

No. 148

New Delhi, the 8th June, 2001

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 51 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby decides the issue of extending concessions in cargo-related charges for coastal traffic at the major Ports, as in the Order appended hereto.

(S. Sathyam)

Chairman

Tariff Authority For Major Ports

Case No. TAMP/10/2001-GenI

ORDER

(Passed on this 16th day of May 2001)

The issue of extending concessions in cargo-related charges for coastal traffic has been engaging the attention of this Authority for quite some time. Some of the Port Trusts as well as some users, in their proposals / representations have requested for these concessions to be extended to particular cargoes. The Mumbai Port Trust (MBPT) proposed a rebate of 20% in wharfage charges on coastal cargo handled at the port. The Chennai Port Trust (CHPT) submitted a proposal for a concessional wharfage for coastal movement of motor cars. M/s. Amrok Shipping (Private) Limited submitted a representation for separate tariff structure for coastal containers handled at the Cochin Port Trust (COPT). M/s. Shahi Shipping Limited submitted a representation requesting for fixation of 'coastal tariff' for importing / exporting motor vehicles at major ports. The INSA has always been pleading for concessions in cargo related charges for coastal traffic.

2. In line with the policy of the Government of India to encourage coastal shipping, this Authority has been allowing a concession to coastal vessels in the vessel-related charges. The matter of extending concessions in cargo-related charges for coastal traffic is an issue of common concern to all the Port Trusts; and, is an issue on which separate decisions in respect of individual Port Trusts can give rise to avoidable conflicts of interests. Some of the Port Trusts have also expressed views that they are opposed to the idea of ports subsidising coastal traffic for easing pressure on road / rail traffic.

3. In this backdrop, while disposing of the proposals and representations mentioned in paragraph (1) above, this Authority advised the concerned Port Trusts to discuss the matter in the forum of the Indian Ports Association (IPA) so that a coordinated appraisal of its implications could emerge for final consideration. This Authority also decided that till a common policy was evolved in this regard it would not be advisable to approve concessions in cargo-related charges for coastal cargo in the case of one Port Trust or for a particular cargo or group of cargoes in isolation, as separate decisions in respect of individual Port Trusts can give rise to avoidable conflicts of interests.

4. The IPA vide its letter dated 15 January 2001 intimated that the matter of extending concessions in cargo-related charges for coastal traffic was discussed in detail in the meeting of its

Governing Body held on 29 December 2000 and the consensus was that extension of concession in cargo-related charges for coastal traffic was not desirable.

5.1. In this backdrop, the matter was considered and the following decisions were taken by this Authority:

(i). Section 51 of the MPT Act empowers this Authority to prescribe a lower rate in respect of coastal goods. This section further stipulates that this Authority shall not make any discrimination between one Indian Port and another such port in prescribing such a lower rate.

(ii). Coastal traffic accounts for about 28% of the total traffic passing through the major ports. Even a marginal concession for coastal cargo, if allowed, will have a significant impact on port revenues and, consequently, on wharfage rates of non-coastal cargo.

(iii). Allowing a concession for coastal cargo will only reinforce cross-subsidisation.

(iv). The Port Trusts do not receive any grants from the Government. They are expected to be financially self-reliant. That being so, the ability of the Port Trusts to bear the burden of these concessions and their willingness to do so have to be reckoned with. The Port Trusts are not willing to give such concessions. In other words, they are not likely to meet this burden from their reserves. Consequently, there will have to be enhancement of some other tariffs to meet the deficit. As has been pointed out above, this raises a possibility of new cross-subsidisation. In this context, the objection of some of the Port Trusts to giving subsidies for easing congestion in road / rail traffic deserves serious consideration. Such subsidies, if at all, must be given directly by the Government.

5.2. Since no exceptional considerations were seen to govern this case, and bearing in mind the fact that this Authority itself had not been in favour of cross-subsidisation, it was then decided by this Authority not to allow concessions in cargo-related charges for coastal cargo passing through major ports.

6. Subsequently, the IPA has further informed that while confirming the minutes of the Governing Body Meeting, it has modified the relevant minutes as under:

“In view of the foregoing, the consensus was that because the situation is not identical and, therefore, ports should have freedom to fix its cargo related charges for coastal cargo”.

7.1. The revised communication of the IPA has been examined. The following points emerge in this context:

(i). The revised communication of the IPA does not suggest that it favours concessions to coastal cargo.

(ii). The suggestion of IPA that freedom to fix coastal cargo related charges should be left to ports is contrary to the tariff setting arrangement envisaged in the Major Port Trust Act. Under the Act, the Ports do not have the freedom to fix their tariffs. This Authority also does not have any discretion to delegate such powers (to fix tariffs) to the major ports.

(iii). The suggestion of the IPA can be taken to mean that individual ports should have the freedom to ‘propose’ concessions in cargo related charges for coastal cargo, depending on various commercial considerations relevant to that port; and, all ports need not be tied to any uniform decision.

(iv). This gives rise to two issues:

(a). Section 51 of the Act empowers this Authority to prescribe a lower rate in respect of coastal cargo. This is subject to the condition that this Authority cannot discriminate between ports in prescribing such lower rates for coastal cargo. The suggestion of the IPA does not recognise this legal position.

(b). Presently, coastal vessels enjoy a 30% concession in vessel related tariffs (in comparison with foreign-going vessel). This is based on a policy of the Government to promote coastal trade and not based on any specific legal provision. Eventhough there is no qualifying legal stipulation about non-discrimination between ports in this case (as there is in the case of cargo related charges for coastal cargo), the Government has ordered its uniform implementation across all ports without leaving its policy being subjected to the commercial judgement of individual ports. This clearly suggests that while the ports' commercial judgement can be considered for determining the quantum of tariff for a service / facility, a tariff policy cannot be left to be decided at the local level.

(v). The revised communication received from the IPA does not alter the status of issues elaborated in para 5.1. above.

8. In the result and for the reasons given above and, based on a collective application of mind, this Authority decides not to allow any concessions in cargo related charges for coastal cargo passing through the Major Ports.

(**S. Sathyam**)

Chairman

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