TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

No. TAMP/5/98-CHPT - 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 passes an order on the representation of M/s. Tube Investments of India Limited regarding use of private cranes in the Chennai Port Trust as in the Order appended hereto.

Case No. TAMP/5/98-CHPT

M/s. Tube Investments of India Limited
(TIIL) … Applicant

Vs.

The Chennai Port Trust
(CHPT) … Respondent

ORDER

(Passed on this 10th day of December 1999)

This case relates to a representation made by M/s. Tube Investments of India Ltd. (TIIL) regarding disparities in port charges between the Chennai and the Mumbai ports. While the MBPT allows private crane operators to operate their own cranes, in Chennai Port Trust (CHPT) the use of private cranes is not allowed. This results in an additional burden on users.

2. The CHPT’s position is that the charges at CHPT are lower than those at MBPT. The TIIL have also not distinguished charges for stacking at wharf and for delivery to trailer and cargo weight from 5 tonnes to 30 tonnes stated to be levied by private crane operators at the MBPT. The contention made by the firm, according to the CHPT, is not correct.

3. The TIIL have argued that whereas the MBPT allows private cranes for handling coils weighing above 10 tonnes, the CHPT does not give any such permission. They have suggested that there should be parity between the charges levied between the Mumbai and the Chennai Ports in respect of private cranes to be used for coils weighing above 10 tonnes.
Comments were also called for from the INSA, SCI, SICCI, and the Steamer Agents Association. Comments have been received from the INSA and SCI. These are summarised below:

**The Shipping Corporation of India (SCI):**

(i). The working procedures in Chennai and MBPT are different. In Mumbai, the port allows the shipping lines/their agents to hire private contractors. In Chennai, the port carries out the activities itself.

(ii). The cost incurred by a merchant for imports at the Chennai Port is much higher than the cost incurred by his counterpart at the MBPT.

**Indian National Shipowners Association (INSA):**

(i). There seems to be some misunderstanding about the application of the notified tariffs. Perhaps, it will clear when both parties sit face to face.

(ii). Mumbai gives permission for hiring private cranes. The charge is on a shift-basis. Let CHPT also give on a shift-basis.

5. A joint hearing in this case was held in Chennai on 8 March 99.

(i). It was decided that the CHPT would give further information on the following:

(a). The costing detail of the crane hire charges of Rs.232.50 PMT.

(b). Whether CHPT proposed to replace the condemned 20 MT crane with a new one.

(c). What would be the charges per metric ton in case a new 20 MT crane was installed.

(d). Would CHPT agree to give permission for hiring private cranes provided a notional 50% HL crane hire charge paid as was being done in cases of use of derrick cranes.

(ii). The TIIL was also required to take the following action:

(a). Hold a discussion with SCI, INSA and Steamer Agents Association to see whether any relief could be worked out.

(b). Consider the possibility and economics of taking on lease port land for stacking the coils for staggered despatch to factory.
(c). The possibility of taking direct delivery to avoid the cost of stacking.

6. The TIIL response has been as under:

(i). They had approached the SCI and Chamber of Commerce, FIEO, in the past; but, there has been no development. The issue is between the Port Trust and the Consignee with regard to the charges payable to port directly. Hence, other agencies’ role / relief can not be seen.

(ii). Taking land on lease for stacking and subsequently taking delivery is not economical as this activity involves double work and also it involves land rent, insurance, private cranage charges as well as additional transport charges. All in all, the extra cost incurred in this will be much more than the cranage now payable.

(iii). Taking Direct delivery is possible subject to certain conditions. However, they have reiterated the request to allow them to use private cranes.

7. The CHPT response to the points emerging at the joint hearing has been as under:

(i). The crane hire charges of Rs.232.50 PMT are being recovered as HLC charges which is due to the effect of various rate revisions based on the factors like original cost of the equipments, cost of handling per tonne and what the trade can bear. During the year 1988-89, the cost per tonne was Rs.339.17 and during 1991 it was Rs.268.81. Keeping in mind the interest of the trade, the rate has been fixed at Rs.232.50.

(ii). As regards replacement of the crane, presently they do not have any 20 MT Wharf Electric Crane. However, order has been placed for procurement of 3Nos. 20 MT Wharf Electric Crane of Gantry type replacement to 6 Nos. old Wharf Electric Crane capacity ranging from 8T to 13T. The new cranes have been delivered and are likely to be operated from December 1999.

(iii). As regards the PMT charge for a new 20 MT crane, the rate can be worked out only after installation of the crane.

(iv). As regards permission of hiring private crane provided 50% hire charge is paid, what applies to Ship’s Derrick will not apply to private cranes. Use of Ship’s derrick is justifiable whereas with respect to Port’s stacking and delivery equipment, they are available to a
reasonable degree and port is investing heavily in replacing these equipments from time to time. When the port is not in a position to supply the cranes, use of private cranes is allowed. For the vessel work, when port equipment are supplied for hatch clearance and delivery, the piece rate incentive is payable to the operators for the tonnage handled on the basis of datum.

The Port has invested a huge sum of money in procuring these equipments for cargo handling operations. Hence, use of private cranes cannot be permitted when the Trust cranes are available, since it will result in loss of revenue and idling of Trust equipment and labour. That being so, the representation of the TIIL cannot be justified.

8. Based on the records available, the following points emerge for consideration:

(i). Whether the crane charges for handling of HR Coils is really so widely variant between the MBPT and the CHPT as alleged.

(ii). Whether the use of private cranes is to be allowed/introduced at the CHPT as in the case of the MBPT. If necessary, the CHPT can take a percentage of ‘levy’ as is being done in the case of deliberate non-use of heavy lift cranes by ships having derrick cranes.

(iii). Whether use of the CHPT cranes can be limited to being ‘partial’ in the sense that it can be used for ‘stacking’ purposes whereas private cranes can be hired for ‘delivery to trailer’.

(iv). Whether use of private cranes at the CHPT is to be allowed/introduced if the CHPT cranes are not available.

(v). Whether the TIIL can take ‘direct’ delivery (from ship to trailer) so as to avoid the ‘stacking’ operation to reduce the cost.

(vi). Whether the TIIL can take on lease port land for stacking the coils for staggered despatch to the factory.

(vii). Whether HR Coil is to be treated as a raw material and charged at lower rate on a unit basis.

9. Based on the records available, the totality of information collected during the proceedings of the case, and a collective application of mind, the following position emerges seriatim:
(i). The TIIL have agitated this issue in their application. They have reiterated the point in their communication dated 28 November 99. The SCI have also given some information to show that the rates in Mumbai are by far cheaper. But, the comparative details of costs furnished by the CHPT project a totally different picture. The rates at the CHPT are in fact cheaper. Possibly, there has been a mix up of comparing the rates of electric quay cranes of one port with the rates of heavy lift cranes of another.

Significantly, the CHPT has obtained the relevant details about private crane operations from the MBPT itself. The authenticity of information furnished, therefore, cannot be in question. And, in spite of being given a copy of these details, the TIIL has not specifically countered them. In the circumstance, it has to be held that the basic premise of the application does not appear to be valid.

(ii). The demand is that the CHPT must allow use of private cranes as is being done by the MBPT. The CHPT’s contention is that its cranes are easily available and cannot be left to idle. The heavy investments made by the port in the procurement of these cranes have to be recovered by full use of the cranes.

One objection raised by the TIIL at the joint hearing was that, in the absence of smaller cranes, users are compelled to hire heavy duty cranes of the CHPT and pay more. This has been countered by the CHPT with the information that they are in the process of replacing six old Wharf Electric Cranes (capacity range 8-13 MT) and procuring 3 new 20 MT Wharf Electric Cranes of Gantry type. The new cranes have been received and are likely to be operational any time now.

As regards charging a percentage levy in cases of permission to hire private cranes, the CHPT has questioned the validity of comparing use of ship’s derrick cranes with use of (shore-based) private cranes. The logic of this contention is not very clear; at any rate, it is not very forceful. Whether it is a case of paying more for chartering a ship with derrick cranes or a case of paying extra for hiring private cranes, the implication for the ship is common in the sense of bearing additional burden. What is more relevant, therefore, is the question of ‘availability’ of the port’s cranes.

(iii). In the light of what has been stated with reference to (ii) above, the question about ‘partial use’ of the port’s cranes has been discounted by the CHPT. According to them, if the port’s crane is available, it must be used for both activities. This seems to be a reasonable contention.

(iv). The TIIL demand is about permitting use of private cranes irrespective of whether or not the CHPT cranes are available. In the light of what has been stated by the CHPT with reference to (i) and (ii) above, this does not obviously appear to be reasonable. As has been rightly observed by the SCI, the working procedures at
different ports are variant and cannot be compared on surface considerations. It will be more logical and reasonable to demand that private cranes shall be allowed if port’s cranes are not available. The CHPT has confirmed that, when the port is not in a position to supply the cranes, use of private cranes is allowed. It is possible that, as it became evident in another case relating to ULAI, the CHPT reference to ‘cranes not being available’ is limited to circumstances of their being out of order. In the other ULAI case, to get over this ambiguity, the Authority had decided that cranes will be deemed to be not available if they are out of order or (even) if they are engaged by other parties. The Authority adopts the same stand in this case also.

(v) As regards taking ‘direct’ delivery, the TIIL have clarified that, to be practical and economical, it will have to be subject to several conditions involving the Customs also. As can be discerned from the conditions listed, pursuing this proposition is likely to be only a theoretical exercise; it does not appear to be a viable alternative.

(vi) As regards taking on lease port land for stacking coils for staggered despatch to the factory, the TIIL has stated that it will not be economical to do so as this activity involves double work and as it also involves land rent, insurance, private cranage charges, and additional transport charges. Altogether, the extra cost to be incurred in this alternative will be much more than the cranage payable to the CHPT. That being so, this will not also be a viable proposition.

(vii) This is not an issue raised in the original application. This came up incidentally at the joint hearing with reference to the demand for change in the ‘unit’ of costing. The CHPT has responded by saying that, since the Scale of Rates recognises HR Coil separately, it cannot be treated either as machinery (which is charged on ad valorem basis) or as raw material (which is charged on unit basis). In the light of this emphatic rebuttal, it may not be worthwhile pursuing this proposition.

10. In the result and for the reasons given above, the request of M/s. Tube Investments of India Limited regarding use of private cranes in the CHPT is rejected subject to the minor modification described in para 9 (iv) above.

S.SATHYAM, Chairman

[ Advt./III/IV/Exty./143/99]