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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 71

New Delhi, 31 March, 2004

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 of the proposal of the Mormugao Port Trust for rationalisation of rent on plots for storage of merchandise as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
No. TAMP/56/2003-MOPT

The Mormugao Port Trust

Applicant

ORDER

(Passed on this 15th day of March 2004)

This case relates to a proposal received from the Mormugao Port Trust (MOPT) for rationalisation of rent on plots for storage of merchandise.

- 2.1. The MOPT has made the following points in support of its proposal:
- (i). As per the existing Scale of Rates (Part-III, Section A), penal rent is charged for storage of merchandise from 61 to 120 days, from 121 to 180 days and beyond 180 days @ 30%, 50% and 100% of the normal rate respectively.
 - (ii). At Berth Nos. 10 and 11, Coal, Coke and Limestone are handled in bulk and the importers use the open storage area as temporary godown for storing these cargoes. Since the clearing of these dirty cargoes is very slow (in most of the cases beyond 60 days) which causes dust pollution in the city of Vasco, it is seriously viewed by the Civil Authorities as well as by the State Government. Therefore, to compel the importers to clear this dirty cargo quickly, it is proposed to introduce a telescopic rate for storage of cargo viz. Coal, Limestone and steel scrap in open plots at Mormugao Harbour, Headland slopes, Baina and land beyond Mormugao Municipal limits.
 - (iii). Proposed rationalisation of rates is to discourage the users to keep the cargo beyond the reasonable time and force them to clear the same expeditiously.
 - (iv). The existing vis-à-vis proposed clause is given below for reference:

Existing			Proposed		
Sl. No.	Description	Rate per 10 Sq.m or part thereof for a period of 10 days or part thereof (in Rs.)	Sl. No.	Description	Rate per 10 Sq.m. or part thereof for a period of 10 days or part thereof (in Rs.)
1.	Rent on plots for storing merchandise		1.	Rent on plots for storing coal, coke, lime stone, steel scraps at mormugao harbour Vasco (excluding Baina), Vasco bay foreshore continuous to Vasco Bay, land adjacent thereto at general wharf level	upto 20 th day- 84.00 (normal rate) 21 st to 30 th day- 150% of normal rate Beyond 30 days- 200% of normal rate
(i).	At Mormugao harbour Vasco (excluding Baina), Vasco bay foreshore continuous to Vasco Bay, land adjacent thereto at general wharf level	84.00			
(ii)	At Mormugao, Headland slopes and Baina	58.67	2.	Rent on plots for other cargo except bauxite at mormugao harbour Vasco (excluding Baina), Vasco bay foreshore continuous to Vasco Bay, land adjacent thereto at general wharf level	upto 30 th day- 84.00 (normal rate) 31 st to 45 th day - 150% of normal rate Beyond 45 days- 200% of normal rate
(iii)	For land beyond Mormugao Municipal limits	14.67			

Existing			Proposed		
Sl. No.	Description	Rate per 10 Sq.m or part thereof for a period of 10 days or part thereof (in Rs.)	Sl. No.	Description	Rate per 10 Sq.m. or part thereof for a period of 10 days or part thereof (in Rs.)
2.	Penal rent for storage of merchandise of excess of 60 days (rounded of to the nearest rupee) in addition to normal rent as above.	The rent for the period of six months calculated at twice the rate indicated under item I,II,III above, in addition to normal rent shall be levied	3(i)	Rent on plots for storing merchandise at Mormugao, Headland slopes and Baina.	upto 30 th day- (normal rate) 59.00
					31 st to 60 th day- of normal rate 130%
			61 st to 90 th day - of normal rare 150%		
			Beyond 90 days- of normal rate 200%		
-61 st day to 120 days -121 st day to 180 days -Beyond 180 days	30% of the rates 50% of the rates 100% of the rates.		(ii)	Rent on plots for storing merchandise for land beyond Mormugao Municipal limits	upto to 30 th day- (normal rate) 15.00
					31 st to 60 th day- of normal rate 130%
					61 st to 90 th day- of normal rare 150%
					Beyond 90 days- of normal rate 200%

2.2. The proposal was approved by the Board of Trustees of the MOPT in its meeting held on 30 June 2003.

2.3. In this backdrop, the MOPT has requested the Authority to approve its proposal for rationalisation of rent on plots for storage of merchandise.

3.1. In accordance with the consultative procedure adopted, the MOPT proposal was forwarded to concerned user organizations for their comments.

3.2. A copy each of the comments received from the users was forwarded to the MOPT for comments / information. In response, the MOPT has furnished its observations.

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

4.2. As agreed in the joint hearing, the MOPT was requested to furnish the details sought vide our letter dated 31 Oct 2003; and, a detailed note on the reasons for accumulation of cargo at stack-yard along with relevant details of unloading rate at berth, evacuation facilities available, truck / rake loading rates, etc.

4.3. The Jindal Vijayanagar Steel Limited was advised to furnish the financial implications of the existing rates vs. the MOPT proposed rates as well as the rates proposed by them; and, a self-contained note on the progress of development of berths 5A/6A by Jindal Vijayanagar Steel Limited on BOOT basis.

5. The MOPT has furnished the additional information/clarifications, which are summarised below:

- (i). Revenue earned during the last three years from the activity "rental on storage of merchandise" is as under:

Year	Amount (Rs. in lakhs)
2000-2001	222.73
2001-2002	351.50
2002-2003	382.40

- (ii). (a). The dwell time (occupancy period) in respect of commodity viz. coal & coke, limestone and steel scrap and the storage period cargo-wise for the years 2001-2002, 2002-2003 and also from April to December 2003 is as follows:

Particulars	Quantity (in tonnes)		
	2001-02	2002-03	2003-04 (April - December)
Coal/coke			
-upto 20 days	817058	1049033	358576
-21-30 days	235680	230088	252329
-beyond 30 days	972151	1053798	786950
Limestone			
-upto 20 days	32377	Nil	Nil
-21-30 days	Nil	Nil	Nil
-beyond 30 days	148392	123897	101375
Scrap			
-upto 20 days	Nil	Nil	Nil
-21-30 days	13200	Nil	Nil
-beyond 30 days	29299	20592	Nil
Export cargo-HR Coils			
-upto 30 days	31110	232902	71115
-31-45 days	3101	17442	29801
-beyond 45 days	14218	11587	15051

- (b). During these periods, open plots were not occupied for storing merchandise at Headland slopes, Baina and beyond Mormugao Municipal Limit.
- (iii). The rent on open plot for storing bauxite is Rs.31.50 per 10M² or part thereof per calendar month or part thereof.
- (iv). The port provides rail facilities to handle minimum 3 wagon rakes per day. Also there is road connectivity for moving about 2000 T of cargo per day, which is considered quite adequate to ensure fastest dispatch of cargo. It is further stated that the consigners / consignees have to make their own arrangement of wagons / trucks for transporting the cargo from open plots and clear the plots thereby reducing the dust pollution.
- (v). Open storage plots facility of 56000 Sq. mtrs. was developed by asphaltting the area behind Berth No.11 by December 2000. Subsequently, by end December 2002 an area of 10000 sq. mtrs. was developed at extreme end of Berth No.11 Vasco bay. However, this area is now (from July 2003 onwards) not being used for storage of dirty cargo due to dust nuisance which was causing environmental pollution in the thickly populated area. The open area of 13332

sq. mtrs. behind Berth No.- 5 and 7, which was initially available for storage of general cargo is now not available for storage, as the rail yard is being developed at this location to give rail connectivity to Berth No. 5A & 6A, which are being re-constructed.

- (vi). The details of volume of coal / coke discharged vis-à-vis handled at open storage plots for past two years and also during the current year are as below:

(in lakh tonnes)

Year	Coal/coke discharged	Coal/coke handled at open plot
2000-2001	27.25	20.91
2001-2002	25.17	21.78
2002-2003	17.28	14.69

- (vii). The discharge rate for coal / coke vis-à-vis dispatch by rail / road for the period September 2003 to December 2003 as against corresponding period of 2002-2003 is also submitted.
- (viii). The stock of coal/coke on open plots has reduced from 153243 tonnes and 141702 tonnes during November 2002 and December 2002 to 43597 tonnes and 45872 tonnes during November 2003 and December 2003 respectively. This indicates that this dirty cargo is being cleared faster during the current year 2003-2004 as compared to the last year.

5.3. The Jindal Vijayanagar Steel Limited vide its letter dated 3 February 2004 furnished a statement giving details of plot vacation and financial implications of the existing rates vis-à-vis the MOPT proposed rates to show that an average increase of 66% is to be borne by the importer if the rationalisation proposed by the MOPT is effected. A status report (dated 11 February 2004) on development of berths 5A and 6A at Mormugao Harbour, Goa on BOOT basis by South West Port Limited was also submitted which shows the following schedule of commencement of operations:

(i)	Berths can accept gearless panama vessels with draft restrictions up to 14m. and cargo will be discharged on wharf using shore based mobile harbour cranes and shifted to stack area near rail line by dumpers thereafter for vessel cargo operations.	End May 2004
(ii)	Cargo will be discharged by Mobile Harbour crane and Conveying systems through An intermediate chute/drop Point.	End August 2004
(iii)	Complete mechanized cargo handling operations with two stackers cum reclaimers and wagon loaders would commence.	January 2005

The type of cargoes planned to handle at these berths are Coal/coke/Limestone/Iron ore Pallets/Steel Products.

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 are also available at our website www.tariffauthority.org.

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

- (i). Even though the MOPT has called its proposal as a rate rationalization exercise, it, in fact, is a proposal for an upward increase in the rent for storage of cargo beyond a particular duration of stay. Inducing speedy clearance of cargo and containing dust pollution are the stated objectives with which this

proposal has been raised. This Authority fully shares the concern of the port on these two issues. It is noteworthy that this Authority had earlier fixed charges for dust suppression at the coal berths of MOPT in recognition of the accepted principle of 'polluters to pay'. In the instant case, it is, however, not very clear whether the intended purposes would be served by merely increasing the charges.

- (ii). The statistical details furnished by the MOPT show that coal/coke form major share of the traffic in this category. As pointed out by the Port, 70% of the traffic is cleared from the port through rail. The argument of the major users about lack of evacuation facilities merits consideration. Even though the port may not be responsible for arranging all evacuation facilities, it cannot wish away the ground reality position. In this situation, even if the storage rental is increased, it is not clear whether it will really induce speedy clearance of cargo. The reply given by the port to a question posed in this regard does not frontally address the issue.
- (iii). The Jindal Vijayanagar Steel Limited, major importer of coal/coke through MOPT, has furnished a comparative analysis of rates to show that the proposed 'rationalisation' will mean a 66% increase over the existing level. In the absence of adequate evacuation facilities the cargo may be compelled to stay at the port premises but only it will have to pay more, if the proposal is implemented. Significantly, the port has categorically mentioned that it is not a proposal to raise its revenue. On the contrary, if traffic diversion takes place due to high charges the port may only stand to lose the present level of revenue.
- (iv). The arguments of the port about containing pollution are not clear. Admittedly, the level of air pollution has direct co-relation with the quantity of dusty cargo handled. It may not significantly vary with the duration of stay of these commodities at the port premises. Since coal/coke are shown to be regular traffic at the port, there will be a continuous movement of these commodities in and out of port's storage area and the limiting factor is the yard capacity. One possible way of containing dust pollution from these commodities is to reduce, if operationally possible, the earmarked area for storage. In the absence of any concrete evidence available on record to show that the users are deliberately using port's premises as permanent stack yard, the proposed tariff revision cannot be resorted to without attempting other administrative measures.
- (v). While furnishing the required statistical details, the port has conceded that clearance of dusty cargo is faster in the current year when compared to previous years. Further, coal/coke will move shortly to new berth being developed under BOOT arrangement. The BOOT operator Jindal Vijayanagar Steel Limited has indicated that its operation will commence in phases from May 2004 which is not very far away from now. The issue before us can be conveniently reviewed after stabilization of operations at the BOOT berths and based the experience gained from any other suitable administrative measures to be introduced by the MOPT to address the issues raised by it. It is, therefore, not found appropriate at this juncture to approve the proposed rationalization in the tariff.

8. In the result, and for the reasons given above, and based on a collective application of mind this Authority rejects the proposal of the MOPT for rationalisation of rent on plots for storage of merchandise.

(A.L. Bongirwar)
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/56/2003-MOPT - Proposal from the Mormugao Port Trust for rationalisation of rent on plots for storage of merchandise.

1. The comments received from the port users / representative bodies of port users are summarised below:

M/s. Jindal Vijayanagar Steel Limited (JVSL)

- (i). Clearance of storage plot depends on the availability of the railway wagons which is always poor. Further, smaller importers block storage space in the port, adversely affecting their discharge and, movement of cargo within the port. Hence the proposal of the MOPT is unduly harsh on the major user.
- (ii). They have suggested the following rate structure for storage of Coal, Coke, Limestone and scrap:
 - (a). If total import of the above commodities in the previous year by the importer is 1.0 million tonne and more, then applicable storage charges will be Rs.84/- per 10 sq.m. or part thereof for a period of 10 days or part thereof up to 50th day and, beyond 50 days, 125% of normal rate of Rs.84/- will be applicable.
 - (b). If total import of the above commodities in the previous year by the importer is more than 0.5 million tonnes but less than 1.0 million tonne, then applicable storage charges will be Rs.84/- per 10 sq. m. or part thereof for a period of 10 days or part thereof up to 30th day and, 31st day to 50th day, 125% of the normal rate of Rs.84/- and, beyond 50 days 150% of normal rate of Rs.84/- will be applicable.
 - (c). If total import of the above commodities in the previous year by the importer is less than 0.5 million tonnes then applicable storage rates will be as proposed by the MOPT.

M/s.V.S. Dempo & Company Private Limited (VSDCPL)

- (i). Rent for open plots for storage of merchandise was increased by 100% in the last revision in September 2002. The penal rent also got automatically revised by 100% in respect of the cargo stored on open plots beyond 60 days, which is already twice the normal rate.

- (ii). On account of increase in the number of importers at the Mormugao Port especially of coal and coke, during the last few years, the availability of trucks/wagons got distributed thereby taking more time for clearance of cargo by each importer.
- (iii). On account of multiple handling of cargo for clearance by rail/road, lot of cargo is lost. The importers are losing heavily on this account in addition to the increased cost of handling.
- (iv). It is gathered that Berths 5A and 6A are likely to be ready within few months for handling mostly coal/coke imports. Hence, congestion and requirements of open plots of spaces at Berths 10 and 11 will be reduced considerably.
- (v). The Traffic Department of the MOPT can closely monitor dispatches of cargo by each importer to ensure that the same is cleared from Berths 10 and 11 as fast as possible for few more months.
- (vi). The existing schedule of rates for rents on open plots including the penal rent charged at twice the normal rate beyond 60 days for storing merchandise may be maintained without any interim changes. In case the situation does not improve even after commissioning of Berth 5A and 6A, a suitable proposal may be taken up during the next revision of Schedule of rates of the Mormugao Port.

M/s. Usha Ispat Limited (UIL)

- (i) The last rate rationalization/revision was done 3 years back and rates were almost doubled. The MOPT may justify the rate rationalization as the plot rent for bulk cargoes is uniform.
- (ii) It is requested to take appropriate decision considering the burden the industries carry, and bring down the existing rates to encourage more business to port.

2. The MOPT has responded to the comments furnished by the user organisations, which are summarised below:

On the comments of the Jindal Vijayanagar Steel Limited (JVSL)

- (i). (a). To handle increasing import traffic of general cargo from the Port, open and closed storage facilities are provided by the Port. As covered storage facility was not found suitable for handling the dirty cargo, open storage plot facility of 50000 sq. meters is developed behind the general cargo berths.
- (b). The allotment of the open plot to the consignor/consignee is made on vessel to vessel basis and considering the

mode of dispatch i.e. by rail or by road, to facilitate speedy evacuation of cargo. However, it is observed that there is no balance between the receipt of cargo by vessels at the Port and the dispatch of cargo from the port by rail and/or by road, thereby resulting in the open plots remaining uncleared and blocked for longer time.

- (c). During the years 2001-2002 and 2002-2003 the general cargo traffic handled by port was 3.47 million tonnes and 3.36 million tonnes respectively; and, the share of the JVSL in the general cargo traffic was 63% and 59% respectively.
 - (d). 70% of the General Cargo is being dispatched by the rail and the balance by road from the port. As regards the contention about non-availability of railway wagons, it is stated that Railways deploy dedicated rakes in Goa Sector based on the traffic projections made by the indenter. It is, however, noticed that there has been no consistency in the demand made by the JVSL for railway wagons; and, it varies every month depending upon the input of Coal/Coke. Had there been an adequate/regular demand for wagons, Railways would have provided the dedicated rakes to the JVSL.
- (ii). The comments of the MOPT on specific issues raised by the JVSL are summarised below:
- (a). During the year 2001-2002 and 2002-2003, railway traffic has increased to 2.5 million tonnes from 1.64 million tonnes in the year 2000-2001; and, the rail borne traffic handled by the JVSL for the past 3 years is 2.03 million tonnes, 2.22 million tonnes and 1.53 million tonnes respectively. Railways can provide rakes on regular and continuous basis provided adequate and regular demands for the wagon are raised and the import traffic of JVSL is consistent in all the months of the year.
 - (b). Turnaround of storage plot depends upon the type and size of the cargo and the mode of despatch and it is comparatively faster where the despatch of cargo is by rail. There is also tendency to utilize the open storage plot at the port as storage yard due to inadequate stack space at the cargo receiver's end. In order to obviate such malpractice and deter the importer / organization from blocking the open storage plot, it is proposed to rationalise the plot rent.
 - (c). The rate structure proposed by the JVSL seems to give differential treatment to different classes of port users

based on their performance in the previous year, which is not practicable and therefore not acceptable. It may not be possible to fix the rent at different slabs based on the traffic handled by users, importers in the previous year. The port as an organization has to take into account the overall interest of all concerned. Moreover, irrespective of the cargo volume handled and the space occupied by the users, the port needs the cargo to be cleared by them expeditiously.

- (d). Proposed rationalisation is mainly to discourage over-stayal of dirty cargo viz. Coal/Coke and scrap and using the port storage place as a godown. In most of the cases, the storage of Coal/Coke is beyond 60 days which results in heavy stacking of coal in high heaps in the open storage area. The coal dust from the high heads spreads beyond the security wall and in the nearby areas of Vasco city. This has been viewed very seriously by the Civil Authorities/ State Government which had resulted in the stoppage of handling of coal/ coke for some time, as ordered by the State Government.
- (e). The above proposal has been approved by the Board unanimously giving the due importance it deserves and this is an issue on which the civil administration and the general public are equally apprehensive.
- (f). In view of the above, it is requested that the approval of the TAMP for the rationalisation of the rates proposed may kindly be obtained and communicated at the earliest.

On the comments of M/s. V.S.Dempo & Co. Pvt. Ltd.(Stevedores & handling agents for M/s. Aparent Iron & Steel P. Ltd.)

- (i). In addition to reiterating the above comments, the MOPT has with regard to the contention about reduction in the dust pollution if handling of this dirty cargo is shifted to Berth No.5A and 6A after its operation, stated that if cargo handling activities are shifted away from the Vasco city to Berths No. 5A and 6A, the dust pollution will be reduced to a certain extent as far as Vasco citizens are concerned, however, the problems that the Port is facing due to dust pollution will enhance if these dirty cargoes are not cleared at the earliest.

3. A joint hearing in this case was held on 16 January 2004 at the MOPT premises in Goa. At the joint hearing the following submissions were made:

The Mormugao Port Trust (MOPT)

- (i). Clearance of dusty cargo is found to be very slow. This causes pollution which is objected by civil authorities and State Government.
- (ii). In the past, we had been forced to suspend coal operation due to excessive pollution.
- (iii). Our aim is not to increase revenue but to force expeditious clearance of dusty cargo.
- (iv). We pour water to contain pollution. Still, it cannot fully contain dust.
- (v). State Pollution Monitoring Committee says stack height should not go beyond 6 mts. and stock should be minimum in the yard.
- (vi). Storage area is allotted ship-wise. Only spill over quantity of a ship beyond the cut off limit only pays penal rent.

M/s. Jindal Vijayanagar Steel Limited (JVSL)

- (i). Evacuation depends on road/rail network. We do not get required rail rakes.
- (ii). The increase proposed is very steep.
- (iii). New berths 5A & 6A for coal will be commissioned by us by April 2004. Cargo shift from the present berths to New facility will be completed by November 2004.

M/s. Aparent Iron & Steel Private Limited (AICPL)

- (i). Drastic reduction in the normal rate period is proposed.
- (ii). Because of port introducing penal rent, physical availability of trucks and wagons will not go up.
- (iii). This can be taken up at the time of next general revision.
