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Tariff Authority for Major Ports**

G.No.505

New Delhi,

19 November 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 existing Scale of Rates of IFFCO Kisan Logistics Limited (IKLL) (formerly known as IFFCO Kisan Bazar & Logistics Limited (IKBLL)) at Deendayal Port Trust (DPT) as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

TARIFF AUTHORITY FOR MAJOR PORTS
Case No.TAMP/55/2013-KPT

IFFCO Kisan Logistics Limited (IKLL)

Applicant

ORDER

(Passed on this 28th day of October 2020)

This case relates to the extension of validity of existing Scale of Rates of IFFCO Kisan Logistics Limited (IKLL) (formerly known as IFFCO Kisan Bazar & Logistics Limited (IKBLL)) at Deendayal Port Trust (DPT).

2. This Authority vide Order no. TAMP/55/2013-KPT dated 15 May 2015 had approved Scale of Rates for handling of cargo at the barge jetty of IFFCO Kisan Bazar and Logistics Limited (IKBLL) at DPT as an interim tariff arrangement till final rates are approved by this Authority. The said Order was notified in the Gazette of India vide Notification no. 195 dated 28 May 2015.

3.1. Subsequently, this Authority vide Order No.TAMP/55/2013-KPT dated 15 January 2016 has approved Scale of Rates of IKBLL wherein Section 3 – Cargo handling charges prescribed in the interim SOR is revised based on the cost position.

3.2. The said Order was notified in the Gazette of India vide Notification no.69 dated 17 February 2016. The validity of the SOR prescribed in the said Order is till 31 March 2018. The approval accorded shall automatically lapse thereafter unless specifically extended by the Authority.

4.1. Now, the IFFCO Kisan Logistics Limited (IKLL) (formerly known as IKBLL), vide its letter dated 02 September 2020, has requested for extension of the validity of cargo handling charges prescribed under Section 3 of its existing SOR till 31 December 2020. The main points made by the IKLL are summarized below:

- (i). As per the tariff Order notified on 17 February 2016, the approved rates were in force till 31 March 2018. However, IFFCO inadvertently forgot to apply for the extension of time limit prior to its expiry date. IFFCO requests TAMP to condone the mistake on its part.
- (ii). DPT is a very busy port and IKLL was expecting that DPT will divert third party cargo to IKLL captive Barge Jetty in case of free available time at Berth in accordance with the Concession Agreement executed between IKBLL and DPT on 17 February 2011. However, there was no such Third Party Cargo diverted by DPT till date. As a result, IKLL is not able to handle any third party cargo since the tariff approval is accorded by TAMP.
- (iii). Now, IKLL wishes to handle third party cargo on its own interest and further to increase the business and therefore, IKLL requests for extension of validity of existing rates till 31.12.2020.

4.2. Subsequently, the IKLL, vide its letter dated 26 September 2020, inter alia, has reiterated its request for extension of validity of cargo handling charges till 31 December 2020. In the said letter IKLL has, referring to definition of "Affiliate" prescribed in the Concession Agreement signed between IKBLL and DPT, stated that Indian Potash Limited(IPL) falls under the definition of Affiliate and hence requested TAMP to approve the handling of cargo pertaining to IPL as captive cargo. In case not feasible, IKLL has sought approval for extension of validity of rates prescribed for third party cargo for Dry Bulk cargo with applicable annual escalation notified by TAMP from time to time.

5.1. The validity of the SOR approved by this Authority has expired on 31 March 2018. The IKLL is yet to file the proposal for revision of rates under applicable Tariff Guidelines.

5.2. In view of the above and since the validity of the exiting Scale of Rates of IKBLL has expired on 31 March 2018 and in view of the request made by the IKLL (formerly known as IKBLL), this Authority extends the validity of the existing SOR of IKLL (formerly known as IKBLL) from the

date of its expiry till 31 December 2020 or the effective date of implementation of the revised SOR, whichever is earlier.

5.3. The Ministry of Shipping (MOS) vide its letter No.PR-14019/20/2009-PG (Pt.IV) dated 05 March 2019 has issued a Tariff Guidelines 2019 for BOT operators operating in all Major Port Trusts and previously governed by 2005 Tariff Guidelines in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, and directed the Authority to act accordingly with immediate effect. Accordingly, the Tariff Guidelines 2019 for BOT operators operating in Major Port Trust and previously governed by 2005 Tariff Guidelines has been notified in the Gazette of India Extraordinary on 07 March 2019 vide Gazette No.92. Thereafter, as per Clause 1.7 of the Tariff Policy, 2019, Working Guidelines to operationalize the Tariff Policy is also notified in the Gazette of India vide Gazette No.244 dated 11 July 2019.

5.4. As regards the point made by IKLL to approve cargo handling charge for IPL as captive cargo, reference is drawn to reply of IKLL in Para 8.1., II Sr.No.5(i) of Order dated 15 January 2016, wherein IKBLI has stated that captive cargo is falling under Dry Bulk cargo, it is relevant to state that existing SOR already prescribes rate for Dry Bulk cargo. The extension of validity of the existing SOR shall address the point made by IKLL.

5.5. Since the earlier tariff revision of IKLL was approved following Tariff Guidelines of 2005 which is now replaced with new Tariff Guidelines 2019, the IKLL is advised to file its proposal under Tariff Guidelines 2019 for revision of its SOR before 30 November 2020.

5.6. As regards the point made by the IKLL for extending the validity of its existing SOR with applicable escalation, it is to state that existing SOR of IKLL was approved under Tariff Guidelines of 2005. There is no annual escalation in tariff applicable under Tariff Guidelines, 2005.

6.1. In the result, and for the reasons given above, and based on collective application of mind, the validity of the existing Scale of Rates of IKLL (formerly known as IKBLI) is extended from the date of its expiry i.e. for the period from 01 April 2018 till 31 December 2020 or till the date of effect of notification of the revised SOR based on the tariff proposal to be filed by the IKLL, whichever is earlier.

6.2. The IKLL is advised to file its proposal for revision of SOR under Tariff Guidelines 2019 before 30 November 2020.

(T.S. Balasubramanian)
Member (Finance)