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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 166

New Delhi,

12 April 2021

NOTIFICATION

In exercise of the powers conferred under Section 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Chennai Port Trust (CHPT) seeking approval for incorporation of separate provisions for vessel related charges in respect of crew change operations in the existing SOR of CHPT, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/61/2020-CHPT

The Chennai Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Sunil Kumar Singh, Member (Economic)

ORDER

(Passed on this 16th day of March, 2021)

This case relates to a proposal received from the Chennai Port Trust (CHPT) vide its letter No. A.O(SOR)/Crew change/2020/F dated 04 December 2020 seeking approval for incorporation of separate provisions for vessel related charges in respect of crew change operations in the existing Scale of Rates of CHPT.

2.1. This Authority has passed an Order No. TAMP/30/2019-CHPT dated 10 October 2019, approving the revised Scale of Rates and Performance Standards for CHPT, based on the proposal received from the CHPT for general revision of its Scale of Rates (SOR).

2.2. The revised Scale of Rates and Performance Standards approved by this Authority was notified in the Gazette of India on 30 October 2019 vide Gazette No.376. The detailed speaking Order pertaining to the revised Scale of Rates of CHPT has been notified in the Gazette of India on 4 December 2019 vide Gazette No. 447.

3.1 In this backdrop, the CHPT vide its letter dated 04 December 2020 has filed a proposal seeking approval for incorporation of separate provisions for vessel related charges in respect of crew change operations in its existing SOR. The main points made by CHPT are as follows:

- (i). COVID-19 pandemic situation created severe impact on crew change at the Ports and D.G. Shipping requested the Ports to facilitate stranded seafarers to sign in/ sign off free of charge to the ships.
- (ii). As per existing Scale of Rates, the Ships carrying out crew change are treated as Non-cargo vessels. Accordingly, for crew change at anchorage, 50% concession in Port dues is extended as per clause 2.1.2, Sl. No.2 – Vessels entering the port but does not discharge or take in any cargo or passengers. For crew change at berth, in addition to 50% Port dues, actual berth hire charge as per SOR is collected.
- (iii). In order to facilitate ships to carry out crew change safely and conveniently at Chennai Port and with a view to minimize the impact of concessions, a proposal was submitted to the Board to include separate provisions in the SOR of CHPT for carrying out crew change at Chennai Port.
- (iv). The details of the proposal are as follows:

Sl. No.	Activity	Current charges	Proposed charges	Benefitted by	Justification
1.	Crew change at Anchorage	Port Dues Concession of 50% as Non-cargo vessel	Port Dues Concession 75% as per SoR 2.1.2.3	vessel	The same concession available to vessels bunkering at anchorage is being extended to the vessel

					carrying out crew change at anchorage.
		Anchorage charges No charges			No anchorage charges will be levied (until unless they are shifted from berths to Outer Anchorage and re-berthed)
2.	Crew change at Berth	Port dues concession of 50% as Non-cargo vessel	Port Dues concession 50% as per SoR 2.1.2.2.	vessel	The same concession available to vessels entering the port to take bunkers is being extended to the vessel carrying out crew change at berth.
		Berth Hire entire period of stay	No Berth Hire upto 6 hours. Beyond 6 Hrs. normal Berth hire as applicable to general cargo ships, i.e. SoR 2.3.1.4		Vessel need not have to pay the Berth Hire charges for Non-cargo vessels, i.e. double the rate of normal cargo vessels. Vessels need not to wait for favourable weather conditions to carry out safe crew change at anchorage.

- (v). Board vide its B.R.No.37 dated 25.6.2020 has approved to implement the proposal with immediate effect and send the proposal to TAMP for incorporating changes in the existing Scale of Rates. A copy of the Board Resolution is furnished by CHPT.
- (vi). A Trade Notice has been issued on 08.10.2020 for implementing the above rates, a copy of which is furnished by CHPT. From the Trade Notice, it is seen that the CHPT has conveyed to the Trade that the proposed provisions will be applied with immediate effect.

3.2. A comparative position of the existing provision and the proposed provision, as furnished by CHPT is given below:

Reference in SoR	Existing Provision	Proposed Provision
Schedule 2.1.2 – Concession / Exemption in Port dues Sl. No.2 (50% concession)	“Vessels entering the port but does not discharge or take in any cargo or passengers therein (except materials required for repair purpose), including vessels entering the port only to take bunkers”	“Vessels entering the port but does not discharge or take in any cargo or passengers therein (except materials required for repair purpose), including vessels entering the port only to take bunkers and / or crew change ”
Schedule 2.1.2 – Concession / Exemption in Port dues Sl. No.3 (75% concession)	“Vessels entering the port for bunkering at Anchorage but does not enter into Enclosed Harbour” (75% concession)	“Vessels entering the port for bunkering and / or crew change at Anchorage but does not enter into Enclosed Harbour”
Schedule 2.3.1 – Schedule of Berth Hire Charges, Sl. No.4	“General cargo vessels, Bunkering vessels and Govt. Research vessels”	“Other General cargo vessels, Govt. Research vessel, vessels for bunkers and / or crew change ”

New note under Schedule 2.3.1	-- (To be included as a new Note, Sl. No.8, under Schedule 2.3 Berth Hire Charges	“(8) Vessels intending to carry out Crew Change at Berth will be allowed a free period of 6 hours stay at Berth and after the expiry, applicable charges as per Sl. No.4, of Schedule 2.3.1 will be levied for the entire period.”
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3.3. The CHPT has further stated that during the period from 01.03.2020 to 15.10.2020, Chennai Port has handled only 8 vessels for crew change and has earned vessel related charges of ₹.38.81 lakhs by treating the vessels as Non-cargo vessels. As the proposal of the Port is to extend additional concession in Port dues and Berth hire charges to facilitate crew change, the port has stated that there will not be any additional revenue to the Port on account of the above amendments in the SoR.

3.4. Accordingly, the CHPT has requested this Authority to process the proposal of CHPT to amend in the existing SOR to include separate provisions for crew change operations at Chennai Port.

4.1. While acknowledging the proposal, the CHPT was requested vide our e-mail dated 17 December 2020 to provide a copy of a letter where the D.G. Shipping has requested the ports to facilitate stranded seafarers to sign in / sign off free of charge to the ships.

4.2. In this regard, the CHPT vide its letter dated 16 January 2021 has conveyed that the change of crew at Outer Anchorage was discussed in a Video Conference Meeting held by the Hon'ble Minister of Shipping on 11 May 2020.

5. In the meanwhile, in accordance with the consultative procedure prescribed, a copy of the CHPT proposal was forwarded to the concerned users/ user organizations vide our letter dated 17 December 2020 seeking their comments. None of the users have responded till the order is passed.

6. In view of the outbreak of COVID – 19 and in pursuance of the then Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020 to hold virtual meetings, a joint hearing on the case in reference was held on 20 January 2020 through Video Conferencing. The CHPT made a brief power point presentation of its proposal. At the joint hearing, the CHPT and the users have made their submissions.

7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the arguments made by the concerned parties will be sent separately to them. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). At present, the Ships engaged in crew change at anchorage of Chennai Port Trust (CHPT) are treated as Non-cargo vessels and charged 50% of port dues. If crew change takes place at berth, 50% port dues and actual berth hire charges are levied by CHPT. COVID-19 pandemic has created severe impact on crew change at ports. In order to give relief to the ships visiting CHPT, the CHPT has decided to give concessions in port dues and berth hire to the vessels visiting CHPT exclusively for crew change operations. Thus, the proposal of the Port seeks approval for incorporation of separate provisions for levy of port dues and berth hire charges in

respect of vessels engaged in crew change operations in the existing SOR of CHPT. The proposal of the Port has the approval of the Board of Trustees of CHPT.

- (ii). The proposal has been formulated by the port in such a manner that the same concession as available to vessels bunkering at anchorage or to vessels entering the port to take bunkers is being extended to the vessel carrying out crew change at anchorage/ berth.

Thus, as against the Port Dues of USD 0.3498 per GRT per entry as leviable on Non-Cargo Vessels, a 75% concession in port dues is envisaged for vessels entering the Anchorage for crew change operations but not entering into enclosed Harbour and a 50% concession in port dues is envisaged for vessels berthing at the port exclusively for crew change operations.

Further, as against the existing berth hire charges levied on Non-Cargo Vessels of USD 0.0099 per GRT per hour subject to a minimum of USD 688.12 per vessel, the CHPT has proposed levy of berth hire charges at USD 0.0045 per GRT per hour on Vessels entering the port exclusively for crew change operations. Also, the vessels intending to carry out Crew Change at Berth is proposed to be allowed a free period of 6 hours stay at Berth and it is only after the expiry of 6 hours that the berth hire charges as indicated above is proposed to be levied for the entire period.

- (iii). The users like Tamil Chamber of Commerce (TCC) and Chennai & Ennore Ports Steamer Agent's Association (CHENSAA) have welcomed the proposal of CHPT and have extended their support to the proposal of the Port.
- (iv). The proposal of the port is to extend concessions in the levy of port dues and berth hire charges on the Vessels engaged exclusively in the Crew change operations based on the request made by DG Shipping to CHPT. The users have supported the proposal of CHPT. Also, the proposal has the approval of the Board of Trustees of CHPT. In view of the above position, this Authority is inclined to approve the proposal of the Port.
- (v). Since the proposal is to extend additional concession in Port dues and Berth hire charges to facilitate crew change, there may not be any additional revenue to the Port on account of the above referred amendments in the SOR. In this regard, it is to state that in the general revision Order of CHPT passed in October 2019, a revenue gap of ₹ 30.32 crores has been left uncovered by the Port. Thus, even otherwise, if the port earns any additional income due to handling of more such vessels, the said income may get subsumed in the revenue gap.
- (vi). Orders of this Authority generally come into effect prospectively after expiry of 30 days from the date of Gazette Notification unless otherwise different arrangement is specifically mentioned in the respective tariff Orders. In exceptional cases, retrospective effect is given for reasons to be recorded.

From the submissions made by CHPT, it is noticed that the CHPT has already started levying the concessional provisions with effect from 08 October 2020, much prior to filing its proposal on 04 December 2020. Thus, the CHPT has sought approval for incorporation of the concessional provisions in its Scale of Rates with effect from 08 October 2020. Clause 5.7.2 of the working guidelines provides for filing of the proposal for notification of rate for use of a new facility or a new service and levy of proposed rates on adhoc manner simultaneously.

The proposal of the port is to extend concessions in the levy of port dues and berth hire charges on the Vessels engaged exclusively in the Crew change operations. In view of this position, this Authority grants approval for retrospective levy of concessional vessel related charges on the Vessels engaged exclusively in the Crew change operations, with effect from 08 October 2020.

9.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority makes the following amendments in the existing provisions of the Scale of Rates of CHPT.

Reference in SoR	Amended Provision
Schedule 2.1.2 – Concession / Exemption in Port dues , Sl. No.2	“Vessels entering the port but does not discharge or take in any cargo or passengers therein (except materials required for repair purpose), including vessels entering the port only to take bunkers and/ or crew change ”
Schedule 2.1.2 – Concession / Exemption in Port dues, Sl. No.3	“Vessels entering the port for bunkering and/ or crew change at Anchorage but does not enter into Enclosed Harbour”
Schedule 2.3.1 – Schedule of Berth Hire Charges, Sl. No.4	“General cargo vessels, Govt. Research vessel, vessels for bunkers and / or crew change ”
New note as Sl. No.8 under Schedule 2.3.1 - Berth Hire Charges	“(8) Vessels intending to carry out Crew Change at Berth will be allowed a free period of 6 hours stay at Berth and after the expiry, applicable charges as per Sl. No.4, of Schedule 2.3.1 will be levied for the entire period.”

9.2 The CHPT is directed to suitably incorporate the above provisions in its Scale of Rates.

9.3. The said amendments shall be deemed to have come into effect from 08 October 2020 and its validity shall remain co-terminus to the validity of the existing Scale of Rates of CHPT.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

TAMP/61/2020-CHPT : Proposal received from Chennai Port Trust (CHPT) seeking approval for incorporation of separate provisions for vessel related charges in respect of crew change operations in the existing SOR at CHPT.

In view of the outbreak of COVID – 19 and in pursuance of the then Ministry of Shipping (MOS) letter No. 11053/30/2020-Coord. dated 16 April 2020 to hold virtual meetings, a joint hearing on the case in reference was held on 20 January 2020 through Video Conferencing. The CHPT made a brief power point presentation of its proposal. At the joint hearing, the CHPT and the users / users organisations have made the following submissions:

CHPT

- (i). At present, the Ships carrying out crew change are treated as Non-cargo vessels and charged accordingly. In order to facilitate ships to carry out crew change safely and conveniently at CHPT, it has been decided to give concessions in port dues and berth hire to the vessels visiting CHPT exclusively for crew change operations.
- (ii). The proposal is only to extend concessions to the vessels involved in crew change operations and not for levying any charges on them.
- (iii). We have already started implementing the proposed provisions.
- (iv). We will remove the word “other” in the proposed amendment to SL. No. 4 of Schedule or Berth hire charges.

TCC

- (i). We do not have any objections to the proposal of the Port.
- (ii). Will it be applicable to Cruise Vessels?
(CHPT: The concession will be extended only to the vessels visiting CHPT exclusively for crew change operations. Cruise Vessels are governed by other concessional tariff.)

CHENSAA

- (i). It is a good move. We support the proposal of CHPT.
