No. 36
New Delhi, the 6th April, 2000

TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

No.TAMP/3/98-VPT - In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby fixes the lease rent of way leave cases for underground cross country pipelines of passing through the Visakhapatnam Port Trust lands, as in the Order appended hereto.

SCHEDULE

Case No. TAMP/3/98-VPT

The Visakhapatnam Port Trust ... Applicant

ORDER

( Passed on this 15th day of March 2000 )

This Authority had passed an Order on 29 October 1999, fixing the lease rent for the lands at zones II/A3, II/B, IV/A and IX/B of the Visakhapatnam Port Trust (VPT). The request of the HPCL to grant a discount of 50% in lease rents for the land taken for laying underground cross-country pipeline was, however, reserved for further examination with reference to the practices adopted on the point in different ports.

2. The (further) examination conducted has indicated that no concession on the scheduled rent is allowed for way leave permissions. In the case of the CDS, a concessional rent of Re.1 per annum or per month, as the case may be, was in vogue before 1996 whereafter it was given up.

3. Referring to the Authority’s earlier order on lease rent of lands of the VPT, M/s. Hindustan Petroleum Corporation Limited have brought out the following points for consideration:

(i). Corridors for cross country pipelines meant for transportation of petroleum products are acquired under Petroleum and Minerals Pipelines (Acquisition of Right of use in land) Act 1962.

(ii). Under the provisions of this Act, only 10% land value is payable on “One Time” basis in addition to compensation for damages to crop / trees, etc.

(iii). After the laying work is completed and land restored, the landowners are free to use the land without raising any permanent structure / construction.

(iv). Comparing this procedure with 30 years lease agreement of the VPT, one time payment of 10% land value is equivalent to an annual payment of 1.813% for 30 years, discounted @ 18%.
(v). The VPT adopts 6% land value as annual lease rent. 50% discount, if allowed, will be 3% of the land value which will still be higher than the payment of 1.813%.

4. with reference to the totality of information collected during the proceedings of this case and the points raised above the following issues emerge for consideration:

(i). Whether any concession in lease rent is to be granted in respect of way leave permissions for underground cross country pipelines.

(ii). If so, whether such concession is to be extended uniformly in all way leave permission cases or it should vary depending on the other uses the land can be subjected to.

(iii). The percentage of concession to be granted in way leave permission cases.

5.1. It is noteworthy that the activities of a Port Trust are restricted on the land occupied by the underground pipeline limiting the use only to purposes of access to other parts of the Port. The Port Trusts are self financing in nature and shall get reasonable returns on their land used for commercial purposes. Further, almost all the major Port Trusts have uniformly opposed the idea of levying concessional tariffs in way leave permission cases for underground pipelines.

5.2. The comparison attempted by the HPCL with the norms adopted for land acquisitions under the Petroleum and Minerals Pipelines (Acquisition of Right of user in land) Act, 1962, is not valid. Lease of port lands will be governed by the provisions (and guidelines) relevant to the Port Trust.

6.1. With reference to the analysis given above, and based on a collective application of mind, it is decided that no concession in lease rent need be granted in respect of way leave cases for underground cross country pipelines passing through the Port Trusts land.

6.2. In the light of this decision, the other two issues raised in paragraph (4) above are extinguished.

7. The pending case of lease rent of underground cross country pipeline of the HPCL passing through the Visakhapatnam Port Trust land is disposed of accordingly. The request of the HPCL for a 50% discount in the lease rent is disallowed.

S.SATHYAM, Chairman

[Advt./III/IV/Exty./143/2000]