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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 372 **New Delhi,** **30 October 2019**

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 received from Chennai International Terminal Private Limited (CITPL) for increasing the free days for Direct Port Entry (DPE) Export containers in its Scale of Rates, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/26/2019-CITPL

The Chennai International Terminal Private Limited - - - Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R

(Passed on this 10th day of October 2019)

This case relates to a proposal received from Chennai International Terminal Private Limited (CITPL) for increasing the free days for Direct Port Entry (DPE) Export containers in its Scale of Rates.

2.1. The Scale of Rates of CITPL was last revised by this Authority vide Order No. TAMP/51/2011-CITPL dated 6 January 2012, wherein an across the board reduction of 12.23% was effected over the then prevailing tariff (i.e. tariff approved vide Order No.TAMP/10/2009-CITPL dated 3 November 2010). The CITPL has approached the Hon'ble High Court of Madras challenging the tariff order dated 6 January 2012 by its Writ Petition No. 11010 and 11011 of 2012. The Hon'ble High Court has stayed the tariff Order dated 6 January 2012 and has allowed the CITPL to levy the tariff as approved vide tariff Order dated 3 November 2010.

2.2. In this backdrop, the CITPL has now come up with a proposal proposing amendment in the storage schedule prescribed at Section 3.11 in the CITPL Scale of Rates as approved vide the tariff Order No. TAMP/10/2009-CITPL dated 03 November 2010.

3.1. The submissions made by CITPL vide its letter no. CITPL/GEN/OPS/649 dated 21 May 2019 are as follows:

(i). With a view to improve India's rank on "Ease of Doing Business" rankings listed out by World Bank. Indian ports have taken a series of steps. One of the scheme introduced is Direct Port Entry (DPE).

(ii). Direct Port Entry (DPE) is new scheme introduced by Central Board of Indirect Taxes & Customs vide circular F.No. 450/2009-Cus IV dated (07.09.2016). This scheme is a trade facilitation initiation to reduce the dwell of export container from factory to onboard the vessels by directly allowing the entry of export containers into the ports and granting of (Let export order) LEO in the port itself.

(iii). CBEC has extended 5 days free days for DPE customers which influence majority of DPE customers diverting their containers through such private Ports.

(iv). As per CITPL existing scale of rates (SOR) at clause 3.11, export containers are eligible for 07 days free storage period. Thus, the CITPL proposes to increase the free period for the DPE customers from the existing 7 days to 15 days.

3.2. The proposal of the CITPL is to introduce a new entry in the storage schedule as Sl no. 2(a) at Section 3.11 of its Scale of Rates. A comparative position of the existing and the proposed storage schedule is given below:

(a). Existing provision

Sr. No	Particulars	Foreign going Vessels Rate per container per day Or part thereof (in US$)			Coastal Vessels Rate per container per day or part thereof (in ₹.)		
2	**Export – FCL, LCL & Empty**	Upto 20’	Above 20’ and 40’	Above 40’	Upto 20’	Above 20’ and 40’	Above 40’
	0-7 days	Free	Free	Free	Free	Free	Free
	8-15 days	5.50	11.00	16.50	231.00	462.00	693.00
	16-30 days	11.00	22.00	33.00	462.00	924.00	1386.00
	Beyond 30 days	22.00	44.00	66.00	924.00	1848.00	2772.00

(b). Proposed provision:

Sr. No	Particulars	Foreign going Vessels Rate per container per day Or part thereof (in US$)			Coastal Vessels Rate per container per day or part thereof (in ₹.)		
2	**Export – FCL, LCL & Empty**	Upto 20’	Above 20’ and 40’	Above 40’	Upto 20’	Above 20’ and 40’	Above 40’
	0-7 days	Free	Free	Free	Free	Free	Free
	8-15 days	5.50	11.00	16.50	231.00	462.00	693.00
	16-30 days	11.00	22.00	33.00	462.00	924.00	1386.00
	Beyond 30 days	22.00	44.00	66.00	924.00	1848.00	2772.00
2(a)	**DPE-FCL**	Upto 20’	Above 20’ and 40’	Above 40’	Upto 20’	Above 20’ and 40’	Above 40’
	0-15 days	Free	Free	Free	Not Applicable		
	16-30 days	11.00	22.00	33.00			
	Beyond 30 days	22.00	44.00	66.00			

4.1. The request made by CITPL was forwarded vide our letter dated 24 May 2019 to the Licensor Port i.e., Chennai Port Trust (CHPT), seeking its comments.

4.2. In response, the CHPT vide its e-mail dated 03 June 2019 has conveyed the following:

(i). In the last couple of years, the growth of the export containers in the two Terminals in Chennai Port has been affected with increased competition from Kattuppalli and Krishnapatnam ports attracting lines operating in Chennai Port; Vessel operators like Maersk have shifted its CHEX service from Chennai to Kattuppalli Terminal and KPL and part of volumes from ACS service operating from Chennai Port Trust (CITPL) has been diverted to Kattuppalli Terminal.

(ii). The Private Container Terminal Operators in other ports do this by giving considerable discount in Vessel Related Charges and additional facilities like free parking space, increased storage period for DPE containers etc., Export containers are easily attracted to these additional facilities mainly because of the easy access to Kattuppalli and Kamarajar Port Container Terminal since these ports are located in areas where roads are less congested and are away from City traffic.

(iii). As part of the measures to arrest this trend, the terminals have proposed to increase the free period of storage of export containers from 7 to 15 days. They feel that this will enable some of the exporters to move the containers in advance and reach the terminals in Chennai in time to ensure vessel connectivity.

(iv). At present they are not able to resort to this measure because of the restricted free period of 7 days in Chennai Terminals whereas neighbouring private container terminals are providing 14-30 days free storage period for select Export customers.

(v). In view of the above, the proposal of CITPL, may be agreed to considering the interest of the Trade.

5.1. Based on the comments received from the CHPT, a letter no. TAMP/10/2009-CITPL dated 03 June 2019 was issued to CITPL conveying adhoc approval to CITPL to insert Sr. No. 2(a) in Section 3.11 (Charges for Container Storage) of its Scale of Rates as brought out at Para no. 3.2 (b) above. It was also conveyed to CITPL that the adhoc approval is subject to the outcome of the consultation proceedings to be initiated by this Authority. Vide the above said letter dated 03 June 2019, the CHPT and CITPL were also directed to indicate the date of implementation of the new tariff entry.

5.2. In this regard, the CITPL vide its e-mail dated 11 July 2019 has conveyed that the free storage of 15 days for DPE export containers has been implemented at CITPL with effect from 21 June 2019.

6. In accordance with the consultative procedure prescribed, a copy of the CITPL proposal dated 21 May 2019 was forwarded to the concerned users/ user organizations vide letter dated 10 July 2019 seeking their comments. None of the users/ user organizations have given their comments till the case was finalized.

7. A joint hearing on the case in reference was held on 2 August 2019 in the premises of the CHPT at Chennai. At the joint hearing, CITPL and users/ user organisation have made their submissions.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

9. With reference to the totality of the information collected during the processing of this case, the following position emerges:

(i). As per the existing Scale of Rates of the Chennai International Terminal Private Limited (CITPL), all types of Export containers enjoy a free period of 7 days. The CITPL has stated that as per the modalities of handling of Direct Port Entry (DPE) Containers, it requires the exporters to accumulate and hold the containers at the terminal premises. Since the exporters incur additional storage charges after expiry of free days on this account, there is reluctance on the part of exporters to use CITPL for export of their cargo, as other non-major ports give more number of free days. Thus, inorder to facilitate DPE customers, the CITPL has come up with a proposal seeking an increase in the free days from the existing 7 days to 15 days, in respect of the DPE customers. The proposal is reported to be based on the request made by the DPE customers.

(ii). As brought out in the earlier part of the Order, the last tariff Order dated 6 January 2012 in respect of CITPL has been stayed by Hon'ble High Court of Madras. The Hon'ble Court has allowed the CITPL to levy the tariff as approved vide tariff Order dated 3 November 2010. The increase in the free period as proposed by CITPL, is with regard to the Scale of Rates as approved vide Order dated 03 November 2010.

(iii). Clause 9.10.1 of the Workings Guidelines issued to operationalize the Tariff Guidelines, 2019, (which is relevant incase of CITPL), allows the individual BOT operators to propose free days. Accordingly, the proposal of CITPL seeking an increase in the free days for the DPE containers, is seen to be within the stipulation contained in the Tariff Guidelines, 2019.

(iv). The Licensor port Chennai Port Trust (CHPT) has endorsed the proposal of the CITPL and the users have also extended their support to the proposal of the CITPL.

(v). Based on the stipulation contained in the Tariff Guidelines, 2019, and considering the support extended by the CHPT and the user organization, this Authority is inclined to approve the proposal of the CITPL to increase the free days for the DPE containers from the existing 7 days to 15 days.

(vi). Based on the comments received from the CHPT, the CITPL has already been allowed to increase the free days on an adhoc basis, subject to the outcome of the consultation proceedings initiated by this Authority. There was no objection to the CITPL proposal either from the CHPT or from the user. The CITPL has conveyed that the free storage of 15 days for DPE export containers has been implemented at CITPL with effect from 21 June 2019. Thus, the provision relating to increase in the free days for DPE export containers is deemed to have come into effect from 21 June 2019 and shall remain valid till the Scale of Rates of CITPL is reviewed based on the stipulations contained in the Tariff Guidelines, 2019.

10.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval to replace the existing schedule at Sl. no. 2 at Section 3.11 of the CITPL Scale of Rates with the following:

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Sr. No	**Particulars**	**Foreign going Vessels**			**Coastal Vessels**		
		Rate per container per day Or part thereof (in US$)			**Rate per container per day or part thereof (in ₹.)**		
2	**Export – FCL, LCL & Empty**	Upto 20’	Above 20’ and 40’	Above 40’	Upto 20’	Above 20’ and 40’	Above 40’
	0-7 days	Free	Free	Free	Free	Free	Free
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2(a)	**DPE-FCL**	Upto 20’	Above 20’ and 40’	Above 40’	Upto 20’	Above 20’ and 40’	Above 40’
	0-15 days	Free	Free	Free	Not Applicable		
	16-30 days	11.00	22.00	33.00			
	Beyond 30 days	22.00	44.00	66.00			

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10.2 The CITPL is advised to suitably amend the Scale of Rates approved in the tariff Order dated 3 November 2010.

10.3. The provision relating to increase in the free days for DPE export containers is deemed to have come into effect from 21 June 2019 and shall remain valid till the Scale of Rates of CITPL is reviewed based on the stipulations contained in the Tariff Guidelines, 2019.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE ARGUMENTS MADE BY THE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/26/2019- CITPL - Proposal received from Chennai International Terminal Private Limited (CITPL) for increasing the free days for Direct Port Entry (DPE) Export containers in its Scale of Rates

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A joint hearing on the case in reference was held on 2 August 2019 at the premises of Chennai Port Trust, at Chennai. At the joint hearing, CITPL and users/ user organisations have made the following submissions:

CITPL

(i). Direct Port Entry scheme was introduced by Customs as a trade facilitation measure to reduce the release time of export containers and reduce cost of exports by allowing all factory stuffed/ self-sealed export containers to move directly into terminal prior Let Export Order (LEO).

(ii). However, when part of the shipment/ containers is ready for dispatch and the balance is still under process then containers / cargo have to be stored so that they can then be sent together. This creates storage and dispatch capacity issues at factory increasing costs and difficulties.

(iii). The neighboring non-major Ports are offering 30 free days for DPE customers which influence majority of DPE customers diverting their containers through such non-Major Ports.

(iv). To avoid the above situation, the DPE Customers have requested to extend the storage free period from 07 days to 15 days, as to dispatch cargo / containers on a continuous basis without attracting storage charges.

(v). Thus, the CITPL proposes to increase the free period for the DPE customers from the existing 7 days to 15 days, which may be approved.

Southern India Chamber of Commerce and Industry

(i). We are in support of the proposal.

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