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Tariff Authority for Major Ports

G.No.77

New Delhi,

25 February 2016

NOTIFICATION

In compliance of a communication issued by the Ministry of Shipping, Government of India vide its letter No PD/14033/101/2015-PD.V dated 3 February 2016 and in exercise of the powers conferred by Section 48 of the Major Port Trusts Act, the Tariff Authority for Major Ports hereby inserts a general conditionality in the Scale of Rates of all the Major Port Trusts and the Private Terminals operating thereat, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/14/2016-Misc

ORDER

(Passed on this 9th day of February, 2016)

The Government of India in the Ministry of Shipping (MOS) vide its communication No. PD/14033/101/2015-PD.V dated 3 February 2016 has communicated to this Authority to issue directions to all the Major Port Trusts and BOT Operators operating thereat for prescription of lower charges for cargo & vessels related services as well as special discount in port charges for the services rendered after regular hours by the Major Port Trusts and BOT Operators operating thereat.

2. The MOS in the said letter has stated that :
- (i). During the Committee of Secretaries Meeting held on 23 December 2015 on “Ease of doing business-Trading Across Borders”, the following decision inter-alia was taken:

“Ministry of Shipping and Department of Revenue may take appropriate steps for reducing charges for services rendered to exporters / importers after regular hours by stakeholders.”
 - (ii). In order to decongest the ports, it is necessary to prescribe separate lower charges for cargo and vessel related services rendered to exporters and importers after regular hours. Though Major Ports operational services round the clock and do not charge any premium during the regular hours, it is necessary to give discount in port charges to encourage exporters / imports to utilise the port services beyond regular hours.
 - (iii). Prescription of lower charges for cargo and vessel related services as well as special discounts in port charges for the services rendered after regular hours by the Major Ports / BOT operators may be examined and direction may be issued to the Major Ports / BOT Operators to comply with the decision taken in this regard.

3.1. It is noteworthy that as per Clause 2.16.1. of the Tariff Guidelines of 2005 issued by the (then) Ministry of Shipping, Road Transport and Highways which is presently applicable to the BOT operators operating in Major Port Trusts and as per clause 8.1. of the Tariff Policy 2015, issued by the MOS for tariff determination of Major Port Trusts stipulate that the rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The Port Trusts and BOT operators can charge lower rates and / or allow higher rebates and discounts. This condition is already uniformly prescribed in the Scale of Rates of all the Major Port Trusts and BOT operators operating thereat.

3.2. Thus, it can be seen that the rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The Port Trust and BOT operators thus already have the flexibility to charge lower rates than the rates approved by this Authority and / or allow higher rebates and discounts than the rebates / discounts approved by this Authority.

3.3. As recorded in another Office Memorandum No. PD-14033/1/101/2015-PD.V dated 8 January 2015 issued to this Authority, increase in overall volumes / turnover could compensate for reduced charges for services after regular hours making it a viable proposition for all stakeholders to offer discounts for services after regular hours. This could lead to considerable reduction in time and cost to export / import.

4. As per clause 3.2.6. of the tariff guidelines of 2005 and clause 3.6 of the Working Guidelines issued by this Authority in pursuance of clause 1.5. of the Tariff Policy 2015, consultative process is not required to be followed to implement the policy directive issued by the Government. The direction of the MOS is binding on this Authority and requires immediate compliance.

5. Prescription of separate rate for the services rendered by Major Port Trusts and BOT operators operating thereat after regular hours at this stage will be time consuming. In view of the flexibility already available with all the Major Port Trusts and BOT operators to charge lower rates or offer higher discounts, it is found appropriate to prescribe the direction issued by the MOS in the form of a general conditionality in the existing Scale of Rates of the Major Port Trusts and BOT operators operating thereat who are governed under the tariff guidelines of 2005.

6.1. In order to implement the recent direction of the MOS and bearing in mind the intention behind the said direction, this Authority decides to prescribe the following general conditionality in the existing Scale of Rates of all Major Port Trusts and BOT operators operating thereat approved by this Authority:

“In order to decongest the ports and encourage exporters / importers to utilize the port services beyond regular hours, lower charges will be levied for cargo and vessels related services as well as special discount will be offered in port charges for the services rendered after regular hours.”

6.2. The general conditionality will come into force immediately.

7. All the Major Port Trusts governed by the Tariff Policy of 2015 and BOT operators operating thereat governed by the Tariff guidelines of 2005 are directed to amend their Scale of Rates accordingly.

(T.S. Balasubramanian)
Member (Finance)