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

Tariff Authority for Major Ports

G.No. 367 **New Delhi,** **3 October 2018**

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 passes a common Order as regards concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018-Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

TARIFF AUTHORITY FOR MAJOR PORTS

Case No. TAMP/53/2015-VOCPT

Indian National Shipowners' Association - - - - Applicant

QUORUM

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

O R D E R

(Passed on this 25th day of September 2018)

This matter deals with the concessional coastal tariff for vessels and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018-Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance brought out by Indian National Shipowners' Association (INSA) vide e-mail dated 24 May 2018.

2.1. In compliance of policy direction issued by the Government of India under Section 111 of the Major Port Trusts Act, 1963 vide its letter No.PR-14019/29/2001-PG dated 1 January 2005 and subsequent policy direction dated 15 March 2005, coastal concessional vessel related charges and coastal concessional cargo/ container related charges were prescribed in the Scale of Rates of Major Port Trusts and BOT operators vide tariff Orders dated 7 January 2005 and 15 March 2005, as given below:

> *"1. The vessel related charges for all coastal vessels should not exceed 60% of the corresponding charges for other vessels,*
>
> *2.1. The cargo/container related charges for all coastal cargo/containers, other than thermal coal and POL including crude oil, iron ore and iron ore pellets, should not exceed 60% of the corresponding charges for normal cargo/container related charges.*
>
> *2.2. In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship-shore transfer and transfer from/to quay to/from storage yard including wharfage.*
>
> *2.3. In case of container related charges, the concession is applicable on composite box rate. Where itemized charges are levied, the concession will be on all the relevant charges for ship-shore transfer, and transfer from/to quay to/from storage yard as well as wharfage on cargo and containers.*
>
> *3. The charges for coastal cargo/containers/vessels shall be denominated and collected in Indian Rupee."*

2.2. Subsequently, while processing the clarification sought by V.O. Chidambaranar Port Trust (VOCPT) with reference to representation made by one of the BOT operators i.e. Dakshin Bharat Gateway Terminal Pvt. Ltd. (DBGTPL) operating at VOCPT and based on the communication received from DG Shipping vide their letter No.SD-12/Misc (17)/14 dated 13/17 August 2015, letter No.SD-12/Misc (17)/14 dated 19 November 2015 and letter No.SD-9/CHART(309)/2016 dated 20 May 2016 in the matter, this Authority vide its Order No.TAMP/53/2015-VOCPT dated 26 November 2015 and amendment Order No.TAMP/53/2015-VOCPT dated 10 June 2016, has prescribed additional provisions in the Scale of Rates of Major Port Trusts and the BOT Terminals operating thereat retaining the earlier provisions prescribed as brought out in para 2.1. above. The existing additional provisions prescribed in Scale of Rates of Major Port Trusts and BOT operators operating in Major Port Trusts are reproduced below:

> "9A. System of classification of vessel for levy of Vessel Related Charges (VRC)

(i). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.

(ii). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping and a custom conversion order.

9B. Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate

(i). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.

(ii). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.

(iii). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.

10. Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate

(i). Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:

(a). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.

(b). Not converted* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.
* The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.

(ii). In case of a Foreign flag vessel converted to coastal run on the basis of a License for Specified period or voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container."

3. The INSA under cover of its e-mail dated 24 May 2018 has forwarded a copy of Notification No.38/2018-Customs (N.T.) dated 11 May 2018 on Sea Cargo Manifest and Transhipment Regulations, 2018 issued by the Central Board of Indirect Taxes and Customs (CBITC), Department of Revenue, Ministry of Finance, Government of India.

4.1. Clause 2(f) of the said Notification dated 11 May 2018 defines coastal goods transited through a designated foreign route as follows:

"(f) "Coastal goods transited through a designated foreign route" means:

(i) coastal goods transported between an Indian port on east coast and another Indian port on west coast or vice versa, by a vessel through the territorial waters of Sri Lanka, whether or not calling any port in Sri Lanka in between and without change of vessel;

(ii) coastal goods transported between an Indian port on east coast and a river port in India or vice versa, by a vessel through a route passing through the Bangladeshi waters and without change of vessel;"

4.2. Referring to the said Notification that allows coastal goods to be transited through designated Foreign Port in Sri Lanka/ Bangladesh waters when carrying cargo from one Indian Port to another Indian Port, the INSA has sought clarification whether the ships and cargo that would move from one Indian Port to another Indian Port through territorial waters of Bangladesh or Sri Lanka would continue to be charged (concessional) coastal tariff both for vessel and cargo irrespective of transit route.

4.3. The said Notification of CBITC is effective from 1 August 2018.

5.1. Bringing out the existing prescription and referring to the Notification of CBITC dated 11 May 2018 forwarded by the INSA, the Directorate General of Shipping was vide our letter dated 3 July 2018 requested to advise us on a few points, followed by reminder dated 25 July 2018.

5.2. In response, the Directorate General of Shipping vide its letter No.D-12/Misc(17)/14 dated 7 August 2018 has furnished its reply. A summary of advice sought from Directorate General of Shipping and reply furnished by Directorate General of Shipping thereon is tabulated below:

Sl. No.	**Advice sought from Directorate General of Shipping**	**Reply furnished by Directorate General of Shipping**
(i).	Whether the vessel transporting coastal goods from one Indian Port to another Indian Port through a designated foreign route is eligible for concessional coastal vessel related charges.	At present Concessional tariff are prescribed for coastal cargoes/ containers/ vessels as per the policy directions of the Government. Therefore, this office considers that Indian vessels engaged in carriage of goods between two Indian ports should remain eligible for the concessional tariff even if it has touched a foreign port in terms of CBIC notification No.38/2018-Customs (N.T.) dated 11.05.2018.
(ii).	Whether the coastal goods transited from one Indian Port to another Indian Port through a designated foreign route is eligible for concessional cargo related charges.	As mentioned above, the cargo related charges should also be charged at concessional rate, as applicable for coastal vessels, even if the goods are being carried over through a foreign territory in terms of CBIC notification No.38/2018-Customs (N.T.) dated 11.05.2018. The policy of concessional tariff will encourage use of water mode between two Indian ports as a preferable choice for cargo movement. Therefore, any goods moved from one Indian port to another Indian port should be treated with concessional tariff by both Indian ports of Loading and Discharging.
(iii).	Whether any conditions have to be prescribed for such vessel to become eligible for coastal concessional vessel related charges and concessional cargo/ container related charges when the vessel moves from one Indian Port on East coast	Indian coastal vessels are already enjoying certain concessional tariffs and benefits. Now the coastal vessels are also allowed to touch the Bangladesh waters and territorial waters of Sri Lanka with or without touching the Sri Lankan Port.

	and another Indian Port on West coast or vice versa through the territorial waters of Sri Lanka whether or not calling any Port in Sri Lanka in between and without change of vessel.	Therefore, the benefits already extended to coastal vessels need to be continued to all coastal vessels including to coastal vessels which touch the Bangladesh waters and territorial waters of Sri Lanka whether touching the Sri Lankan Port or not. No further condition is required to be imposed other than meeting the requirement of the CBIC notification dated 11.05.2018.
(iv).	Whether any conditions have to be prescribed for such vessel to become eligible for coastal concessional vessel related charges and coastal concessional cargo related charges when the vessel moves between an Indian Port on East coast and a river Port in India or vice versa through a route passing through the Bangladeshi waters and without change of vessel.	Same as above comments.

6. Thus, as per clarification furnished by Directorate General of Shipping, concession in both vessel related charges and cargo related charges shall be applicable for vessel and coastal goods transported in designated foreign route in term of clause 2(f) of CBITC Notification dated 11 May 2018 i.e. (a). between an Indian Port on east coast and another Indian port on west coast or vice versa, by a vessel through the territorial waters of Sri Lanka, whether or not calling any port in Sri Lanka in between and without change of vessel and (b). coastal goods transported between an Indian port on east coast and a river port in India or vice versa, by a vessel through a route passing through the Bangladeshi waters and without change of vessel.

The Directorate General of Shipping has stated that no further conditions need to be prescribed other than meeting the requirement of CBITC Notification dated 11 May 2018. To avoid any ambiguity and to ensure uniformity in application across all Major Port Trusts and BOT operators, this Authority finds it appropriate to prescribe provisions based on the clarification issued by DG Shipping and in line with the clause 2(f) of CBITC Notification dated 11 May 2018 in the existing Scale of Rates of all Major Port Trusts and BOT operators operating thereat. Since the matter flows from the CBITC Notification dated 11 May 2018, it shall be applicable to all BOT operators, including BOT operators governed by Upfront tariff setting guidelines of 2008 and Reference tariff guidelines of 2013. It is noteworthy that these BOT operators are already governed by the coastal concession policy of the Government.

7.1. In the result, and for the reasons given above, and based on the collective application of mind, insertion of the following conditionalities in the existing Scale of Rates of all Major Port Trusts and BOT operators operating thereat are approved:

(i). Coastal goods transported between an Indian port on east coast and another Indian port on west coast or vice versa, by a vessel through the territorial waters of Sri Lanka, whether or not calling any port in Sri Lanka in between and without change of vessel in terms Notification No.38/2018-Customs (N.T.) dated 11 May 2018 of Central Board of Indirect Taxes and Customs shall be eligible for concession in vessel related charges and cargo related charges.

(ii). Coastal goods transported between an Indian port on east coast and a river port in India or vice versa, by a vessel through a route passing through the Bangladeshi waters and without change of vessel in terms Notification No.38/2018-Customs (N.T.) dated 11 May 2018 of Central Board of Indirect Taxes and Customs shall be eligible for concession in vessel related charges and cargo related charges.

(iii). The provisions prescribed above shall be subject to adherence to the provisions prescribed in the Order No.TAMP/53/2015-VOCPT dated 26 November 2015 and amendment Order No.TAMP/53/2015-VOCPT dated 10 June 2016.

7.2. Ordinarily, the rates approved by this Authority come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India. Since the said Notification of CBITC is effective from 1 August 2018, this Authority approves the implementation of the above provisions with effect from 1 August 2018.

(**T.S. Balasubramanian**)
Member (Finance)