

Tariff Authority for Major Ports

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby clarifies the issues relating to re-conversion of US dollar denominated tariff into Indian Rupee at the time of billing by the Major Port Trusts as in the Order appended hereto.

(S. Sathyam)

Chairman

ORDER

(Passed on this 27th day of November 2000)

This case relates to some issues about re-conversion of US dollar denominated tariffs to Indian rupees at the time of billing by the Ports. This Authority has noted that no uniform practice is being followed by the Ports with regard to the rate of exchange to be applied for the purpose. Port users / representative bodies of port users have been suggesting to link the exchange rate with the 'Customs Rate', as it is a well established system.

2. The Ministry of Shipping (MOS) has also raised this issue for our consideration in the context of an audit observation relating to levy of vessel-related charges by the Visakhapatnam Port Trust. In the case referred by the MOS, the berth hire charges in respect of a floating crane that berthed in August 1996 and remained in the port for over 3 years was continued to be collected by the VPT at the exchange rate prevailing on the day of arrival of the floating crane. This was because of a stipulation in the earlier Government instruction that the exchange rate prevailing on the date of arrival of vessel should be considered. The Ministry of Shipping has suggested that all Major Ports may be advised to collect berth hire charges as per the exchange rate prevailing on a day-to-day basis.

3. All the Major Port Trusts have been consulted to ascertain their views on adoption of the Customs Rate of exchange or RBI daily rates and applying the appropriate exchange rate at the time of incidence of charges instead of the existing practice of going by the exchange rate prevailing on the date of arrival of the vessel. The Ministry of Finance has also been consulted about any difficulties faced in operation of the Customs Rate of exchange.

4. The Central Board of Excise and Customs (CBEC) has intimated that it has not faced any difficulty in the operation of Customs notified rates of exchange. It has also informed that the powers to notify these rates have been laid down in Section 14 of the Customs Act and these provisions are also consistent with the World Trade Organisation (WTO) Agreements on Customs Value.

5. All the Major Ports have furnished their comments on the issues referred to them. Comments received from the Port Trusts reveal that a majority of Port Trusts prefer to continue with the prevailing system of using the RBI rates on the date of arrival of the vessel.

6. With reference to the totality of information collected during the processing of this case, the following points have emerged:

- (i). **The CBEC does not face any difficulty in the operation of the Customs notified rates of exchange.** This indicates that there is no legal hassle in the adoption of the Customs Rate as apprehended in some quarters.
- (ii). There is no uniform practice followed at the major ports with regard to the rate of exchange to be applied. The users want a uniform approach.
- (iii). The MBPT, COPT, VPT, and TPT are in favour of adopting the Custom Rate for conversion of the US dollar denominated tariffs. However, the KPT, JNPT, MOPT, PPT, NMPT and CPT prefer to use the RBI daily exchange rate, while the CHPT prefers to use the SBI rate. The reason given for using the RBI rate by these ports is that they have not faced any difficulties in this system and it is functioning smoothly. All these ports have opined that there is no need to change a system that has been operating smoothly for quite some time.
- (iv). All the Ports except the JNPT are of the opinion that the exchange rate prevailing on the date of arrival of the vessel may be taken for application for conversion of the US dollar denominated port tariff. These ports have pointed out some of the practical problems of adopting the exchange rate prevailing at the time of incidence of service. Pilotage charges collected are for both inward and outward movement, which take place at two different points of time; but, the tariff is a consolidated charge. Likewise, billing of berth hire on 8 hourly basis may pose problems if different exchange rates at the incidence of service are to be applied.

The JNPT has suggested an appropriate exchange rate at the time of incidence subject to the following:

- (a) Exchange rate as prevailing on the date of departure of the vessel may be reckoned for all vessel related charges.
- (b) Exchange rate as on the date of delivery for import containers.
- (c) Exchange rate as on the date of shipment for export containers
- (v). The existing system of billing based on the exchange rate prevailing on the date of arrival of the vessel can not be allowed to continue in the light of the VPT case brought out by the Ministry of Shipping. The exchange rate requires periodic review in the cases of ships staying in a port for a longer period. Such a review, if made once in 30 days from the date of arrival of ships, appears to be reasonable. It is noteworthy that the Customs Rate of exchange is also generally revised once in a calendar month.

7. In the result and for the reasons given above, and based on a collective application of mind, this Authority hereby decides as follows:

- (i). Bearing in mind the suggestions of the Ports, the existing practice of applying the RBI daily rate shall continue for the purpose of conversion to Indian rupees of dollar denominated tariffs at the time of billing.
- (ii). Considering the practical problems of adopting the exchange rates at the time of incidence of service, the existing system of billing based on the exchange rate prevailing on the date of arrival of the vessel is allowed to be continued.
- (iii). A regular review of the exchange rate shall be made once in thirty days from the date of arrival of the vessel in cases of vessels staying in the port for more than thirty days. In such cases, the basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of the review.

8. All the Major Port Trusts are hereby directed to introduce appropriate changes in their Scale of Rates accordingly.

(**S. Sathyam**)

Chairman

[[List of Ports](#) | [List of Orders](#)]