

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)  
**TARIFF AUTHORITY FOR MAJOR PORTS**

G.No. 293

New Delhi,

21 August, 2019

**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 extends the validity of the existing adhoc scale of rates for RORO / Steel / Container Operations at Offshore Container terminal at Indira Container Terminal Private Limited (ICTPL), as in the order appended hereto.

**(T.S. Balasubramanian)**  
Member (Finance)

**Tariff Authority for Major Ports**  
**Case No. TAMP/11/2018-ICTPL**

Indira Container Terminal Private Limited

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Applicant

**QUORUM**

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

**ORDER**

(Passed on this 24<sup>th</sup> day of July 2019)

This case deals with the extension of the validity of the existing adhoc scale of rates for RORO / Steel / Container Operations at Offshore Container terminal at Indira Container Terminal Private Limited (ICTPL).

2.1 This Authority vide its Order dated 31 July 2018 had disposed of the proposal received from ICTPL for fixation of adhoc tariff to be charged for RORO / Steel / Cargo and Container Operations at Offshore Container Terminal developed within the Mumbai Port Premises. This Order was notified in the Gazette of India on 11 September 2018 vide Gazette No.342.

2.2. As per the said Order dated 31 July 2018, the adhoc Scale of Rates and conditionalities in respect of ICTPL have come into effect from 20 July 2015 and was to be in force till the time the project is revived or upto 31 March 2019, or otherwise, whichever is earlier. The approval accorded was to automatically lapse thereafter unless specifically extended by this Authority.

3. In this backdrop, the ICTPL vide its letter No. OPS/TOP/TAMP/L/ 1/19-20 dated 3 May 2019 has stated that project revival process is not yet completed and has requested this Authority to extend the validity of the existing scale of rates for another period of 6 months.

4. We have vide our letter dated 7 May 2019 forwarded a copy of the ICTPL's communication dated 3 May 2019 to the Licensor Port Mumbai Port Trust (MBPT) with a request to furnish its comments on this matter. In response, the MBPT vide its letter No. FA/ACC/254-II/2300 dated 13 June 2019 has made the following submissions:

- (i). The MBPT does not have any objection to the proposal of ICTPL. However, it is suggested that the adhoc scale of rates for ICTPL can be considered till the process of revival is completed or till a new proposal is submitted by ICTPL / MBPT, whichever is earlier.
- (ii). Further, the revision proposal of MBPT scale of rates is under consideration of the TAMP and the same shall be used by ICTPL in respect of cargo allowed to them.
- (iii). TAMP may also like to issue the order retrospectively from 01.04.2019.

5. With regard to the submissions made by ICTPL, it is relevant here to mention that the validity of the existing adhoc scale of rates for RORO / Steel / Container Operations at Offshore Container terminal at ICTPL has already expired on 31 March 2019. Considering that the project is yet to be revived and also considering that the MBPT has conveyed its no objection for extension of validity of the existing SOR and in order to avoid a vacuum in the tariff, it is felt appropriate to extend the validity of the existing SOR of ICTPL beyond 31 March 2019.

6.1. Incidentally, it is relevant here to state that the fixation of SOR of ICTPL was previously governed under the Tariff Guidelines, 2005 which will be now governed under the Tariff Guidelines, 2019 issued by the Government of India. As per the stipulations contained at clause 1.6 of the Tariff Guidelines, 2019, the BOT Operators whose Scale of Rates (SOR) approved by TAMP under the Tariff Guidelines 2005 are valid may either file a proposal for review of their SOR under this Guidelines during the currency of the existing SOR or after expiry of the validity of the existing SOR. As such, the ICTPL is required to file proposal for general revision of its scale of rates as per

the Tariff Guidelines, 2019, as the validity of the existing SOR approved by this Authority under 2005 guidelines has expired on 31 March 2019.

6.2. In this connection, it is stated that, even when the ICTPL was governed by the Tariff Guidelines of 2005 for fixation of tariff for the container terminal following cost plus approach, the MBPT and the ICTPL have agreed for an arrangement whereby MBPT will permit ICTPL to handle other cargo items including container at the tariff level approved for MBPT for wharfage and 1.3 times of the berth hire prescribed in the SOR of MBPT till the revival process is completed. This arrangement has been accepted by this Authority and the ICTPL has been permitted to levy the rates on adhoc basis after analysing the cost position vide tariff order dated 31 July 2018. Since the revival process is not yet completed, it is felt appropriate to continue adhoc tariff arrangement.

7.1. The ICTPL has sought extension of validity for a period of 6 months upto 30 September 2019. The MBPT has, however, suggested that the validity of the adhoc scale of rates for ICTPL can be considered till the process of revival is completed or till a new proposal is submitted by ICTPL / MBPT, whichever is earlier. The MBPT has, however, not indicated the time frame for revival of project.

7.2. In the absence of a specific time frame indicated by MBPT for the completion of the revival process in respect of ICTPL, it is not felt appropriate to extend the validity of adhoc rates of ICTPL on an indefinite basis, as suggested by MBPT. At the same time, considering the time involved in notification of the Order (to be) passed on the proposal if submitted by MBPT / ICTPL, the extension of validity till 30 September 2019, as requested by ICTPL, is also felt to be a short period.

7.3. Thus, based on the reasons as brought out in the preceding paragraphs and based on a collective application of mind, this Authority extends the validity of existing SOR of ICTPL retrospectively from 01 April 2019 (so as to avoid vacuum in tariff and as requested by MBPT) for a period of one year i.e. upto 31 March 2020 or till the revival process is completed in respect of ICTPL, or otherwise whichever is earlier.

7.4. In the intervening period, as and when the revival process is completed, the ICTPL should file its proposal for fixation of its tariff based on the Tariff Guidelines, 2019, which is now applicable in respect of ICTPL.

8. It is relevant to mention here that the existing rates of MBPT is due for revision. Since the ICTPL has been authorised to levy wharfage rates as applicable to MBPT and to levy berth hire charges at 1.3 times of the MBPT berth hire charges, the revision in the SOR of MBPT, as and when applicable to MBPT, shall also apply to the ICTPL, as agreed by MBPT.

**(T.S. Balasubramanian)**  
Member (Finance)