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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8946/2011 & CM APPL.9521/2014

INDIAN PRIVATE PORTS AND TERMINALS AND ANR.

..... Petitioners

Through: Mr.Dheeraj Nair, Advocate with
Mr.Angad Baxi, Advocate.

Versus

UIO AND ORS.

..... Respondents

Through: Mr.Anurag Ahluwalia, CGSC with
Ms.Shweta Kumar and Mr.Ajaydal
Singh Sirohi, Advocates for R-1.
Mr. Kishan Rawat, Advocate with
Mr. Ishan Narain and Mr. Rajan
Narain, Advocates for respondent
No.2.

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Date of Decision: 3rd February, 2023

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SAURABH BANERJEE

J U D G M E N T

MANMOHAN, J: (ORAL)

1. Today, Mr.Anurag Ahluwalia, learned counsel for the respondent No.1/ Union of India (Ministry of Port, Shipping and Waterways) has handed over an updated status report dated 3rd February, 2023. The same is taken on record and it reads as under:-

“Out of the 5 BOT operators who have approached various High Courts challenging the TAMP Orders, one of the BOT operator at JNPT viz., GTIPL has approached the Conciliation and Settlement Committee (CSC) constituted by the Indian Ports Association (IPA), seeking remedy to its grievances so as to decide upon the assessment and treatment of past period surplus.

The CSC is headed by ex-Secretary of Ministry of Shipping Shri. Gopal Krishna. The other members of the CSC are Shri. Shambu Singh, ex-special Secretary & Financial Advisor of Ministry of Shipping and Shri. Chandramouli, ex-Secretary of DoPT.

*The CSC held consultations with GTIPL, JNPA and TAMP. The CSC has formulated a draft Settlement Agreement. The same was forwarded to Tariff Authority For Major Ports (TAMP) by JNPA for its comments. A copy of the Revised Settlement Agreement as forwarded by JNPA is attached as **Annex**. The JNPA has forwarded the Revised Settlement Agreement of CSC to the Ministry for its NOC.*

TAMP vide its email dated 13.01.2023, in response to Ministry's email dated 12.01.2023 has informed that in Settlement Agreement, the Revenue share has been treated as an item of cost/ pass through in the exercise of determination of the past period surplus which is not in line with Ministry's direction of 29 July 2003, (copy attached), 2005 Tariff Guidelines as well Licence Agreement entered between JNPA and GTIPL. Accordingly, further clarification has been sought from TAMP vide ministry's email dated 02.02.2023 for further necessary action in the matter.”

Learned counsel for the respondent No.1 has handed over the Ministry's e-mail dated 2nd February, 2023 to learned counsel for respondent No.2. He states that the respondent No.2 shall send its comments to the Ministry forthwith.

Learned counsel for the petitioners reiterates that the petitioners are willing to withdraw the present writ petition if the respondents give an undertaking to this Court that the conciliation proceedings initiated by them shall be completed in a time bound manner.

Keeping in view the aforesaid, the respondents are directed to conclude the conciliation proceedings within a period of six months from today. It is clarified that the petitioners would be at liberty to file appropriate

legal proceedings in case they are aggrieved by the decision of the Conciliation and Settlement Committee.

With the aforesaid direction and liberty, the present writ petition along with application stands disposed of. This Court clarifies that it has not expressed any opinion on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

SAURABH BANERJEE, J

FEBRUARY 3, 2023/TS

