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 hereby amends the Scale of Rates of the Mormugao Port Trust to prescribe wharfage charge on liquid ammonia as in the Order appended hereto.

( S. Sathyam )
Chairman

ORDER

(Passed on this 11th day of March 2002)

This case relates to a proposal received from the Mormugao Port Trust (MOPT) for fixation of wharfage charges for handling Liquid Ammonia.

2.1. In its proposal, the MOPT has made the following points:

(i). The Scale of Rates of the MOPT does not contain wharfage charges for handling Liquid Ammonia since it was never handled at the MOPT in the past.

(ii). Liquid Ammonia is expected to be handled and as such it is necessary to fix the rate for the same. M/s. Zuari Industries Limited (ZIL) are in the process of importing Liquid Ammonia through the MOPT.

(iii). Rates prevailing in other Major Ports for handling the same product have been obtained; and, in parity with the wharfage rate for LPG (i.e. Rs.125), it has been decided by the Board of Trustees to adopt a provisional rate of Rs.150 per tonne subject to a review when the proposal for general revision of the Scale of Rates will be submitted for approval in 2002.

2.2. The proposal of the MOPT was circulated to the Goa Chamber of Commerce and Industry and M/s. Zuari Industries Limited for comments.

3.1. The comments received are summarised below:

M/s. Zuari Industries Limited (ZIL)

(i). The wharfage charges levied by other Major Ports like the NMPT is Rs.85 per MT and it is our plea that the same may be made applicable at the MOPT also.
(ii). All Minor Ports charge much lower wharfage; and, therefore, it will not be competitive with respect to other importer of Ammonia as fertiliser is a controlled commodity.

3.2. The Goa Chamber of Commerce and Industry has not sent any comments.

4. A joint hearing in this case was held at the MOPT in Goa on 29 January 2002. At the joint hearing, the following submissions were made:

**Mormugao Port Trust (MOPT)**

(i). We want to introduce new cargoes. There is a cost to our ‘marketing’. We want to introduce a new wharfage for Liquid Ammonia immediately.

(ii) Handling of Liquid Ammonia is at a place close to habitation. It, therefore, involves safety considerations which have cost implications.

(iii). No costing details have been given. It is a hazardous cargo like LPG. We have gone with reference to Rs.125/-PMT for LPG.

(iv). We had to do a lot of social marketing due to public opposition to handle this cargo. We had to provide for extra safety measures. A rate comparable to that of LPG has been proposed in this backdrop.

(v). We want to attract this cargo. We want to introduce the rate. The Board has increased the rate proposed with the argument that, if it is pitched higher right now, it will not be required to be increased at the general revision of tariff in March 2002.

**M/s. Zuari Industries Limited (ZIL)**

(i). In the NMPT, the wharfage charge is Rs.85/- PMT. In all other Ports also the wharfage rates for Ammonia are similar. Only here it is proposed to be so high.

(ii). There is no comparison between LPG and Liquid Ammonia. Do not go with reference to Rs.125/- for LPG and fix at Rs.150/- PMT.

(iii). At the time of the general revision, any rationalisation required can be made.

5. With reference to the totality of information collected during the processing of this case, and bearing in mind the arguments advanced at the joint hearing, the following position emerges:

(i). The MOPT Scale of Rates does not contain a specific wharfage charge for Liquid Ammonia. The highest wharfage rate for bulk commodities prescribed in the Scale of Rates of the MOPT is for LPG which is Rs.125 PMT. The initial proposal was to levy this same rate on Liquid Ammonia also. The Board of Trustees of the MOPT, however, decided to adopt a provisional wharfage charge of Rs.150/- PMT on Liquid Ammonia. From the records made available by the MOPT, one of the factors considered to prescribe the proposed wharfage rate on Liquid Ammonia at a level higher than that of LPG is the cost saving to importers in transportation.
(ii). The MOPT has not furnished any cost analysis justifying the proposed rate. It has simply gone by the rate available for LPG and the rates prevalent in other ports.

(iii). It is to be recognised that Liquid Ammonia is a hazardous cargo and the Port has to provide for adequate safety measures for handling it. The MOPT has also mentioned about public opposition to handle this cargo and its efforts in social marketing to bring this cargo to the MOPT.

(iv). The ZIL has objected to the comparison between the LPG and Liquid Ammonia. It has, however, not given any reasons why such comparison shall not be made.

(v). This Authority has clarified in many other cases that the principles of tariff setting must be commonly applicable at all the major ports; but, the individual tariff rates need not (and, cannot) be the same across the ports. What is relevant for fixing a tariff is the cost of providing services at the port concerned. The issue of benefit accruing to users cannot be a reason to fix or revise a tariff item. This observation has already been made by this Authority in the context of an MOPT proposal for increasing tariffs citing the benefits accrued to the iron ore trade.

(vi). Notwithstanding the general position maintained by this Authority as explained above, in the instant case, a reference is to be necessarily made to tariffs at other ports for three reasons. Firstly, costing details for handling liquid ammonia have not been made available by the MOPT. It has in fact expressed its inability to furnish costing details for handling one individual commodity. Secondly, the MOPT has taken into consideration the wharfage rate for LPG as a base for fixing wharfage on liquid ammonia. The position obtaining in other ports in this regard requires to be analysed. Lastly, the MOPT itself admitted that it has considered the wharfage rates at other major ports before prescribing the proposed wharfage rate.

(vii). Except in the MBPT, the wharfage rate for liquid ammonia is generally less than that for LPG in other ports. It is noteworthy that the wharfage schedules at some of the port do not contain a specific entry for liquid ammonia; and, hence, it may be classified under ‘other liquid bulk’. A different position emerging at the MBPT may be due to the fact that LPG is handled at Jawahardeep whereas liquid chemicals are handled at its Pir Pau jetties. The differential at the other ports between the wharfage rates of Liquid Ammonia and LPG is in the range of 34% (at the NMPT) to 72% (at the TPT).

(viii). From the position obtaining in other ports (except the MBPT), it becomes clear that there is no justification for prescribing the wharfage rate for liquid ammonia at a level higher than (or, even at the same level of) the wharfage rate for LPG. Considering the minimum differential of around 75% in the wharfage rates liquid ammonia and LPG, the wharfage rate for the former can reasonably be fixed around Rs.95/- PMT.

The existing wharfage schedule of the MOPT prescribes a rate of Rs.99/- per MT for all mineral oils / POL products with flash point below 76°F. Though liquid ammonia does not fall under this category, it seems reasonable to adopt the wharfage rate of Rs.99/- PMT considering the hazardous nature of the commodities listed as well as liquid ammonia.

(ix). The MOPT has not requested for retrospective approval to the proposed rate. Nevertheless, it has adopted the proposed rate of Rs.150/- PMT from
November 2001 on the strength of a decision taken by its Board of Trustees. Since the rate approved now is less than the adopted rate, the user will be entitled to a relief to that extent; and, the MOPT will have to adjust its billing done. To facilitate this, this Authority is inclined to approve the wharfage rate on liquid ammonia with retrospective effect from November 2001.

(x). The next general revision / review of the Scale of Rates of the MOPT is due in June 2002. The rate fixed for liquid ammonia may be reviewed at the time of next general revision / review. While formulating its proposal for next general revision / review, it may be reasonable for the MOPT to introduce volume discount scheme for handling liquid ammonia in particular and, for all bulk cargo in general.

6. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves a wharfage rate of Rs.99/- PMT on liquid ammonia with retrospective effect from November 2001. The MOPT is directed to incorporate the wharfage rate of liquid ammonia in its Scale of Rates appropriately.

( S. Sathyam )

Chairman