

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

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 151

New Delhi, 27September, 2003

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby amends the Scale of Rates of the Mumbai Port Trust relating to levy of wharfage on the cargo in the same bottom containers as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/40/2003-MBPT

The Mumbai Port Trust

Applicant

ORDER

(Passed on this 10th day of September 2003)

This case relates to a proposal received from the Mumbai Port Trust (MBPT) for amendment to its Scale of Rates for substitution of the provision governing levy of wharfage on the cargo in the same bottom containers.

2. The MBPT has stated that sometimes containers destined for ports other than Mumbai are discharged and loaded again on-board the same vessel due to compulsion or for stability of the vessel while at berth. These containers are not de-stuffed at the port.

3. Presently, the MBPT is levying following charges in respect of the same bottom containers:

- (i). Wharfage on the containers at US \$ 9.5 for 20' container and US \$ 14.5 on containers over 20' and
- (ii). Consolidated wharfage on cargo in the containers at Rs.2,400/- for containers upto 20' and Rs.4,800/- for containers over 20'.

4. The MBPT has now proposed to do away with the levy of wharfage on the cargo in the same bottom containers and highlighted the following points in favour of the proposal:

- (i). There is no specific provision for levy of wharfage on cargo in the same bottom containers. However, the wharfage is levied as per General Note (ii) below Section-V treating transhipment and same bottom containers at par with import containers.
- (ii). Users object to levy of wharfage on the cargo in the same bottom containers and contend that there is no provision in the Scale of Rates for levy of such wharfage.
- (iii). There is ambiguity in the provisions.
- (iv). The number of such containers are very small.
- (v). The MBPT has already accorded remission of the wharfage on the cargo in the same bottom containers from 1 April 2001 by exercising the powers available under Section 53 of the MPT Act, 1963.

5. The specific proposal of the MBPT is to suitably amend the existing Clause (1) of sub-section (G) of Section-V of its Scale of Rates. The existing clause and the proposed amendment to the existing clause are tabulated below:

Existing	Proposed
<u>Clause (1) sub-section (G) of Section-V</u> Wharfage and demurrage shall be payable on import containerised cargo, excepting those destined to ICD and the FCLs cleared through Private CFS in terms of note (9) to sub-section D above as applicable under Sections I and II. On transhipment cargo in containers a consolidated wharfage at the rate of Rs.2400 for a container having length upto 20 feet and Rs.4800 for a container having length over 20 feet shall be payable but no demurrage shall be levied hereon.	<u>Clause (1) sub-section (G) of Section-V</u> Wharfage and demurrage shall be payable on import containerised cargo, excepting those destined to ICD and the FCLs cleared through Private CFS in terms of note (9) to sub-section D above as applicable under Sections I and II. On transhipment cargo in containers a consolidated wharfage at the rate of Rs.2400 for a container having length upto 20 feet and Rs.4800 for a container having length over 20 feet shall be payable but no demurrage shall be levied hereon. No wharfage on cargo inside the same bottom containers shall be levied.

6. The proposal of the MBPT has been examined with reference to the existing Scale of Rates and the following position emerges:

- (i). The proposal of the MBPT is not to introduce any new rate which will have financial implication on the users. The proposal is only to amend the conditionality governing the rate and remove ambiguity in its application in respect of levy of wharfage on the cargo in the same bottom containers.
- (ii). As brought out earlier, the MBPT is collecting wharfage on same bottom containers as well as the cargo inside such containers. When the containers, destined for other ports, are discharged at the MBPT Docks and reloaded on board the same vessel for reasons whatsoever, the port does not render any service to the cargo inside the containers as those containers do not get de-stuffed at the Docks. It is noticed that the port is not levying wharfage on the said cargo since 1 April 2001. Therefore, the proposed amendment is not going to cause any new financial burden to the port. The proposed amendment is only to make a permanent tariff arrangement in the Scale of Rates instead of taking recourse under Section 53 of the MPT Act. For this reason, the usual consultation procedure is not followed in this case.
- (iii). Though the port has proposed to do away with the levy of wharfage on the cargo in the same bottom containers, it has not proposed any amendment to the said General Note (ii) which specifies that transhipment and same bottom containers shall be treated on par with import containers. The port has clarified that General Note (ii) below Section-V needs to be retained for recovery of storage fees / wharfage on same bottom containers and not cargo.

7. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves substitution of the existing Clause (1) of sub-section (G) of Section-V of the Dock Scale of Rates of the Mumbai Port Trust by the following provision:

“Wharfage and demurrage shall be payable on import containerised cargo, excepting those destined to ICD and the FCLs cleared through Private CFS in terms of note (9) to sub-section D above as applicable under Sections I and II. On transhipment cargo in containers a consolidated wharfage at the rate of Rs.2400 for a container having length upto 20 feet and Rs.4800 for a container having length over 20 feet shall be payable but no demurrage shall be levied thereon. No wharfage on cargo inside the same bottom containers shall be levied.”

(A.L. Bongirwar)
Chairman