

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 amends the Scale of Rates of the Kandla Port Trust relating to levy of storage / Rental charges on cargoes lying inside the port for more than 60 days, as in the Order appended hereto.

(S. Sathyam)

Chairman

Case No.TAMP/76/99-KPT

The Kandla Port Trust (KPT) ... Applicant

ORDER

(Passed on this 5th day of January 2001)

The Kandla Port Trust (KPT) had initially submitted a proposal in September 1999 about fixing demurrage charges on cargoes lying inside the port on rental or warehousing terms for more than 90 days.

2.1. The KPT then proposed to include the following clause relating to uncleared / unshipped cargo lying inside the port for more than 90 days:

“ Demurrage charges at the highest rate prevailing will be levied after 90 days on uncleared / unshipped cargoes lying on rental / warehousing terms in the Port for more than 90 days. However, the 90 days period will be extended to the extent of the delayed period wherever the delay is beyond the control of importer / exporter like delay in getting clearance from the PHO, non release of cargoes by the Customs for analytical & chemical tests other than ordinary process of appraisement, detention of cargoes by Directorate Revenue Intelligence / Port and cargoes not released due to litigation in the Court of Law.”

2.2. Supporting the proposal, the KPT had mentioned that the shippers had a tendency to store their cargo inside the port for indefinite period, since storage charges for cargo on warehousing and rental terms were very low. As a result, there was a congestion for storage accommodation inside the port and some importers were diverting their cargo to some other ports due to non availability of adequate storage area at the KPT.

3. The above proposal of the KPT was circulated to various representative bodies of port users. A joint hearing was held on 7 March 2000 at the KPT. Since the proposal was inadvertently not circulated to some of the concerned user agencies, it was then decided to re-circulate the proposal. The proposal was again circulated. Comments were received from the users and another joint hearing was fixed on 14 July 2000 at the KPT. In the meanwhile, the port intimated that in the Board meeting held on 29 June 2000 it was decided to revise its earlier proposal to levy demurrage on cargo lying inside the port area for more than 90 days. The proposed joint hearing was, therefore, postponed.

4.1. The KPT sent its revised proposal vide its letter dated 25 July 2000. In its revised proposal the KPT suggested the following rates for storage/rental charges:

Period	Rate
0 – 60 days	As per existing rate of lowest slab
61 – 90 days	200% of above lowest slab
91 – 180 days	250% of above lowest slab
Beyond 180 days	300% of above lowest slab

4.2. The KPT stated that it had revised its original proposal bearing in mind various difficulties expressed by the users and after taking into consideration the following factors:

- (i). The dwell time of cargoes moving through the Kandla Port.
- (ii). The covered / open storage accommodation available.
- (iii). The level of traffic and the types of cargoes moving through the Port and their demand for storage area.
- (iv). The existing storage / rental charge, and
- (v). The competition from nearby ports.

5. The above proposal of the KPT was circulated to various users. The comments received from them are summarised below:

Kandla Custom House Agents' Association (KCHAA)

- (i). There shall be a maximum of only three slabs under the heading 'period' instead of four slabs as proposed by the KPT. The first period may be 0 – 90 days instead of 0 – 60 days as proposed by the KPT.
- (ii). The rates can be 200% of the lowest slab for the period from 91 – 180 days and 250% of the lowest slab for the periods beyond 180 days.
- (iii). The schedule of the storage charges proposed by them would not add too much burden on cargoes moving into and out of Kandla towards storage charges but at the same time act as a sufficient deterrent against long storage of cargoes within the port area.

The Gandhidham Chamber of Commerce and Industry (GCCCI)

- (i). The KPT has not given any statistics for diversion of traffic an account of shortfall of storage space and the GCCCI also does not have any knowledge of such diversion.
- (ii). The KPT is presently facing competition from Adani and Pipavav Ports. Any increase in service cost will result in increase of economical handling cost at Kandla Port.
- (iii). The port users at Kandla port will have to honour certain additional cost as compared to other ports, an account of statutory obligations like dock safety, dock labour board and collective bargaining power of the trade unions.
- (iv). The KPT has not chosen to go for general revision of its Scale of Rates every 3 years in accordance to the guidelines. Instead various piecemeal revision have been undertaken either with the approval of the Board of Trustees or with the approval of

the Government. The trade will not get an opportunity to evaluate overall increase in the Scale of Rates if this premature increase is permitted.

- (v). The proposed revision is nothing but change from the monthly pattern to day pattern and the increase proposed is 200%.
- (vi). It will not be in the overall interest of the KPT to embark on any further increase in the existing provisions and to continue the system at least for a further period of one year. There are instances that one or two dry cargo berths and oil jetty remained unoccupied.
- (vii). In the interest of trade and traffic passing through the KPT, the matter may be reconsidered to prevent port users to move to other ports.

The Kandla Port Steamship Agents' Association (KPSAA)

- (i). The revised rates are too steep. The reasons and circumstances warranting revision are not clear.
- (ii). The traditional traffic of Kandla is already being diverted to Mundra and Navlakhi. The trade is looking at the cost, congeniality and other benefits.
- (iii). Piecemeal revision of rates is an irritant and a port which is a service organisation should avoid this at any cost. In order to assess the overall impact in costs, levy of demurrage should be dealt along with a proposal for general revision of rates.
- (iv). The KPT has built new godowns and also open plots and there has been no instances that the smooth operations of the port suffered due to space congestion. No case has been made out that the KPT is in urgent need to augment its income. Had the KPT exercised the provision of Section 61 and 62 of the MPT Act on a regular basis, congestion arising in the port could have very well been mitigated.
- (v). The proposal is unrealistic and certain very vital and pertinent issues have unfortunately been lost sight of the change in the system of proposing rental charges on a day to day basis instead of on monthly basis which is not acceptable. The reason for doing so is not informed.

6.1. A joint hearing in this case was held on 16 September 2000 at the KPT premises in Gandhidham. During the joint hearing following submissions were made:—

The Kandla Port Trust (KPT)

- (i). The proposal is mainly to reduce congestion in the Port.
- (ii). In the revised proposal, the slab is reduced from 0 – 90 days to 0 – 60 days with reference to the provision in Section 61 of the MPT Act. According to this provision, the port can sell the cargo after 60 days.
- (iii). We are spending Rs.40 crores to develop 70 hectares of land more for custom bonded storage area.
- (iv). Nearly 40% of the cargo remains for more than 90 days.
- (v). We take note of the idea about comprehensive revision of Scale of Rates. But, it will take time. In the meanwhile, some proposals will come up; they cannot be held back.

- (vi). (a). Only bulk cargo gets the 'rental' facility, because the custody remains with the consignee.
- (b). In break-bulk cargo the port gives a receipt and becomes bailee. So, we have to exercise care, watch and ward, etc.; and, therefore, the cost has to be more. In such case there is demurrage.
- (c). Sections 61 - 62 of the MPT Act are not only for 'unclaimed' but for 'uncleared' cargo also.
- (d). Our proposal is only for cargo lying beyond 60 days. The increase in demurrage is not steep.
- (e). The August 1998 circular was a part of de-congestion drive. Those circumstances still continue. Congestion is still there and, therefore, there is no need to revise the system.
- (f). In the August 1998 circular, the limit was 60 days. Thereafter, double the rate as penalty for unauthorised occupation. We want to formalise now with the TAMP approval instead of taking action under Sections 60 and 61 of the MPT Act.

The Kandla Custom House Agents' Association (KCHAA)

- (i). Please introduce three slabs and not four as proposed by the Port and reduce the rates.
- (ii). Compare rates with nearby new Ports. Any increase in cost will divert the traffic.
- (iii). Take into account the factors like time taken for clearance.
- (iv). There is no congestion now in the Port.
- (v). Gujarat Government has reduced the maximum permissible load to be carried by trucks. This also delays the clearance. Gujarat Government wants to develop Mundra and Pipavav Ports. They want to crush KPT. So we must anticipate delays.
- (vi). The KPT is the only Port giving storage area both to importers and exporters on rental terms and not demurrage terms.

The Kandla Port Steamship Agents' Association (KPSAA)

- (i). 'Free days' are not given.
- (ii). There is competition from minor Ports. We are fast losing cargo.
- (iii). Piecemeal revision is bad. One cannot appreciate the overall cost position. The TAMP should insist on comprehensive revision.
- (iv). Is this revision required now at all? Can it not wait for sometime?
- (v). Auction of unclaimed cargo was held after 9 years. If it is held at regular intervals, there will be no congestion; there will be no need to raise rates.

Gandhidham Chamber of Commerce and Industry (GCC)

- (i). We have plenty of space. There is a proposal to increase the area further. Where is the congestion?
- (ii). This is not a main source of revenue.
- (iii). Our concern should be to retain the cargo. We should not raise rates now and further drive away cargo. Let it not be seen as a prestige issue. In view of the competition please withdraw this proposal.
- (iv). Earlier the unit was 'month'; it is proposed to be 'days' now. Please retain 'month'.
- (v). It is not correct to say that users treat KPT as the storage space.
- (vi). The 60 days limit in Section 60 – 61 of the Act is for 'unclaimed cargo' and not for all. Why penalise 95% for the sake of dealing with 5%.
- (vii). The first slab should be 0 – 90 days.
- (viii). Please take into account the Board discussions held in 1996 when revision was approved.
- (ix). In future, revision proposals should take into account differential impact of different cargo on Port revenue. Today bulk cargo gets a preferential treatment.

6.2. During the joint hearing, the KPT submitted statements showing (i) cargo position as on 15 September 2000 (ii) existing storage charges and proposed rental charges (iii) present and proposed storage charges; and, (iv) the cargo position of rental plot as on 14 September 2000.

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

- (i). The KPT allows storage of cargo on three different sets of terms and conditions viz (i) Transit terms; (ii) Warehousing terms; and, (iii) Rental terms. Under transit terms, demurrage is levied on a slab basis which goes upto 400% of the base rate from the 4th week of storage after expiry of the free period. Likewise, the warehousing charges also go upto 400% of the base rate beyond the 6th week.

Under rental terms, the base rate is for storage upto first three months which goes up by 50% for storage beyond three months.

- (ii). The Port has proposed amendments to the storage charges on rental terms with the objective of reducing congestion. No revision has been proposed under transit and warehousing terms, perhaps, due to the realisation that the existing charges and slab of periods may act as sufficient deterrent against keeping the cargo uncleared from port premises.
- (iii). It is noteworthy that the KPT has revised its earlier proposal, bearing in mind various difficulties expressed by the users. The port has also mentioned that it has considered not only the various statistical details of dwell time, space availability, future demand, etc., but also the competition it faces from nearby ports, while formulating its revised proposal. This categorical statement made by the Port adequately allays the apprehension expressed by the KPSAA and GCCI about possible diversion of KPT traffic to other nearby minor ports.
- (iv). The rental space for storage of cargo is allotted by the Port based on an application made by the user. The existing Scale of Rates stipulates that any unauthorised occupation of rented spaces shall be liable for payment of double the rent, as

penalty. There is also a further stipulation that the space allotted shall be vacated on receipt of notice to the effect from the Traffic Manager failing which it will be treated as unauthorised storage.

The Traffic Manager of the KPT had issued a circular in 31 August 98 informing the Trade that no renewal of land allotted on rental / warehousing terms would be considered, if the stay was more than 60 days.

In view of the KPT decision of not renewing allotment of areas under rental terms beyond 60 days, storage of cargo beyond 60 days becomes unauthorised. And, as per the existing provision in the Scale of Rates, double the rent is to be levied for unauthorised occupation.

The proposal of the KPT is to formalise the above position in the Scale of Rates. The KPT has not proposed any increase in the base rate. That being so, the GCCI objections about change of unit from month to days and steep increase in rates are not correct.

- (v). The option of fixing the period of allotment is with the KPT. It can restrict such period to any reasonable limit. Citing the congestion at the port and the provisions under Section 61 and 62 of the MPT Act, the Port has fixed such time limit as 60 days. Beyond this time limit, the Port can proceed to auction the cargo. This proposal has, however, been made to take care of circumstances warranting storage beyond 60 days; and, in such an eventuality the penal rates must induce speedy clearance of cargo. Viewed from this perspective, the proposal deserves to be approved.
- (vi). The objections of the GCCI and KPSAA about piecemeal revision of rates instead of a comprehensive review of Scale of Rates merit consideration. A comprehensive revision proposal gives an opportunity to assess the total impact of the revision at one go and also forecloses opportunities of overlap of allocation of costs. This Authority allows piecemeal proposals also, as warranted by changes in circumstances. It is to be recognised that tariff revision does not necessarily end in tariff increase. Such a review at regular intervals needs to be undertaken to rationalise the rates and conditionalities. Bearing this mind this Authority has also prescribed a two-year cycle of tariff revision.

The incidence of proposals for piecemeal revision made by the KPT is on the rise. It is noteworthy that almost all major ports, except the KPT have proposed comprehensive reviews of their Scale of Rates by this Authority since its creation in April 1997.

In this backdrop, the KPT is advised to come up with a comprehensive proposal for revision / review of the existing tariffs within next four months. The instant proposal need not wait for completion of such an exercise, since an elaborate consultation process has already been followed and considerable efforts from all concerned have been invested into it.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of the KPT for the following amendments to Scale 'G': Schedule of Storage / Rental charges in Chapter I of its Scale of Rates:

A). Open areas:

Period of occupation	Rate per 10 sq. mtr. or part thereof		
	Kutchha plots (uncemented & unasphalted)	Pucca plots (cemented &	Bins and raised

		Rs.	asphalted) Rs.	plinth Rs.
a).	0 – 60 days	35.00	60.00	70.00
b).	61 – 90 days	70.00	120.00	140.00
c).	91 – 180 days	87.50	150.00	175.00
d).	Beyond 180 days.	105.00	180.00	210.00

B). Covered areas:

Period of occupation	Rate per 10 sq. mtr. or part thereof	
	Ground Floor (Rs.)	First Floor (Rs.)
a). 0 – 60 days	150.00	130.00
b). 61 – 90 days	300.00	260.00
c). 91 – 180 days	375.00	325.00
d). Beyond 180 days.	450.00	390.00

Note : Period for the purpose of calculation shall be counted taking into account the period of stay of the cargo, both for open and covered areas.

9. The KPT is directed to include the above amendments accordingly in its Scale of Rates.

(S. Sathyam)

Chairman

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