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| **No. 241** | **New Delhi, the 6 September, 2001** |

## NOTIFICATION

## TARIFF AUTHORITY FOR MAJOR PORTS

**No.TAMP/60/2001-CPT** **New Delhi, 6 September 2001**

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Calcutta Port Trust to allow discounts on some vessel / cargo related charges at the Calcutta Dock System as in the Order appended hereto.

( **S. Sathyam** )

Chairman

**Tariff Authority for Major Ports**

**Case No.TAMP/60/2001-CPT**

**Calcutta Port Trust (CPT)** **- - -** **Applicant**

## O R D E R

**(Passed on this 30th day of August 2001)**

This Authority had passed an Order for general revision of the Scale of Rates of the Calcutta Port Trust (CPT) on 28 March 2001, which was notified alongwith revised Scale of Rates (SOR) in the Gazette of India on 4 April 2001.

2.1. In response to the Order for general revision of the SOR of the CPT, the CPT has submitted a proposal for review of the order especially for removing the differential in the vessel-related charges between the Calcutta Dock

System (CDS) and Haldia Dock Complex (HDC) as also for rationalisation / review of some other charges / conditions in the SOR. This proposal has been registered as a tariff case; and, is being processed separately. The CPT was advised that a 'review' could only be with reference to errors apparent on the face of the record; and, was accordingly asked to specify the errors to enable further action on their proposal.

2.2. The CPT has subsequently submitted another proposal requesting for some immediate relief required to be given to the Trade and Shipping Lines by allowing discounts in some of the cargo and vessel-related charges at the CDS for a period of six months or till the review petition of the CPT is disposed of by the TAMP.

2.3. The CPT vide its letter dated 12 July 2001 requested that its proposal for allowing discounts on various rates / charges at the CDS may be approved on a trial basis for a period of six months independently of the Order that may be passed by this Authority on its review petition.

3. In its proposal for allowing discounts in cargo and vessel-related charges for the Calcutta Dock System (CDS), the following points have been made by the CPT:

(i). In the revised tariff structure, there is a steep increase in the vessel-related charges in the CDS; however, there is no such increase in respect of the HDC. The percentage of increase made for CDS for berth hire for foreign-going vessels varies from 74.80% to 76.92% for different sizes of vessels. The increase for coastal vessels varies from 254% to 303.44%. A similar increase has been made in the rates for pilotage.

(ii). Consequent upon introduction of the differential rates, representations have been received from the Trade and Shipping circles requesting to bring the vessel-related charges for CDS at par with those for HDC as otherwise the CDS can no longer be found attractive.

(iii). A study of the movement of cargo through the CDS reveals that there has been shifting of cargo from the CDS. On the other hand there has been increase in the handling of certain commodities such as containers, log, etc., at the HDC, which are basically CDS-bound, for which infrastructure has already been built at the CDS.

(iv). The total cargo handled at the CDS during the first three months of the current financial year is 36% less than the traffic handled during the corresponding period of the last year.

(v). The HDC and the CDS are not two separate ports; there is only one port viz., CPT, which has a large geographical extent from Calcutta upto the Sandhead. The CPT has made investment decisions both for CDS and HDC keeping in mind the river morphology and traffic that can be best handled in these two destinations. The total tonnage has all along been taken as one unit, income as well as expenditure also under this particular head have also been taken as one activity. The services provided under marine charges have never been segregated between the CDS and HDC.

(vi). Some immediate relief is to be given, as otherwise, further downfall in cargo handling at the CDS cannot be prevented and a stage is likely to come shortly when the CDS will become a non-entity despite its huge commitments to 10,000 employees and 27,000 pensioners.

4.1. In view of the above positions, the CPT has proposed to allow the following discounts in cargo and vessel-related charges at CDS for a period of six months:

| S. No. | Type of charges | Proposed discount | Remarks |
|---|---|---|---|
| 1. | Berth hire | | |
| | (a). Foreign-going vessels | 43% | More or less the pre-revised rate is thus retained. |
| | (b). Coastal vessels | 73% | |
| 2. | Pilotage and towage | | |
| | (a). Foreign-going vessels | 43% | More or less the pre-revised rate is thus retained. |
| | (b). Costal vessel | 67% | |
| 3. | Volume discount in Container handling | | |
| | (a). For handling 51 – 100 TEUs per month by individual importer / exporter | 5% of consolidated box rate | To make the discount more attractive and to bring more or less at par with that at HDC. |
| | (b). For handling above 100 TEUs per month by individual importer / exporter | 10% of the consolidated box rate | - do - |
| 4. | For use of private equipment to handle logs inside the dock inside the dock by the licensees. | 30% on the applicable wharfage. | Discount proposed for non-requirement of port equipment. |
| 5. | Lifting charge for handling of log. | 100% on | Pre-revised charges |

| | | | |
|---|---|---|---|
| | | each log weighing upto 20 tonnes. | are thus retained. |
| 6. | Berth hire for LASH barges | 75% of the applicable Rate | As berth hire charge is a new charge, maximum possible discount has been proposed to prevent diversion of the traffic. |

4.2. In addition to the above, the CPT has requested us to consider the following issues, which have also been incorporated in its review petition:

(i). <u>Demurrage free period for containerised cargo and containers</u>

This has to be on par both at the CDS and the HDC. Further, at the HDC, there is no free period, whereas at the CDS a free period of three days on container (box only) is granted.

(ii). <u>Concession in demurrage free period for delivery of cargo using port equipment</u>

The free period may be extended from the existing three clear working days to seven days including Sundays and Holidays for non-hazardous import cargo requiring service of port equipment at the time of delivery.

4.3. The following points have also been made by the CPT in its proposal:

(i). The proposed discounts have been approved by its Board of Trustees in its meeting held on 5 July 2001.

(ii). The discounts proposed may initially lead to a fall in revenue, most of which will be against notional income because in reality there is diversion of traffic. The notional loss and real loss, if any at all, due to such discounts allowed will be made good when traffic picks up at the CDS as a result of the relaxations in charges.

5. The proposal was circulated among all concerned users / representative bodies of port users for

comments. The Comments received are summarised below:

**The Shipping Corporation of India Limited (SCI)**

(i). The main activity of the SCI is at Haldia where no increase in pilotage and towage and berth hire has been effected. The increase is only in the element of port dues.

(ii). The port wants a reduction in the pilotage and towage and berth hire for the CDS to the level earlier approved by the Trustees. This indirectly implies that the CPT wants reduction in the CDS and increase in the HDC. Considering that our main activities at the Haldia, we are not inclined to support the above view of the port.

(iii). The efficient HDC shall not be allowed to suffer on account of the inefficiencies and historic liabilities of the CDS.

(iv). If the proposal is accepted for uniformity in the charges at both the Dock Systems, then the CDS shall also have no increase in the two vessel related items.

**The Container Shipping Lines Association (CSLA)**

(i). The discount proposed by the CPT will provide temporary relief to the CDS.

(ii). However with this the core issue is not being addressed that is CDS and HDC should be segregated as two distinctly different entities in terms of budgeting, costs and revenues with each responsible for its own viability and growth.

(iii). The CDS cannot remain viable due to limited drafts and expensive recurring dredging of the Hoogly as well as its inability to keep up with ships changing over to larger and more efficient tonnage.

(iv). Inspite of the CPT confirming on addressing the issue of huge overheads during the last hearing no distinct programme to retain as well retire surplus employees is yet in place and the port will continue to be costlier due to the same.

(v). Exactly for these reasons the CDS will make the option and cost out of the HDC being more viable, cargo will find this cheaper route out of the HDC.

(vi). The TAMP shall also look into reducing the reefer electricity charges as well which is the highest in the country.

6.1. A joint hearing in this case was held on 6 August 2001 at the CPT. At the joint hearing, the following submissions were made:

**The Calcutta Port Trust (CPT)**

(i). The Authority's notification of the April 2001 has created an emergent situation. Urgent relief is required. Traffic is being diverted.

(ii). The Board recommended some increase in tariff. For the first time in history, the increase ordered by the Authority was more than what has been recommended.

(iii). Our commercial judgement has been ignored. Trustees in our Board are very upset.

(iv). Two or three docks may be there, but, they are under one port. We do not allow competition between docks. That is our corporate philosophy.

(v). There are several anomalies in the Order. A smaller vessel pays more than a bigger vessel at the CDS.

(vi). The increase of the revised rate for lighterage operation is of the order of US $ 50,482. Who will pay?

(vii). Diversion is not only from the CDS to HDC, but actually to other ports also. It is a matter of grave concern.

(viii). Tariff fixation cannot only be an economic exercise. It has seriously to reckon with the commercial consideration.

(ix). There will be a serious labour unrest. The Order of the TAMP has caused this unrest. The TAMP must, therefore, give immediate relief. There will be sympathetic unrest in all the major ports. All because of the TAMP Order.

(x). Economic exercise will warrant higher rates for the HDC. But, Trustees do not accept it. They stress the corporate philosophy and policy of uniform rates.

(xi). The February 2001 reference of the draft Order sent by the TAMP's office did not give total discretion to us. We were told clearly that there can be no increase in cargo-related charges; but, there can be even a 100% increase in vessel-related charges of the CDS. We were also told that there would be no cross-subsidisation.

(xii). In this backdrop, we accepted the increases in rates allowed by the TAMP for assessing their impact in three months' time.

**Eastern India Shippers' Association (EISA)**

(i). We have to pay higher rates at the CDS because of the port's inefficiency. Why should we pay for that?

(ii). Traffic has been given away from the CDS due to the Order of the TAMP. The TAMP shall not create tariff barriers within one port.

(iii). We totally endorse the proposal of the CPT for discounts.

(iv). Cross-subsidisation shall not be stopped.

(v). Allow the discounts / concessions. But, please go ahead and also review the Order of the TAMP.

**The Container Shipping Lines Association (CSLA)**

(i). We compliment the CPT for proposing rebates / concessions.

(ii). The CDS and the HDC must be designated as two different entities.

(iii). No tangible steps have been taken to reduce the overstaffing.

(iv). The TAMP should also reduce the reefer electricity rate.

**Association of Shipping Interests in Calcutta (ASIC)**

(i). Please refer to our letter (dated 3 July 2001) containing our comments in the review matter.

(ii). We agree with the CPT and other users about the hardships created by the TAMP Order of April 2001.

(iii). The maximum effect has been on feeder services. It costs US $ 30 more per TEU.

(iv). There is no logic to charge more for pilotage to the CDS. It will create anomalies. Smaller vessels will start paying more.

(v). Demurrage details must be the same of the CDS and the HDC.

(vi). The two docks under the CPT must have level playing conditions. The choice of docks shall be left to the users. Efficient one shall be left to attract traffic.

(vii). If rates have to go up, let them go up equally at the CDS and the HDC.

**The Shipping Corporation of India Limited (SCI)**

(i). We fully support the proposal of the CPT for equal rates at the CDS and the HDC.

(ii). We also endorse the other proposals for concessions.

(iii). There shall not be parity only in rates. The CPT must ensure increase in efficiency at the CDS.

**Engineering Export Promotion Council (EEPC)**

(i). We agree with the proposal of the CPT for concessions.

(ii). But, the slabs for containers must be altered to benefit small exporters also.

(iii). If the CPT gives discounts to Lines they must pass them on to shippers. The TAMP must ensure this.

**Bengal Chamber of Commerce and Industry (BCCI)**

We have not had time to consider these proposals. We will send written comments within a week.

**Masters' Stevedores Association (MSA)**

Differential between CPY container handling charges levied at the and non-CPY has no logic. The CPT must rationalise this before comparing the CDS and the HDC.

6.2. At the joint hearing the CPT has submitted a written submission justifying its request for discount in tariff at the CDS.

6.3. The ASIC has also given a written submission at the time of the joint hearing, which is a copy of its earlier letter dated 3 July 2001. The following points have been made by the ASIC in their written submission:

(i). The Order of the TAMP has resulted in diversion of containerised and general cargo from the CDS to the HDC by 35% and 40% respectively.

(ii). We request the TAMP to consider issuing an immediate Order for suspension of the Order dated 4 April 2001 to bring CDS rates and par with the HDC. In the meanwhile, the CPT may be authorised to allow rebate / discounts in the CDS rates.

(iii). Consider a reduction in port dues which has exorbitantly been increased over 100% to 55% for both the CDS and the HDC.

(iv). LASH barges may be exempted from payment of any fleeting charges which is the practice at present.

(v). There are other disparities between the two Dock system such as demurrage free period and volume discounts on containers handled and lifting charges for handling of logs over 5 tons which shall be allowed to be rectified.

7.1. At the joint hearing users were given one week's time to file written submission, if any. After the joint hearing, comments were received from the following organisations, as summarised below:

**Calcutta Custom House Agents' Association (CCHAA)**

(i). We reiterate our view that the CDS and the HDC shall not be treated as two different systems.

(ii). As the CPT is a feeder port, we have very less time to clear the consignment from the port. We strongly support the proposal to increase the free demurrage charges not only to seven days but also for ten days.

(iii). The discounts offered are to Ship Owner / Agents. We have doubts whether the discounts offered will reach the actual user of the port. The discounts offered must be passed on to the shippers.

**Eastern India Shippers' Association (EISA)**

(i). We fully support the proposal of the CPT for allowing discount in cargo and vessel related charges and enhancing the demurrage period at the CDS.

(ii). The discount proposed may initially lead to a fall in revenue. This loss, however, will be made good as more cargo including containers will move through the CDS to avail of the relaxation in charges.

**Bengal Chamber of Commerce and Industry (BCCI)**

(i). As both the HDC and CDS are part of the CPT, the disparity in the Scale of Rates during the last three months has had adverse effect on the traffic handling at the CDS resulting in poor revenue for the CDS.

(ii). By having similar rates for both the dock systems, choice will be for the users to select the dock. This option must be left to the users and shall not be the prerogative of the port.

(iii). Even if parity of rates is given, for the sake of efficiency, better draft, new infrastructure and user friendly atmosphere, the HDC will score over the CDS.

(iv). The extra overheads on account of pensioners and existing staff and proposed merger of DLB with the CPT, the overheads are on the increase which will be a major constraint for the CDS for a profit making proposition unless subsidised in fair measures.

(v). Haldia is the port of the future and, therefore, will benefit by de-linking from the CDS which will allow it to be run as independent profit centre, with fewer historical arrears to be accounted for.

(vi). A level playing field shall be created so as to enable both the HDC and the CDS to avoid unhealthy competition in the matter of movement of cargo. This will also allow port users to choose as to which port they will use since the operational cost of the both ports would remain more or less same.

(vii). While creating the level playing field, the Scale of Rates for HDC shall not be hiked.

**Engineering Export Promotion Council (EEPC)**

(i). The volume discount structure in container handling shall be on the following lines:

25 to 50 containers

51 to 100 containers

101 to 150 containers

151 to 200 containers

201 and upwards

If the CPT introduce the discount structure on the above pattern the small and medium scale exporters will get benefit of the discount. In eastern region there are more small and medium exporters than large exporters.

(ii). The TAMP shall make a condition that whatever benefits the CPT will give to shipping companies / feeder operators, the same shall be passed on to the exporters / port users.

7.2. The CPT has made further comments on the comments summarised above. The comments received from the CPT are summarised below:

(i). The HDC and CDS should not be treated as different entities.

(ii). Non-hazardous import consignment requiring services of CPT equipment, may be allowed demurrage free period of 7 days after the date of landing, instead of 3 clear working days.

(iii). The CPT agrees to the proposal of the CCHAA that the TAMP must see and form a rule that the discount offered should be passed onto the users.

(iv). Some immediate relief is required to be given to the trade and shipping circles.

(v). The rate for berth hire, pilotage and towage approved by Board of Trustees for both the dock systems may be approved and if for any reason this cannot be done, the rates for CDS should be brought at par with that of HDC.

(vi). The CPT agrees with the proposals of the EISA (a) volume discount in container handling; (b) discount for use of Private equipment to handle log inside the dock, by licensee; and, (c) 100% discount on lifting charge for logs weighing upto 20MT.

(vii). With reference to the proposal of the EISA for 75% discount on the berth hire for LASH barges, the CPT has proposed that during the period of non-working and fleeting condition of the barges, a fleeting charge at the rate of 1 cent per GRT per shift without any minimum ceiling.

(viii). To cater to the need of handling bigger vessels, HDC has been created by CPT. CDS may remain viable as a feeder Port with more emphasis on IWT traffic.

(ix). Traditionally, CDS & HDC has different niche cargo basing on different factors. CPT wants a level plying field for CDS & HDC where the port users will be at liberty to route their cargo through any of the dock system.

(x). With reference to the proposal of the CSLA for reduction of reefer electricity charges at CDS, the CPT has stated that no representation regarding this was received earlier. On further examination of the matter, its comments will be forwarded to TAMP to be considered alongwith its Review Petition.

(xi). The HDC has been created by the CPT to be more efficient than CDS. Its proposal for discounts only refers to the discounts on the rates of CDS.

8. The CPT has earlier intimated that it intends to provide some additional inputs (possibly, the details spelling out the errors apparent on the face of the record) for its review petition and it will take some more time to do so. The review petition may therefore be taken up for hearing after receipt of the additional inputs. The CPT has requested the Authority to take an immediate decision on its proposal for allowing discounts in cargo and vessel related charges at the CDS.

9. With reference to the totality of information collected during the processing of this case, and taking into account the arguments advanced at the joint hearing, the following position emerges:

(i). The instant proposal is mainly to allow discounts in the berth hire and pilotage charges at the Calcutta Dock System (CDS) approved by this Authority in March 2001 so that these rates can be retained at the pre-revised level and thereby maintain a parity with the rates for similar services prescribed at the Haldia Dock Complex (HDC)

When the general revision of the tariff of the CPT was considered earlier by this Authority, a huge deficit in the cost statements pertaining to the vessel related activities at the CDS was observed. Since the proposal of the CPT for allowing only a small increase in these activities could not be seen to be in the right direction, this Authority decided to revise these rates at a level higher than proposed. While doing so, it was, nevertheless, recognised that the rates for these sub-activities under Port and Dock facilities could not be increased to match the level of deficit at one go since it would cast a sudden and heavy burden on users.

(ii). Some of the main considerations made by this Authority while deciding the revision of Vessel Related Charges at the CDS are given below:

(a). Complete elimination of cross-subsidisation between various activities / sub-activities is not possible. Pending a final view on this issue, the extent of cross-subsidisation is decided to be contained at the existing level. Cross-subsidisation from the HDC to the CDS is allowed to continue to a limited extent in view of precarious financial health of the CDS.

(b). Pending approval of a new apportionment formula by the Government, the existing pattern of apportionment of common expenditure between the CDS and HDC adopted by the CPT has been accepted in the cost analysis.

(c). It is recognised that it will not be logical to prescribe tariffs regardless of the cost of rendering services discarding the *quid pro quo* principle and sacrificing reasonable financial health of a port. Although this is the principle adopted by this Authority elsewhere, in the case of CDS the increase in tariff has been allowed without providing for any return on capital employed. This has been done in order to soften the blow of steep increases in tariff warranted by cost analysis and at the same time to ensure that the port does at least recover its operating expenditure.

(d). The position emerging in the case of the CPT is a result of wayward attention paid to tariff setting in the past. Total rationalisation at one go is not feasible; but, a corrective process has to be set in motion albeit gradually at least from now onwards.

(e). The rates for coastal vessels have been re-stated with reference to the rates for foreign-going vessels and the current exchange rate as is done in the case of other Major Port Trusts.

(iii). (a). The CPT and some of the user organisations have alleged that this Authority did not recognise the fact that the CDS and HDC are not two separate ports but only two dock systems of the same port. Implied in this statement is the contention that the tariff for the port as a whole shall be the same irrespective of the dock system used by the vessels. This Authority has definitely recognised the CDS and the HDC as one port. Since tariffs have been prescribed at different levels depending on the cost of rendering the services, it does not mean the basic statutory and administrative arrangement obtaining in the CPT has been ignored by this Authority. For example, considering the CPT as one port, the port dues have been prescribed commonly to both the CDS and the HDC. And, nowhere in the order is there an indication to the contrary.

(b). The facilities provided at the berths at the two dock systems differ. This Authority always places emphasis on the principle of *quid pro quo* for prescribing tariffs for services rendered. The berth hire charges can be different (even) for different berths within same dock system. This Authority has already decided to require all the major ports to re-cast the existing berth hire charges with reference to services provided and facilities available at individual berths. This decision has already been communicated to all the major ports including the CPT. When this exercise is completed by the CPT, the analysis will show that the rates for different berths even within one dock system can be different. That being so, there is no justification in seeking the same rate of berth hire charges for both the CDS and the HDC merely on the ground that they are two dock systems of one port.

(c). The distance of pilotage varies considerably in the case of CDS and HDC. The distance from the pilot boarding point to the CDS is more than double of that to the HDC. This means involvement of additional cost in piloting a vessel in / out of the CDS when compared to similar movements in / out of the HDC. If this fact is recognised, there cannot be any argument against having a separate rate (lower at the HDC and higher at the CDS) for pilotage for the two dock systems. Such a prescription again cannot be taken to mean that CDS and HDC are treated as two separate ports. Even in the case of the Mumbai Port Trust (MBPT), the pilotage charges are different for piloting the vessels to different docks and to Jawahar Dweep / Pir Pau, recognising the distances of pilotage.

(d). It is noteworthy that apportionment of expenditure incurred at the CDS like pension liability, etc., has been allowed to be made in the cost statement of HDC considering the CPT as a single port. Likewise, in recognition of this fact, a special rate for meeting arrears of salary and wage liability, which pertain to the CDS has been allowed to be levied also from fees for services rendered at the HDC. To be more specific, even though the HDC has discharged from its 'reserves' its liabilities for payment of the arrears, it is still allowed to recover the 'special rate' for the benefit of the CDS.

(iv). It is to be stressed here that the differentiation made in respect of the CDS and the HDC is only for the purpose of proper costing of services rendered. This is also due to the fact that the set of users at the CDS and HDC are not the same and after considering the cost statements furnished by the CPT without any major amendments. It is noteworthy that the Govt. of India has also directed the CPT to maintain separate accounts for the CDS and HDC so that their financial performance can be assessed in a transparent manner. This directive cannot be taken to mean that the Govt. has treated the CDS and HDC as two different ports. Likewise, the cost analysis made by this Authority cannot also be taken to mean that it has treated CDS and HDC as different ports. It is relevant here to mention that historically the CPT maintains separate accounts for the CDS and HDC and also has two separate cadres of personnel for these dock systems. This shows that the CPT itself has recognised the need to maintain some differentiation between these two different dock systems.

(v). As argued by the CPT, if CDS and HDC are two arms of the same port, then, there cannot be any implication for the Port if vessels shift from one dock system to the other. Further, the allegation that the differential berth hire and pilotage prescribed is the sole reason for diversion of traffic from one dock system to other appears to be a fallacy. It is noteworthy that when a 50% increase in the container handling charges was approved in the case of HDC in the general revision Order notified on 4 April 2001, status quo was ordered to be maintained at the CDS. The Port has not mentioned anything about this advantage available to the CDS over HDC. Besides, even before the last revision of tariffs approved by this Authority, the rates for cargo handling were different in both the dock systems. That being so, the reason for maintaining the same rates only in respect of Vessel Related Charges is not apparent.

(vi). The CPT has argued that it is its corporate policy to maintain the tariff at the CDS and HDC at the same level. It is difficult to endorse such a policy. What the CPT could have done in this regard was to formulate a proper policy of fixing berthing priorities at these two dock systems and allow the tariff to be fixed based on the cost of rendering services. For reasons best known to the CPT, it has not formulated any such guidelines of allocation of berthing of vessels at the CDS and HDC. It is noteworthy that Section 38 of the MPT Act empowers the Board of Trustees of a Port Trust subject to satisfaction of certain conditions to direct vessel operations within the port or port approaches at specified places.

It is understood that the CPT maintains such berthing priorities for the CDS and the HDC separately for the two dock systems. If this can be done separately at each of the two dock systems, this Authority fails to understand the reason why the port administration cannot do so for the port as a whole i.e., commonly for the two dock systems.

(vii). The CPT has also argued that this Authority must respect the decision taken by the Port Trust Board based on certain commercial considerations. With the amendment to the MPT Act in 1997, the tariff setting arrangement at the major ports has undergone a change. The jurisdiction of the Board of Trustees over tariff setting has been ousted. Even though statutorily the Board of Trustees has no role to play in tariff matters, all the major ports have been advised to furnish the comments of their Board of Trustees on tariff proposals, as far as possible. This is done to take advantage of the views of the Board, which comprises representatives from different fields. This apart, this Authority also follows its usual consultative process in all the tariff cases. Considering the comments given by the Board of Trustees or any user organisations in a proceeding of the case does not necessarily mean that this Authority shall only be guided by such comments. In the case of the CPT, as has already been mentioned, this Authority could not simply allow the accumulated irrationality in the tariff structure to continue forever in the name of commercial judgement. Rationalisation of tariff was found to be the need of the hour and pressing certain soft options as envisaged in the CPT proposal was not found sufficient to progress in that direction. What is intriguing is that no action has been taken by the CPT to rationalise the berthing arrangement in all the dock systems under its jurisdiction in order to rationalise the operation and to improve the financial health of the port.

(viii). The CPT has argued that the tariff revision allowed by this Authority came to it as a surprise and for the first time in its history tariff revision was allowed much more than what has been proposed. Without meaning to flaunt the Authority's statutorily autonomous status, we wish to stress the position that, legally speaking, the Authority is not bound by such limitations. Even so, the CPT contention in this regard may be true if only certain isolated items are taken into consideration ignoring the total package offered. If the CPT proposal for general revision of its Scale of Rates had been accepted in toto would have fetched an additional income of Rs. 132.15 crores for the years 2000-01 and 2001-02. The increase approved by this Authority was to provide an additional revenue target of Rs. 122.17 crores for the corresponding period. What was removed by this Authority was an irrationality in the tariff structure.

(ix). Generally, once the consultation process is completed, this Authority proceeds to decide the case and notifies its decisions. Considering the peculiarity in the case of the CPT general revision, before a formal order was passed, the decisions of this Authority were communicated to the CPT and it was advised to frame a Scale of Rates accordingly. Even though the communication from the office of this Authority advised the CPT to draw up a draft revised Scale of Rates based on the decisions of this Authority, the entire decision of this Authority was listed for the benefit of the CPT. The CPT had drafted a revised Scale of Rates and forwarded for notification without offering any comments. The opportunity available could have been better utilised by the CPT to analyse the decisions and implications instead of engaging in the routine exercise of framing draft Scale of Rates only. This being the actual position, the CPT cannot complain that the Order issued by this Authority had come as a surprise to it.

(x). The statements about industrial unrest, repercussion in some other ports, etc., made by the CPT are irrelevant and appear to be made only to sensationalise the issues. If the CPT had prescribed proper berthing priorities between the CDS and the HDC, the CPT would have realised the additional revenue envisaged at the time of tariff revision at the CDS. Since such an administrative action had not been taken, the Port is faced with diversion of traffic from one dock system to the other and forced to propose a return to the pre-revised level of tariffs. It needs to be mentioned again that at the pre-revised level of tariff for berth hire and pilotage, the CPT will incur operational losses further deteriorating its already weak financial position.

(xi). The stand taken by most of the users is interesting. When they want the rates at the CDS to reduce they oppose any increases in tariff at the HDC. When CDS cannot remain self-supportive even at the enhanced level of tariff, it is difficult to perceive how it will financially survive after rates are reduced and it additional cross-subsidisation does not flow from the HDC!

(xii). In the light of the discussion made above, there is no ground to accept the proposal of the CPT to allow discounts in berth hire and pilotage charges at the CDS and, thereby, go back to the pre-revised levels.

(xiii). We do not accept the criticism that the Order passed by us earlier was arbitrary or whimsical. We have taken the pains to detail the logic and the rationale only to reiterate the correctness of our Order. Going by this position, there is no case for any amendments to the earlier Order. Even so, bearing in mind the fact that this Authority has always been accommodative in its approach, sensitive to difficulties expressed, and responsive to reasonable demands, we are willing to accept some changes in an effort to build-in a longer led time for all concerned to move towards a more rational tariff structure. It is relevant here to stress that our earlier order itself had adopted such an approach in the sense that the increases (in rates) ordered were only small steps to be taken towards a giant leap required.

As has already been mentioned, rationalisation of tariffs at the CDS is an absolute necessity. There cannot be a going back on the gradual corrective process already set in motion. That being so, acceptance of the CPT proposal to go back to the pre-revised level of tariff will be a step in the backward direction.

It is inevitable that levels of tariffs at the CDS and the HDC will be different. In order to provide a temporary relief to the Trade so that they can adjust gradually to the revised tariffs at the CDS, this Authority is inclined to reduce by 50% the increase in the rates in reference earlier ordered for a limited period of six months. Towards this end, this Authority approves a discount of 22% and 35% on the existing rates for foreign-going vessels and coastal vessels respectively in the case of both berth hire and pilotage charges pertaining to the CDS.

It is to be categorically mentioned here that the discount allowed is only for a specific period of six months from now onwards after which the discounts will automatically cease to be and the original position will revert.

(xiv). The CPT has proposed a revised volume discount scheme for handling containers at the CDS. The proposal is to make the volume discount scheme more or less same at both the CDS and HDC. Further, this is to revise the annual throughput conditions into monthly targets. The revised scheme proposed is approved. The scheme proposes to pass on the benefits direct to importers / exporters. This is a welcome move.

(xv). The CPT has mentioned that it does not provide any equipment support to handle logs inside the Docks at the CDS. The wharfage rates at the CDS includes provision of handling equipment for limited operation. Since equipment support is not provided for handling logs at the CDS, the CPT has proposed to allow a 30% discount on wharfage for logs. Considering timber logs as a growing traffic at major ports, this Authority has allowed some concessions for this traffic in the case of some other major ports. Likewise, in the case of the CPT also, the proposed discount of 30% on wharfage for logs is approved.

(xvi). The CPT has proposed that lifting charges on logs weighing less than 20 tonnes will not be levied. This Authority has already prescribed a lower limit of 20 tonnes for classifying parcels as 'heavy lifts' and levy separate charges. The proposal of the CPT is in line with the prescription of this Authority; and, therefore, it is deservedly approved.

(xvii). In the existing Scale of Rates of the CPT, the demurrage free period for non-hazardous import cargo handled at the CDS is prescribed as three clear working days. Citing inadequate availability of CPT equipment at the CDS, the CPT has proposed to extend demurrage free period to seven days (including Sundays & Holidays) after the date of landing for non-hazardous consignments requiring services of the CPT equipment at the time of delivery. The stated policy of this Authority is not to make users responsible for delays caused by the Port. That being so, the proposal of the CPT in this regard is approved.

(xviii). The CPT has also proposed to levy 75% of the applicable berth hire rate on LASH barges. In its proposal for general revision of tariff, the CPT proposed not to levy berth hire charges. But, this Authority ordered that berth hire should be levied on LASH barges also; and, advised the CPT to propose separate fleeting charges.

It is to be recognised the LASH barges were not paying any berth hire charges prior to April 2001. The prescription made in April 2001 to enable levy of berth hire on them may have put a sudden financial burden on them. Although, it is reasonable to levy applicable berth hire charges for the berth occupied by LASH barges, such a rationalisation may be made gradually. Considering the argument of the CPT about reduction in LASH barge due to sudden increase in tariff, this Authority is inclined to reduce the berth hire charges for LASH barges.

The CPT has proposed to allow 75% discount on the applicable berth hire charges for LASH barges. As has been mentioned earlier, the attempt should be to gradually rationalise this tariff item and ultimately to bring it at par with normal applicable berth hire rate. The discount proposed by the CPT is too high. The CPT, earlier in its petition for review of this Authority's Order dated 28 March 2001, proposed to levy only 50% of applicable berth hire charge on the LASH barges for the period the barges actually carryout landing / shipment operation; and, a fleeting charge of 1 cent per GRT per 8 hours or part thereof. These proposals appear to be reasonable and are, therefore, approved.

LASH barges fall under the category of 'less than 3000 GRT' for the purpose of levy of berth hire. A minimum berth hire charge of US $ 81.60 has been prescribed under this category. Considering the GRT of LASH barges, the minimum charge, which is worked out for 2000 GRT, is very high; and, if it continues, the benefit of reduction allowed in berth hire may not be available to the LASH barges. The

CPT, in its review petition, requested to dispense with the minimum charges condition in the case of LASH barges. This is also approved.

(xix). In the instant proposal, the CPT has proposed to equate demurrage free period for containerised cargo and containers at both the CDS and HDC.

At the CDS, a free period for cargo in FCL and LCL is allowed for three days and seven days respectively. This is, however, 20 days in respect of both LCL and FCL at the HDC. Likewise, no free period on container (box only) is allowed at the HDC but a 3 day free time is available at the CDS.

The CPT has requested that this Authority may notify a common free period for both the dock systems. It has not furnished any analysis bringing out the revenue implications.

It is noteworthy that a difference in free time allowed at the CDS and HDC was in vogue even in the pre-revised Scale of Rates. In the revised Scale of Rates, these provisions were included, as proposed by the CPT without any modification.

Bringing uniformity at both the Docks in this regard require further analysis regarding dwell time, output rate, back-up area availability, revenue implications, etc. In the absence of any such analysis, it is not possible to agree to extend the maximum time limit available in one dock system to the other. The CPT is advised to examine the matter further and come up with a well formulated proposal in this regard.

(xx). Ordinarily, any amendment in vessel related charges comes into effect 30 days after its notification in the Gazette of India. In view of the extraordinary circumstances obtaining in this case and, bearing in mind the fact that these amendments in this case result in a reduction of tariffs, they are allowed to be enforced with effect from the effect from the date of notification of this Order in the Gazette of India.

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

(i). A discount of 22% and 35% on the existing Scale of Rates for foreign going vessels and coastal vessels respectively in the case of both berth hire and pilotage charges pertaining to the CDS.

(ii). This discount will be in operation only for a period of six months from the date of notification of this Order in the Gazette of India.

(iii). The modifications as proposed by the CPT in some of the conditionalities in the Scale of Rates relating to the CDS, except free time on containers and containerised cargo subject to the analysis given in paragraph (9) above.

10.2. The CPT is directed to amend its Scale of Rates accordingly.

10.3. This Order will come into force with effect from the date of its notification in the Gazette of India.

( **S. Sathyam** )

Chairman

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