

DGS Order No. 4 of 2001

Sub: Prohibition on carrying on multimodal transportation

Prohibition on carrying on multimodal transportation unless registered with D.G. Shipping & Mandatory use of Multimodal Transport Document prescribed under Govt. of India Rules

Read: Notification No. PT-11023/6/86-PT(ii) dated 20-10-1992 and the order No. MSL-13(1)/94 dated 17-3-1994 issued thereof.

A : Need for registration as MTO :

In view of the provisions of Section (3) of the Multimodal Transportation of Goods Act (MMTG), 1993, no person shall carry on or commence business on multimodal transportation unless he is registered under the Multimodal Transportation of Goods Act, 1993.

B : Need for issue of Multimodal Transport Document :

1. As regards whether it is necessary for a registered Multimodal Transport Operator (MTO) to use an Multimodal Transport Document (MTD) every time he carries out an Multimodal Transport operation for his clients, I would like to make the following clarifications : Section 2(k) of the Act defines "Multimodal Transportation" to mean "carriage of goods, at least two or more modes of transport from the place of acceptance of the goods in India to a place of delivery of the goods outside India"; Section 2(l) defines "Multimodal Transport Contract " to mean "a contract under which Multimodal Transport Operator undertakes to perform or procure the performance of Multimodal Transportation against payment of freight". Thereafter, sub-clause (l a) defines a 'Multimodal Transport Document' to mean "a negotiable or non-negotiable document evidencing a Multimodal Transport Contract, and which can be replaced by Electronic Data Interchange messages, permitted by applicable law".

2. Section 7 sub-clause (1) of the Act reads "where the consignee and the MTO have entered into a contract for the multimodal transportation and the MTO has taken charge of the goods, he shall, at the option of the consignor, issue a negotiable or non-negotiable multimodal transport document".

3. On careful perusal of the foregoing clause (1) of Section 7, it will be seen that the option of the consignor is restricted to issue of a negotiable or non-negotiable MTD. The consignor has no freedom or option to advise or require the MTO on issue of any document other than an MTD. It may be noted that the MTO also does not

have freedom or option, in view of the words "he shall", to issue any document other than an MTD, when a multimodal transportation is involved.

4. The format including the terms and conditions relating to liabilities have already been prescribed by D.G. Shipping the competent registering authority with the approval of Central Govt. under rule (3) of the MTD Rules, 1994 vide No. PT-11023/6/86-PT(ii) dated 20th October, 199. Thus, it is clear that every Multimodal Transport Contract entered into shall be in the form of an approved MTD as modified from time to time.

C : Implementation of Multimodal Transport Document requirements :

1. The contents of this order may be brought to the notice of all registered MTOs, and Banks and concerned authorities who deal with multimodal transportation directly and indirectly.

2. It should be brought to the notice of the commercial banks and other financial institutions that it is necessary to ensure no transaction which involves multimodal transportation but violates of the said Section 3 of the Act should be accepted by them. Thus, if a documentary letter of credit is to be negotiated, it should be ensured that the transport arrangements made should be only through a registered Multimodal Transport Operator (MTO), if the transportation envisages two or more modes of transport. Similarly, every registered MTO shall use only the prescribed Multimodal Transport Document whenever he is undertaking multimodal transportation.

3. This would ensure that the benefits of legislation pertaining to multimodal transportation would accrue to Indian buyers and shippers, and also that "fly-by-night" operators, without standing and without insurance, would be eliminated from the business of multimodal transportation.