

KANDLA PORT TRUSTS (DISTRRAINT OR ARREST AND SALE OF VESSELS) REGULATIONS, 1988

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Notification No. GA/GN/1529. dt. 28-6-1988. published in Gujarat Govt. Gazette. Pt. IV-C. dt. 20-10-1988. p.No.1696.- In pursuance of sub Section (2) of Section 124 of the Major Port Trusts Act, 1963 (38 of 1963) the Board of Trustees of the Port of Kandla (Kandla Port Trust) hereby publishes, the following Regulations made by it in exercise of the powers conferred by Section 123 read with Section 53 and Section 64, of the Major Port Trusts, Act, 1963 (38 of 1963) namely :-

1. Short title and Commencement. :-

(1) These regulation may be called the Kandia Port Trusts (Distrainment or Arrest and Sale of Vessels) Regulations, 1988.

(2) They shall come into force on the date of publication of the approval of the Central Government in the Official Gazette.

2. Application. :-

These regulations shall apply to all vessels in respect of which any rates or penalties or both are payable under the Major Port Trusts Act. 1963 or under any regulations or orders made thereunder, but shall not apply to vessels belonging to, or in the Service of, the Central Government or a State Government or to any vessel of war belonging to any Foreign State.

3. Definitions. :-

In these regulations, unless the context, other requires,

(i) "Act" means the Major Port Trusts Act, 1963 (38 of 1963):

(ii) "Deputy Conservator" means the officer for the time being incharge of the Marine Department Kandla Port Trust and includes the Deputies and Assistants to the Deputy Conservator and any other officers acting under the authority of the Deputy Conservator:

(iii) "Form" means the Form annexed to these Regulations:

(iv) "Rates" means the rates or penalties payable under the Act;

(v) Words and expression used in these regulations but not defined and defined in the Act shall have the meanings respectively assigned to them in the Act.

4. Distraint or arrest of vessels. :-

(1) Where any vessel in respect of which rates/penalties have not been paid is lying at the Port, a demand in Form I shall be made by the Deputy Conservator upon the Master of the defaulting vessel requiring the said Master to pay all the rates or penalties within a period of seven days from the date of issue of the said demand.

(2) The said demand shall accompany the copy of the bills containing the full particulars of rates or penalties which were against the owner or agent of the concerned vessel and payment of which still remains due to the Board.

(3) The said demand shall be served upon the Master and in the event of non-availability of the Master, the affixing of the demand notice on the mast of the vessel shall be deemed as service of the demand upon the Master.

(4) If the Master of the defaulting vessel refuses or neglects to pay the rates/penalties or any part thereof within the time limit specified in the demand made upon the Master, the Board may proceed to distraint or arrest such vessel and the tackle, apparel and furniture belonging thereto, or any part thereof and detain the same until the amount so due to the Board, together with such further amount as may accrue for any period during which the vessel is under distraint or arrest is paid.

(5) In order to distraint or arrest the defaulting vessel, the Deputy Conservator shall issue a warrant of arrest in Form II clearly specifying the amount due and indicating that the distraint or arrest shall continue until the amount so due to the Board together

with further accrual of rates or penalties and costs are paid towards full satisfaction of the Board.

(6)(a) The warrant of arrest shall be served upon the Masters of the vessel and a copy thereof shall also be affixed on the mast of the vessel. (b) In case where the Master is not available or avoids service of the warrant, the fixing of the copy of the warrant on the mast of the vessel shall be deemed as service of the warrant upon the Master.

(7) If 6 the said rates/penalties or cost of the distraint or arrest of the vessel or of the keeping of the same are not paid by the owner or master or agent of the vessel towards full satisfaction of the Board within a period of five days next after the distress or arrest has been made, the Board shall cause the vessel or other things so distrained or arrested to be sold.

(8) In the case of a foreign vessel placed under distraint or arrest by an order, the Embassy of the Flag Country and the Government of India in the Ministry of Surface Transport shall also be informed.

5. Sale of distrained or arrested vessel. :-

(1) The Deputy Conservator shall have a valuation survey of the vessel carried out by approved surveyors to ascertain the reserve sale price of the distrained vessel.

(2) The Deputy Conservator shall obtain the permission of the Director General, Shipping before putting the vessel and the tackle, apparel and furniture belonging thereto, to sale.

(3) The sale shall be held in accordance with the provisions of the Sale of Goods Act. 1930 and also in terms of the conditions of sale as per Tender Notice.

(4) Sealed tenders shall be invited from the prospective buyers through press advertisement, as in Form III, at least in four leading newspapers, including Hindi and one regional language daily, specifying the last date for the receipt of tenders.

(5) The prospective buyers shall be permitted to inspect the vessel after the sale notice is published in the Press, during a specified period which shall be fixed by the Deputy Conservator.

(6) Each tender shall be accompanied by an earnest money deposit. to be paid by bank draft, to be fixed by the Deputy

Conservator in each case.

(7) The tenders received after the due date and time, shall be summarily rejected.

(8) The sealed tenders shall be opened in the presence of tenderer present on the date and time fixed by the Deputy Conservator for opening the tenders and if any tenderer is not present at the time fixed for opening the tenders, his tender may be rejected without opening. giving the reasons.

(9) The acceptance of the offer shall be communicated to the successful tenderer.

(10) The successful tenderer shall pay 25% of the bid amount within five days from the date of acceptance of the tender and the balance amount within 15 days from that date. In addition to the tender value the successful tenderer will also deposit such money/bank guarantee for a value as determined by the Deputy Conservator as security deposit which will be returned within a period of 3 months after successful completion. However, no interest shall be paid by the Port on the deposit so made

(11) In default, of payment of 25% of the bid amount within five days from the date of acceptance of the tender, the sale shall, unless otherwise ordered, stand automatically revoked, and the earnest money shall be forfeited, and the vessel shall be resold at the risk of the tenderer whose tender was accepted.

(12) If the vessel is not removed from the harbour for any reason within 30 days, additional berti hire charges beyond the normal charges, as laid down in the Port's Scale of Rates, shall be levied.

(13) Under no circumstances, the buyer shall be permitted to dismantle or break the ship inside the harbour or within the Port limits, unless or otherwise it is specifically permitted to do so.

6. Liabilities of the buyer of the vessel. :-

(1) On and from the date of acceptance of the tender all rates/penalties and other charges shall be to the buyer's account.

(2) Upon acceptance of the tender, the buyer shall deposit with the port and amount representing 30 days' port dues, fees and charges as may be estimated by the Deputy Conservator to be payable for such period.

(3) Customs and Excise duties. Sales Tax, Local Taxes etc. shall be as applicable on buyer's account and he should remit the amounts on account of such duties and taxes to the concerned authorities and produce the receipts for such payments before the clearance is granted to the vessel by the Post.

(4)(a) Immediately after the acceptance of the tender the buyer shall make all arrangements for manning and maintenance of the vessel by a certificated master, certificated officers and certificated engineers with an adequate number of crew during the period the vessel is kept inside the harbour.

(b) In case of failure by the buyer in making necessary arrangements for manning and maintaining the vessel, the port authorities may hire and employ proper persons for that purpose and all reasonable expenses incurred in this connection shall be recoverable from the buyer.