

**CHENNAI PORT TRUST (DISTRRAINT OR ARREST AND SALE OF VESSELS)  
REGULATIONS, 1988**

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(PUBLISHED IN PART II SECTION 3  
SUB-SECTION (I) OF THE GAZETTE OF  
INDIA EXTRAORDINARY DATED 10<sup>TH</sup>  
JANUARY, 1989)

**MINISTRY OF SURFACE TRANSPORT  
(PORTS WING)**

New Delhi, the 10<sup>th</sup> January, 1989.

**NOTIFICATION**

G.S.R.20(E) – In exercise of the powers conferred by sub-section (i) of Section 124 read with sub-section (i) of section 132 of the Major Port Trusts Act, 1963 (38 of 1963), the Central Government hereby approves the Chennai Port Trust (Distraint or Arrest and Sale of Vessels) Regulations, 1988 made by the Board of Trustees of Chennai Port in exercise of powers conferred on them by section 123 of the said Act and published in the Tamil Nadu Government Gazette dated 10<sup>th</sup> August, 1988 and 17<sup>th</sup> August, 1988 as detailed in the schedule annexed to this notification.

Yogendra Narain.  
Joint Secretary.  
(F,No.PR-16012/18/88-PG)

**SCHEDULE**

**THE CHENNAI PORT TRUST (DISTRRAINT  
OR ARREST AND SALE OF VESSELS)  
REGULATIONS, 1987**

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), the Board hereby makes the following regulations namely :-

**1. Short Title and commencement:**

(1) These regulations may be called the Chennai Port Trust (Distraint or Arrest or Sale of vessels) Regulations, 1987.

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

**<sup>1</sup>[2. Application:**

These Regulations shall apply to all vessels in respect of which any rates or penalties or both or loss/damages 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 otherwise requires.

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

(ii) "Deputy Port Conservator" means the Officer for the time being in charge of the Marine Department, Chennai Port Trust and includes the Deputies and Assistants to the Deputy Port Conservator and any other Officers acting under the authority of the Deputy Port Conservator.

(iii) "Form" means the form annexed to these regulations.

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

(v) Words and expressions 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 vessel:**

<sup>1</sup>[(1) Where any vessel in respect of which rates/penalties, loss/damages have been paid is lying at the port, a demand in Form I shall be made by the Deputy Port Conservator upon the Master of the defaulting vessel requiring the said Master to pay all the rates or penalties, loss/damages within a period of seven days from the date of issue of the said demand.

Provided that in respect of the vessel or her servants causing damage to the Port's property, the Owner/Master/Commandant of the vessel shall deposit the value of damage as estimated by the Chairman of the Port Trust, in cash or furnish an unconditional and

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irrevocable Bank Guarantee or other Security to the satisfaction of the Chairman.]

(2) The said demand shall accompany the copy of the bills containing the full particulars of rates or penalties, loss/damages which were raised 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.

<sup>1</sup>[(4) If the Master of the defaulting vessel refuses or neglects to pay the rates/penalties, loss/damages or any part thereof within the time limit specified in the demand made upon the Master, the Chairman may proceed to distrain 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 distrain or arrest the defaulting vessel, the Deputy Port 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 Master of the vessel and a copy thereof shall also be affixed on the mast of the vessel,

(b) In cases 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.

<sup>1</sup>[(7) If the said rates/penalties, loss/damages 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 Chairman within a period of five days next after the distraint or arrest has been

made, the Chairman 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 Port 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 Port 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 Port Conservator.

(6) Each tender shall be accompanied by an earnest money deposit, to be paid by bank draft, to be fixed by the Deputy Port 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 tenderers present on the date and time fixed by the Deputy Port 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 reason.

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(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 Port 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 Deposit 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 berth 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 an amount representing 30 days port dues, fees and charges as may be estimated by the Deputy Port 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 port.

(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.

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Amendments approved by Government:

1. MOST's notification No.G.S.R. 398(E) dated 2.9.96.

FORM I

To

The Master,  
m.v/s.s

Sub: m.v. Rates/Penalties – Non-payment of rates / penalties / loss / damages – Issue of Notice demanding immediate payment.

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Sir,

Please refer to my letter cited. You were requested to pay a sum of Rs.....as on.....towards the following rates / penalties/loss/damages payable under the provisions of the Major Port Trusts Act, 1963/ regulations or orders made there under due to the Chennai Port Trust on or before.....

- 1.....
- 2.....
- 3.....

No steps have so far been taken by you as the Master of the vessel or by the Agents, to pay dues to the port as demanded towards aforesaid rates/penalties/loss/damages. As

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on.....an amount of  
Rs.....is due from the vessel under  
your command.

2. Notice is hereby given to you for making the above payment within seven days on receipt of the Notice failing which provisions of section 64 of the Major Port Trusts Act, 1963 will be invoked to distrain or arrest the 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 distrain or arrest is paid.

Yours faithfully,

Deputy Port Conservator  
CHENNAI PORT TRUST

Copy to: M/s. Owners of m.v  
Copy to: M/s Agent of the vessel.

FORM II  
(See Regulation 4(5))

To

The Master,  
m.v/s.s

Sub: Shipping-m.v. Rates/Penalties –  
Non-payment of rates / penalties  
/ loss /damages Distrain order –  
Issue of.

Ref: My letter of even number  
dated.....

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Sir,

Please refer to my letter cited. You were requested to pay a sum of Rs.....as on.....towards the rates/penalties/loss/damages due to the Chennai Port Trust on or before..... No steps have so far been taken by you as master of the vessel or by the agents to pay the dues to the Chennai Port Trust as demand on.....you are hereby notified that an approximate amount of Rs.....towards rates/penalties/

loss/damages as on .....is due from the vessel under your command..

In view of the non-payment of the above rates/penalties/loss/damages due to the Chennai Port Trust Board, I hereby pass orders in exercise of the powers given under the provisions of section 64 of the Major Port Trusts Act, 1963 that the vessel m.v.....is hereby distrained and will be kept under detention until the amount due to the Chennai Port Trust Board together with such further amount as may accrue for any period during which the vessel is distrained and detained is paid.

Please also note that in case the above said amount and the cose of the distrain is not settled within 5 days from the date of distrain order (i.e.).....I shall be constrained to sell the above vessel under the powers vested under section 64 of the said Act and the sale proceed, will be adjusted against the charges due to the Board including the cost of the sale of the vessel.

Yours faithfully,

Deputy Port Conservator  
CHENNAI PORT TRUST

Copy to: M/s. Owners of m.v  
Copy to: M/s Agent of the vessel.

FORM III

(See Regulation 5(4) )

ADVERTISEMENT

In exercise of the powers conferred by section 64 of the Major Port Trusts Act, 1963, the Chennai Port Trust invite sealed tenders from the intended purchasers for the sale of the vessel m.v.....on "as is where is" basis.

2. Brief particulars of the vessel are as follows:

Name of the vessel :  
Year of Built :  
G.R.T :

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N.R.T	:	meat any shortfall or other expense arising out of the said resale.
Length	:	
Breadth	:	7. Customs, Excise and Import Duty, Sales Tax, Local Taxes, etc. as applicable on "BUYERS' ACCOUNT".
Depth	:	
Deadweight	:	
Classification	:	8. The Tenders will be opened on.....at.....in the presence of the Deputy Port Conservator, Chennai Port Trust in his office and the acceptance of any tender will be at the sole discretion of the Deputy Port Conservator, Chennai Port Trust.
Engine	:	
B.H.P.	:	
L.D.T.	:	
Yard	:	

3. Offers in double sealed covers are invited before .....hrs. on.....addressed to the Deputy Port Conservator, Chennai Port along with an Earnest Money Deposit of Rs.....(Rupees..) by Bank Draft payable at.....in favour of.....The tender should be submitted superscribing on the envelope TENDER FOR THE PURCHASE OF M.V.....

4. All tenders received after the due date and time will be summarily rejected.

5. The sealed tenders for the purchase of the vessel shall be opened on.....in the presence of Deputy Port Conservator, Chennai Port Trust in his office. The acceptance of the offer will be communicated to the successful Tenderer.

6. The successful tenderer shall pay 25% of the bid amount within five days from the date of acceptance of the tender and the balance within 45 days from that date. No Bank Guarantee will be accepted. 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 Deposit of Rs.....forfeited and the ship resold at the risk of cost of the tenderer, whose tender was accepted. Should the balance of sale consideration be not paid within the aforesaid time of 45 days from the acceptance of the tender, the sale stand automatically revoked and the earnest money of Rs.....be forfeited. The 25% amount already paid shall be retained to

9. The ship should be removed from the Chennai Port Trust within 30 days from the date of sale. During this time the ship should be kept manned by certificated Master, certificated officers and certificated engineers plus an adequate number of crew. These arrangements should be made by the Buyer.

10. The Buyer will have to pay all the rate/penalties from the date of sale of the vessel till the date of actual removal of the vessel from the harbour in accordance with the Chennai Port Trust (Distraint or Arrest and Sale of Vessel) Regulations, 1987.

11. Under no circumstances, the Buyer will be permitted to dismantle the ship inside the harbour or within Port limits, unless or other wise it is permitted to do so.

12. The ship which is lying at.....may be inspected by prior appointment with the Deputy Port Conservator, from.....to.....

13. The Port reserves the right to reject any or all the tenders without assigning any reason whatsoever.

Deputy Port Conservator  
CHENNAI PORT TRUST