CHAPTER VIII : MINISTRY OF SHIPPING

Calcutta Dock Labour Board, Kolkata

8.1 Loss of revenue

By converting FEUs into TEUs in claims for handling charges on stevedores the Board suffered loss of Rs. 37.95 lakh.

The Calcutta Dock Labour Board, Kolkata (Board) supplies workers to different stevedores[20] for cargo handling at Kolkata and Haldia docks against payment of handling charges as per rates approved by the Board. The Board revised (March 2005) its handling charges rates for loading/unloading of containers as stated below:

Output per hook per shift	Rates per TEU[21] *(Rupees)*
Up to 25 TEUs	1650
For 26-35 TEUs	1400
For 36-50 TEUs	1150
For 51-65 TEUs	1000
For 66-100 TEUs	900
For 101-125 TEUs	750
For 126-150 TEUs	725
For 151 TEUs and above	700

For FEUs[22], the rates were fixed at 1.5 times of the rate per TEU by the Board. These rates were effective from 31 March 2005.

Test check of records revealed that a total 6019 TEUs and 3487 FEUs containers were handled during January – March 2008 by various stevedores. The Board, while making claim against the stevedores for the workers supplied by it, converted the numbers of FEUs into TEUs and then preferred claim as per the slab rates applicable to TEUs instead of applying rates for FEUs at 1.5 times of the rate per TEU. Due to application of this method, the number of TEUs handled by stevedores increased, which attracted lower slab rates. This undue benefit Rs. 37.95 lakh to the stevedores during the three months resulted in revenue loss to the Board.

[20] A man who stuffs or load ships
[21] Container boxes with 20 ft length
[22] Container boxes of 40 ft length

The Management stated (August 2008) that for determining total output per hook per shift, conversion of FEUs into TEUs was an international practice and the rate chart had been framed in TEUs. As such, Board has raised the bills as per the aforesaid circular.

The reply of the Management is not acceptable due to the following reasons:

- The international practice cited by the Board was for determining total output per hook per shift and not for the purpose of making claims against the stevedores for the workers supplied by it.
- Besides, it is inconsistent with the circular which speaks about handling charges for FEUs at 1.5 times of the rate applicable to TEUs with no provision for conversion of FEUs into TEUs at the rate of 1.5 times.

The matter was referred to the Ministry in July 2009; their reply was awaited as of February 2010.

Kolkata Port Trust

8.2 Infructuous expenditure

Delay in timely action for condemnation of the dredger resulted in infructuous expenditure of Rs. 1.45 crore.

Kolkata Port Trust (KoPT) procured (1961) a dredger for dredging in the upper reaches of the river Hooghly. Although the dredger had outlived its useful life in 1981, it was kept as a stand-by vessel to meet emergency requirements when services of another dredger might not be available. Between August 1999 and February 2001, the Port Trust spent Rs. 4.35 crore on major repairs of the vessel and it was envisaged that the dredger would function for two years after repair.

Audit scrutiny revealed that during the period 2005-06 to 2007-08, the dredger was utilized sporadically for only 113.90 hours in 2006-07 and 10.83 hours in 2007-08. The dredger was condemned on 11 September 2008. KoPT incurred an expenditure of Rs. 2.50 crore for fuel etc. and Rs. 27 lakh for annual maintenance of the vessel during May 2005 to June 2008. It was noticed that the cost of hiring a dredger during that period would have involved Rs. 1.32 crore against the expenditure of Rs. 2.77 crore resulting in infructuous expenditure of Rs. 1.45 crore.

In reply, the Management stated (July 2009) that as there were no alternative arrangements for dredging in the upper reaches, it was not at all practicable to condemn the vessel in May 2005, as sustained deployment of hired dredgers would not be economical.

The reply is not tenable as dredging requirement in the upper reaches were being met by the regular dredger and in case of contingencies, hired dredgers which were more economical were used successfully. Further, the sustained deployment of hired dredgers was not necessary as the Dredging Corporation of India was supplying the dredgers on hire on hourly basis as and when required.

The matter was referred to the Ministry in June 2009; their reply was awaited as of February 2010.

8.3 Avoidable loss

Due to failure of Kolkata Port Trust to take timely action for recovery of license fee, a party under default continued to occupy the storage shed for more than 17 years resulting in an avoidable loss of Rs. 56.09 lakh to KoPT on account of outstanding licence fee and damages.

Kolkata Port Trust (KoPT) granted (May 1964) lease of 25 years for a storage shed to M/s Martin Burn LTD.(firm A). The lease was assigned (1977) to another firm M/s Reyrolle Burn Ltd. (firm B) and the port started raising licence fee bills from the latter. In October 1987, the firm B defaulted in payment of licence fee and continued to do so. Upon expiry of the lease period in 1989, KoPT did not renew the lease but allowed the firm B to occupy the shed on monthly license basis.

Audit observed that despite persistent default in payment of the licence fee by firm B since October 1987, KoPT did not take any action to recover its dues till May 2005, except issuing monthly licence fee bills at the recorded address of the firm. As per prescribed procedure, KoPT was required to issue final notice for recovery of outstanding dues and initiate eviction proceedings against the defaulting firm, but no such action was taken against the firm even after lapse of more than 17 years.

During a routine inspection carried out by the Land Inspector of the port in May 2005, KoPT noticed that the representatives of a third firm, M/s Sagar Industries (firm C) were engaged in dismantling the shed. It was also noticed that the firm B got registered with the Board of Industrial & Financial Reconstruction (BIFR) in 1994. In July 2003, the Calcutta High Court ordered

wind up of the firm B and appointed an Official Liquidator for taking over the possession of assets of the firm. Subsequently (December 2004), sale proceedings of the assets and properties of firm B were initiated through a press notification by the Official Liquidator. The shed was sold in the course of liquidation proceedings to the firm C. The port management, however, remained unaware of these crucial developments relating to the tenant firm and failed to respond to the notifications. This indicated poor monitoring mechanism of the Port.

Subsequently, KoPT filed (May 2005) an application before the Calcutta High court praying for cancellation of the sale. Pursuant to the Court's order, KoPT took possession of the damaged shed in January 2006.

Thereafter, KoPT filed (December 2005/March 2006) claims towards outstanding rent, interest and cost of damages to the shed due to dismantling. The official liquidator, however, rejected (December 2008) the claim of KoPT for damages of Rs. 39.88 lakh and another claim of Rs. 16.21 lakh for arrears of rent and interest (total Rs. 56.09 lakh) on the ground that the dues had accumulated after the licensee had gone (July 2003) into liquidation.

Thus, failure of KoPT to initiate timely action despite persistent default in payment of the licence fee by the firm B resulted in an avoidable loss of Rs. 56.09 lakh to KoPT on account of outstanding licence fee and damage charges of the property.

In reply, KoPT accepted (September 2009) that the firm committed huge defaults and failed to pay licence fee and no action was taken for recovery of the outstanding dues from the defaulting firm. They further added that the Official Liquidator kept the port management in complete darkness about the liquidation and sale proceedings. It was also stated that it could not be construed as permanent loss to the port, as KoPT would be preferring an appeal before the High Court against unlawful rejection of port's claim of rental dues and damages.

The reply of KoPT is not acceptable as sufficient publicity of the Court's order for liquidation of the firm 'B' and notification for sale of assets was made by the Liquidator. Besides, if KoPT would have taken timely action for recovery of outstanding licence fee, the loss to the KoPT could have been avoided

The matter was referred to the Ministry in July 2009; their reply was awaited as of February 2010.

8.4 Loss of interest

Kolkata Port Trust suffered a loss of interest amounting to Rs. 43.11 lakh due to non-transfer of huge balance of Special Deposit Scheme with SBI to Life Insurance Corporation of India managed Pension Fund fetching higher rate of interest.

Kolkata Port Trust (KoPT) was keeping the balances of the contributory provident fund (CPF) of its employees in the Special Deposit Scheme (SDS) which was introduced by the Government of India in 1975. This scheme envisaged (May 1988) opening an account with the State Bank of India (SBI) which was bearing an interest of eight *per cent per annum* with effect from 1 April 2003.

The Ministry of Finance enabled (May 2003) the administrators of SDS Funds to claim refund of deposits in the event of the related establishment deciding to make payment under a scheme of insurance entered into with insurance companies regulated by the Insurance Development and Regulatory Authority including Life Insurance Corporation of India (LIC).

As KoPT ceased to have any member in CPF since 24 March 2003, it appointed (March 2004) LIC its Fund Manager for managing its Superannuation Fund (SF) of the employees duly approved under Income Tax Act, 1961. As per actuarial valuation made by LIC, the initial contribution requirement as on 1 April 2003 for past services pension liability of KoPT to the LIC managed Superannuation Fund was Rs. 796.36 crore against which it contributed Rs. 314.55 crore during 2004-07.

Meanwhile the Board of Trustees decided (March 2004) to transfer the entire amount lying in CPF to the SF. Although KoPT transferred some portion of the CPF balance to the LIC managed SF during the period 2004-09 as and when different investments were matured, it did not withdraw and transfer to SF, the balance Rs. 9.22 crore lying in SDS with SBI.

Audit observed that SF managed by LIC was bearing interest at the rates ranging from 8.05 to 9.60 *per cent* during the period from 2004-05 to 2008-09 against an interest rate of eight *per cent* allowed by SBI on SDS during the above period. Thus, due to non-transfer of the SDS balance of Rs. 9.22 crore to SF, KoPT suffered a loss of interest amounting to Rs. 43.11 lakh on account of differential rate of interest during the above period.

The Ministry stated (August 2009) that during the period under consideration (2004-05 to 2008-09) KoPT availed maximum benefits under Income Tax Act

and Rules through transfer of available funds to SF and that it was considered judicious not to disturb the SDS which was enjoying eight *per cent* tax free interest and utilise the same in subsequent years.

The reply is not tenable as there was a huge shortfall in the contributions made to SF during the initial years as per LIC's actuarial valuation. Further, the balance of Rs. 9.22 crore is the amount of the CPF which was deposited in SDS Fund on which tax relief under rule 88 of Income Tax Rules would have been availed in the year in which it was transferred to CPF. As such this was simply a case of transfer of balance from one Fund to another Fund for fetching higher rate of interest. By not transferring the amount in SDS to SF, the KoPT suffered interest loss of Rs. 43.11 lakh.

Mumbai Port Trust

8.5 Non-recovery of rental charges

Failure of the Port to resolve interdepartmental dispute resulted in non-recovery of Rs. 3.71 crore of rental charges.

For centralizing the land management functions, the Mumbai Port Trust (MbPT) transferred (February 1990) the estate management of 651 tenancies covering an area of 1,43,000 sq. m of Docks Department(DD) and Railway Department to its Estate Department(ED). The matter concerning staff requirements at ED for the additional work was to be dealt with separately, which remained un-attended to till February 2000.

Owing to staff constraints, the ED did not give the desired attention to the administration of the aforesaid tenancies and transferred back (February 2000 to May 2001) 182 casual occupancies to DD on the ground that they were in the operation area under the control of DD. These reassignments were, however, not accepted by DD.

Audit observed (September 2007) that due to jurisdictional dispute between the two departments rental charges from the 182 casual occupancies had not been realized since November 1991. After being pointed out by Audit, MbPT conducted a survey (May and July 2009) and it came to notice that of the 182 casual occupancies, 66 tenants could not be traced and no dues were recoverable from 24 occupancies. Of the remaining 92 occupancies, DD computed the recoverable dues for 45 occupancies amounting to Rs. 2.93 crore for the period November 1991 to March 2009. The recoverable dues from the balance 47 occupancies had not been computed till date (February

2010). It was also noticed that for the 66 casual occupancies, the tenants of which could not be traced out during the survey, an amount of Rs. 78 lakh was recoverable on account of rental charges pertaining to the period from November 1991 to March 1999 .

Thus, failure of MbPT to resolve the interdepartmental dispute resulted in non-recovery of Rs. 3.71 crore as above. The amount recoverable would increase if rental charges due from the balance 47 occupancies were computed and taken into account.

The matter was referred to the Ministry in September 2009; their reply was awaited as of February 2010.

8.6 Loss of Revenue to the Government due to non- collection of Oil Pollution Cess

Failure of the Mumbai Port Trust to collect Oil Pollution Cess resulted in revenue loss of Rs. Seven crore to the Central Government and Rs. 78 lakh to itself.

The Central Government under a notification dated 22 July 1988, imposed an Oil Pollution Cess, to be levied and collected at every Indian port from 1 October 1988, at the rate of 50 paise per tonne of oil (i) imported by a ship into India as bulk cargo, and (ii) shipped from any place in India as bulk cargo. The cess was payable by the master, owner or agent of the ship before commencement of discharge or loading of oil as the case may be.

Pursuant to the above notification, Mumbai Port Trust (MbPT) issued (May 1989) a circular informing its users about the recovery of the cess with effect from 1 June 1989. MbPT, through an office order (May 1989), clarified that the cess was payable in advance and in the absence of any advance payment, the bill section of MbPT was to raise a bill for the same against the master, owner or agent of the ship based on the declaration given by them.

Audit observed that while demanding payment of other dues, MbPT neither levied the cess nor raised any separate bills. During the eleven year period from 1 April 1998 to 31 March 2009, as against Oil Pollution Cess of Rs. 8.50 crore on 169.99 million metric tonne oil which passed through MbPT, it received only Rs. 72 lakh as advance payment, out of which it retained Rs. Seven lakh as collection charges and the balance of Rs. 65 lakh was remitted into Central Government revenues.

Thus, failure of MbPT to collect the cess resulted in loss of Rs. Seven crore to the Central Government revenues and Rs. 78 lakh to itself as collection charges. Besides, non-collection of cess for such a long period despite the Government notification indicated deficient internal control regarding collection of dues by the port.

MbPT contested (August 2009) the calculation of cess by Audit, which was made by multiplying total cargo handled in the port at the rate of 50 paise per tonne, on the following ground quoting certain sections of the Merchant Shipping Act, 1958 that:

- no cess was chargeable on oil tankers less than 150 GRT and other ships less than 400GRT
- cess was payable once in a period of three months and that also at any one Port in India
- it could be assumed that no cess is payable at MbPT if the last port of call of the vessel is another Indian Port
- in around 60 *per cent* of calls made by oil ships visits were more than once in a period of three months and that around 53 *per cent* of the vessels had their last port of call as another Indian Port.
- MbPT did not have the facility for reception of VLCC or fully loaded Suez Max and as such the oil cargo handled at the port was predominantly through lighterage operation and the same was done through LR-1 and LR-2 tankers.

In light of the above, the Management concluded that incidence of Oil Pollution Cess, was minimal and the cess wherever due, was collected and remitted.

The reply of the Management is not acceptable as the Port could not produce the details of the quantum of oil transported by tankers of less than 150 tonnes gross and ships less than 400 tonnes gross. The Act specifies that a ship must produce evidence of payment of the cess at the same or any Indian port within three months immediately preceding its present call at the port to qualify for exemption. MbPT did not furnish details of cases qualifying for exemption by virtue of this provision. No evidence was provided regarding MbPT's contention that the cess was collected wherever applicable. This contention was inconsistent with MbPT's admission in a circular to port users in November 2006 that only a few companies were paying the Oil Pollution Cess.

It is also worth mentioning that the Management furnished (December 2009) the actual collection done and due for the period from November 2008 to October 2009 which revealed that Rs. 43.06 lakh was recoverable on the actual throughput of 34.597 Million MT. Using this ratio , the Management itself agreed that the notional amount for this period worked out to Rs. 2.12 crore out of which Rs. 72 lakh had already been recovered. Besides, as MbPT did not maintain the database of the transactions relating to Oil Pollution Cess, the exact amount of cess could not be quantified.

The matter was referred to the Ministry in June 2009, reply was awaited (February 2010)

8.7 Short recovery of electricity charges

Failure of the Mumbai Port Trust to bill for electricity charges in accordance with the revised rates from dry dock users resulted in short recovery of Rs. 32.28 lakh.

The Mumbai Port Trust (MbPT) has two dry docks for carrying out ship repairs. MbPT provides electricity and other facilities to the users and electricity charges are required to be recovered on the basis of actual consumption at the rates charged by the Bombay Electric Supply & Transport Undertaking (BESTU) from time to time.

Audit observed (March 2009) that BESTU revised its power tariff upwards to Rs. 8.50 per unit with effect from 1 October 2006 and to Rs. 10 per unit from 1 April 2007. MbPT, however, continued to recover electricity charges at the pre-revised rates from the users of its two dry docks for 19,87,656 units of power consumed during the period October 2006 to February 2009. This led to short recovery of Rs. 62.91 lakh (including Government duty on the electricity charges, service tax, education cess and meter hire charges).

On this being pointed out by Audit in March 2009, MbPT started correct billing and recovery of electricity charges from its dry dock users. MbPT stated (December 2009) that supplementary bills for the differential amount had been raised and Rs. 30.63 lakh recovered so far. MbPT further stated that it had taken corrective action for strengthening the system.

Although, MbPT had raised supplementary bills for the differential amount, an amount of Rs. 32.28 lakh was yet to be recovered.

The matter was referred to the Ministry in July 2009; reply was awaited (February 2010).

8.8 Failure to charge penal interest on delayed payments

The Mumbai Port Trust failed to charge penal interest of Rs. 21.43 lakh as provided in Scale of Rates of user charges.

Mumbai Port Trust (MbPT) was required to levy charges for services rendered to port users as per the Scale of Rates (SOR) approved by the Tariff Authority for Major Ports with effect from 31 December 2006. The SOR provided that the user should pay penal interest at the rate of 13 *per cent per annum* and the delay in payment would be counted beyond 10 days after the date of raising the bill.

Audit observed that MbPT raised 2023 bills to oil companies for the use of its six onshore pipelines[23] from January 2007 to March 2009. Scrutiny of 2015 bills made available to audit disclosed that the payments were received in time in case of only 45 bills. Delay of seven to 196 days was observed in the remaining 1970 bills for which MbPT did not charge penal interest amounting to Rs. 21.43 lakh.

Despite being pointed out in Audit, no efforts had been made by the Management to recover the penal interest from January 2007 to March 2009. It is recommended that the Management should strengthen its internal controls on processing of bills and concerted efforts should be made to recover penal interest from oil companies for delayed payment of the bills issued after 31 March 2009.

The matter was referred to the Ministry in July 2009; reply was awaited as of February 2010.

Paradip Port Trust

8.9 Avoidable expenditure

Paradip Port Trust incurred avoidable expenditure of Rs. 19.12 crore towards hire charges of two high powered tugs hired for use at Single Buoy Mooring (SBM) of Indian Oil Corporation limited (IOCL) due to delay in commissioning of SBM by IOCL.

Paradip Port Trust (PPT) handled vessels up to 83,000 tonne Dead Weight Tonnage (DWT) capacity prior to December 2008 with three Port owned Bollard Pull (BP) tugs of 30/40 tonne capacity.

[23] OPLSKO, OPLBO, OPLHSD, OPLFLUSHING 12 and 14 and PIR PAU

PPT decided (July 2005) to hire two 50 tonne BP high powered tugs for handling the crude oil ships up to 300,000 DWT capacity at Single Buoy Mooring (SBM) of Indian Oil Corporation limited (IOCL) to be operationalised in December 2006. PPT, after following tender procedures placed (November 2006) the work order on M/s Ocean Sparkle Limited, Hyderabad (Agency) for supply of two 50 tonne BP high powered tugs. The agreement provided for hire charges at the rate of Rs. 1,47,780/- per day excluding fuel charges per tug for three years and the availability was 24 hours every day. The Agency supplied the tugs, which arrived at the work site on 4 February 2007 (Ocean Valour) and 6 May 2007 (Ocean Courage). But due to delay in commissioning of SBM by IOCL, the two tugs could not be put in operation for the purpose for which these were hired. The tugs could be put to use for handling of crude Oil ships of IOCL from 28 December 2008 when the SBM became operational.

Audit scrutiny (July 2008 and May 2009) revealed that PPT paid hire charges of Rs. 19.12 crore to the Agency from the respective dates of arrival of the hired tugs till 27 December 2008. The hired tugs however were put to use only for 5408 hours (Ocean Valour) and 2829 hours (Ocean Courage) in Port operations out of 16,566 and 14,442 working hours available respectively including down time period of one day per month per tug. Thus, PPT incurred an avoidable expenditure of Rs. 19.12 crore due to non-synchronisation of hiring of tugs with the commissioning of SBM operations.

In reply, PPT stated (September 2008) that the hired tugs were used for carrying operations of vessels beyond the capacity of port's own tugs and the expenditure incurred was nothing in comparison with the benefits achieved by PPT during engagement of the two hired tugs. The reply is not acceptable as the port's own tugs had the capacity for pulling vessels up to 83,000 DWT which entered the port during the afore-said period and the hired tugs were not used for the purpose for which these were hired.

The matter was referred to the Ministry (August 2009). Their reply was awaited as of February 2010.

Tuticorin Port Trust

8.10 Loss of revenue

Due to non-stipulation of separate annual Minimum Guaranteed Throughput for Denatured Spirit and Ethylene-Di-Chloride handled by a Company, Tuticorin Port Trust suffered revenue loss of Rs. 36.68 lakh as of March 2009.

Tuticorin Port Trust (TPT) entered (August 1987) into an agreement with a company for long term lease of port land from June 1984 to May 2014 to set

up storage tanks for importing Ethylene-Di-Chloride (EDC). TPT entered (August 1995) into a supplementary agreement with the Company stipulating Minimum Guaranteed Throughput (MGT) of 10,000 metric tonnes (MT) of EDC *per annum*. Failure to achieve MGT entailed payment of wharfage charges at the rates prescribed for the product concerned for the shortfall in MGT.

The company sought (February 2005) permission of TPT to import Denatured Spirit (DNS) with MGT of 30,000 MT *per annum* besides the existing EDC. The Board, however, gave the permission for import of DNS along with EDC with a combined MGT of 30,000 MT *per annum*.

In the absence of separate annual MGT for DNS and EDC, TPT raised (March 2007) a demand at the DNS rate of wharfage (Rs. 111.15 per MT) for shortfall in the combined annual MGT for the period from March 2005 to March 2007. Subsequently, on a request from the company, TPT decided (March 2007) to collect wharfage charges for the shortfall at the rate of Rs. 51 per MT applicable for EDC which was approved (February 2008) by the Board.

Thus, non-stipulation of separate annual MGT and decision of the Board to charge the shortfall in MGT at the lower rate applicable for EDC resulted in loss of revenue of Rs. 36.68 lakh as of March 2009. The loss of revenue was likely to continue during the lease period i.e., up to May 2014, in case of shortfall in MGT.

TPT stated (August 2009) that the decision to apply the rate of Rs. 51 per MT was taken after detailed analysis duly approved by the Board.

The reply is not acceptable as the company sought permission for import of DNS with MGT of 30,000 MT besides the existing EDC whereas the Board gave the permission for both DNS and EDC with combined annual MGT of 30,000 MT without specifying the break-up which was necessary to collect wharfage charges at the rates applicable for the shortfall in MGT. The ambiguity in agreement compelled the port to settle for lesser wharfage charges and consequential loss of revenue.

The matter was referred to the Ministry in July 2009; their reply was awaited as of February 2010.