CHAPTER XVI : MINISTRY OF SHIPPING

16.1 Loss of revenue due to incorrect application of rates for pilotage charges fixed by TAMP

Incorrect application of Tariff Authority of Major Ports approved tariff rate for pilotage charges resulted in revenue loss of ₹ 22.77 crore to Jawaharlal Nehru Port Trust and ₹ 9.31 crore to Mormugao Port Trust.

The guidelines for tariff fixation issued (31 March 2005) by the Tariff Authority for Major Ports (TAMP) provided that the pilotage and shifting charges will be prescribed in three slabs as mentioned below:

(1) Up to 30,000 GRT[1]

(2) 30,000 to 60,000 GRT

(3) Above 60,000 GRT

A reduction of 20 *per cent* on the unit rate of the first slab will be effected for the second slab and a reduction of 30 *per cent* on the unit rate of the first slab will be effected for the third slab on the incremental[2] GRT (Para 6.10 of guidelines for tariff fixation of TAMP).

The Schedule of Pilotage-cum-towage fee notified by TAMP for Jawaharlal Nehru Port Trust (31 October 2006) and for Mormugao Port Trust (10 June 2010) was as per the guidelines issued by TAMP.

Audit observed that JNPT and MPT were levying pilotage charges giving the benefit of reduction on gross GRT instead of on incremental GRT in the next slab as envisaged by TAMP resulting in undercharge of pilotage charges. For example, for a 52000 GRT vessel JNPT should have reduced pilotage charge on incremental of 22000 GRT rather than on 52000 GRT. This resulted in JNPT actually levying US $ 9921.60 instead of US $ 11340.60 resulting in loss of revenue of US $ 1419. Similarly, for a 52000 GRT vessel MPT should have levied US $ 15580.03 whereas MPT actually levied US $ 13615.99 resulting in a loss of revenue of US $ 1964.04.

1 Gross Registered Tonnage.
2 Emphasis by Audit.

Based on the data furnished by JNPT for levy of pilotage charges for two years (2011-12 and 2012-13), the undercharged pilotage charges was ₹ 22.77 crore. Similarly, based on the data furnished by MPT for levy of pilotage charges for two years (2011-12 and 2012-13), the undercharge was ₹ 9.31 crore.

The Ministry of Shipping stated (December 2013) that (a) the guidelines issued by TAMP were interpreted differently by various ports and the Ministry would be issuing a clarification on the issue to all the Major Ports to ensure uniformity; and (b) there was no loss of revenue as TAMP guidelines were based on fixed return on capital employed and if JNPT and MPT calculated pilotage charges at the higher rate, TAMP would have reduced the proposed pilotage charges on the ground that the total revenue cannot exceed the return on capital employed prescribed by TAMP.

On a separate communication from Audit, TAMP confirmed (December 2013) the method of calculation adopted by Audit as the correct interpretation of the TAMP guidelines.

The Ministry's contention regarding return on capital employed was also not correct as vessel related charges proposed by MPT were with a deficit of 53 per cent. Hence, the question of excess return on capital did not arise. Vessel related income projected by JNPT was also based on average GRT and not on slab GRT basis.

According to Para 2.16 of guidelines for tariff fixation issued by TAMP, the rates prescribed were ceiling levels. The ports could charge lower rates and allow rebates and discounts or rationalise the conditionalities governing the application of rates. However, to do that, the ports were required to notify the public such lower rates and/or rationalisation of conditionalities. This procedure was not followed by JNPT and MPT and instead, tariffs were reduced based on apparent misinterpretation of the TAMP guidelines.

Thus, incorrect application of rates for pilotage charges fixed by TAMP resulted in revenue loss of ₹ 22.77 crore to JNPT and ₹ 9.31 crore to MPT during 2011-12 and 2012-13.

Kolkata Port Trust

16.2 Loss of ₹ 7.58 crore due to under recovery of lease rent

Kolkata Port Trust had to bear a loss of ₹ 7.58 crore towards non-recovery of lease rent and premium due to non-compliance of the provisions of the Schedule of Rates towards fixation of lease rent applicable at the time of allotment of land and non claiming of enhanced rent from the date of allotment.

In exercise of powers conferred by Section 49 of the Major Port Trust Act, 1963, the Tariff Authority of Major Ports (TAMP) revised Schedule of Rates (SoR) for rent recoverable by Kolkata Port Trust (KoPT) towards land and buildings given on lease at Haldia Dock Complex (HDC) duly notified on 2 December 1999 in "The Gazette of India Extraordinary" and the same was effective from December 1999. It was provided in note no. 8 of the SoR that in case of all leases granted in future, the rent would be enhanced every year by five percent of the rent payable in the preceding year or scheduled rent then in force, whichever was higher. It was also provided in note no. 3 ibid, that at the time of granting lease, a non-refundable and non-adjustable premium equivalent to two years' rent would be recovered from the leaseholder in addition to the lease rent. Therefore, initial lease rent should be fixed by enhancing the SoR (base rate) annually by five percent till the date of allotment, which should also be considered for calculating the non-refundable and non-adjustable premium, in the case of any lease granted after December 1999.

KoPT granted lease for 24 different plots of land in Industrial Zone, Dock Zone, Residential Zone and Dock Interior Zone at HDC during the period March 2000 to October 2009, on payment of monthly/ annual lease rent with a provision for enhancement of five percent per annum of lease rent payable in the preceding year or scheduled rent, then in force, whichever was higher.

Examination in Audit revealed that in respect of 13 of the leases allotted during the period February 2002 to February 2009, rent was fixed at the base rate of SoR i.e. the rate prevailing on December 1999 instead of at annually enhanced base rate annually at five percent, till the date of allotment. Hence, the rent was fixed at a rate lower than that approved by TAMP resulting in under recovery of lease rent as well as non-refundable /non-adjustable premium from leaseholders in the above 13 leases.

It was also observed that KoPT enhanced (February 2009) the annual lease rent of the above leases considering five percent annual increase of lease rent from December 1999 to the date of actual allotment of land. The revised rent was, however, made applicable prospectively from 2009 onwards only without claiming enhanced lease rent from the respective date of allotment of lease.

Thus, KoPT had to bear loss of ₹ 7.58 crore towards non recovery of lease rent (₹ 3.87 crore) and non-refundable & non-adjustable premium (₹ 3.71 crore) due to non-compliance of the provisions of the SoR towards fixation of lease rent applicable at the time of allotment of land and non claiming of enhanced rent from the date of allotment to February 2009.

The Management contended (August 2013) that after thoughtful consideration it was consciously decided not to escalate base rate of lease rent of the 1999 schedule of HDC till February 2009 on commercial consideration which was duly appreciated by TAMP.

The above contention of the Management does not explain the consideration behind its decision and does not deny the fact that the rent was not escalated periodically in accordance with the provisions of SoR. Further, subsequent revision of the rent by the Management from February 2009 onwards considering yearly escalation of base rent only serves to highlight the inconsistency in following SoR. The statement that TAMP had appreciated its above decision is also not borne out by any acceptable evidence.

The matter was referred to the Ministry in December 2013; their reply was awaited (May 2014).

Mumbai Port Trust

16.3 Infructuous expenditure on idle dredger

Failure to dispose of the dredger which remained idle for more than five years resulted in Infructuous expenditure of ₹ 4.39 crore.

Mumbai Port Trust (MbPT) acquired (1997) one Hopper-cum-Grabber Dredger (dredger) named “Vivek” from Mazagon Dock Limited at a cost of ₹ 41.71 crore, having a useful expected life of 20 years. The dredger was utilised in the traffic-prone parts of channels and docks area for dredging since acquisition. Due to non-working of radar and other safety equipments on the dredger’s wheel house, it was not safe to navigate in the night shift and the dredger was operated only in day shift from February 2005 onwards.

The dredger was operated in grab mode at night shift from 8 January 2008 to 2 March 2008 and again became non-operational in night shift due to non-operation of radar and non-posting of pilot. It was working in day shift and in grab mode only till 4 July 2008 and from 5 July 2008 onwards it became non-operational for want of repairs and then for annual overhaul from 1 August 2008 onwards (book value as on 31 March 2008 ₹ 18.80 crore).

The dredger required hull repairs, engine and pump repairs, hydro jet washing, grit blasting and spray painting, stern gear and control pitch propeller repairs, etc. which was estimated to cost in the range of ₹ 1.65 crore to ₹ 2.00 crore. In March 2009, the repair work was stopped after incurring an expenditure of ₹ 6.50 lakh. Due to the problems encountered by the dredger, it was available for operation for 93 days, 113 days and 21 days during 2006-07, 2007-08 and 2008-09 respectively and afterwards it was not operated at all (October 2013) and remained idle.

Audit observed that:

(i) Though the dredger remained idle since August 2008, a decision to dispose of the same was taken only in July 2011.

(ii) Due to various problems encountered, dredger Vivek could not be put to use since August 2008. Estimated repair expenditure was ₹ 1.65 crore – ₹ 2 crore. MbPT did not require the services of the dredger as it had largely outsourced its dredging operation. Further, suction dredging that was required to be done with the dredger was about 45000 cubic meters per annum. Estimated expenditure to dredge 45000 cubic meters was ₹ 38 lakh against the operating cost of ₹ 2.50 crore, if this dredger was used. Therefore, putting the dredger into operation was not a viable option. Yet, the process of disposal was delayed.

(iii) In response to an open tender issued in February 2012, MbPT received only one offer from Dredging Corporation of India Limited (DCI) quoting ₹ 4.00 crore. As the price offered by DCI was much lower than the book value (₹ 10.44 crore in March 2012), the offer was not accepted. Incidentally, the reserve price recommended by Indian Maritime University in September 2012 was ₹ 3.45 crore.

(iv) Though the dredger remained idle since August 2008, MbPT incurred ₹ 4.39[3] crore towards pay and allowances, overtime, repair and maintenance and general expenses on the dredger. In the event the dredger was disposed of, the staff / crew posted therein could have been deployed gainfully on other dredging crafts or other floating crafts of MbPT;

(v) The asset having a useful life of 20 years could not be gainfully employed by MbPT and was almost allowed to turn into scrap.

The Management stated (November 2013) that:

- As per the Office Memorandum dated 28 August 1998 issued by the Ministry of Shipping, the reserve price in case of assets which had not outlived its economic life should be equal to the book value or 7.5 per cent of the acquisition cost whichever was

[3] Total expenditure incurred for 60 months from August 2008 to July 2013 was ₹ 487.76 lakh. If six months were provided for taking a decision either to utilise the dredger or to dispose it of, the proportionate expenditure for 54 months would be ₹ 438.98 lakh or ₹ 4.39 crore.

higher. As the gap between the book value and the offer received from DCI was huge and involved a large write off of loss, MbPT decided to discharge the tender.

- The expenditure observed by Audit was mainly on salaries and wages and other fixed expenses. The expenditure of salary was a fixed and sunk cost and the same would have been incurred irrespective of whether the equipment was sold or retained by MbPT.

- It had been decided to go ahead for offering the equipment for operating contract and MbPT offering certain amount of work to the successful bidder. This was expected to evince response from bidders and it was also expected to be beneficial to MbPT.

The reply of the Management is not acceptable as:

- The Office Memorandum dated 28 August 1998 quoted by the Management provided that in the event of the tendered price being below the reserve price, the tender committee was empowered to make its recommendation for sale if proper justification was available. Alternatively, MbPT could have taken up the matter with the Ministry of Shipping and obtained their approval on the basis of valuation by Indian Maritime University. Further, with passage of time, the book value of the dredger would have come down anyway and that too without getting any service. Therefore, the justification based on the gap between the book value and the offer price is not acceptable.

- It was reported to the Board of Trustees in July 2011 that in the event the dredger was not operated, the staff / crew posted therein can be deployed gainfully on other dredging crafts or other floating crafts. Accordingly, the staff / crew posted therein could have been deployed gainfully elsewhere.

- It was also reported to the Board of Trustees in July 2011 that (i) the dredger was in a dilapidated condition and (ii) the estimated expenditure required to be incurred to dredge 45000 cubic meters was ₹ 38 lakh against the operating cost of ₹ 2.50 crore, if this dredger was used. Further, the dredger completed 16 out of 20 years of its expected life and remained idle for more than five years from August 2008 onwards. In view of these reasons the future employment potential of the dredger was uncertain.

Thus, failure to dispose of the dredger led to the dredger remaining idle for more than five years and resulted in infructuous expenditure of ₹ 4.39 crore. With passage of time, the book value of the dredger will further decline and the dredger may have to be sold as scrap.

The matter was referred to the Ministry in March 2014; their reply was awaited (May 2014).