

No.62

New Delhi, the 9th March, 2001

Tariff Authority for Major Ports

No.TAMP/97/2000 - CHPT

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 amends the Scale of Rates of the Chennai Port Trust to prescribe a rate for delivery / reception of containers on closed holidays, as in the Order appended hereto.

(S. Sathyam)

Chairman

Case No.TAMP/97/2000-CHPT

The Chennai Port Trust (CHPT) - - - Applicant

ORDER

(Passed on this 14th day of February 2001)

This case relates to a proposal received from the Chennai Port Trust (CHPT) to amend its Scale of Rates to include a provision for levy of Night and Holiday charges for delivery / reception of containers on closed holidays.

2.1. In its proposal, the CHPT has mentioned that the rate of Night and Holiday charges per containers leviable on Board's closed holidays has been arrived at Rs.125/- per container based on the estimated number of personnel deployed for operations on such days and their average wage cost. Presently, there is no provision to levy the Night and Holiday charges during Board's closed holidays on the Box Rate i.e. per container.

2.2. The CHPT expects that the proposed rate of Night and Holiday charges on the Box rate instead of on a shift basis for delivery / admittance of containers may encourage the port users to work on closed holidays.

3. The proposal was circulated to various users / representative bodies of port users for comments. Comments received from them are summarised below:

Hindustan Chamber of Commerce (HCC)

- (i). The Night and Holiday charges have been in vogue in the conventional berths only. The composite rates that have been applied comprise an integral part of the Berth Hire, which includes two components, crantage and Night and Holiday charges. Crantage is paid by cargo while Night and Holiday is levied on the vessel owner.
- (ii). There has, however, never been a special holiday charge that was applicable on containers. There are only six closed holidays in a year for the CHPT. The Port has

decided to work on one of the closed holidays from the last year. This has helped the Port to reduce the congestion in the terminal and create space for smoother and faster working on the next working day.

- (iii). The Port shall not levy any additional charges for these 6 days. 743 containers may not be handled on all these days as estimated by the Port. The Port can handle the containers on closed holidays without this additional charge.
- (iv). Working on a holiday will help the Port in reducing congestion and improve its throughput and performance on working days. The benefit will compensate for the additional cost incurred.

Shipping Corporation of India (SCI)

- (i). As the proposed levy will increase the import / export cost of the consignees / shippers, it will be highly detrimental to the growth of container traffic.
- (ii). The Port has not given the reason for imposition of such a levy. The Port is planning to lease out the container terminal to a foreign agency which is under active consideration by the Government.
- (iii). The cost sheet given by the Port arriving at the rate of Rs.125/- per container is not self-explanatory, and clarification is required for levy of 40% towards supervision, 25% towards wage revision and 15% towards VDA increase. _

Chennai Steamer Agents Association (CSAA)

- (i). A container terminal is supposed to work without breaks leave alone holidays.
- (ii). When the Port is on the verge of handing over the Container Terminal to a private operator, the introduction of new tariff will only set a precedent. Other terminals in the country do not levy such charges.

Chennai Custom House Agents Association (CCHAA)

- (i). The suggestion made by the CHPT to facilitate delivery/receipt of containers even on Board's closed holidays is welcome.
- (ii). The rates proposed by the Port is on the basis of the present average containers handled per day. If the present trend continues, number of boxes handled per day will be on the increase. In such an eventuality, will the Port consider reduction of the proposed rate of Rs.125/- per box?
- (iii). This rate will be applicable even after the Container Terminal of Chennai Port is privatized.
- (iv). Presently, to carry out any work within the Port on a closed holiday, a special entry permit issued by the CISF is required even to those holding regular Entry Permits. Once the revised procedure is introduced, entering the Port on Board's closed holidays shall be automatic for the success of the proposal.

Southern India Chamber of Commerce and Industry (SICCI)

The charge of Rs.125/- per container as Night and Holidays charges proposed by the CHPT is agreeable.

Indian National shipowners' Association (INSA)

The rate proposed by the Chennai Port Trust to permit admittance and delivery of containers on closed Holidays is reasonable.

4.1. On a preliminary scrutiny of the proposal, the CHPT was requested to furnish additional information / clarification on the following points:

- (i). Confirmation whether the costs included for arriving at the proposed charge are not included in any of the cost statements submitted by the CHPT at the time of last general revision of its Scale of Rates.
- (ii). Break up of wage cost and also the category-wise employees deployed on a holiday for delivery / reception of containers.
- (iii). The basis for arriving at supervision charges.
- (iv). Dearness Allowances (DA) increased in the last two years and a confirmation whether the total wages considered in the cost calculation is exclusive of DA.
- (v). Reasons for proposing the same rate for 20' and 40' containers.

4.2. In its reply, the CHPT has offered the following clarifications:

- (i). The levy of night and holiday charges for delivery and admission of containers on a closed holiday is not included in the container handling activity. The existing rate for delivery and admission of cargo is Rs.5354.30 per shift or part thereof for consignee or shipper for delivery of import ex. one vessel or admission of exports per vessel. As this rate is on a per shift basis for one consignee and one vessel, this cannot be applied for delivery of one container by one consignee.
- (ii). Since this is a new cost, it has not been included in any of the cost statements at the time of general revision.
- (iii). Break up of wage cost and category-wise employees required for delivery / reception of containers on a closed holiday has been furnished.
- (iv). In the cost calculations, only the salary and wages of operational staff is taken. Hence, the supervision charge is taken as 40% as per the existing procedure towards management and general administration overheads.
- (v). Total wages considered in the cost calculation is inclusive of Dearness Allowance (DA). Increase in DA has been taken based on an average for the years 1998-99 and 1999-2000.
- (vi). Since the cost is arrived based on the employee wages on shift basis, the rate is fixed irrespective of container size.

5. A joint hearing in this case was held on 25 January 2001 at the CHPT premises. The following submissions were made during the joint hearing:

The Chennai Port Trust (CHPT)

- (i). The logic behind the proposed charge is to cover the cost of extra work done on a holiday. Workers deployed have also to be paid 50% extra wages. Therefore, we are entitled to levy an additional charge.

- (ii). There is a similar charge available for delivery and admission of cargo. This rate is about Rs.5000/- per shift for one consignee. Users consider it to be high. For containers, therefore, we have proposed only Rs.125/- per box.
- (iii). It will be useful to know the practice in other ports. Do they have the six holidays? Do they provide special services? Do they charge?

Madras Chamber of Commerce and Industry and CSLA

- (i). There is no such additional charge in MBPT / JNPT / TPT.
- (ii). If this principle is accepted for containers, there may be a host of other activities, which will also call for such charges.
- (iii). Please do not start a dual tariff system, which will cause confusion.

Chennai Steamers Agents' Association (CSAA)

A privatisation process is on for the CHPT Container Terminal. Why create new charges now?

Hindustan Chamber of Commerce (HCC)

Railways and airlines continue to work even on holidays. They do not charge any special charges for this purpose. In VPT, the Port accepts requests from trade for working on holidays and provide services at normal rates. The VPT absorbs the additional burden.

6. With reference to the totality of information collected during the processing of this case, and taking into account the arguments advanced at the joint hearing, the following position emerges:

- (i). The existing Scale of Rates of the CHPT provides for levy of Night and Holiday charges on vessels and cargo for working on the Port's Closed Holidays. This levy on cargo is on a shift basis and for one consignee and one vessel. This means if the vessel has brought consignments for 'X' consignees, 'X' times the shift rates are levied, even if the delivery is made within one shift. Since this prescription, if extended to containers, will put undue burden on consignees / shippers, the CHPT has done well to propose a levy based on boxes handled instead of the existing shift – consignee – vessel based formulation.
- (ii). The CHPT incurs additional wage cost on employees deployed for work on holidays. It is reasonable for the port to seek recovery of this cost through a separate levy, provided this cost is not considered for fixing some other tariffs. To a query in this regard, the CHPT has given a categorical reply that this expenditure is a new item; and, it has not been considered in the general revision. That being so, the port's proposal to levy a separate charge deserves to be approved.

The users assert that the Port must absorb the additional cost as it will be unreasonable to levy a charge to recover it. The question that arises in this context is how can a self financing organisation like a Port Trusts sustain, if they do not recover their cost of operation from the users of their facilities. Likewise, the users comparison of position obtaining in this regard in some other ports is not be relevant. The accounting practices and procedures across major ports vary significantly.

What is relevant here is that the CHPT incurs additional expenditure; and, this expenditure has not been considered for fixing any other CHPT tariffs.

- (iii). Some of the users have raised objection to this levy citing the proposed move to privatize the CHPT container terminal. It is to be recognised that the rates prescribed in the Scale of Rates of the CHPT are for CHPT operations. When the container terminal is privatized, the relevant tariffs will be reviewed by this Authority with reference to the operating and capital cost of the private operator. This has already been done in the cases of Private terminals operating in other Major Ports. In view of this, there can be no link to the CHPT's proposal in reference and privatization of the CHPT container terminal.
- (iv). The CHPT's calculation of the proposed rate is found to be reasonable. Dearness Allowance is paid as a percentage of basic pay of employees. The Port has, however, considered increase in DA on the total wages. The effect of rectification of this error will not have any significant impact in the proposed rate.

The Port has estimated the proposed rates considering handling of 743 containers. This is reasonable considering an average daily output based on the annual container throughput of about 3.20 lakh TEUs achieved during the year 1999-2000.

- (v). Levy of a separate charge on cargo / vessel / containers for working on closed holidays is not prevalent in many of the major ports. The CHPT is, therefore, advised to review the practice of levying a separate charge for working on closed holidays at the time of formulating its proposals for next general revision of tariff. The CHPT can include the cost of additional wages payable to its employees for working on holidays in the overall cost of the respective activities relating to vessel / cargo / container and do away with the practice of levying a separate charge. Significantly, the Directing Group on simplification of Port Procedure (1985) had also recommended against levying a separate charge for working on Nights and Closed Holidays.

7.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of the CHPT for levy of Night and Holiday charges for Container Terminal Working on Board's closed holidays. Consequently, the Scale of Rates of the CHPT is amended as described below:

The following item is added in Book I; Chapter VI – Charges for Night and Holiday Work; Scale A – Night and Holiday Charges for Board's closed Holiday:

Item No	Description of work	Rate
2	For work done on Board's closed Holidays for containers (a) For delivery /admittance of containers of any size and status.	Rs.125/- per container

7.2. The CHPT is directed to incorporate the above provision in its Scale of Rates.

7.3. The CHPT is advised to review the practice of levying separate Night and Holiday charges at the time of formulating its proposals for next general revision of tariffs.

(S. Sathyam)

Chairman

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