BSAA/05/2023/03

Dated: 01-01-2023

The Chairman
Chittagong Port Authority
Bandar Bhaban,
Chattogram-4100.

Subject: Request for clarification in respect to the demand of arrear VAT from the shipping agents for the period of 2015-2016 in connection with the services provided by Chittagong Port Authority.

Dear Sir,
This has reference to the letter of the Commissioner, Customs, Excise, VAT Commissionerate, Chittagong bearing Nothi No. 4th/A (12) 43/Mushak Porihar/Chattogram Bondor/2013-14/So: Do:/2017 dated 28.08.2022, your various letters to our members being shipping agents demanding arrear VAT for the period of 2015-2016 and our previous letter bearing Reference No. BSAA/05/2022/117 dated 06.11.2022.

As a background, we would like to inform you that based on the letter of the Commissioner, Customs, Excise, VAT Commissionerate, Chittagong bearing Nothi No. 4th/A(12)43/Mushak Porihar/Chattogram Bondor/2013-14/So:Do:/2017 dated 28.08.2022 demanding payment of VAT from Chittagong Port Authority (**"CPA"**) for an amount of BDT 467,78,53,816/-, your esteemed organization, namely, CPA, issued various letters demanding arrear VAT for the period of 2015-2016 from a number of members of Bangladesh Shipping Agents Association (**"BSAA"**) during the period of October and November 2022. In response to the above, we, being entrusted with the solemn responsibility to protect the rights and interest of the member shipping agents of Bangladesh, issued a letter bearing Reference No. BSAA/05/2022/117 dated 06.11.2022 upon you, requesting you to take adequate measures to withdraw such arrear VAT demand letters of CPA and to resolve the matter with the National Board of Revenue and Commissioner, Customs, Excise, VAT Commissionerate, Chittagong by following the appropriate course of law instead of unreasonably and unlawfully shifting the burden towards the shipping agents and members of BSAA. In this regard, we also informed your esteemed office vide our aforesaid letter that since the Statement of Account (SOA) has been closed with the foreign shipping principals long ago, collection of the so called arrear VAT amount from the foreign shipping principals is practically impossible.

In addition to the above, we regret to inform you that the letters of CPA demanding arrear VAT from the shipping agents did not disclose the service heads or types of services for which such arrear VAT is claimed for the financial year of 2015-2016 and was not accompanied with any supporting documents. It is pertinent to mention here that before 27.12.2017, out of the 60 services provided by CPA, it imposed VAT on only 25 services vide its Circular No. 03/2000 dated 21.05.2000 and Circular No. 02/2004 dated 19.10.2004. As far as our members are concerned (the recipients of the letter of CPA demanding arrear VAT for 2015-2016), we have been informed that they have settled the bills and paid all the lawfully applicable VAT for the period of 2015-2016 in accordance with CPA's Circular No. 03/2000 dated 21.05.2000 and Circular No. 02/2004 dated 19.10.2004 and Value Added Tax Act, 1991 and other applicable laws of Bangladesh. Moreover, after the publication and issuance of the Notification No. 01/2018 dated

13.02.2018 of CPA, which imposed 15% VAT on all services provided by CPA under "Port Services" (Service Code No. S005.20) and "Other Miscellaneous Services" (Service Code No. S099.20), our member shipping agents are duly paying the applicable VAT amount after availing the services from CPA. As such, our member shipping agents are still perplexed and completely in the dark regarding the ongoing demand of CPA for arrear VAT for the period of 2015-2016, and amid such uncertainties they are conducting their operation with increasing difficulties. Without prejudice to any rights under the law or our aforesaid earlier letter bearing Reference No. BSAA/05/2022/117 dated 06.11.2022, we and our member shipping agents require to know the service heads, type, nature and list of services on which the arrear VAT has been claimed by CPA for the period of 2015-2016 and how the VAT for the period of 2015-2016 is remained outstanding when the shipping agents had settled all the bills including applicable VAT pursuant to the instruction given by CPA in the Circular No. 03/2000 dated 21.05.2000 and Circular No. 04/2004 dated 19.10.2004, Value Added Tax Act, 1991 and other applicable laws of Bangladesh.

In addition to the above, we would also like to draw your kind attention to the fact that our member shipping agents have an inalienable right to enjoy the protection of the law and to be treated only in accordance with law. As such, any claim of arrear VAT for the period of 2015-2016 which falls beyond the scope of the laws applicable at that period of time shall be untenable in the eye of law and any attempt to impose unauthorized retrospective effect on payment of VAT amount shall also be illegal and without any lawful authority.

In view of the above, we do hereby request you to provide us with clarification regarding service heads, type, nature and list of services for which arrear VAT for the period of 2015-2016 has been demanded and the grounds based on which such VAT has been demanded within 10 (ten) days of receiving this letter, and also to settle CPA's dispute with National Board of Revenue and/or Commissioner, Customs, Excise, VAT Commissionerate, Chattogram by following proper course of law without unlawfully and unreasonably shifting the burden on the shipping agents of Bangladesh.

This notice is served without prejudice to our rights, claims or entitlement under the the Law.

Yours sincerely,

(Syed Mohammad Arif)
Chairman

Cc to: 1. Members of the Board of Directors, BSAA.
2. All Member Agents, BSAA.