

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

G.No. 411

New Delhi,

06 October, 2020

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

- - -

Applicant

QUORUM

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

ORDER

(Passed on this 8th day of September 2020)

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 24 July 2019 had extended the validity of the existing adhoc tariff rates of ICTPL 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 21 August 2019 vide Gazette No.293.

2.2. Vide the said Order dated 24 July 2019, the validity of existing SOR of ICTPL was approved retrospectively from 01 April 2019 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. As such, 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 2020.

2.3. 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 stipulation contained at clause 1.6 of the Tariff Guidelines, 2019, the BOT Operators whose Scale of Rates (SOR) approved by this Authority 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 2020.

3. In this backdrop, the ICTPL vide its letter OPS/TOP/TAMP/L/ 1/20-21 dated 13 June 2020 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. A copy of the ICTPL's communication dated 13 June 2020 was forwarded to the Licensor Port Mumbai Port Trust (MBPT) for its comments on this matter. In response, the MBPT vide its letter No. FA/ACC/254-II/1459 dated 10 July 2020 has conveyed that the MBPT does not have any objection for extension of existing SOR of ICTPL for further period of six months from 01 April 2020 or new proposal is submitted by ICTPL whichever is earlier and that TAMP may also like to issue the order retrospectively from 01.04.2020.

5.1. 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 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.

5.2. Considering that the project is yet to be revived and also considering that MBPT has conveyed its no objection for extension of validity of existing SOR and in order to avoid a vacuum in tariff, it is felt appropriate to continue adhoc tariff arrangement by extending the validity of existing adhoc SOR of ICTPL beyond 31 March 2020.

5.3 However, since it is September 2020 now, granting extension for a period of six months beyond 01 April 2020 upto 30 September 2020, as proposed by ICTPL, is felt to be too short a period. Given that project is yet to be reviewed and considering the time required for processing the proposal to be filed by the ICTPL based on the revival of the project of ICTPL under Tariff Guidelines, 2019 and in order to avoid a vacuum in the tariff, it is felt appropriate to extend the validity of the existing adhoc tariff of ICTPL beyond 31 March 2020 for a further period of one year i.e. from 01 April 2020 to 31 March 2021 or till new rates are approved by this Authority based on the proposal (to be) filed by ICTPL or till the time the project is revived, or otherwise, whichever is earlier.

6.1. 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 2020 (so as to avoid vacuum in tariff and as requested by MBPT) for a period of one year i.e. upto 31 March 2021 or till new rates are approved by this Authority based on the proposal (to be) filed by ICTPL or till the revival process is completed in respect of ICTPL, or otherwise whichever is earlier.

6.2. 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.

6.3. The ICTPL may note that if any additional surplus over and above the admissible cost and permissible return emerges for the period post 01 April 2019, during the review of its performance, such additional surplus will be set off fully in the tariff to be determined.

7 It is relevant to mention here that the Scale of Rates of MBPT was revised vide TAMP Order No. TAMP/5/2019-MBPT dated 24 July 2019 which is effective from 03 October 2019. Since the ICTPL has been authorised by MBPT 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 vide the above referred order shall also apply to the ICTPL.

(T.S. Balasubramanian)
Member (Finance)