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TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby clarifies its Order dated 4 February 2000 relating to lease transfer fee / mortgage fee, as in the Order appended hereto.

(**S. Sathyam, Chairman**)

Case No.TAMP/10/2000-Genl.

O R D E R

(Passed on this 31st day of August 2000)

This Authority had passed an Order on 4 February 2000, relating to lease transfer fee / mortgage fee. In paragraph No.3 of the order it was mentioned that in the absence of a specific provision therefor in the Major Port Trust Act there can be no levy of fee for permitting transfer / mortgage of leasehold rights; and, this Authority does not have the jurisdiction to accord approval for levy of any such fees. All the Port Trusts were, therefore, directed to take action accordingly in future and introduce changes in their Scale of Rates where necessary. The Order came into effect from 23 February 2000.

2. Some of the Port Trusts have brought to the notice of this Authority that implementation of the above Order of the Authority is difficult as mortgage of the leasehold interest by its lessees, subject to certain condition including payment of an amount fixed by the Port Trust from time to time as permission fee for mortgage is already existing, as approved by the Government of India. They further requested to review / clarify the Order dated 4 February 2000.

3. With reference to the issue raised above and based on a collective application of mind, the Authority hereby clarifies that the intention of the Authority was to explain the correct legal position about its jurisdiction and not to declare mortgage fee as illegal. The legal position is that the TAMP does not have the authority to approve such levies in the absence of a specific provision in the Major Port Trusts Act and as a corollary, it does not have the powers to disapprove such levies. This Authority has not asked the Port Trusts to stop

recovering the mortgage fees. The earlier Order intends to bring to the notice of all the Major Ports that levy of mortgage fee / transfer fee can not be included in the Scale of Rates approved by the Authority so that such proposal shall not be sent to this Authority for approval.

4. It is hereby clarified that the Port Trusts can, at their discretion and responsibility, take their own decision on the subject without involving this Authority.

(S. Sathyam)

Chairman

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