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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 210

New Delhi, 29 December, 2003

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Tuticorin Port Trust to amend in its Scale of Rates relating to levy of additional pilotage fee in case of priority berthing as in the Order appended hereto.

(A.L. Bongirwar)

Chairman

Tariff Authority for Major Ports

Case No. TAMP/72/2003-TPT

The Tuticorin Port Trust

Applicant

ORDER

(Passed on this 16th day of December 2003)

This case relates to a proposal received from the Tuticorin Port Trust (TPT) for an amendment to its Scale of Rates relating to levy of additional pilotage fee in case of priority berthing.

2.1. This Authority had passed an Order in case No.TAMP/31/2002-TPT dated 20 September 2002 approving the general revision proposal of the TPT along with the existing Scale of Rates.

2.2. The provision prescribed in the existing Scale of Rates; Clause-6 general notes relating to Schedule 2.2.1. and 2.2.2 – pilotage fee / miscellaneous pilotage fee is as follows:

“ In cases of priority berthing / ousting without involving ousting of a working vessel, charges shall be leviable at 100% of the pilotage fees applicable for the vessel as per the schedule over and above normal charges payable”.

3.1. With reference to this provision, the TPT has made the following points:

- (i). The provision prescribed in Clause – 6 in the general note relating to Schedule 2.2.1. and 2.2.2. as cited above, did not exist in the pre-revised Scale of Rates.
- (ii). Clause - 8 in general note relating to Schedule 2.2.1. and 2.2.2. already prescribes that in case of ousting priority, additional pilotage fee equivalent to the pilotage fee for vessel so ousted will be leviable on vessels availing the benefit of such ousting.
- (iii). With the incorporation of Clause-6, additional pilotage fee becomes leviable even in case of priority berthing vessel where working vessel is not shifted and the port has not actually rendered any pilotage services by the shifting the vessel. The users have raised objection to incorporation of this clause.
- (iv). In this backdrop, a meeting was conducted with the port users on 9 July 2003 by the Chairman, TPT wherein a consensus was arrived at to delete Clause-6.

(v). This proposal was approved in the meeting of the Board of Trustees held on 16 August 2003.

3.2. In the light of the above position, the TPT has proposed to delete the Clause No.6 to general note relating to Schedule 2.2.1. and 2.2.2.

4.1. As pointed out by the TPT, this clause did not exist in its pre-revised Scale of Rates. This clause was incorporated in the existing Scale of Rates based on the proposal of the TPT, and in view of the fact that there was no objection from the users while processing the general revision case with reference to incorporation of this provision. Now, it has been reported that a consensus has already been arrived between the TPT and the port users to delete this provision.

4.2. Since the proposal aims at providing relief to users and is reportedly based on a consensus, the usual consultation process was not considered necessary in this case.

5.1. In fact all the major port trusts have already been delegated with powers to rationalise conditionalities in the Scale of Rates with the aim of providing relief to users. Nevertheless, in this case the port has proposed complete deletion of the concerned conditionality.

5.2. The port has admitted that it does not provide any pilotage service in case of priority berthing since the vessel is not shifted at all. *Prima facie*, there is no logic in continuing with the conditionality as it militates against the *quid pro quo* principle. If this conditionality is not deleted and left to the port to rationalise under delegated powers, there is a possibility of the port reverting to original position at a later stage, which may not be desirable. Significantly, the port also feels that such a deletion is necessary to remove ambiguity.

5.3. In this backdrop, and based on a collective application of mind, this Authority deletes note number (6) in the general note relating to Schedule 2.2.1. and 2.2.2. of the Scale of Rates of the TPT. Consequently, the existing note numbers (7) and (8) are renumbered as (6) and (7) respectively.

(A.L. Bongirwar)
Chairman