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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 358

New Delhi,

13 September, 2017

NOTIFICATION

In exercise of the powers conferred under Section 48 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) to roll back the unit/ weight based wharfage rates in respect of Motor vehicles and Machinery and Equipment to Ad valorem rates, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/55/2017-CHPT

The Chennai Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 21st day of July 2017)

This case relates to a proposal received from Chennai Port Trust (CHPT) to roll back the unit/ weight based wharfage rates in respect of Motor vehicles and Machinery and Equipment to Ad valorem rates.

2.1. The existing Scale of Rates of CHPT was approved vide tariff Order No. TAMP/22/2016-CHPT dated 17 September 2016. This Order was notified in the Gazette of India on 10 October 2016 vide Gazette No. 371. The said Order prescribed a tariff validity period till 31 March 2019.

2.2. Vide the said Order, based on the proposal then received from the CHPT, the wharfage rates in respect of Motor vehicles and Machinery and Equipment was prescribed on unit/ weight basis as given below, while disposing of the proposal of CHPT for general revision of its Scale of Rates :

Sl. No.	Description of Cargo	Unit	Rate (in ₹.)	
			Foreign	Coastal
10.	Machinery & Equipment			
(iii)	Machinery & equipment fitted with wheels, as assembled units, like Excavator, Motor Grader, Dumper Trucks, Wheel Loaders, Bull Dozer, Pavers, Power Transformers, Concrete Mixer, etc. along with its own accessories			
	(a). weighing upto 15 M.T.	Each	30,000	18,000
	(b). weighing above 15 M.T. & upto 30 M.T.	Each	45,000	27,000
	(c). weighing above 30 M.T.	Each	1,00,000	60,000
13.	Motor vehicles for carrying passengers / cargo			
(iii)	Four wheelers of upto 1400 cc			
	(a). Import	Each	4,200	2,520
	(b). Export	Each	2,200	1,320
(iv)	Four wheelers of above 1400 cc – Import & Export	Each	8,400	5,040
(v)	Six wheelers and above			
	(a). Vehicle weighing upto 7.5 M.T.	Each	10,000	6,000
	(b). Vehicle weighing above 7.5 M.T.	Each	29,000	17,400

2.3. Also, as proposed by the Port, a note no. (7) under Section 3.1.3 was prescribed to the effect that Wharfage on units classified under Sl. No.10 (iii) above will be assessed on the gross weight of the equipment including its own accessories.

3.1. In this backdrop, the CHPT vide its letter dated A.O.(SoR)/10611/2015/FR dated 28 June 2017 has submitted a proposal to roll back the unit/ weight based wharfage rates in respect of Motor vehicles and Machinery and Equipment to Ad- valorem rates. The submissions made by CHPT in its letter are summarized below:

- (i). In the general revision of SoR during the year 2016, CHPT had proposed to modify all ad-valorem based wharfage rates into unit/ weight based wharfage rates, complying with the provisions of TAMP Working Guidelines 2015 (clause 2.10 and 8.2.1).
- (ii). The wharfage rates on unit/ weight basis were arrived at based on the number/ volume of cargo handled during the year 2014-15 and total wharfage revenue earned from such cargo on advalorem basis during the year 2014-15 as per the then existing SoR. The unit based wharfage rates proposed by ChPT was approved by TAMP [Sl. No.10 (iii) (a) to (c) and 13 (iii) to (v) of wharfage schedule in the revised SoR].
- (iii). However, after implementation of the revised Scale of Rates from 9.11.2016, representations were received from the Port users handling motor vehicles and machinery & equipment stating that there is a steep increase in the wharfage payable to the Port compared to the wharfage paid by them earlier based on the ad valorem rates.
- (iv). The wharfage charges fixed on per unit basis for Machinery and Equipment fitted with wheels as assembled units classified under 10 (iii) a, b & c, and motor vehicles classified under 13 (iii) a & b 13 (iv) and 13 (v) a & b were found to be very high as compared to Kamarajar Port Limited (KPL), which poses the risk of diversion of these cargo to KPL where the wharfage for such cargo is collected on ad valorem basis.
- (v). In such a scenario, if CHPT is levying a per unit basis, it will be very difficult to match KPL rates due to the basic differences in calculating wharfage. Hence, it is imperative to roll back the wharfage rates for the above categories from unit basis to ad valorem basis.
- (vi). A meeting was held with the Major importers/ exporters of automobile cargo on 12.1.2017, wherein, the automobile companies have requested to roll back the wharfage charges from per unit basis to advalorem basis.
- (vii). The subject of rolling back to advalorem based wharfage charges for motor vehicles and machinery / equipment fitted with wheels was discussed under other subjects by the Board in the Board meeting held on 20.2.2017, wherein, it was discussed and decided to send a proposal to TAMP to modify the per unit based wharfage to advalorem based wharfage for the cargo – Automobiles / vehicles / Machinery / Equipment fitted with wheels, as stated above and to implement the same with effect from 20.2.2017 on adhoc basis and forward the detailed proposal to the Board of Trustees through circular agenda.
- (viii). In the meantime, the financial implications of the proposal was further discussed and taking into account the requirement of major Importer/ Exporters, a separate proposal was placed before the Board in the meeting held on 23.5.2017. Board vide B.R. No.20 dated 23.5.2017 has approved to levy the wharfage charges on ad valorem basis @ 0.47% for the cargoes classified under 10 (iii) a, b & c, 13 (iii) a & b 13 (iv) and 13 (v) a & b of the current SoR, replacing the per unit based wharfage charges, to simultaneously offer concessional ad valorem wharfage ranging from 0.34%, 0.29% and 0.24%, on a sliding scale based on FOB Value, to cargoes classified under 10 (iii) (a), (b) & (c) and @ 0.34% to cargoes classified under 13 (v) (a) & (b), to implement the proposal retrospectively with effect from 20.02.2017 and to send a proposal to TAMP for modification in the Scale of Rates.
- (ix). In the general revision proposal submitted to TAMP (Form 1), the revenue at the proposed Scale of Rates was estimated at ₹550.95 crores as against the Annual Revenue Requirement (ARR) (Form-1) of ₹ 755.93 crores. Since the proposed ad valorem wharfage rates are lower than the pre-revised ad valorem wharfage rates

of 0.47% and 0.61%, the proposed modification of wharfage rates into advalorem basis will result in further reduction of revenue to the Port and will, therefore, be well within the ARR as per the General Revision proposal.

3.2. Therefore, the CHPT has proposed to modify the existing Scale of Rates, Schedule 3.1.1 - Schedule of Wharfage Charges for Bulk and Break Bulk – Items 10 (iii) (a), (b) & (c), 13 (iii) (a) & (b) 13 (iv) and 13 (v) (a) & (b), as given below and to implement the same retrospectively w.e.f. 20 February 2017 :

Sl. No.	Description	Unit	Rate (₹.)	
			Foreign	Coastal
10	Machinery & Equipment			
(iii)	Machinery & equipment fitted with wheels, as assembled units, like Excavator, Motor Grader, Dumper Trucks, Wheel Loaders, Bull Dozer, Pavers, Power Transformers, Concrete Mixer, etc. along with its own accessories			
	(a) Weighing upto 15 MT	Ad valorem	0.47%	0.29%
	(b) Weighing above 15 MT & upto 30 MT			
	(c) Weighing above 30 MT			
13	Motor vehicles for carrying passengers / cargo			
(iii)	Four wheelers of upto 1400cc – Import and Export	Ad valorem	0.47%	0.29%
(iv)	Four wheelers of above 1400cc – Import & Export	Ad valorem	0.47%	0.29%
(v)	Six Wheelers and above			
	(a) Vehicle weighing upto 7.5 M.T.	Ad valorem	0.47%	0.29%
	(b) Vehicle weighing above 7.5 M.T.	Ad valorem	0.47%	0.29%

3.3. It has also proposed to delete the existing Note (7) under Schedule 3.1 as it is not relevant for ad valorem based wharfage levy and renumber existing notes (8) & (9) as (7) & (8).

3.4. Thus, the CHPT has requested to consider its proposal to modify the wharfage rates prescribed in Sl. Nos.10 (iii) (a), (b) & (c), 13 (iii) (a) & (b) 13 (iv) and 13 (v) (a) & (b) and to delete the existing Note (7) under schedule 3.1.1. of the existing SoR and accord its approval for implementing the modified rates with effect from 20.2.2017, at the earliest.

3.5. Though the CHPT has also taken approval from its Board for levy of concessional wharfage at sliding basis in the range of 0.34%, 0.29% and 0.24% for Machinery and Equipment and at 0.34% for six wheelers, it has not sought approval for levy of such concessional rates. Eight wheelers have been excluded from concessional rates. In any case, the rates proposed by CHPT for approval are at higher level and are at ceiling rates. The CHPT has flexibility to levy lower rates.

4. Consequent to the exchange of correspondence by the MOS vide its letter No. PD/14033/51/2015-PD-V dated 15 July 2015, our letter dated 8 October 2015, MOS subsequent letter dated 14 December 2015 to prescribe wharfage charge on per unit basis for transportation of automobile cargo through coastal RoRo vessels not only in CHPT, but also in MBPT, KPT and VOCPT, wharfage charge was prescribed on per unit basis in CHPT based on the proposal of CHPT vide Order dated 17 September 2016.

5. The contention of the CHPT is that the wharfage charges fixed on per unit basis for Machinery and Equipment fitted with wheels as assembled units classified under 10 (iii) a, b & c, and motor vehicles classified under 13 (iii) a & b 13 (iv) and 13 (v) a & b are found to be very high as compared to advalorem wharfage charges for such cargo at KPL and that it poses the risk of diversion of these cargo to KPL. Diversion of cargo may result in a loss of revenue to the Port.

6. The CHPT has stated that after implementation of the unit based wharfage rates in respect of Motor vehicles and Machinery and Equipment, it has been in receipt of representations from the Port users stating that there is a steep increase in the wharfage payable by them to the Port as compared to the wharfage paid by them earlier on ad valorem basis. In this context, it is to state that the advalorem rates now proposed by the CHPT in respect of Motor vehicles and

Machinery and Equipment are same as the advalorem rates prevailing at CHPT prior to the September 2016 general revision. In other words, it can be inferred that the quantum of wharfage charges payable by the users at the proposed advalorem charges would be less than the unit based wharfage rate prevailing in CHPT now. At the same time, the Authority is not in a position to brush aside the communication received from the MOS that all ports levying wharfage charges on advalorem basis need to shift to unit based wharfage rates. In this backdrop, recognising the contention of the CHPT about the risk of diversion of cargo, this Authority decides to prescribe Ad valorem rates from 20 February 2017, as proposed by CHPT alongwith unit based wharfage rates and the quantum of unit based wharfage rates approved vide the tariff order passed in September 2016 for CHPT shall be the ceiling rates.

7. Clause 5.4 of the Tariff Policy, 2015, stipulates that in case there are no objections from users for a proposal or a case, TAMP need not organize any joint hearing. In the case in reference, as brought out earlier, the CHPT has furnished documents which reflect that users have no objection for roll back of unit/ weight based wharfage rates in respect of Motor vehicles and Machinery and Equipment at CHPT to Ad- valorem rates. In view of the above position, no joint hearing was felt necessary in the case in reference.

8. In the result, and for the reason given above, and based on a collective application of mind, this Authority decides to replace the existing wharfage rates in respect of Motor vehicles and Machinery and Equipment, with the following:

Sl. No.	Description	Unit	Rate (₹.)	
			Foreign	Coastal
10	Machinery & Equipment		Foreign	Coastal
(iii)	Machinery & equipment fitted with wheels, as assembled units, like Excavator, Motor Grader, Dumper Trucks, Wheel Loaders, Bull Dozer, Pavers, Power Transformers, Concrete Mixer, etc. along with its own accessories			
	(a) Weighing upto 15 MT	Ad valorem	0.47% subject to a maximum of ₹30000/- per unit	0.29% subject to a maximum of ₹18000/- per unit
	(b) Weighing above 15 MT & upto 30 MT		0.47% subject to a maximum of ₹45000/- per unit	0.29% subject to a maximum of ₹27000/- per unit
	(c) Weighing above 30 MT		0.47% subject to a maximum of ₹100000/- per unit	0.29% subject to a maximum of ₹60000/- per unit
13	Motor vehicles for carrying passengers / cargo			
(iii)	Four wheelers of upto 1400cc – Import and Export	Ad valorem	0.47% subject to a maximum of ₹ 2200/- per unit incase of Export and ₹ 4200/- per unit incase of Import.	0.29% subject to a maximum of ₹ 1320/- per unit incase of Export and ₹ 2520/- per unit incase of Import.

(iv)	Four wheelers of above 1400cc – Import & Export	Ad valorem	0.47% subject to a maximum of ₹ 8400/- per unit	0.29% subject to a maximum of ₹ 5040/- per unit
(v)	Six Wheelers and above			
	(a) Vehicle weighing upto 7.5 M.T.	Ad valorem	0.47% subject to a maximum of ₹10000/- per unit	0.29% subject to a maximum of ₹ 6000/- per unit
	(b) Vehicle weighing above 7.5 M.T.	Ad valorem	0.47% subject to a maximum of ₹29000/- per unit	0.29% subject to a maximum of ₹17400/- per unit

(T.S. Balasubramanian)
Member (Finance)