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Tariff Authority for Major Ports

G.No.206

New Delhi,

4 June 2015

NOTIFICATION

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 proposal of the Chennai Port Trust (CHPT) for amending its existing Scale of Rates for levy of wharfage on Vessels manifested as cargo in the Import General Manifest (IGM) or Export General Manifest (EGM) on her first voyage, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/29/2015-CHPT

Chennai Port Trust

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Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Chandra Bhan Singh, Member (Economic)

ORDER

(Passed on this 15th day of May 2015)

The Chennai Port Trust (CHPT), vide its letter dated 14 January 2015 had sought the following clarification:

- (a). whether the Chennai Port can continue to treat the vessel as a cargo if it is manifested as a cargo either in the Import General Manifest or Export General Manifest filed with Customs and levy wharfage considering the definition of wharfage in the existing Scale of Rates.
- (b). whether the Chennai Port should not treat the vessel as cargo even if it is manifested as a cargo either in the Import General Manifest or Export General Manifest treating the vessel as conveyance.

2. Based on the legal opinion, it was clarified to the CHPT vide our letter dated 25 March 2015 that vessels which call at CHPT, for which IGMs and/ or EGMs are filed for the purposes of Customs Act, 1962, cannot be treated as 'cargo'; and they are conveyance only; and, the CHPT should not charge wharfage on such vessels and that in relation to the clarification sought, such vessels are conveyance and not cargo.

3.1. In this backdrop, the CHPT vide its letter dated 18 April 2015 has submitted a proposal for amending its existing Scale of Rates for levy of wharfage on Vessels manifested as cargo in the Import General Manifest (IGM) or Export General Manifest (EGM) on her first voyage.

3.2. The main points made by the CHPT in its letter dated 18 April 2015 are summarized below:

- (i). At present, when a vessel is declared as cargo in the IGM / EGM on her first voyage, the same is treated as cargo and wharfage is collected, taking into account the definition for wharfage prescribed under clause 1.1. (vi) of Chapter-I of the Scale of Rates of CHPT.
- (ii). Some of the vessel agents represented to CHPT that such vessels should not be treated as cargo and it should be treated as a conveyance and hence levy of wharfage on vessel itself is not correct.

- (iii). In view of the above, the CHPT vide its letter dated 14.1.2015 had requested the Authority to clarify:
- (a). whether the Chennai Port can continue to treat the vessel as a cargo if it is manifested as a cargo either in the Import General Manifest or Export General Manifest filed with Customs and levy wharfage considering the definition of wharfage in the existing Scale of Rates
or
 - (b). whether the Chennai Port should not treat the vessel as cargo even if it is manifested as a cargo either in the Import General Manifest or Export General Manifest treating the vessel as conveyance.
- (iv). The TAMP vide its letter dated 25 March 2015 has furnished clarification stating that the vessels which call at the CHPT, for which IGMs and/or EGMs are filed for the purposes of Customs Act, 1962, cannot be treated as 'cargo'; and they are conveyance only; and the CHPT should not charge wharfage on such vessels.
- (v). Thus, on the basis of the clarification furnished by the TAMP, the CHPT proposes to include a new note in the Scale of Rates of CHPT and in order to provide clarity, it is proposed to incorporate the following note after the existing Note No.(9) under Scale-1 – Wharfage of Chapter-III – Cargo Related Charges:
- “(10) Vessels calling the Port on her first voyage, which are declared as cargo in the Import General Manifest or Export General Manifest for the purposes of Customs Act, 1962, shall not be treated as cargo and no wharfage shall be levied on such vessels, if the vessels come into the port on their own steam and sail out of the port limits on their own steam. However, when loading or unloading of vessels takes place within the Port limits, wharfage as per Scale-1 above shall be payable on such vessels.”*
- (vi). The Authority is requested to approve the incorporation of the above note in the existing Scale of Rates of CHPT and is also requested to clarify the date of effect of this amendment (10) above.

4.1. Based on the legal opinion, this Authority is inclined to approve insertion of the following as Note no. (10) after the existing Note No.(9) under Scale-1 – Wharfage of Chapter-III – Cargo Related Charges, as proposed by the CHPT:

“(10) Vessels calling the Port on her first voyage, which are declared as cargo in the Import General Manifest or Export General Manifest for the purposes of Customs Act, 1962, shall not be treated as cargo and no wharfage shall be levied on such vessels, if the vessels come into the port on their own steam and sail out of the port limits on their

own steam. However, when loading or unloading of vessels takes place within the Port limits, wharfage as per Scale-1 above shall be payable on such vessels.”

4.2. With regard to the date of effect of the amendment proposed by it, it is to state that the Order of this Authority generally takes effect prospectively after expiry of 30 days from the date of Gazette Notification unless otherwise different arrangement is specifically mentioned in the respective tariff Orders. In exceptional cases retrospective effect is given for reasons to be recorded. It is noteworthy that the CHPT has mooted the proposal in reference based on the clarification given vide letter dated 25 March 2015. Since a clarification has already been given on 25 March 2015, it is felt appropriate to give effect to the proposed amendment with effect from 25 March 2015 (being the date when the clarification has been furnished to CHPT).

(T.S. Balasubramanian)
Member (Finance)