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Tariff Authority for Major Ports

G.No. 352

New Delhi,

19 October 2015

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the application filed by V.O. Chidambaranar Port Trust seeking clarification regarding levy of concessional charges for coastal cargo / container by passing a Common Adoption Order for Major Port Trusts and Private Terminal Operators thereat, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/53/2015-VOCPT

ORDER

(Passed on this 29th day of September, 2015)

The V.O. Chidambaranar Port Trust (VOCPT) vide its letter dated 7 July 2015 had sought clarification for application of Coastal cargo rate in Berth No.8 – Container Terminal operated by the Dakshin Bharat Gateway Terminal Pvt. Ltd.

2.1. The main points of the VOCPT letter dated 7 July 2015 are summarized below:

- (i). M/s.Relay Shipping Agency, Tuticorin informed the Port early in February, 2015 that M/s.Dakshin Bharat Gateway Terminal Pvt. Ltd. (DBGTPL), the Operator of Container Terminal at Berth No.8 at VOCPT has not applied Coastal tariff on Coastal containers handled at the 8th berth. DBGTPL has billed all the Coastal containers at foreign tariff.
- (ii). The matter was taken up with the DBGTPL. The DBGTPL has informed that as per Clause 1.2 (ii) (a) - General Terms & Conditions of Scale of Rates, **"a Foreign going vessel of Indian Flag, having a general trading license can convert to Coastal run on the basis of a Customs Conversion order"**. In the case of the vessels called at the Terminal under Relay Shipping Agency, the Customs conversion order has not been obtained and produced for every run for applying the Coastal rates. Hence, in the circumstances, suitable clarification may be sought for from TAMP.
- (iii). M/s.Relay Shipping Agency has furnished a copy of Circular No.15/2002 dated 25 February, 2002 issued by the Ministry of Finance, Department of Revenue, Central Board of Excise & Customs on the matter of carriage of Coastal cargo from one Indian Port to another Indian Port in Foreign going vessels. According to the said Circular, Indian Flag foreign going vessels operating in routes covering more than one Indian Port to a Port outside India and vice versa, shall be allowed to carry Coastal containers along with import/export cargo between two Indian Ports. Thus, the Indian Flag Foreign going vessel under M/s.Relay Shipping Agency called at the 8th berth at VOCPT. For the Coastal containers carried by the vessel and discharged at Tuticorin, the 8th Berth Operator has not applied the Coastal tariff, citing Clause 1.2 (ii) (a) of Scale of Rates and non-submission of Customs conversion order for Coastal run.
- (iv). The issue of non-application of Coastal rates with 40% concession on Coastal cargo by M/s.DBGT has been taken up by the Southern India Mills Association (SIMA) and Indian National Ship Owners' Association (INSA) with the Ministry of Shipping and the Director General (Shipping). The DG (Shipping) discussed the matter with Port Trust in a meeting taken by them with all concerned on 19.6.2015 at Mumbai. The DG (Shipping) desired the matter to be settled at the earliest and furnish a report to them so as to forward an action taken report to the Ministry on the same.

2.2. The port has, therefore, requested this Authority to clarify on the applicability or otherwise of Clause 1.2 (ii) (a) of General Terms and Conditions of the Scale of Rates in respect of 8th berth operated by DBGTPL, in so far as levying of Coastal tariff on Coastal cargo.

3.1. It is relevant here to mention that this Authority based on an opinion of DG (Shipping) vide its letter No.SD-9/CHRT(147)/97 dated 25 March 1998 had passed a common adoption Order No.TAMP/2/97-MPT dated 2 June 1998 prescribing the following system of classification for common adoption by all the Major Port Trusts:

- (i). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order.
- (ii). A foreign going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.

- (iii). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessels starts loading coastal goods.
- (iv). In cases of such conversion coastal rates shall be chargeable only till the vessel completes discharging operations; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
- (v). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

3.2. Subsequently, this Authority has also prescribed a common conditionality in scale of rates for all the Major Port Trust vide Order No.TAMP/65/2001-Gen dated 8 April 2002 for the purpose of levy of vessels related charges, which is as follows:

“The Status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as ‘coastal’ or ‘foreign-going’ for the purpose of levy of vessel-related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.”

3.3. The conditionalities as brought out above are uniformly prescribed in the Scale of Rates of all Major Port Trusts and many of the BOT operators. Since the matter referred by VOCPT flows from common adoption Order and the matter referred by VOCPT will have to be clarified for common and uniform application, all the Major Port Trusts, all relevant BOT operators including DBGTPPL, M/s.Relay Shipping Agency, Director General (Shipping) and relevant users were to be consulted. Accordingly, a copy of the VOCPT letter dated 7 July 2015 along with Order No.TAMP/2/97-MPT dated 2 June 1998 passed by this Authority was forwarded to all the concerned including additional users forwarded by VOCPT seeking their comments vide our letters dated 17 July 2015 and 5 August 2015.

3.4. The Major Port Trusts, relevant BOT operators and relevant users have made their submissions.

4.1. In the meanwhile, the D.G. (Shipping) convened a meeting on 24 July 2015 at its office to discuss movement of cargo through coastal vessels from Gujarat and Maharashtra to South India which was attended by Senior Officers of this Authority at the request of DG (Shipping). In the said meeting, a copy of the letter No.SD-9/CHRT(147)/97 dated 24 March 1998 addressed to the Ministry of Surface Transport on the criteria for determining whether vessel should be charged foreign going or coastal rates which formed the basis for the Order dated 2 June 1998 passed by this Authority and one of the criteria of 2 June 1998 order cited by the DBGTPPL was furnished to D.G. (Shipping). It was given to understand in the said meeting that D.G. (Shipping) will issue necessary clarification in the matter. The D.G. Shipping was, therefore, requested to expedite furnishing clarification in the matter vide our letter dated 4 August 2015.

4.2. As decided in the meeting held on 24 July 2015, the DG (Shipping) has issued clarification on the said matter vide its letter dated 13 August 2015. The DG (Shipping) in the said letter has stated that –

- (i). As directed by the Ministry of Shipping, meetings with the representative of SIMA, CITI, INSA (including M/s.Shreyas Shipping), VOCPT and TAMP were held on 19 June 2015, 24 July 2015 and 6 August 2015 to discuss the issues to be resolved for the cost effective transport of cotton through coastal shipping.
- (ii). During the meeting on 24 July 2015, on the issue of Terminal Handling Charges, the Member (Finance), TAMP brought to the notice of the members about an old DGS communication No.SD-9/Chart(147)/97 dated 24 March 1998 to the erstwhile Ministry of Surface Transport on the requirement of custom conversion of foreign going Indian vessels for availing of discounted Terminal Handling Charges (THC), when such ships are on coastal run. It is understood from the Member (Finance), TAMP that the guidelines *inter alia* contained in the aforementioned letter are followed as a basis for charging Terminal Handling Charges for Indian flag vessels at various major ports. As per the said letter, a foreign going Indian ship can avail of the discounted rates at the Major Ports only on the basis of customs conversion

order and such discounts are granted on the basis of a General Trading License (GTL) issued by the Directorate.

- (iii). In this regard, it is stated that the Indian flag vessels are issued with GTL indicating the area of operation as (i). Coastal (ii). Worldwide (foreign going) and (iii). Worldwide (foreign going) and coastal. In the last few years, Indian shipowners do not request for the 2nd category licenses, i.e. dedicated 'foreign going' and in general, most of the Indian ship owners are now issued with GTL indicating trade area as either 'coastal' or 'worldwide and coastal'.
- (iv). A foreign going Indian vessel will have to convert it into coastal at her first port of call in India and thereafter, no further custom conversion is required, so long as it moves on the Indian coast.

4.3. Under the circumstances, DG Shipping has requested this Authority to clarify that foreign going Indian ships having trading license issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Terminal Handling Charges (THC) for the domestic cargo/ containers. This is keeping in view that the THC is related to only the cargo the vessel carries, i.e. whether domestic or foreign.

5.1. In view of the urgency expressed by the VOCPT, an interim reply was given to the VOCPT vide our letter dated 20 August 2015 communicating the position conveyed by DG (Shipping), under intimation to DBGTPPL, SRSI and DG (Shipping).

5.2. Quoting our letter dated 20 August 2015 the D.G. (Shipping) vide its e-mail dated 16 September 2015 has stated the following:

- (i). VOCPT has informed vide its e-mail dated 10 September 2015 that the DBGTPPL has agreed to implement coastal tariff with immediate effect based on the clarifications received from TAMP. However, M/s.PSA SICAL, the operator of 7th Berth Container Terminal, has not yet implemented the coastal tariff since they are awaiting specific orders from TAMP.
- (ii). As understood from TAMP's letter dated 20 August 2015 addressed to the Chairman (VOCPT), TAMP was to issue a detailed common order for adoption of all Major Port Trusts on the subject matter after detailed examining of the matter on receipt of comments from all concerned. Keeping in view that the season for the cotton movement from Gujarat to South India might commence from October, the proposed general order may please be issued without further delay.

6. The VOCPT vide its letter dated 30 July 2015 has stated the matter requires early clarification so that both the Terminals located in V.O. Chidambaram Port, levy only the coastal rates on coastal cargo as per Policy of the Central Government.

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

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

- (i). This case arises out of an application made by the V.O. Chidambaram Port Trust (VOCPT) in the backdrop of a representation made by one of the shipping agents M/s.Relay Shipping Agency to the port stating that the BOT operator viz. Dakshin Bharat Gateway Terminal Pvt. Ltd. (DBGTPPL) operating the Container Terminal at the Berth No.8 at the VOCPT did not apply concessional tariff applicable for coastal cargo handled at the berth no.8 and instead levied the rate applicable for foreign cargo on the pretext that Customs conversion order has not been obtained and produced for every run for applying the Coastal cargo rates.

- (ii). As stated earlier, this Authority, based on the recommendation of the Director General (DG), Shipping vide their letter dated 25 March 1998, had passed an Order No.TAMP/2/97-MPT dated 2 June 1998 for common adoption prescribing classification of vessels as 'coastal' or 'foreign going' for tariff purposes. The system of classification prescribed are already listed under para 3.1. above and hence not repeated here for the sake of brevity.

As per the first criteria of the system of classification prescribed in the said Order, a foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. The second criteria stipulates that a foreign going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping. The other three criteria state about the applicability of coastal rates in case of such conversion.

It is with reference to the first criteria of the common adoption Order, the VOCPT has sought clarification. Reportedly, the DBGTPPL has not applied the coastal rates for coastal containers discharged at berth no.8 because M/s. Relay Shipping Agency did not produce the Customs Conversion Order on their every run for applying the coastal rates. Thus, the matter referred by the VOCPT is regarding levy of foreign going rates by DBGTPPL on the coastal containers instead of applying coastal rates for container handled at the terminal.

- (iii). It is relevant here to mention that the policy relating to coastal concession on handling of coastal cargo and container was introduced by the then Ministry of Shipping, Road Transport and Highways (MSRTH) vide its communication No.PR-14019/29/2001-PG dated 01 January 2005 as policy direction to the Authority under Section 111 of the MPT Act, 1963. The said coastal concession policy required prescription of concessional rates for coastal cargo/ containers/ vessels related charges at 60% of the foreign rate at all major port trusts and private operators authorized under section 42(3) of the Act. In compliance of a policy direction issued by the (then) MSRTH under section 111 of the Major Port Trusts Act, the Authority passed an Order on 7 January 2005 to amend the Scale of Rates of all the major port trusts and private terminal operators by inserting a set of general conditionalities. This Order was notified in the Gazette of India on 12 January 2005 under Gazette No.3. The said common Order while prescribing the conditions based on the policy direction of the (then) MSRTH relating to coastal concession for vessel/ cargo/ container at para 3(vii), also stipulated the following:

"Status of a vessel as borne out by its certification issued by Director General of Shipping is the relevant factor for deciding whether the vessel is 'foreign-going' or 'coastal'. Foreign going vessels permitted to undertake coastal voyages and the cargo/container carried by them will also qualify for the concession in respect of such permissible voyages."

From the above provision it is explicit that cargo/container carried by a foreign going vessels permitted to undertake coastal voyage will also qualify for concession in respect of such permissible voyages.

- (iv). The VOCPT in its communication has stated that M/s.Relay Shipping Agency has drawn reference to the Circular No.15/2002 dated 25 February 2002 issued by Ministry of Finance, Dept. of Revenue, Central Board of Excise and Customs (CBEC) in support of their claim for applicability of coastal rates. In this context, it is relevant to state that as per para 2 of said circular, the CBEC has decided to allow an Indian flag foreign going vessel operating in routes covering more than one Indian Port to a port outside India and vice versa to carry coastal containers along with imported/ exported cargo between two Indian ports. The procedure to be followed for allowing carriage of coastal containers along with imported/ exported cargo between two Indian ports by an Indian flag foreign going vessel is listed out at para 2(a) to 2(i) of the said Circular issued by the CBEC. The JNPT has stated

that general terms and conditions in Scale of Rates approved by the Authority mentions about "Customs Conversion Order". This is not covered under the procedure prescribed in the CBEC Circular. The JNPT has left it to this Authority to examine and suggested to include the procedures prescribed in the CBEC Circular dated 25 February 2002 in the existing SOR of Major Port Trusts and Private Terminal Operators.

As stated earlier, the said circular deals with the procedure to be followed by an Indian flag foreign going vessel for carriage of coastal cargo from one Indian Port to another port in foreign-going vessel. The procedure does not relate to application of Scale of Rates. As per Section 48 of the Major Port Trusts Act, 1963, the Authority is mandated to frame the Scale of Rates at which and statement of conditions under which any of the services specified under Section 48 shall be performed by a Major Port Trust or any other person authorized under Section 42 of the said Act. Hence, it is not found possible to include the procedures prescribed in the CBEC circular dated 25 February 2002 in the Scale of Rates of Major Port Trusts and BOT Operators thereat.

- (v). The core issue raised by the DBGTPL, as communicated to us by the VOCPT, for refusing to levy concessional rates for coastal containers is that the Custom Conversion Order has not been obtained and produced for every run for applying the coastal rates. While the VCTPL has stated that Customs Conversion Order is required for Indian Flag Foreign going vessels, none of the Major Port Trusts and the Chakiat Agencies Pvt. Ltd. have touched upon the core issue. The office of Commissioner of Customs has no comments to offer on the issue and the SRSI has stated that the DBGTPL should apply concessional rates for its shipments from one Indian Port to another Indian Port by completion of customs documentation.
- (vi). (a). The DG Shipping vide its letter number F.NO.SD 12/Misc (17)/14 dated 13 August 2015 after examining its earlier communication of 24 March 1998 to the (then) MOST, has clarified that:

a foreign going Indian vessel will have to convert it into coastal at her first port of call in India and thereafter, no further custom conversion is required, so long as it moves on the Indian coast. Under the circumstances, foreign going Indian ships having trading license issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) for the domestic cargo/ containers. This is keeping in view that the Handling Charges is related to only the cargo the vessel carries, i.e. whether domestic or foreign.
- (b). The above clarification is suitably incorporated. The existing note no.(iv) stipulates that in case of conversion of foreign going vessel into coastal vessel, coastal rates shall be chargeable only till the vessel completes discharging operations; immediately thereafter, foreign going rates shall be chargeable by the discharge ports. This provision if allowed to continue as such will not be in harmony with the clarification given by DG (Shipping). Therefore, the said condition is slightly modified to state that in case of conversion of foreign going vessel into coastal vessel, coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
- (vii). The clarification of the DG (Shipping) does not touch about coastal cargo / container carried by foreign going vessel of foreign flag which converts into coastal on the basis of Coastal Voyage License issued by the DG (Shipping). Indian Ship Owners do not request for license for dedicated foreign going; and, in general, most of the Indian Ships are now issued with General Trading License (GTL) either for "coastal" or "Worldwide & Coastal" as reported by the DG (Shipping). Since issue of license for dedicated foreign going vessel is not ruled out by DG (Shipping), the existing

provision that a foreign going vessel of Foreign Flag can convert to coastal run on the basis of a coastal voyage License issued by the Director General of Shipping may continue.

(viii). Section 51 of the Major Port Trusts Act, 1963 authorizes this Authority to prescribe a lower rate in respect of coastal goods other than import goods, as defined in the Customs Act, 1962 carried in a vessel from one Indian Port to another Indian Port. With reference to the clarifications sought by VOCPT, the MOPT has viewed that:

- (a). Any cargo originating from any Indian Port and destined for any other Indian Port should be treated as Coastal cargo irrespective of the Flag of the vessel carrying the cargo.
- (b). Any cargo originating from any Indian Port and destined for any Foreign Port should be treated as Foreign cargo irrespective of the Flag of the vessel carrying the cargo.
- (c). Any cargo originating from any Indian Port and unloaded at any other Indian Port as transit cargo destined for any Foreign Port should not be treated as Foreign going irrespective of the Flag of the vessel carrying the cargo.

The COPT has viewed that the applicability of coastal tariff for cargo/ containers has nothing to do with the status of the vessel. Taking cue from the views of the MOPT and COPT and Section 51 of the Major Port Trusts Act, 1963, the following provisions are prescribed in addition to the clarifications furnished by DG (Shipping):

- (a). Cargo/container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for Coastal cargo / container irrespective of whether a vessel is a foreign flag or Indian flag carrying the cargo.
- (b). Cargo / container loaded from any Indian Port and unloaded at any other Indian Port as transit cargo / container but is finally destined for any Foreign Port should be treated as Foreign cargo / container irrespective of whether the vessel carrying the cargo / container is foreign flag or Indian flag.

9. In view of the clarification issued by the Director General of Shipping, and bearing in mind that the existing conditions prescribed in the Scale of Rates of all the Major Port Trusts and the relevant BOT operators as regards conversion of Foreign going vessel into coastal run vide Order No.TAMP/4/97-MPT dated June 1998 based on the recommendation of DG (Shipping) and the conditions relating to coastal concession issued vide by the Authority vide Order No.TAMP/4/2004-Genl dated 7 January 2005 and subsequent amendment dated 15 March 2005 based on the Coastal concession policy issued by the then MSRTH are for the common adoption Order in view of ambiguity raised at the VOCPT, this Authority decides to modify the existing provisions prescribed in the Scale of Rates of all Major Port Trusts and Private Terminals operating thereat as given below:

A. System of classification of vessel for levy of Vessel Related Charges (VRC)

- (i). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.
- (ii). A foreign going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage Licence issued by the Director General of Shipping.

B. Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate

- (i). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
- (ii). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
- (iii). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

C. Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

- (i). Foreign going Indian vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage.
- (ii). Further,
 - (a). Cargo / container loaded from any Indian Port and destined for any other Indian Port should be levied the rate applicable for Coastal cargo / container irrespective of whether a vessel is a foreign flag or Indian flag carrying the cargo / container.
 - (b). Cargo / Container loaded from any Indian Port and unloaded at any other Indian Port as transit cargo / container but is finally destined for any Foreign Port should be treated as Foreign cargo / container irrespective of whether the vessel carrying the cargo / container is foreign flag or Indian flag.

10.1. All the Major Port Trusts are directed to amend their existing Scale of Rates accordingly by suitably incorporating the above provisions.

10.2. The Private Terminals operators in whose Scale of Rates the relevant conditions are prescribed are also directed to replace the existing conditions with the modified conditions prescribed above.

11. Recognizing that it is only modification to the existing provisions linked with levy of cargo related charges, the modified provisions shall come into effect immediately.

(T.S. Balasubramanian)
Member (Finance)

**SUMMARY OF THE COMMENTS RECEIVED FROM THE MAJOR PORT TRUSTS, RELEVANT
BOT OPERATORS AND RELEVANT USERS**

F. No.TAMP/53/2015-VOCPT - Clarification sought by V.O. Chidambaranar Port Trust for application of Coastal cargo rate in Dakshin Bharat Gateway Terminal Pvt. Ltd. (TPT) Berth No.8 – Container Terminal.

The submissions made by the Major Port Trusts, relevant BOT operators and relevant users are summarised below:

(i). Jawaharlal Nehru Port Trust (JNPT)

- (a). As per clause 1.2(ii)(a) – General terms and conditions of Scale of Rates of Chennai Port Trust notified vide Order No.TAMP/2/97-MPT dated 2 June 1998 “a foreign going vessel of Indian Flag, having general trading license can convert to coastal run on the basis of Customs Conversion Order”.
- (b). In the subject case, M/s.Relay Shipping Agency has not produced the Customs Conversion Order on their every run for applying the coastal rates.
- (c). The coastal rates have not been applied for the coastal containers discharged at VOCPT by the vessels operating under M/s.Relay Shipping Agency.
- (d). M/s.Relay Shipping Agency has relied upon the circular issued by Ministry of Finance, Dept. of Revenue, Central Board of Excise and Customs vide Circular No.15/2002 dated 25 February 2002 in this regard, according to which Indian Flag Foreign Going vessels operating in routes covering more than one Indian Port to a Port outside India and vice-a-versa shall be allowed to carry coastal containers along with the containers designated for foreign trade. This circular provides for a procedure for indicating the coastal trade which is enumerated below in brief:
 - (i). As per para 2(a) the Consigner of a coastal goods in container shall submit to the proper officer the Bill of coastal goods in the prescribed form. The proper officer if satisfied with the declaration filed may pass the Bill for coastal goods.
 - (ii). Para 2(b) of the circular mentions about containers containing coastal goods should be clearly painted with the words “For Coastal Carriage Only”.
 - (iii). Para 2(c) of the circular mentions that the Master of the vessel shall not permit the loading of coastal cargo containers unless the Bill of coastal goods duly passed along with the permission of the proper officer to load the container received by him. Master prepares Coastal Manifest thereafter.

- (iv). Para 2(d) of the circular mentions that before loading of such container, the Consigner or the Master of the vessel or his Agent is required to execute upon with the proper officer binding himself for the amount equivalent to the value of goods. This bond can be enforced if such coastal containers are not landed in India.
- (v). Para 2(e) of the circular mentions that the Customs Officer supervising the loading ensures that the particulars of the goods are entered in the advice book to be carried by the Master in respect of such coastal containers. The Master delivers the Bill of coastal goods to the Customs Officer at Port of Destination.
- (vi). Para 2(f) of the circular mentions that the Customs Officer at Destination Port verifies the advice book with the coastal containers unloaded at the Port.
- (vii). Para 2(g) of the circular mentions that Master of the Vessel may not be given permission for the departure of the vessel unless it is established that the coastal cargo intended for that Port had been discharged.
- (viii). Para 2(h) of the circular mentions that the reconciliation of coastal containers delivered with the Coastal Manifest and the entries in the advice book to be completed at the last Indian Port of call before the vessel leaves for Foreign Port and to be ensured that all charges and penalties due in respect of the vessels have been paid.

It appears from the above discussion that proper procedure has to be followed in case of coastal containers. It is likely that M/s.Relay Shipping Agency has followed this procedure in detail. However, clause 1.2(ii)(a) of the general terms and conditions of Scale of Rates of VOCPT mentions about "Customs Conversion Order" which is not covered under this procedure. But the Customs Conversion Order has been mandated in the general terms and conditions.

- (e). TAMP may take an appropriate view and amend the general terms and conditions of Scale of Rates to include the procedure elaborated in the Circular No.15/2002 dated 25 February 2002 issued by Central Board of Excise and Customs.

(ii). **Mormugao Port Trust**

- (a). Any cargo originating from any Indian Port and destined for any other Indian Port should be treated as Coastal cargo irrespective of the Flag of the vessel carrying the cargo.

- (b). Any cargo originating from any Indian Port and destined for any Foreign Port should be treated as Foreign cargo irrespective of the Flag of the vessel carrying the cargo.
- (c). Any cargo originating from any Indian Port and unloaded at any other Indian Port as transit cargo destined for any Foreign Port should be treated as Foreign cargo irrespective of the Flag of the vessel carrying the cargo.

(iii). **Chennai Port Trust**

Chennai Port is extending concession in vessel related charges and cargo related charges to coastal vessels/ coastal cargo as per the provisions of Scale of Rates. In respect of foreign going vessel of Indian Flag having a General Trading Licence converted to Coastal run, on the basis of Customs Conversion Order is being obtained as per clause 1.2(i) (a) and (b) of General Terms & Conditions of Scale of Rates. We have not received any representation/ grievance in this regard from the port users so far. It is further stated that in Chennai Port, the containers are handled by the BOT operators. Hence, Chennai Port has no other remarks to offer on the representation of VOCPT which relates to extension of coastal rates to containers.

(iv). **Mumbai Port Trust**

- (a). Para 2 of Circular dated 25.02.2002 issued by the Ministry of Finance (Department of Revenue) Central Board of Excise & Customs states that Board has decided that Indian flag foreign going vessels operating in routes covering more than one Indian port to a port outside India and vice-versa, shall be allowed to carry coastal containers along with import/ export cargo between two Indian Ports. Circular is silent about the conversion of foreign going vessel into coastal vessel or status of the vessel while carrying coastal containers.
- (b). Clause 1.2. General Terms and Conditions of the Scale of Rates based on common adoption order states as under:
 - (i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for its classification as 'coastal' or 'foreign-going' for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.
 - (ii). (a). A foreign going vessel of Indian flag having a General Trading Licence can convert to Coastal run on the basis of a Customs Conversion Order or on filing of Coastal International

General Manifest in Coastal Establishment
Section of Customs Department.

- (b). A foreign going vessel of Foreign Flag can convert to coastal run on the basis of a Coastal Voyage License issued by the Director General of Shipping.
 - (c). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessels starts loading coastal goods.
 - (d). In cases of such conversion, coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign-going rates shall be chargeable by the discharge ports.
- (iii). As per clause 1.2(i) above, status of the vessel is considered for levy of vessel related charges and container related charges. Whereas cargo related charges are recovered on the basis of destination port of cargo.

(v). **Visakhapatnam Port Trust**

In VPT, Container Terminal is being operating by BOT Operator and status of the vessel is decided based on the condition no.2 of approved Scale of Rates of Container Terminal.

(vi). **Cochin Port Trust (COPT)**

The COPT has not furnished any comments directly to us on the subject matter. However, the VOCPT vide its letter dated 30 July 2015 has informed that on the matter of application of coastal rate on coastal containers carried in an Indian flag foreign going vessel, the Cochin Port Trust (COPT) was asked to furnish the position. From their reply it could be seen that Cochin Port is charging coastal rates only. Whereas, for the coastal containers carried in the same foreign going Indian vessel calling at 7th berth operated by M/s.PSA SICAL in Tuticorin, foreign rates are levied. Hence, the problem raised by V.O. Chidambaranar Port exists in both the Terminals located in this Port i.e. M/s.DBGT and M/s.PSA SICAL. COPT has informed that the coastal rates alone are charged on coastal containers irrespective of the fact whether it is carried by a coastal vessel or a foreign going vessel of Indian flag. A copy of the reply received from COPT is furnished by VOCPT. The reply of COPT to VOCPT is summarized given below:

- (a). The TAMP Guidelines, 2004 and the Guidelines 2015, which replaced the 2004 Guidelines for Major Port Trusts, prescribe under 'Cargo Related Charges' that, ".... cargo/ container related charges for all coastal cargo/ containers, other than

Thermal Coal and POL including Crude Oil, Iron Ore and Iron Ore Pellets should not exceed 60% of the normal cargo/ container related charges” The applicability of coastal tariff for cargo/ containers has nothing to do with the status of the vessel, which is prescribed by the Guidelines under ‘Vessel Related Charges’ that, “Status of a vessel as borne out by its certification is the relevant factor to decide whether vessel is ‘foreign-going’ or ‘coastal’ for applicability of vessel related charges.

- (b). At Cochin Port, coastal containers carried by the foreign-going vessels are charged coastal tariff as per the TAMP Guidelines.

(vii). **Visakha Container Terminal Pvt. Ltd.**

- (a). For applying coastal rates by the Terminal, Customs Conversion Order is required for the Indian foreign going vessel. This is as per the Scale of Rates.
- (b). It is not clear whether the Consignor declared the goods loaded in the container as coastal goods and the Bill of Coastal Goods (BCG) certified by Customs filed in respect of these goods. It is also not clear whether the copy of the BCG with acknowledgment from the Chief Officer of the vessel was submitted to the terminal establishing it as coastal movement. It is also not clear whether these goods were levied coastal rates at the load port.
- (c). Prima facie, DBGTT seems justified in levying foreign rates on these containers.

(viii). **Shreyas Relay System Ltd.**

We are engaged in carriage of coastal cargo in containers from one Indian port to another Indian Port by completion of customs documentation (Bill of Coastal Goods) on the vessel categorised as coastal or foreign-going with an Indian flag. The Terminal should apply the coastal container handling charges mentioned in their scale of rates for these shipments.

(ix). **M/s.Chakiat Agencies Pvt. Ltd.**

- (a). As per the tariff approved by TAMP for the terminal operator, there is a separate Terminal Handling Charge (THC) for international cargo & coastal cargo in containers. There is no specific clause that coastal THC would be applicable only if the coastal containers arrive in coastal vessel.
- (b). As a carrier's agent, we file Import General Manifest with Customs at Tuticorin which contains all the details including the Port of Loading & a soft copy is provided to the terminal operator prior to vessel berthing at Tuticorin. From the Import

General Manifest, the terminal can clearly establish which containers are international import and which are coastal import. On the other hand, for export, Port of discharge is declared to the terminal for processing Equipment interchange receipt. In addition, we can provide the bill of coastal goods filed with Customs to establish that the specific container is offloaded at the port of discharge as coastal container only & not for transshipping it for an international destination.

- (c). Hence, terminal should charge coastal tariff for coastal containers & international tariff for international containers handled at their terminal irrespective of whether the containers are carried in an International vessel or coastal vessel. As per DG Shipping permission, Indian flagged foreign going vessel can carry coastal containers along with International containers.
- (d). The coastal cargo tariff (which is about 40% lesser than the foreign tariff) has to be applied for coastal containers even if it is carried by Indian flagged foreign vessels not only by Dakshin Bharat Gateway Terminal (TPT) Berth 8 but also by Tuticorin Container Terminals operated by M/s.PSA SICAL Terminals Pvt. Ltd. at berth 7.

TAMP's directive in this regard to the concerned terminals would be a boon to the coastal trade at Tuticorin Port which is currently paying International THC for coastal cargo just because its being carried by non-coastal vessels.

(x). **Commissioner of Customs, Tuticorin**

- (a). The conversion of vessel from foreign run to coastal run and vice-versa is carried out as per the rules and regulations laid down in Customs and Allied Acts. Order No.TAMP/2/97-MPT dated 02.06.1998 passed by the Tariff Authority for Major Ports is self-explanatory and lays down the guidelines for the tariff for coastal vessel.
- (b). The tariff and the other charges are based on the agreement between the terminal operator and port trust concerned. Customs is nowhere influencing the agreement or terms or conditions made between the concerned parties. Hence, no comments are offered in this regard by the department.
