

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 346

New Delhi,

11 September 2017

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 disposes of the proposal dated 16 May 2017 received from V.O. Chidambaranar Port Trust (VOCPT) for a few amendments in the Order No.TAMP/82/2016-VOCPT dated 29 March 2017 passed by the Authority as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/82/2016-VOCPT

V.O. Chidambaranar Port Trust

- - -

Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 21st day of July 2017)

This case relates to a proposal dated 16 May 2017 received from the V.O. Chidambaranar Port Trust (VOCPT) for a few amendments in the Order No.TAMP/82/2016-VOCPT dated 29 March 2017 passed by this Authority approving a few amendments to its existing Scale of Rates approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016.

2. This Authority has passed an Order No.TAMP/29/2016-VOCPT dated 17 September 2016, approving the revised Scale of Rates and Performance Standards on the proposal received from the VOCPT for general revision of its Scale of Rates (SOR). The revised SOR and Performance Standards approved by this Authority was notified vide Gazettee No.370 dated 10 October 2016. Subsequently, the detailed speaking order was notified in the Gazette vide No.427 dated 28 November 2016.

3. Subsequently, the VOCPT vide its letter dated 3 November 2016 had filed a proposal for a few amendments in the SOR approved vide Order dated 17 September 2016. Following the prescribed consultation process with the stakeholders and after holding a joint hearing held on the said proposal of VOCPT, this Authority has passed an Order No.TAMP/82/2016-VOCPT dated 29 March 2017 disposing of the proposal of VOCPT for a few amendments to its existing SOR. The said Order was notified in the Gazette on 18 May 2017 vide Gazette No. 207.

4. The Order of the Authority approving the amendments to the SOR was communicated to VOCPT vide our letter dated 12 April 2017 as an advance information. Subsequently, on notification of the said Order, the VOCPT was intimated about Gazette notification details vide our letter no.TAMP/82/2016-VOCPT dated 22 May 2017.

5. The VOCPT has now vide its email dated 16 May 2017 brought out that during the joint hearing held on 16 February 2017 on its proposal for a few amendments in the SOR approved by the Authority on 17 September 2016, in addition to the amendments proposed by VOCPT in its proposal dated 3 November 2016, the following amendment were also discussed but has not been included in the Order dated 29 March 2017:

- (a). Dusty cargoes handled through bags shall not attract cess for pollution mitigating measures under schedule 3.5.
- (b). The cess for pollution mitigating measures under schedule 3.5 shall be applicable to the cargoes discharged through the conveyor from 9th berth to coal yard inside Green Gate.

6. The VOCPT has, thus, requested to approve above two notes under the Schedule 3.5 of Cess for Pollution Mitigating Measures.

7. The Schedule 3.5 (Cess for Pollution Mitigating Measures) proposed by VOCPT in its proposal and approved by this Authority in the Order No.TAMP/29/2016-VOCPT dated 17 September 2016, amendment proposed by VOCPT in its proposal dated 3 November 2016 in the said tariff item and approved by this Authority in the Order dated 29 March 2017 and the current proposal of VOCPT seeking amendment in this schedule by inserting the two proposed notes is tabulated below for ease of understanding and amendment proposed is highlighted in bold:

As proposed by VOCPT in its Original Proposal dated 7 May 2016 and as in the SOR approved by this Authority vide Order dated 17 September 2016	As proposed by VOCPT in its amendment proposal dated 3 November 2016 and as approved by this Authority vide Order No.TAMP/82/2016-VOCPT dated 29 March 2017	As proposed by VOCPT in the current proposal dated 16 May 2017																																																																				
<p>3.5 Cess for Pollution Mitigating Measures</p> <p>Cess for Pollution mitigating measures shall be levied at ₹5/- per M.T in respect of dusty cargoes discharged at the Port (Excluding cargo handled through closed conveyors).</p>	<p>3.5 Cess for Pollution Mitigating Measures</p> <p>Cess for Pollution mitigating measures shall be levied at ₹5/- per M.T in respect of dusty cargoes discharged at the Port as listed below:- (Excluding cargo handled through closed conveyors).</p> <table border="1" data-bbox="518 562 967 999"> <thead> <tr> <th>Sl. No.</th> <th>Dusty cargoes</th> </tr> </thead> <tbody> <tr><td>1</td><td>Coal</td></tr> <tr><td>2</td><td>Gypsum In Bulk</td></tr> <tr><td>3</td><td>Ilmenite</td></tr> <tr><td>4</td><td>Iron Ore</td></tr> <tr><td>5</td><td>Lime Stones</td></tr> <tr><td>6</td><td>Rock Phosphate</td></tr> <tr><td>7</td><td>Petroleum Coke</td></tr> <tr><td>8</td><td>Copper Concentrate</td></tr> <tr><td>9</td><td>Potassium Sulphate (Mop,Sop)</td></tr> <tr><td>10</td><td>Sulphur</td></tr> <tr><td>11</td><td>Clinkers</td></tr> <tr><td>12</td><td>Diammoniam Phosphate</td></tr> <tr><td>13</td><td>Urea</td></tr> <tr><td>14</td><td>Stone Dust</td></tr> <tr><td>15</td><td>Stone Aggregate</td></tr> <tr><td>16</td><td>Oil Cake/Copra</td></tr> </tbody> </table>	Sl. No.	Dusty cargoes	1	Coal	2	Gypsum In Bulk	3	Ilmenite	4	Iron Ore	5	Lime Stones	6	Rock Phosphate	7	Petroleum Coke	8	Copper Concentrate	9	Potassium Sulphate (Mop,Sop)	10	Sulphur	11	Clinkers	12	Diammoniam Phosphate	13	Urea	14	Stone Dust	15	Stone Aggregate	16	Oil Cake/Copra	<p>3.5 Cess for Pollution Mitigating Measures</p> <p>Cess for Pollution mitigating measures shall be levied at ₹5/- per M.T in respect of dusty cargoes discharged at the Port as listed below:- (Excluding cargo handled through closed conveyors).</p> <table border="1" data-bbox="997 568 1422 1010"> <thead> <tr> <th>Sl. No.</th> <th>Dusty cargoes</th> </tr> </thead> <tbody> <tr><td>1</td><td>Coal</td></tr> <tr><td>2</td><td>Gypsum In Bulk</td></tr> <tr><td>3</td><td>Ilmenite</td></tr> <tr><td>4</td><td>Iron Ore</td></tr> <tr><td>5</td><td>Lime Stones</td></tr> <tr><td>6</td><td>Rock Phosphate</td></tr> <tr><td>7</td><td>Petroleum Coke</td></tr> <tr><td>8</td><td>Copper Concentrate</td></tr> <tr><td>9</td><td>Potassium Sulphate (Mop,Sop)</td></tr> <tr><td>10</td><td>Sulphur</td></tr> <tr><td>11</td><td>Clinkers</td></tr> <tr><td>12</td><td>Diammoniam Phosphate</td></tr> <tr><td>13</td><td>Urea</td></tr> <tr><td>14</td><td>Stone Dust</td></tr> <tr><td>15</td><td>Stone Aggregate</td></tr> <tr><td>16</td><td>Oil Cake/Copra</td></tr> </tbody> </table> <p>Note:</p> <p>(a). Dusty cargoes handled through bags shall not attract cess for pollution mitigating measures under schedule 3.5.</p> <p>(b). The cess for pollution mitigating measures under schedule 3.5 shall be applicable to the cargoes discharged through the conveyor from 9th berth to coal yard inside Green Gate.</p>	Sl. No.	Dusty cargoes	1	Coal	2	Gypsum In Bulk	3	Ilmenite	4	Iron Ore	5	Lime Stones	6	Rock Phosphate	7	Petroleum Coke	8	Copper Concentrate	9	Potassium Sulphate (Mop,Sop)	10	Sulphur	11	Clinkers	12	Diammoniam Phosphate	13	Urea	14	Stone Dust	15	Stone Aggregate	16	Oil Cake/Copra
Sl. No.	Dusty cargoes																																																																					
1	Coal																																																																					
2	Gypsum In Bulk																																																																					
3	Ilmenite																																																																					
4	Iron Ore																																																																					
5	Lime Stones																																																																					
6	Rock Phosphate																																																																					
7	Petroleum Coke																																																																					
8	Copper Concentrate																																																																					
9	Potassium Sulphate (Mop,Sop)																																																																					
10	Sulphur																																																																					
11	Clinkers																																																																					
12	Diammoniam Phosphate																																																																					
13	Urea																																																																					
14	Stone Dust																																																																					
15	Stone Aggregate																																																																					
16	Oil Cake/Copra																																																																					
Sl. No.	Dusty cargoes																																																																					
1	Coal																																																																					
2	Gypsum In Bulk																																																																					
3	Ilmenite																																																																					
4	Iron Ore																																																																					
5	Lime Stones																																																																					
6	Rock Phosphate																																																																					
7	Petroleum Coke																																																																					
8	Copper Concentrate																																																																					
9	Potassium Sulphate (Mop,Sop)																																																																					
10	Sulphur																																																																					
11	Clinkers																																																																					
12	Diammoniam Phosphate																																																																					
13	Urea																																																																					
14	Stone Dust																																																																					
15	Stone Aggregate																																																																					
16	Oil Cake/Copra																																																																					

8. It is relevant here to state that the above two notes (a) and (b) under the Schedule 3.5 Cess for Pollution Mitigating Measures were neither intimated by VOCPT in its original amendment proposal dated 3 November 2016 nor subsequently intimated for inclusion of the same during the processing of the case.

9.1. The VOCPT has stated that the proposed two notes to the Schedule 3.5 Pollution Mitigating Measures were part of power point presentation made by VOCPT at the joint hearing held on 16 February 2017. It is seen that page 10 of said power point presentation made by the VOCPT at the joint hearing on 16 February 2017 before this Authority and the concerned stakeholders did include the above two proposed notes.

9.2. The first note proposed by the VOCPT not to levy cess appears to be of clarificatory in nature since the dusty cargo is handled in bags. As per the second note proposed by the port, the VOCPT proposes to levy cess, since the cargo is stored in open area within the Green Belt area. Recognising that the proposed two notes were part of Powerpoint Presentation made by VOCPT at joint hearing held on 16 February 2017 where the users / user organisations were present, and recognising that none of the users / user organisations present at the joint hearing objected to the proposed notes and deeming it as the proposal of the VOCPT, this Authority is inclined to approve the amendments proposed by VOCPT. Since the proposal of the port is mainly to mitigate pollution by levy of the proposed cess, this Authority approves insertion of the two notes proposed by VOCPT under the table in Schedule 3.5-Cess for Pollution Mitigation Measures in the existing SOR of VOCPT.

10.1. While disposing of the amendment proposal of VOCPT for insertion of two notes as stated above, one more amendment relating to deletion of entry of wharfage rate for Thermal Coal which was deleted in the Order dated 29 March 2017 is now reinstated so as to comply with the Coastal Concession Policy issued by then Ministry of Road Transport and Highways (MSRTH) in January 2005 which was notified by this Authority vide Order No.TAMP/4/2004-Genl. dated 7 January 2005 as explained in the subsequent paragraphs.

10.2. The wharfage dues at Sl. No.3 relating to Coal and Coke under Schedule 3.1 in the SOR of VOCPT approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016 was amended by this Authority vide Order No. TAMP/82/2016-VOCPT dated 29 March 2017 based on the proposal dated 3 November 2016 filed by VOCPT. A comparative position of Sl. No.3 under Schedule 3.1 Wharfage Dues in the SOR as approved by this Authority in the Order dated 17 September 2016 and the proposal of the VOCPT dated 3 November 2016 for amendment therein which was approved by this Authority in the Order No.TAMP/82/2016-VOCPT dated 29 March 2017 based on the VOCPT proposal is tabulated below:

Sl. No.	As approved by this Authority in the SOR in the Order No.TAMP/29/2016-VOCPT dated 17 September 2016						VOCPT proposal dated 3 November 2016 for amendment in Sl. No.3 under Schedule 3.1. and approved by this Authority in the Order No.TAMP/82/2016-VOCPT dated 29 March 2017 based on the proposal of the VOCPT						
	Schedule 3.1 Schedule of Wharfage Dues – SI.No.3 COAL & COKE						Schedule 3.1 Schedule of Wharfage Dues – SI.No.3 COAL & COKE						
S. No.	Particulars	Unit	Zone A		Zone B		S. No.	Particulars	Unit	Zone A		Zone B	
			Foreign	Coastal	Foreign	Coastal				Foreign	Coastal	Foreign	Coastal
3	(a). Charcoal in bags/bulk.	1 M.T.	35.76	21.45	15.32	9.19	3.	(a). Charcoal in bags/bulk.	1 M.T.	35.76	21.45	15.32	9.19
	(b). Coal by whatever name described in Customs Document and used for Thermal Power Plants	1 M.T.	48.53	48.53	-	-		(b) Coal by whatever name described in Customs Document and used for Thermal Power Plants	1 M.T.	48.53	48.53	-	-
	(c). Coal by whatever name described in Customs Document other than sl.no.3(b) above.	1 M.T.	48.53	29.12	29.12	17.47		(c) Coal by whatever name described in Customs Document other than sl.no.3(b) above.	1 M.T.	48.53	29.12	29.12	17.47
	(d). Coal and Coke handled through Coal Jetty (other than thermal coal).	1 M.T.	48.53	29.12	-	-							
	(e). Thermal Coal	1 M.T.	48.53	48.53	-	-							

10.3. In the Order No.TAMP/82/2016-VOCPT dated 29 March 2017 based on the proposal of VOCPT, the wharfage rate prescribed at Sl. No.3(d) coal and coke handled through Coal Jetty (other than thermal coal) and 3(e) Thermal coal were deleted as proposed by the port.

10.4. The Entry 3(b) in the above table would include "Thermal Coal". However, recognising that as per Coastal Concession Policy issued by the then MSRTH thermal coal is not entitled for coastal concession in cargo related charges, it is found appropriate by this Authority to continue to explicitly prescribe separate entry in respect of wharfage rate for thermal coal in the SOR of VOCPT as it prevailed in the SOR approved by this Authority in the SOR Order dated 17 September 2016. Accordingly, the wharfage rate for Thermal Coal as prescribed at Sl.No.3 (e) in the SOR approved by this Authority dated 17 September 2016 is reinstated as a separate entry no. 3(d). It is relevant here to state that the above entry is only to ensure explicit compliance of the Coastal Concession Policy issued by the MOS. In the other Major Ports as well, separate wharfage entry for thermal coal is prescribed without prescription of any coastal concession in line with the Coastal Concession Policy issued by the MOS.

11. Since these are amendments to the Scale of Rates of VOCPT, the amendments approved to the existing SOR of VOCPT should be deemed to have come into effect from the date the revised SOR notified vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016 has come into effect i.e. from 9 November 2016.

12.1. In the result, and for the reasons given above and based on collective application of mind, this Authority approves the following amendments to the amendments in the existing SOR of the VOCPT approved by this Authority vide Order No.TAMP/82/2016-VOCPT dated 29 March 2017:

- (i). **Inserts the following notes in the existing Scale of Rates of VOCPT in the Table under the Schedule 3.5 Cess for Pollution Mitigating Measures approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016 and amendment approved by this Authority vide Order No.TAMP/82/2016-VOCPT dated 29 March 2017:**

“Notes:

- (a). Dusty cargoes handled through bags shall not attract cess for pollution mitigating measures under schedule 3.5.
- (b). The cess for pollution mitigating measures under schedule 3.5 shall be applicable to the cargoes discharged through the conveyor from 9th berth to coal yard inside Green Gate.”

- (ii). **Inserts the following entry as Sl. No.(d) after Sl. No.3(c) under Schedule 3.1-Wharfage Dues approved by this Authority vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016 and amendment approved by this Authority vide Order No.TAMP/82/2016-VOCPT dated 29 March 2017:**

“

Sl. No.	Particulars	Unit	Zone A		Zone B	
			Foreign	Coastal	Foreign	Coastal
3	(d) Thermal Coal	1 M.T.	48.53	48.53	-	-

”

12.2. These amendments approved to the existing SOR should be deemed to have come into effect from the date the revised SOR notified vide Order No.TAMP/29/2016-VOCPT dated 17 September 2016 has come into effect i.e. with effect from 9 November 2016.

12.3. The VOCPT is directed to amend its Scale of Rates accordingly.

(T.S. Balasubramanian)
Member (Finance)