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No. 45	**New Delhi, the 1st May, 2000**

TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

No.TAMP/15/99-Misc. - In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the application made by the Indian Freight Container Manufacturers Association to increase the port charges on import of empty containers as in the Order appended hereto.

SCHEDULE

Case No.TAMP/15/99-Misc.

The Indian Freight Container Manufacturers Association . . . Applicant

O R D E R

(Passed on this 10th day of April 2000)

This case relates to a representation made by the Indian Freight Container Manufacturers Association (IFCMA) against low off-take of newly built indigenous containers. It has been stated that there is an excessive import of empty containers into the country resulting not only in infructuous use of port infrastructure facilities but also hurting the local container manufacturing industry where the capacity utilisation is very poor (estimated to be only 15% in the year 1998-99) because of low off-take of newly built containers.

2.1. It has been pointed that the port handling charges for empty containers at the Indian ports are lower than those levied by nearby ports of Singapore and Colombo thereby providing a built-in incentive for storing empties in India.

2.2. The IFCMA have, therefore, requested for an increase of port handling charges to be at par with neighbouring ports, which will not only result in higher revenue to the ports but also lead to decongestion of the ports, and development of the indigenous industry incidentally.

3. The proposal was circulated to all the Major Ports for their comments. The COPT did not furnish any comments. While many of the remaining 9 ports were against the proposal, the CHPT appeared to be in favour of the proposal. The CHPT has subsequently clarified that it did not support the proposition of the IFCMA; only, some points were highlighted by it with a suggestion to constitute a High Level Committee

comprising representatives of Indian Exporters, IFCMA, Ministry of Commerce and TAMP to arrive at a solution.

4. A reference was also received from the Ministry of Surface Transport (MOST) vide their letter No.PR-24021/58/97-PG dated 9 September 99. The MOST forwarded a copy of d.o. letter dated 5 August 99 received by them from the Ministry of Commerce. The Ministry of Commerce have admitted that raising the port charge may affect the exports adversely but observed that substantial portion of empties import is due to the vested interest of shipping lines in such imports. They have suggested for raising the level of port charges on new imported empty containers to that of loaded containers as one of the remedial measures.

5. Subsequently, M/s. Balmer Lawrie Freight Containers Limited has submitted an aide memoire supporting the proposal of the IFCMA.

6. A joint hearing in this case was held on 21 March 2000. During the joint hearing the following points were raised:

Indian Freight Container Manufacturers Association:

(i). Containers were coming in because there was nothing available here. Now, IFCMA has some containers to supply.

(ii). IFCMA has brought in new customers for our economy.

(iii). In view of low rates at ports containers are dumped here by liners.

(iv). Shipping companies have a right to bring in what they wish. The IFCMA do not challenge that right.

(v). 3,00,000 empties are coming. Local industries can supply only 50,000. So, traffic of empties will not stop.

(vi). Ports will lose nothing. If at all, they will gain.

(vii). 30% of containers coming in are empties.

(viii). Reducing empties will increase fruitful utilisation of port equipment.

(ix). All container manufacturers are Export Oriented Units (EOUs) and sell what they manufacture to foreign lines or container leasing companies. Problem in re-positioning empties will be of no concern to the IFCMA. The lines can have the total discretion to handle it as they please.

(x). Import of empties is going down because of economy slow down and not due to increase in off-take of their containers.

(xi). Total installed capacity for manufacturing containers is 1,05,000 TEUs. However, for units which are alive it is only 60,000 TEUs per year.

(xii). A total of 300,000 TEUs come in. Even if 10% is restricted, local industry will be benefited.

(xiii). Ports will gain in view of higher tariff. Revenue will increase.

(xiv). Congestion will reduce. Port equipment will be more fruitfully utilised. Turn-around time will be less. More traffic will be generated.

Balmer Lawrie Freight Containers Limited:

(i). Discouraging empties will also help in decongesting ports.

(ii). Incidentally, ports will also gain by higher tariffs.

(iii). Anti-dumping laws do not apply because there is no 'sale' of empties. The shipping lines are not, therefore, restrained in any way.

The Indian Ports Association:

(i). In the last 5 years, only 18-20% of containers handled by the Port Trusts are 'empties'.

(ii). 76% of containers imported are 'loaded'. 'Empties' imported as a proportion of total container handling has dropped to 14%.

(iii). Ports cannot be altering their tariffs to deal with trade imbalances.

(iv). 'Empties' are handled by light equipment and not heavy lift cranes. Therefore, under utilisation of equipment is not a relevant issue.

(v). Export – import balance is unfavourable. Ports are, therefore, not in favour of raising tariffs for fear of losing traffic.

7. With reference to the totality of information collected during the processing of the case, the following points have emerged for consideration:

(i). IFCMA has compared the cost of handling of empties in various ports to arrive at a conclusion that the cost of handling of empties at Indian ports is lower. However, for effective analysis, the rate differential between the loaded containers and empty containers at various ports in India and the neighbouring countries should be considered.

(ii). In the year 1998-99, the import of loaded containers through all the Indian Major Ports was 693282 TEUs against an export of 865034 TEUs. The imbalance in trade warrants handling of empty containers. It is to be noted that in the trade cycle not only the empty containers are brought in by way of import but also taken out of the country as export. In the year 1998-99, 272044 TEUs of empties were imported against an export of 93027 TEUs.

(iii). The total installed capacity of indigenous marine freight container manufacturing units (that are still operating) is around 60,000 TEUs per annum, as admitted by IFCMA. Since the requirement of empties' import is of a higher order than the supply position from the domestic market, the import will continue to be made even if the entire containers manufactured by the indigenous manufacturers is taken up by the shipping lines.

(iv). Once sold, the containers become the property of the shipping lines. The shipping lines have to decide the utilisation of their containers. Assuming that the shipping lines may procure containers made in India, at a higher initial cost, they have to bring in some of these containers in empty during the trade cycle. In such event, if the port handling charges on empties are increased, as proposed by the IFCMA, the liners have to pay higher port charges on import of empty containers procured in the domestic market also. It may not be proper to prescribe different rates for import of containers manufactured by Indian manufacturers and foreign manufacturers. That being so, after the initial cycle of trade, the market will align to the new cost structure resulting in non-realisation of the objective behind the proposed increase in port tariff on empties, as the liners will still save on the procurement cost of containers.

(v). If the unit cost of containers made in India is higher than the cost of containers available elsewhere, the shipping lines will definitely prefer purchase of containers from those countries offering cheaper rates. Even if the handling charges at Indian ports are increased, the shipping lines will continue to import the containers and pass on the increase in port cost to the exporters, which will be detrimental to the country's foreign trade.

(vi). None of the major ports has supported the proposal for increase in handling charges on empty containers for fear of the adverse impact it will have on the existing traffic.

(vii). The substance of the proposal of IFCMA is for a disincentive on import of empties in the interest of domestic freight containers manufacturing industry. The applicant has challenged neither the reasonableness nor the legitimacy of the present port tariffs on empty containers.

8. With reference to the analysis given above, and based on a collective application of mind, the Authority hereby rejects the representation made by the IFCMA as the forum of this Authority is not for solving the problems of any industry regarding its survival.

S.SATHYAM, Chairman

[Advt./III/IV/Exty./143/2000]

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