

CHAPTER VIII : MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS

Chennai Port Trust

8.1 Improper compliance of agreement for privatization of the container terminal operations

There was no proper system to ensure the veracity of the royalty paid by the operator as well of the achievement of “non-transshipment” traffic reported by the operator.

The container terminal of the Chennai Port comprised three berths with 600 metres of quay length. Based on proposals received from three private operators for development and operation of the container terminal, the Ministry of Surface Transport (MOST) selected (July 2000) P&O Australia Ports Pty Ltd., Australia which subsequently formed a consortium as Chennai Container Terminal Limited (CCTL) to operate the terminal on lease for 30 years under the scheme of private sector participation. The Chennai Port Trust (Ch PT) and CCTL entered into an agreement in August 2001. The existing three berths in the container terminal and another berth (285 metre length) newly constructed by the Port were handed over to CCTL in November 2001 and August 2002 respectively as per the agreement.

Scrutiny of connected records relating to the functioning of the arrangement at Ch PT undertaken during April – October 2006 revealed the following:

8.1.1 Acceptance of royalty without verification

Article 5.02 of the agreement stipulated that the gross revenue earned by CCTL from the operation of the container terminal was to be shared by CCTL and Ch PT in the ratio of 62.872: 37.128. The clauses 3.08(A)(i)(g) and 3.08(A)(vii) of the agreement provided for production of necessary books and accounts by CCTL to Ch PT in order to verify the accuracy of royalty payments. Ch PT entrusted the verification of revenue earned by CCTL to their Auditors. The Auditors were not permitted by CCTL to conduct a detailed verification of the accounts of CCTL and they adopted the Terminal Despatch Reports for verification of revenue reported by CCTL. The Auditors observed that the Terminal Despatch Reports did not contain complete data on various types of containers handled.

The net revenue earned by Ch PT from container operation in the terminal during 2002-03 to 2005-06 worked out to Rs. 322.52 crore including the

royalty and land lease charges of Rs. 265.88 crore received from CCTL. In the absence of adequate arrangement for verification of revenue earned by CCTL, veracity of the amount of royalty received was not ascertainable.

Ch PT should evolve a system for proper verification of the revenue generated by CCTL with due access to their books of accounts.

On being pointed out, Ch PT stated (January 2007) that action would be taken to have monthly data online from CCTL so as to ascertain the correctness of the income. Further report was awaited (October 2007).

8.1.2 Absence of proper system for verification on non-transshipment traffic

According to the agreed conditions, CCTL was to develop the Chennai Port as a hub port, ensure call of mainline vessels to the Port within three years and to bring in non-transshipment traffic at 20 *per cent* and 25 *per cent* of the total traffic during third and fourth year and at 30 *per cent* from the fifth year onwards. In the event of shortfall of non-transshipment traffic, the CCTL was to pay compensation equivalent to the amount of royalty payable on the shortfall in traffic.

CCTL reported achievement of non-transshipment traffic in TEUs (Twenty foot Equivalent Unit) in respect of imports and exports for the periods from December 2003 to November 2004 and December 2004 to November 2005 as 30.06 *per cent* and 49.19 *per cent* respectively. Ch PT stated (May 2006) that the figures were verified with respect to the data obtained from the Customs and from September 2005 a random check of data on five selected vessels in a month was conducted to verify and confirm the figures of CCTL.

A further scrutiny of the data relating to import of containers, for which details were available disclosed the following.

- CCTL stated that the quantum of import of non-transshipment containers was worked out based on the details available in the Import General Manifest (IGM). It was observed that IGM only contained the details of 'port of loading of containers' and the information about 'port of origin of the containers' was available only in Bill of Entry (BE). An analysis of Bills of Entry for import of containers as obtained from Chennai Customs undertaken by Audit revealed a large variation between the number of non-transshipment containers worked

out based on BE and the number reported by CCTL as indicated below:

Year	Number of containers imported					
	As reported by CCTL			As worked out based on BE		
	Trans-shipment	Non-trans-shipment	Percentage of non-trans-shipment	Trans-shipment	Non-transshipment	Percentage of non-trans-shipment
December 2003 to November 2004	1,37,818	94,639	40.71	1,50,231	32,916	17.97
December 2004 to November 2005	1,15,381	1,47,895	56.17	1,65,290	43,872	20.98

Note: (a) The difference between the total number of containers reported by CCTL and audit is due to non-availability of data in respect of containers not cleared through Chennai Customs.

(b) Figures on non-transshipment included the containers directly imported from five neighbouring ports.

- Further according to the agreement, non-transshipment traffic means containers not transshipped in the neighbouring ports of Colombo, Singapore, Port Klang, Dubai and Salalah. It was noticed that the achievement of non-transshipment traffic reported by CCTL included the containers directly imported from these five neighbouring ports also which should not have been reckoned for achievement. Port Trust had not arrived at any methodology with CCTL to verify the reported achievement of target.

Thus, Ch PT failed to ensure the fulfillment of the agreement conditions regarding non-transshipment traffic resulting in loss of compensation equivalent to the amount of royalty payable on shortfall in non-transshipment traffic. The loss of royalty could not be quantified in audit due to inadequacy of available data. The system to verify the correctness of the achievement reported by CCTL needed to be streamlined.

Ch PT stated (January 2007) that both the documents (Bill of Entry and IGM) would be verified and based on the origin of the containers, the non-transshipment *percentage* would be worked out and verified. Further action taken was awaited (October 2007).

8.1.3 Renewal of assets - Not monitored

According to Article 3.08(A)(v) of the agreement, CCTL had to replace the plant/equipment including the existing equipment not inferior to the equipment that were being replaced, before the expiry of their life period.

CCTL was also to inform Ch PT the life of all new equipment purchased. To an audit enquiry, Ch PT stated (August 2006) that the details were called from CCTL which indicates that Ch PT did not monitor closely the fulfillment of the agreement condition in this regard.

The matter was referred to the Ministry in January 2007; their reply was awaited as of November 2007.

Cochin Port Trust

8.2 Loss of revenue due to unauthorized levy of demurrage charges at lower rate

Unauthorised change of rate for demurrage by the Board of Cochin Port Trust at the request of the importer resulted in loss of revenue of Rs. 2.59 crore to the Port.

Demurrage is chargeable on all goods/cargo left in the transit sheds or yards beyond the expiry of free days at the rates prescribed in the Scale of Rates (SoR). A Firm had imported computers and accessories worth Rs 8.43 crore in May 2005 and wharfage on it was levied on *ad-valorem* basis. The container was destuffed on 1 November 2005 but cleared from the Port only on 22 November 2006 after a delay of over one year. As per the SoR, demurrage was payable by the Firm beyond the free period of seven days after the container was destuffed till clearance, at rates ranging from 20 to 45 *per cent* of the wharfage charged. But the Firm requested (January/February 2006). The Cochin Port Trust (CoPT) to levy demurrage on volume basis instead of *ad-valorem* basis as the delay in clearance of cargo was due to delay in obtaining clearance from various agencies and was beyond their control and the project could not afford the demurrage charged on *ad-valorem* basis. The Development Commissioner, Cochin Special Economic Zone under whose jurisdiction the Firm was situated also supported the request of the Firm. Based on this, the Board of CoPT approved levy of demurrage charges on volume basis. Accordingly, the Firm cleared the cargo after paying demurrage of Rs. 18.60 lakh though the demurrage actually payable on *ad-valorem* basis, as prescribed in the SoR, was Rs. 2.78 crore. The concession granted to the Firm resulted in revenue loss of Rs. 2.59 crore to CoPT.

CoPT justified the decision citing that it had the authority under provisions of Section 53 of Major Port Trust Act and clause 10 of guidelines of the Ministry of Surface Transport to take appropriate decision in such special cases. But under these provisions, the Board is empowered only to grant exemption or remission of demurrage charges leviable according to the SoR in force. In this

case the request of the Firm was not for remission or exemption but levy of demurrage on volume basis against *ad-valorem* basis prescribed in the SoR. Thus, this is not a case of remission but levy of demurrage at a rate not provided in the SoR and the Board is not empowered to levy a rate not provided in the SoR without proposing amendment to SoR to the Tariff Authority of Major Ports and obtaining approval as required. It is also noteworthy that the CoPT itself had in the Agenda Note to the Board recorded that the Firm was not eligible for waiver or remission of demurrage under the Ministry's guidelines. Further, it was the firm's business to secure required clearance from various agencies and the Port should have no business to play their saviour.

Thus, the action of the Board of CoPT in sanctioning levy of demurrage on volume basis instead of *ad-valorem* basis was without authority and resulted in loss of revenue of Rs. 2.59 crore to the Port.

The matter was referred to the Ministry in October 2007; their reply was awaited as of November 2007.

Jawaharlal Nehru Port Trust

8.3 Environmental Management by Jawaharlal Nehru Port Trust

Ports and harbours straddle the interface between land and sea. Port development and operations have the potential to impact environment due to vessels and vehicular traffic, handling and storage of materials and shore based facilities. Being site specific projects, they are required to comply with legislations governing environmental protection and pollution control. The Jawaharlal Nehru Port at Nhava Sheva under the administrative control of the Ministry of Surface Transport (MOST) was notified (1982) as a major port and started (1989) operations with 2584 hectares of land. It is primarily managed by a Trust (JNPT) (formerly known as Nhava Sheva Port Trust (NSPT), constituted under the Major Port Trusts Act, 1963 and received Environmental Clearance (EC) for its operations from the Ministry of Environment and Forests (MOEF) in September 1988.

The audit of environmental management activities of JNPT brought out the following.

8.3.1 Environment management plan (EMP)

According to the Environment Impact Assessment (EIA) Guidelines for Ports and Harbours issued by MOEF under the provisions of EIA Notification, 1994

issued under Environment Protection Act 1986, “an EMP is an implementation plan to mitigate and offset the adverse environmental impacts of a project and to protect and where possible, improve the environment. Based on the potential impacts identified, it sets out in detail, the process of implementing mitigation and compensatory measures, the timing of these measures and indicative costs. EMP should be viewed as a legal commitment on the part of the proponent to control environmental impacts”.

JNPT carried out its environmental monitoring under the ‘Environmental Management Plan for Jawaharlal Nehru Port Area’. EMP of the Port was not comprehensive. For instance it did not provide for an important requirement of Environment management audit which was completely missing from its focus.

JNPT stated (July 2007) that as per the audit suggestion, it would be going for ISO 14001 certification which would clearly spell out its environmental policy translating the existing EMP by way of documentation. JNPT furnished (August 2007) a document titled ‘Environmental Management Plan’ indicating various strategies for management of environment.

8.3.2 Environment management audit

The Environment (Protection) Rules, 1986, as amended in 1992 stipulated that every person carrying on an industry, operation or process requiring consent under the Water (Prevention and Control of Pollution) Act, 1974 or under the Air (Prevention and Control of Pollution) Act, 1981 or both or authorization under the Hazardous Wastes (Management and Handling) Rules, 1989 issued under the EPA, 1986 shall submit a report for each financial year by 30th September after an eight-step environmental audit to be done at the management level. The steps include *inter alia* water and energy consumption audit, inventory of materials handled, quantity of pollution, hazardous waste audit, impact of pollution control measures on the conservation plans, additional investment proposals for environmental protection and other activities like tree plantation. Audit scrutiny revealed that JNPT regularly took consent under Water and Air Acts from MPCB and hence was required to submit the environment audit report. JNPT had not so far (July 2007) conducted an environmental management audit and did not submit any such report. This was also confirmed by MPCB (June 2007).

JNPT accepted the audit observation and stated (July 2007) that it had initiated action for obtaining ISO 14001 certification wherein environmental audit would be a part.

8.3.3 Mock drills under Emergency Action Plan

Emergency Action Plans are required to provide a system to control and mitigate consequences of accidents and disasters by natural calamities or other means by implementing and coordinating the actions of personnel to combat emergency. MOEF had directed (December 1997) JNPT to conduct mock drills in respect of Emergency Action Plan on a regular basis. It was noticed that JNPT had an emergency action plan and it had been informing MOEF through regular reports that regular drills were being carried out in order to update the effectiveness of the plan.

JNPT, however, did not submit any document in support of these drills undertaken prior to June 2007, and the drills conducted in June and July 2007 pointed out several deficiencies in the facilities that were essential for emergency relief.

Recommendation

JNPT should take measures to rectify deficiencies noticed during mock drills and spruce up its emergency preparedness.

8.3.4 Afforestation and green belt

Forest cover contributes to atmospheric purification as plants act as cleansing agents to oxygenate and remove impurities such as air borne dirt, sand, dust, pollen, smoke, odours and fumes. Plants produce positive psychological influence and help in noise reduction and increase aesthetic value. According to Developmental Project Report (1982) of JNPT, there was a pre-existing forest cover of 300 hectares in the area earmarked for the port.

8.3.4.1 Green belt

As per conditions of EC (September 1988) “a green belt of 500 metres must be provided all along the periphery of the port excluding the water area.” This translated to 735 hectares as calculated by CIDCO. JNPT has not yet created the green belt as prescribed in the afore-said conditions of the EC.

On being pointed out, it stated (July 2007) that the responsibility of green belt rested with the Government of Maharashtra and the Government of India and that it had taken up the matter with the Chief Secretary of the Government of Maharashtra in November 2001. This reply is not tenable as EC was issued to JNPT and hence it was responsible for complying with conditions of EC.

8.3.4.2 Afforestation

As per conditions of EC (September 1988), “inside the port, 800 hectares of land must be afforested. This may be spread in pockets of hill and vacant areas and need not be concentrated in one area.” The norm of about 2000-2500 trees per hectare may be adopted. Audit scrutiny revealed that over the years JNPT reported various figures of area under afforestation to the regulatory authorities as under:

Reported afforested area

Sl. No.	Document in which reported	Period	Area shown under afforestation
1	Asset Register	1989 to 2006	650
2	Implementation Committee meeting	April 1991	400
3	EIA for fourth container and marine chemical terminal	March 2005	480
4	Letter to MPCB	May 2005	600
5	Coastal Zone Management Plan (CZMP) as approved	July 2005	390

In view of varied figures reported, and in the absence of any survey report, Audit could not verify the compliance of either the condition of 800 hectares of afforestation or the quality of afforestation. Given the pre-existing forest cover of 300 hectares and the figure of 390 hectares as per the CZMP, JNPT had added only 90 hectares through its efforts since receipt of conditions of MOEF in 1988.

On the basis of MOST’s directives, M/s. A. F. Ferguson & Co., Bombay, the consultants for JNPT in respect of management information system had recommended (January 1990) preparation of quarterly plantation report having columns like number of trees planted and felled, area covered by afforestation and remarks on condition of trees, *etc.* This recommendation has not been implemented. Had JNPT implemented the recommendations, it would have better monitored its afforestation activities.

JNPT stated (August 2006) that the existing green area in the port was about 390 hectares and that it would develop 1145 hectares of green area including buffer zone and Eco Park.

8.3.4.3 Mangrove plantation

As per conditions of EC (September 1988), “suitable tidal low-lying areas should be identified for mangrove¹ plantation and provision of the required amount, approximately Rs. 1.5 crore, must be made for this purpose in the project cost.”

JNPT while submitting application for the project ‘Redevelopment of Bulk Terminal into a Container Terminal’ reported (February 2003) to MOEF that it had already developed about 200 hectares of mangrove plantation on mud flats on the periphery of the port. It had also submitted (August 2004) a compliance report to MOEF on mangrove plantations which indicated existence of a detailed plan for the purpose. However, the records of mangroves plantation in port were not furnished to Audit.

JNPT stated (July 2007) that out of 2584 hectares of acquired land, about 500 hectares was covered by mangroves and that it had carried out about 5 hectares of mangrove plantation through the maintenance contract for horticulture and arboriculture works. These claims could not be verified in absence of any survey report.

Recommendation

JNPT should arrange for a forest survey, make an inventory of species of trees and plants as also their acreage. It should ensure compliance with regard to provision of green belt, afforestation and Mangrove plantation. JNPT accepted the recommendation.

8.3.5 Environmental monitoring- deviation from standards in air quality monitoring Central Pollution Control Board (CPCB) standards govern the norms for permissible pollution limits in India

JNPT awarded (1991) the work of environmental monitoring to the Centre for Environmental Sciences and Engineering (CESE), a Department of the Indian Institute of Technology, Bombay (IIT) on nomination basis on grounds that it was not JNPT’s core business and the requisite expertise was available with CESE.

¹ Mangroves consist of a number of species of trees and shrubs that are adapted to survival in the inter-tidal zone. They play an important role as sediment repository and shoreline stabilizer. They extend to the marine areas and many productive fishing grounds of the world are found adjacent to mangrove areas. A report of MOEF suggests that in the recent Gujarat and Orissa cyclones, devastation was reported to have been lesser where sufficient mangrove buffers were present.

CPCB standards for national ambient air quality specify that sampling should be done twice a week at regular intervals with 24-hour samples and the annual arithmetic mean should be calculated for a minimum of 104 measurements.

It was noticed that CESE did not adhere to the standard methodology and adopted sampling once a month with 12-hour samples and calculated the annual arithmetic mean from 12 measurements only. Further, CESE based all its results and predictions on an index, Air Quality Index (AQI), which was its own formulation. While stating the properties for the calculation of the index, it was envisaged that in order to arrive at good results, the averaging time for sample selection for the index should be the same as that prescribed in the CPCB standards. MOEF had objected (November 2002) to the methodology of monitoring stating that it was not as per the standards. Thus, the deviation from CPCB standards undermined the reliability of annual reports prepared by CESE on environmental monitoring at JNPT.

JNPT stated (July 2007) that the monthly monitoring of sulphur di-oxide concentration and other relevant parameters was being done to check the levels and compliance as per MOEF condition. It also forwarded (May 2006) the procedure being followed by CESE to MPCB for validation.

MPCB's response, if any, has not been communicated to Audit so far (August 2007).

Recommendation:

JNPT should ensure adherence to the parameters of monitoring as per CPCB guidelines.

8.3.6 Non-monitoring of handling of hazardous chemicals by tenants

As per CRZ Notification, 1991 made under EPA 1986, no industry shall discharge untreated waste and effluents in the CRZ. As per Indian Port Act, 1908, any person discharging any oil or water mixed with oil into the sea is punishable with fines and other reasonable expenses for removal of the same. As per the licence agreements between JNPT and two of its tenants, Indian Molasses Company (IMC) and Ganesh Benzoplast Limited (GBL), JNPT as licensor, had the authority to inspect and take necessary action in respect of environmental matters.

Audit scrutiny revealed that JNPT got analysed effluent samples from the premises of these two tenants on 30th July 2002 through CESE, its contractor

for environmental monitoring. CESE reported that the treatment plants were not working and that they could collect only samples of raw effluents, analysis of which was as under:

Water Quality Report

Quality Parameters	Rationale/Remarks	CPCB Standard Class SW-IV Waters – for Harbour Waters	IMC	GBL
pH range	To minimize corrosive and scaling effect	6.5-9.0	7.24	11.98
Biochemical Oxygen Demand (mg/l)	To maintain water relatively free from pollution caused by sewage and other decomposable wastes	5	600	1080
Oil and Grease	Floating matter should be free from excessive living organisms, which may clog or coat operative parts of marine vessels/ equipment.	5	1016	171

On all parameters the effluents of the tenant operations exceeded the standards prescribed with the degree of pollution up to 200 times the permissible limits, but no action was taken against the tenants under the provisions of the said regulations. The possibility of irreparable and substantial damage to marine life and the overall environment of the harbour waters due to untreated effluent discharged in the sea water by these tenants can not be ruled out.

JNPT stated (March 2006) that it was the responsibility of MPCB to take action against the defaulters since it had periodically issued ‘consent to operate’ documents to these operators.

The reply is not acceptable as the port was also enjoined to take action against defaulters under IPA, 1908.

Recommendation

JNPT should monitor the activities of its tenants and take suitable as licensor.

8.3.7 Operation of landfill without valid authorization

As per conditions of EC (September 1988), “no large scale dumping of wastes shall be undertaken by the Port without clearance from environmental angle. This is to ensure that marine ecology of the area is not affected by dumping in the marshy lagoon/low level areas.”

JNPT as an “Operator of a facility,” was covered under the Municipal Solid Waste Management (MSW) Rules, 2000 and hence, was required to obtain authorization from the pollution control authorities. Further, the specifications for such operation must be in accordance with the MSW Rules, 2000.

JNPT operated one Sewage Treatment Plant (STP) and a landfill for the dumping of garbage taken from ships. Audit scrutiny revealed that valid authorization for these facilities was not obtained from MPCB. In the absence of relevant authorization, there was no proper assurance regarding compliance with conditions regarding landfill under MSW Rules, 2000.

JNPT stated (July 2007) that a plan to carry out sanitary landfill was being prepared for consent and approval from MPCB.

8.3.8 Ballast water management

Introduction of harmful marine species through ballast water² has been identified as one of the greatest threats to world oceans. A pilot study sponsored (2002-03) by the International Maritime Organisation (IMO) covering Mumbai and Jawaharlal Nehru ports had identified a few species introduced in the region due to uncontrolled ballasting. However, in order to formulate policies to contain the threat, it found the inadequacy of data as a major hindrance. To overcome the problem of data omission and inaccuracies therein and to effectively identify the threat to environment, suggestions like modifications in the Ballast Water Reporting Form (BWRF), putting extra care in information gathering, up-to-date information of port officials and training to port personnel were made in the study, which had to be complied with by port officials.

JNPT stated (August 2007) that as most ships calling at port were container ships and there was no ballasting/ deballasting, the port had discontinued submission of BWRF.

A Hong Kong report for container ports had indicated that container ships were likely to carry a fauna of higher diversity because of their large volume of ballast water. The IMO study had indicated exchange of water of 2,619,625 tonnes in JNPT and Mumbai port. Therefore, non-compliance with the recommendations made in the study is fraught with the risk of non-initiation of remedial measures against the introduction of harmful species.

² Any water and associated sediment used to manipulate the trim and stability of a vessel.

8.3.9 Compliance against Batteries (Management and Handling) Rules, 2001

As per the definition given in the rules, the port was a 'bulk consumer' and 'auctioneer' of batteries. The duties of bulk consumer included ensuring that the batteries were disposed of in auction to registered recyclers only and submission of a six-monthly compliance report to MPCB. Similarly, the auctioneer was to maintain a record of such auctions and make these records available to MPCB for inspection and also submit six-monthly compliance reports to MPCB. Though JNPT auctioned batteries to registered recyclers, it did not send the reports in prescribed forms to MPCB, either in its capacity as bulk consumer or auctioneer.

JNPT accepted the audit observation and assured (July 2007) to submit such reports to MPCB in future.

8.3.10 Management information system

Management Information System (MIS) plays an important role in the overall management of any activity. As discussed in paragraph 4.2, reporting by JNPT on implementation of conditions related to afforestation was inconsistent and inaccurate in view of the significant variation of data reported to MOEF on different occasions. This indicated weaknesses in its management information system.

Based on MOST circular (September 1988), JNPT got a report on MIS prepared (January 1990) by its consultant M/s A.F. Ferguson. The report *inter alia* envisaged that the Pollution Monitoring Cell of the port should implement the monitoring system covering areas like 'blasting' in the port area, dumping of waste materials including dredged materials, afforestation, air and water pollution, sulphur di-oxide emissions from ships, adherence to IMO procedures in handling hazardous or poisonous materials, monitoring carbon monoxide in the exhaust of all mobile vehicles *etc.* Audit scrutiny, revealed that JNPT neither had a separate Pollution Monitoring Cell nor otherwise implemented the recommended monitoring system.

JNPT stated (December 2006) that they would initiate the procedure for ISO 14001 certification.

Recommendation

To facilitate better compliance with prescribed environmental conditions JNPT should devise an effective Management Information System commensurate with the nature and size of its operations.

8.3.11 Other issues

8.3.11.1 Short recovery of monitoring charges from tenants

As per conditions of EC, JNPT was required to monitor pollution in air and water around the port area susceptible to pollution from port related activities. In terms of the licence agreements with the three tenants, NSICT, GTIL and BPCL, JNPT was to recover the proportionate cost of monitoring in the licensed premises by sharing the financial costs with the licensees from the date of signing of the licences.

JNPT monitored the pollution in port area from December 1995 through CESE on regular basis and incurred expenditure on monitoring but it did not recover the proportionate costs from two tenants (NSICT and BPCL) from the dates of signing of contracts. A total of Rs. 52.81 lakh was recoverable from these two tenants.

On being pointed out (September 2006), JNPT raised the demand (August 2007).

8.3.11.2 Water consumption audit

JNPT was paying a centralized water bill and was recovering water charges from its tenants - industrial, commercial or residential - at varying rates. The proportionate cost of water charges was not being recovered from the residents leaving scope for possible overuse as well as misuse of water. As per the terms of Gazette Notification dated 13th March 1992 [GSR 329 (E)], JNPT was required to conduct the yearly water consumption audit from the year 1993 onwards. Audit noticed that JNPT did not conduct such audit.

JNPT stated (July 2007) that it had since installed water meters at various locations inside the port and township areas and the monthly water consumption for different users was under observation.

Recommendation

JNPT should arrange to conduct an environment management audit of water consumption to ensure that this scarce resource is used optimally.

8.3.12 Role of MPCB

The port specific activities like handling and storage of petroleum products (done by tenants of JNPT) were covered under the ‘red category’ classification. It was not ascertainable from records whether MPCB authorities monitored environmental parameters in JNPT premises. Independent sampling was not done by MPCB in the port areas during the period covered under audit. The port did not conduct the environmental management audit, yet there were no directives from MPCB in this regard.

MPCB stating (June 2007) that JNPT was not generating any industrial or trade effluents and was not having any industrial or process activity, added that it would monitor JNPT area for compliance of environmental norms.

8.3.13 Conclusion

JNPT was awarded Indira Priyadarshini Vriksha Mitra Award in 1995. JNPT has strived towards becoming a dedicated container port and this significantly reduces its potential risk relating to the environment. JNPT would benefit by strengthening its monitoring of environmental management. There is a need for regularly conducting environmental management audit by the port. JNPT also needs to take effective steps for creating required green belt and to achieve required afforestation as well as mangrove plantation. It is hoped that with implementation of ISO 14001 certification, JNPT would have effective environment management system in place which would duly provide for control mechanism like environment management audit as well as for effective monitoring of its environment management activities.

The matter was referred to the Ministry of Shipping, Road Transport and Highways and Ministry of Environment and Forests in October 2006; their reply was awaited as of November 2007.

Kolkata Port Trust**8.4 Loss of revenue**

The Port Trust granted undue financial benefit to a private company by accepting payment of royalty on cargo handling charges at lower rates than those applicable as per the agreement, thereby sustaining revenue loss of Rs. 1.46 crore till April 2007. The Port would continue to suffer loss upto May 2008.

Kolkata Port Trust (KoPT) executed a licence agreement (May 2002) with M/s International Sea Port (India) Private Limited, a Private Company for construction, operation and management of a berth for cargo handling operation at Haldia Dock Complex for a period of 30 years. It was stipulated in the agreement that the date of commercial operation should not exceed 25 months from the date of signing of the agreement and the Company was to pay royalty to KoPT per month at the following rates on the cargo handling charges earned by the Company as per rates of KoPT:-

Period	Percentage of Cargo handling charges
First 12 months	46.88
Second 12 months	51.31
Third 12 months	55.05
Fourth 12 months	58.26
Fifth 12 months	61.04

First 12 months were to be calculated from the month in which commercial operation had started.

Audit scrutiny (March 2007) revealed that the Company after obtaining no objection from the Customs Department Kolkata (November 2003) had commenced operation of cargo handling at the berth on 7 December 2003 and earned handling charges of Rs. 8.67 crore from the port users by handling cargo upto 14 May 2004. The Company accordingly paid royalty charges of Rs. 4.06 crore for the period from 7 December 2003 to 14 May 2004 to KoPT as per the rates specified in the agreement. But the Company treated this period as a 'trial run' though there was no provision of any trial run in the agreement. Thus instead of calculating the first 12 monthly period for payment of royalty charges from 7 December 2003, it reckoned the period from 15 May 2004 after the 'trial run' period without any basis. KoPT also never objected to such improper calculation of royalty. As a result, KoPT suffered a loss of revenue of Rs.1.46 crore till April 2007, and would suffer further loss upto May 2008 with consequent loss of interest.

KoPT stated (April 2007) that for ensuring good industries' practices, benefit of early completion of the project had been given to the Company, which was also acknowledged by the independent auditor. The reply is not tenable as extension of time period of first 12 monthly period by nearly six months without any such provisions in the agreement resulting in financial loss to KoPT, amounted to undue financial accommodation to the private company.

However, KoPT has agreed (August 2007) to take up the issue with the independent auditor as well as with the licensee to realise the royalty from the licensee from the actual date of commencement of commercial operation i.e, 7 December 2003.

The matter was referred to the Ministry in July 2007; their reply was awaited as of November 2007.

8.5 Short recovery of quarters rent

The Kolkata Port Trust failed to revise quarters rent for Class-I and Class-II officers of Kolkata Dock System as per MOST's order issued in March 1996 resulting in short recovery of quarters rent amounting to Rs. 63.17 Lakh.

MOST issued an order in March 1996 regarding revision of pay and allowances of Class- I and Class- II Officers in major Port Trusts. As per Clause 11 (ii) of the aforesaid order, recovery of rent for the port owned quarters would be made on living area basis as per Government of India's instructions contained in Fundamental Rules 45(A) and the same would be effective from 1st April 1994.

The Financial Adviser and Chief Accounts Officer, Kolkata Port Trust (KoPT) instructed (April 1996) the Land Manager to revise the rates of quarter rents in respect of Class- I and Class- II Officers as per MOST's order of March 1996 and to circulate the revised rates among all Heads of Departments for effecting recovery at revised rates with effect from 1 April 1994.

Audit noted (January 2007) that the rent of quarters allotted for Class- I and Class- II Officers of Kolkata Dock System (KDS), a wing of KoPT, has not been revised even after lapse of more than 10 years for reasons not on record, though at Haldia Dock Complex (HDC), the other wing of KoPT the quarters rent is being recovered in terms of FR 45-A since April 1994.

KoPT's failure to implement MOST's order of March 1996 regarding rent of quarters resulted in short recovery of Rs. 63.17 lakh from 286 Class- I and Class- II Officers of KDS during the period from April 1994 to March 2007.

KoPT in reply stated (October 2007) that following the Ministry's order of October 1991, quarters rent has been recovered in accordance with the standard rent fixed prior to 1991 in terms of provisions of FR 45 A-III (b), as the residential quarters at KDS were constructed prior to 1991 and no residential quarters was constructed thereafter. The Port Trust also contended that the case of HDC was different, as it constructed new quarters after 1991 and had to fix new standard rent for quarters constructed after 1991.

The reply is not tenable as the Ministry's order of March 1996 clearly stated that the recovery of rent for the port owned quarters would be made on living area basis as per Govt. of India's instructions contained in Fundamental Rules 45A. The aforesaid order did not provide for any clause for non-revision of rent in case of quarters constructed prior to 1991.

The matter was referred to the Ministry in July 2007; their reply was awaited as of November 2007.

Mumbai Port Trust

8.6 Loss of revenue

Loss of revenue of Rs. 3.82 crore due to delay in submission of proposal for revision in stevedoring charges.

The Mumbai Port Trust (Port) provides stevedoring services to port users. The charges for stevedoring services were approved (September 2003) by Tariff Authority for Major Ports (TAMP) and came into effect from October 2003 for one year. The Port was allowed to increase the charges by five *per cent* in the second year. These rates were valid upto September 2005. As per the tariff guidelines of TAMP issued in March 2005, the Port was required to forward its tariff proposal at least three months before the relevant tariff became due for revision.

The Port submitted (September 2005) a comprehensive rate revision proposal for revision of its Scale of Rates (SOR) to TAMP including stevedoring charges. Simultaneously, the Port also requested approval to increase the rates of stevedoring charges by five *per cent* from October 2005 till the comprehensive proposal was approved by the TAMP. However, TAMP rejected (October 2005) the request to increase the rates by five *per cent*

stating that the proposal was submitted at the fag end of the validity period denying TAMP, the opportunity of analyzing the cost position and consulting the relevant users. TAMP had also remarked that the revised tariff guidelines notified in March 2005 required Port to forward its tariff proposal at least three months before the relevant tariff became due for revision. TAMP authorised the Port to continue to levy the stevedoring charges at the rate applicable as on 30 September 2005 till the order to be passed on the revision of the SOR.

During audit scrutiny, it was revealed that the revised rates were approved (September 2006) by TAMP allowing 25 *per cent* increase in stevedoring charges with effect from 31 December 2006. The Port raised the bills from October 2005 to December 2006 at the old rates amounting to Rs. 68.86 crore and Rs. 7.51 crore towards stevedoring charges for the general cargo and container respectively. Hence, the delay in submission of the rate revision proposal resulted in loss of revenue of Rs. 3.82 crore, being five *per cent* on the total billed amount of Rs. 76.37 crore.

In reply, the Ministry stated (October 2007) that the TAMP's sanction to stevedoring charges was valid upto September 2005 and due for revision from October 2005. The due date for submission of comprehensive revision of SOR was 15 August 2005. However due to incessant rains from 26 July 2005 and consequent disruption of public transport, crucial days were lost, which hampered the work relating to comprehensive rate revision. Further, the comprehensive rate revision was being done for the first time and the SOR had to be standardized and simplified. Hence, with the permission of TAMP, the proposal was submitted to it on 22 September 2005. As TAMP had allowed 5 *per cent* escalation factor on stevedoring charges with effect from 1 October 2004 on the rates sanctioned for the year October 2003 to September 2004, the Port proposed to increase rates by five *per cent* till TAMP's approval to comprehensive tariff proposal. However, the TAMP was only entertaining comprehensive proposal and did not allow any increase in the existing rates till the revision of the SOR.

The reply is not tenable as TAMP rejected the interim increase of rates with the reasons that the proposal was not submitted three months before the relevant tariff became due for revision and hence it could not verify the cost details within the short span of time available and decide on the increase in rates. Thus, absence of an effective system to check and monitor the timely submission of the proposal led to a loss of Rs. 3.82 crore.