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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 173

New Delhi, 5 November, 2003

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby amends the general conditionality introduced in the Scale of Rates commonly for all the major port trusts vide its earlier Order dated 28 August 2003 to specify that the rates prescribed therein are ceiling rates, as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
No. TAMP/53/2003-Genl.

ORDER

(Passed on this 22nd day of October 2003)

The Government of India in the Ministry of Shipping (MOS) vide its communication No. PR/11012/1/99-PG dated 21 August 2003 issued a policy direction to this Authority under Section 111 of the MPT Act to fix the Scale of Rates as ceiling rates and to so specify in its notification fixing rates so that the major ports have the flexibility to charge at reduced rates, if they so desire, to compete with others. Similarly, the discounts and rebates prescribed by this Authority in the Scale of Rates will act as the floor level and the port trusts will have the flexibility of giving higher discounts and rebates.

2.1. In order to implement the policy of the Government, this Authority passed an Order on 28 August 2003 to amend the Scale of Rates of all the major port trusts to insert the following general conditionality therein:

The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The Port Trust may, if it so desires, charge lower rates and / or allow higher rebates and discounts”.

2.2. This Order was published in the Gazette of India on 2 September 2003 vide Gazette No.135.

3. One important issue which requires attention is ensuring transparency when ports take a decision to reduce rates. At least, it is to be ensured that when ports take a decision to reduce rates it must be made known to all concerned. The Ministry of Shipping (MOS) vide its communication No.PR-11012/1/99-PG dated 3 October 2003 has endorsed this view.

4. This Authority is mandated not only to fix the rates but also conditionalities governing the application of such rates. The conditionalities governing the application rates prescribed in the Scale of Rates also have tariff implications. While the major port trusts are given flexibility to charge reduced rates absence of such flexibility in application of conditionalities may prove incongruent. This Authority, therefore, considers it appropriate to provide the major port trusts with flexibility to relax / rationalise the conditionalities governing the application of rates if such rationalisation gives relief to the users. Such rationalisation of conditionalities, however, should not have the effect of increasing the rate per unit prescribed as ceiling by this Authority. For example, if a rate is prescribed for a unit of 8 hours in the Scale of Rates and the port wants to reduce the unit to one hour, it can do so provided the hourly ceiling rate is adjusted *pro rata*. On the ground that rationalisation of unit of levy will benefit users in totality, the port cannot fix hourly rate at a level higher than the *pro rata* rate without the approval of this Authority.

5. In the result, and for the reasons given above, and based on a collective application of mind, this Authority amends the Scale of Rates of all the major port trusts to substitute the general conditionality introduced by the Order of this Authority passed on 28 August 2003 with the following general conditionality:

“The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The Port Trust may, if it so desires, charge lower rates and or allow higher rebates and discounts.

The Port Trust may also, if it so desires, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels.

Provided that the Port Trust should notify the public such lower rates and / or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and / or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by this Authority”.

(A.L. Bongirwar)
Chairman