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**Tariff Authority for Major Ports**

G.No. 66

New Delhi, 6 May 2005

**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 received from the Tuticorin Port Trust (TPT) for withdrawal of package marine charges on mainline container vessels as in the Order appended hereto.

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

**Tariff Authority for Major Ports**  
**Case No. TAMP/23/2005 - TPT**

**Tuticorin Port Trust (TPT)**

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**Applicant**

**ORDER**

(Passed on this 25th day of April 2005)

This case relates to a proposal received from the Tuticorin Port Trust (TPT) for withdrawal of the package marine charges on mainline container vessels approved by this Authority earlier vide its Order dated 17 March 2003.

2. This Authority vide its order number TAMP/87/2002-TPT dated 17 March 2003 had approved the proposal of TPT for re-introducing package marine charges for main line container vessels w.e.f. 1 April 2003. Subsequently, this Authority had passed another Order on 22 October 2003 amending certain provisions in the said Order.

3. The TPT has proposed to withdraw the package marine charges on the following main grounds:

- (i). Concessional package marine charge was introduced for mainline container vessels with effect from 1 April 2003 with the approval of the Authority.

At that point of time, the Order (dated 28 August 2003) clarifying that the rates approved are ceiling rates and rebates are floor level; and granting flexibility to port to offer discount/rebate at the port level was not passed by the Authority.

- (ii). Subsequently, the Ministry of Shipping has issued a direction to the TPT to reduce the vessel related charges of mainline container vessels of more than 1800 TEUs capacity on specific voyages to the level prevalent in Colombo port. In compliance with this direction, the vessel related charges for main line container vessels on the voyage specified by the Ministry were reduced by 25% with effect from 1 July 2004 subject to a review by the port after six months or any other direction from the Ministry whichever is earlier.

The reduction in the vessel related charges nullified the application of the package marine charges approved by the TAMP as it was found more favourable to the trade than the concession available from the package marine charge.

- (iii). The benefits arising to the port due to introduction of reduced vessel related charges has been examined and the port has come to a commercial decision that the additional concession offered did not generate additional call of vessels commensurate with the concession offered nor there has been any increase in the vessel related income.

- (iv). This matter was referred to the Department of Shipping, under Ministry of Shipping, Road Transport and Highways seeking their advice. The Ministry vide their letter No. PR-14011/2/2004-PG dated 15 February 2005 has advised the port to take fresh decision based on commercially sound principles.

The Board of Trustees of the TPT have, therefore, decided to withdraw the concession offered to mainline container vessels in vessel related charges with effect from 1 April 2005.

- (v). In view of the above position, and also recognising that the existing tariff prescribed by the Authority are ceiling level and the ports have the flexibility to

offer discounts or withdraw the discount within the ceiling limit of TAMP approved rate, the continuance of package marine charges approved by TAMP is not found warranted.

- (vi). It has, therefore, requested the Authority to delete the package marine charges for mainline container vessels prescribed in its existing Scale of Rates in Schedule 2.8, Chapter II - Vessel Related Charges with effect from 1 April 2005.

4.1. In accordance with the consultative procedure prescribed, the proposal was forwarded to the PSA SICAL Terminals Limited (PSASICAL) and the concerned users organisations seeking their comments.

4.2. Comments received from the PSA SICAL and the user organisations were forwarded to TPT seeking their comments. We have not received any response from the TPT in this regard.

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 <http://tariffauthority.gov.in>

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

- (i). The existing package marine charge was approved by this Authority w.e.f. 1 April 2003 at the request of the TPT. As pointed out by the TPT, the rates fixed by this Authority then were 'the' rates for the port trusts and even any reduction of tariff required approval of this Authority. In view of this arrangement existed then, the package marine charge for main line container vessels was introduced with the approval of this Authority.

Subsequently, in compliance with the direction from the (then) Ministry of Shipping, this Authority had passed an Order on 28 August 2003 giving the flexibility to the major ports to charge lower rates or to offer higher rebates based on their commercial judgment.

- (ii). Some of the users like the Tuticorin Steamer Agents Association (TSAA), the Indian Chamber of Commerce and Industry (ICCI) and PSA SICAL Terminals Limited (PSA SICAL) have raised objection against withdrawal of this package marine charge.

It is relevant to mention that the TPT in compliance with a specific direction from the Ministry to reduce the vessel related charge in respect of main line container vessels to the level prevalent in Colombo Port had exercised the flexibility offered to the major ports and reduced the vessel related charges in respect of main line container vessels by 25% w.e.f. 1 July 2004. Reduced vessel related charges were reportedly found to be more favourable to the trade in comparison to the package marine charge earlier introduced. The concession offered by the TPT for the last nine months was, therefore, more than the level envisaged by the package marine charge.

It may be significant to note that no tariff incentive scheme can run indefinitely. The TPT on a review of the position has observed that the additional vessels calling at the port on account of the concessions offered do not commensurate to the level of concessions offered. The vessel related income of the port is also not reported to have increased. If this situation continues on a long run, the other vessels cross-subsiding main line container vessels will become inevitable. Perhaps, in realisation of this not-so-reasonable arrangement, the

Government has also subsequently advised port to take fresh decisions on commercial principles.

Tariff in the Scale of Rates (SOR) are fixed with reference to overall cost of providing the service. If necessary, the Tariff Regulator can reduce the basic rates in the SOR which is possible only at the general review conducted at periodic intervals. Offering any discount over the notified tariff is solely a commercial judgment of a port authority. In view of this position, this Authority accepts the request of the TPT based on its commercial judgment.

- (iii). As per the present tariff setting arrangement in vogue, the rates prescribed by this Authority are ceiling level and rebates are floor level. The major ports, therefore, have the flexibility to charge lower tariff or offer higher rebates than the level prescribed by this Authority, if they so desire. The revised tariff guidelines recently announced by the Ministry of Shipping, Road, Transport & Highways (MSRTH) also provide the flexibility to major ports / private terminals to adopt sliding scale of rates to motivate greater performance. Because of this flexibility available, as correctly pointed out by the TPT, it can reduce the notified rates wherever necessary based on its commercial judgment keeping in view the market dynamics. Viewed from this perspective, a separate concessional tariff need not be imposed on the port by the Regulator.

It is noteworthy that this Authority had recently allowed withdrawal of the volume discount scheme on containers at the Cochin Port Trust at the request of the port. Incidentally, even the Visakhapatnam Port Trust has recently made a similar request for withdrawal of the concessional tariff for package marine charge which has been approved by this Authority in a separate Order.

- (iv). The TPT has requested to approve its proposal with retrospective effect from 1 April 2005. The Orders passed by this Authority are generally with prospective effect. The revised guidelines for tariff fixation also provide for prospective implementation of the Order unless under exceptional circumstances.

In the instant case, the scheme operates on financial year basis. Making the scheme inapplicable for the current financial year 2005-06 will inevitably warrant retrospective approval from 1 April 2005.

7. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of the TPT for withdrawal of the existing package marine charges for main line container vessels w.e.f. 1 April 2005. Accordingly, the relevant provisions in the Scale of Rates of the TPT in this regard are deleted.

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

**SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS /  
DIFFERENT USER ORGANISATIONS**

**F. No. TAMP/23/2005 – TPT - Proposal from the Tuticorin Port Trust (TPT) for withdrawal of concessional package marine charge on mainline container vessels.**

1. In accordance with the consultative procedure prescribed, the proposal received from the TPT was forwarded to the PSA SICAL Terminals Limited and concerned user organisations seeking their comments. The comments received from them are summarised below:

**The Tuticorin Steamer Agents Association (TSAA)**

- (i). Any tariff arrangement should be put into levy only after it is approved by TAMP. The TPT has already given effect to its proposal from 1 April 2005 without any express approval of the TAMP. This move of the TPT is imperceptible; and not fair.
- (ii). The introduction of the concessional package marine charges was a positive step towards encouraging direct call of vessels to the TPT. This concept was really a boost for the container traffic scenario.
- (iii). The container traffic of the TPT has picked up well and the traffic is definitely to increase in the days to come. The TPT would not have incurred much loss on account of these concessions and if at all there had been any loss, the same would be negligible.
- (iv). If the concession is withdrawn, the mother vessels calling at this port presently may withdraw because of high vessel related charges. The concession, therefore, should not be withdrawn.

**Indian Chamber of Commerce and Industry (ICCI)**

- (i). Introduction of concession by the port was the right step in bringing more mainline vessels direct calls to the port. This enabled to achieve increased growth in container traffic to the level of 21.05% during the year 2004-05.
- (ii). If the concession is withdrawn, the port may lose support of some liners resulting in reduction in future container traffic. If limited liners call the port, the shipper / importer will be at the mercy of such liners which will result in diversification of cargo to other neighbouring ports.

- (iii). If the concession is allowed to continue, there will be a marginal loss in revenue but, overall volume will pick up and the loss will get compensated.
- (iv). It has, therefore, requested that the concessional package marine charges for mainline container vessels may be continued.

**PSA SICAL Terminals Limited (PSA SICAL)**

- (i). Since the competition is increasing amongst the ports in the Southern region including Colombo, the port may continue with the concessional package marine charges for container vessels.
  - (ii). Mainline operators take a long time i.e. 1 to 2 years to re-route vessels from their original port of call. Hence, the concessional package marine charges for container vessels may be continued.
2. Comments received from the PSA SICAL and the user organisations were forwarded to TPT seeking their comments. We have not received any response from the TPT in this regard.

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