

No. 299

New Delhi, the 19 November, 2001

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 approves the proposal of the Indian Ports Association regarding effective date of implementation of tariff Orders relating to fixation / revision of the cargo-related charges as in the Order appended hereto.

(S. Sathyam)

Chairman

Tariff Authority for Major Ports

No.TAMP/90/2001-Misc.

The Indian Ports Association (IPA)

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Applicant

ORDER

(Passed on this 5th day of November 2001)

The Indian Ports Association (IPA) has submitted a proposal suggesting that whenever the Authority passes an Order relating to fixation / revision of cargo related charges, it may be made effective after 15 days of the date of the Order.

2. The IPA has also recommended that in respect of vessel related charges, the effective date of implementation may remain as at present i.e. 30 days after the date of Notification of the Order.

3.1. In accordance with the provisions contained in Section 49 B (iii) of the MPT Act 1963, “an order increasing or altering the fees for pilotage and certain other services or port dues at every Port shall not take effect until the expiration of 30 days from the date on which the Order was published in the official Gazette.”

3.2. Pilotage and port dues are vessel related charges. The other main component of vessel related charges is berth hire, which is fixed under the provision of Section 49 (i). The question of allowing 30 days lead time for implementation of all Vessel Related Charges was considered by this Authority in its meeting held on 12 May 2000; and, it was decided that the arrangement of prescribing 30 days lead time for all vessel related charges should be followed in all cases in future. Accordingly, all Orders of the Authority relating to vessel related charges are

generally made to come into effect after expiry of 30 days from the date of their publication in the Gazette of India.

4. The MPT Act 1963 does not prescribe any lead time for giving effect to increase / alteration in or fixing of all tariffs under the provisions of Section 48 of the Act. All cargo related charges are fixed / approved in terms of the provisions of Section 48 of the Act; and, therefore, in the absence of any such stipulation, these tariffs are usually made applicable from the date of notification of the relevant Order in the Gazette of India.

5. This Authority has in the past received requests from some of the user organisations for allowing 30 days' lead time for applicability of its Order relating to cargo related charges. The Container Shipping Lines Association of India (CSLA) made a request in this regard after the Authority notified its Order relating to revision of Container Handling Charges at the NSICT. The CSLA pointed out that 30 days lead time before effecting any change in container handling charges would allow the Lines to give due notice to the Trade. The Mumbai and Nhava-Sheva Ship Agents' Association (MANSA) also made a similar request in this regard suggesting that the revised tariff of the NSICT be made applicable 30 days after the same was published in the Gazette of India so that the Lines get an opportunity of revising their THC with adequate notice to the Trade.

6.1. It is to be recognised that there is always a time gap between the date of Notification of the Authority's Order in the Gazette of India and the date on which the Port Trust / Private Terminal receives a copy of such Order. Even after receipt of a copy of the notified Order, a Port Trust / Private Terminal requires some time to change the existing billing system based on the revised tariff. Besides, it has to intimate the users also about the revised tariff, notwithstanding the fact that this Authority forwards a copy of the Order to the major user-organisations that participated in the proceedings. Since the revised Cargo Related Charges come into effect immediately on Notification of the Order in the Gazette of India, a Port Trust / Private Terminal has to invariably resort to retrospective revision of billing for the services provided during the period between the date of Notification and completion of various formalities explained above.

6.2. Even though this Authority is aware of the billing complications arising due to effective date of implementation of its Orders relating to cargo / container related charges, it has generally refrained from prescribing a prospective date considering the revenue loss to the Port Trusts / Terminals. Now the IPA, on behalf of all the Major Port Trusts themselves, has made a proposal to allow 15 days' lead time for implementation of revised Cargo Related Charges. This Authority has, therefore, no objection to accepting the suggestion made by the IPA.

6.3. In its proposal, the IPA has repeatedly referred to the date of Order. There is a difference between the date of order and the date of Notification. What is material is the date of Notification. Subject to this correction, this Authority accepts the suggestion of the IPA in respect of the effective date of implementation of its Order relating to Cargo Related Charges.

7. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following arrangement to be followed in all cases relating to major port trusts in future unless otherwise different arrangement is specifically mentioned in the respective Orders:

- (i). This Authority's Orders relating to Vessel Related Charges will, unless otherwise stated, ordinarily come into effect after expiry of 30 days from the date of their notification in the Gazette of India.
- (ii). This Authority's Orders relating to Cargo Related Charges, including Container Related Charges, will come into effect after expiry of 15 days from the date of their notification in the Gazette of India.

8. This Order will come into effect immediately after its notification in the Gazette of India.

(S. Sathyam)

Chairman

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