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Tariff Authority for Major Ports

G No.209

New Delhi

22 October 2007

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 approves the proposal received from the Tuticorin Port Trust (TPT) for fixation of rent for use of Port's Marshalling Yard as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/38/2006 – TPT

Tuticorin Port Trust

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Applicant

ORDER

(Passed on this 12th day of October 2007)

This case relates to a proposal dated 4 August 2006 received from the Tuticorin Port Trust (TPT) for fixation of rent for use of marshalling yard of the port.

2.1. The TPT has made the following main points in its proposal:

- (i). Marshalling Yard in the Tuticorin Port is a vital operational area where handling of rail borne traffic take place to/from wagons.
- (ii). The area at marshalling yard is spared to port users for value addition activities like bagging, standardisation, etc., prior to transportation to destination/exports through the port. No separate rates are, however, prescribed in the existing Scale of Rates of the port for use of port's marshalling yard.
- (iii). In this backdrop, it is proposed to fix the rent for usage of port's marshalling yard based on the discussions held with port users on 07 July 2006. This will encourage the use of the existing facilities and also act as an incentive for more export and import through the port.

2.2. Accordingly, the TPT has proposed to insert the following rates and conditions under Chapter III, Cargo Related Charges in its existing Scale of Rates:

“License (Storage) Fee for Marshalling Yard

Sl. No.	Particulars	Unit	Rate in Rs.
A.	Covered Space		
1.	First slab of 3 days or part thereof	per 10 sq. mtrs.	100.00
2.	Second slab of 3 days or part thereof	per 10 sq. mtrs.	150.00
3.	Third slab of 3 days or part thereof	per 10 sq. mtrs.	200.00
4.	Fourth slab of 3 days or part thereof	per 10 sq. mtrs.	250.00
5.	Fifth slab of 3 days or part thereof	per 10 sq. mtrs.	300.00
6.	Thereafter for every subsequent slab of 3 days or part thereof	per 10 sq. mtrs.	350.00
B.	Open Space Available 9600 Sq. Mtrs.		
1.	First slab of 3 days or part thereof	per sq. mtr.	1.00
2.	Second slab of 3 days or part thereof	per sq. mtr.	1.50
3.	Third slab of 3 days or part thereof	per sq. mtr.	2.00
4.	Fourth slab of 3 days or part thereof	per sq. mtr.	2.50
5.	Fifth slab of 3 days or part thereof	per sq. mtr.	3.00
6.	Thereafter for every subsequent slab of 3 days or part thereof	per sq. mtr.	3.50

Notes:

- (i). The above rates are applicable for both export and import of cargo.
- (ii). Only rail borne cargo is entitled for this facility.
- (iii). Ships at berths will avail priority.
- (iv). The above rates are for bagging activities only.
- (v). Allotment will initially be for first 3 days only and renewable for subsequent slabs.
- (vi). Rail borne bulk cargo without bagging or any other value addition activities will be entitled to 24 hours of free period from the time of storage admission/landing of the first consignment. Thereafter, rates as per above slabs will be applicable. ”

2.3. The TPT has informed that the proposed rates are already being implemented on an adhoc basis (based on the consent obtained from the concerned users) with effect from 13 July 2006. It has, therefore, requested this Authority to approve the proposed tariff.

3. In accordance with the consultative procedure prescribed, the proposal received from TPT was forwarded to the concerned users / user organisations seeking their comments. The comments received users / user organisations were forwarded to TPT. The TPT has not responded to the comments of the users.

4. The TPT was requested to furnish additional information/clarifications on a few points with reference to the proposal. The TPT in response to our queries has furnished its reply. A summary of queries raised by us and reply furnished by TPT are tabulated below:

Sr. No.	Queries raised by us	Reply furnished by TPT
(i).	Confirm whether clause 2.17.2. and 2.17.3. of the revised tariff guidelines have been complied with while levying the proposed rate on an adhoc basis from 13 July 2006.	Clause 2.17.2. and 2.17.3. of the revised tariff guidelines have been complied with while effecting the proposed tariff on an adhoc basis.
(ii).	Explain the basis of arriving at the proposed tariff. Also, clarify how the proposed tariffs are comparable to the existing notified rates for comparable services provided by the port.	The adhoc rate is derived as follows: (a). In respect of covered space, 150% of the existing notified tariff in respect of first two weeks or part thereof is taken proportionately for three days for arriving at proposed rate for the first slab. An uniform increase of Rs.50/- is considered for each subsequent slabs. (b). Likewise, for open space also, 150% of the existing tariff notified in respect of rate per week or part thereof is taken proportionately for three days for arriving at the rate for the first slab. A uniform increase of Re.0.50 is considered for each of the subsequent slabs.
(iii).	Forward a copy each of the consent obtained from the users on the proposed tariff arrangement.	A copy of the consent letter of Tuticorin Stevedores Association has been furnished.
(iv).	The TPT has furnished consent of only Tuticorin Stevedores Association for implementation of the proposed rates from 13 July 2006. The comments of Tuticorin Customs House Agents Association reveals that they have not given consent for implementation of the proposed rates on an adhoc basis from 13 July 2006. Please furnish specific comments in this regard.	It has not furnished any reply to this point.

5. The minutes of meeting held by the TPT with its Board members record that the marshalling yard was unauthorisedly being utilised by the users for standardisation of cargo. The port had reservation about monopoly of the area by some of the users. To avoid this, it has after detailed discussion with the port users proposed rates for use of marshalling yard higher than the rate applicable for normal storage fee. The minutes of the meeting state that the proposed tariff levied on adhoc basis is working well. It has, therefore, based on approval obtained from the members of its Board and the concerned users requested to extend the adhoc rate implemented from 13 July 2006 for a further period of three months or till the final rates are approved by TAMP whichever is later. It has forwarded the concurrence obtained from TSA for extension of the proposed rate.

6. A joint hearing in this case was held on 13 July 2007 at the Tuticorin Port Trust premises. At the joint hearing, the TPT and the user organisations have made their submissions.

7. 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 will also be made available at our website <http://tariffauthority.gov.in>

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

- (i). The proposal of the Tuticorin Port Trust (TPT) is to introduce license (storage) fee for usage of marshalling yard of the port. The marshalling yard of port is spared for carrying out additional activities at the request made by the users in case of the rail borne cargo. There is no tariff prescribed in the existing Scale of Rates of the TPT for providing storage area at the marshalling yard to the users.

The port has reported that the storage area provided in the marshalling yard is being monopolised by some of the users. The TPT has proposed to collect the rent for marshalling yard higher than the normal storage fee applicable for covered and open space mainly to discourage use of the marshalling yard as a long term storage area by some of the users.

The proposed rate is not a cost based rate. It is derived by applying 150% over the prevailing storage fee for covered space and open space respectively and after pro-rata adjustment for the number of days prescribed in the first slab. A uniform increase of Rs. 50 per 10 sq. mtrs. for covered space and Re 0.50 per sq. mtr. for open space is proposed for the subsequent slabs over the rate proposed for immediate preceding slab. Free period of 24 hours is proposed in case of rail bound cargo not carrying out value added service like bagging, etc., at the marshalling yard.

- (ii). The TPT has reported that the proposed rate is based on mutual consent with the concerned user Associations. The comments received from the Tuticorin Stevedores Association (TSA) confirm this position.

There have been no pointed objections from any other user Associations except for general remarks made by the TSA that the proposed charge is not reasonable since the users already pay for loading / unloading at marshalling yard. In this context, it may be relevant to mention that the proposed rate is not for loading/unloading operations but for the storage area provided to users for carrying out various activities on rail borne cargo received or placed onto the wagons.

Since Tuticorin Stevedores Association (TSA) has in principle given their consent to the proposed tariff arrangement and also recognising that there has been no pointed objection from other users and considering that the proposed rate is already been implemented on an adhoc basis for more than a year, this Authority is inclined to approve the rent proposed by the TPT for use of marshalling yard of the port.

- (iii). The TPT has implemented the proposed tariff on an adhoc measure w.e.f. 13 July 2006 based on the mutual consent obtained from the concerned users. The Tuticorin Custom House Agents Association is of the view that the rates approved by this Authority must be implemented with prospective effect in future cases.

The revised tariff guidelines allows the port to operate the proposed tariff on an adhoc rate provided it is derived based on existing notified tariff for comparable services/cargo; and, is mutually agreed upon by the concerned users. The TPT has admitted that the proposed rent is derived based on the storage fee prescribed in its SOR for other cargo stored in covered / open area and is based on mutual consent obtained from the concerned users. The implementation of the proposed rates on adhoc basis is found to be in line with clause 2.17.4. of the revised tariff guidelines.

- (iv). Ordinarily, the rates approved by this Authority are valid for three years. It is relevant to mention that the income likely to accrue from this tariff item has been factored in the general revision proposal filed by the TPT which is being processed as a separate case. This tariff item will therefore be reviewed alongwith the next general review of the Scale of Rates of TPT.
9. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the tariff proposed by the TPT for usage of marshalling yard and inserts the rates and conditions proposed in para 2.2. of this Order at the end of Chapter III – Cargo Related Charges in the existing Scale of Rates of the TPT.

(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/38/2006-TPT - Proposal from the Tuticorin Port Trust (TPT) for fixation of rent for usage of Port's Marshalling Yard.

1. The summary of the comments from the user/user organisations are summarised below:

Tuticorin Stevedores Association (TSA)

- (i). During the joint discussion meeting between the port users and the TPT held on 7 July 2006 on the subject proposal, the representatives of its Association have given concurrence to the proposed rate on an adhoc basis for period of 3 months.

Tamil Nadu Electricity Board (TNEB)

- (i). It has no comments to offer since marshalling yard is not being utilised by TNEB.

Southern Petrochemical Industries Corporation Ltd. (SPIC)

- (i). It has no comments to offer.

Tuticorin Customs House Agents Association (TCHAA)

- (i). It has given reference to clause 2.2. of the revised tariff guidelines, which lists out the guiding factors to be followed in prescribing tariff. The Association has no reservation to implement the proposed rate if TAMP is satisfied that rates proposed are in line with the clause 2.2. of the tariff guidelines.
- (ii). The proposed rates have already been implemented from 13 July 2006. It may perhaps be fair if the implementation of any tariff takes effect only after the approval of TAMP in future cases.

Caltex Gas India Private Limited (CGIPL)

- (i). It has no comments to offer since it does not propose to use marshalling yard of TPT in near future.

Indian Chamber of Commerce & Industry (ICCI)

- (i). Nominal rent may be charged to enable Tuticorin Port to attract more traffic.

2. A joint hearing, in this case was held on 13 July 2007 at the Tuticorin Port Trust premises. At the joint hearing, the following submissions were made:

Tuticorin Port Trust

- (i). This area is allowed for value added service like bagging, standardisation, etc.
- (ii). The rates were introduced with the consent of users.
- (iii). Marshalling yard is for handing of rail borne cargo at the port's railway yard. We allow users to carry out some other activities, at their request. Some users tend to monopolise this area. We did not want this practice to continue forever.
- (iv). The income is about Rs.15 lakhs only.
- (v). The charge is stiff as we want to discourage these activities.

Tuticorin Stevedores' Association

- (i). Port does not add value. Port provides only area for storage.
- (ii). We already pay Rs.20/- PMT for loading/unloading at marshalling yard. Therefore, the second levy introduced is unreasonable.