

Tariff Authority for Major Ports

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Jawaharlal Nehru Port Trust (JNPT) for fixing the wharfage for export of Bauxite Ore as in the Order appended hereto.

(S. Sathyam)

Chairman

Case No. TAMP/131/2001-JNPT

Jawaharlal Nehru Port Trust (JNPT) ... Applicant

ORDER

(Passed on this 12th day of June 2001)

This case relates to a proposal from the Jawaharlal Nehru Port Trust (JNPT) about fixation of the wharfage for export of Bauxite Ore.

2. In its proposal, the JNPT has made the following points:
- (i). M/s. Ashapura Minechem Limited who are regularly exporting Bauxite ore through West Coast Ports of Okha, Bedi, etc., have shown interest in exporting Bauxite through the JNPT due to the proximity of the mining area in Raigad District to the JNPT.
 - (ii). The Bauxite exporters have given a proposal that they expect to export approximately 1 lakh MT of Bauxite Ore during the period from October to June. They will handle approximately four vessels of parcel size 25,000 MT during the above period of nine months. They want to aggregate, store the cargo inside the Port on rental basis so that as and when ship comes immediately they can load the cargo.
 - (iii). The traditional dry cargo handled such as fertiliser, fertiliser raw materials and foodgrain are coming down drastically leading to idling of the berths. The Port is trying to utilise the berth by handling other cargo like pig iron, soya bean meal, steel coil, cement, etc. The Port has, therefore, decided to handle Bauxite Ore for export and to allot open area inside the Port on rental for facilitating cargo aggregation.

- (iv). The Board of Trustees of the JNPT has approved a wharfage of Rs.50/- PMT for the export of Bauxite Ore.
- (v). The Board of Trustees has also decided to issue a trade notice to fix the wharfage for Bauxite at Rs.50/- PMT in exercise of power under Section 53 of the MPT Act till the approval of the TAMP is received. (i.e. a reduction from Rs.130/- PMT for "cargo not specified" to the proposed level of Rs.50/-)
- (vi). To decide on Bauxite wharfage the JNPT has made comparison between the FOB values and the notified wharfage rates for export of iron ore / lump, size coal, limestone and Bauxite ore. Since, the FOB value of Bauxite (Rs.585) is closer to that of limestone (Rs.360), wharfage of Bauxite ore has been proposed to be fixed at Rs.50/- PMT.
- (vii). The wharfage for Bauxite at the KPT, VPT and CHPT are Rs.15/-, Rs.20/- and Rs.11.40 PMT respectively. However, the road connectivity, asphalted open space and other related facilities in JNPT are superior to those in other ports. The mining area is very near to the port resulting in substantial savings to the exporter in inland transportation cost. A wharfage of Rs.50/- PMT for Bauxite ore is, therefore, considered reasonable and appropriate.

3. In accordance with the procedure prescribed, the proposal of the JNPT was circulated to all concerned users / representative bodies of users for comments. The comments received are summarised below:

Federation of Indian Mineral Industries (FIMI)

- (i). Other ports like MOPT, KPT, VPT and CHPT are charging Rs.8.75, Rs.15/-, Rs.20/- and Rs.11.40 PMT respectively as wharfage charges for export of Bauxite ore. The JNPT has recommended almost three to five times higher than the amount being charged by other ports. Such higher rates are unnecessary burden to an exporter and edge them out to exporters from other countries who are our competitors. The wharfage rates may be fixed at par with those being levied by other ports i.e., between Rs.15/- to Rs.20/- PMT.
- (ii). The port must distinguish between exports which are carried out from the port and result into an inflow of foreign exchange into the country and the imports of other items where there is an outflow of foreign exchange. Wharfage charges must be levied after due to consideration of such a factor.
- (iii). The commodity is low priced and has a limited market. The FOB value arrived by the JNPT for Bauxite is slightly higher. It is around Rs.400/- to Rs.475/- PMT which may be considered for levying wharfage.

M/s. Ashapura International Limited

- (i). The wharfage for Bauxite at KPT is Rs.15/- PMT. 50% concession for export is allowed; and, therefore, the wharfage for export of Bauxite comes to Rs.7.50 PMT.
- (ii). The JNPT declared through trade notice dated 19 December 2000 that Rs.50/- PMT would be the wharfage charge for Bauxite which is quite high.
- (iii). We are investing a huge amount in development and maintenance of infrastructure like road electricity, water facility, shelter for labour, etc. All mines are on hilly area and it is essential to have all these facilities. It is, therefore, difficult to bear the highest wharfage at the JNPT. The sales price of Bauxite Ore will not then be competitive.
- (iv). The wharfage for Bauxite may be fixed at Rs.10/- PMT to develop social economy and good export volume from the JNPT. _

Bombay Custom House Agents Association (BCHAA)

- (i). Based on the prevailing wharfage tariff at the adjoining ports, like KPT, VPT and CHPT etc., justification to be forwarded by JNPT to recover a sum of Rs.50/- PMT which is not at all sustainable.
- (ii). The wharfage on Bauxite cannot be more than Rs.30/- PMT, keeping in mind that the JNPT is very young port and has made a tremendous Capital Investment.

4. A joint hearing in this case was held on 20 April 2001 at the JNPT Office in Mumbai. At the joint hearing, the following submissions were made: _

Jawaharlal Nehru Port Trust (JNPT)

- (i). Bauxite is a new cargo for us. We want to attract more cargo to this Port.
- (ii). Proximity of mines to the port is advantageous for the exporters also.
- (iii). There was no separate entry in the Scale of Rate for Bauxite. It was earlier charged under residuary entry (viz. Unspecified cargo). Now we propose a separate entry.
- (iv). We took the Board approval for applying the new rate provisionally with the help of Section 53 of the MPT Act because of urgency. There was no intention to bypass the TAMP. Our action in this case is subject to the decision of the TAMP.
- (v). The wharfage rate in COPT is Rs.41/- PMT, in NMPT Rs.35/-PMT, in TPT Rs.70/- PMT, and in PPT Rs.54/- PMT. It shows that there are higher rates in some ports than the rates proposed by the JNPT.

(vi). The exporter must look at the economics of his business. He has the locational advantages. Harping only on the wharfage rate is not meaningful.

M/s. Ashapura Minechem Limited

(i). There are some minor Ports near our mines. But, they are not good and that is why we are interested in the JNPT.

(ii). 10% of FOB value is unviable for us. In fact, Rs.50 is more than 10% of the FOB value.

(iii). Wharfage for Bauxite is much less in the KPT, VPT, etc.

(iv). Please give a lower rate as a 'promotional rate' in the initial period atleast.

(v). We export 6 lakhs MT from Saurashtra. We expect about 5 Lakhs MT in 5 years from Western Ghats. This cargo will come to the JNPT. But, the rate has to be viable. Rs.50/- PMT is not viable.

(vi). From our point of view, lower rate now is critical. We are not thinking of volume discount. We must start business. When it picks up and we generate revenue, we can pay a higher wharfage.

Bombay Custom House Agents Association (BCHAA)

(i). Rs.50/- PMT is high. Rs.10/-PMT is too low. JNPT is a new Port and heavy investments have been made. Rs.30/- PMT will be reasonable.

(ii). We agree with the JNPT's views that when low volume traffic the rate will be higher. Let them increase the volume, later the rate can come down. The logic of the JNPT is acceptable to us.

Indian Merchant Chamber

(i). We agree with the BCHAA. If the JNPT can reduce a little it will be all right. Otherwise, the exporter will have to increase the traffic and press for volume discounts.

5. With reference to the totality of information collected during the processing of this case, the following position is seen to emerge:

- (i). The existing wharfage schedule of the JNPT does not contain a separate rate for export of Bauxite. Till such a specific entry is ordered by the Authority for inclusion in the Scale of Rates of the JNPT, (export) Bauxite wharfage is being covered by the rate (Rs.130/- PMT) prescribed for 'unspecified cargo'.

The Board of Trustees of the JNPT has already reduced the applicable wharfage for Bauxite export to Rs.50/- PMT by exercising the powers conferred on it by Section 53 of the MPT Act. This is a

clear case of tinkering with the Scale of Rates by the Board of Trustees, which is not the tariff arrangement envisaged in the Act. At our instance, the Government has also advised the major ports not to apply Section 53 of the Act to alter the approved Scale of Rates. Specifically in the case of the JNPT, this is not the first time we come across instances of this port introducing new tariff arrangements through administrative circulars. That being so, the JNPT is advised that this Authority will not entertain proposals from it which indirectly seek ratification of action already taken by it through Trade Circulars.

It is to be recognised that in a cost plus regime of tariff regulations, remission in revenue allowed in one place has essentially been recovered from somewhere else, even if it is not a source which directly enjoys that service. This is not a tenable proposition at all.

- (ii). The FIMI and Ashapura Minechem have cited the wharfage rates at some other major ports in support of their request for a reduction in the rates proposed by the JNPT. The JNPT has countered this by quoting (the figures quoted by the JNPT do not, however, reflect the correct rates) wharfage rates at some other major ports, which are higher than the proposed rates. At the Indian major ports, the rates are not uniform; and, quoting only one single rate of a port to seek reduction in rates of another port is not very logical.
- (iii). The arguments of Ashapura Minechem about its investments, viability of its operations, etc. are out of context. Likewise, the FIMI's arguments about fixing wharfage rates with reference to foreign exchange flow is misplaced. Major Port Trusts are self-financing bodies and their rates are being fixed with reference to their costs. Providing incentives to exports is the concern of the Government; and, logically, a Port Trust cannot be expected to forego its revenue in the name of such incentives.
- (iv). The Ashapura Minechem's request that it is ready to pay higher rates when volume picks up cannot be accepted. From the port's angle, its costs come down with increase in traffic; and, hence it can allow discounts only for volumes beyond certain level. Volume Discount schemes introduced by this Authority elsewhere are also sliding scales with rates going down with increase in Volumes. As has also been suggested by the BCHAA, it is reasonable for the JNPT to propose an appropriate volume discount scheme for export of Bauxite, once this traffic stabilises.
- (v). The JNPT and FIMI have compared the FOB value of the commodity for the purpose of determining wharfage rate. As has already been mentioned, tariff of a port, in the tariff approach adopted for the present, has to be based on its cost of handling. Nevertheless, the wharfage schedules of ports contain numerous entries for historical reasons and due to the tariff policy adopted in the past. Rationalisation of this cannot be done at one go; it has to be gradual.

It is noteworthy that this Authority is yet to develop guidelines for determination of wharfage rate for a single commodity.

It is to be recognised that the bulk terminal of the JNPT is losing heavily. It has to handle more traffic and generate additional revenue to make this terminal financially viable. The JNPT has also expressed this concern in its proposal. The JNPT has, in its wisdom, considered it appropriate and reasonable to fix a wharfage rate of Rs. 50/- PMT for export of Bauxite. They will surely have also reckoned with their commercial considerations to arrive at this proposal. Significantly, the Board of Trustees of the JNPT has also unanimously endorsed the proposal. We have no reason for not accepting the proposal of the JNPT. Incidentally, the rate suggested by the BCHAA is also not based on any scientific calculations but on an approximation in its judgment. Since the JNPT is the one who will be providing the service, we are inclined to agree with the commercial judgment of the JNPT and approve its proposal.

6. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves a wharfage rate of Rs. 50/- PMT for export of Bauxite Ore through the JNPT. The JNPT is directed to incorporate this rate in its Scale of Rates appropriately.

(S. Sathyam)

Chairman