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Tariff Authority for Major Ports

G. No. : 121

New Delhi, 13July, 2004

NOTIFICATION

In exercise of the powers conferred by Sections 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Mormugao Port Trust (MOPT) for revision in the Efficiency Linked Tariff (ELT) Scheme as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/63 /2003-MOPT

The Mormugao Port Trust

Applicant

ORDER

(Passed on this 22nd day of June 2004)

1. This case relates to a proposal received from the Mormugao Port Trust (MOPT) for revision in the Efficiency Linked Tariff (ELT) Scheme.

2.1. The ELT scheme was last revised by this Authority vide its Order dated 31 August 2000. The existing revised ELT scheme prescribes payment of supplementary charge of 40% of the normal berth hire charges / anchorage charges for pre berthing detention period on the vessels which turnaround in a lesser time than the norm / cut off time. Likewise, a rebate of 40% is also prescribed if the vessel exceeds the norms. The formula for determining the cut off limit, i.e. the norm for any vessel has also been stipulated. Of the various conditions governing the ELT scheme, one of the provisions relevant in this case is as follows:

“The turnaround time for the purpose of this scheme will commence from the time of entry of vessel in the Port (i.e. the time a vessel anchors on arrival at the reporting station in the Port) and close at the time of departure from the berth on completion of cargo operations. “

2.2. It may be relevant to mention that the request of the MOPT in 2001 for a review of the existing ELT Scheme on the grounds that the port has to forgo its incentive for reasons not attributable to it but, due to delay in aggregating of cargo by shippers was rejected by this Authority for reasons stated in the Order. As regards delay in aggregating of cargo by the Shipper, this Authority in its Order dated 20 September 2001 had observed the following:

“The possible delay in aggregating cargo by the shipper can be tackled by the port operationally. The Port can admit only such vessels to enter the Port, which have adequate cargo for loading at the stack yard, as certified to that effect by the concerned shippers. Further, the existing provision in the Scale of Rates of the MOPT about levying penal berth hire charges for unauthorized occupation of berth beyond the stipulated time period can also be suitably amended to cover the instances of vessels idling at berth for want of sufficient cargo for loading. It is noteworthy that a similar provision exists in the SOR of the JNPT to discourage idling of vessels at the berths.

The MOPT is advised to examine the suggestions made and to come up with an appropriate proposal if any amendment to the existing conditionalities in the Scale of Rates is to be made. It will be useful for the MOPT to consult its users while formulating such a proposal. It is, however, relevant to mention that the period of idling of the vessels at berths for want of cargo will continue to be accounted for while measuring the actual performance under the ELT Scheme since such delays have been reckoned while prescribing the cut-off limit.”

3.1. Subsequently, it has been reported that, the MOPT issued circulars to the Trade in the year 2002 conveying that turnaround time for the purpose of ELT Scheme would be reckoned from the time of availability of adequate cargo i.e. 90% of the parcel size in the stack yard and ready for shipment on the basis of stock declared by the concerned exporter.

3.2. With reference to these Circulars, the Goa Mineral Ore Exporters' Association (GMOEA) and Mormugao Ships' Agents Association (MSAA) have submitted representations alleging that the MOPT has changed the method of computation of actual turnaround time without approval of the TAMP and, therefore, requested the TAMP to issue necessary directions to the MOPT for withdrawal of these Circulars with retrospective effect.

3.3. The MOPT in response has clarified that the modifications in the method of computation of the turnaround time is done as per TAMP guidelines and with due intimation to all concerned. It has not made any amendment to the existing conditionalities under the ELT Scheme and hence the representations of GMOEA and MSAA do not merit consideration.

4. In this backdrop, the MOPT has submitted a proposal for revision in the ELT Scheme. Some of the main points made by the MOPT in the proposal are as follows:

- (i). Since ELT Scheme aims at measuring efficiency of the port trust, any inefficiency on the part of the users should not have any adverse effect on the revenue of the port.
- (ii). As per the TAMP Order, the MOPT is admitting only such vessels to enter the port trust which have adequate cargo (i.e. 90%) for loading at the stack yard. This works well for port as well as the users and may be allowed to continue.
- (iii). The existing supplementary berth hire charges and the rebate prescribed at 40% of berth hire/anchorage fee appears to be on a higher side and may be fixed in graded slabs say 10%, 20% and 40%.

5.1. The proposal was registered as a tariff case and usual consultative process was initiated. A copy each of the comments received from the various representative bodies of port users were forwarded to the MOPT as feedback information. No response is received from the MOPT in this regard.

5.2. A joint hearing in this case was held on 16 January 2004 at the MOPT premises in Goa. At the joint hearing, the port and the users have made their submissions.

5.3. Some of the main objections of the users with reference to this proposal are as follows:

- (i). Introduction of 90% cargo requirement has already been made by port. It is not a proposal. They have done so without TAMP's approval. By introducing 90% theory, MOPT has on its own amended TAMP definition of "turnaround time". If that be so, why they now request TAMP's approval to continue?
- (ii). Benchmark data and actuals should be comparable. 90% condition was not there in the benchmark figures. If 90% is applicable for actuals, benchmark should be adjusted accordingly.
- (iii). The pre-berthing detention portion should be removed from the cut off limit for making the ELT Scheme applicable.
- (iv). TAMP has in fact advised MOPT to submit proposal for change in conditionalities and also require port to consult users. Nothing has been done by port in this regard.
- (v). Slab system proposed for premium / penalty is, prima facie, acceptable. But, this needs to be analysed further and discussed with users.

6.1. It was decided at the joint hearing that, the MOPT would form a Joint Committee of Mormugao Port Trust (MOPT) and Goa Mineral Ore Exporters' Association (GMOEA) to evaluate the ELT Scheme with reference to past data and make suitable suggestions within 3 months for modification/ improvements in the existing scheme. With reference to the requirement of maintaining 90% cargo at the stack-yard, the MOPT was advised to analyse the figures relating the last five years, which form the cut off limit now, to identify the cases in the past not satisfying the newly introduced condition and to forward an agreed proposal within a month in consultation with GMOEA and MSAA. If no agreement is reached, the users may convey their individual views.

6.2. In response, the MOPT has stated that a Joint Committee of MOPT and GMOEA was formed to evaluate the ELT Scheme and so far three meetings of the Joint Committee have been held and the relevant data on the ELT Scheme as requested by the GMOEA have already been furnished to them. In the joint meeting held on 13 April 2004, it was decided that an agreed proposal for revision of ELT Scheme would be submitted to the TAMP within a period of two months; and till then the status quo would be continued. We have not received any separate views from the users in this regard.

7.1. Since the port has agreed to submit a revised agreed proposal based on the decision taken in the Joint Committee meeting, no useful purpose will be served by pursuing the earlier proposal of MOPT in hand any further. Hence the case is closed as withdrawn.

7.2. In view of the above position, no detail analysis of the proposal is found essential at this stage. It is, however, relevant to deal with one of the main objections raised by the users about introduction of the condition relating to availability of 90% of the parcel size at the stack yard by the port without the approval of this Authority. This Authority in its Order dated 20 September 2001 has already advised the port to operationally tackle the issue about delay in aggregating cargo by the shippers. In the said Order, it has been categorically held that the port may admit only such vessels to enter the port, which have adequate cargo for loading at the stack yard. Since the MOPT has found that availability of 90% of parcel size at stackyard will serve the intended purpose, no further approval of this Authority to this effect is considered necessary. It is, however, relevant that while introducing this condition affecting the actual performance, a corresponding change should also have been made in computing benchmark level which has not been allowed by the MOPT. The objection of the users in this regard is, therefore, found to have force. In any case since the MOPT has now agreed to maintain status quo, it is not necessary to dwell on this issue further and the ELT scheme as prescribed by this Authority in the existing Scale of Rates will continue to be in operation.

8. In the result, and for the reason given above, and based on a collective application of mind, this Authority decides to treat this case as withdrawn and therefore is closed. The ELT scheme as prescribed by this Authority in the Scale of Rates approved vide Order dated 27 August 2002 is allowed to continue. The revised agreed proposal, when received from the MOPT, will be considered afresh following the usual consultation procedure adopted.

(**A.L. Bongirwar**)
Chairman