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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 178

New Delhi, 7 November, 2003

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Cochin Port Trust for discontinuing the existing volume discount and concession arrangements as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/105/2000-COPT

The Cochin Port Trust

Applicant

ORDER

(Passed on this 22nd day of October 2003)

This case relates to a proposal received from the Cochin Port Trust (COPT) for discontinuing the existing volume discount and concession arrangements.

2.1. This Authority had passed an Order on 5 January 2001 approving the proposal of the COPT on volume discount as an interim scheme. The volume discount scheme approved in the said Order is as follows:

(i). Container

A rebate of Rs.500 per TEU on additional throughput handled over and above the highest throughput handled during the previous two financial years.

(ii). Bulk, break bulk and liquid cargo

Any cargo, other than containerised cargo and petroleum crude, which was not handled in the Port during the last two financial years, is imported/ exported through Cochin Port, that cargo shall be entitled to a 25% rebate in the wharfage till the end of the financial year in which the traffic has been handled in the Port.

2.2. The COPT was advised to come up with a more scientific volume discount scheme in place along with its next proposal for comprehensive revision of its Scale of Rates.

3.1. The COPT has submitted a separate proposal for general revision of its Scale of Rates which is being processed as a separate case. In the general revision proposal, the COPT has not proposed any scientific volume discount scheme.

3.2. In fact, the COPT vide letter dated 26 March 2003 has submitted a separate proposal for discontinuing the volume discount scheme with effect from 31 March 2003. Subsequently, the COPT vide letter dated 17 May 2003 has explained the main reasons for discontinuing the volume discount scheme. Some of the main points are summarised below:

(i). This scheme was meant to be a one-time scheme unlike all other discount schemes where a closing date is specified. This scheme has already been in operation for three years.

(ii). Maximum benefit possible has been derived from this scheme.

(iii). The scheme approved by the TAMP was only as an interim arrangement.

(iv). The privatisation of the new Container Terminal - RGCT is in the final processing stage. Due to marketing effort of the private operator a large quantity of new cargo/container may be generated at the Cochin port for which it would be forced to pay incentive. It is also possible that the discount scheme may not be binding on the private operator.

(v). The users have pointed out a shortcoming in the scheme. It does not stipulate a threshold level above which the incentive may be offered. A threshold level must be specified since it is not always possible to increase throughput beyond a point.

(vi). In the case of the rebate prescribed in the wharfage rate for bulk cargo, there is a risk that the same cargo would become eligible for incentive every third year thus causing undue outflow of funds to the port without any actual increase in cargo volume. There is also the risk of various grades or categories of the same cargo being interpreted as new cargo.

3.3. In view of the above, it has proposed to discontinue with the existing volume discount scheme/ incentive scheme with retrospective effect from 31 March 2003.

4. In accordance with the consultative procedure prescribed, the COPT proposal was forwarded to concerned user organisations for their comments.

5. In response to the comments of the users, the COPT has furnished its observations. The main points made by the COPT are as follows:
- (i). The scheme is withdrawn not only due to the forthcoming privatisation of the RGCT, but also the disadvantages it can cause to the port if the scheme is continued beyond three years at a stretch.
 - (ii). Customers especially the big volume contributors have applied for discount under this scheme at the most for two years continuously since they are not able to increase the throughout beyond a particular point.
 - (iii). A modified scheme could be re-introduced in future as and when the need arises after taking into account the opinion of the various customers as a one-time scheme.
6. A joint hearing in this case was held on 6 August 2003 at the COPT premises. At the joint hearing, the COPT and the concerned users have made their submissions.
7. In the light of the arguments, and the requests of the users, the COPT was advised to hold further discussion with the user organisations and forward its final views by 20 August 2003. We have not received any response from the COPT so far despite a reminder.
8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details are also available at our website www.tariffauthority.org.
9. With reference to the totality of the information collected during the processing of this case, the following position emerges:
- (i). The existing volume discounts scheme has been approved by this Authority at the request of the COPT. Since this Authority felt that the scheme was not very scientifically formulated, the scheme was approved as an interim arrangement. This Authority had also pointed out that the interim scheme did not provide any incentive to retain the existing cargo. As a matter of fact, the interim scheme is only a tariff incentive scheme for new cargo and not a volume discount scheme.
 - (ii). As pointed out by the COPT, no tariff incentive scheme can run indefinitely. It is the commercial judgement of the port that such incentive scheme need not continue. The reasons advanced by the port in support of its decision is found to be acceptable. The port has also pointed out that it may not witness any further growth in volumes due to the operation of the scheme on account of capacity limitations faced by shippers. It will, therefore, formulate some other scheme at a later stage.
 - (iii). It may be relevant here to mention that this Authority has already passed a common adoption Order declaring the rates prescribed in the Scale of Rates will act only as ceiling rates. Because of this flexibility available, the COPT can reduce the notified rates, wherever necessary, based on its commercial judgement. Viewed from this perspective also, a separate tariff incentive scheme, which has reportedly not yielded any desired result, need not be imposed on the port.
 - (iv). The COPT has pointed out that the volume discount scheme on containers has been discontinued from 31 March 2003. It may be relevant to mention that for the purpose of offering the rebate, the financial year from 1 April of a year to 31 March of the next year is reckoned with. In view of this prescription, the proposal of the COPT to withdraw the volume discount scheme retrospectively with effect from 31 March 2003 is found to be logical and hence is accepted.
10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of the COPT for withdrawal of the volume discount scheme approved vide Order dated 5 January 2001 with retrospective effect from 1 April 2003.

(A.L. Bongirwar)
Chairman

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F. No. TAMP/105/2000-COPT - Proposal from the Cochin Port Trust for discontinuing the existing volume discount and concession arrangements

1. The comments received from the port users / representative bodies of port users are summarised below:

2. In accordance with the consultative procedure followed, the COPT proposal was forwarded to the concerned user organisations for their comments. A summary of the comments received from them are given below:

Cochin Steamer Agents' Association (CSAA)

The functioning of RGCT by a private operator will probably take some more time. Until such time the volume discount scheme may be allowed to continue so that the cargo coming to the Cochin Port is not diverted.

Cochin Custom House Agents' Association (CCHAA)

- (i). The decision of the port to discontinue the existing volume discount scheme is not fair since the scheme was introduced to attract more exporters/importers and cargo to the port of Cochin.
- (ii). Continuance of such a scheme gains more significance when other ports are introducing incentive schemes to attract more export/ import cargo. To substantiate its claim it has forwarded a circular dated 23 April 2003 issued by the TPT wherein the Tuticorin Port has offered to remit wharfage for incremental growth in the commodity wise traffic over the traffic of 2002-03.

Indian National Shipowners' Association (INSA)

- (i). The decision of the port to withdraw the scheme and the reasons mentioned for the withdrawal are not acceptable.
- (ii). It is not right to withdraw any scheme just because it is felt that maximum possible benefit has been derived from the scheme.
- (iii). If the concessions/discount being offered are withdrawn there are all possibilities of cargo being diverted to other ports.
- (iv). Though the TAMP Order mentions that the scheme approved is an interim arrangement, but it also mentions that the scheme will operate till formulation of a comprehensive tariff revision which is being considered as a separate case.
- (v). The COPT should incorporate a more scientific volume discount scheme in place of this interim scheme and only then this scheme should be withdrawn.

Shipping Corporation of India (SCI)

It has reiterated the views of the other users.

3. A joint hearing in this case was held on 6 August 2003 at COPT premises in Cochin. At the joint hearing following submission were made:

Cochin Port Trust (COPT)

- (i). The existing volume discount scheme is on ad hoc basis. The TAMP has also approved this scheme as an interim measure. Our review reveals the scheme is not desirable any more.
- (ii). Further, shippers cannot continuously increase volumes. There is a capacity limitation.
- (iii). Our container terminal will be privatised. So no need to continue the scheme.
- (iv). In view of this scheme, Rs.7.50 lakhs in the year 2000-01. Rs.6.55 lakhs in the year 2001-02 and Rs.7.75 lakhs in the year 2002-03 are allowed as refund.
- (v). There is no volume increase in containers because of the scheme. If necessary, we will formulate some other scheme at later stage

Cochin Chamber of Commerce and Industry (CCCI)

The COPT wants to increase rates and withdraw concessions. The cargo traffic will divert to other port.

Cochin Steamer Agents Association. (CSAA)

Please continue the scheme till the container terminal is privatised.

Cochin Custom House Agents' Association.

When other terminals are introducing new concessions, why COPT wants to withdraw the existing scheme?

The Shipping Corporation of India (SCI)

Please modify the scheme to make it attractive and extend rebates to Shipping Lines.