

No. 48

New Delhi, the 27th February, 2001

**Tariff Authority for Major Ports**

**No.TAMP/11/2001 -TPT**

**NOTIFICATION**

In exercise of the powers conferred by Sections 49 and 50 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 to revise the special rate for dredging payable by the vessels calling at the container terminal for a period of six months, as in the Order appended hereto.

( S. Sathyam )

**Chairman**

**Case No.TAMP/11/2001-TPT**

**The Tuticorin Port Trust (TPT)**

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**Applicant**

**ORDER**

(Passed on this 14th day of February 2001)

The Tuticorin Port Trust (TPT) has submitted a proposal for a review of dredging levy charges in respect of container vessels notified by this Authority on 14 June 2000.

2. A proposal of the TPT to impose dredging levy to defray the dredging expenditure of around Rs.220 crores spent on the capital dredging work at the Coal Jetty I, Coal Jetty II, oil Jetty, Container Berth, VOC III and VOC IV was earlier considered by this Authority. After detailed discussion with the Port users and the TPT, this Authority fixed the dredging levy at 50% of all marine charges i.e. Port dues, Pilotage and Berth hire charges for all the vessels calling at the above berths irrespective of their draft. This Authority passed an Order on 2 June 2000 in this regard which was notified in the Gazette of India on 14 June 2000. The Order came into effect after expiry of 30 days from the date of publication of the Order.

3. In its proposal in reference, the TPT has given the following grounds for reviewing the dredging levy charges:

- (i). After implementation of the dredging levy, the traffic growth has been reviewed. It has been noticed that the growth in container traffic has dwindled to 12% whereas the overall throughputs of the Port is unabated. The main line operators and the Steamer Agents have given representation about the high marine charges and requested to reduce the charges. The PSA SICAL Terminal Limited has also brought the issue of high marine charge and requested to reduce it to make the Port competitive to enhance the container throughputs.

- (ii). It is found that the marine charges of the TPT are 41% more expensive than Chennai, 17% than Cochin and 16% than JNPT. The current trend of containerisation of general cargoes gives indication that the growth of a Port primarily depends upon container traffic. As far as the Tuticorin Port is concerned, there is acute competition among the three ports in the Southern peninsula, i.e., Cochin, Tuticorin and Chennai with a common hinterland. Throughput of the Port can be increased only by offering competitive rates and providing connectively to foreign ports to avert transshipment at Colombo.
- (iii). Bearing in mind the importance of growth of container throughputs for future development of the Port and the contribution of the MLO's to enhance the container throughput by direct call vessels, the TPT has taken a decision to review the dredging levy and to assess its impact on the overall earnings at a regular intervals of six months to ascertain the adequacy of the earnings to meet the annual dredging liability. It is expected that the review of dredging levy shall attract direct call vessels, which will generate additional throughputs and thereby the total earnings of dredging levy may be increased to defray the annual liability of capital dredging.
- (iv). Vessels having draft of more than 8.24 metres are called at VOC III and IV, Coal Jetty I and II with a saving in freight cost per unit and are able to bear the dredging levy. Mainly vessels having draft less than 8.24 metres are calling at Container Berth and Oil Jetty. Therefore, they are not able to enjoy the benefit of deep draft to maximise their income. There is no impact of dredging levy on the oil cargo. The oil traffic is increasing and it can bear the burden of dredging levy.
- (v). A sum of Rs.5.61 crores has been realised from dredging levy during the period from 14 July 2000 to 30 November 2000. If the current trend continues, the annual earning may be around Rs.14.96 crores which will be adequate to meet the debt servicing liability.

4. In this backdrop, the TPT has proposed to revise the dredging levy for the vessel calling at the container berth as per details given below:

(i).	Port Dues	15%
(ii).	Pilotage	15%
(iii).	Berth Hire charge	30%

5. The Board of Trustees of the TPT has also approved the above proposal.

6. The above proposal of the TPT was circulated to various users / representative body of port users. Pending receipt of written comments from the users / representative body of port users, a joint hearing in this case was held on 23 January 2001 at the TPT premises in Tuticorin. At the joint hearing the following submissions were made:

**The Tuticorin Port Trust (TPT)**

- (i). This is a strategic proposal.
- (ii). We became more expensive than most other ports. Vessels were being scared away. As a result, growth in container traffic has stopped.
- (iii). SCI has complained to MOS about our high rates vis-à-vis Colombo. We, therefore, want to remain competitive.

- (iv). Only vessels berthed at container terminal will get the concession. Vessels going to other berths get some advantages because of the parcel size.
- (v). Our traffic for the year 2000-01 has grown by 25%. We may be able to absorb the revenue loss for six months. If these concessions do not result in increase of traffic, this will be reviewed.

**M/s. Southern Petrochemical Industries Limited (SPIC)**

If the strategy fails, other berths should not be burdened to pay more to bridge the gap.

**Indian National Shipowners Association (INSA)**

Deeper draft vessels are not coming to container terminal and, therefore, give more concessions to them.

**M/s. Sterlite Industries Limited**

- (i). We had opposed the levy. We wanted increased traffic to generate revenue. TPT says, there is a 25% increase in traffic. Why have the levy then?
- (ii). Vessels with smaller draft must be entitled to the concessions irrespective of berths they are calling.

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

- (i). All container vessels are of the 8.23 mtr. draft. The 50% dredging levy is unfair on them.
- (ii). The anticipated increase in traffic has not materialised.
- (iii). Let the concession be same for Port Due / Pilotage / Berth Hire.
- (iv). Vessel shall not be charged the levy for occupying a berth which is empty.
- (v). Six months is too short a period. Give a longer duration.\_

**The PSA SICAL Terminals Limited**

We compliment TPT for this positive proposal.\_

**The Tuticorin Custom Licensed Agents Association (CLAA)**

- (i). Vessels requiring less than 8.23 mtr. draft should not be required to pay the levy at all.
- (ii). Exchange rate fluctuation may not hurt the port vis-à-vis this Yen loan. The marine charges collected by it in US dollar terms give benefits also.
- (iii). Why concession only for six months? Give at least for 12 months.

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

- (i). We agree with the CLAA.

- (ii). Vessels carrying dirty cargo have to go to berth III. They can not go the berths I or II. They must get 100% concession.

**Tuticorin Port Handling Agents Association (TPHAA)**

We welcome the proposal. Please give it to all cargoes and all berths.

**All India Chamber of Commerce and Industries (AICCI)**

We heartily endorse the proposal.

**The Container Shipping Lines Association (CSLA)**

- (i). We welcome the proposal.
- (ii). It is wrong to levy a charge for dredging. This is a case of an investment. It must be paid out of future earnings.

**The Shipping Corporation of India (SCI)**

- (i). We heartily endorse the proposal.
- (ii). Give the concessions for break-bulk cargo also.

**M/s. DCW Limited**

Please reduce the cargo related charges also.

7. With reference to the totality of information collected during the proceedings of this case, and taking into account the arguments advanced at the joint hearing, the following position emerges:

(i). This Authority had approved a dredging levy at 50% of all Marine Charges (i.e., Port Due, Pilotage, and Berth Hire) for all vessels calling at specified berths at the TPT. According to the strict calculations, the levy actually worked out to 68%. This Authority considered a 68% dredging levy to be excessive; the TPT was, therefore, required to bear 18% of the burden from its reserves. Even the 50% levy was considered to be heavy; but it had to be approved in view of the *fait accompli* situation this Authority had to face because of the huge expenditure of Rs.220 crores incurred by the TPT on the capital dredging work.

(ii). The apprehensions felt then have come true. The huge burden of the dredging levy has apparently had an adverse impact on the traffic. The TPT has, therefore, been compelled to propose some moderations in the levy as described in paragraph (4) above.

The proposal of the TPT now is based on a better appreciation of the ground realities; and, it is, therefore, to be considered sympathetically.

Nevertheless, this Authority likes to spotlight the anomaly of requiring it to approve tariff proposals with reference to *fait accompli* situations.

(iii). Undoubtedly, it is somewhat messy to be tinkering in this manner with tariffs prescribed only six months ago. But, the TPT is in a bind; it is virtually in a catch-22 situation. Since the proposal is based on a better appreciation of the ground realities and amounts to grant of concessions to some users, this Authority is inclined to consider it favourably.

(iv). The concessions in reference are proposed to be limited to the vessels calling at the container terminal since only the growth in container traffic has been seen to be affected. It is the TPT's commercial judgement that vessels going to other berths get some advantages (of scale) because of the parcel size.

(v). The concessions in reference are proposed to be for a period of six months whereafter it will automatically lapse. If the concession yields the desired result of increasing container traffic, the position will then be reviewed by the TPT for formulation of fresh proposal. Because of the 25% increase in general traffic during 2000-01, the TPT has claimed to be in a position to absorb the revenue loss (caused by these concessions) for six months. In view of the difficult circumstances governing this case, this Authority likes to go along with the TPT strategy to tackle the eventuality arising out of imposition of the dredging levy.

(vi). At the joint hearing, many users have attempted to resurrect issues like the dredging levy being limited to deeper draft vessels, etc. All such issues and other objections were duly dealt with and disposed of in this Authority's Order of 2 June 2000. The proposal at present is only about grant of some concessions to identified traffic. The users cannot be allowed to hijack this opportunity for resurrecting issues that have already been finally settled.

(vii). There is an opinion that these concessions will not be meaningful if given only for such a short period; it will be more appropriate if they are given for 12 months. While it is not possible for this Authority (or, for that matter, anybody) to conclusively establish the correct time span, it will be more realistic to go by the commercial judgement of the TPT. After all, the ability of the TPT to bear the revenue loss (caused by these concessions) has also to be taken into account.

(viii). The CSLA has observed that it is wrong to levy a charge for dredging; the cost on dredging is an 'investment'; and, it must be paid out of future earnings.

The real purport of this observation is not very discernible. There is no dispute about such expenditure being 'investments'. That is why the expenditure on this dredging is classified as 'capital dredging'.

The point about 'future earnings' appears to be somewhat misconceived. Even the 'dredging levy' can be seen to fall in that category since the income therefrom is subsequent to the expenditure. The CSLA, perhaps, is inclined to suggest that the revenue earnings shall be only through 'tariffs' and not through a separate 'levy'. Interestingly, the TPT itself had also originally proposed a similar arrangement. This Authority had objected to a regular tariff increase on this account for the reason that it would build-in a burden in perpetuity for recovering an identifiable one-time investment. In other words, the system of a separate 'levy' was introduced only to protect user interests. Ironically, the CSLA (a prominent user in this context) has chosen to object to the arrangement. May be, the expression 'levy' has caused some confusion; in retrospect, it is felt, it may be more appropriate to describe the capital dredging levy as 'special rate for dredging'.

(ix). Ordinarily, any amendment in vessel related charges come into force 30 days after their notification in the Gazette of India. In view of the extraordinary circumstances in which the port has been compelled to propose these amendments, and bearing in mind the fact that these amendments result in reduction of tariffs, they are allowed to be enforced with effect from the date of notification of this Order in the Gazette of India.

8.1. 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 to revise the special rate for dredging on the vessels calling at the container berth for a period of six months from the date of notification of this Order in the Gazette of India as given below:

(i).	<i>Port Dues</i>	-	15%
(ii).	<i>Pilotage</i>	-	15%

(iii). *Berth Hire charge* - 30%

8.2. The TPT is hereby directed to amend its Scale of Rates accordingly for a period of six months.

8.3. The expression '*capital dredging levy*' is substituted by the expression '*special rate for dredging*' in the Scale of Rates of the TPT.

( **S. Sathyam** )

**Chairman**

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