Tariff Authority for Major Ports

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 approves the proposal of the New Mangalore Port Trust for fixation of wharfage charges for Ball Clay / Sand / Clay of any class as in the Order appended hereto.

(S. Sathyam)
Chairman

ORDER

(Passed on this 11 day of March 2002.)

This case relates to a proposal received from the New Mangalore Port Trust (NMPT) for fixation of wharfage charges for Ball Clay/Sand/Clay of any class.

2. The NMPT has made the following points in its proposal:

(i). The NMPT is handling clay since 1999. In the absence of a specific wharfage rate in the Scale of Rates in force, Clay was classified under unremunerated Bulk item; and, a wharfage charge of Rs. 65/- per MT was being collected.

(ii). M/s. Murudeshwar Ceramics Limited, regular importers of this cargo, have sought a reasonable reduction in the wharfage charges for Clay on the ground that Clay is a low valued cargo; and, wharfage of Rs. 65/- per MT appears to be high. It has also stated that the wharfage for the same cargo is Rs. 24/- per MT at the Mumbai Port Trust.

(iii). The Board of Trustees of the NMPT considered the proposal for reduction of wharfage rate for Clay in its meeting held in September 2000 and decided to give a 65% remission over the wharfage charge of Rs. 65/- per MT for future shipments of Ball Clay/Sand/Clay of any class on a case-to-case basis till a reduction in the rate is approved by the TAMP. The Board has also resolved to recommend a wharfage rate of Rs. 20/- per MT for Clay.

(iv). In the last general revision of Scale of Rates of NMPT (notified on 19 September 2001) the wharfage for Clay could not be included due to oversight.

3.1. In accordance with the procedure prescribed, the proposal of the NMPT was sent to the Kanara Chamber of Commerce and Industry, M/s. Murudeshwar Ceramics Limited and the Mangalore Custom House Agents Association for comments. The comments received from them are summarised below:
Mangalore Custom House Agents Association

The proposal sent by the New Mangalore Port Trust is quite encouraging to the Trade. The Authority may, therefore, consider the recommendation of the NMPT to fix wharfage charges at Rs. 20/- per MT.

Kanara Chamber of Commerce and Industry

(i). This cargo had not been classified earlier; Bentonite is being charged Rs. 20/- per tonne and as Ball Clay / Sand/Clay of any class are in the same category these shall also be charged Rs. 20/- per tonne.

(ii). Mumbai Port is charging Rs. 24/- per tonne.

(iii). It is a low value cargo and reduction of wharfage will encourage local small-scale industry.

(iv). With more cargo coming to the Port, the levy on the RCH will come down.

M/s. Murudeshwar Ceramics Limited

(i). It is regularly importing Clay; and, clearing the same at the NMPT. Wharfage charged was at very high rates as compared to other Ports in respect of consignments cleared from the NMPT.

(ii). It had made a representation to the NMPT earlier to reduce the wharfage charge from Rs. 65/- per tonne to Rs. 20/- per tonne.

(iii). The instant proposal of the NMPT to fix the wharfage rate for Ball Clay / Sand / Clay of any class at Rs. 20/- per MT may be considered favorably.

3.2. A copy each of the comments received from the above port users / representative bodies of port users was sent to the NMPT as feedback information.

4. Since all the parties consulted in this case including the main importers M/s. Murudeshwar Ceramics Limited have agreed with the proposal of the NMPT to reduce the wharfage for the Clay, a joint hearing has not been considered necessary in this case.

5. With reference to the totality of the information collected during the process of this case, the following position emerges:

(i). Levy of wharfage under residual category is to be seen as a provision in the Scale of Rates to realise charges on cargo for which specific rates are not prescribed due to irregular nature of traffic through the port and / or of insignificant volume. When shipments start taking place on a regular basis, it will be appropriate to have a specific wharfage rate for such cargo by reclassification.

(ii). As admitted by the NMPT, this case could not be considered alongwith the last general revision of the Scale of Rates of the NMPT (September 2001), as the port did not include the decision taken by its Board of Trustees in September 2000 in its proposal for general revision which was submitted in February 2001. Strangely, the port users, who were consulted as a part of the proceedings relating to that case, also did not point out the omission in the NMPT proposal.
(iii). The Board of Trustees of the NMPT has decided to allow remission in wharfage charges for clay since September 2000. This action tantamounts to causing a permanent change in the Scale of Rates which is not in line with the tariff setting arrangement envisaged in the MPT Act. The Government had in fact directed all the port trusts, on more than one occasion, not to exercise the powers under Section 53 of the Act to tinker with the Scale of Rates prescribed by the competent authority. We have already commented about such actions taken in the past by the NMPT in some other cases related to it. We reiterate the correct tariff setting arrangement envisaged in the Statute and once again advise the NMPT to refrain from applying the provisions under Section 53 of the MPT Act to alter its Scale of Rates prescribed by this Authority.

(iv). Since the proposal of the NMPT for a reduction in wharfage rate for clay from Rs. 65/- PMT to Rs. 20/- PMT has been endorsed by all the concerned user organisations including the main importer of the cargo, M/s.Murudeshwar Ceramics Limited, this Authority is inclined to approve the proposal.

(v). At the time of the last general revision of the Scale of Rates of the NMPT, it was found that the cargo-handling activity was showing a revenue surplus. That being so, the proposed reduction in wharfage charge may not have any adverse impact on the financial position of the Port. In any case, the reduced wharfage charge has been in operation since September 2000; and, financial estimates furnished by the NMPT at the time of the last general revision will have reasonably considered the reduced wharfage rate on this cargo for arriving at the revenue projections for 2001-02 and 2002-03.

(vi). Instead of prescribing a wharfage rate for clay separately by adding a new item to the existing list of items in the wharfage schedule, it may be appropriate to club Ball Clay/Sand/Clay of any class with the Bentonate in the wharfage schedule since the wharfage rates for both the commodities are the same. This is done to simplify the wharfage schedule notwithstanding the fact that Clay does not fall under the group ‘Ores and Minerals’. The NMPT is advised to rationalise the Schedule of Wharfage in its Scale of Rates at the time of the next general revision.

6.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves a wharfage charge of Rs. 20/- per MT for Ball clay / Sand / Clay of any class. The existing item No.8 (d). in Chapter III B Schedule of Wharfage charges for Bulk cargo in the Scale of Rates of the NMPT is deleted and substituted as follows:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Bulk Cargo</th>
<th>Unit</th>
<th>Wharfage Rate Rs.</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 (d)</td>
<td>Bentonate and Ball Clay/Sand/Clay of any class</td>
<td>MT</td>
<td>20.00</td>
</tr>
</tbody>
</table>

6.2. The NMPT is required to introduce an amendment to its Scale of Rates accordingly.

(S. Sathyam)
Chairman