

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 settles the issue about classification of High Carbon Ferro Chrome (HCFC) for the purpose of levy of wharfage by the Paradip Port Trust as in the Order appended hereto.

(**S. Sathyam**)

Chairman

Tariff Authority for Major Ports

Case No. TAMP/88/2000-PPT

The Paradip Port Trust (PPT)

...

Applicant

ORDER

(Passed on this 28th day of June 2001)

This case relates to a proposal from the Paradip Port Trust (PPT) about the classification of High Carbon Ferro Chrome (HCFC) for the purpose of levying wharfage.

2.1. Earlier, the PPT sent a proposal in August 2000 about classification of HCFC and Charge Chrome for the purpose of levy of wharfage. The proposal sent by the PPT, however, did not contain a correct reference for adjudication. On being pointed out, the PPT submitted a revised proposal in December 2000 stating the exact subject for adjudication.

2.2. The PPT has made the following points in its proposal:

(i). The PPT Scale of Rates contains separate classification and separate wharfage rates for 'Charge Chrome' and 'Ferro Alloys and Other Processed Ores', which presently stands at Rs.150/- PMT and Rs.132.25/- PMT respectively. The HCFC is not classified separately in the wharfage schedule. The PPT decided to classify the HCFC under the category of 'Ferro Alloys and other processed ores' for levy of wharfage.

(ii). As per the wharfage schedule of the PPT Scale of Rates, in case a cargo is not specifically classified, wharfage can be realised @ 0.5% of

the FOB value of the cargo. This works out to less than Rs.115/-PMT for HCFC.

- (iii). The Accountant General (Audit) of the Port has pointed out that the HCFC should be classified as Charge Chrome; whereas, the exporters have requested that HCFC should continue to be classified as Ferro Alloys and other processed ores.

2.3. In this backdrop, the PPT has requested this Authority to adjudicate on the following:

“whether HCFC is to be classified as ‘Charge Chrome’ for the purpose of levying wharfage”.

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

Tata Iron & Steel Company Ltd. (TISCO)

- (i). HCFC and Charge Chrome are two different categories and their end use are also entirely different. HCFC should not be treated at par with the Charge Chrome only because of their similarity in the nomenclature.
- (ii). HCFC is used in special steel making where carbon content is not a constraint; Charge Chrome is mainly used for making Stainless Steel by AOD or BOD process. Charge Chrome is less expensive and also offers free iron contents to the user.
- (iii). HCFC is a distinct Ferro Alloy, whereas Charge Chrome has a very low chromium and high iron content. The ASTM specifications for HCFC and the Charge Chrome are also different which are as below:

Description	HCFC	Charge Chrome	
		High Fe	Low Fe
Cr	62 - 72%	52 - 58%	52 - 64%
C	4 – 9.5%	6 - 8%	4 – 6%
Si	3% max	6% max	8 – 14% max
S	0.06% max	0.04% max	0.04% max
P	0.03% max	0.03% max	0.03% max
N	0.05% max	0.05% max	0.05% max

The Indian Charge Chrome Limited (ICCL)

The classification of HCFC under Ferro Alloys and other processed ores for realisation of wharfage by the port is absolutely justified for the following reasons:

- (i). According to ASTM specifications/Bureau of Indian Standards, Charge Chrome is a product different from HCFC.
- (ii). Charge Chrome is produced out of low Cr/Fe Chrome ore.
- (iii). All bulk Ferro Alloys like Charge Chrome, High Carbon Ferro Chrome, Silico Chrome, Silico Manganese, Ferro Manganese, Ferro Silicon, Silicon Metal, Ferro Molybdenum, etc., are produced using their respective ores as furnace feed. So all bulk Ferro Alloys including Charge Chrome come under one broad classification Ferro Alloys and other processed ores.

Federation of Indian Mineral Industries (FIMI)

- (i). Charge Chrome also falls under Ferro Alloys group and hence there should not be any disparity merely going by the nomenclature of the cargo. The PPT is charging wharfage @ Rs.150/- PMT for Charge Chrome and Rs.132.25/- PMT for HCFC, though both Charge Chrome and HCFC fall under the same Ferro Alloys Group.
- (ii). The Port shall not resort to classifying HCFC as Charge Chrome for the purpose of levying higher wharfage.
- (iii). HCFC and Charge chrome, both shall be brought under one heading 'Ferro Alloys and other processed ores'; and, the wharfage shall be kept at Rs.132.25/- PMT.

Ferro Alloys Corporation Limited (FACOR)

- (i). Charge Chrome also falls under Ferro Alloys Group, so there shall not be any disparity merely going by the nomenclature of the cargo.
- (ii). The port has been requested time and again about removing the disparity in the wharfage being levied on Charge Chrome vis-à-vis Ferro Alloys and other processed ores. The exporters of the Charge chrome have to pay higher wharfage @ Rs.150/- PMT than their competitors who are paying wharfage @ Rs.132.25/-PMT for HCFC, though both Charge Chrome and HCFC fall under the same Ferro Alloys Group.

The Utkal Chamber of Commerce & Industry Limited (UCCI)

- (i). HCFC and Charge Chrome both fall under the Ferro Alloys Group. It is recommended that the wharfage applicable to HCFC shall be made applicable to the cargo coming under the Ferro Alloys Group.
- (ii). It is strongly recommended that the wharfage under the head Ferro Alloys Group shall be lowered to around Rs.105/- PMT (considering 0.5% of FOB value) to be made applicable to all categories of cargoes falling under the Ferro Alloys Group.

3.2. The comments received were sent to the PPT by way of feed-back information.

4.1. A joint hearing in this case was held on 4 May 2001 in Paradip. At the joint hearing, the following submissions were made:

Paradip Port Trust

- (i). We have not gone by the technicalities of the proposal. This case is based on an audit objection.
- (ii). Our proposal is simple. We will listen to the users and give our responses.
- (iii). There shall not be a sudden drop in our revenues. There shall not be any adverse impact on the financial interests of the port.

Tata Iron & Steel Co. Ltd.

- (i). We have done an in-depth analysis. Charge Chrome has less Chromium and less Carbon, HCFC has more. HCFC, therefore, goes more under Ferro Alloys.
- (ii). The value of HCFC exports used to be \$ 550; it has now come down to \$ 380. Let us, therefore, go by 0.5% of FOB value, so that rate fixation is not affected by export market fluctuations.

Indian Charge Chrome Limited

- (i). HCFC, Charge Chrome, etc. are Ferro Alloys. All are processed ores and all can, therefore, be combined together with 'ferro' (iron).
- (ii). The Customs also classifies all of these under one head i.e., "Ferro Alloys", (code No. 72.02)
- (iii). Charge Chrome is not a technical name, but a trade name. Please see the definitions given by us. Charge Chrome is produced out of low grade Chrome ore.
- (iv). The common rate should be 0.5% of the FOB value.

4.2. At the joint hearing, the following written submissions were also made:

- (i). The PPT has submitted a copy of the statement showing the traffic handled for Charge Chrome and Ferro Chrome during the year 1996-97 to 2000-01. The trend shows that the traffic for Charge Chrome has decreased from 117249 tonnes in 1996-97 to 34299 tonnes in 2000-01 and the traffic for Ferro Chrome has increased from 7043 tonnes in 1996-97 to 94001 tonnes in 2000-01.

- (ii). The Indian Charge Chrome Ltd. has submitted an extract from the Indian Standard (second revision) pertaining to the specifications of Ferrochromium, which states the definition of Ferro chromium as follows:

“ A master alloy of iron and chromium with chromium content of minimum 45% and maximum 95% by mass, obtained by reduction.”

The chemical composition of different kinds of Ferro chromium viz. High/Medium/Low Carbon Ferrochromium, High Nitrogen low carbon Ferrochromium and Carbon free Ferrochromium has also been stated in the document.

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

- (i). The issue is about levy of a wharfage on High Carbon Ferro Chrome (HCFC). The PPT has classified it under ‘Ferro alloys’ and realises wharfage rate accordingly. The Audit has objected to this classification and says HCFC must be levied a wharfage rate same as that for Charge Chrome. The exporters support the classification done by the PPT but demand that even Charge Chrome is a ferro alloy; and, hence, a wharfage rate of Rs. 132.25 PMT shall only apply in its case.
- (ii). The wharfage schedule in the PPT Scale of Rates contains specific entries towards ‘Charge Chrome’ [item 2(i)] and ‘Ferro alloys and other processed ores’ [item 2(ii)]. The wharfage rate of ‘Charge Chrome’ did not undergo any revision during the last general revision of tariff of PPT (April 2000) and continued to be at Rs. 150/- PMT. The wharfage rate for ‘Ferro alloys and other processed ore’ has been revised to Rs. 132.25 PMT during the last revision of tariff.
- (iii). All the metallurgical companies and mineral exporters who participated in the proceedings have produced credible documentary evidence to show that Charge Chrome is a product different from HCFC. They have also pointed out that the end use of these two products is also different. The arguments of the users deserve to be admitted.
- (iv). The technical aspect apart, it is relevant here to examine the existing provision in the Scale of Rates of the PPT. Item 2(i) of the wharfage schedule prescribes a rate for Charge Chrome. The prescription is not for Charge Chrome and other similar products; it is only for Charge Chrome. There can be no doubt that HCFC is not Charge Chrome. That being so, the question of applying the wharfage rate prescribed under item 2(i) of the wharfage schedule in the case of HCFC does not arise at all. Since HCFC is a ferro alloy, its wharfage

rate has to be regulated under item No. 2(ii) of the wharfage schedule which is for ferro alloys and other processed ores.

- (v). The PPT has mentioned that it had considered an option of classifying HCFC under the residuary category for levy of wharfage. This option is not at all relevant. Classifying any cargo under the residuary (unspecified) category is to be done as a last resort. This Authority has already held that before classifying any cargo as unenumerated goods, the relevant Customs classification shall be consulted to find out whether the cargo can be classified under any of the specific categories mentioned in the wharfage schedule. In the instant case, the users have pointed out that the Customs classify HCFC under 'ferro alloys'. That being so, HCFC can be classified under the 'ferro alloys and other processed ores' category for the purpose of levying wharfage.
- (vi). The Indian Standards Institute (ISI) clearly define Ferro Chromium alloy as a mixture of iron and chromium with the chromium content at a minimum of 45% and a maximum of 95%. As per this definition, Charge Chrome is also a ferro chromium, and hence can be treated under 'ferro alloys and other processed ores' category.

Eventhough Charge Chrome is also a ferro alloy, a separate classification made in the wharfage schedule by the PPT may be based on commercial considerations. The traffic figures furnished by the PPT, however, show a declining trend of Charge Chrome traffic and a surge in the traffic of ferro chrome. In view of the changing traffic pattern, it will be useful for the PPT to review the commercial consideration made by it earlier and to examine the feasibility of bringing Charge Chrome also under the category of ferro alloy and have a single wharfage rate. Since a mid-term adjustment of tariff will affect the financing model adopted at the time of the last general revision of tariffs at the PPT, the suggested rationalisation can be introduced by the PPT while formulating its proposal for the next general revision of tariffs.

6. In the result, and for the reasons given above, and based on a collective application of mind, this Authority decides that HCFC shall be classified under the group 'Ferro alloys and other processed ores' for the purpose of levy of wharfage by the PPT as per its existing Scale of Rates.

(**S. Sathyam**)

Chairman