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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. : 84

New Delhi, 22 May 2006

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 disposes of the proposals of the Mumbai Port Trust for amendment to the Scale of Rates charged at the docks relating to container handling charges and extension of the validity of the relevant Scale of Rates as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/20/2005 - MBPT

The Mumbai Port Trust

Applicant

ORDER

(Passed on this 11th day of May 2006)

This Authority passed an Order dated 13 September 2005 relating to a proposal from the Mumbai Port Trust (MBPT) for fixation of composite box rate for handling of containers within the docks. The composite box rates approved by this Authority were valid till 31 March 2006.

2.1. The composite box rate was fixed by grouping of the (then) existing itemized charges for on-board stevedoring, ship to shore transfer, movement between berth and container yard, lift on / lift off at yard and also wharfage component of containers with some adjustments as against separate tariff prescribed in the (then) existing Scale of Rates for the said various operations.

2.2. The (then) existing on-board stevedoring levy, now forming one of the components of composite box rate, included lashing / unlashings of containers. Since lashing / unlashings containers on-board the vessel is the responsibility of the vessel agent, a provision was made in the Scale of Rates of MBPT for granting rebate for lashing / unlashings work done by the vessel agent.

2.3. In the course of consultation process of the case in reference, the MBPT was requested to clarify whether the (proposed) composite box rate covered providing services towards lashing / unlashings of containers. The MBPT was also advised to propose rebate if the lashing / unlashings services are not provided by the port. In response, the MBPT stated that the composite box rate did not cover the services rendered for lashing / unlashings of containers. However, the port proposed to continue with the arrangement of granting rebate if the lashing / unlashings services are not provided by the MBPT. Accordingly, a provision for continuance of the existing rebate of Rs.30 per container under Section 4(c) of the Dock Scale of Rates for the services not rendered for lashing / unlashings of containers was included as Note (v) to Sub-section (A) and (B) under Section V of the Scale of Rates charged at Docks of the MBPT. This position was explained in paragraph 11 (xxviii) of Order dated 13 September 2005.

3. Now, the MBPT vide its letter No.FA/ACC/227/1437 dated 18 February 2006 has stated that composite box rate for containers covers services rendered for lashing / unlashings of containers and requested this Authority to rectify the anomalous position arising out of paragraph 11 (xxviii) of the Order dated 13 September 2005.

4. The reported anomalous position has arisen due to a wrong clarification furnished by the MBPT in the relevant proceedings. The position is anomalous because no rebate can be granted for an element not included in the composite rate but at the same time the users who carry out this activity are justifiably entitled to relief in rate since the erstwhile-itemised rate included an element for lashing/unlashing. In view of the revised clarification furnished by MBPT, the paragraph 11 (xxviii) of Order dated 13 September 2005 needs to be revised, to correctly reflect the position obtaining at the MBPT and decision of this Authority. The paragraph 11 (xxviii) of Order dated 13 September 2005 and the revision needed are tabulated below:

Paragraph No. 11 (xxviii)	Amendment to paragraph 11 (xxviii)
The existing onboard stevedoring levy includes lashing / unlashings of containers. To a query in this regard, the MBPT has clarified that the proposed box rate does not cover the services rendered for lashing / unlashings of containers; and, it has proposed that the existing rebate under Section 4(C) of Dock Scale of Rates may continue. Accordingly, a provision for existing rebate under Section 4(C) of Dock Scale of Rates for the services not rendered for lashing/unlashing of containers is included in the Scale of Rates.	The existing on-board stevedoring levy includes lashing / unlashings of containers. To a query in this regard, the MBPT has revised its earlier clarification and stated that the box rate covers services rendered for lashing / unlashings of containers; and, it has proposed that the existing rebate under Section IV (C) of Dock Scale of Rates may be continue. Accordingly, a provision for existing rebate under section IV (C) of Dock Scale of Rates for the services not rendered for lashing / unlashings of containers is included in the Scale of Rates.

5. In view of the revision (to be) effected in the Order dated 13 September 2005, the relevant note no. (iii) to sub-section (A) and (B) in Section V of the Scale of Rates needs retrospective correction as follows:

Existing	Corrected
The above charges include on board stevedoring charges, handling at shipside, lift on of export/ lift off of import containers at the pre-stake area, removal of container between shipside and pre-stake/ RCD yard, loading/ off loading of ICD containers on Railway Wagons	The above charges include on board stevedoring charges including lashing/ unlashng , handling at shipside, lift on of export/ lift off of import containers at the pre-stake area, removal of container between shipside and pre-stake/ RCD yard, loading/ off loading of ICD containers on Railway Wagons

6.1. The MBPT vide its letter dated 7 April 2006, *inter alia*, has requested this Authority to allow it to continue with the existing composite box rates beyond 31 March 2006 till the comprehensive tariff proposal is approved.

6.2. At the time of filing of its proposal for fixation of the composite box rates, the MBPT furnished the cost statement with projection for one year only i.e. 2005-06. Since the cost analysis was based on one year, this Authority fixed the validity of the composite box rates till 31 March 2006.

6.3. The MBPT has included the proposal for composite box rates for handling Containers within the Docks at Section IV of the Dock Scale of Rates in its general revision proposal. It is noteworthy that the port has proposed to continue with the existing rates without modification.

7. The general revision proposal filed by MBPT is taken on consultation. It will take some more time for the proposal to mature for final consideration. This Authority is inclined to extend the validity of the existing composite box rates for handling Containers within the Docks of MBPT for 6 months beyond 31 March 2006 or till the effective date of implementation of the comprehensive proposal for revision of Scale of Rates of MBPT (to be) approved by this Authority, whichever is earlier.

8. In the result, and for the reasons given above, and based on the collective application of mind, this Authority approves the following:

- (i). The paragraph no. 11(xxviii) of the Order dated 13 September 2005 in case no. TAMP/20/2005-MBPT is revised as follows:

“The existing on-board stevedoring levy includes lashing / unlashng of containers. To a query in this regard, the MBPT has revised its earlier clarification and stated that the box rate covers services rendered for lashing / unlashng of containers; and, it has proposed that the existing rebate under Section IV (C) of Dock Scale of Rates may continue. Accordingly, a provision for existing rebate under section IV (C) of Dock Scale of Rates for the services not rendered for lashing / unlashng of containers is included in the Scale of Rates.”

- (ii). Note no. (iii) to Sub-section (A) and (B) of Section V to the Scale of Rates charged at Docks is amended as follows with retrospective effect from the effective date of implementation of the earlier Order dated 13 September 2005:

“The above charges include on board stevedoring charges including lashing/ unlashng, handling at shipside, lift on of export/ lift off of import containers at the pre-stake area, removal of container between shipside and pre-stake/ RCD yard, loading/ off loading of ICD containers on Railway Wagons.”

- (iii). The validity of the amendments to the Scale of Rates of Mumbai Port Trust effected vide Order dated 13 September 2005 in Case no. TAMP/20/2005-MBPT is extended for a period of 6 months beyond 31 March 2006 or till the effective date of implementation of the Order to be passed on the proposal of the Mumbai Port Trust for general revision of its Scale of Rates, whichever is earlier.

(**A.L. Bongirwar**)
Chairman