

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

GNo.124

New Delhi,

17 July 2009

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby amends the existing Scale of Rates of Cochin Port Trust approved vide Order No. TAMP/63/2005-COPT notified on 9 February 2007, as in the Order appended hereto.

(Arvind Kumar)
Member

Tariff Authority for Major Ports
Case No. TAMP/6/2008 - COPT

Cochin Port Trust

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Applicant

O R D E R

(Passed on this 27th day of June 2009)

This case relates to a proposal received the Cochin Port Trust (COPT) for amendment in the existing Scale of Rates of the COPT approved by this Authority vide Order No. TAMP/63/2005-COPT dated 25 January 2007. The said Order alongwith the revised Scale of Rates was notified in the Gazette of India on 9 February 2007 vide Gazette No.38.

2.1. Section 3.3.2 of the existing Scale of Rates prescribes the Schedule of Demurrage charges under two main headings of cargo assessed on unit rate and cargo assessed on advalorem basis.

2.2. The COPT has proposed to amend the unit of levy of demurrage charges for cargo assessed on advalorem basis pointing out that the words 'per day or part thereof' were not mentioned in the unit of levy of demurrage charges due to an omission made in its earlier proposal.

2.3. The COPT has, therefore, requested this Authority to rectify the mistake and proposed that the existing unit of levy for cargo assessed on advalorem basis be amended as "Rate prescribed as % of wharfage applicable per day or part thereof".

2.4. The port has reported that though the Scale of Rates approved by this Authority does not stipulate per day levy, demurrage charge for cargo assessed on advalorem basis is being collected at the percentage level of the wharfage rate prescribed in the Scale of Rates on per day basis only.

3. In accordance with consultation procedure prescribed, the proposal of the COPT for amendment in the existing Scale of Rates was circulated to the concerned users / user organisations seeking their comments. The comments received from users / user organisations were forwarded to COPT. The COPT has furnished its observations on the comments of the users/ user associations.

4. A joint hearing in this case was held on 20 June 2009 at the COPT premises. At the joint hearing, the users present had no further comments to add than those conveyed already in their written submissions made earlier.

5. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received from 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>

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

- (i). On examining the Scale of Rates approved by this Authority in December 1998 which was prior to the existing Scale of Rates, it is observed that the unit of levy of demurrage is stipulated as rate per day or part thereof basis both for cargo assessed on unit rate and for cargo assessed on advalorem basis. In the proceedings relating to approving the existing Scale of Rates, no discussion was made to alter this position which suggests that the change appeared in the Scale of Rates is due to an inadvertent error.
- (ii). As rightly stated by the COPT, if demurrage is not levied with reference to number of days on cargo assessed on advalorem basis, then it is possible that the cargo which stays for nearly 45 days and the cargo which stays beyond the said period will continue to pay the same amount of demurrage charge which is an anomaly. The demurrage charge is generally applicable with reference to the duration of

stay of cargo in the port premises. The Scale of Rates of most of the other Major Port Trusts prescribe unit of levy of this tariff item on "per day or part thereof" basis. Even in the Scale of Rates of the COPT, demurrage on cargo assessed based on the unit of weight is prescribed on per day or part thereof basis. In view of the above points, the submission made by the COPT to amend the existing Scale of Rates merits favourable consideration

- (iii). Many of the user associations have objected the proposed amendment mainly apprehending an increase in the existing rates. The port has confirmed that no additional revenue will accrue to the port and hence no additional financial impact will be on the users as even presently, the port collects demurrage on the said cargo items on per day basis only.
- (iv). Some of the user association have agitated the issue of levy of cargo related charges on advalorem basis. The COPT has addressed this point in the general revision proposal filed by the port which is being processed separately. The COPT has proposed to do away with the existing practice of levying wharfage on some of the cargo items on advalorem basis.
- (v). The Cochin Custom House Agent's Association and the Cochin Chamber of Commerce & Industry have submitted not to implement the proposed amendment with retrospective effect. Since the exercise is only to rectify an error in the existing Scale of Rates, the action taken by the port in collecting the demurrage charge on cargo items on per day basis so far is also ratified.

7. In the result, and for the reasons given above, and based on collective application of the mind, this Authority amends the fourth column, second line in the 3.2.2. Schedule of Demurrage Charge of the existing Scale of Rates of the COPT by replacing the words "Rate prescribed as % of wharfage applicable" with "Rate prescribed as % of wharfage applicable per day or part thereof".

(Arvind Kumar)
Member