(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No.351 **New Delhi,** **19 October 2015**

NOTIFICATION

In compliance of a direction issued by the Ministry of Shipping, Government of India vide its letter No.8/(15)2015-TAMP dated 17 September 2015 and in exercise of the powers conferred by Sections 48 and 50 of the Major Port Trusts Act, the Tariff Authority for Major Ports hereby partially amends the coastal concession policy notified by this Authority vide earlier vide Order No.TAMP/4/2004-Genl dated 12 January 2005 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No.TAMP/4/2004-Genl.

O R D E R

(Passed on this 5th day of October, 2015)

The Government of India in the (then) Ministry of Shipping, Road Transport and Highways (MSRTH) vide its communication No.PR-14019/29/2001-PG dated 01 January 2005 had issued a policy direction to this Authority under Section 111 of the MPT Act, 1963 to prescribe concessional rates for coastal cargo/ containers/ vessels related charges levied at all major port trusts and private operators authorized under section 42(3) of the Act.

2. In compliance of a policy direction issued by the (then) MSRTH under section 111 of the Major Port Trusts Act to prescribe concessional rates for coastal cargo/containers/vessels related charges, this Authority passed an Order on 7 January 2005 to amend the Scale of Rates of all the major port trusts and private terminal operators by inserting a set of general conditionalities. This Order was notified in the Gazette of India on 12 January 2005 under Gazette No.3.

3.1. Subsequently, the (then) MSRTH based on the representation made by the Visakhapatnam Port Trust (VPT) directed this Authority to exempt iron ore and iron ore pellets from the operation of the Order dated 7 January 2005 passed by this Authority vide MSRTH letter No.PR-14019/29/2001-PG dated 9 March 2005.

3.2. In compliance of the policy direction issued by the Government of India, this Authority amended its earlier Order No.TAMP/4/2004-Genl. dated 7 January 2005 to exclude iron ore and iron ore pellets from the concessional cargo related charges for coastal trade. This Order was notified in the Gazette of India on 22 March 2005.

4. The policy direction of 01 January 2005 stated that the scheme was introduced on pilot basis for two year period after which it will be reviewed. The MSRTH vide its communication No.PR-14019/29/2001-PG dated 22 April 2009 stated that the review of the concessional tariff for coastal cargo/ container/ vessel is under consideration by the Department of Shipping. Till the review is done resulting in a different policy prescription this Authority was directed to continue with the existing policy direction relating to coastal rates for coastal cargo/ container/ vessels. Thus, the coastal concession policy issued by the Government of India is still in force.

5.1. The MOS has now vide its letter No.8/(15)2015-TAMP dated 17 September 2015 has issued a direction to this Authority partially modifying the coastal concessional policy issued by it vide its letter dated 1/3 January 2005 and 9 March 2005 to the extent that restatement of rates for coastal vessels should take into account the exchange rate fluctuation of the Indian Rupee Vs the US $ so that vessel related charges for all coastal vessels do not exceed 60% of the corresponding charges for other vessels.

5.2. The MOS in its letter dated 17 September 2015 has stated that:

(i). In the Working Guidelines to operationalize the Tariff Policy for Major Port Trusts 2015 notified by TAMP and circulated vide their letter No.TAMP/21/2009-WS dated 29 May 2015, Para 10 of the Guidelines relate to vessel related charges which are in line with those contained in the then Ministry of Shipping, Road Transport & Highways letters No.PR-14019/29/2001-PG dated 1 / 3 January 2005 and 9 March 2005.

(ii). As per the said instructions restatement of dollar denominated vessel charges and container related tariff to the exchange rate prevailing at the time of each general revision is not allowed. Some of the ports have pointed out that on account of non-restatement of coastal vessel rates to the prevailing exchange rate over decade, the concession enjoyed by coastal vessels is more than 40% of their foreign going Counter Part.

In order to keep the coastal vessel related charges at 60% of the foreign vessel related charges at all times and to account for the exchange rate fluctuation of the INR vs the US $ a suggestion emerged that clause 10.1.2. of the Working Guidelines to operationalize the Tariff Policy for Major Port Trust, 2015 as notified by the TAMP be replaced with the following clause:

"10.1.2. Vessel-related charges for Coastal vessels will not exceed 60% of that for foreign-going vessels. Further, these charges shall be collected in Indian Rupees only."

(iii). The above suggestion has been considered by the Government and it has been decided to accept the same.

(iv). With this, the instructions issued by the then Ministry of Shipping, Road Transport & Highways letters No.PR-14019/29/2001-PG dated 1/ 3 January 2005 and 9 March 2005 would get partially modified to the extent that restatement of rates for coastal vessels should take into account the exchange rate fluctuation of the Indian Rupee vs the US $ so that vessel related charges for all coastal vessels should not exceed 60% of the corresponding charges for other vessels. Accordingly, vessel related charges for all coastal vessels should not exceed 60% of the corresponding charges applicable for other vessels and these charges will be collected in Indian Rupees at the applicable exchange rate.

5.3. In view of the above, the MOS has directed this Authority to appropriately prescribe the coastal vessel related charges and coastal cargo/ container related charges levied at all Major Port Trusts and private operators authorized under Section 42(3) of the Major Port Trusts Act, 1963 immediately.

6.1. Since the cargo related charges for eligible coastal cargo are prescribed in rupee terms at 60% of the corresponding rate applicable for foreign cargo in the existing Scale of Rates of Major Port Trusts and Private Terminals operating thereat as envisaged in the coastal concession policy and there is no involvement of restatement on account of exchange rate variation, no modification is required in the tariff prescribed for coastal cargo in the existing Scale of Rates of Major Port Trusts and Private terminals operating thereat.

6.2. As regards container related charges, in the Scale of Rates of few Container Terminal operators like the Chennai Container Terminal Private Limited and Chennai International Terminal Private Limited operating in Chennai Port Trust, India Gateway Terminal Private Limited operating in Cochin Port Trust, Indira Container Terminal Pvt. Ltd. operating in Mumbai Port Trust and PSA SICAL Terminals Private Limited operating in V.O. Chidambaranar Port Trust some of the container related tariff are prescribed in US$ for foreign container. Hence, the coastal rates for the relevant tariff items prescribed in the Scale of Rates of these container terminal operators will require modification in view of the direction now issued by the MOS.

6.3. Thus, in short, the partial amendment in the coastal concession policy issued by the Government as regards application of rates for coastal category will require amendment in the existing Scale of Rates of Major Port Trusts where the vessel related charges are denominated in US dollar for the foreign going vessel. For BOT operators operating at Major Port Trust whose existing Scale of Rates prescribes the vessel related charges as well as container related charges in US dollar, their Scale of Rates will also require to be amended suitably.

7.1. The direction of the MOS requires immediate prescription coastal vessel related charges and coastal cargo/ container related charges. If coastal vessel related charges and coastal container related charges are prescribed applying the prevailing exchange rate on the US $ denomination for corresponding tariff items, such prescribed coastal rates will not remain valid even for the second day in view of fluctuation in the exchange rate. Therefore, it is found

appropriate to prescribe a suitable note to give effect to the Government direction. Accordingly, the notes as given below are prescribed to be suitably incorporated by the Major Port Trusts and BOT operators thereat in their respective Scale of Rates:

A. <u>General conditions</u>:

"(i). Vessel related charges for coastal vessel should take into account the exchange rate fluctuation of Indian Rupee Vs US $ so that vessel related charges for coastal vessels shall not exceed 60% of the corresponding charges for other foreign going vessels. Further, these charges will be collected in Indian Rupees only at the applicable exchange rate.

(ii). As regards the Container related charges which are denominated in US dollars for the foreign containers, the tariff for coastal container shall not exceed 60% of the corresponding charges for other foreign containers. Further, these charges will be collected in Indian Rupees only at the applicable exchange."

(B). In the Schedule of Vessel Related Charges, the rates prescribed for coastal vessels is replaced with the following note:

"Rate for coastal vessel is upto 60% (of the rate for foreign-going vessel juxtaposed) calculated by taking into account the exchange rate fluctuation."

(C). In the Schedule of Container Related Charges where rates are denominated in dollars for the foreign category, in those cases the rates for coastal container is replaced with the following:

"Rate for coastal container is upto 60% (of the rate juxtaposed) calculated by taking into account the exchange rate fluctuation."

7.2. An illustration as regards (B) and (C) above is attached as **Annex**.

8.1. All the Major Port Trusts are directed to amend their Scale of Rates accordingly.

8.2. In the case of private terminal operators operating in the Major Port Trusts in whose existing SOR the vessel related charges and/ or container related charges for foreign category are denominated in US dollar terms, they are directed to amend their Scale of Rates accordingly.

9. Recognising the lead time required for implementation by ports/ terminals, the partially amended provisions for coastal vessels/ container ordered hereinabove based on the direction of the MOS shall come into effect from 1 November 2015.

(T.S. Balasubramanian)
Member (Finance)

Annex

An illustration as regards replacing the coastal vessel/ coastal container rates prescribed in the existing Scale of Rates.

(i). (a). Suppose vessel related tariff item prescribed in the existing Scale of Rates is as follows:

Sl. No.	Port Dues for Type of Vessels	Rate per GRT/ per entry of vessel	
		Foreign-going vessel (in US $)	Coastal vessel (in ₹)
1.	Tanker (Crude oil & POL Vessels calling at Port Oil Berths)	0.377	10.08
2.	Crude Oil Tanker at SBM & STS	0.377	10.08

(b). This is to be replaced as follows:

Sl. No.	Port Dues for Type of Vessels	Rate per GRT/ per entry of vessel	
		Foreign-going vessel (in US $)	Coastal vessel (in ₹)
1.	Tanker (Crude oil & POL Vessels calling at Port Oil Berths)	0.377	Rate for coastal vessel is upto 60% (of the rate for foreign-going vessel juxtaposed) calculated by taking into account the exchange rate fluctuation.
2.	Crude Oil Tanker at SBM & STS	0.377	

(ii). (a). Suppose container related tariff which are denominated in US $ for foreign container and the corresponding coastal container rate in the existing Scale of Rates is as follows:

Particulars	Foreign-going vessel (US $)	Coastal vessel (₹)
Per FCL Container		
- Not exceeding 20’ in length	14.64	369.04
- Exceeding 20’ and upto 40’ in length	21.96	553.32
- Over 40’ in length	29.28	737.92

(b). This is to be replaced as follows:

Particulars	Foreign-going vessel (US $)	Coastal vessel (₹)
Per FCL Container		Rate for coastal container is upto 60% (of the rate juxtaposed) calculated by taking into account the exchange rate fluctuation.
- Not exceeding 20’ in length	14.64	
- Exceeding 20’ and upto 40’ in length	21.96	
- Over 40’ in length	29.28	

*****