

No.14

New Delhi, the 22nd January 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 modifies its Order dated 26 September 2000 relating to heavy lift charges on packages weighing over 20 MT at the Mumbai Port Trust, as in the Order appended hereto.

( **S. Sathyam** )

**Chairman**

Case No.TAMP/40/2000-Misc

**The Mumbai Port Trust (MBPT) ... Applicant**

### ORDER

(Passed on this 5th day of January 2001)

This Authority had passed an Order on 10 November 1999 relating to 'heavy lift charges' for common adoption by all the Major Port Trusts.

2. Considering a representation submitted by the MANSA, this Authority modified the above order vide its Order dated 26 September 2000 in respect of MBPT, the operative portion of which reads as follows:

“(i). This Authority's Order dated 10 November 99 is modified in its application at the MBPT to the extent that the existing provision about levy of a 10% (notional) crantage charges, in cases of non-use of the port's equipment, will remain in force in place of the 50% charge prescribed by the impugned order.

(ii). The MBPT shall not levy the 10% (notional) crantage charge in cases of heavy lifts by cranes and gears which do not belong to the port, if the port's heavy lift cranes could not be spared for reasons like maintenance, overhaul, repairs, non availability of the crane because of being hired by another party, etc. and; consequently when the heavy lifts have to be landed or shipped necessarily by the use of the ship's own derricks or hired private cranes.”

3. The MBPT has now submitted a representation requesting to amend the Order dated 26 September 2000, for the following reasons:

- (i). The statement recorded in Para 5(i) and 6 (ii) of the Order dated 26 September 2000 that during the joint hearing, the MBPT indicated that it did not have the concept of heavy lift charges and requested for exemption from the Order is not correct. What was stated was that there was no concept of heavy lift charges for export cargo. Be that as it may, the request of the MBPT, as stated now, has been noted.
- (ii). In its letter dated 15 September 2000, the MBPT has explicitly stated that the levy of charges for not using Port Trust crane for handling of heavy lifts be retained at the

present level of 10%; but, only in case of import cargo and not export cargo for which there will be no separate charges.

- (iii). In the Authority's Order levy of charges for non-use of Port Trust cranes for handling heavy lift cargo is meant both for import and export operations. The extension of these provisions to export cargo will affect exports through the Port as it will lead to increase in handling cost making exports more expensive and uncompetitive and also be counter productive of Port's efforts to boost exports through the Port by granting additional incentives.

The MBPT has, therefore, requested us to review the order and issue amendment to exclude export cargo from the levy of heavy lift charges.

4. Based on the records available, and based on a collective application of mind, the following position emerges:

- (i). The records of arguments made during the joint hearing held on 15 September 2000 show that the representative of MBPT mentioned that the Port did not have the concept of 'heavy lift'. The Port may have intended to make this statement only in respect of export cargo cases; but, such a specific submission was not made. The paragraphs 5(i) and 6(ii) of this Authority's Order dated 26 September 2000, therefore, reflect the correct position of the joint hearing proceedings.
- (ii). It is true that the MBPT in its letter dated 15 September 2000 (received by this Authority after the joint hearing) has mentioned about retaining the (notional) cranaage charge of 10% only in case of import cargo. This point has, however, been inadvertently missed.
- (iii). The Scale of Rates of the MBPT, before it was amended by this Authority's Order dated 10 November 99, prescribed a 10% (notional) cranaage charge for use of private equipment for landing of heavy lifts.

This Authority's Order dated 26 September 2000 under paragraph 7(i) approves modification of its earlier Order dated 10 November 99 in its application at the MBPT to the extent that the existing provision about levy of 10% (notional) cranaage charge, in cases of non-use of the port's equipment, will remain in force.

With the above modification ordered by this Authority, the position in the Scale of Rates of the MBPT before its amendment by Order dated 10 November 99 reverts; and, the position was of charging 10% (notional) cranaage charges only in respect of import cargo. That being so, no further amendment of the Authority's Order to exclude export cargo from the levy of (notional) cranaage charges is necessary.

- (iv). Possibly, the confusion may have arisen due to the wording of the last sentence of paragraph 7(ii) of the Order dated 26 September 2000 which reads as follows:

"..... consequently, when the heavy lifts have to be landed or shipped necessarily by the ship's own derricks or hired private cranes."

Paragraph 7(ii) stipulates the circumstances under which heavy lift (notional) charge shall not be levied. It can not be seen to mean that such charges are to be levied in all circumstances not mentioned under para 7(ii), with a total disregard to a specific stipulation about levy of such a charge is made under para 7(i) of the Order.

- (v). Eventhough there is no factual error or unintended stipulation made in the order dated 26 September 2000, the wording in paragraph 7 is elaborated further to avoid any confusion in the application of the Order.

5. In the result, and for the reasons given above, and based on a collective application of mind, the Authority approves substitution of paragraph 7 of its Order dated 26 September 2000 by the following:

“7. In the result, and for the reasons given above, this Authority vacates the interim stay granted in this case earlier and decides as follows:

(i). This Authority’s Order dated 10 November 99 is modified in its application at the MBPT to the extent that the existing provision about levy of a 10% (notional) crantage charge, in cases of non-use of the port’s equipment for landing of heavy lifts, will remain in force in place of the 50% charge prescribed by the impugned order.

(ii). The MBPT shall not levy the 10% (notional) crantage charge in cases of heavy lifts by cranes and gears which do not belong to the port, if the port’s heavy lift cranes can not be spared for reasons like maintenance, overhaul, repairs, non availability of the crane because of being hired by another party, etc.; and, consequently, when the heavy lifts have to be landed necessarily by the use of the ship’s own derricks or hired private cranes.”

( **S. Sathyam** )

**Chairman**

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