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Tariff Authority for Major Ports

G.No.149

New Delhi,

11 April 2018

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Deendayal Port Trust (DPT) for amendments in the revised Scale of Rates (SOR) approved in the Order No.TAMP/18/2016-KPT dated 21 June 2016 passed by the Authority on the proposal received from the DPT for general revision of its SOR as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/18/2016-KPT

Deendayal Port Trust

QUORUM:

Applicant

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 19th day of March 2018)

This case relates to a proposal received from the Deendayal Port Trust (DPT) [formerly known as Kandla Port Trust] dated 09 January 2018 for amendments in the revised Scale of Rates (SOR) approved in the Order No.TAMP/18/2016-KPT dated 21 June 2016 passed by the Authority on the proposal received from the DPT for general revision of its SOR.

1.2. This Authority has passed an Order No.TAMP/18/2016-KPT dated 21 June 2016, approving the revised SOR and Performance Standards on the proposal received from the DPT for general revision of its SOR. The revised SOR and Performance Standards approved by this Authority vide Order No.TAMP/18/2016-KPT dated 21 June 2016, was notified vide Gazette No.287 dated 12 July 2016. Subsequently, a speaking order was notified vide Gazette No.319 dated 10 August 2016.

2.1. Now, with reference to the said Order dated 21 June 2016, the DPT vide its letter no.FA/COST/1021-SOR/15 dated 09 January 2018 has made the following submissions:

- (i). In the approved SOR, under Chapter-III-Cargo Related Charges, Schedule 2.5. - License (Storage) Fees on general cargo for Open and covered space inside the custom bonded area, the rates prescribed are for per month or part thereof, whereas, the chargeable slab periods are (in number of days) as under:
0 - 60 days
61 - 90 days
91 - 180 days
Beyond 180 days
- (ii). Since the rate is on per month basis and occupation is on day basis, the port users are charged the 2nd slab rate i.e.60-90 days while renewing the storage area in second month. This is because the occupation of the space for 2nd month exceeds 60 days, except the month of February. The port users have been raising this issue time and again immediately after the implementation of the present SOR. The issue has been examined by DPT and it is felt necessary to remove the ambiguity regarding the nomenclature of 'Period of Occupation' in 'Month' in line with the 'Rate' which is already on per month basis.
- (iii). The prevailing and proposed nomenclature of period of occupation in SOR of DPT, are tabulated as under:

Period of occupation as prescribed in the SOR approved vide Order no.TAMP/18/2016-KPT dated 21.06.2016 at Schedule 2.5 - License (Storage) Fees on general cargo for Open and covered space inside the custom bonded area	Proposed Period of occupation
0 – 60 days 61 – 90 days 91- 180 days Beyond 180 days	Upto two months More than two months to three months More than three months to six months Beyond six months

- (iv). There is no definition of month given in the above SOR. One of the definitions of month as per the British dictionary is as under:

'A period of time extending from one date to a corresponding date in the next calendar month'

Hence, to avoid users from being over-charged on account of difference in structure of period of occupation and License (storage) fees, the DPT has filed the current proposal to change the Period of Occupation from number of days into Month in line with the Rate which is on per month basis. The DPT also proposes to adopt the above said definition of 'Month' in SOR of DPT. Accordingly, the following was placed before the Board of Trustee of DPT:

- (a). To change the nomenclature "Period of Occupation" in "Months" in line with the "Rate", which is already on per month basis as under:
Upto two months
More than two months to three months
More than three months to six months, and
Beyond six months;
- (b). To adopt the following definition of "Month", as mentioned in the British dictionary, in the SOR of DPT.
"A period of time extending from one date to a corresponding date in the next calendar month"
- (v). The Board of Trustees of DPT, in its meeting held on 02 August 2017, has resolved vide resolution no.33 to approve the above proposal. A copy of Board resolution dated 02 August 2017 is furnished.
- (vi). In view of the above, TAMP is requested to approve and notify the proposal as under:

A. Chapter-III – Cargo Related Charges:

2.5 License (Storage) Fees on General Cargo (A) for open space and (B) for covered space:

To change the nomenclature "Period of Occupation" in "Months" as given below in line with the "Rate", which is already on per month basis as under:
Upto two months
More than two months to three months
More than three months to six months
Beyond six months;

- B. Insert Note (8) under Schedule 2.5 License (Storage) Fees on General Cargo adopting the following definition of "Month", as mentioned in the British dictionary, in the SOR of DPT.
"A period of time extending from one date to a corresponding date in the next calendar month"

2.2. Accordingly, the DPT has requested to consider the proposed amendment and revise the existing SOR of DPT.

2.3. A comparison of the Schedule 2.5 License (Storage) Fees on General Cargo vis-à-vis the proposal of DPT for amendment (highlighted as bold) is tabulated below:

Relevant Schedule 2.5- License (Storage) Fees on General Cargo proposed by DPT and approved by the Authority in Order No.TAMP/18/2016-DPT dated 21 June 2016	Proposal of DPT dated 09.11.2018 for amendment in Schedule 2.5- License (Storage) Fees on General Cargo
(A). FOR OPEN SPACE:	I. Following amendment proposed in period of occupation prescribed in existing SOR in number of days to months: (A). FOR OPEN SPACE:

Period of occupation	Rate per 10 sq. mtr. or part thereof per month or part thereof			Period of occupation	Rate per 10 sq. mtr. or part thereof per month or part thereof		
	Kutchha Plots (uncemented / unasphalted) (in ₹)	Pucca Plots (cemented asphalted) (in ₹)	Bins and raised plinth (in ₹)		Kutchha Plots (uncemented / unasphalted) (in ₹)	Pucca Plots (cemented asphalted) (in ₹)	Bins and raised plinth (in ₹)
0 – 60 days	84.00	144.00	168.00	Upto two months	84.00	144.00	168.00
61 – 90 days	168.00	288.00	336.00	More than two months to three months	168.00	288.00	336.00
91 – 180 days	210.00	360.00	420.00	More than three months to six months	210.00	360.00	420.00
Beyond 180 days	252.00	432.00	504.00	Beyond six months	252.00	432.00	504.00

(B). FOR COVERED SPACE:		(B). FOR COVERED SPACE:	
Period of occupation	Rate per 10 sq. mtr. or part thereof per month or part thereof (in ₹)	Period of occupation	Rate per 10 sq. mtr. or part thereof per month or part thereof (in ₹)
0 – 60 days	279.00	Upto two months	279.00
61 – 90 days	558.00	More than two months to three months	558.00
91 – 180 days	697.50	More than three months to six months	697.50
Beyond 180 days	837.00	Beyond six months	837.00

(c). Insertion of following note no.8 under Schedule 2.5 defining Month:
“(8). A period of time extending from one date to a corresponding date in the next calendar month.”

3. On a preliminary scrutiny of the proposal, the DPT was requested to furnish additional information/ clarifications vide our letter dated 19 February 2018. The DPT has responded vide its email dated 22 February 2018. A summary of additional information / clarification sought by us and reply furnished by DPT thereon is tabulated below:

Sr. No.	Information / clarification sought by us	Reply from DPT
(i).	It is seen from para 20 (xiii) of the general revision of SOR of DPT approved by the Authority vide Order no.TAMP/18/2016-KPT dated 21 June 2016 that out of the estimated Annual Revenue Requirement of ₹84,251.84 lakhs, ₹700 lakhs was left uncovered which was allowed to be met by DPT from the tariff items and conditionalities for which the DPT could not capture the revenue impact. The DPT to furnish the revenue impact of proposed amendment.	There is no major financial implication.

4. The DPT has now, based on request of users, filed the current proposal for the amendment in the slabs of period of occupation from number of days to months. Since the proposal filed by DPT flows from the point raised by users as reported by DPT, consultation process and joint hearing on the amendments proposed was not found necessary.

5. The proposal of DPT has brought to light the mismatch between the unit of levy (month or part thereof) and the chargeable periods of occupation of space (days) in the existing arrangement. Amendment to the chargeable periods of occupation in terms of month(s) will be in alignment with the existing unit of levy in terms of month or part thereof.

6.1. Definition for month is not prescribed in the existing approved SOR of DPT. Consequent to the amendment proposed in the period of occupation in term of month, the DPT has also proposed to insert a note no. 8 under schedule 2.5 prescribing definition of “Month”, as given below adopting the definition of month prescribed in the British dictionary:

“A period of time extending from one date to a corresponding date in the next calendar month.”

6.2. There is no uniformity in the definition of month in the SOR of Major Port Trusts. Definition of month in SOR of Visakhapatnam Port Trust (VPT) and Chennai Port Trust (CHPT) is “Month shall mean the calendar month”. Definition of month in SOR of Cochin Port Trust (COPT),

Kolkata Port Trust (KOPT) and Mumbai Port Trust (MBPT) is "Month shall mean 30 consecutive calendar days including holidays unless otherwise specified".

6.3. Since the proposed definition of DPT is closer to the term defined in the SOR of COPT, KOPT and MBPT and recognizing that it is with the approval of the DPT Board, the definition of month as proposed by DPT is approved.

The port has proposed to insert the definition of 'Month' as a note no. 8 under schedule 2.5. It is appropriate to insert the proposed definition in the existing SOR of DPT under Definitions – General – 1.1 at Chapter – I after definition no.(vii) where various terms have been defined.

7. Ordinarily the Orders passed by this Authority have prospective effect after expiry of 30 days from the date of notification of the Order in the Gazette. Accordingly, the above amendments approved by this Authority to the existing SOR notified by this Authority vide Order No.TAMP/18/2016-KPT dated 21 June 2016, is made effective after expiry of 30 days from the date of notification of the SOR in the Gazette of India.

8.1. In the result, and for the reason given above, and based on a collective application of mind, the following amendments in the existing Scale of Rates of DPT approved by this Authority vide Order No.TAMP/18/2016-KPT dated 21 June 2016 are approved:

- (i). **Period of Occupation prescribed in existing Schedule 2.5. – License (Storage) Fees on General Cargo under Schedule 2 at Chapter - III in the SOR is amended as follows:**

(A). FOR OPEN SPACE:

Period of occupation as prescribed in the SOR approved vide Order no.TAMP/18/2016-KPT dated 21.06.2016 at Schedule 2.5 - License (Storage) Fees on general cargo	Period of occupation to be replaced with the following:
0 – 60 days	Upto two months
61 – 90 days	More than two months to three months
91- 180 days	More than three months to six months
Beyond 180 days	Beyond six months

(B). FOR COVERED SPACE:

Period of occupation as prescribed in the SOR approved vide Order no.TAMP/18/2016-KPT dated 21.06.2016 at Schedule 2.5 - License (Storage) Fees on general cargo	Period of occupation to be replaced with the following:
0 – 60 days	Upto two months
61 – 90 days	More than two months to three months
91- 180 days	More than three months to six months
Beyond 180 days	Beyond six months

- (ii). Insert the following definition of month in the existing SOR of DPT under 1.1 - Definitions – General under Chapter – I as item no.(viii):

"Month shall mean a period of time extending from one date to a corresponding date in the next calendar month"

8.2. The amendments approved will come into effect after expiry of 30 days from the date of notification of the SOR in the Gazette of India.

8.3. The DPT is advised to suitably amend the existing SOR.

(T.S. Balasubramanian)
Member (Finance)