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New Delhi, the 29 November, 2001

**Tariff Authority for Major Ports**

**NOTIFICATION**

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby rejects the application of the Chennai Port Trust for a review its Order dated 14 February 2001 relating to fixation of hire charges for 4.8 tonne Linde make EFLT as in the Order appended hereto.

( S. Sathyam )

Chairman

**Tariff Authority for Major Ports**

**Case No.TAMP/112/2000-CHPT**

The Chennai Port Trust (CHPT) - - -  
Applicant

**ORDER**

**(Passed on this 5th day of November 2001)**

A proposal of the Chennai Port Trust (CHPT) for fixing hire charges for a 4.8 Ton Linde make imported EFLT was considered by this Authority and an Order was passed on 14 February 2001 rejecting the proposal. In that case, the CHPT was directed to levy the existing hire charges for FLTs of 5 ton capacity prescribed in its Scale of Rates, even in the case of the new EFLT in reference. The Order was notified in the Gazette of India on 9 March 2001.

2. With reference to the Order of this Authority dated 14 February 2001, the CHPT has now submitted an application requesting for a review of the Order to amend it as (earlier) proposed by the CHPT. In its application, the CHPT has made the following points in support of its request:

(i). Normally, the hire rate for the equipment newly acquired is fixed on the cost basis. Otherwise, the cash losses resulting in applying existing rate cannot be adjusted anywhere as the revision of Port's SOR is not being made on an annual basis as is being done in Railways or periodically when circumstances warrant as in the case of Airlines. The last revision of the CHPT's SOR was made after a gap of 9 years and despite this ground reality, the TAMP has not fully met the deficit in the crantage activity. The cash losses will further add to the deficit inviting Audit and Government objections.

(ii). The existing 5T FLT's are used outside the Container Terminal and charges for which are collected under Scale B I and Scale D in Chapter III of the SOR. For stuffing/destuffing operations at CFS, hire charges for the same are collected at box rates per container as provided under Scale-A, Chapter-II A of the SOR.

(iii). The capital cost of the new equipment is much higher than those of the existing FLT's which warrants separate rates. This position has been accepted by the TAMP in its Order.

(iv). The comparison of Airline and Railways with the CHPT for fixation of rate for equipment acquired may not be correct. The Airline increases the tariff periodically and also whenever the cost of fuel is increased. The railways increase the tariff in its annual budget taking into consideration of all the factors viz., Projects, modernization and the expenditure towards fuel, power, etc. The CHPT had revised the tariff after a gap of 9 years absorbing all expenditure, escalation cost on consumable like fuel, power, etc, without any budgetary support from the Government.

(v). If the entire deficit had been covered by the TAMP in the general revision of the SOR, the revised crantage rates would have been more or less comparable with the proposed rates. The TAMP itself in the Order stated that even though the rates under the crantage activity had not been increased to the level as warranted by revenue deficit, the tariffs revised at the time of the last general revision would have yielded a desired return on capital employed for the port as a whole for the year 2000-2001 and 2001-2002 @ 20%. That being so, the deficit which continued even after the revision of rates under this sub-activity had been adjusted elsewhere by increase in other tariff. The statement of the Authority is conflicting to its stand on not encouraging cross- subsidisation.

3. The request made by the CHPT has been examined with reference to the information available with this Authority while processing of the proposal of the CHPT for fixing a hire charges for its EFLT. All the issues raised by the CHPT now have already been dealt with in the impugned Order. The following position emerges in the context of the request of the CHPT for a review:

(i). The arguments of the CHPT about uncovered deficit in crantage activity have been elaborately dealt with in the paragraph 9(ii) of the impugned Order. While making the request for a review, care has, perhaps, not been taken to recognise the cross-subsidy available from other activities.

(ii). The CHPT's understanding of this Authority's stand on cross-subsidisation does not appear to be correct. This Authority has nowhere suggested that the cost deficit due to operating the new EFLT is to be met out of tariff increases elsewhere. At the time of general revision of the Scale of Rates of the CHPT, cross-subsidisation between different activities was allowed to continue at the (then) existing level. This was done recognising the possible adverse effects due to elimination of cross-subsidies at one go. If the rates under crantage activity had to be increased to the level warranted by the cost deficit position, then, the rates under some other activities reporting

revenue surplus like POL handling, container handling, etc., should have been reduced. Since rates of such surplus activities were not reduced, they continue to contribute to the uncovered deficits under some other activities including crantage. The general revision of tariffs of the CHPT was decided on the basis of an overall consideration as explained above and the reasons are clearly given in the concerned Order. That being so, the issue raised by the CHPT about revision of rates for the crantage activity in isolation can not be considered as relevant.

- (iii). The point about capital investments in augmenting existing fleet of equipment and the need to fix separate tariff on each such occasion are unambiguously discussed in paragraph 9(iv) of the Order in reference.
- (iv). The usage of the 4.8 Ton EFLT explained now by the CHPT is in no way different from that of the other FLT's of 5 T capacity. The period of engagement or frequency of usage of the 4.8 T EFLT may be more; but, the hire charges are prescribed on a per-shift basis. That being so, with the increased utilisation, revenue realisation will also be more.
- (v). The position obtaining in other sectors of transportation is only an incidental observation made in the Order. It was not that the Authority was guided only by this position in arriving at the decision taken.

4. The CHPT has not pointed out any error apparent on the face of the record. As explained in paragraph (3) above, all the issues raised by the CHPT have already been duly considered by this Authority before taking the decision. That being so, the request of the CHPT for a review of the Order dated 14 February 2001 does not contain any merit.

5. In the result, and for the reasons given above, and based on a collective application of mind, this Authority rejects the application of the CHPT for a review of its Order dated 14 February 2001.

( **S. Sathyam** )

Chairman