI five weeks before the revision date is considered in the formula.

The base WPI considered while fixing the toll is of 31 December 2005. Hence it is appropriate to measure annual escalation with reference to the WPI as on 31

December of the subsequent years. A similar approach has been followed in the formula prescribed by the Government in other projects referred above.

The VPRCL has proposed to revise the toll with effect from 15 December 2007 in its proposal. It may not be practicable to collect toll with retrospective effect from the users who have already used the said road / flyover. Recognising the time involved in obtaining the WPI, the revised toll will take effect from 1 April of every year.

Since the annual escalation in toll is to be computed with reference to WPI as on 31 December and it is to be implemented with effect from 1 April of the succeeding year, the base toll notified earlier in the VPRCL case will be revised as per the approved escalation formula based on the WPI as of 31 December 2007 and the revised toll will be levied from 1 April 2008.

- (iii). The VPRCL has proposed to apply annual escalation on the existing toll and round off the revised rates to Rs. 5/-. The formula for annual escalation prescribed by the Ministry of Road Transport and Highways for similar other road projects restricts the rounding off to next Re. 1/-. There is no extraordinary circumstance emerging in case of VPRCL to allow rounding off upto Rs. 5/-. The proposed provision is, therefore, modified in line with the prescription in other Notifications issued by the Ministry of Road Transport and Highways.
- (iv). The Ministry of Road Transport and Highways has only prescribed a formula for annual revision of toll for similar BOT projects. That being so, in the case of VPRCL also, it is sufficient to prescribe the formula for annual escalation in toll. The VPRCL can annually revise and levy the revised toll by applying the approved formula.

9. In the result, and for the reasons given above, this Authority approves insertion of the following section in the existing toll structure approved by this Authority vide Order No. TAMP/47/2006-VPRCL notified on 16 August 2007:

"(IV). ANNUAL ESCALATION IN TOLL:

Notes:

- (1). The annual revision of toll shall be computed as follows:

$$\text{Base fee} \quad \times \quad \frac{WPI_1}{WPI_0}$$

Where

- WPI_0 = Wholesale Price Index on 31 December 2005 (197.2)
 - WPI_1 = Wholesale Price Index as on 31 December preceding the fee revision date
- (2). The revised toll will be levied w.e.f. 1 April every year commencing from the year 2008.
- (3). WPI means the Wholesale Price Index for all commodities published by the Ministry of Commerce and Industry, Government of India.
- (4). The revised toll to be levied shall be rounded off to the nearest one rupee. While rounding off, fraction upto and inclusive of 0.50 paise shall be ignored and fraction above 0.50 paise shall be rounded off to the next rupee."

(Brahm Dutt)
Chairman