

No. 79

New Delhi, the 30th March, 2001

Tariff Authority for Major Ports

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby notifies the consolidated Scale of Rates of the Chennai Port Trust alongwith its conditionalities as in the Order appended hereto.

(S. Sathyam)

Chairman

Case No.TAMP/118/2000 – CHPT

The Chennai Port Trust (CHPT)

Applicant

ORDER

(Passed on this 28th day of March 2001)

This Authority had approved the general revision of the Scale of Rates (SOR), both vessel related and cargo related charges relating to the Chennai Port Trust (CHPT) on 22 March 2000 and notified its Order in the Gazette of India on 10 April 2000. While approving the revision of the SOR and some important conditionalities, this Authority could not make a thoroughgoing scrutiny of all the conditionalities to examine their relevance, justification, internal consistency, simplicity, etc. This Authority, therefore, reserved its right to take up the matter at a later date for a detail scrutiny of the SOR of the CHPT. In our Order, we requested both the CHPT and its users to give us benefit of their views / comments, suggestions, and recommendations for a critical review / analysis of the conditionalities. No views/comments have, however, been received from any users / representative bodies of port users so far. Without waiting for such scrutiny / analysis, this Authority authorised the CHPT to formulate appropriate amendments to the SOR including its conditionalities in respect of the decision given in the Order dated 22 March 2000. In addition, the CHPT was also authorised to amend its SOR including conditionalities with reference to Orders relating to the CHPT or Orders for common adoption notified by this Authority from time to time.

2. The CHPT has now submitted its draft SOR including the various conditionalities amended in accordance with the Order of this Authority on general revision of the SOR and various other orders relating to the CHPT passed by this Authority from time to time as also certain Orders notified for common adoption by all the Major Port Trusts.

3. In the draft SOR submitted by the CHPT, it has not done anything to rationalise or simplify it. The CHPT has simply revised various rates as approved by the Authority and added the conditionalities prescribed by the Authority for common adoption. The draft SOR submitted by the CHPT is a mix of conditionalities governing tariffs as well as some non-tariff related operational matters. While scrutinising the SOR, we have made changes and deleted some of the irrelevant conditionalities. It is to be admitted that still a lot of improvement can be made in the SOR but amending certain conditionalities and segregating tariff matters and non-tariff matters will involve more time in getting clarifications and assessing simplifications of their implications. Notification of a

comprehensive SOR of the CHPT has already been delayed and further delay is not desirable. Further rationalisation of the SOR will be taken up at the time of the next general revision of tariffs of the CHPT, which in any case, is due in another one year.

4. The following important additions / deletions / modifications have been made in the draft SOR submitted by the CHPT:

- (i). The words 'Madras Port Trust' and 'Madras' wherever used in the draft SOR have been changed to 'Chennai Port Trust' and 'Chennai'. Likewise, the word 'Board' used to refer to the Port Trust has been changed to 'CHPT'.
- (ii). The terms 'coasting vessel' / 'foreign vessel' have been uniformly changed to 'coastal vessel' / 'foreign-going vessel'.
- (iii). The draft SOR provides discretionary powers different authorities like to the Chairman, Traffic Manager, etc. Such provisions are amended to delete the discretionary powers proposed. Likewise, in some cases, it has been proposed to delegate powers to such officials of the CHPT. The internal delegation of powers is not for this Authority to scrutinise and approve. That being so, in the Scale of Rates, such clauses have been amended to refer only the CHPT. Nevertheless, wherever it has been found that such specification is required, the Scale of Rates has been modified to refer to CHPT or other such official to whom power can be delegated by it.
- (iv). Certain discrepancies in the revised rates indicated in the draft SOR have been found. This has been mainly due to rates being rounded off. Minor corrections / modifications of the revised rates have been made, wherever necessary.
- (v). Various tariff orders passed by this Authority in the CHPT context and also for common adoption by all Major Ports have also been included in the Scale of Rates. It is noteworthy that the CHPT has not included in the draft SOR the Order of the Authority relating to penal interest on delayed payments / refunds. This has now been included.
- (vi). Some of the conditions, which have been found redundant or relating to operational issues have been deleted. For example, Chapter VI and VII and Book-II have been deleted as they relate to procedure for apportionment of sale proceeds relating to unclaimed abandoned goods sold in public auction and condition for fumigation of cotton bales. These are not tariff issues and, therefore, this Authority has no role to prescribe such conditionalities.
- (vii). Port dues, pilotage, etc., have been separately given by the CHPT under Book-III stating that these are charges levied under the provisions of Indian Ports Act. Since these charges are levied under MPT Act, these chapters have been accordingly included as part of Book-I.
- (viii). This Authority had already passed an Order about re-classification of sized kerb stones / cobble stones shipped in bulk. The decision was that these commodities should be levied wharfage under Item No. 64 B of the Wharfage Schedule instead of 77 A. The draft SOR submitted by the CHPT proposed to levy wharfage on this under Item 77A. The modification proposed by the CHPT is not acceptable; and, the re-classification prescribed by this Authority is again ordered to be followed. Accordingly, this commodity has been included under Item 64 B of the Wharfage Schedule.
- (ix). The draft SOR contains a provision empowering the Chairman (CHPT) to permit special sub-letting of space allotted on monthly licence, etc. This clause has been deleted as sub-letting is not permissible.

- (x). Scale D – Chapter V of Book-I of the Scale of Rates of the CHPT prescribes rates for supply of Port Trust labour. The Charges payable in case of foreign-going vessels is denominated in US\$ terms. It is to be recognised that Port Trust labour are engaged for cargo handling operation and even though the charges are payable by vessels, it assumes the position of cargo handling charges. Since cargo handling charges are not allowed to be denominated in US\$ terms, the specific charge in reference has also been denominated in Indian rupee terms only.

5. With reference to the scrutiny made, the following position also emerges:

(i). The CHPT levies a special quay dues on vessels loading iron ore. This charges is payable on the basis of quantity of iron ore shipped; but, it is payable by the vessel. This charge is, therefore, of the nature of both cargo and vessel related charges. In VPT also, such a levy is being made. Acting on the advice of this Authority, the VPT has now proposed to abolish this special due and merge it with the berth hire charges. It will be advisable for the CHPT to adopt such an approach, when it formulates its proposal for next general revision of its tariffs.

(ii). When the Port Trust crane, floating craft, etc., are hired by users, the Port demands damages and compensations from the hirers, in case of any accidents or damages to properties and life. The CHPT is advised to insure such equipment, craft, etc., and either include the insurance cost in the hire charges or levy it separately as actuals. In such cases, the damages and compensations, etc., will be claimed from the insurance company and not from the users. It is relevant to recongise in this context that these equipment and craft are operated by the Port personnel; and, therefore, there is no scope for their misuse by the hirers. The CHPT is required to follow this approach in respect of its equipment and properties while formulating its proposal for the next general revision of tariffs.

(iii). In the last revision of the CHPT tariffs, this Authority did not consider revision of the Port railway charges and special port services charge on rail borne cargo on the ground that railway related charges were not under its jurisdiction. The Ministry of Shipping, in consultation with the Ministry of Law has examined the issue of this Authority's jurisdiction over port railway charges and has now advised all Major Port Trusts that 'the TAMP is the only Authority to fix such rates'. In view of this advice from the Govt., the CHPT may come up with its proposals for revision of port railway charges immediately without waiting for the next general revision of the tariffs. It is to be mentioned by way of abundant caution that the existing railway charges included in the Scale of Rates being notified now are not scrutinised by this Authority.

(iv). The matter relating to levy of container storage charges is sub-judice. The rate included in the Scale of Rates being notified now is in accordance with the interim Order passed by the Division Bench of the Hon'ble High Court of Madras. This is, however, subject to the final outcome in the writ appeal filed by the CHPT.

6. Subject to the modifications and observations elaborated in the preceding paragraphs, and based on a collective application of mind, this Authority decides to notify the consolidated SOR of the CHPT as set out in [Annex-I](#) to this order.

7. The effective date of the various rates / charges, conditionalities given in consolidated SOR will remain the same as already indicated in the relevant Order(s) notified by this Authority.

(S. Sathyam)

Chairman

