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New Delhi, the 23 November, 2001

**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 disposes of the proposal of the Chennai Port Trust for fixation of rates for recovery of wharfage charges on LCL status ICD containers as in the Order appended hereto.

( **S. Sathyam** )

Chairman

**Tariff Authority for Major Ports**

**Case No.TAMP/74/2001-CHPT**

**The Chennai Port Trust (CHPT)**

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**Applicant**

**ORDER**

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

This case relates to a proposal received from the Chennai Port Trust (CHPT) for fixation of rates for recovery of wharfage charges on LCL status ICD containers.

2. In its proposal, the CHPT has made the following points:-

- (i). The present wharfage charges on the LCL containers booked from and to various ICDs are recovered as per Clause 13. (i). (b)., Chapter II-B, Book I of the Scale of Rates. According to this clause, wharfage for cargo containerised in LCL containers is being recovered as that of normal LCL cargo (i.e., as per the wharfage schedule applicable for general break-bulk cargo) even though the containers are directly taken to the ICDs without any destuffing inside the port premises. In this regard, it has also received a representation from the SCI.
- (ii). In this backdrop, it has proposed the following amendments to its Scale of Rates:
  - (a). The wharfage rate for cargo containerised in LCL containers (import/export) is proposed to be recovered at par with the

wharfage rate prevailing for cargo containerised in FCL containers in case no destuffing/stuffing is done by the Port.

- (b). Cases in which cargo containerised in LCL containers is destuffed/stuffed for delivery/shipment, it has proposed to levy a wharfage rate applicable to general break-bulk cargo as per the wharfage schedule.
- (iii). Accordingly, it has proposed to substitute the existing Clause at 13.(i).(b). under Scale A-General, Chapter II-B, Book I with the following:

Item Number	Classification	Rate per container		
		Upto 20 feet in Length	Above 20 feet and upto 40 feet in length	Above 40 feet in length
13.(i).(b).(i).	Wharfage on cargo containerised in ONE LCL CONTAINER (Import or Export) in cases when no destuffing/stuffing is done by the port.	500	750	1000
13.(i).(b).(ii).	Wharfage on cargo containerised in ONE LCL CONTAINER in cases when the cargo destuffed and stuffed for delivery/shipment in container/ as break bulk.	Wharfage as per classification under Scale 'A' in Chapter II-A, Book-I of the Scale of Rates.		

3. A copy of the proposal was forwarded to concerned port users/ representative bodies of port users for their comments. The comments received from them are summarised below:

**The Tamil Chamber of Commerce (TCC)**

- (i). It is not appropriate for the CHPT to seek changes in or revision of container related tariff items at this stage since a Licence Agreement between the Chennai Port Trust and the Chennai Container Terminal Limited (CCT) has already been signed to privatise the Container Terminal operations.
- (ii). The CCT proposal for revision of tariffs for the Container Terminal operations at the CHPT has been received by the Authority; and, the same has been circulated to various representative bodies of port

users. The TAMP is, therefore, strongly requested not to consider the revision proposed by the CHPT.

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

The proposal of the CHPT is in line with the SCI representation. It has, therefore, no objection.

**The Chennai Steamer Agent's Association (CSAA)**

It is unable to send any comments since it has not received any response from its member firms.

4. A copy each of the comments received from the above representative bodies of port users has been forwarded to the CHPT, as feed back information.

5. A joint hearing in this case was held on 5 October 2001 at the CHPT. At the joint hearing, the following submissions were made:

**The Chennai Port Trust (CHPT)**

It is a simple proposal for LCL (ICD) containers. We do nothing. The LCL containers go straight through to the CFS or ICD yard. There is, therefore, no difference between the FCL and the LCL (ICD) containers. They may be charged accordingly.

**The Tamil Chamber of Commerce (TCC)**

We endorse the views of the CHPT.

**The Madras Chamber of Commerce and Industry (MCCI)**

We agree with the CHPT proposal.

**The Hindustan Chamber of Commerce (HCI)**

We accept the rates proposed by the CHPT.

6. Subsequent to the joint hearing in this case, the Chennai Container Terminals Limited (CCT) has stated that it will be a party affected by any decision taken by the Authority in this case. It has made the following points in this regard:

(i). The CCT has signed a Concession Agreement (CA) with the CHPT for development, operation and management of the Container Terminal at the Chennai port. As per the terms of the CA, the CCT shall collect all cargo related charges including wharfage on FCL, LCL and ICD containers.

(ii). It has requested the Authority to withhold disposing of the CHPT proposal, as the CCT is the affected party that has not been heard. It

has requested the Authority to call another joint hearing to hear its views before disposing of this case.

7. With reference to the totality of information collected during the processing of this case, and bearing in mind the arguments advanced at the joint hearing, the following position emerges:

- (i). The proposal of the CHPT is not for revision of any of the existing rates or for introduction of a new tariff item. The proposal only seeks rationalisation of the existing tariff arrangement in order to align the rate with reference to the service provided instead of resorting to charging box rates based on LCL and FCL classification of laden containers. The TCC has, perhaps, wrongly understood this proposal as one seeking an upward revision of rates; the TCC had objected to the proposed change in the context of a private container terminal to be established by the P & O India. Nevertheless, the TCC had changed its mind by the time of the joint hearing to say that they endorsed the views of the CHPT.
- (ii).
  - (a). The CCT's objections are misplaced. The CCT has filed a separate tariff application; and, when that is decided it will have its own tariff structure. It is to be recognised that the present proposal is for an amendment to the Scale of Rates of the CHPT; and, the Scale of Rates is valid only when the CHPT provides services, unless it is extended by this Authority specifically to other terminal operators functioning within the CHPT. Nevertheless, the principle set forth by this Authority as a part of this case will in any case be borne in mind while deciding similar cases relating to other Port Trusts / Private Terminals.
    - (b). It is also relevant here to mention that even after the Container Terminal is taken over by the CCT, the CHPT can handle general cargo vessels carrying less than 40 containers at its inner harbour. Apart from this stipulation, the Licence Agreement also provides for the CHPT operating competing facilities if the Licensee achieves 80% or more of the guaranteed throughput for three consecutive years. This case, therefore, need not held up, as requested by the CCT.
- (iii). Differential rates for FCL and LCL are prescribed recognising the different levels of services provided by the Port. In case of LCL, generally the cargo is delivered or received in break-bulk, which calls for additional efforts when compared to FCL, which moves in/out as unit load.

With the advent of ICDs and off-dock CFSs, the position in respect of LCL containers explained above has changed. LCL containers can also move as unit load from/to the Port to/from ICDs or off-dock CFSs. In such cases, the service provided by the Port is not different from that provided to FCL containers. That being so, it is reasonable to

treat LCL containers, which enter or move out of port premises in unit load, as FCL for the purpose of levying the box rate. It is also to be recognised that in case of such LCLs, since stuffing/destuffing does not take place inside the port premises, it may not be easily possible for the Port to assess the cargo content to levy wharfage on a break-bulk basis.

- (iv). The CHPT has recognised this position partly insofar as ICD containers are concerned and proposed rationalisation of tariff accordingly. This proposal has also been endorsed by all user-organisations who participated in this proceeding. This Authority is, therefore, inclined to approve the proposal of the CHPT.
- (v). As has been mentioned above, the proposal of the CHPT does not clearly include those LCL containers moving in unit load from/to CFSS outside port premises. As far as the port is concerned there is no difference between this situation and the LCL containers moving to ICDs. That being so, the proposal of the CHPT is to be extended to cover all LCL containers moving as unit load without stuffing/destuffing of cargo within the port premises. This requires amendment to item no 10(i).(b). in Scale A-General; Chapter-II B of the CHPT Scale of Rates in addition to amendment to item no. 13(i).(b). proposed by the CHPT.

8.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority amends the Scale of Rates of the CHPT as follows:

- (i). The existing provision at item number 10. (i). (b). in Scale 'A' General, Chapter II B, Book – I may be deleted and substituted by the following:

Item Numbers	Classification	Rate per container (in Rs.)		
		Upto 20 feet in length	Above 20 feet and upto 40 feet in length	Above 40 feet in length
10(i).(b). (i).	Wharfage on cargo containerised in ONE LCL CONTAINER (Import or Export) in cases when no destuffing/stuffing is done inside the port premises.	500	750	1000
10(i).(b).(ii).	Wharfage on cargo containerised in ONE LCL CONTAINER in cases when the cargo is destuffed /stuffed for delivery/shipment inside the port premises.	Wharfage as per classification under Scale 'A' in Chapter II-A, Book-I of the Scale of Rates.		

- (ii). The existing provision at item number 13. (i). (b). in Scale 'A' General, Chapter II B, Book – I may be deleted and substituted by the following:

Item Numbers	Classification	Rate per container (in Rs.)		
		Upto 20 feet in length	Above 20 feet and upto 40 feet in length	Above 40 feet in length
13(i).(b). (i).	Wharfage on cargo containerised in ONE LCL CONTAINER (Import or Export) in cases when no destuffing/stuffing is done inside the port premises.	500	750	1000
13(i).(b).(ii).	Wharfage on cargo containerised in ONE LCL CONTAINER in cases when the cargo is destuffed /stuffed for delivery/ shipment inside the port premises.	Wharfage as per classification under Scale 'A' in Chapter II-A, Book-I of the Scale of Rates.		

8.2. This Order will come into effect after expiry of 15 days from the date of its notification in the Gazette of India.

( S. Sathyam )

Chairman