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NEW DELHI, the 13 July, 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 approves the proposal of the Kandla Port Trust for an enhancement of free days for storage on transit terms for import of Timber Logs as in the order appended hereto.

(S. Sathyam)

Chairman

Tariff Authority for Major Ports

Case No. TAMP/117/2000-KPT

The Kandla Port Trust (KPT)

...

Applicant

ORDER

(Passed on this 28th day of June 2001)

This case relates to a proposal from the Kandla Port Trust (KPT) for enhancement of free days for storage on transit terms for import of Timber Logs.

2.1. In its proposal, the KPT has made following points:-

(i). The existing Scale of Rates prescribes a free period of 4 days to import cargo for storage on transit terms from the date of complete discharge of cargo from a vessel.

(ii). Importers of timber logs have requested to enhance the free period allowed for storage of timber logs on transit terms on account of following reasons:

(a). The timber traffic handled has increased during the last 3 years from 7.67 lakh tonnes in 1997-98 to 11.55 lakh tonnes in 1999-2000 and is expected to increase to 15 lakh tonnes in 2000-2001.

(b). The average output per shift-berth-day has increased from 900 tonnes in 1992 to 1907 tonnes in 1999-2000.

(c). In spite of best efforts of the importers to take delivery at the hook point to avoid double handling and cost thereon, they are not able to clear certain portion of their consignment within the free time

(d). The time taken for discharging timber logs from a vessel having a parcel size of 15,000 tonnes has reduced from 16 days in 1993 to 8 days presently. Hence, the importers have lost 8 days time for clearance of timber logs, which they were enjoying earlier.

(e). Due to increase in the timber traffic at the Port many a time 2/3 vessels or more are working simultaneously which makes it difficult for the importers to cope up with the demand to provide adequate number of handling equipment, trailers and man power to match the clearance with the discharge.

(f). The delivery process of the timber logs is much slower as compared to the other cargoes on account of following reasons:

- Every log has to be tallied with the packing list prior to delivery.
- More number of consignees / Custom House Agents in one vessel i.e. approximately 50 consignee in a vessel of 15,000 CBM.
- Proper placing and lashing of the logs on the trailer.
- Delivery of the disputed logs after completion of delivery of full consignment.
- The shippers do not have much control on the size and shape of the cargo, timber being a natural product.

(iii). Timber being a low value cargo, many a time the demurrage charges accruing are more than the value of the cargo.

(iv). All the cargoes, except timber logs are allowed storage on warehousing/rental terms which are concessional in nature, if compared to the demurrage charges paid on timber logs.

(v). The nearby ports are making efforts to woo timber traffic and are announcing very attractive incentives/concessions in the port charges.

(vi). Considering the genuineness of the case, the proposal to enhance the free time allowed for import of timber logs from 4 to 7 days was endorsed by the Board of Trustees of the KPT in its meeting held on 20 October 2000.

2.2. In this backdrop, the KPT has requested this Authority,

- (i) to approve its proposal to increase the free days for import of timber logs from 4 days to 7 days for storage on transit terms; and,
- (ii) to incorporate the following note as item No.6 of the Notes to Scale E in the Schedule of demurrage charges in Chapter I of the Scale of Rates:

“(6) Free days for storage in ‘transit sheds and yards in respect of timber logs shall be seven (7) days from the date of complete discharge of vessel’s cargo”.

3. In accordance with the procedure adopted, the proposal of the KPT was circulated to all concerned representative bodies of the users for comments. Comments received are summarised below:–

Gandhidham Chamber of Commerce & Industry (GCCCI)

(i). The decision of the KPT to enhance free period from 4 to 7 days for storage of import cargo on transit terms (from the date of complete discharge of cargo from the vessel) in respect of import of timber logs is appreciable.

(ii). The Kandla Timber Association (representing about 750 timber merchants), an association affiliated to the Chamber, has sent a representation to enhance the free period to 21 days instead of 7 days after complete discharge of the cargo from a vessel in view of the fact that the import of timber through the KPT has been increasing year after year.

(iii). It is requested that,

(a) free period proposed to be raised for import of timber logs from 4 days to 7 days be further enhanced to 21 days to facilitate the importers to clear the logs from the docks within the concession period; and,

(b) to extend the said facility to all commodities.

Kandla Custom House Agents Association (KCHAA)

(i). Enhancement of free days for timber logs was long over due which has finally been done by the Port.

(ii). Looking at the logistical constraints of handling timber logs at Kandla and the amount of traffic which is being generated by the Timber trade, the number of free days shall infact be enhanced further to atleast a minimum of 10 days.

4. The Federation of Port Users & Custom House Agents (FPUCHA) has also sent its comments on the above proposal, which are summarised as below:

(i). The trade facilities, if extended to a particular commodity will give an impression to the others of being ignored.

(ii). The infrastructural facilities for clearance of the cargo at the KPT has not increased at par with the handling of import cargoes, requiring consideration of extension of facility of free days period for all the import cargoes.

(iii). To maintain transparency in the levy of port charges, and / or extending facilities to the trade, the facilities be provided to all import cargoes, instead of any one commodity.

5. With reference to the comments made by the GCCI, KCHAA and Federation of Port Users & Custom House Agents, the KPT has responded with the following arguments:

(i). The increase in free period from 4 to 7 days for import of timber logs is justified since any further enhancement will on the one hand result in loss of revenue to the Port and on the other create congestion in the Port area.

(ii). Since the volume of traffic of other import cargoes handled at this Port is lesser in comparison to the timber logs, it will not be appropriate to extend this facility to other import cargo at par with import timber logs.

6.1. A joint hearing in this case was held on 12 April 2000 at the KPT. At the joint hearing, the following submissions were made:

The Kandla Port Trust (KPT)

(i). Earlier it was increase of rentals for other cargo, timber was not covered.

(ii). In view of the threat from other ports, we have to single out timber for specific consideration.

(iii). So many importers handle the timber cargo at one ship which results in the logs lying at the bottom. The importers suffer because of others' delays in the same manner as is faced by the LCL containers.

(iv). KPT is extending its storage area. Once that is ready, the logs may get storage space.

The Kandla Port Steamship Agents' Association (KPSAA)

(i). The space for keeping the logs should be provided inside the port area.

(ii). Why only for timber; why not for other cargo. _

Gandhidham Chamber of Commerce and Industry (GCCI)

(i). This is an amendment of the Scale of Rates. It has not been approved by the TAMP; hence, the KPT cannot implement.

(ii). Why only timber? Coal is equally important. The facilities must be equally available to all imports. Ten days is ok.

(iii). Free period must start after complete discharge of cargo.

- (iv). Give maximum number consideration to attract traffic.

Kandla Timber Association (KTA)

- (i). Free period of four days was fixed long ago. Traffic has increased ten fold. Therefore, increase in free period is necessary.
- (ii). Earlier, we use to take sixteen days to discharge, now only eight days are taken. The eight days time saved must be given to us.
- (iii). Ten free days are not enough; give some more time as the formalities to be completed are too much.

The Kandla Custom House Agents' Association (KCHAA)

Free period should be increased from four to ten days.

M/s. Ashish Shipping

- (i). Upto 1989 we got on rental terms. Please revive that.
- (ii). Give 15 free days for timber.

6.2. At the joint hearing, it was decided that the KPT would give a note about the financial loss involved due to the proposed enhancement of free days and the measures taken / proposed to be taken to cover it. Despite several reminders, the KPT has not furnished the requisite information.

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

- (i). This case could have been disposed of much earlier but for our wait for receipt of information from the KPT as detailed in paragraph 6.2 above. It is unfortunate that the Port could not furnish this small piece of information even three months after agreeing to do so.

It is true that this Authority does not have any statutory power to summon data, records, etc. But it can refuse to entertain tariff proposals in cases where relevant additional information/clarifications are not forthcoming. Such a drastic step, as a last resort, was taken in case of some other major port in the recent past. Although such a step may be appropriate in this case also, we do not like to take such a serious view, considering the fact that the beneficiary of this case is the Trade, and recognising that there is no justification in punishing the users for the casualness of the Port.

- (ii). This is yet another proposal made by the KPT for a piecemeal revision of its Scale of Rates.

While disposing of some other cases, we had earlier commented upon this practice adopted by the KPT and advised it to formulate a comprehensive proposal for review of its Scale of Rates. A more pointed advice was given by this Authority in its Order dated 14 February 2001 in the case relating to fixation of hire charges of floating craft of the KPT (case No.TAMP/61/2000-KPT) wherein the port was required to submit a comprehensive proposal for review of its Scale of Rates by May 2001. Leave alone a comprehensive proposal, the KPT is yet to (even) acknowledge the advice rendered!

Since the instant proposal was received prior to this Authority's passing the Order requiring the KPT to formulate proposals for a comprehensive review of its Scale of Rates by May 2001, it has been taken up for consideration. **Nevertheless, the KPT is advised to note that this Authority will not entertain any more piecemeal revision proposals until a comprehensive review of the Scale of Rates is done.**

- (iii). The KTA's argument about 'loss' of 8 days free period is not tenable. Reduction in ship's time at berth due to productivity increases cannot be taken to mean 'loss' in free days. Eventhough there is a general demand from users for increasing the proposed free days, the KPT's point about further increase in free days causing loss of revenue and create congestion of facilities deserves to be admitted.
- (iv). The GCCI and FPUCHA have pleaded for enhancing the free days for all import cargo. This proposition involves significant operational and financial implications. It can be objectively dealt with only at the time of a general revision / review of Scale of Rates when we get an opportunity to assess the total impact of various tariff adjustments at one go. This is preciously why we have been advising the KPT to undertake an exercise for a comprehensive review of its Scale of Rates.
- (v). Not very long ago, the KPT proposed an increase in demurrage charges on cargo lying inside the port on rental or warehousing terms. In that case the KPT forcefully argued about congestion in the port area; and, justified increase in rates in order to discourage using the port area as permanent storage space. Since the instant proposal is for extending free days, the KPT was requested to elaborate on the 'congestion' factor. The KPT has sought to explain that its earlier proposal was with reference to cargo stored under rental terms; and, timbers are allowed to stored only under'transit' terms. That being so, the KPT has explained that the 'congestion factor' is not relevant here.
- (vi). As has been explained by the KPT, the fact that only timbers are not allowed to be stored on warehousing/rental terms, which are concessional in nature, is a valid ground for considering a special treatment to this traffic to allow more free days. Besides, the points

given at paragraph 2.1 (ii) (f) above about the inherent problems leading to slow clearance process of timber logs are found to be reasonable and deserve to be considered.

- (vii). It is to be recognised that import of timber is on the rise owing to a general prohibition of felling of trees in India. For obvious reasons, any port will try to attract this additional traffic. Apart from other reasons, commercial considerations have prompted the KPT to enhance free period for import of timber logs. Viewed in this perspective, the proposal of the KPT deserves to be approved.
- (viii). We are not in a position to quantify the financial loss to the port due to this concession, in the absence of any information supplied by the port despite our repeated requests. Nevertheless, the timber traffic is growing at all ports in general and at the KPT in particular. The additional income from the incremental traffic can reasonably be expected to off-set the loss in revenue due to the concession allowed. That being so, there can not be any apprehension about furthering the incidence of cross-subsidisation.

8. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the KPT proposal about enhancing the free days for import of timber logs from four days to seven days for storage on transit terms. Accordingly, the following provision as item 7 under Scale E – Schedule of Demurrage charges – Free days for storage in transit sheds and yards; in Chapter-I of the Scale of Rates of the KPT is inserted:

“ 7. Import of Timber Logs: Free days for storage in respect of import of timber logs shall be 7 days from the date of complete discharge of vessel’s cargo”.

(S. Sathyam)

Chairman