

CHAPTER IX : MINISTRY OF SHIPPING

Mormugao Port Trust, Goa

9.1 Loss of revenue

Delay in completion of capital dredging resulted in an estimated loss of ` 60 crore.

The Mormugao Port (MPT) awarded the contract for construction of three additional Mooring Dolphins (MDs) to a private party in August 2007, at their tendered cost of ` 14.87 crore. The scheduled date of completion was 4 September 2008. The work was considerably delayed, inter-alia, due to delay in deciding the site of one of the MDs by the MPT. The original work order was terminated due to unsatisfactory performance of the contractor in December 2009 and the balance work tendered and awarded to another contractor at the risk and cost of the original contractor in January 2010. Two of the MDs were finally completed by June 2010 and the third MD in March 2011.

For effective utilisation of these MDs, the area around them was required to be dredged. The MPT awarded the work of dredging the area to M/s Dredging Corporation of India Limited (DCIL) in July 2009 with the scheduled date of completion as 22 January 2010.

Audit observed that though the contract was awarded for construction of the three additional MDs in August 2007, yet the work of these three MDs could only be completed by May 2010, June 2010 and March 2011 respectively. The MPT awarded the work of capital dredging only in July 2009, which was also delayed considerably. However, the MPT did not take any action to terminate the contract and complete the work at the risk and cost of DCIL and the work was yet to be completed (September 2011).

The MD 4 started commercial operations from June 2010 and the remaining two MDs (MD 5 and 6) were put to commercial operation in March and May 2011 respectively. During 2010-11 the four existing MDs generated a revenue of ` 36.27 crore. Based on the monthly average revenue generated by MD at ` 75 lakh per month, the loss of revenue due to delay in completion of three

MDs calculated from the scheduled date of completion from September 2008 to March 2011 amounted to ` 60 crore.¹

The MPT stated (September 2011) that the dredging contract could not be repudiated due to intervention of the Ministry and there were no instances of non handling of cargo due to non availability of facilities. Further the Ministry stated (November 2011) that revenue loss could be measured if asset is ready in all respects but not utilized for generating revenue and the facility was created to cater to future requirements.

The contention does not factor in the fact that the Ministry's request not to repudiate the contract had been issued in October 2009, just three months after the award of the dredging work to DCI and much before the scheduled date of completion. The MPT's inaction on the basis of this, even after considerable delay in completion of work, is not justifiable. Further, since ships are nominated to ports only after the availability of berths are confirmed, the reply that there was no instance of non-handling of cargo due to non-availability of facilities, is not convincing. The reply of the Ministry regarding measurement of revenue loss is also not valid as the asset would have commenced earning revenue had it been completed and commissioned by the scheduled dates.

Chennai Port Trust

9.2 Unfruitful expenditure

Non-testing of the bubble structure² for containing air pollution led to rendering of the expenditure of ` 42.83 crore incurred on coal handling system unfruitful.

The High Court, Madras and Tamil Nadu Pollution Control Board (TNPCB) had been issuing directions since 2001 to Chennai Port Trust (ChPT) to take adequate measures to contain air pollution. In line with these directions, ChPT decided (May 2007) to install a semi-mechanised coal handling system consisting of closed conveyor belts, to deliver coal from its berth to 17 coal stacking plots and a bubble structure in one of the coal plots to minimize pollution during handling of coal from berth to the coal stacking plots. ChPT proposed to construct the bubble structure in one plot within the coal handling

¹ Delay in case of MD4 from 1 October 2008 to May 2010 (20 months) and MD5&6 from 1 October 2008 to March 2011 (30*2 60) total 80 months.

² The bubble structure is a closed pyramid shaped structure of 13 metres height covering the entire coal plot on four sides to arrest the flying coal dust when coal is dumped from the conveyor belt at a height of 10 metres.

system on experimental basis to ascertain its effectiveness in pollution control and for subsequent extension of the facility to all other plots. The whole work was awarded (September 2007) to a contractor at ` 42.83 crore.

During execution of the work, ChPT changed the location of the bubble structure from the originally proposed plot to a new location adjacent to the coal plot handling system due to operational problems. It was proposed to connect the bubble structure to the coal handling system by providing an additional cross conveyor belt.

The coal handling system and bubble structure (new location) were commissioned in November 2009. However, no action was taken by ChPT to connect the bubble structure to the coal handling system.

It was observed in Audit that the operational problem attributed by ChPT for their decision to change the location of bubble structure could have been foreseen during planning stage itself. As continuance of the coal handling in the port area itself was dependent on containing coal pollution, ChPT should have constructed the bubble structure either at the plot originally planned within the coal handling system or extended the conveyor system to the bubble structure constructed at the new location. ChPT left the bubble structure as a standalone and had no option except for utilizing it for storage of coal by transporting coal to it through trucks.

The High Court, Madras appointed a Committee (June 2007) to check the adequacy of measures taken by ChPT in controlling air pollution. The Committee after inspection observed (August 2010 and March 2011), *inter alia*, that the bubble structure constructed was yet to be technically tested, commercially accepted and replicated in all other plots. It further added that in the absence of such measures, the problem of air pollution at ChPT would not be solved. The High Court, Madras not satisfied with the measures taken by the ChPT for arresting pollution, finally ordered (May 2011) to stop dusty cargo like coal and iron ore handling at ChPT from October 2011.

Thus, due to improper planning and flawed decision of ChPT to change the location of the bubble structure and failure to connect it to the coal handling conveyor system, the bubble structure was not tested and replicated in the other plots for effective control of pollution. Ultimately, the coal handling was stopped in ChPT from October 2011 rendering the entire expenditure of ` 42.83 crore on coal handling system including the bubble structure, unfruitful.

The Management stated (November 2011) that the bubble structure was leased out and the entire cost of the structure would be realized within six years, besides it was fully serving the purpose of arresting pollution.

The fact however remains that the objective of construction of bubble structure for arresting pollution was not achieved which finally led to stoppage of coal handling in the port.

The matter was reported to the Ministry (October 2011); their reply was awaited as of January 2012.

Paradip Port Trust

9.3 Non-recovery of expenditure amounting ` 17.65 crore

Non-recovery of ` 17.65 crore due to lapses in verification of the documents regarding their genuineness.
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According to the system in operation at Paradip Port Trust, prior to arrival of a vessel, the local agent of the vessel submits the copies of different certificates, i.e., (i) certificate of registry (ii) certificates of class (iii) international ship security certificate (iv) international safety management certificates and (v) P & I (Protection and Indemnity) certificate of entry. These certificates are uploaded into the Port Communication System (PCS) and sent to the Harbour Master through e-mail by the local agent. Harbour Master on behalf of PPT verifies the copies of the above certificates for validity. As per international shipping practice, liabilities in case of oil pollution, wreck removal, medical assistance, stowaways, smuggling etc. are covered by P & I Club of ship owners.

Scrutiny of records (August 2010) of Deputy Conservator, Paradip Port Trust revealed that one vessel MV BLACK ROSE arrived at Paradip Port Trust on 16 August 2009. Its local agent M/s Seatrans Marine Private Limited submitted the xerox copies of the required documents to the Harbour Master on 1 September 2009 and after verification of the documents, the vessel was allowed to be berthed on 4 September 2009 for loading of iron ore. After partial loading of iron ore fines, the ship sailed by the Port authorities to an anchorage at a position at latitude 20 degree 11.58' north and longitude 86 degree 4.07' east on 9 September 2009. Thereafter the ship capsized and submerged on the same date in the night. Twenty six crew members were rescued while the Chief Engineer died.

The sunken ship had 942 MT of fuel oil and 48 MT diesel oil in three different tanks and in service tanks. PPT issued letters (10 September, 2009) to the Master of the ship, owner of the ship (M/s BLACK ROSE Maritime Ltd, Singapore) manager of the ship (M/s PACMAR Shipping PTE Ltd, Singapore) and to the local agent (M/s Seatrans Marine Private Limited) for removal of wreckage and retrieval of oil from the vessel to avoid possible oil spillage and damage to the marine environment. The ex-owner and manager of the ship replied (September 2009) that the firm was defunct and was not in a position to take any action on the dead ship. The local correspondent of P&I Club, South of England, M/s James Mackintosh Co Pvt. Ltd, Kolkata reported that the P & I Certificate of the vessel was forged by the owners and therefore could not be acted upon by them for its salvage operation.

Ministry of Shipping permitted PPT (September 2009) to retrieve oil from the sunken vessel initially at their expenses without absolving the owner / manager / charters of the ship from their liability/ responsibility. Thereafter, PPT awarded the work of “restricting the oil spill and videography of under portion of Hull & Main Deck of the sunken vessel” to a firm M/s J. Enterprises and Dives, Vizag which was completed at a cost of ` 0.19 crore. The other work of “salvage and disposal of fuel oil from the sunken vessel” was awarded to another firm, M/s Resolve Marine Group INC, Florida which was completed (November 2009) at a cost of ` 16.58 crore for retrieval of 921.039 MT of oil. Further a sum of ` 0.88 crore was also spent towards ancillary expenditure leading to a total expenditure of ` 17.65 crore on this count.

As the vessel entered the Port on the basis of a forged P & I certificate of entry, the PPT could not claim reimbursement either from the P&I Club, South of England. This rendered entire expenditure of ` 17.65 crore as non recoverable.

Management clarified (September 2010) that, they had followed the extant procedure to verify the validity of the documents of the vessel. The reply was not tenable, as no guidelines had been issued to the Harbour Master to verify the genuineness of the documents of the vessel before its entry into the port. The Port authorities accepted the photocopies instead of the attested copies, which proved lackadaisical attitude of the management. Further, the PPT had failed to verify the genuineness of the certificates from the official website of the P&I Club which issued the P&I certificate of entry or through its local

correspondent. This was also established by the Marine Department of PPT which accepted that there was a failure on their part.

Thus, due to failure of the internal control mechanism and monitoring system at Deputy Conservator level, the Paradip Port Trust sustained a loss of ` 17.65 crore.

The Management further informed (November 2011) that, PPT had no information regarding action taken against the owner / manager by the high level committee formed by DG, Shipping Mumbai and Ministry of Shipping in national / international level. PPT has requested (December 2009) followed by regular reminders to the Ministry of Shipping to release the amount from the “Oil Cess Fund” to compensate the expenditure. However, no reply has been received from the Ministry.

Thus, there is a need to strengthen the verification and monitoring mechanism of P & I certificate especially when the same is available in the official website of the P&I club.

The matter was reported to the Ministry (July 2011); their reply was awaited as of January 2012.

Jawaharlal Nehru Port Trust

9.4 Non-levy of cess

The road infrastructure connecting Gateway Terminal of India was widened but no cess was collected on the developed infrastructure, as per the agreement clause.

The Board of Trustees of Jawaharlal Nehru Port (licensor) entered into a licence agreement with Gateway Terminals India Pvt. Ltd. (licensee) (GTIL) (August 2004) wherein the licensor granted an exclusive licence to the licensee for designing, redesigning, engineering, financing, contracting, equipping, operating, maintaining, repairing, replacing the project facilities and services for a period of 30 years from the date of award of licence.

Article 8.58 of licence agreement provides that the licensor may levy a cess as they deem appropriate, on handling cargo, for the development of roads connecting the Port to an express way, standard/elevated highway for facilitating faster movement of cargo or the development/improvement/expansion of any other infrastructure and the licensee shall be liable to collect the cess on the cargo handled by him and remit the proceeds to the licensor. Further, it specifies that in such situations, the Scale of Rates (SOR) i.e. the

tariff applicable to the owners/consignees of cargo as leviable by the licensee shall automatically get enhanced by an amount equal to the amount of cess levied.

The work relating to widening of the port road from Bulk Gate Complex to the junction near Port Usage Building (PUB) was awarded (April 2007) to M/s Thakur Infra-Project (P) Ltd, which was completed (November 2008) substantially at a cost of ` 15.44 crore.

Audit observed that the said road was constructed well after the finalisation of the GTIL license agreement. As such, JNPT could have levied cess over the container traffic on the road and asked GTIL to collect/pay the cess as empowered under Article 8.58 of the license agreement. However, the expenditure on the expansion of the widening of the road was met from the internal resources of JNPT.

Failure of JNPT in levying cess on container traffic of GTI on the road, even after being empowered as per the license agreement, resulted in non-recovery of expenditure on widening of road the extent of ` 15.44 crore.

The Management stated (January 2012) that the entire cost of construction along with repairs & maintenance and interest during the construction incurred until 2011 would be considered while calculating the annual cess amount and the Port had taken up this matter with GTIL to workout the modalities for the recovery of cess as per article 8.58 of the licence agreement from the Port Users and remit the same to JNPT with effect from January 2012 till expiry of lease period at the earliest.

The matter was reported to the Ministry in July 2011; their reply was awaited as of January 2012.

Kolkata Port Trust

9.5 Injudicious procurement

Procurement of pneumatic fenders without proper assessment has resulted in injudicious expenditure.

Kolkata Port Trust (KoPT) had been carrying out double banking³ operations in the impounded dock system of Haldia Dock Complex (HDC) to accommodate maximum number of vessels for reducing their idle time inside

³ Double banking meant for two vessels moored/anchored alongside each other with the help of fenders placed in between them.

dock by using tyre fenders⁴ and manpower provided by the calling vessels at HDC.

KoPT approved (September 2006) the proposal for procurement of 12 pneumatic fenders⁵ for increased safety of vessels during double banking operations without preparing any feasibility report or technical analysis. Further, while according approval, KoPT did not take into consideration the expert opinion of Marine Department (July 2006) that pneumatic fenders are used at sandheads which is in the open sea and are placed in between the crude tankers, to avoid contact between the vessels at their upper part, when they roll due to the sea and swell. Whereas the impounded dock system of HDC is a sheltered zone and has no swell, there is hardly any possibility of vessels coming in contact with each other, as long as tyre fenders are placed by both the vessels in between them.

KoPT procured 12 pneumatic fenders between June 2008 and November 2008 at a cost of ` 1.10 crore with the stipulation that a five year repair and maintenance contract with the supplying firm would be entered into, after expiry of a one year guarantee period.

Audit observed (July 2011) that KoPT could deploy only four pneumatic fenders on 12 occasions, which is 1.4 *per cent* of the total 842 double banking operations taken place between December 2008 and May 2011. The balance eight pneumatic fenders had not been used and were kept in open space.

KoPT replied (September 2011) that the position was ascertained from other ports where pneumatic fenders were supplied during double banking operations, for increased safety inside the dock. Procurement of fenders cannot be stated to be injudicious as the cost and all related charges are loaded in the current Scale of Rates. KoPT further stated that fenders are in good shape and would be deployed regularly after engagement of an agency for fender operation.

Reply of the Management is not appropriate as in other ports, vessel operators use their pneumatic fenders during STS⁶ operation in open sea and no double

⁴ Fenders are bumper/rubber structures (vehicular tyres) used as horizontal separators between two vessels coming alongside or when the vessels are placed at berths or jetties to avoid damages by direct contact.

⁵ Pneumatic fenders are big rubber tube structure filled in with air with the help of compressor and having tyres and chains around it. These are used at sandheads which is open sea, by placing them between the vessels with the help of tug boat to avoid contact between them when they roll due to the sea and swell.

⁶ Ship to Ship transfer of cargo

banking is allowed/done inside the docks. Further, the rate of hiring of fenders is yet to be approved by the Tariff Authority of Major Ports. Moreover, the use of pneumatic fenders inside the dock is optional for the users as these are normally to be used at sandheads which is in the open sea. The viability of their future utilization is also not ascertainable as upto now (February 2012) only four pneumatic fenders had been utilized without any inconvenience/problem in port activities.

Thus, procurement of pneumatic fenders without proper assessment, resulted in injudicious expenditure of ` 73 lakh, i.e. the cost of eight unutilized pneumatic fenders.

The matter was reported to the Ministry in July 2011, their reply was awaited as of January 2012.

Mumbai Port Trust

9.6 Non recovery of maintenance charges

Failure to execute a formal agreement with JNPT for the recovery of eligible share of cost towards annual maintenance of Vessel Traffic Management System (VTMS) resulted in loss of ` 4.72 crore.

Radar-based Vessel Traffic Management System (VTMS) was commissioned (May 1997) in Mumbai harbour at a cost of ` 26.18 crore under the Asian Development Bank (ADB) assistance, so as to cater to the requirement of all vessels visiting Mumbai Port Trust (MbPT), Jawaharlal Nehru Port Trust (JNPT) and Western Naval Command Headquarters. Since the VTMS was beneficial to JNPT also, the sharing of cost of VTMS by JNPT was necessary. The ownership of VTMS being vested with MbPT, JNPT agreed to share one-third of the annual expenditure towards maintenance, operation etc. inclusive of AMC.

The life of the VTMS was reckoned as eight years. It was specified in the correspondence between the ports that in the event the system being used after the expiry of the eight year period, with further upgradation, JNPT would have no objection to share one-third of the cost towards such upgradation and that the modalities for working out the one-third share would be looked into at the appropriate time. The correspondence further specified that the share to be borne by JNPT shall be billed by MbPT every year and JNPT shall settle them within a month. The bills raised by MbPT on cost sharing of VTMS were duly accepted by JNPT till the originally estimated life of VTMS (2005).

The system outlived its useful economic life of eight years in 2005 and to keep it operational till replacement by a new system, MbPT carried out the required regular maintenance through Annual Maintenance Contract (AMC) with the Original Equipment Manufacturer (OEM) on an yearly basis till 2011 at an aggregate cost of ` 14.17 crore and the recoverable amount from JNPT till 2010-11 worked out to ` 4.72 crore. Though MbPT claimed (January 2008) 1/3rd share (` 1.86 crore) of AMC (` 5.57 crore) for the period 2005-06 to 2006-07, the same was not accepted by JNPT till date, stating that the modalities for sharing of cost after the expiry of the estimated life of VTMS was not agreed upon by the ports.

In reply to the audit observation (April 2011) in this regard MbPT replied (October 2011) that as JNPT had paid the claims raised earlier in the absence of formal agreement, correspondences were made with JNPT to share the cost towards AMC and as the same was being pursued with them. Further it was stated that MbPT and JNPT, being two arms under the Ministry of Shipping, there exists no reason to believe that they would dispute the payment of one-third AMC after utilizing the services of the system. Thus the fact remains that JNPT had not agreed to pay even the one-third share claimed for the period 2005-2006 to 2007-2008 till date. Further no correspondence existed between the two organisations after 8 May 2008. Thus lapse on the part of MbPT in fixing the modalities for sharing of cost after expiry of the life of VTMS, resulted in loss to the extent of ` 4.72 crore.

The matter was referred to the Ministry in September 2011; their reply was awaited as of January 2012.