

(To be published in Part – III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No. 194

New Delhi, 25 September 2002

NOTIFICATION

In compliance of a direction issued by the Government of India under Section 111 of the Major Port Trusts Act, the Tariff Authority for Major Ports hereby informs all concerned about not entertaining representations made by individual parties in future as in the Order appended hereto.

(S. Sathyam)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/85/2002 - Genl.

ORDER

(Passed on this 20th day of September 2002)

1.1. So far, the regulatory intervention of this Authority 'to frame Scale of Rates' has been taken to encompass the following routes:

- (i). Consideration of a 'proposal' received from a Port Trust / Private Terminal.
- (ii). Consideration of a 'representation' received from a port user or a representative body of port users.
- (iii). Initiation of action *suo motu*.

1.2. It is noteworthy that the Transaction of Business Regulations of this Authority have also been framed accordingly with an emphasis on a consultative process to promote participation in the proceedings of the greatest number of interested parties.

2. In accordance with the Transaction of Business Regulations framed, representations received from users have also been registered as tariff cases and processed further following the consultative procedure prescribed. A port level joint hearing in each of the cases is also set up to give an opportunity of hearing to all concerned before the representation is taken up for final consideration by the Authority.

3. The Government of India (in the Ministry of Shipping) vide its communication No.PR-14019/36/2001-PG dated 9 September 2002 has issued a 'policy direction' to this Authority under Section 111 of the MPT Act to refrain in future from entertaining representations made by individual parties, as this Authority has no power of adjudication in individual cases under the provisions of the MPT Act. This direction has been issued despite this Authority's argument that the scope of Section 111 *ibid* covers issue of directions on 'question of policy' and any dispute about jurisdiction can only be seen to be a legal issue having no scope for resolution through a policy direction.

4. In terms of the provisions of Section 111 of the MPT Act, this Authority is bound by the directions on questions of policy given by the Central Government.

5. For the reasons given above, this Authority will be unable in future to take up for consideration representations from individual parties. This Order is passed to inform all concerned of this position so that time and efforts of users need not be wasted in sending such petitions / representations to this Authority in future. Notwithstanding this position, relevant users / representative bodies of port users will continue to be consulted as hithertofore in the proceedings relating to tariff proposals filed by the major port trusts / private terminals or when *suo motu* proceedings are initiated by this Authority or in other permissible cases.

(S. Sathyam)
Chairman