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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 258

New Delhi,

5 July 2018

NOTIFICATION

In exercise of the powers conferred under Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mumbai Port Trust (MBPT) for revision of Lighterage charges and water conveyance charges prescribed in the MBPT Scale of Rates (SOR), as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/15/2018-MBPT

The Mumbai Port Trust

- - -

Applicant

QUORUM

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

ORDER

(Passed on this 8th day of June 2018)

This case relates to a proposal dated 14 February 2018 received from the Mumbai Port Trust (MBPT) for revision of Lighterage charges and water conveyance charges prescribed in the MBPT Scale of Rates (SOR).

2.1. This Authority has passed an Order No. TAMP/78/2015-MBPT dated 21 June 2016, revising the Scale of Rates and approving the Performance Standards of MBPT based on the proposal received from the MBPT for general revision of its Scale of Rates (SOR). The said order prescribes a tariff validity period upto 31 March 2019.

2.2. Vide the said order, the following charges on vessels/ Barges/ boats/ Pass pilot vessels and barges for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double Banking) have been prescribed at section 2.2 of the SOR.

Caption of Section 2.2

Charges on vessels/ barges/ boats/ pass pilot vessels and barges for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double Banking)

| Sl. No. | Nature of Movements | Rate per GRT | |
|---------|---|---------------------------------|------------------------|
| | | Foreign-going Vessel (in US \$) | Coastal vessel (in ₹.) |
| (a). | Double Banking with tug assistance | 0.3179 | 8.6922 |
| (b). | Double Banking without tug assistance | 0.2243 | 6.1369 |
| (c). | Lighterage dues on Mother Vessels discharging / receiving cargo - On foreign-going vessels and coastal vessels lighterage dues respectively at the rate of US \$ 0.0063 and ₹.0.1716 per GRT for a period of one hour or part thereof shall be levied from the time it is anchored / occupies the place in stream and Port Lighterage Anchorage Area for working cargo. Anchorage charges shall be levied during the period vessel is not working cargo. The lighterage dues shall not be levied on the vessels engaged in mid-stream discharge at Port Lighterage Anchorage Area Port Limit for (1) vessel which discharges part cargo for reducing the draft of the vessel for calling at the Docks / Pier of MBPT and if subsequently calls at Docks or Piers of Mumbai Port, (2) vessels which discharge entire cargo into barges for subsequent discharge at Docks/ Bunders of Mumbai Port and sail out from stream/ Port Lighterage Anchorage Area and the discharged cargo is subsequently brought at Docks/ Bunders and (3) mother vessels which receive cargo brought by the barges loaded from the MBPT Docks/ Bunders. | | |

2.3. Further, the License Fees for Barges and Tugs engaged in loading/ discharging of cargo in mid-stream and/ or plying beyond the limits of Port of Mumbai for conveyance of cargo has been prescribed at the rate of ₹.43.84 per GRT per Month at section 2.11(II), sl. no.(3).

2.4. Based on the enabling provision contained in the Tariff Policy, 2015, this Authority vide its letter No.TAMP/12/2009-Misc. dated 14 June 2017 has requested all Major Port Trusts to

index their SOR by applying an indexation factor of 2% for the year 2017-18 subject to achievement of committed performance Standards during 2016-17. The adjusted SOR has come into force from 1 May 2017. Accordingly, the MBPT has applied the indexation of 2% on the approved SOR.

3.1. In this backdrop, the MBPT vide its letter No. FA/ACC/161(X)/1257 dated 14 February 2018 has come up with a proposal in reference and the submissions made by MBPT are summarized below:

- (i) Levy of double banking charges on coastal Pass Pilot Vessels and barges was approved by TAMP under Tariff Policy, 2015 by order dated 21.06.2016 and incorporated in Section 2.2 of MBPT SOR made effective from 19.08.2016.
- (ii). Barge owners have now raised objection for levy of double banking charges for operations at mid-stream stating that they are paying monthly port dues and water conveyance for pass pilot license. Their contention is that their barge performs the double banking operation in mid-stream in order to bring the cargo from mother vessel to the MBPT Dock/ Bunder and Dharamtar and hence the levy of double banking is to be charged to the mother vessels instead of their barges.
- (iii). When the users had represented to TAMP, TAMP has forwarded representations received from barge owners and requested MBPT to examine the matter.
- (iv). In this connection, several meeting and discussions were held with barge owners and it was concluded that since the proposal has already been approved by TAMP, it can be resolved before TAMP only.
- (v). The nature of levy of Pass Pilot charges to the barges is for allowing the barge to ply in Mumbai harbor without MBPT pilot on board. The said charges levied is on monthly basis with an embedded facility of 10 pilotage movements, whereas, double banking charges are levied for bringing the barge alongside mother vessel at anchorage to enable carrying Lighterage operations (cargo activity). The Mini Bulk Carrier are without pass pilot and are levied pilotage and double banking charges as and when they go alongside mother vessels in the stream for cargo activities.
- (vi). When a vessel is piloted to go alongside another vessel in addition to normal pilotage charges, there is additional charge of double banking. This charge is towards extra skill and time consumed for putting the vessel alongside. While issuing pass pilot, this revenue of double banking was not taken into account. Hence, double banking charges are levied on actual occurrence and not for entire period of issuance of pass pilot.
- (vii). MBPT facilitates stream discharge as a matter of policy since long. Initially lighterage was allowed to enable mother vessel to discharge cargo and bring the draft level down to the level required to berth at the basin/ outer wall berths. However, MBPT does not have berthing facility for bigger ships of Panamax and Super Panamax.
- (viii). Due to emerging competition, limitation of draft in our basin and other wall berth to handle vessels with deeper draft and to facilitate trade, of late, mother vessels are allowed to discharge 100% of cargo in stream, thereby, foregoing cargo handling operations at berth.
- (ix). In the above scenario, MBPT has to be innovative and consider earning source of handling of cargo in stream and virtual port operations. Further, double banking of barge alongside the vessel is akin to providing facility to mother vessel to carry out cargo operations. Hence, double banking charges can be apportioned in the lighterage charges to mother vessel and water conveyance charged to barge.
- (x). In view thereof, the Board by TR No. 182 dated 09.01.2018 accorded sanction to the proposal for (i). deletion of words 'Pass pilot vessels and barges' from heading of Section 2.2 and (ii) upward revision of Lighterage dues on Mother Vessels by

10% and Water Conveyance charges for Barges and Tugs by 50% in the MBPT SOR.

- (xi). When compared with revenue from double banking charges, there is a revenue gap of ₹.5.32 crores. In that matter, it is stated that although there is a revenue gap against the loss of revenue, revenue neutrality would be achieved by increase of volume in the stream activity and Lighterage charges.
- (xii). Currently, an outstanding amount of ₹.4.5 crores has been billed for Double Banking Charges as per TAMP notified rates which has not been honored by the Vessel Agents for the bills rendered upto September 2017. The proposed charges will be applied prospectively subject to the condition that the existing outstanding dues are liquidated forth with. TAMP is requested to issue an Order for payment of charges due at the old rates upto the date of approval and thereafter the new rates will be made applicable prospectively.

3.2. Accordingly, the proposal of the Port seeks approval for the following:

- A. Section 2.2 (C) of SOR – increase of 10% in Lighterage charges:

| Lighterage dues on Mother vessels discharging / receiving cargo (Per GRT per hour or part thereof) | | | |
|---|-------|----------------------|----------------------|
| | | Existing Rate | Proposed Rate |
| Foreign | US \$ | 0.0064 | 0.0070 |
| Coastal | ₹. | 0.1750 | 0.1925 |

- B. Section 2.11 (II) Sl. No. (3) – 50% increase in License Fees for water conveyance:

| License Fees for water conveyance for harbor crafts (Per GRT per month) | | |
|---|------------------------------|------------------------------|
| Section 2.11 (II) Sl. No. (3) | Existing Rate (in ₹.) | Proposed Rate (in ₹.) |
| Barges and Tugs engaged in loading / discharging of cargo in mid-stream and/or plying beyond the limits of Port of Mumbai for conveyance of cargo | 44.72 | 67.08 |

- C. Section 2.2 of SOR - Delete the words 'Pass Pilot vessels and barges' from heading of Section 2.2 and prescribe the following provision.

| Existing | Proposed |
|--|---|
| Charges on vessels / Barges / boats / Pass Pilot vessels and barges for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double banking) | Charges on vessels / Barges / boats for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double banking) |

3.3. The proposal of the MBPT is to accord approval to the hike over the indexed rates.

3.4. The proposal of the MBPT has approval of its Board of Trustees. The MBPT has furnished a copy of the Board Resolution.

4. On preliminary scrutiny of the proposal, it was seen that some information/clarification are required from MBPT. Accordingly, while acknowledging the proposal of MBPT, the MBPT was requested by letter dated 23 February 2018 to clarify a few points. The MBPT has responded vide its letter No. FA/ACC/161(X)/2247 dated 20 April 2018. The clarification sought by us and the reply furnished by MBPT thereon is tabulated below:

| Sl. No | Clarification sought by us | Reply furnished by MBPT | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------|--|--|------------------|------------------|------|------------------|-------|--------|---|------------|-------|--------|---|-----------------|------------|--|--|-----|------------|------|----------------|-------|-----|-----|-----|--------------|-----|------|------|---------|------------------|-------|--------|---|----|-------------|-------|--------|---|----|------------------|------------|--|--|------|--|------------|------|----------------|------------------|------|-----|-----|--------------|-----|------|------------------|------|-------|-------------|------|-------|-------------------|------------|--|-------|------------|---------------|----------------|------------------|--|--|--|--|
| (i) | <p>The MBPT has proposed to increase the existing Lighterage dues on Mother Vessels discharging/ receiving cargo [Section 2.2 (C)] by 10% and the existing License Fees for water conveyance for Barges and Tugs engaged in loading/ discharging of cargo in mid-stream and/ or plying beyond the limits of Port of Mumbai for conveyance of cargo [Section 2.11 (II) – Sl. No. 3] by 50%. The additional revenue to be generated on account of the proposed increase in rates is reported to be closer to the loss in revenue arising due to abolition of double banking charges on the pass pilot vessels and barges. In this connection, the MBPT to furnish the workings with regard to the loss of revenue arising due to abolition of double banking charges on the pass pilot vessels and barges.</p> | <p>The working sheet after due recheck of working in regard to the estimated revenue with proposed increased in lighterage charges by 10% and water conveyance to coastal pass pilot barges by 50% and revenue gap arising due to abolition of double banking charges on the pass pilot vessels and barges furnished by MBPT is given below:</p> <p>1. Lightrage Calculation</p> <p>a) Coastal Vessels Average GRT of the Vessels = 30814</p> <table border="1" data-bbox="847 808 1377 1003"> <thead> <tr> <th>GRT</th> <th>Rate</th> <th>Hrs.</th> <th>Total ₹ per Hour</th> </tr> </thead> <tbody> <tr> <td>30814</td> <td>0.1750</td> <td>1</td> <td>5392 (Old)</td> </tr> <tr> <td>30814</td> <td>0.1925</td> <td>1</td> <td>5932 (Proposed)</td> </tr> <tr> <td colspan="3">Difference</td> <td>539</td> </tr> </tbody> </table> <table border="1" data-bbox="847 1032 1377 1128"> <thead> <tr> <th>Difference</th> <th>Hrs.</th> <th>No. of vessels</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>539</td> <td>101</td> <td>185</td> <td>10071215 (A)</td> </tr> </tbody> </table> <p>(25000 GRT vessel will carry approx. 40000 mts. Cargo which will take approx. 101 hrs to discharge)</p> <p>b) Foreign Vessels Average GRT of the Vessels = 30814</p> <table border="1" data-bbox="847 1352 1377 1525"> <thead> <tr> <th>GRT</th> <th>Rate</th> <th>Hrs.</th> <th>\$ Rate</th> <th>Total ₹ per Hour</th> </tr> </thead> <tbody> <tr> <td>30814</td> <td>0.0064</td> <td>1</td> <td>64</td> <td>12621 (Old)</td> </tr> <tr> <td>30814</td> <td>0.0070</td> <td>1</td> <td>64</td> <td>13805 (Proposed)</td> </tr> <tr> <td colspan="3">Difference</td> <td>1183</td> <td></td> </tr> </tbody> </table> <table border="1" data-bbox="847 1554 1377 1664"> <thead> <tr> <th>Difference</th> <th>Hrs.</th> <th>No. of vessels</th> <th>Total ₹ per hour</th> </tr> </thead> <tbody> <tr> <td>1183</td> <td>101</td> <td>291</td> <td>34769553 (B)</td> </tr> </tbody> </table> <p>(25000 GRT vessel will carry approx. 40000 mts. Cargo which will take approx. 101 hrs to discharge)</p> <p>2. Water Conveyance calculation Ave. GRT of the Barge = 1597</p> <table border="1" data-bbox="847 1821 1377 1935"> <thead> <tr> <th>GRT</th> <th>Rate</th> <th>Total ₹ per Hour</th> </tr> </thead> <tbody> <tr> <td>1597</td> <td>44.72</td> <td>71418 (Old)</td> </tr> <tr> <td>1597</td> <td>67.08</td> <td>107127 (Proposed)</td> </tr> <tr> <td colspan="2">Difference</td> <td>35709</td> </tr> </tbody> </table> <table border="1" data-bbox="847 1964 1377 2016"> <thead> <tr> <th>Difference</th> <th>No. of Months</th> <th>No. of vessels</th> <th>Total ₹ per hour</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> | GRT | Rate | Hrs. | Total ₹ per Hour | 30814 | 0.1750 | 1 | 5392 (Old) | 30814 | 0.1925 | 1 | 5932 (Proposed) | Difference | | | 539 | Difference | Hrs. | No. of vessels | Total | 539 | 101 | 185 | 10071215 (A) | GRT | Rate | Hrs. | \$ Rate | Total ₹ per Hour | 30814 | 0.0064 | 1 | 64 | 12621 (Old) | 30814 | 0.0070 | 1 | 64 | 13805 (Proposed) | Difference | | | 1183 | | Difference | Hrs. | No. of vessels | Total ₹ per hour | 1183 | 101 | 291 | 34769553 (B) | GRT | Rate | Total ₹ per Hour | 1597 | 44.72 | 71418 (Old) | 1597 | 67.08 | 107127 (Proposed) | Difference | | 35709 | Difference | No. of Months | No. of vessels | Total ₹ per hour | | | | |
| GRT | Rate | Hrs. | Total ₹ per Hour | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 30814 | 0.1750 | 1 | 5392 (Old) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 30814 | 0.1925 | 1 | 5932 (Proposed) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Difference | | | 539 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Difference | Hrs. | No. of vessels | Total | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 539 | 101 | 185 | 10071215 (A) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| GRT | Rate | Hrs. | \$ Rate | Total ₹ per Hour | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 30814 | 0.0064 | 1 | 64 | 12621 (Old) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 30814 | 0.0070 | 1 | 64 | 13805 (Proposed) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Difference | | | 1183 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Difference | Hrs. | No. of vessels | Total ₹ per hour | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1183 | 101 | 291 | 34769553 (B) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| GRT | Rate | Total ₹ per Hour | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1597 | 44.72 | 71418 (Old) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1597 | 67.08 | 107127 (Proposed) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Difference | | 35709 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Difference | No. of Months | No. of vessels | Total ₹ per hour | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | | | |
|-------|---|---|----------|----------|-----------------------------|
| | | 35709 | 12 | 137 | 58705596 (C) |
| | | Total Revenue can be generated by applying the rates (A+B+C) | | | |
| | | A | B | C | A+B+C+D |
| | | 10071215 | 34769553 | 58705596 | 103546364 = ₹ 10.35 crs. |
| | | Revenue from Double Banking Charges to pass pilot vessels/ barges = ₹ 14.08 crores Revenue gap of ₹ 3.73 crores. | | | |
| (ii) | In the workings furnished by MBPT at Annex – B of the proposal, the MBPT has considered average GRT of Vessels (both foreign and coastal) at 30,000 for arriving at the incremental revenue from lighterage operations and average GRT of barges at 1500 for arriving at the incremental revenue from water conveyance. The MBPT to furnish the basis for considering GRT of Vessels at 30,000 and GRT of barges at 1500 in the said calculation. | The basis for considering GRT of vessels, GRT of barges, details of coastal/ foreign vessels and barges and average Lighterage hours for the past three years i.e. F.Y. 2015-16, 2016-17 and 2017-18 (upto Feb.2018) has been furnished by MBPT. [The MBPT has considered average GRT of 30814 for the vessels (both foreign and coastal) at lighterage operations and average GRT of 1597 for the barges for calculating water conveyance charges in the revised working furnished along with the MBPT letter dated 20 April 2018 based on the Actual for the year 2016-17] | | | |
| (iii) | The number of vessels considered by MBPT for arriving at the incremental revenue from lighterage operations is 350 numbers of coastal vessels and 250 numbers of foreign vessels. Likewise, the number of barges considered by MBPT for arriving at the incremental revenue from water conveyance is 125 barges. The no. of coastal/ foreign vessels and barges considered in the calculations to be substantiated with actuals for the past three years. | [The MBPT has considered 185 number of coastal vessels and 291 number of foreign vessels for calculating revenue from lighterage operations and 137 barges for calculating revenue water conveyance charges in the revised working furnished along with the MBPT letter dated 20 April 2018 based on the Actual for the year 2016-17. The details of the actual vessels handled at MBPT for the 2015-16, 2016-17 and 2017-18 (upto 2/2018) has been furnished by MBPT] | | | |
| (iv) | Also, 90 hours for discharge of cargo during the lighterage operations to be substantiated with actuals for the past three years. | [The MBPT has considered 101 hours for discharge of cargo during the lighterage operations for calculating revenue from lighterage operations in the revised working furnished along with the MBPT letter dated 20 April 2018] | | | |

5. In accordance with the consultative procedure prescribed, a copy of the MBPT proposal dated 14 February 2018 was forwarded to the concerned users/ user organizations by letter dated 23 February 2018 seeking their comments. None of the users / users' organisations have given their comments except Indian Barge owners' Association (IBOA), vide its letter dated 03 March 2018 which was forwarded to MBPT as feedback information. M/s. M. Pallonji Logistics Private Limited (MPLPL) vide its letter dated 08 March 2018 has endorsed the views of IBOA. The MBPT vide its letter No.FA/ACC/161(X)/2247 dated 20 April 2018 has responded to the comments of IBOA.

6. A joint hearing on the case in reference was held on 16 March 2018 at the office of this Authority in Mumbai. At the joint hearing, MBPT and users/ user organisations have made their submissions.

7. As agreed at the joint hearing, the concerned users / user organization were requested to furnish their comments/ make additional submissions vide our letter dated 27 March 2018. In response, only Maritime Association of Nationwide Shipping Agencies (MANSA) has

furnished its comments vide its e-mail dated 10 April 2018, which was forwarded to MBPT for its comments. The MBPT has not responded till the case was finalized.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the arguments made by the concerned parties will be sent separately to them. These details will also be made available at our website <http://tariffauthority.gov.in>.

9. With reference to totality of information collected during the processing of this case, the following position emerges:

- (i). The existing Scale of Rates (SOR) approved by this Authority vide its Order No. TAMP/78/2015-MBPT dated 21 June 2016, with a validity period upto 31 March 2019, *inter alia*, prescribes Lighterage dues and License Fees for water conveyance for harbour crafts. Based on the enabling provisions in the Tariff Policy, 2015, regarding annual indexation, the prevailing charges for the above tariff items after application of indexation factor by MBPT is as follows.

| Description | As per TAMP Order dated 21 June 2016 | | After application of indexation factor for the year 2017-18 | |
|--|---|--|---|--|
| | Foreign going vessels | Coastal vessels | Foreign going vessels | Coastal vessels |
| Section 2.2 (c). Lighterage dues on Mother Vessels discharging/ receiving cargo from the time it is anchored/ occupies the place in stream and Port Lighterage Anchorage Area for working cargo | US \$ 0.0063 per GRT for a period of one hour or part thereof | ₹. 0.1716 per GRT for a period of one hour or part thereof | US \$ 0.0064 per GRT for a period of one hour or part thereof | ₹. 0.1750 per GRT for a period of one hour or part thereof |
| Section 2.11 (II) License Fees for water conveyance for harbour crafts Sl. No.(3). Barges and Tugs engaged in loading/ discharging of cargo in mid-stream and / or plying beyond the limits of Port of Mumbai for conveyance of cargo | ₹ .43.84 per GRT per month | | ₹ .44.72 per GRT per month | |

- (ii). The proposal of MBPT is to;
- Delete words "pass pilot vessels and Barges" from the heading of Section 2.2 "Charges on vessels/ Barges/ boats/Pass pilot vessels and barges for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double Banking),
 - Increase the existing Lighterage dues on Mother Vessels by 10%.
 - Increase the existing License Fees for conveyance of cargo by Barges and Tugs by 50%.
 - Accordingly, the proposed charges for lighterage on mother vessels and water conveyance is as follows;

| Description | After application of indexation factor for the year 2017-18 | |
|---|---|--|
| | Foreign going vessels | Coastal vessels |
| Section 2.2 (c). Lighterage dues on Mother Vessels discharging / receiving cargo from the time it is anchored / occupies the place in stream and Port Lighterage Anchorage Area for working cargo | US \$ 0.0070 per GRT for a period of one hour or part thereof | ₹. 0.1925 per GRT for a period of one hour or part thereof |
| Section 2.11 (II) License Fees for water conveyance for harbour crafts Sl. No.(3). Barges and Tugs engaged in loading/discharging of cargo in mid-stream and / or plying beyond the limits of Port of Mumbai for conveyance of cargo | ₹ 67.08 per GRT per month | |

- (iii). (a). The exclusion of the words “Pass pilot vessels and barges” from the heading of the Section 2.2 of the Scale of Rates of MBPT is reported to be based on the representation made by the Barge Owners on their contention that the barge performs the double banking operating in the mid- stream in order to bring the cargo from mother vessel to the MBPT Docks/ Bunder and Dharamtar and hence the levy of double banking is to be charged to mother vessels instead of barges.
- (b). The MBPT has reported that it would lose revenue to the tune of ₹ 14.08 crores per annum due to exclusion of the Pass pilot vessels and barges from the heading of the Section 2.2 of its Scale of Rates. The amount of revenue loss of ₹ 14.08 crores p.a. has been arrived by MBPT by considering 125 barges per month of 1500 GRT each working 10 hours per barge at the present charge of ₹ 6.2596 per GRT per hour.
- (c). However, as seen from the revised working sheet furnished by the MBPT along with its letter dated 20 April 2018, the average GRT of a barge and the number of vessels has been revised to 1597 tonnes and 137 respectively. Accordingly, the loss of revenue as brought out above has been reassessed considering the revised figures, which works to ₹ 16.43 crores.
- (iv). The proposed revision in the lighterage dues and license fee for water conveyance charges is reported to generate an additional revenue to the tune of ₹. 10.35 crores per annum to the port during the remaining tariff validity period upto 31 March 2019 as per the working furnished by MBPT, thereby leaving a revenue gap of ₹ 6.08 crores (₹.16.43 crores – ₹.10.35 crores) arising due to exclusion of the Pass pilot vessels and barges from the ambit of levy of Double Banking Charges (without tug assistance).
- (v). (a). The Indian Barge Owners Association (IBOA), the Pallonji Logistics Private Limited (PLPL), Sri Krishna Stevedores Private Limited and the Maritime Association of Nationwide Shipping Agencies (MANSA) have objected to the proposed hike in the lighterage dues leviable on mother vessels and the license fee for conveyance of cargo leviable on pass pilot vessels and barges. However, the MBPT has maintained during the proceedings of this case that the proposal has been formulated after a series of discussions with the stakeholders, which is not denied by the stake holders.

- (b). In view of the draft limitations at the basin and other wall berth of MBPT to handle vessels with deeper draft, the MBPT has allowed mother vessels to discharge entire cargo in stream and in this process cargo handling operations at berth are foregone. There may not be two opinion on the contention of the MBPT that double banking of barge alongside the vessels is akin to providing facility to mother vessel to carry out cargo operations. If the existing double banking charges leviable on pass pilot vessels and barges for allowing them alongside mother vessel for working of cargo in stream are withdrawn there will be loss of revenue to the extent of ₹ 16.43 Crores per annum to the MBPT, as reassessed and as brought out in the earlier paragraph.
- (c). As reported by MBPT, the MBPT provides navigation channels at different locations of anchorages, monitors vessel movement through VTMS and the responsibility to manage any disaster happening in the port limit rests with the MBPT. That being so, the levy of double banking charges cannot be termed as notional charge as contended by the MANSA. It may not be appropriate to consider the proposal of MBPT for withdrawing the double banking charges leviable on pilot pass vessels and barges in isolation. If the expenses for the above said services are to be recovered, there has to be an avenue for earning the revenue to meet the expenses. In this connection, the MBPT has proposed to apportion the double banking charges realizable from pass pilot vessels and barges to lighterage charges payable by mother vessels working in stream and water conveyance charges payable by the pilot pass vessels and barges. Even with the proposed hike in lighterage charges and water conveyance charges there would be a revenue gap to the tune of ₹ 6.08 Crores.
- (d). With reference to the argument of the IBOA that the recovery of license fee for conveyance of cargo at the existing rate does not commensurate with the services provided by MBPT, the contention of the MBPT is that it realizes an amount of ₹9.75 Crores from license fee and that this amount is negligible considering expenses related to dredging, stoppage of oil pollution, patrolling and VTMS expenses. Hence, there is a case for approving hike in the water conveyance charges by 50% over the existing rates, as proposed by the Port.
- (e). The other tariff item identified by MBPT for hike in rate is the lighterage charge payable by the mother vessels. The hike proposed is 10% over the existing rate. With this increase in lighterage charge, the cost to the end user will increase, as pointed out by JSW Steel. The revised lighterage charge is a ceiling rate. There is flexibility to MBPT to levy lower rates based on market condition as per clause 1.2 (vi) (a) as already prescribed in the Scale of Rates of MBPT. In any case, with the withdrawal of double banking charges leviable on pass pilot vessels and barges, there can be relief to the end user.
- (vi). The proposal in reference has reported a reduction of revenue to the tune of ₹ 6.08 crores per annum to the port during the remaining tariff validity period upto 31 March 2019. During the last general revision of tariff of MBPT in June 2016, there was a revenue gap to the tune of ₹.265.55 crores, which has been left uncovered by the Port, then. Thus, the reduction of revenue arising out of this proposal under reference, would further enhance the revenue gap, which has been left uncovered with that of Annual Revenue Requirement (ARR).
- (vii). The MBPT has reported that bills raised toward collection of Double Banking Charges as per existing TAMP notified rates were not honoured by the Vessel Agents and an amount of ₹4.5 crores is outstanding upto September 2017 from the vessel agents against the bills raised by MBPT.

In this context, the MBPT has proposed a condition for approval that the proposed charges will be applied prospectively subject to payment of existing outstanding dues as per the rates approved in the General revision of SOR upto the date of approval of the proposal in reference.

A Writ petition No.596 of 2018 has been filed by M/s. Raj Shipping Agencies Limited (RSAL) and others against Union of India, this Authority and MBPT before the Hon'ble High Court at Bombay, challenging the order dated 21 June 2016 passed by this Authority approving the general revision of Scale of Rates (SOR) of MBPT to the extent of approval accorded to levy double banking charges on barges and pass pilot vessels owned by RASL and others.

The RSAL has prayed before the Hon'ble High Court at Bombay to direct this Authority to quash paragraph 11 (xiii) of the order dated 21 June 2016, which reads as follows;

“The existing description of Section 2.2 – Charges on vessel/ barges/ boats for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double Banking) is proposed to be modified to include Pass pilot vessels and barges. Since almost all the barges/ tugs/ vessels engaged in loading/ discharging of cargo in midstream and Port Lighterage Anchorage Area are having Pass Pilot Permission, which allows the barges to perform ‘n’ number of movements without taking MBPT pilot, the Pass Pilot vessels/ barges pay only the Water Conveyance charge and not the Double Banking Charge. Since most of the mid-stream operation is done by pass pilot barges / vessels, the MBPT has proposed the said note, which is approved.”

The Petitioners have also prayed to the Hon'ble Court that pending the hearing and disposal of the Writ petition, the MBPT may be directed to restrain from raising any invoices and demand notices including demanding payment of the outstanding invoices containing double banking charges from the barges.

As brought out above, the matter of levy of double banking charges on the barges and pass pilot vessel is *subjudice*. Thus, it is not felt appropriate to take a decision on prescription of the proposed condition. Hence, this Authority does not accede to the request of MBPT to incorporate the condition that the proposed charges will be applied prospectively subject to payment of existing outstanding dues as per the rates approved in the General revision of SOR upto the date of approval of the proposal in reference. The MBPT is advised to take necessary appropriate action as per the directions of the Hon'ble High Court in this regard.

- (viii). Orders of this Authority generally come into effect prospectively after expiry of 30 days from the date of Gazette Notification unless otherwise different arrangement is specifically mentioned in the respective tariff Orders. Accordingly, this Authority is inclined to grant approval for increase of 10% over the indexed Lighterage charges and 50% increase over the indexed License Fees for water conveyance leviable on the harbour crafts described in Section 2.11 (II) (3) of the SoR of MBPT and deletion of the words 'Pass Pilot vessels and barges' from heading of Section 2.2 with prospective effect after the expiry of 30 days from the date of Gazette Notification of the Order in the Gazette of India.

10.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords approval for the following:

- (i). To Replace the existing caption at Section 2.2 under the Chapter –II (Vessel Related charges) with the following:
“Charges on vessels/ Barges/ boats for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Anchorage Area (Double Banking)”

(ii). Section 2.2 (c)

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| (c). | Lighterage dues on Mother Vessels discharging / receiving cargo - On foreign-going vessels and coastal vessels lighterage dues respectively at the rate of US \$ 0.0070 and ₹. 0.1925 per GRT for a period of one hour or part thereof shall be levied from the time it is anchored / occupies the place in stream and Port Lighterage Anchorage Area for working cargo. Anchorage charges shall be levied during the period vessel is not working cargo. The lighterage dues shall not be levied on the vessels engaged in mid-stream discharge at Port Lighterage Anchorage Area Port Limit for (1) vessel which discharges part cargo for reducing the draft of the vessel for calling at the Docks / Pier of MBPT and if subsequently calls at Docks or Piers of Mumbai Port, (2) vessels which discharge entire cargo into barges for subsequent discharge at Docks / Bunders of Mumbai Port and sail out from stream / Port Lighterage Anchorage Area and the discharged cargo is subsequently brought at Docks / Bunders and (3) mother vessels which receive cargo brought by the barges loaded from the MBPT Docks/ Bunders. |
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(iii). Section 2.11 (II) (3)

| Sl. No. | Particulars | Rate per GRT per month (in ₹) |
|---------|---|-------------------------------|
| (3). | Barges and Tugs engaged in loading/discharging of cargo in mid-stream and / or plying beyond the limits of Port of Mumbai for conveyance of cargo | 67.08 |

10.2 The MBPT is advised to suitably incorporate the above provisions in its Scale of Rates.

10.3 The revised rates approved shall come into effect after expiry of 30 days from the date of Notification of the Order passed in the Gazette of India and its validity shall remain co-terminus with the validity of the existing Scale of Rates of MBPT i.e. upto 31 March 2019.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

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| TAMP/15/2018-MBPT | : | Proposal received from the Mumbai Port Trust (MBPT) for revision of Lighterage charges and water conveyance charges in the MBPT Scale of Rates (SOR). |
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A summary of the comments received by IBOA and reply furnished by MBPT thereon is tabulated below:

| Sr. No. | Reference of MBPT Proposal | Summary of Comments received from IBOA | Reply furnished by MBPT |
|---------|---|---|---|
| 1. | Para No. 1 - Levy of double banking charges on coastal Pass Pilot Vessels and barges was approved by TAMP under Tariff Policy 2015 by order dated 21.06.2016 and incorporated in Section 2.2. of MbPT SOR made effective from 19.08.2016. | We had no occasion to raise the issue of levy of Double Banking Charges on our barges at the time the proposal was made by MbPT since it was clearly mentioned that these double banking charges are to be levied on " <u>Coastal Vessels</u> ". Since the barge owners do not own any 'Coastal Vessels', there was no need to raise any objection. The occasion to raise an objection only arose when the MbPT wrongly levied Double Banking Charges on our Barges. Therefore, the objections were not made at belated stage but on the first occasion available to us itself. | Indian Barge owners' Association (IBOA) have contended that the charges of Double Banking Operation are not applicable to barges but only to coastal vessel and other vessels and other vessels are not to be considered a coastal vessels. Here definition of "barge" is given at Clause 1.1. (ii) of Scale of Rates (SOR) as under: "Barge is a flat bottom vessel whether self-propeller or not". It does not make any distinction of vessel on coastal and foreign movement. Scale of Rates of the port at Clause 1.1. (xxvi) also defines 'Vessels' as "vessel includes anything made for the conveyance mainly by water of human being or of goods and a caisson" It is important to state here that all the barges are registered under Indian Vessel Act,1905. All vessel except for foreign vessels are to be considered as coastal vessels for the purpose of billing. Definition of coastal vessel state that any vessel exclusively employed in trading between any Port or Place in India to any other Port or Place in India. Since the barges are employed in the coast for loading and unloading of cargo and does not move |
| 2. | Para No. 2 - Barge Owners have now raised objection for levy of double banking charges for mid-stream stating that they are paying monthly port dues and water conveyance for pass pilot license. Their contention is that their barge performances the double banking operation in mid-stream in order to bring the cargo from the mother vessel to the MbPT Docks/Bender and Dharamtar and hence the levy of double banking is to be charged to the mother vessels instead of their barges." | (ii). IBOA has reiterated the objections raised by it in its letter dated 7.12.2017 as given below : 1. The charges levied by MBPT on the barges were not tenable, as they only pertained to Coastal vessels, and not to barges for the following reasons: a. Chapter II Clause 2.2. Double Banking charges are not applicable to barges. But are only applicable to Coastal Vessels. Therefore, Separate Charges are framed and levied to barges. b. Chapter II Clause 2.11(ii) Serial (3) which read as: "Boats and Tugs engaged in loading / discharging of | |

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| | | <p>cargo in mid-stream and/or playing beyond the limits of Port of Mumbai for conveyance of cargo".</p> <p>c. Further in the same Clause at Note(i) clarifies that :</p> <p>(i).These charges will be recovered from the vessels/ships/barges maneuvering piloted with their licensed Master (Pass Pilots) but will not be recoverable from crafts or launches belonging to Customs, Indian Navy, Coast Guards, Central or any provincial Governments and Surveyors.</p> <p>Therefore, it is obvious that double banking charges cannot be levied on barges. Moreover, this charge can only be levied on Coastal Vessel while the Separate Charges are recovered on barges are applicable in Chapter-II Clause 2.11(ii) Serial No. (3).</p> <p>2. All barges have been charged and they have paid by way of Water Conveyance Charges. "for loading/ discharging of cargo in mid-stream and/or paying beyond the limits of Port of Mumbai for conveyance of cargo". Therefore for carrying out the same operations in Mumbai Port, applicability of a different Clause in the SOR and that to, pertaining to "Coastal Vessel" may not arise</p> <p>3. It has been brought out that the SOR at Chapter 1.1 (ii) where the definition for "Barges" – Barge is flat bottomed vessel whether self-propelled or not". Whereas at the same Chapter the definition at Serial 1.1(iii) "Coastal Vessel" shall mean any vessel exclusively employed in trading between any port or place in</p> | <p>out of boundaries defined by Custom, hence the same needs to be treated as <u>coastal vessel</u> only.</p> <p>In the proposal for revision of Scale of Rates of Mumbai port submitted on 16.12.2015, the words "<u>Pass pilot vessels and barges</u>" were proposed to be added/inserted in the heading of charges prescribed at 2.2. of chapter II i.e. "Charges on vessels/Barges/boats/<u>Pass pilot vessels and barges</u> for arranging alongside other vessel for working of cargo in mid-stream and Port Lighterage Area (Double Banking)".</p> <p>TAMP while processing the proposal is guided by Policy for determination of tariff for Major Port Trust, 2015. Draft Scale of Rates and proposed Performance standard were uploaded on MbPT website in terms of Section 3.2 of the Guidelines. While processing the proposals for General Revision of Tariff of SOR TAMP had forwarded the proposal to all its stakeholders including Indian Barge owners Association (IBOA) vide their letter dated 1st March 2016. After due deliberations and hearing above modification was approved by the TAMP vide its Order dated 21 June 2016 with specific mention at clause 11 (xiii) that MbPT has proposed said note with the intension of recovering double banking charges from Pass pilot vessels and barges.</p> |
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| | | <p>India to any other port or place in India having valid coastal license issued by the Director General of Shipping / Competent Authority.</p> <p>Therefore, a barge defies the above definition in every sense and therefore cannot be called a "Coastal Vessel" and charges levied when the barge has already been charged for unloading / loading on payment of Water Conveyance.</p> <p>For reasons mentioned above, it has been submitted that the MBPT cannot levy any charge on barges for double banking and by asking us to pay the outstanding amounts is wrong and bad in law since it was not as per SOR and unilaterally imposed without the mandatory hearing organized by TAMP. It was also stated that any proposal that is under consideration by MBPT cannot be conditional to effect outstanding payment that was wrong in the first case.</p> | |
| 3. | <p><u>Para No. 4 -</u> In the above scenario, Mumbai Port Trust has to be innovative and consider the earning source of handling of cargo in stream and virtual port operations. Further, double banking of barge alongside the vessel is akin to providing facility to the mother vessel to carry out cargo operations. Hence, double banking charges can be appropriated in the lighterage charge to the mother vessel and water conveyance charged to the barges."</p> | <p>(i). Far from being innovative, the MbPT has to follow the well-established <i>quid pro quo</i> principle as mandated by the Guidelines of Regulations of Tariff at Major Ports. 2004, Policy for Determination of Tariff for Major Ports. 2015, and judgments of the Supreme Court of India while proposing and levying charges. The double banking of our barges alongside the mother vessels is a service provided by our barges to the mother vessel. MbPT provides no service to our barges in carrying out Double Banking during Lighterage operations and therefore is not entitled to</p> | <p>The India Barge owners' Associations' (IBOA) contention that MbPT does not provide any services of Barges carrying out Double Banking operations during lighterage operations as brought out at Sr.No. 2(i) of their letter dated 3rd March 2018 is incorrect. MbPT provide navigational channels bridging at the different locations of anchorages, monitoring of vessels through Vessel Traffic Management System (VTMS) and is also responsible for providing any kind of assistance in case of any disaster happening at the Port limit. Water front under</p> |

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| | | <p>levy this charge on our Barges.</p> <p>(ii). Further, vide the said Proposal, MbPT is effectively attempting to charge Double Banking Charges under the garb of increasing Water Conveyance Charges. This is contrary to the <i>quid pro quo</i> principle and therefore, impermissible. The said Proposal for the increase of water Conveyance charges is irrational, absurd, arbitrary and against the established principles of law. There is no nexus between the increase proposed and the justification for such increase. We, therefore, state that the Water Conveyance Charges, if increased, would lead to breach of equality on the ground of arbitrariness and will be violative of our fundamental rights as enshrined in the Constitution of India.</p> <p>(iii). The License Fees for Water Conveyance Charges currently charged by MbPT on the barges engaged in lighterage operations mid-stream is already commensurate with the service provided by MbPT (i.e. access to and use of the Water of MbPT) to the barges engaged in lighterage operations. Any hike in the current water conveyance charges, let alone a humungous 0% hike in these water conveyance charges, would be a complete violation of the <i>quid pro quo</i> principle. Furthermore, since the burden of the increased water conveyance charges would be passed on to the eventual consumer, the volume of trade taking place in the Mumbai Port Would be severally hampered and</p> | <p>which the said activity is carried out is within is within Mumbai Port Trust limit. Mumbai Port Trust has the right to levy, right to way and any other charges for the activity done in the exclusive water of Mumbai Port. Hence the contention is incorrect.</p> <p>Indian Barge owners' Association (IBOA) contention that license fee recovery from Barge owners' is commensurate with the services provided by the MbPT is also incorrect as MbPT on an average collects an amount of ₹.9.75 crores only from license fee whereas considering the dredging expenses, VTMS expenses and maintenance, expenses incurred on stoppage of oil pollution and other expenses like patrolling, the income earned is very negligible.</p> |
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| | | there will be a loss of traffic. This again is in contrary to clause 2.7 of the policy for Determination of Tariff for Major Ports. 2015. | |
| 4. | <p><u>Para No. 7 -</u> Currently outstanding amount of ₹.4.5. crore billed against existing Double Banking Charges as per TAMP notified rates, which was not honored by the Vessel Agents for the bills rendered upto September 2017. The proposed charges will be applied prospectively subject to the condition that the existing outstanding dues are liquidated forth with. TAMP is requested to issue an Order for payment of charges due at the old rates upto the date of approval and thereafter the new rates will be made applicable prospectively”.</p> | <p>The levy of Double Banking Charges is impermissible in law on account of the various objections raised by us and the same has been challenged by us before the Hon’ble High Court of Bombay in Writ Petition 596 of 2018. Given the pendency of the said Writ Petition, the TAMP should not proceed to issue any such Order.</p> | <p>Indian Barge owners’ Association (IBOA) contention that they have filed a Court Case vide Writ Petition No. 596 of 2018. Checking the validity of levy of barges carrying out double banking operations is also not in order since TAMP being a Quasi-Judicial Authority and Regulatory Authority and empowered to entertain the objections and contentions of various Port Users including Indian Barge owners’ Association (IBOA) The contention of Indian Barge owners’ Association (IBOA) that pending Writ Petition No. 596 of 2018. TAMP should not proceed to issue any such orders is also violative of Guidelines for Regulation of Tariff which is duly notified by TAMP under Section 111 of Major Port Trust Act.</p> |
| 5. | <p><u>Para 2 of MBPT’s Board Resolution No. 182 -</u> “The Deputy conservator has informed that the TAMP follows consultative procedure before approval of SOR. However, the subject matter was not taken up by these barge owners with the TAMP at joint hearing and have now raised objection for levy of double banking charges to their barges for operations at mid-stream. The TAMP by letters dated 17.04.2017 and 14.08.2017 have forwarded the copies of above letter received from IBOA, RSAL and BTBL for comments.</p> | <p>“The subject matter was not taken up” is totally incorrect. It was clearly mentioned that these double banking charges are to be levied on “Coastal Vessels” so how were the barge owners involved when we do not possess any “Coastal Vessels”. Hence, there was no need to raise any objection.</p> | |
| 6. | <p><u>Letter No. DC/B-OSC/Double Banking/2017/1029 dated 01.10.2017</u></p> | <p>(i). We ply in the Mumbai Harbour only to load / unload cargo from the</p> | |

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| | <p><u>to the FA&CO by the Dy. Conservator. (para No. 2) -</u> It is stated that the nature of levy of Pass Pilot charges to the barges is for allowing the barge to ply in Mumbai Harbour without MBPT Pilot on board. The said charges levied is on monthly basis with an embedded facility of 10 pilotage movements, whereas, double banking charges are levied for bringing the barge alongside mother vessel at anchorage to enable carrying Lighterage operations (cargo activity). The Mini Bulk Carrier are without pass pilot are levied pilotage and double banking charges as and when they go alongside mother vessel in stream for cargo activity”;</p> | <p>Mother Vessel and for no other purposes. The statement of MBPT that “the said charges levied is on monthly basis with an embedded facility of 10 pilotage movement, whereas, double banking charges are levied for bringing the barge alongside mother vessel at anchorage” is not correct. Our crew brings the barge alongside the mother vessel, then how is MBPT involved. We bring the barge with our crew and all expenses for Lighterage. (ii). Moreover whereas the water conveyance charges “is on monthly basis with an embedded facility of 10 pilotage movements, the Invoices already raised by MBPT is on a single movement of the barge. The barges can maximum be used and go alongside Mother Vessel about 4 to 5 times in a given month. (iii). Further a Mini Bulk Carrier is a “Coastal Vessel” and therefore, require a pilot to go alongside the mother vessel, whereas a barge is totally different and are moved by the barge owners Pass Pilot master.</p> | |
| 7. | <p><u>Letter No. DC/B-OSC/Double Banking/2017/1029 dated 01.10.2017 to the FA&CO by the Dy. Conservator – (para No.3) –</u> “When a vessel is piloted to go alongside another vessel in additional to normal pilotage charges, there is additional charge of double banking. This charge is towards extra skill and time consumed for putting the vessel alongside. While issuing pass pilot, this revenue of double banking was not taken into account. Hence, double banking charges are levied on actual occurrence and not for entire</p> | <p>(i). The para starts with “when a vessel”. It is true that it is a vessel, then this matter can be considered, but “when a <u>barge</u>” goes alongside another vessel, where does a pilot or pilotage come to play. (ii). Further the para mentions “This charges is towards extra skill and time consumed for putting the vessel alongside”. The question is whose extra skill and time is consumed for putting the barge alongside. We pay all the expenses to our barge Master, wherein</p> | |

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| | <p>period of issuance of pass pilot”.</p> | <p>no way is the MBPT involved.</p> <p>(iii). We, therefore, conclude that the double banking charges are only to benefit the Port of Mumbai who have insufficient draft in the basin and outer wall berth, so if at all a charge is to be levied then the same should be to the Mother Vessel and the shippers as without the barges these vessels would not bring the cargo to the Port. So, if they are interested to bring the cargo to the Port they must pay the charges.</p> | |
| 2. | Summary of Comments received from Shree Krishna Stevedores Pvt. Ltd. | Response received by MBPT | |
| | <p>While on one hand MBPT is giving relief in Double Banking Charges, the equivalent charges are levied under the hiked tariff. Thus, there is actually no relief in charges.</p> <p>We all know that MbPT is facing crisis for 'business' in these tough & competitive times. Firstly due to ban on import of Coal at MbPT, then due to rise in Import Duty Wheat & Pulses imports too have been hampered. There's hardly any type of Cargo (Bulk) that is imported through MbPT. We as stakeholders are trying to woo and bring clients to import newer cargoes like Gypsum, Limestone etc. through MbPT, and there are positive results of the same as well. But with this type of Tariff revival, where actually there is no benefit to end Receiver / Importer, our efforts will go futile and eventually the same Receivers / Importers will divert to other Port given the visible & obvious benefits on Costs. Rather we suggest these charges not to be put up for barges coming at MbPT. As MbPT gets revenue in many from when the cargo comes at MbPT port.</p> <p>we are small barge owners. This move only further break our backbone, as, as cited above the shipping business, Port & service providers are already going through a tough time. While all the stakeholders are supplementary to each other, here in this scenario Port is considering only one side Port's interest and not considering the plight of barge owners. While Port is securing their ultimate revenues under one or the other head, it is not thinking about the small barge owners / service providers. If we / other stakeholders break down then it will have direct effect to port as well. If small barge operators don't survive then it will also impact Port operations & Revenues eventually in a down side.</p> <p>In the view of above, we humbly but strongly pray to your kind selves to please withdraw above hike in Lighterage Charges & Water Conveyance Charges in mutual benefit of the Port, Trade & Industry and all other Stake Holders including Service providers, Labours etc</p> | <p>The reasons for revision of Lighterage charges and Water Conveyance charges in the MbPT SOR in place of levy of double banking charges on Pass Pilot vessels and barges is already given in the revision proposal submitted to TAMP on 14.02.2018 enclosing TR. No. 182 dated 09.01.2018.</p> | |

2. Further, the MBPT vide its letter dated FA/ACC/161(X)/3071 dated 22 June 2018 has responded on the comments received by MANSA. The comments of MANSA and the response of MBPT thereon is hereunder:

| Sl. No. | Comments of users / user organisations | Response of MBPT |
|---------|--|--|
| 1. | MANSA | |
| (a) | <p>Levying double banking charges on the barges deployed in the harbour for facilitating discharge and movement of cargo between ship to shore (port) is justified if any additional / special services are provided by the port for such transactions. However, as the entire operation is performed by barge operators and the expert services of the MBPT pilots are never used, the vessel agent cannot be made liable for payment of such double banking charges.</p> | <p>Mumbai Port Trust provides (i) navigational channels (ii) draft for vessels by own expenses, though the dredging required for bigger vessel (Mother Vessels) but it is necessary for barges to anchor such bigger vessels at anchorage points for Double Banking operations (iii) VTMS services for traffic monitoring by own expenses and maintenance of VTMS (iv) Mumbai Port is also responsible for providing any kind of assistance in case of any disaster happening at the Port limit. The amount earned is very negligible considering various services provided to the barges. MANSA is silent on what additional / special services is required from Mumbai Port apart from the facilities provided above and the leave to operate in Mumbai Port waters.</p> |
| (b) | <p>Also the proposed 50% increase in license fee for water conveyance is too steep and it is a heavy burden on barge operators which will be passed on the ship being serviced. Actually this service is supposed to be provided by the port which is done by the private barge operators supplementing the services shortfalls for benefit of Trade.</p> <p>Therefore in Mansa's view it becomes unviable if such revision of increasing the rates is initiated. In view of the above TAMP may take Final decision.</p> | <p>The charges for double banking operations were introduced in section 2.2 of the SOR which was duly approved applying consultative procedure with collective participation of Port Users by TAMP effective from 19 August 2016. Since the rates are notified and port users are bound to honour these charges which they are not currently honouring as an alternative and at their request the charges were reframed by increasing the Lighterage and charges for water conveyance to lessen the burden of cost per unit operation of barges and make them economically viable for mutual benefit TR No. 182 dated 09.01.2018 proposing revision of lighterage charges and water conveyance charges in the MBPT SOR is self-explanatory.</p> |

3. A joint hearing on the case in reference was held on 16 March 2018 at the office of the Authority in Mumbai. At the joint hearing, MBPT and users/ user organisations have made the following submissions:

MBPT

- (i). Double Banking charges on Coastal Pass Pilot Vessels/Barges has been incorporated in MBPT SOR effective from 19 August 2016 to cover movements for double banking operations. Double banking charge is towards extra skill and time consumed for putting the vessel alongside. No Objection was raised by IBOA/other organisations during consultative procedure by TAMP.
- (ii). However, MBPT has reviewed levy of Double banking charges considering the subsequent request made by RSAL, BTPL and IBOA. The Present proposal is based on suggestions given by the IBOA during meeting with the MBPT Officials, even though the revenue neutrality is not achieved.

- (iii). The MBPT is guided by Indian Port Act, 1908 and Major Ports Trusts Act, 1963. It does not distinguish between Inland vessel / coastal vessel. As such, the charges are applicable to all the vessels unless there is a specific mention in the scale of rates. With regard to services provided by MBPT, this is a virtual jetty at anchorage points for which maintenance services are being carried by MBPT. As such levy of the charges for double banking charges are justifiable.
- (iv). The proposal under reference has been formulated based on the series of discussion/consultation with the IBOA.

IBOA / Bay Tankers

- (i). The proposal for increase in double banking charges and water conveyance charges is not acceptable to us. At the time of MBPT's proposal for general revision of Scale of Rates, it was clearly mentioned that the Double Banking charges are to be levied on "Coastal Vessels". The Barge operators do not own any coastal vessels and the vessels owned by us are Inland vessels. Hence, no objection was made at that point of time, under the premise that the vessels owned by us are excluded as they will not fall under the definition of "Coastal Vessels" and the charges prescribed are only applicable to Coastal vessels. But, subsequently, the MBPT has wrongly levied the double banking charges on our barges. Therefore, an objection was made in this regard. We strongly object the port's proposal.
- (ii). A writ petition has been filed before the High Court of Bombay challenging the validity of levy of Double Banking Charges on the Barges owned by IBOA. Since, the matter is sub judice, the proposal may be kept in abeyance.
- (iii). The MBPT has to follow the established "*quid pro quo*" principle as per the policy for determination of Tariff for Major Ports 2015 and judgments of Supreme Court of India. The double banking of our barges alongside the mother vessel is a service provided by the barges to the mother vessels and no services are provided by MBPT to our barges in carrying out the double banking during lightering operations. Therefore, MBPT cannot levy double banking charges on the barges for lightering operations.
- (iv). The water conveyance charges is currently charged by MBPT on the barges engaged in Lighterage operations in mid-stream. The burden of increase due to the present proposal would be passed on to the end customer, which would lead to loss of traffic to the MBPT.

MANSAL

- (i). We agree with the submissions made by IBOA. The MBPT is not providing any services for the Double banking operators at Lighterage points. As such, notional charges are not to be collected as per the Tariff Guidelines.
- (ii). Increase in water conveyance charges is very high. The deep draft berth available at the Port i.e. BPX for handling Break bulk cargo is being utilized to handle cruise vessels etc. Due to non-availability of berth at port, it is necessitated to handle the break bulk cargo at Lighterage operations in order to retain the cargo for the port. Any additional charges towards Lighterage operation may lead to diversion of cargo from the port.

JSW Steel

- (i). Due to insufficient infrastructure to handle the bigger vessels at MBPT, Mini Bulk carriers are being deployed for the Lighterage points. Vessels related charges like Port dues, pilotage charges are being paid by us for utilizing the port premises. We are paying ₹.18 lakhs to ₹.20 lakhs per vessel for Lighterage operation only. In addition, double banking charges are also being levied, for which no additional services are being provided by the Port. With this increase in the 10% Lighterage charges, the cost to end user will increase. This aspect would have to be relooked by MBPT.

IBOA

- (i). We have been operating barges for the past so many years at MBPT. Why the concept of 'Virtual Jetty' is being thrust upon us now?
- (ii). There is no depth, no berth at MBPT.
