

No.19

New Delhi, the 23rd February, 2000

## TARIFF AUTHORITY FOR MAJOR PORTS

### NOTIFICATION

No.TAMP/10/2000-Genl. - 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 passes an order relating to lease transfer fee / mortgage fee as in the Order appended hereto.

Case No.TAMP/10/2000-Genl.

### ORDER

( Passed on this 4th day of February 2000 )

Proposals had been received from different Port Trusts for approval of levy of transfer fee / mortgage fee for permitting mortgage of leasehold rights by lessees. The matter was examined from the legal point of view. It was found that mortgage of leasehold rights was not specifically envisaged in the Major Port Trusts Act. That being so, this Authority could not legally approve levy of any fee for such mortgages. In fact, in the absence of any specific enabling provision in the Statute, even the Government could not authorise it.

2. This legal position was intimated to all the Port Trusts vide this Authority's communication No.TAMP/2/98-TPT dated 4 January 99 for information and appropriate action. This communication notwithstanding, such proposals continue to be received. This suggests, the Port Trusts have not accepted the position explained in the said communication and are, possibly, continuing to charge fees for permitting transfer/mortgage of leasehold rights.

3. Taking this position into account, and after a collective application of mind, it is hereby formally ordered that, in the absence of a specific provision therefor in the Major Port Trusts 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.

4. All the Port Trusts are hereby directed to take action accordingly in future and, introduce appropriate changes in their Scale of Rates where necessary. This Order will come into effect immediately after its notification in the Gazette of India.

**S.SATHYAM, Chairman**

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