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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 70

New Delhi, 31 March, 2004

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Tuticorin Port Trust for fixation of anchorage fee for stay of vessel at anchorage as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
No. TAMP/80/2003-TPT

Tuticorin Port Trust

Applicant

ORDER

(Passed on this 15th day of March 2004)

This case relates to a proposal received from the Tuticorin Port Trust (TPT) for fixation of anchorage fees for stay of vessels at anchorage.

- 2.1. The main points made by the TPT in the proposal are as follows:
- (i). The existing Scale of Rates does not prescribe any rate for stay of vessel at the anchorage though there are instances that vessels stay inside the basin within the port limits without occupying any of the berth or jetties, handle cargo at anchorage or any area within the port limit through barges, etc.
 - (ii). In this backdrop, it has proposed to fix anchorage fees for vessels' stay anchorage. It has clarified that the instant proposal is not with a view to generate additional income but, to discourage ships from remaining at anchorage for long periods.
 - (iii). Anchorage fee prescribed in the neighbouring ports of Chennai and Visakhapatnam has been compared to arrive at the proposed rate.
- 2.2. The proposal to levy anchorage fee was initially placed before the Board of Trustees of the TPT on 9 June 2003. Since some of the members of the Board representing Tuticorin Steamer Agents Association had raised objection, the Board resolved to review the proposal. Subsequently, the same proposal was approved by the Board of Trustees of the TPT on 22 October 2003, subject to certain modifications in the conditionalities.
- 2.3. The proposed anchorage fee is linked to the berth hire charge. Anchorage fee is proposed to be exempted in case a vessel stays at anchorage due to non-availability of berths, vessel stays for less than 24 hours after pilot disembarking and vessel engaged in transshipment which sail out after completion of operation within the specified time period. Apart from these, a few more exemptions are granted for vessels coming from or sailing to Maldives or Colombo.
- 2.4. In this backdrop, the TPT has requested to insert the following provisions as Schedule 2.7. – Anchorage fees in its Scale of Rates:

The following charges shall be levied as anchorage fee for stay of vessel (ship or steamer, sailing vessel, tugs, launches or other marine crafts) in the port waters within the notified port limits:

Sr. No.	Particulars	Rate applicable.
(i).	<i>For stay of vessel in any area inside the harbour basin but without occupying any of the berths / jetties either individually or by means of double banking</i>	<i>Half of the berth hire charges as applicable as per Schedule 2.4.1 and 2.4.2. of the Scale of Rates.</i>
(ii).	<i>For stay of vessel in any area outside the harbour basin and within the notified Port Limits of Tuticorin Port Trust.</i>	<i>One fourth of the berth hire charges as applicable as per Schedule 2.4.1 and 2.4.2 of the Scale of Rates.</i>
	<i>The applicable berth hire charges shall be with the element of rebate applicable to non-provision of wharf crane in berths as per note (4) below Schedule 2.4.2.</i>	

Exemptions

The above anchorage fees shall not be levied in respect of the following vessels:

(i). *For vessels from/to Maldives*

For vessels coming from or sailing to Maldives for loading/discharging of cargo, no anchorage charges would be levied.

(ii). *For vessels from/to Colombo*

For vessels coming from or sailing to Colombo, anchorage charges would accrue for stay beyond 48 hrs. at the anchorage. The exemptions available are as follows:

- (a). *Vessels which use anchorage for not more than 48 hours from the time of arrival of the vessel and if it is more than 48 hours, it is due to non-availability of berths / jetties.*
- (b). *Vessels which after having loaded/unloaded cargoes in any of the berths / jetties in the Port stay in Port Waters for not more than 48 hours after pilot disembarked from the vessel on completion of the pilotage act.*
- (c). *Vessel which handle cargoes in the Port through transshipment or through barges in mid stream and which sail out of the Port limits within 48 hours of completion of the said handling.*

(iii). *For other Vessels*

- (a). *Vessels which use anchorage for not more than 24 hours from the time of arrival of the vessel and if it is more than 24 hours, it is due to non-availability of berths/ jetties.*
- (b). *Vessels which after having loaded/unloaded cargoes in any of the berths / jetties in the Port stay in Port Waters for not more than 24 hours after pilot disembarked from the vessel on completion of the pilotage act.*
- (c). *Vessels which handle cargoes in the Port through transshipment or through barges in mid stream and which sail out of the Port limits within 24 hours of completion of the said handling.*

3.1. In accordance with the consultative procedure prescribed, the proposal of the TPT was forwarded to the concerned user organisations for their comments.

3.2. A copy of the comments received from the users were forwarded to the TPT as feedback information/ comments. In response, the TPT has furnished its comments.

4. A joint hearing in this case was held on 19 February 2004 at the TPT premises. At the joint hearing, the TPT and the port users have made their submissions.

5. 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

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

- (i). The existing Scale of Rates of TPT does not provide for levy of anchorage fees. The proposal is, therefore, for introduction of a new charge at the TPT. This charge may be new at TPT but the practice of charging vessels for stay at anchorages falling within port limits is not new at many other Indian ports. This fee had been earlier specifically approved at other major ports. That being so, this Authority is inclined to approve the proposal of the TPT for introduction of an anchorage fee.
- (ii). Users have challenged the proposed fee for a primary reason that the port does not provide any services to vessels at anchorages. While direct services for any vessel operations may not be provided by port at anchorage points, it is necessary to view the issue from the angle of port's responsibility as conservator which undoubtedly extends to the whole area within the notified port limits including the anchorage points falling therein. The port's arguments about its responsibility for security at anchorage points as required by ISPS code deserves to be admitted. And, the port's concern about discouraging cluttering of anchorage points cannot be dismissed lightly. Ports cannot be a free parking space for vessels. If vessels choose to stay at anchorage, they have to pay. Besides, the revenue from the proposed fee, as pointed out by the TPT, will only go to offset part of the expenditure incurred on port conservancy which means the other relevant main tariff items may bear the burden to a lesser extent, however, small may be the quantum. The principle of 'user pays' must be borne in mind.
- (iii). The anchorage fees prescribed for various anchorage points at the Mumbai Port Trust and at the Mormugao Port Trust are separate GRT based rates. The TPT in the instant proposal has, however, linked the proposed anchorage fee with berth hire charge. It has proposed 50% of the applicable berth hire for stay of vessels inside the harbour but without occupying any of the berths/jetties and 25% of the applicable berth hire for stay of vessel outside the harbour basin but within the notified port limits. The port has drawn reference to anchorage fee prescribed at the Chennai Port Trust (CHPT) and the Visakhapatnam Port Trust (VPT) in support of its proposal. In this context, it may be stated that anchorage fee is prescribed at 50% and 25% of the berth hire at the CHPT since it was an agreed proposal with the port and the users as reported by the CHPT. As correctly pointed out by the Shipping Corporation of India (SCI) and Tuticorin Steamer Agent's Association (TSAA), the position in this regard at all major ports should be taken into account instead of basing the decision only on the rates existing at the CHPT. The anchorage fee proposed by the TPT, however, is found to be high in comparison to the anchorage fee at some of the major ports which varies between the 10% to 20% of the berth hire at the Visakhapatnam Port Trust for general cargo vessels upto 20 days to 25% of the berth hire at Kolkata Port Trust. In view of the position obtaining at the other major ports, this Authority is inclined to prescribe anchorage fee at the TPT at 25% of the berth hire for stay of vessel inside the harbour and 10% of the applicable berth hire for stay of vessel outside the harbour basin but within the notified port limits. This will only be an interim arrangement. The TPT is advised to propose separate GRT based rates with reference to the location of the anchorage, depth available thereat, etc., without linking it with berth hire charges at the time of the next general revision of its Scale of Rates.
- (iv). The port has proposed to exempt levy of anchorage fee for vessel's stay at anchorage due to non-availability of berths/ jetties, stay of vessel for less than 24 hours after pilot has disembarked and in case of vessels engaged in transshipment operation which sail out within 24 hours on completion of operation. The port has proposed to exempt the vessels coming from or

sailing to Maldives for loading/ discharging cargo from levy of anchorage fee and the vessels coming from and sailing to Colombo are relaxed for stay upto 48 hours. These exemptions are proposed based on the commercial judgement of the port and since no users have raised any objection to the exemptions proposed by the port, this Authority has no reservation to approve the proposal.

- (v). The Tuticorin Steamer Agent's Association (TSAA) has highlighted a difficulty of Steamer Agents in accounting for this payment to port in the case of vessels, stay at anchorage during the outward movement. As correctly pointed out by the port, the proposed charge is not a unique feature to be introduced at TPT for first time in India. This fee is already levied at many other ports. In any case, the issue raised is not relevant for the port but is to be settled between the vessel agent and his principal.

7.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the following insertion in the existing Scale of Rates of the TPT:

Schedule 2.7. – Anchorage fees in Chapter II – Vessel Related Charges:

“The following charges shall be levied as anchorage fee for stay of vessel (ship or steamer, sailing vessel, tugs, launches or other marine crafts) in the port waters within the notified port limits:.

Sr. No.	Particulars	Ceiling Rates.
(i).	<i>For stay of vessel in any area inside the harbour basin but without occupying any of the berths / jetties either individually or by means of double banking</i>	<i>25% of the berth hire charges as applicable as per Schedule 2.4.1 and 2.4.2. of the Scale of Rates.</i>
(ii).	<i>For stay of vessel in any area outside the harbour basin and within the notified Port Limits of Tuticorin Port Trust.</i>	<i>10% of the berth hire charges as applicable as per Schedule 2.4.1 and 2.4.2 of the Scale of Rates.</i>
	<i>The applicable berth hire charges shall be with the element of rebate applicable to non-provision of wharf crane in berths as per note (4) below Schedule 2.4.2.</i>	

Exemptions

The above anchorage fees shall not be levied in respect of the following vessels:

- (i). *For vessels from/to Maldives*

For vessels coming from or sailing to Maldives for loading/discharging of cargo, no anchorage charges would be levied.

- (ii). *For vessels from/to Colombo*

For vessels coming from or sailing to Colombo, anchorage charges would accrue for stay beyond 48 hrs. at the anchorage. The exemptions available are as follows:

- (a). *Vessels which use anchorage for not more than 48 hours from the time of arrival of the vessel and if it is more than 48 hours, it is due to non-availability of berths/jetties.*

- (b). *Vessels which after having loaded/unloaded cargoes in any of the berths/ jetties in the Port stay in Port Waters for not more than 48 hours after pilot disembarked from the vessel on completion of the pilotage act.*
 - (c). *Vessel which handle cargoes in the Port through transshipment or through barges in mid stream and which sail out of the Port limits within 48 hours of completion of the said handling.*
- (iii). For other Vessels
- (a). *Vessels which use anchorage for not more than 24 hours from the time of arrival of the vessel and if it is more than 24 hours, it is due to non-availability of berths / jetties.*
 - (b). *Vessels which after having loaded/unloaded cargoes in any of the berths/ jetties in the Port stay in Port Waters for not more than 24 hours after pilot disembarked from the vessel on completion of the pilotage act.*
 - (c). *Vessels which handle cargoes in the Port through transshipment or through barges in mid stream and which sail out of the Port limits within 24 hours of completion of the said handling.”*

7.2. The rate will be the ceiling level and the exemptions allowed will be the floor levels in line with the general policy decision already taken.

7.3. The amendment to the Scale of Rates will become effective after expiry of 30 days from the date of notification of the Order in the Gazette of India.

(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/80/2003-TPT - Proposal from the Tuticorin Port Trust for fixation of anchorage fees for vessel stay at anchorage.

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

The Tuticorin Steamer Agent's Association (TSAA)

- (i). The existing rates prescribed at the TPT are exorbitant. Imposition of new charge will only have an adverse impact of driving away the traffic from the Tuticorin port.
- (ii). There is no proper justification for introducing the new levy. The port does not incur any expenditure nor does it provide any service to vessels for their stay at outer roads at anchorage.
- (iii). There may not be any financial gain to the port from the instant proposal, as the port is not facing any congestion of vessels waiting at anchorage.
- (iv). The port has conveniently made the comparison with the rates existing at the Chennai port and the Visakhapatnam port. In this context, it is stated that no uniformity prevails in the services offered by the port and the rates adopted differ from port to port. While introducing a rate or contemplating an increase, comparison should be made with all the major ports which are common in nature.
- (iv). The proposal of the TPT may not be accepted.

The Shipping Corporation of India Limited (SCI)

The anchorage fees at the Chennai and the Visakhapatnam port are too high and similar rates cannot be justified at the Tuticorin port. The existing anchorage fee at Mumbai, Cochin and New Mangalore ports are very reasonable. It is, therefore, requested to consider the existing anchorage fees at all the Indian ports while fixing the anchorage fees at Tuticorin port.

Indian Chamber of Commerce & Industry (ICCI)

It has reiterated the views of the Tuticorin Steamer Agent's Association about high marine charges at the TPT in comparison to the rates

prevailing in other major ports of India. It has, therefore, suggested not to fix any anchorage fee.

1.2. The CSLA has not furnished any specific comments but has only informed that the proposal has been circulated to its member for their comments.

2. In response, the TPT has furnished its comments which are summarised below:

- (i). The proposal is to levy anchorage fees for stay of vessel at the harbour without occupying harbour basin, berth, jetty or anchorage, subject to exemptions in specified circumstances. Further, vessels coming from or sailing to Maldives/ Colombo are exempted from levy of anchorage fee for some additional period of stay at anchorage. Since the basic vessel related charges are not proposed to be increased, the contention of the TSAA that the proposed charge would diminish attraction of vessels towards the Tuticorin Port cannot be accepted.
- (ii). With reference to the observation made by the TSAA that the port has not come up with a proper justification for introducing the proposed levy, it has clarified that the port has to ensure safety and security of vessels anchored within the port limits. Rs. 70 lakhs is to be invested by July 2004 for implementation of ISPS code. Further, it also incurs operational and maintenance cost on patrolling launches and providing security to the vessel at anchorage.
- (iii). The proposed levy will partially defray the expenditure incurred by the port on the vessels stay at harbour basin without occupying berth or anchorage. The intention is neither to gain monetarily nor to ease the congestion. It is aimed to deter the vessel from staying at the anchorage and to reduce the turn around time of the ship.
- (iv). The reference to the rates prescribed at the CHPT and the VPT are only for information. The instant proposal is specifically made for Tuticorin port. The contention of the Association to compare the rate prescribed for similar services at all the major ports is not possible as the cost of rendering the service and topography of individual ports are not similar.

3. A joint hearing in this case was held on 19 February 2004 at the TPT premises. At the joint hearing, following submission were made:

Tuticorin Port Trust

- (i). This charge is levied at many other major ports.

- (ii). This is not a revenue source. We do not want our anchorages to be cluttered with vessels.
- (iii). With the implementation of ISPS code, we are responsible even for the vessels at anchorages.
- (iv). We have proposed some relaxation in case of vessels from Maldives and Colombo.
- (v). We are not the first port introducing Anchorage fees. Agents can check up the arrangement in other ports and accordingly enter into contract with their Principals.
- (vi). Anchorage within port limits only will come under the ambit of this levy.

Tuticorin Steamer Agents' Association

- (i). When a vessel gets port clearance and thereafter waits at anchorage, vessel agents responsibility should be clarified for payment of anchorage fees. Agents do not have control over this charge in these cases.
- (ii). This levy can be introduced only after full implementation of ISPS code.

Tuticorin Stevedores Association

- (i). Port provides no service at anchorages. Why should they levy a charge?