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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 211

New Delhi,

18 June 2020

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the New Mangalore Port Trust (NMPT) for fixation of tariff for operation of Mobile X-Ray Container Scanner System at NMPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/12/2020-NMPT

New Mangalore Port Trust

- - -

Applicant

QUORUM

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

ORDER

(Passed on this 1st day of June 2020)

This case relates to the proposal dated 06 February 2020 received from the New Mangalore Port Trust (NMPT) for fixation of tariff for operation of Mobile X-Ray Container Scanner System at NMPT.

2. The Ministry of Shipping (MOS) vide its letter dated 12 July 2018 has, referring to the decision taken by the IPA regarding installation of Mobile X-ray Container Scanning at port, communicated to the five Major Port Trusts viz. New Mangalore Port Trust (NMPT), Jawaharlal Nehru Port Trust (JNPT), Paradip Port Trust (PPT), Visakhapatnam Port Trust (VPT) and Kolkata Port Trust (KOPT) to follow Normative rates for recovery of cost and take up the proposal with TAMP for fixation of Tariff.

3.1. In this regard, while submitting the general revision proposal, the NMPT had proposed a new tariff item viz. Container scanning charges under Schedule 4.7 at ₹276/- per container.

3.2. This Authority had passed an Order No.TAMP/78/2018-NMPT dated 24 July 2019 disposing of the proposal received from the NMPT for general revision of its Scale of Rates (SOR). The revised SOR and Performance Standards approved by this Authority have been notified in the Gazette of India Extraordinary (Part III Section 4) on 21 August 2019 vide Gazette No.294. Subsequently, detailed Order has been notified on 03 September 2019 vide Gazette No.307. The said Order prescribes a tariff validity period till 20 September 2022.

3.3. In the revised SOR, this Authority has approved the following rate as approved in the Order No.TAMP/77/2018-VPT dated 29 March 2019 for VPT as the NMPT had not furnished working for arriving at the proposed rate following Normative approach for recovery of cost as directed by the MOS:

4.7. Container Scanning Charges:

| Sl. No. | Description | Rate per TEU (in ₹) |
|----------------|----------------------------|----------------------------|
| 1 | Container Scanning Charges | 152.00 |

3.4. This Authority in the said detailed Order dated 24 July 2019 at para no.13(xxii) has stated that the port may, if it considers necessary, file a proposal seeking rate based on Normative approach for recovery of cost as directed by the MOS and in line with the model adopted for fixation of rate for container scanner at VPT.

4.1. In this backdrop, the NMPT has come up with a proposal in reference. The main points made by NMPT in its covering letter dated 6 February 2020 are given below:

- (i). Port with the approval of Board of Trustees vide Resolution No.97/2017-18 procured one no. of Mobile Container Scanner.
- (ii). MOS vide its letter No.PD-14033/113/2015-PD.V dated 12 July 2018 clarified that Port will have to follow normative rates for cost recovery and take up the proposal with TAMP for fixation of Tariff. The proposal is to be communicated to TAMP after getting approval of Board of Trustees.

- (iii). NMPT has computed the charges at ₹276/- per container on normative basis and proposed that rate in general revision of SOR to TAMP on 5 March 2019. TAMP notified the rate of ₹152/- per TEU vide Order dated 24 July 2019, considering the approved charges for the same service for VPT by following the normative approach in absence of working details of NMPT of ₹276/ TEU. Further, TAMP advised the port if it considers necessary, file a proposal seeking rate based on normative approach for recovery of cost as directed by MOS.
- (iv). The installation of container scanner has been completed and the actual expenditure on Procurement and Installation is available. It is observed that the cost of Civil and Equipment cost incurred by NMPT are higher than that of VPT. Therefore, it is proposed to revise the rates based on the actual expenditure incurred by NMPT.
- (v). Accordingly, the revised rate of ₹270/- per TEU is computed on normative basis as directed by MOS. The proposed rate of ₹270/- per TEU for Exim Container was placed before the Board of Trustees and Board vide Resolution No.128/2019-20 has approved the rate. The details of calculation is furnished. The approval of Board of Trustees of NMPT is furnished.
- (vi). The NMPT has, therefore, requested to consider the proposal and revise the charges.

4.2. The details regarding the calculation for arriving at ₹270/ per TEU charges submitted by NMPT are given below:

(i). **Capital Cost:**

| | | |
|------|---|---------------------|
| I. | Capital cost of X-Ray Scanner (Excl. GST) + Customs duty (\$16,64,788 x ₹71.5 (Exchange rate) + 97,72,097.50) | 12,88,04,440 |
| II. | Capital cost of civil works (As per actual expenditure) | 3,14,92,627 |
| III. | Installation cost | 3,79,20,336 |
| IV. | Capital cost for providing power supply including illumination + fiber + CCTV network | 40,00,000 |
| V. | Capital cost for L3 switch (As per work order) | 11,72,277 |
| | Total capital cost | 20,33,89,680 |

Notes:

1. No provision is made for miscellaneous cost of 5% on capital cost of civil and equipment cost as the costs are as per the actual work order value.
2. The cost items of the Price Schedule of items & schedule of quantities communicated by IPA is inclusive of GST. However, the same is excluded since GST will be taken credit except on capital cost of civil works.

(ii). **Rated capacity:**

The rated capacity of the X-ray container scanner is 20 numbers of 40 feet containers per hour (based on one way straight through operation) as per scope of work.

Therefore, the capacity per annum works out as follows:

$0.7 \times 365 \text{ days} \times 24 \text{ hours} \times 20 \text{ numbers} \times 2 \text{ TEUs} = 2,45,280 \text{ TEUs per annum.}$
[The optimal capacity assessed is same as VPT]

(iii). **Operation and Maintenance cost:**

(a). (i). Power:

An amount of ₹44,44,474/- per annum is estimated towards cost of power consumption for operation of the facility.

(Units consumed per hour x Optimum capacity x Unit rate)/ 40 TEUs per hour = (80 units x 245280 x ₹9.06)/ 40 = ₹44,44,474

As per the Annex-4 of Electrical distribution data sheet provided by the supplier M/s.Smiths Detection power cost is as below:

| Sl. No. | Description | Power required in KVA | Power Consumption in KWH |
|--------------|---|-----------------------|--------------------------|
| 1 | Power Requirement of MXCS per hour | 45 | 45 units per hour |
| 2 | Power Requirement of office space and networking per hour | 35 | 35 units per hour |
| TOTAL | | | 80 units per hour |

Electrical power charges per annum = (Units consumed per Hour x Optimum capacity x Unit rate)/ 40 TEUs per hour.

Electrical power charges per annum is ₹ = (80 units x 245280 x 9.06)/ 40 = ₹44,44,474 as given in (i) above.

(ii). Fuel:

The scanner has diesel engine as a back up and the consumption is very minimum hence considered as NIL.

(b). Repair and Maintenance:

Overheads considered as 5% of the AMC and cost of electrical power i.e. (₹1,26,92,347 cost of AMC + ₹44,44,474 Cost of Electrical power) = ₹8,56,841

(c). Insurance:

The value of gross fixed assets is ₹20,33,89,680/-. Insurance @ 1% on gross fixed assets as per Norms works out to ₹20,33,897/- per annum.

(d). Depreciation:

The categorisation of the facility is considered under "IV. Plant and Machinery (a) Plant and Machinery other than continuous process plant not covered under specific industries" of the Companies Act for which specified life period is 15 years. Depreciation is calculated accordingly which works out to ₹1,35,59,312/- per annum.

(e). License fee and Other Expenses:

No provision for license fee and other expenses is made since the facility is being installed at NMPT's cost in its premises to meet the mandatory requirement of DGFT and Customs. The Customs has made it clear that the operators and image analysts provision will be made by the customs but it is not clear as to who will provide the non-technical staff like data entry staff, marshals and guards. In this regard, a provision is made in the proposal. The details are as below:

| Sl. | Category of | No. of | Salary per day as per CLCs |
|-----|-------------|--------|----------------------------|
|-----|-------------|--------|----------------------------|

| No. | staff | staff required | order dated 01/10/2019 (Copy attached in Annex-3) for semi skilled category in ₹ |
|-----|------------------|----------------|--|
| 1 | Data entry staff | 4 | 666 |
| 2 | Traffic Marshals | 7 | 666 |
| 3 | Guards | 7 | 666 |

18 No. staff x 666/ day x 365 = ₹43,75,620

(iv). **ROCE:**

As per TAMP norms, 16% ROCE is allowed. However, Ministry of Shipping letter No.PD-14033/113/2015-PD.V dated 12.7.2018 states that it was decided that port will have to follow Normative rates for cost recovery and take up the proposal with TAMP for fixation of Tariff. The life of the equipment is 15 years.

| | Year 1 | Year 2 | Year 3 |
|------------------------|--------------|--------------|--------------|
| Capital Cost | 20,33,89,680 | 18,98,30,368 | 17,62,71,056 |
| Depreciation | 1,35,59,312 | 1,35,59,312 | 1,35,59,312 |
| WDV | 18,98,30,368 | 17,62,71,056 | 16,27,11,744 |
| Average WDV | | 17,62,71,056 | |
| ROCE @ 16% of Avg. WDV | | 2,82,03,368 | |

[In case of VPT and KOPT, ROCE is computed on Gross block and not at WDV as tariff fixed is applicable for 15 years subject to indexation. VPT considered 6.67% return to recover capex over 15 year life of equipment whilst KOPT sought 16% ROCE.]

(v). **Annual Revenue Requirement:**

| Sr. No. | Description | Amount (₹) |
|---------|-------------------|--------------------|
| 1. | Power consumption | 44,44,474 |
| 2. | Overheads | 8,56,841 |
| 3. | Insurance | 20,33,897 |
| 4. | Depreciation | 1,35,59,312 |
| 5. | ROCE @ 16% | 2,82,03,369 |
| 6. | AMC Cost | 1,26,92,347 |
| 7. | Manpower | 43,75,620 |
| | Total | 6,61,65,859 |

(vi). **Proposed Tariff:**

Therefore, tariff per TEU = ₹6,61,65,859 ÷ 2,45,280 = ₹270 per TEU.

5.1. The NMPT vide its letter dated 27 February 2020 has also proposed the following conditionalities governing the proposed levy:

- (i). The tariff prescribed for container scanning is applicable to all import and export laden containers whether it is scanned or not.
- (ii). The container scanning charges shall be collected by the port till concessionaire for Mechanized Container Handling commences its operation. After commencement of mechanized handling operation, the concessionaire shall collect the scanning charges from user and pay to the port since the expenditure is incurred by the port for procurement, installation, commissioning and operation of container scanner.
- (iii). The tariff prescribed will be valid for a period of 15 years from the date it comes into effect subject to automatic annual indexation.

5.2. Subsequently, while acknowledging the NMPT proposal dated 6 February 2020 and email dated 26 February 2020, NMPT was requested vide our letter dated 27 February 2020 to estimate the additional revenue likely to accrue at the proposed rate for container scanner charges at ₹276/- per TEU as against ₹152/- per TEU approved in the existing SOR and confirm that it shall be within the revenue gap left uncovered to the tune of ₹2.02 crores so as to ensure that the total revenue estimates is within the total estimated ARR of ₹421.06 crores in the last general revision SOR approved by this Authority vide Order No.TAMP/78/2018-NMPT dated 24 July 2019.

5.3. In response, NMPT vide its e-mail dated 5 March 2020 has stated that the current revised proposed rate per TEU is ₹270/- as against ₹152 per TEU, as approved in the existing SOR. The Capital cost of container scanner was not considered in the estimated ARR of ₹421.06 crores in the General Revision of SOR for cost computation. The income arrived from the container scanner cannot be compared with ARR.

6. In accordance with the consultative procedure prescribed, the proposal dated 6 February 2020 was forwarded to the concerned users/ user associations and users (as suggested by NMPT) seeking their comments. We have received comments only from Association of New Mangalore Ports Stevedores (ANMPS) vide its letter dated 07 March 2020 which was forwarded to NMPT as feedback information. The NMPT has not responded.

7. A joint hearing on the case in reference was held on 6 March 2020 at the NMPT premises. The NMPT made a brief power point presentation of its proposal. At the joint hearing, the NMPT and the concerned users/ organisation bodies have made their submissions.

8.1. During the joint hearing, the users have objected the tariff of ₹270 per TEU for Container Scanner Charges proposed by the port. The NMPT has agreed to look into the objection of Trade and revert back to TAMP. The NMPT was, therefore, requested vide our letter dated 09 March 2020 to look into the objection of users and revert back to TAMP.

8.2. In response to this, the NMPT, vide its letter dated 20 March 2020, has considered the views of port users and the representation of Association of New Mangalore Port Stevedores (ANMPS) and proposed to consider 7% return on capital employed instead of 16% ROCE. The tariff proposed by NMPT in the original proposal has been revised downwards from ₹270/- per TEU to ₹211/- per TEU. The port has furnished revised calculation. The main modifications done by the NMPT in the revised calculation are given below:

- (a). In the original proposal, the NMPT had considered overheads at 5% of the AMC and cost of electrical power. In the revised calculation, the NMPT has considered repairs and Maintenance at 1% of the capital cost towards civil work, 2% of the capital cost for electrical equipment and the AMC cost is spread over eight years.
- (b). ROCE is considered at 7% of the gross capital cost as against 16% return estimated in the original proposal.
- (c). Summary of the revised calculation as furnished by NMPT is as follows:

| Sr. No. | Particulars | Estimates (in ₹) |
|------------|---|---------------------|
| I | <u>Optimal handling capacity</u> | |
| | Total Optimal handling capacity say (TEUs per annum) [As considered in the original proposal] (0.7 x 365 days x 24 Hours x 20 numbers x 2 TEUs) | 2,45,280 |
| II | <u>Capital Cost (as considered in the original proposal (break up furnished earlier hence not reiterated)</u> | 20,33,89,680 |
| III | <u>Operating Cost</u> | |
| a. | Power consumption [(80 units per hour x 245280 no.of containers x ₹9.06 unit rate) / 40 TEUs per hour | 44,44,474 |
| b. | Repair and Maintenance of Civil assets (@ 1% of Civil | 3,14,926 |

| | | |
|-----------|---|--------------------|
| | assets) (₹31492627 x 1%) | |
| c. | Repair and Maintenance of mechanical and electrical equipment including spares | |
| | i). AMC of X-Ray Container Scanner excluding GST (₹101538775 / 8 years) | 1,26,92,347 |
| | ii). Repair and Maintenance of electrical works (@2% of Capital Cost) (₹5172277 x2%) | 1,03,446 |
| d. | Insurance (@1% of gross fixed assets) (₹20,33,89,680 x 1%) | 20,33,897 |
| e. | Depreciation (Life of 15 Years i.e. 6.67%) {₹203389680 /15 years} | 1,35,59,312 |
| f. | Manpower (18 Nos. staff x ₹666 per day x 365) | 43,75,620 |
| | Total Operating Cost | 3,75,24,021 |
| IV | Return on Capital Employed (ROCE) | |
| | 7% on Gross Capital Cost of ₹20.34 crores) | 1,42,37,278 |
| V | Total Annual cost recovery Requirement (III+ IV) | 5,17,61,299 |
| VI | Tariff per TEU (V / I) | 211 |

(d). The NMPT has proposed the following two conditionalities as proposed at (i) and (iii) earlier. The earlier condition no.(ii) is not proposed in the revised proposal.

- (i). The tariff prescribed for container scanning is applicable to all import and export laden containers whether it is scanned or not.
- (ii). The tariff prescribed will be valid for a period of 15 years from the date it comes into effect subject to automatic annual indexation.

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

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

- (i). The proposal filed by the New Mangalore Port Trust (NMPT) is for fixation of tariff for operation of Mobile X-Ray Container Scanner System at NMPT. The proposal flows from the decision taken in the Governing Body Meeting of Indian Ports Association (IPA) that the Ports should procure and install Mobile X-Ray Container Scanning Systems as mandated by the Directorate General for Foreign Trade (DGFT) and Customs for import of containers and based on the Ministry of Shipping (MOS) letter dated 12 July 2018 to the concerned five Major Port Trusts to follow Normative rates for recovery of cost and take up the proposal with TAMP for fixation of Tariff.
- (ii). The NMPT, based on the approval of the Board, has already installed the Mobile X-Ray Container Scanning in the port. In fact, the port had proposed rate for this item during the last general revision of the SOR at ₹276/- per container. In the absence of the port furnishing the working for arriving at the proposed rate, this Authority in the general revision of the SOR of the port approved the Container Scanning Charges at ₹152 per TEU as approved in the Order No.TAMP/77/2018-VPT dated 29 March 2019 for Visakhapatnam Port Trust (VPT) and allowed NMPT to file a proposal on Normative approach for recovery of cost as directed by the MOS and in line with the model adopted for fixation of rate for container scanner at VPT.

- (iii). The Port has, thus, filed the current proposal seeking rate for this item. In the original proposal, the port had proposed rate for container scanner charges at ₹276/- per TEU. In view of objection raised by the user association viz., Association of New Mangalore Port Stevedores that the proposed rate is high compared to the rate prescribed by this Authority in VPT, the NMPT has re-looked at its proposal. The port has filed a revised proposal dated 20 March 2020 wherein the port has proposed reduced rate of ₹211 per TEU by mainly reducing the ROCE from 16% to 7% following the approach of reduced rate of return adopted by the VPT for container Scanner charges.
- (iv). As per Clause 7.6.1 of the Tariff Policy, 2018, when a tariff for a new service/ cargo/ equipment/ facility is not available in the SOR of the port, the concerned Major Port Trust can either adopt the tariff and performance standards, if any, fixed for comparable cargo/ equipment/ service in any Major Port Trust, or can file a proposal for notification of tariff for the said new cargo/ equipment/ service/ facility with reference to optimal capacity assessed following the principles of 2008 guidelines or based on rated capacity or technical specification of service/ facility/ equipment.

The Guideline further stipulates that if determination of tariff based on the above prescribed options is not available, then the Major Port Trusts after giving sufficient reasons may propose rates based on cost plus 16% return formula.

In this regard, it is relevant here to mention that this Authority has approved tariff for Mobile X-ray Container Scanner at ₹152/- per TEU at VPT and ₹215/- per TEU at KOPT. That being so, the point made by the NMPT, that the rates for container scanner are not prescribed in any of the Major Port Trusts is not the correct position.

However, it has to be recognized that installation of container scanner has been completed at NMPT; the actual expenditure on Procurement and Installation is available. Since the cost of Civil and Equipment cost incurred by NMPT is higher than that of VPT, it is not appropriate for NMPT to adopt the rate of ₹152/- per TEU fixed for VPT.

In the absence of any specific norms prescribed in the Upfront Tariff Guidelines for this kind of facility, this Authority proceeds to fix the tariff sought by the NMPT for operation of Mobile X-Ray Container Scanner based on the approach adopted by the NMPT. It is relevant here to state that similar approach was followed for fixation of container scanner charges at VPT. That being so, this Authority considers the proposal filed by the NMPT seeking approval of rates for container scanner charges.

(v). **Optimal Capacity/ Rated Capacity:**

The rated productivity of the Mobile X-ray container scanner is 20 containers of 40 feet per hour based on one way straight through operation. In the absence of any specific norm available for this facility, the rated productivity assessed by the NMPT is relied upon.

As per the norms prescribed in the Upfront Tariff Guidelines of 2008, optimal capacity is 70% of the total capacity. Applying the said norm of 70% on the rated productivity for 365 days in a year, the NMPT has assessed the rated capacity at 2,45,280 TEUs per annum (0.7 x 365 days x 24 hours x 20 numbers x 2 TEUs=2,45,280 TEUs). The rated capacity is considered as 2,45,280 TEUs per annum as assessed by the NMPT. The rated capacity assessed by NMPT is same as assessed by the VPT for its container scanning system.

(vi). **Capital Cost:**

The port has considered the capital cost at ₹20.34 crores as per actual capital cost incurred by the port. The port has furnished the break up of the capital cost comprising of ₹12.88 crores towards cost of X-Ray Scanners, ₹3.15 crores towards Civil works, ₹0.52 crores towards power supply including illumination & L3 switch and ₹3.79 crores towards installation cost. The port has stated that capital cost estimation considered in tariff fixation is excluding the GST component since credit for GST will be taken except on capital cost of civil works. The NMPT has not applied the norm for miscellaneous capital cost at 5% of capital cost of civil and equipment cost, as it has considered capital cost as per the actual work order value. The capital cost considered by the NMPT is based on the actuals. Therefore, considered.

(vii). **Operating costs:**

(a). Power Cost:

The port has furnished detailed basis and working for estimation of power consumption at 80 units per hour reportedly based on the electrical distribution sheet provided by the supplier. The unit rate of electricity at ₹9.06 considered by the port is relied upon. Thus, based on the workings furnished by the port, the power cost at ₹44.44 lakhs (i.e. 80 units per hour/ 40 TEUs per hour = power consumption of 2 units per TEU x 245280 optimal capacity x ₹9.06 = ₹44,44,474) as estimated by the port is considered.

(b). Repairs and Maintenance Cost:

(i). On Civil Assets:

The NMPT has, in the revised cost statement, considered repairs and maintenance cost on civil assets at 1% of civil assets which is as per the norm prescribed in the Upfront Tariff Guidelines of 2008. That being so, the Repair and Maintenance cost on civil assets estimated by NMPT at ₹3.15 lakhs per annum (₹3,14,92,627 * 1%) is considered. This is in line with the approach followed in case of fixing the scanner charges at VPT and KOPT.

(ii). On Electrical Equipment:

Similarly, the NMPT has, in the revised cost statement, considered the repairs and maintenance cost of electrical works at 2% of the capital cost of electric installation cost of ₹5172277 at ₹1.03 lakhs per annum following norms prescribed in the upfront tariff guidelines of 2008, which is considered. This is in line with the approach followed in case of fixing the scanner charges at VPT and KOPT.

(iii). Annual Maintenance Charges (AMC) on X-Ray Scanner:

The repairs and maintenance cost of civil and electrical equipment is not captured in the capital cost of the Container Scanner. The NMPT has stated that the life of X-Ray Container Scanner is 15 years. While procuring X-Ray Scanner from M/s. Smiths Detection (Asia Pacific) Pvt. Ltd., the NMPT has also contracted with the supplier for annual maintenance of the Scanner for 8 years period at ₹10.15 crores. For arriving at the proposed rate, the NMPT has considered maintenance cost at ₹1,26,92,347/- per annum (i.e.

₹10,15,38,775/ 8 years) by spreading the total maintenance cost of ₹10,15,38,775/- over a period of 8 years.

Since the AMC rate is as per the contracted rate for a period of 8 years and also recognizing that the proposed rate is approved by the Board of Trustees of the NMPT and none of the users have raised any objection on this estimate, the estimate of this item is considered as proposed by the port as it is a contracted rate. This is in line with the approach followed by the VPT and KOPT for proposing rate for container scanner charges and the same has been considered by this Authority while approving the rate in these two ports.

(c). Insurance cost is estimated at 1% of the gross fixed assets, which is in line with the norms prescribed in the guidelines.

(d). Depreciation:

The upfront tariff guidelines, 2008 prescribes to arrive depreciation for Civil assets and Mechanical and electric components separately as per the Companies Act, 2013.

The NMPT has considered the life period of the proposed facility as 15 year as per the life norm prescribed in the Companies Act, 2013. Accordingly, the NMPT has estimated depreciation cost at ₹135.59 lakhs (i.e. ₹20.34 crores/ 15 years) by considering the life of the scanning system as 15 years without distinguishing the individual life of different assets viz. civil costs, scanner cost and electric components cost separately.

Since the facility itself will be in operation for a period of 15 years and the rate proposed by the port is for 15 years period, the approach adopted by the port to consider depreciation for the entire facility at 15 years is found appropriate and hence is accepted. In the case of the KOPT as well, the port has adopted the depreciation for the entire block of assets related to container scanning system coterminous with the estimated life of the facility for 10 years.

(e). Manpower cost:

The NMPT has furnished working for manpower cost which is considered. This approach was also followed in the case of KOPT.

(f). Return on Capital Employed (ROCE):

Clause 2.4. of the upfront tariff Guidelines of 2008 requires to compute ROCE @ 16%. The MOS has communicated the concerned Major Port Trusts to arrive at tariff for X-Ray Scanner for cost recovery of Container Scanner. As stated earlier, the NMPT had, in its original proposal dated 6 February 2020, estimated ROCE at 16% on the average Written Down Value of assets over 15 years. In the revised proposal, in view of the objection raised by ANMPS, the port has sought reduced rate of return @ 7%. It is relevant here to state that the VPT had also sought reduced rate of return of 6% instead of 16% to enable the port to recover the capital cost of the facility over 15 years. This Authority had approved the approach adopted by the VPT. The NMPT has sought 7% return which is closer to the reduced rate of return sought by the VPT.

Since the revised proposal of the port of considering reduced ROCE is to cater to the objection of user association and recognizing that the reduced

ROCE by the NMPT is in line with the approach adopted by the VPT which was approved by this Authority in view of the decision of the MOS to have tariff on normative basis to recover the cost of the equipment, this Authority considers the ROCE at the level estimated by the port.

- (viii). The slight arithmetical error in the total operating cost considered by NMPT at ₹37,524,021 is corrected as ₹37,524,022. Consequently, the total Annual cost recovery also stands slightly corrected for arithmetical accuracy at ₹51,761,300 (₹37,524,022 + ROCE ₹14,237,278 as considered by NMPT). The cost statement for fixing tariff for operation of Mobile X-Ray Container Scanning System is attached as **Annex**.
- (ix). In order to recover the total annual cost recovery requirement estimated at ₹5.18 crores over the optimal handling capacity of 2,45,280 TEUs per annum, the rate works out at ₹211 per TEU as proposed by the port. It is relevant here to state that the proposal of the port is to comply with the mandatory requirement of DGFT and Customs. Therefore, this Authority is inclined to approve the rate of ₹211 per TEU as proposed by the NMPT.
- (x). In the last general revision of the SOR of the NMPT, the total revenue estimated from the container scanner charge approved by this Authority at the approved tariff of ₹152.00 per TEU is ₹15.20 lakhs (i.e. 10000 containers as estimated by the NMPT x ₹152 per TEU). When requested NMPT to confirm that the additional revenue likely to accrue from revised rate for container scanning charges now proposed by the port i.e. from existing ₹152.00 per TEU to ₹211.00 per TEU shall be within the revenue gap left uncovered at ₹2.02 crores, the port has stated that the capital cost of the scanner was not captured in the ARR computation and the income arrived from the container scanner cannot be compared with ARR. The point made by NMPT does not address the information sought by us.

Considering the incremental increase in tariff of container scanner charge by ₹59.00 per TEU (₹211 – ₹152), the incremental revenue would work out to ₹0.59 lakhs for 10,000 TEUs then estimated by the NMPT. Thus, the additional revenue shall be within the revenue gap left uncovered and it shall be within the estimated ARR of ₹421.06 crores estimated in the last general revision Order.

- (xi). The NMPT has proposed note to the effect that the tariff shall be applicable to all import and export laden containers irrespective of it being scanned or not.
- The NMPT has stated that it handles around 1 lakh containers per annum and of that laden container are only 30,000 per annum. To keep the rate on lower side and to enable the port to recover the total cost, the port envisages levying the charges on all loaded EXIM Containers. In view of the above position, the note as proposed by the Port is approved. Even in the KOPT, the rate proposed is for all EXIM containers. The proposed note is, therefore, approved.
- (xii). The port, in its earlier proposal dated 6 February 2020, had proposed the conditionality that the container scanning charges shall be collected by the port till concessionaire for Mechanized Container Handling commences its operation and after the commencement of mechanized handling operation, the concessionaire shall collect the scanning charges from user and pay to the port since the expenditure is incurred by the port for procurement, installation, commissioning and operation of container scanner. In the revised proposal, the port has not proposed this note. The port has not furnished any reasons for the same. However, since it is the proposal of the port, this Authority goes with the proposal of the port.
- (xiii). The port has proposed a note that the tariff prescribed will be valid for the period of 15 years from the date it comes into effect subject to automatic Annual indexation.

Though the proposal filed by the NMPT is under the Tariff Policy, 2018 presently applicable in respect of Major Port Trusts, it is relevant to reiterate that the tariff proposed by the port for the new service is following the normative approach and the principles of upfront tariff of 2008 guidelines which is one of the options available under the said Tariff Policy for fixing tariff for new cargo/ service. In case of upfront tariff under 2008 guidelines, the tariff is for the project period and is subject to automatic annual indexation at 60% of the WPI.

Since the proposal of the NMPT is following the principles of the Upfront Tariff Guidelines of 2008, the indexation in the rate has to be @ 60% of the WPI. This is in line with the prescription by this Authority in the case of container scanner charges at VPT and KOPT. Since the revised rate for container scanner based on normative model is being fixed in the early part of 2020, it is appropriate to prescribe the base year for indexation as January 2020. The first indexation shall be on 1 May 2021.

Therefore, a separate note (iii) is prescribed to state that the tariff prescribed will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2020 and 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st May of the relevant year to 30th April of the following year.

11.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the revised rate for operation of Mobile X-Ray Container Scanner System at NMPT at ₹211/- per TEU and replaces the existing Schedule 4.7 - Container Scanning Charges under Section 4 – Container Charges in the existing Scale of Rates of NMPT with the following:

“4.7. Container Scanning Charges:

| Description | UNIT | Rate (in ₹) |
|----------------------------|------|-------------|
| Container Scanning Charges | TEU | 211 |

Notes relating to Schedule 4.7:

- (1). The tariff prescribed for container scanning is applicable to all import and export laden containers whether it is scanned or not.
- (2). The tariff prescribed will be valid for period of 15 years from the date it comes into effect subject to automatic annual indexation.
- (3). The tariff prescribed above will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1st January 2020 and 1st January of the relevant year. Such automatic adjustment of tariff cap will be made every year and the adjusted tariff cap will come into force from 1st May of the relevant year to 30th April of the following year. The first annual indexation in tariff shall be on 1 May 2021.”

11.2. The revised rate will come into effect after expiry of 30 days from the date of notification in the Gazette of India.

11.3. The NMPT is directed to amend the existing SOR suitably.

(T.S. Balasubramanian)
Member (Finance)

**COST STATEMENT FOR FIXATION OF TARIFF FOR OPERATION OF X-RAY CONTAINER SCANNER SYSTEM
AT NEW MANGALORE PORT TRUST**

| Sr. No. | Particulars | Estimates by NMPT in its proposal dated 06.02.2020 | Revised Estimates by NMPT vide its letter dated 20.03.2020 and considered by TAMP |
|------------|---|--|---|
| I | <u>Optimal handling capacity</u> | | |
| | Total Optimal handling capacity say (TEUs per annum) (0.7 x 365 days x 24 Hours x 20 numbers x 2 TEUs) | 245,280 | 245,280 |
| II | <u>Capital Cost</u> | | |
| a. | Capital Cost of X-Ray Container Scanner (Excl. GST)+Customs duty | 128,804,440 | 128,804,440 |
| b. | Capital Cost of Civil Works | 31,492,627 | 31,492,627 |
| c. | Installation Cost | 37,920,336 | 37,920,336 |
| d. | Capital Cost for providing power supply including illumination | 4,000,000 | 4,000,000 |
| e. | Capital Cost of L3 switch | 1,172,277 | 1,172,277 |
| | Total Capital Costs | 203,389,680 | 203,389,680 |
| III | <u>Operating Cost</u> | | |
| a. | Power consumption [(80 units per hour x 245280 TEUs x Rs.9.06 unit rate) / 40 TEUs per hour] | 4,444,474 | 4,444,474 |
| b. | Repair and Maintenance of Civil assets (@ 1% of Civil assets) (Rs. Cost of civil work 31492627 x 1% of civil work) | 0 | 314,926 |
| c. | Repair and Maintenance of mechanical and electrical equipment including spares. | | |
| i) | AMC of X-Ray Container Scanner excluding GST (Rs.101538775 / 8 years) | 12,692,347 | 12,692,347 |
| ii) | Repair and Maintenance of electrical works (@ 2% of Capital Cost) (O&M Cost Rs.4,000,000 + Rs.1,172,277 = Rs.5172277 x 2%) | 0 | 103,446 |
| d. | Insurance (@1% of gross fixed assets) (Gross fixed assets Rs.203389680 x 1%) | 2,033,897 | 2,033,897 |
| e. | Depreciation (Life of 15 Years i.e. 6.67%) | 13,559,312 | 13,559,312 |
| f. | Overhead 5% of (1,26,92,347 cost of AMC + 44,44,474 cost of Electrical power) | 856,841 | 0 |
| g. | Manpower (18 Nos. staff x Rs.666 per day x 365) | 4,375,620 | 4,375,620 |
| | Total Operating Cost | 37,962,490 | 37,524,022 |
| IV | Return on Capital Employed (ROCE) | 28,203,369 [16% on average WDV of Rs 17,62,71,056] | 14,237,278 [7% on capital cost of Rs. 20,33,89,680] |
| V | Total Annual cost recovery Requirement (III + IV) | 66,165,859 | 51,761,300 |
| VI | Tariff per TEU (V / I) | 270 | 211 |

The slight arithmetical error in the total operating cost considered by NMPT at Rs.37,524,021 is corrected as 37,524,022. Consequently, the Total Annual cost recovery also stands slightly corrected for arithmetical accuracy.

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

F.No. TAMP/12/2020-NMPT Proposal from the New Mangalore Port Trust (NMPT) for fixation of tariff for operation of Mobile X-Ray Container Scanner System at NMPT.

A summary of the comments received from Association of New Mangalore Ports Stevedores (ANMPS) vide its letter dated 07 March 2020 which was forwarded to New Mangalore Port Trust (NMPT) as feedback information is given below:

- (i). Proposed Tariff of INR 270 per Container at NMPT for this facility is more than the rates being charged at other Ports. At Visakhapatnam Port, the tariff for the same service has been capped at INR 152 per Container, which is nearly 90% less than the NMPT proposal.
- (ii). Cost Statement for Tariff Fixation
In comparison to the Visakhapatnam, the costs considered under head of Civil works, Installation, etc. are also substantially lower than NMPT for Container Scanner. The AMC considered for the scanner is much higher as well.
- (iii). Return of Capital Employed
The ROCE considered is also higher. This issue was brought up in the 7th Ordinary Meeting of the Board of Trustees held on 17.1.2020, wherein the members indicated that the ROCE at Visakhapatnam for a similar service was calculated at 6% while at NMPT the ROCE considered is much higher at 16% (which is 154% more).
- (iv). Many of the Port work has now been outsourced to ensure better facility at competitive prices. In case of this, the Staff cost for the operation of the Scanner is also much higher.
- (v). Ease of doing Business
With the introduction of the X-ray Container Scanner, the container clearance will be much faster, hence aiding in ease of doing business at the Port. However, the high cost of the same will serve as a deterrent to the Trade.
- (vi). Cost Recovery
A new facility is generally introduced with the intention of improving Trade Facility at Port and for the benefit of Exim-Trade. Whenever any new facility is being introduced at the Port, Tariff should not be notified with the primary intention of recovering the cost incurred. The facility of X-ray Scanner was introduced as per the requirement of Customs clearance. This facility will help NMPT/ Customs to improve with less lay time for Containers. We are unable to justify to our Customers this additional charges of INR 270 per Container, when compared to Ports such as Visakhapatnam.
- (vii). The Port, vide its letter No.NMPT/SRD TM/2019-20/Container Scanner dated 06.02.2020 wrote to TAMP seeking revision of the rate earlier notified by TAMP from ₹152/- to ₹270/- per TEU. It has submitted that any additional cost that the Port may have incurred because of delays/ higher costs, should not be passed to Exim-Trade.
- (viii). This additional rate of ₹270 per TEU in NMPT may discourage the EXIM customers and they might shift their business to other Ports since they are all working on thin margin.
- (ix). In view of the above facts and also NMPT's future container business, the ANMPS has requested to fix the rates which will be comparable to Visakhapatnam Port or may increase 10-20% more than the charges being levied by VPT per Container for X-ray scanner.

2. A joint hearing on the case in reference was held on 6 March 2020 at the NMPT premises. The NMPT made a brief power point presentation of its proposal. At the joint hearing, the NMPT and the concerned users/ organisation bodies have made the following submissions:

NMPT

- (i). Port has procured a Mobile Container Scanner with the approval of the Board. The optimum handling capacity is 2,45,280 TEUs.
- (ii). Ministry has clarified that Port has to follow normative rates for cost recovery and take up the proposal with TAMP for approval of rate.
- (iii). Our proposal was ₹276 per container during general revision of SOR of Port. TAMP approved ₹152 per container based on rate approved for VPT and advised us to compute tariff on normative basis and take approval.
- (iv). We have already installed the scanner and actual cost of procurement and installation is available. We have estimated other items of operating cost like power, insurance, depreciation, overheads on normative basis. The cost towards AMC is also considered. We have provided for Manpower cost as per minimum wages of CLC Order dated 01.10.2019 for semi-skilled staff. We have considered 16% return. Tariff for scanner works out to ₹270 per TEU.
- (v). Tariff is applicable for all import and export laden container whether scanned or not.
- (vi). Tariff will be valid for 15 years subject to automatic annual indexation.

Association of New Mangalore Ports Stevedores

- (i). We are working under Port. Port has not consulted us before submitting the proposal. Board has approved. Users are not in the Board.
- (ii). VPT wanted only 6% return. Their rate is only ₹152. NMPT wants 16% return. Port should not charge for each and every service. The rate is high.
- (iii). When it is said that the container scanner is mobile what is the need for civil works.

Custom House Agents Association

- (i). It is said that all containers will be charged. Whether all containers will be scanned?

New Mangalore Port Trust

- (i). We are handling around 1 lakh containers and about 30,000 are laden containers per annum. We will not be able to recover the cost even at the proposed rate. If we charge for only scanned containers, tariff will go up.
- (ii). The ground where the mobile scanner will move to scan the container is uneven. We had to set the ground fit for mobility of the scanner by incurring cost towards civil works.
- (iii). We agree to look into the objection of the Trade for the proposed rate and revert back to TAMP by next week.
