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**Tariff Authority for Major Ports**

**G.No.440**

**New Delhi,**

**19 October 2020**

**NOTIFICATION**

In exercise of the powers conferred by 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 the Cochin Port Trust (COPT) for amendments to the revised Scale of Rates approved vide Order No.TAMP/10/2019-COPT dated 10 October 2019 as in the Order appended hereto.

**(T.S. Balasubramanian)**  
Member (Finance)

**Tariff Authority for Major Ports**  
**Case No.TAMP/10/2019-COPT**

Cochin 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 7<sup>th</sup> day of September 2020)

This case relates to a proposal received from the Cochin Port Trust (COPT) dated 23 March 2020 for amendments in the revised Scale of Rates (SOR) approved by this Authority in the Order No.TAMP/10/2019-COPT dated 10 October 2019 based on the proposal received from the COPT for general revision of its SOR.

2. This Authority has passed an Order No.TAMP/10/2019-COPT dated 10 October 2019 on the subject proposal. The SOR and Performance Standards have been notified in the Gazette of India on 30 October 2019 vide Gazette No.378. The same has been communicated to COPT and concerned users vide our letter dated 31 October 2019. A Speaking Order has been notified by this Authority in the Gazette of India on 04 December 2019 vide Gazette No.446.

3. Now, with reference to the said Order dated 10 October 2019, the COPT vide its letter No.FD/Costing/SoR 2019-2022/2018 dated 23 March 2020 has sought amendment in its SOR and has made the following submissions:

- (i). The Anchorage charges in line with the Berthing Policy, 2016 issued by the Ministry of Shipping (MOS) were incorporated in the General SOR of COPT applicable from 29 November 2019 with the approval of the Authority as mentioned below:

**“2.3.3. Anchorage Charges for vessels calling for berthing at Cochin Port**

<i>(Per GRT per hour)</i>		
<b>Sl. No.</b>	<b>Description</b>	<b>Rate</b>
1	Up to 48 hours at anchorage	Free
2	48 hours – 96 hours	10% of berth hire charges *
3	96 hours – 144 hours	15% of berth hire charges *
4	Beyond 144 hours	20% of berth hire charges *

*\*Berth hire charges shall be the rate applicable to that berth where the vessel is waiting to be berthed.*

**Note:** Port can exempt vessels from paying anchorage charges in exceptional circumstances including but not limited to lapses on part of the Port. Any waiver of anchorage charges will require approval from Chairman of the Port or an equivalent authority.

**2.3.4. Anchorage Charges for vessels not calling for berthing at Cochin Port**

<i>(Per GRT per hour)</i>			
<b>Sl. No.</b>	<b>Description</b>	<b>Coastal vessel (in ₹)</b>	<b>Foreign vessel (in US\$)</b>
1	Up to 48 hours at anchorage	Free	Free
2	48 hours – 96 hours	0.0233	0.000733
3	96 hours – 144 hours	0.0349	0.001099
4	Beyond 144 hours	0.0466	0.001466

*The above charges are subject to a ceiling limit of 5 months anchorage charges.*

**Note:** Any waiver of anchorage charges will require approval from Chairman of the Port or an equivalent authority.”

- (ii). Now, it has come to the notice of the port that the present Anchorage charges do not include non-port berths and port berths with no berth hire charges. Hence, it becomes necessary to prescribe the charges for the same.
- (iii). Also, there are situations that the vessels have been shifted from berth to anchorage and further sailed from the anchorage or from berth to anchorage and again from anchorage to berth. However, there are not specific rates mentioned for this.

Accordingly, following amendments are proposed in para 2.3.3 of the SOR below:

### 2.3.3. Anchorage Charges for vessels calling for berthing at Cochin Port

(Per GRT per hour)		
Sl. No.	Description	Rate
1	Up to 48 hours at anchorage	Free
2	48 hours – 96 hours	10% of berth hire charges *
3	96 hours – 144 hours	15% of berth hire charges *
4	Beyond 144 hours	20% of berth hire charges *

- (i). Berth hire charges shall be the rate applicable to that berth where the vessel is waiting to be berthed.
  - (ii). The vessels calling at Cochin Port and have been allocated non-port berths or port berths with no berth hire charges, anchorage charges will be applicable as per para 2.3.4 (i.e. Anchorage charges for vessels not calling at Cochin Port).
  - (iii). In the case of the vessels which have been shifted from berth to the anchorage and further sailed from Anchorage, Anchorage charges (port shifting from Berth to anchorage) will be levied on the last berth where the vessel was berthed as per the table in para 2.3.3. If the last berth is a non-port berth or berth with no berth hire charges, then the anchorage charges will be applicable as per table in para 2.3.4 (i.e. anchorage charges for vessels not calling for berthing at Cochin Port).
  - (iv). In case the vessel is shifted from Berth to Anchorage and then back to berth, then the Anchorage charges (post shifting from berth to anchorage) will be levied as per the table in para 2.3.3 applicable to the berth to which the vessel is shifted from Anchorage. In the case of vessel shifting to a non-port berth or a port berth with no berth hire charges, the Anchorage charge as per table in para 2.3.4 will be applicable.
- Note:** Port can exempt vessels from paying anchorage charges in exceptional circumstances including but not limited to lapses on part of the Port. Any waiver of anchorage charges will require approval from Chairman of the Port or an equivalent authority.
- (iv). There were two instances where two vessels were handled at SPM for which COPT could not recover any charges in the absences of any SOR. The financial implication of the Anchorage charges if calculated in accordance with the suggested rates i.e. 2.3.4 comes to Rs.6,38,703 (calculation sheet furnished).
  - (v). The subject proposal is approved by Chairperson of COPT. A copy of Board Resolution and agenda will be submitted in due course of time after the Board Meeting which is scheduled to be held in April, 2020.
  - (vi). In this backdrop of the above, the proposal for incorporating the note is furnished for kind consideration of the Authority with a request to issue a favourable order.

4. Subsequently, the COPT vide its email dated 08 July 2020 has informed that the proposal submitted by the Port for the amendment in Para 2.3.3 of the SOR of COPT will be placed in the ensuing Board meeting to be held in August 2020 for approval and the Board

resolution and the agenda will be forwarded immediately after the Board meeting. The Port has already started charging the amended rates on adhoc basis.

5. Further, the COPT vide its email dated 10 July 2020 has furnished following justification for the proposed note (ii).

- (i). Rate at 2.3.4 takes care of all the following three situations:
  - (a). Vessels waiting at anchorage but not calling to be berthed at Cochin Port. (These Vessels will go from the Outer Roads only without coming inside)
  - (b). Vessels waiting at anchorage to be berthed at the non-port berth (Vessels are coming inside) and
  - (c). Vessels waiting at anchorage to be berthed at the Port Berth having no berth hire charges (Vessels are coming inside).
- (ii). However, the Port users refused to pay the Anchorage Charges for the situation mentioned at (i) (b) and (c) on the plea that the rates covered in the SOR approved by the TAMP does not mention the situations therein. The approximate value of this was ₹6.38 lakh at that time which was also mentioned in the proposal. Hence to remove the ambiguity, to have more clarity and make the rates more specific "condition / note at (ii) has been proposed to be added". It will not be impertinent to mention that during lockdown period, the approximate value of the anchorage charges comes out to ₹4.08 crore due to laying of many crude carriers in the Outer Road anchorage of Port. Hence, need to have the specific rates for the situations mentioned at (i) (b) and (c) above hence the proposal was submitted to TAMP.
- (iii). Once the situation occurring for the anchorage charges was noticed, it was decided to go for already TAMP approved rates at 2.3.4 as it takes care of the other two situation as explained at (i) (b) and (c) above.
- (iv). Anchorage Charges are fixed at some percentage of the Berth Hire charges (Please see Rate 2.3.3 – they are 10%, 15% and 20% of the Berth hire charges). In the two situations occurring at (i) (b) and (c) above, anchorage charges cannot be calculated as there are no berth hire charges hence they are proposed as per Rate 2.3.4 which takes care of similar situation.

In view of the above explanation, which mainly focuses on clarity of the rates for covering the other two situations of the vessel mentioned at (i) (b) and (c), TAMP is requested to consider the proposal.

6. Thus, it can be seen that the proposed notes are not any new tariff item. The proposed notes are more of clarificatory in nature to make the applicability of levy of anchorage charges more explicit. The port has stated that they have already started collecting the anchorage charges based on the proposed amendments provisionally on adhoc basis. In view of the above position and recognizing that the proposed amendments in existing SOR are reportedly to bring in more clarity in the existing schedule so as to remove the ambiguity, the consultation process and joint hearing is not felt necessary.

7.1. The COPT during the last revision of its SOR of COPT had proposed to introduce Anchorage charges in line with the Berthing Policy, 2016 issued by the Ministry of Shipping (MOS) with the intention to improve the turnaround time of vessel. The proposal of the COPT for prescription of Anchorage charges at Schedule 2.3.3 and 2.3.4 was approved by this Authority vide its Order No.TAMP/10/2019-COPT dated 10 October 2019 which is already brought out in para 3 (i) above and hence not reiterated for the sake of brevity.

7.2. The existing SOR already prescribes two schedules relating to the anchorage charges as given below:

- (i). Schedule 2.3.3. Anchorage Charges for vessels calling for berthing at Cochin Port (Anchorage charges prescribed are linked to berth hire charges).

- (ii). Schedule 2.3.4. Anchorage Charges for vessels not calling for berthing at Cochin Port (Specific Anchorage charges are prescribed under this schedule).

7.3. As regards the point made by the COPT in its proposal that there were two instances where two vessels were handled at SPM for which COPT could not recover any charges in the absence of any SOR, it is to state that the existing schedule 2.3.4 caters to levy anchorage charge for this category of vessels. Thus, the point made by the COPT in its proposal that they could not levy anchorage charge in absence of rate is not factually correct. The COPT has subsequently admitted that the rate prescribed at Schedule 2.3.4 takes care of all the following three situations:

- (i). Vessels waiting at anchorage but not calling to be berthed at Cochin Port. (These Vessels will go from the Outer Roads only without coming inside)
- (ii). Vessels waiting at anchorage to be berthed at the non-port berth (Vessels are coming inside) and
- (iii). Vessels waiting at anchorage to be berthed at the Port Berth having no berth hire charges (Vessels are coming inside).

7.4. However, since the Port users refused to pay the Anchorage Charges to the port for the situation mentioned at (ii) and (iii) above, on the plea that the rates covered in the SOR approved by this Authority do not mention the situations therein, the COPT has proposed to introduce the note no. (ii) to make the provision explicit on the levy of anchorage charge. The proposed note is more of a clarificatory in nature and hence is approved.

The proposed notes (iii) and (iv) are to explicitly state that in the case of the vessels which have been shifted from berth to the anchorage and further sailed from Anchorage, Anchorage charges (port shifting from Berth to anchorage) will be levied on the last berth where the vessel was berthed as per the existing schedule 2.3.3. If the last berth is a non-port berth or berth with no berth hire charges, then the anchorage charges will be applicable as per existing schedule 2.3.4 (i.e. anchorage charges for vessels not calling for berthing at Cochin Port). The proposed note (iv) states that in case the vessel is shifted from Berth to Anchorage and then back to berth, then the Anchorage charges (post shifting from berth to anchorage) will be levied as per the schedule 2.3.3 applicable to the berth to which the vessel is shifted from Anchorage. In the case of vessel shifting to a non-port berth or a port berth with no berth hire charges, the Anchorage charge as per schedule 2.3.4 will be applicable.

7.5. Thus, it can be seen that the proposed notes are not any new tariff item. The proposed notes are more of clarificatory in nature to make the applicability of levy of anchorage charges more explicit. The COPT has also given detailed justification for the proposed amendments. Further, the proposal of the COPT is approved by the Chairman.

In view of the above position and recognizing that the proposed amendments in existing SOR are reportedly to bring in more clarity in the existing schedule so as to remove the ambiguity, this Authority approves the amendments proposed by the port. The port has stated that they have already started collecting the anchorage charges based on the proposed amendments provisionally on adhoc basis.

7.6. In the last revision of SOR under Tariff Policy, 2018 there was revenue gap of ₹21.27 crores left uncovered at the revenue level estimated by the port. The revenue likely to accrue from the proposed amendment is subsumed within the revenue gap left uncovered.

8.1. The port has, during the processing the case, stated that the subject amendment proposal is with the approval of Chairman of the port. The port has not forwarded the approval of its Board till finalisation of this case. The port has stated that it shall seek approval of the Board of Trustees on the same and forward a copy of the Board approval to this Authority. The proposed amendment approved by this Authority shall be subject to Board of Trustees of COPT approving the same. As agreed by the port, the COPT is advised to forward the approval of its Board of Trustees approving the proposed amendments in the anchorage schedule for our records.

8.2. The rates approved by 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. The amendments proposed are already

implemented by the port on adhoc basis. It is pertinent to state here that the proposal is not for a new tariff item. The proposed notes are to bring in more clarity as regards the existing schedule 2.3.3 and 2.3.4. In view of the above position and recognising that the port has already applied the same on adhoc basis, the lead time of 30 days for implementation is not necessary in this case. This Authority is inclined to grant approval from the date the Order is passed by this Authority. This Authority also ratifies the action of the port of applying the anchorage charges based on the proposed amendments which are of clarificatory in nature to remove ambiguity as stated by the port.

9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves following amendments under the Schedule 2.3.3 in the existing SOR of the COPT approved by this Authority vide Order No.TAMP/10/2019-COPT dated 10 October 2019:

- (i). **The existing note with asterisk (\*) under schedule 2.3.3 - Anchorage Charges for vessels calling for berthing at Cochin Port is renumbered as Note (i) as follows:**

*“Notes:*

- (i). *Berth hire charges shall be the rate applicable to that berth where the vessel is waiting to be berthed. “*

- (ii). **Insert the following notes under schedule 2.3.3 - Anchorage Charges for vessels calling for berthing at Cochin Port after above note (i) with subsequent numbering:**

*“(ii). The vessels calling at Cochin Port and have been allocated non-port berths or port berths with no berth hire charges, anchorage charges will be applicable as per schedule 2.3.4 (i.e. Anchorage charges for vessels not calling at Cochin Port).*

*“(iii). In the case of the vessels which have been shifted from berth to the anchorage and further sailed from Anchorage, Anchorage charges (port shifting from Berth to anchorage) will be levied on the last berth where the vessel was berthed as per the schedule 2.3.3. If the last berth is a non-port berth or berth with no berth hire charges, then the anchorage charges will be applicable as per schedule 2.3.4 (i.e. Anchorage charges for vessels not calling for berthing at Cochin Port).*

*“(iv). In case the vessel is shifted from Berth to Anchorage and then back to berth, then the Anchorage charges (post shifting from berth to anchorage) will be levied as per the schedule 2.3.3 applicable to the berth to which the vessel is shifted from Anchorage. In the case of vessel shifting to a non-port berth or a port berth with no berth hire charges, the Anchorage charge as per schedule para 2.3.4 will be applicable.”*

9.2. The notes approved by this Authority shall come into effect from the date the Order is passed by this Authority, subject to Board of Trustees of COPT approves the same. The notes prescribed shall form part of the general revision of the SOR of the port and the validity of the same shall be co-terminus with the validity of the existing SOR of COPT.

9.3. The action taken by the COPT to collect the rates on adhoc basis based on amendment notes proposed by the COPT till the amendments approved by this Authority come into effect is ratified.

9.4. The COPT is directed to amend the existing SOR suitably.

**(T.S. Balasubramanian)**  
Member (Finance)