(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

GNo.185 New Delhi, 07 November 2008

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 disposes the proposal received from the Mormugao Port Trust (MOPT) for fixation of levy for embarkation / dis-embarkation of passengers from cruise/passenger vessels calling the port of Mormugao as in the Order appended hereto.

(Brahm Dutt)
Chairman

Tariff Authority for Major Ports

Case No. TAMP/17/2007 - MOPT

Mormugao Port Trust **- - -** **Applicant**

O R D E R

(Passed on this 30th day of September 2008)

This case relates to a proposal received from Mormugao Port Trust (MOPT) for fixation of levy on passengers embarking / dis-embarking from cruise/passenger vessels to compensate for loss of revenue.

2.1. The MOPT had made the following points in its proposal:

(i). The Government of India has identified cruise tourism as a thrust area for ports on the west coast of India. The Mormugao Port is one of the three ports in the circuit. In pursuance to this, directives were issued to the ports by the Government of India to promote coastal and international tourism by providing adequate infrastructure facilities to cruise traffic.

(ii). It has only four operational berths, of which two berths are dedicated to handle liquid cargo and iron ore. Thus, only two berths are left to cater to the needs of the trade for handling other commodities like coal, coke, aluminum, fertilizers, containers and other general cargo including cruise vessels.

(iii). Keeping in mind the potential increase in cruise tourism at the port, it has as an interim measure, upgraded the support facility at berth no.10 by investing an amount of Rs.2.10 crores.

(iv). The statistics of cruise vessel handled and the total number of passengers in each of years 2004-05 to 2006-07 is given below:

Year	Cruise vessels handled	No. of passengers
2004-05	11	3074
2005-06	61	29279
2006-07 (upto February 2007)	60	34443

It expects to handle 70 such vessels with 40000 passengers should the same trend continue for the financial year 2006-07.

(v). The cruise traffic does not contribute towards the revenue of the port under the cargo handling activity compared to other cargo vessels as no cargo related charges are levied on cruise vessels. In addition to this, rebate of 50% in the existing port dues and 30% rebate in the existing berth hire/anchorage charges and pilotage charges are granted to cruise vessels to promote the cruise traffic at the port as per policy directives issued by the Ministry. In addition to this, 40% concession is also allowed to the coastal cruise vessels to boost the coastal trade. Thus, there is a substantial reduction in revenue on account of cruise vessels handled at the port.

(vi). As the number of passenger vessels calling the port is likely to increase, the prime concern for the port is to provide high level security by deploying additional security personnel, facilities to the passengers, etc. Further, since the passenger vessels enjoy priority berthing as per Port Regulations, the working vessels have to be shifted to give way for the passenger vessels, which affect the overall performance and revenue of the port. The port is not able to allocate those berths for handling general cargo and hence its throughput is badly effected resulting in loss of revenue.

(vii). The existing Scale of Rates (SOR) of MOPT does not prescribe any levy towards embarkation/disembarkation of passengers from cruise vessels.

(viii). In this backdrop, it had conveyed a meeting with the trade which was represented by M/s.J.M. Baxi and Company, M/s.Hiralal and Company, M/s.GAC Shipping, M/s.Atlantic Shipping, M/s.Devshi Bhanji Khona, on 14 November 2006 to discuss its proposal to levy tax on passenger which Mumbai Port is already levying since last 2 years. Some of the agents did not oppose to the proposed levy of tax on passenger in principle.

(ix). The tariff guidelines of March 2005 stipulates that when specific tariff for services/cargo is not available in the notified SOR, the port can submit a suitable proposal and simultaneously levy the proposed rates an ad hoc basis till the rate is finally notified by TAMP. It has, therefore, issued a circular to implement the proposed levy on an ad hoc basis with effect from 15 December 2006 in view of the consent obtained from the cruise vessel operators.

(x). However, some cruise lines objected to the quantum of tax saying the rates are a little high. It has, therefore, subsequently in consultation with cruise vessel operators proposed to reduce the levy from Rs.300/- per passenger for embarkation/disembarkation/transit passengers in case of coastal passenger vessels to Rs.250/- per passenger for embarkation and disembarkation and Rs.150/- per transit passenger. In case of foreign passenger vessels, it has reduced the rate from US$11 to US$8 per passenger for embarkation/disembarkation and US$ 6 per transit passenger.

(xi). To a query from one of the Board members whether the rates at Mumbai and Mormugao are the same, it was clarified that Mumbai rates are a little higher. But the principle was the same.

(xii). The passengers who embark and disembark pay a little more than the transit passenger, because those who embark and disembark use all the facilities of the port, terminal, the immigration, etc. The transit passenger just goes out and comes back and hence the charges proposed are a little less.

(xiii). It has confirmed that the operators do not have any objection on the revised proposed levy as they are required to partly compensate the loss of revenue which the port suffers because of reduction in handling cargo vessels. The proposed rates are arrived at after consultation with the cruise operators.

2.2. In view of the above, the MOPT has requested this Authority to approve the following rates towards embarkation, dis-embarkation and transit levy:

Sl. No.	**Particulars**	**Coastal passenger vessels (in Rs.)**	**Foreign passenger vessels (in US$)**
(i).	For embarkation	250/- per passenger	8/- per passenger
(ii).	For disembarkation	250/- per passenger	8/- per passenger
(iii).	For transit passenger	150/- per passenger	6/- per passenger

2.3. The MOPT has sought retrospective approval of the proposed rates with effect from 15 December 2006 i.e. from the date of implementation of the proposed rates on an ad hoc basis by the port.

2.4. The proposal is approved by the Board of Trustees of the port in its meeting held on 13 December 2006. The MOPT has forwarded a copy of the resolution passed by its Board of Trustees. The MOPT has also forwarded minutes of the meeting held with representatives of cruise vessels on 14 November 2006 giving consensus to the proposed levy.

3. In accordance with the consultative procedure prescribed, the MOPT proposal was forwarded to the concerned user organisations seeking their comments. The comments

received from users / user organisations were forwarded to MOPT as feedback information. The MOPT has furnished its comments on the comments of users/user organisations.

4. Based on a preliminary scrutiny of the proposal, the MOPT was requested to furnish additional information / clarifications on various points. The MOPT has furnished its reply. A summary of the queries raised by us and the reply furnished by MOPT is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Queries raised by us</th><th>Reply furnished by MOPT</th></tr>
<tr><td>(i).</td><td>Furnish a copy of the direction issued by the Government to the Port to encourage cruise vessels.</td><td>It has furnished a copy of the letter no.PR-14019/50/03-PG dated 25 July 2003 from the Government of India. The said letter states that in the meeting held on 29 December 2003 under the Chairmanship of Hon'ble Minister of Shipping, it was decided that vessel related charges may be reduced upto 50% which may be used as a marketing tool and appropriate decision may be taken by individual ports based on the study of cruise vessel that call at the respective ports.</td></tr>
<tr><td>(ii).</td><td>Explain the basis of arriving at the proposed rates.</td><td>No specific base is adopted for the proposed rates. The rates are proposed after discussions with the trade and for which they have agreed to. It is expected to contribute marginal income towards the additional facilities created for the cruise traffic.</td></tr>
<tr><td>(iii).</td><td>The reduction in the revenue due to the port not being in a position to handle cargo vessels due to occupancy of the berth by the passenger vessels may be furnished for the years 2006-07 to 2009-10.</td><td>(i). The reduction in revenue due to the port not being in a position to handle cargo vessels due to occupancy of the berth by the passenger vessels for the year 2006-07 to 2009-2010 is as below:
<table>
<tr><td>Traffic handled in 2005-06</td><td>791425 MT</td></tr>
<tr><td>Traffic handled in 2006-07</td><td>691404 MT</td></tr>
<tr><td>Decrease in traffic during 2006-07 over the previous year</td><td>100021 MT</td></tr>
<tr><td>Revenue reduction in terms of wharfage, vessel related income, CHLD levy, Rent on plot, etc.</td><td>Rs.153.57 lakhs.</td></tr>
</table>
It has furnished detailed computation in this regard.

(ii). Considering 8% growth in general traffic over the previous year, the reduction in revenue during the years 2007-08 to 2009-10 is estimated at Rs.165.86 lakhs, Rs.179.12 lakhs and Rs.193.45 lakhs respectively.</td></tr>
<tr><td>(iv).</td><td>The charges for embarkation / disembarkation of passenger is prescribed at Rs.150 per passenger in the Scale of Rates of Mumbai Port Trust as against Rs.250 proposed by the MOPT in case of coastal passenger vessels and US$ 8 per passenger for a foreign passenger vessel. In view of this, the statement made by the MOPT in the minutes of Board meeting to a query raised by one of the members that the rate prescribed at MBPT for this service is high in comparison to the proposed rates may not reflect the correct factual position.</td><td>No reply furnished.</td></tr>
</table>

(v).	Furnish the additional income likely to accrue at the proposed tariff level for the years 2007-08 to 2009-10.	It has furnished detailed computation of additional income likely to accrue at the proposed tariff level for the years 2007-08 to 2009-2010. A summary position is tabulated below:

(**Rs. in lakhs**)

Year	No. of vessels	Total coastal revenue	Total foreign revenue	Total revenue
2007-08	89	53.65	32.12	85.77
2008-09	94	56.67	34.12	90.79
2009-10	100	60.29	36.31	96.60
Total		**170.61**	**102.55**	**273.16**

5. A joint hearing in this case was held on 14 July 2008 at the MOPT premises. The MOPT made a power point presentation of its proposal. At the joint hearing, the MOPT and the concerned users / user associations have made their submissions.

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

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

(i). The existing Scale of Rates of the Mormugao Port Trust (MOPT) does not contain any provision to levy charges towards embarkation / disembarkation of passengers from cruise vessels.

In pursuance of a direction reportedly issued by the Ministry of Shipping, Government of India in July 2003 to all Major Ports to reduce the vessel related charges upto 50% to encourage cruise traffic, concession in the vessel related charges is being granted to cruise vessels arriving at the Mormugao Port at 50% in port dues, and 30% in pilotage fee and berth hire as per the existing Scale of Rates.

(ii). The port does not have an exclusive passenger terminal. At present, the passenger vessels are handled at general cargo berths where other commodities such as coal, coke aluminum and other general cargo are handled.

The statistical details furnished by the port show an increase in cruise traffic and the number of passengers embarked / disembarked at the port during the years 2004-05 to 2006-07. The proposal of the port to introduce embarkation / disembarkation charges from cruise vessel passengers is to partly compensate the loss of revenue to the port because of reduction in handling cargo vessels which has become necessary due to increase in cruise vessel traffic and the absence of a dedicated passenger terminal. The argument of the MOPT to compensate for the loss of revenue needs to be viewed from the angle of not requiring other commodities handled at the port to bear the cost of handling passenger traffic.

(iii). The MOPT has reported that capital expense of Rs.2.10 crores has been spent towards upgrading the support facility at berth No.10 to facilitate berthing of cruise vessels and to provide requisite amenities for embarking and disembarking of passengers. With the increasing trend of cruise vessel traffic, the loss of revenue to port by not being in the position to handle the core business of the port i.e. cargo vessels needs to be recognised besides providing an avenue to recover the investment reportedly made to cater to cruise traffic.

(iv). (a). The embarkation / disembarkation levy prescribed in the Scale of Rates of Mumbai Port Trust is Rs.150 per passenger. At Kandla Port, Rs.100 per passenger is collected under a different nomenclature. The port has clarified that cost based approach is not adopted to arrive at the proposed rate. It is stated to be based on the discussions with the trade.

(b). Most of the users consulted in this proceeding have not raised any major objections on the proposal of the port. The Goa Chamber of Commerce & Industry (GCCI) has pointed out that the meeting convened by the port was not attended by the cruise operator/ tour operator. The MOPT has stated that the proposed rate is based on discussion with the Cruise Lines and the minutes of the meeting with the trade forwarded by the MOPT indicate that it was attended by the representatives of Cruise Lines.

The another point made by the GCCI is to defer the proposal of MOPT till the Government announces cruise shipping policy for all the major ports. The request made by the GCCI is not found to be justified. If the policy to be announced by the Government warrants any review of the prevailing tariff structure, this Authority will undertake such exercise at the appropriate time.

(c). The port has reported that cargo traffic has dropped by 10021 metric tonnes in the year 2006-07 in comparison to the previous year 2005-06 traffic on account of the port not being in a position to handle cargo vessels in order to accommodate the cruise vessels. The consequent loss due to revenue forgone by the port is assessed at Rs.153.57 lakhs. For the years 2007-08 to 2009-10, the opportunity loss of revenue is estimated at Rs.165.86 lakhs, Rs.179.12 lakhs and Rs.193.45 lakhs applying 8% annual growth in the general traffic. At the proposed rate, the MOPT expects to earn around Rs.90.79 lakhs in the year 2008-09 and Rs.96.59 lakhs in the year 2009-10.

Recognising the investment reportedly done by the port to cater to the cruise traffic and also relying on the position reported by the MOPT that the proposed tariff would partly compensate for loss of revenue forgone, and also since the proposed rate is based on the discussion with the trade, this Authority approves the proposed tariff except for dollar denomination tariff which is explained in the subsequent paragraphs.

(v). The MOPT has proposed to levy dollar denominated rate i.e. US $ 8 for embarkation / dis-embarkation of passenger from foreign cruise vessel. As per the tariff guidelines of 2005, only the vessel related charges for foreign going vessels are to be denominated in dollar terms. Some of the container related tariff i.e. storage charge on containers are also denominated in dollar terms. The charges for embarkation / disembarkation of passengers do not qualify for prescription in dollar terms. The rate for embarkation and disembarkation of passenger from foreign vessels is prescribed in Rupee terms i.e. at Rs.387/- applying the exchange rate of 1US$ = Rs.48.43 prevailing at the time of deciding this case.

The port expects around 89.36% of the total passengers arriving at the port will be transit passengers based on the past trend of passenger traffic. It has proposed a concessional rate of US$ 6 for transit passengers since they would not be utilizing all the facilities. There is no such distinction in rates for transit passengers in the other major ports like the Mumbai Port Trust and Chennai Port Trust. Since the port has proposed a lower rate for transit passenger the same is approved. The rate is prescribed in rupee terms i.e. Rs.291/- per transit passenger.

(vi). As per the policy directions from the Ministry of Shipping Road Transport and Highways, concessional tariff is to be prescribed for coastal cargo / container in the relevant handling charge such that the rate do not exceed 60% of the rate prescribed for corresponding normal cargo/ container. The policy does not require ports to allow a mandatory concession in passenger tariff.

The MOPT has proposed concessional tariff for coastal passengers at Rs.250/- per passenger for embarkation / disembarkation and Rs.150/- for transit passenger. The proposed concessional rate on passengers embarking/ disembarking / transit passengers from coastal vessel is approved relying on the commercial consideration of the port to encourage coastal cruise traffic.

(vii). (a). The MOPT has sought approval of the proposed rates with retrospective effect from the date of implementation of the proposed rates by the port on an adhoc basis i.e. from 15 December 2006.

As per the tariff guidelines, a suitable proposal for the new tariff item / service has to be submitted to this Authority and simultaneously the port may levy the adhoc rate as an interim measure provided it is derived based on existing notified tariffs for comparable services/cargo; and, is mutually agreed upon by the concerned users.

In the instant case, the MOPT has levied the proposed tariff as an ad-hoc measure from 15 December 2006 based on the consensus obtained from the trade and subsequently filed its proposal in March 2007. The MOPT should have filed the proposal simultaneously while implementing the rates on adhoc basis to comply with the provisions in the guidelines instead of gap of around two months in filing the proposal.

(b). Clause 2.17.4. of the tariff guidelines of 2005 stipulates the interim rate adopted by the port in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively. The rate levied by the port is reportedly based on consensus with the relevant user group. The tariff proposed by the MOPT is approved except for prescribing rupee tariff instead of dollar denominated rate. This Authority, therefore, recognises and ratifies the tariff levied by the MOPT with retrospective effect from 15 December 2006 as per clause 2.17.4. of the tariff guidelines.

Since adjustment of billing in respect of the fees collected for passengers who have already embarked / disembarked from foreign vessel may be cumbersome, the dollar denominated tariff collected by the port from 15 December 2006 till the notification of this Order in the Gazette of India is ratified.

The rate approved in this Order will be reviewed along with the general review of the Scale of Rates of MOPT, which will fall due in March 2009.

8.1. In the result, and for the reasons, given above and based on a collective application of mind, this Authority approves the following schedule of rates for embarkation / disembarkation of passenger from cruise vessels; which will come into effect after expiry of 30 days from the date of notification of this Order in the Gazette of India:

		Ceiling Rate in Rs. per passenger	
Sl. No.	**Particulars**	**Coastal passenger vessels**	**Foreign passenger vessels**
(i).	For embarkation	Rs.250/-	Rs.387/-
(ii).	For disembarkation	Rs.250/-	Rs.387/-
(iii).	For transit passenger	Rs.150/-	Rs.291/-

8.2. The schedule of rates introduced by MOPT on adhoc basis with effect from 15 December 2006 is ratified.

(Brahm Dutt)
Chairman

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No.TAMP/17/2007 - MOPT - **Proposal from the Mormugao Port Trust for fixation of embarkation, dis-embarkation and transit levy on cruise/pax vessels to compensate loss of revenue**

1. The summary of comments received from the user / user organisations and comments of the Mormugao Port Trust (MOPT) thereon are tabulated below:

Sl. No.	Comments of user / user organisation	Comments of MOPT
1.	**Mormugao Ships' Agents' Association**	
	It agrees with the proposal submitted by the port. It has no comments to furnish.	No comments furnished.
2.	**Mormugao Port Users Association**	
	No comments to furnish.	
3.	**Goa Chamber of Commerce & Industry**	
(i).	To promote coastal and international tourism, the port should provide adequate infrastructure facility to cruise traffic. There is no dedicated berth at the port. The cruise vessels are catered at general/liquid cargo berth without providing requisite infrastructure facilities to cruise traffic.	(a). To provide some additional sophisticated facilities to the cruise traffic the existing facility was upgraded at berth no.10 by investing an amount of Rs.2.10 crores. It has handled on an average 10 vessels per month during the year 2006-07. (b). It cannot afford to build a dedicated berth for cruise traffic considering the huge cost involved for construction of new dedicated berth as compared to marginal revenue from cruise traffic. (c). Inspite of severe berth constraints, it has been accommodating the cruise vessels on priority in compliance with Government orders. It has only 4 operational berths, out of which one each is dedicated to liquid cargo and iron ore respectively. It is, thus, left with only 2 berths to cater to the needs of the trade for handling of other commodities like coal, coke, alumina, fertilizers, containers and other general cargo including cruise vessels. The economics brought out above is not encouraging from the point of the port. Inspite of that it proposes to provide good facilities for cruise traffic by having dedicated cruise terminal at Baina Bay, provided that the cruise traffic shoots up at the port, which would require substantial investment of about Rs.200 crores.
(ii).	Though no cargo related charges are levied on cruise vessels, cruise traffic does contribute towards the revenue of the port. The port levies 50% of the dues and 70% of the berth hire, pilotage and anchorage charges as prescribed in the Scale of Rates of the MOPT. Due to present cruise traffic, the port would have earned substantial revenue by way of vessel related charges and charges for ousting priority berthing, which has not been highlighted.	It is facing operational constraints on account of cruise traffic as priority berthing is always accorded to the cruise traffic. The cargo related charges are not levied on cruise vessels as it is not prescribed in the existing SOR. The details regarding cruise traffic handled at general cargo berth and reduction of revenue thereon is submitted to the TAMP. The reduction in the revenue on account of handling of cruise traffic works out to Rs.153.57 lakhs during the year 2006-07 as compared to 2005-06.

(iii).	Cruise vessels at Mumbai and Cochin are charged only 50% of berth hire, anchorage and pilotage as against 70% at Mormugao where infrastructure facilities in comparison are yet to fructify. The additional revenue by way 20% of berth hire / anchorage and pilotage charges has to be passed over to cruise traffic to be on par with the other ports.	The SOR at the port are based on the cost of services provided by the respective ports. It cannot be uniform for all the major ports. In addition to the rebate of 50% in port dues and 30% in pilotage, berth hire, anchorage charges to the cruise traffic, a further concession of 40% is also allowed to the coastal cruise traffic. Therefore, additional rebate to cruise traffic is not viable for the above reasons. It is noteworthy that out of the 84 cruise vessels handled during 2006-07, 67 were coastal vessels.
(iv).	The cruise shipping policy is under consideration of the Union Government to make India a major destination by popularizing cruise shipping, facilitating creation of requisite infrastructure and creation of a conducive environment for tourism at Mumbai, Mormugao and Cochin Ports. It has, therefore, requested to await the cruise shipping policy for uniformity of charges in cruise passenger landing ports. The proposed passenger levy without creating requisite infrastructure and conducive environment will be a disincentive for the potential increase in cruise tourism.	The proposed shipping policy as stated by Goa Chambers of Commerce and Industries (GCCI) shall not be made applicable to the MOPT. The rates proposed are based on the cost of services rendered to cruise traffic so as to recover the marginal cost. It has not introduced the passenger tax suo motu. The port users are already in agreement with the proposed levy on cruise traffic and it is a collective decision after prolonged deliberation with the users. In view of the above, the documents submitted by the GCCI are of general in nature without any convincing argument.

2. A joint hearing in this case was held on 14 July 2008 at the MOPT premises. The MOPT made a power point presentation of its proposal. At the joint hearing, MOPT and the concerned users / user associations have made the following submissions:

Mormugao Port Trust (MOPT)

(i). When passenger vessels are berthed, we have to forego the cargo handling revenue. Further, cruise vessels get concession in vessel related charges.

(ii). We have spent nearly Rs.2.35 crores on cruise terminal.

(iii). Many working vessels are to be shifted to accommodate passenger vessel.

(iv). Passenger fee is already approved in MBPT.

Goa Chamber of Commerce & Industry (GCCI)

(i). The port does not have dedicated terminal. The proposed levy may be deferred till such time the port creates an exclusive passenger terminal.

(ii). Passenger vessels have high GRT. The port, therefore, earns high vessel related charges.

(iii). The meeting convened by the Port to discuss the proposed levy was not attended by Cruise operators/Tour operators.

Mormugao Ships Agents' Association (MSAA)

(i). We agree with the proposal.

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