Tariff Authority for Major Ports

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby amends the Section I and II of Mumbai Port Trust Scale of Rates charged at the Bunders, as in the Order appended hereto.

( S. Sathyam, Chairman )

Case No. TAMP/2/98 – MBPT

Mumbai Port Trust (MBPT) … Applicant

ORDER

( Passed on this 19th day of July 2000 )

This case relates to a proposal received from the Mumbai Port Trust (MBPT) about amendment of Section I and II of its Scale of Rates charged at the Bunders. The Scale of Rates charged at the Bunders consists of 3 Sections – Section I relating to licence fees on vessels using Bunders; Section II deals with wharfage and demurrage charges of certain goods handled at Bunders; and Section III deals with hard fee relating to charges for ship breaking, construction and repair of vessel. The present proposal is for amendment of Section I and II of the Scale of Rates.

2. In its proposal, the MBPT has highlighted the following:

(i). The New Sassoon Fish Harbour has been constructed at an estimated cost of Rs.11 crores. The Ministry of Agriculture have requested the Port Trust to review the existing rate structure so as to meet not only the expenses of operations and maintenance of the fish jetty, but also to raise funds for future investments in fishery harbour. The Ministry of Agriculture have suggested not only revision of charges in respect of fishing fleet, but also of other shore-based fish trade facilities.

(ii). The Port Trust is incurring an expenditure of Rs.81 lakhs per annum on manning and maintenance of the existing Sassoon dock and New Fish Jetty, besides an estimated annual operation and maintenance expenditure of Rs.70 lakhs on New Sassoon Fish Harbour.

(iii). Considering the estimated expenditure on operation and maintenance of Sassoon Dock, including the New Sassoon Fish Harbour, and Fish Jetty at Ferry Wharf, as well as the expected rate of return at 12.5% on capital employed and 3% contribution to reserves and considering escalations in cost at 5% for the next three years, the Port feels that the ideal income from fish harbours should be about Rs.400 lakh, as against the existing income of Rs.50 lakhs per annum.

(iv). Discussions were held by the Port Trust with fish trawler owners, but they were not inclined to accept the increase. Subsequent to the discussions, the Port modified the proposed rate. The users Association sought of rebate of 50% in the charges to the co-operative societies. This request was agreed to.
In accordance with the procedure followed, the proposal of the MBPT was circulated among various barge owners and Fishermen Societies. The comments received from these users are summarised below:

(i). **M/s. Raj Shipping Agencies Limited**

The proposal to increase the licence fees for barges from the existing rate of Rs.10/- per GRT to Rs.30/- per GRT is on the high side. The Port has not provided any facility. No dredging has been done at the bunders. In case, however, any increase is to be made, it should be in line with all the other categories.

(ii). **Inland Vessel and Barge Owners Association**

They have stated that the bunders have not been dredged for more than 2 decades as a result of which mud has piled up on the boat hard making it impossible to carry out proper repairs. There are illegal slums and lot of enroachment for which no action is being taken by the Port Trust. A joint representation was made to MBPT to dredge the bunder so that the mud does not come on the hard, but no action has been taken. The country’s imports and exports growth has come down, which has reduced the utility of Bunders as also their income has come down. Monthly licence fee rate should not be increased. There should be provision for per day charge for berthing.

(iii). **Karanja Machhimar V.K.S. Society Limited**

As MBPT have not incurred any expenditure, the question of fixing commercial rates for fishing boats of fishermen and other items like diesel outlets, diesel Tankers, truck, Ice crushers and hand carts owned by the fisheries co-operatives does not arise. The State Fisheries Department may be consulted for safeguarding the financial interest of fishermen and their co-operatives.

(iv). **Federation of All India Sailing Vessels Industry Association**

(a). No periodical dredging is done by the MBPT which creates problems for getting enough draft for sailing vessels.

(b). Port charges should be kept valid for 30 days from the date of berthing. Currently validity expires on the last day of the month regardless of the berthing / payment date.

(c). No drinking water facility is available for sailing vessels from the Port Authority.

(d). The MBPT is collecting port dues on the first of every month. In view of this, even if the vessels arrives on the 30th of a particular month and leaves on sixth of the following month, it has to pay for two months. This creates hardship for them. They have, therefore, suggested that the port charges may be valid for one month from the date of arrival of the vessel.

(e). For want of dredging, they are not getting enough draft. The vessels have to wait till high tide.

(f). There is no facility for providing drinking water through taps. They have requested to restore this facility.

(v). **Maharashtra Sagari Matsyavyavasaik Sangh**

As regards levy of charges on Bunkering oil / diesel pump, when MBPT is recovering the rent from the respective petrol pump holders for the space allotted for their bunkering oil
tanks, MBPT’s proposed licence fee would not be affordable for the fishermen societies. However, a general fee of Rs.500/- per thousand kilo liters for consumption of diesel may be charged.

The weighing scales should be with the Karanja machhimar Sahakari Sansatha and same Sansatha should be issued the licence for this purpose.

The proposed licence fees may not be charged till the facilities are available at the New Sassoon Dock.

4.1. A joint hearing in this case was held on 16 September 1999 at the MBPT. During the joint hearing the following submissions were made by the users besides reiteration of many of the points made in their respective representation:

(i). Dredging is not being done at Hay Bunder.

(ii). No facility is given. Even drinking water facility is not there. No cleaning facility or not even a canteen is provided.

(iii). Haji Bunder was originally being used for import. Now the port is using this Bunder exclusively for handling hazardous cargo. This has resulted in congestion in Hay Bunder. There is need to improve facilities at the Hay Bunder.

(iv). The Fishermen should not be required to pay for the auction to the auctioneers. They would desire to sell their catch themselves. Separate areas should be allocated for the auctioneers and non-auctioneers.

(v). As regards levy of charges for bunkering oil / diesel pump, these should be on ‘per bunker’ basis and not on ‘per outlet’ basis. However, the representatives from oil Companies suggested that this should be with reference to the volume of oil handled.

(vi). As against the capacity of 700 boats, 1800 boats are registered without any additional facilities. This has lead to congestion.

4.2. In response, the MBPT has stated that no revision has been done since 1979. In 1991, it was only simplified, rationalised, and not revised. Even the revision now proposed does not cover its cost. As regards new Harbour, Government of India gives grants but port has spent about Rs.81 lakhs per year. Government of India wanted the port to fix tariff with reference to the discussions with Maharashtra Government. The port has done that. The port has calculated only the expenditure and nothing on the capital employed by the Port. The port has been dredging except in one or two bunders The port is now maintaining the notified levels. The encroachments are a historical / political problem. The port cannot remove them.

5. As regards Bunkering oil / diesel pump, the concerned users were given time for further negotiations with the MBPT for a consensus. However, the MBPT reported that no consensus could be arrived at. During the course of discussions with the MBPT, the private dealers have stated that at the most they can pay an amount of Rs.1,000/- per month. The MBPT feels that the oil companies whose product is sold to fishermen and who are the real beneficiaries, should pay 50% of the licence fees. In case of fishermen society, the amount recoverable will be ¼ th of the amount proposed and the remaining has to be borne by the oil companies.

6.1. The proposal of the MBPT was considered by this Authority in its meeting held on 2 August 99; but the case could not be finalised due to lack of complete information. The general feeling was that the port was not providing any facilities such as drinking water, dredging, medical facilities, place for auction, etc., to the port-users/fishing trawlers. That being so, in the absence of a clearly understandable nexus between the tariffs charged and the services rendered, the specific increase in the Scale of Rates at the Bunders could not be held to be justified. Accordingly, it was decided that clear information might be collected (from
the MBPT) about areas covered, extent of revisions, existing rates, proposed rates, improvements being
effected, services provided, reason(s) for revision, and any other relevant information.

6.2. The MBPT was requested on 13 August 99 to furnish the requisite information urgently. After
c onsiderable delay, and on being reminded several times, the MBPT furnished the details on 2 June 2000.

7. In its reply, the MBPT has given following points:

(i). The charges under Sections I and II of Bunder Scale of Rates have not been revised for the last
nine years.

(ii). The port has incurred an expenditure of Rs.11.14 crores in 98-99 on account of handling of
general cargo at the Bunders. This includes contribution to the two statutory reserves @ 3%
of capital employed, interest @ 12.5%, and escalation in cost for the next three years @ 5%
per annum in addition to the establishment cost. The receipt from this activity, however, is
Rs.2.38 crores only during the corresponding year. Even if the present proposal is
approved, the aggregate revenue per annum is expected to be around Rs.4.25 crores only. The
expected revenue is much less compared to the total cost of providing the services at various
Bunders.

(iii). The New Sassoon Fish Harbour has been constructed at a cost of Rs.11 crores. The recurring
operation and maintenance expenditure of the Fish Harbour is about Rs.70 lakhs per
annum. Considering the return on capital employed, the minimum income per annum from
the three Fish Harbours need to be about Rs.400 lakhs. However, the existing revenue from
these Fish Harbours is only about Rs.50 lakhs per annum.

(iv). During the execution of the New Sassoon Fish Harbour Project, a Botanical Garden has been
developed by the port, at the instance of the Union Agriculture Ministry, at a cost of Rs.2.63
crores. The MBPT is incurring about Rs.3.85 lakhs per annum towards its maintenance.

8. The MBPT has argued that services cannot be expected to be available without paying for
it. The MBPT has also stated that it is not correct to conclude that facilities provided by it in the Fish Harbours
are inadequate. It has listed out the following facilities provided by it at the Fish Harbours:

(i). Remittance of Rs.1.53 crores to the Municipal Corporation of Greater Mumbai to lay additional
water lines to Sassoon Docks to augment supply of fresh water to the users.

(ii). Dredging at regular intervals at the New Fish Jetty and Sassoon Dock to facilitate easy
navigation; and, a sizeable amount of money has been spent by the MBPT on this account.

(iii). Medical facility in the form of first-aid is available in the Fish Harbours.

(iv). A covered hall for auction is also provided at both the Jetties. In fact, at the New Sassoon
Dock Fish Harbour, two new auction halls have also been constructed.

(v). Further services like maintenance of roads and other approaches to the jetties, illumination of
fish harbour area, removal of fish waste and garbage, etc.

9. The MBPT has mentioned that projection of traffic and resultant increase in revenue cannot be
indicated with reasonable degree of accuracy. Since the monthly licence fee charges are proposed to be
increased by 50%, the revenue on this account is estimated to go up by about Rs.25 lakhs per annum. The
financial implications for charges on other heads which are being implemented for the first time will not be
more than Rs.10 lakhs per annum.

10. With reference to the totality of information collected during the processing of this case, and on
a collective application of mind, the following position emerges:
(i) A decision on the licence fee for bunkering oil / diesel pump situated inside the Fish Harbours is not possible till receipt of further information from the Port. The port has forward a copy of the lease agreement between it and the Burma Shell Oil Storage and Distributing Company of India Limited. The lease agreement has been executed in December 1954 for a term of 15 years. The lease has expired long ago and no further details of any of the recent lease agreements have been furnished by the Port. In the absence of such information, it has not been possible to examine whether additional charges other than lease rent can be legally enforced on bunkering oil / diesel pump.

(ii) While listing out the various facilities provided at the Fish Harbours, the MBPT has mentioned only about remittance of about Rs.1.53 crores to the Municipal Corporation of Greater Mumbai to lay additional waterlines to augment supply of fresh water. However, the MBPT has not, in definite terms, indicated the availability of drinking water facility, which is one of the grievances aired by the users at the time of the joint hearing. The MBPT should ensure adequate drinking water facility at the Fish Harbours.

(iii) The explanation now offered by the port clearly shows that the proposal for increase (an upward revision of the Bunder Scale of Rates) is more for reducing its operational loss. The port has also informed that the required facilities are being provided at the Fish Harbours. However, no mention has been made about the facilities provided at various Bunders.

(iv) The proposed increase in the rates will only reduce the operational loss suffered by the port and may not adequately cover the total cost and the desired return on capital employed. However, the MBPT’s approach of seeking return on capital employed even on the grant received by it from the Ministry of Agriculture of development of New Sassoon Fish Harbour is not correct. Though the MBPT should not expect any return from the grant received from the Ministry of Agriculture, it is appropriate for it to look for a 6% contribution to the mandatory reserves from the investment made in the New Sassoon Fish harbour which will make available funds in future for development and modernisation of the Fish Harbour. Likewise, the MBPT must not seek to recover the cost of maintenance of a Botanical Garden developed by it from only the revenue to be generated from the Fish harbour. This expenditure being a social obligation should be a part of general overhead of the port; and, accordingly, shall be distributed over the entire revenue earning activities of the port.

(v) After the port has allocated the Haji Bunder for hazardous cargo, there is need for the port to improve facilities at the Hay Bunder to decongest it.

(vi) As regards registration of 1800 boats as against the capacity of 700 boats, the port will have to look ahead and think of some solution for providing more facilities to decongest the Bunders.

11. In the result, and for the reasons given above the Authority approves the proposal of the MBPT towards revision of Section I and II of its Scale of Rates charged at the Bunders subject to the following modifications:

   (i) Monthly licence fee shall be charged from the date of registration of the boat/trawler at the Bunder, valid for one month thereafter as against the existing practice of charging on calendar month basis.

   (ii) The decision regarding licence fee for bunkering oil / diesel pump situated inside the Fish Harbour has been kept pending till the MBPT further re-examines the legal aspect of imposing such a fee in the case of existing lease holders covered by a specific Lease Deed.

12. The amended Sections I and II of MBPT Scale of Rates charged at Bunders is attached as Annex.
This Order shall come into effect after expiry of 30 days from the date of Notification of this Order.

(S. Sathyam, Chairman)

ANNEX

Sections I and II of the Scale of Rates charged at the Bunders.

SECTION – I

LICENCE FEES

(A). Licence Fees will be levied on vessels registered and vessels using Bunders as under:

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Description of vessel</th>
<th>Basis of charging</th>
<th>Monthly Licence fees per GRT (Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Fishing Vessels and Trawlers.</td>
<td>Rate per Gross Registered Tonnage.</td>
<td>15</td>
</tr>
<tr>
<td>2.</td>
<td>Vessels using New Ferry Wharf other than Passenger Boats.</td>
<td>- do -</td>
<td>40</td>
</tr>
<tr>
<td>4.</td>
<td>(b). Catamarans and Hovercrafts.</td>
<td>- do -</td>
<td>25</td>
</tr>
<tr>
<td>5.</td>
<td>(c). Pleasure Crafts.</td>
<td>- do -</td>
<td>30</td>
</tr>
<tr>
<td>6.</td>
<td>Other vessels including Barges not covered in the above categories.</td>
<td>- do -</td>
<td>35</td>
</tr>
</tbody>
</table>

NOTES

(1). Licence Fees on annual basis shall be 8 times the rates prescribed as above.

(2). Vessels using the Port Trust Bunders for the purpose of working cargo, undergoing survey, repairing or idling, shall pay Licence Fees as prescribed at ‘A’ above at the MBPT Cash Collection Centre and obtain an endorsement on the Licence Book. However, the Vessels occupying the Wharf / Hard for repairs on its keel or jacked up on the wharf / hard for changing side plates etc. or being constructed will attract charges under Section III (ii).

(3). Vessels must always carry with them the Licence Book which shall be presented for inspection whenever so demanded by the MBPT officials authorised for such inspection.

(4). Default in adherence to the provisions contained in Notes (1) to (3) above shall render the vessels being distrained or arrested and sold in accordance with the provisions contained in the Major Port Trusts Act, 1963 (Act No.38 of 1963) or the Indian Ports Act, 1908 (Act No.15 of 1908) and Regulations that may be prescribed thereunder.

(5). Payment of charges under this Section shall not entitle a vessel to take up or retain any particular position, in a basin, alongside a wharf or the approach there to, a Hard, Flat or Wharf or any other portions of the Bunder premises.
(6). Annual Licence Fees will not be levied on the following craft provided they do not ply for hire:

Customs, Water Police, the Central or any Provincial Government and Surveyors. Also fenders and launches of Shipping Companies employed in connection with the inspection of crew and landing or embarking passengers from their own vessels.

(7). Monthly licence fee shall be charged from the date of registration of the boat/trawler at the Bunder, valid for one month thereafter.

(8). Vessels opting to pay Licence Fees on monthly basis shall pay the fees immediately on their arrival at the Bunders and shall not leave the bunders without payment of the fees due from them. Default in adherence to this provision shall render recovery of interest from the owners at the rate prescribed by the Board from time to time.

(B). Licence Fees on users and ancillary trade at New Fish Jetty and New Sassoon Fish Harbour and Old Sassoon Dock.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Activity</th>
<th>Rates (In Rupees)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ice Crushing Machine</td>
<td>6000 per annum</td>
</tr>
<tr>
<td>2</td>
<td>Fish Auctioneers</td>
<td>7500 per annum</td>
</tr>
<tr>
<td>3</td>
<td>Hand Carts</td>
<td>300 per annum</td>
</tr>
<tr>
<td>4</td>
<td>Ice Suppliers</td>
<td>4000 per annum</td>
</tr>
<tr>
<td>5</td>
<td>Water Supplier</td>
<td>6000 per annum</td>
</tr>
<tr>
<td>6</td>
<td>Transport / Vehicles Licensing</td>
<td>(a). 500 per truck per annum.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b). 20 per truck per day if permit at (a) above is not held.</td>
</tr>
<tr>
<td>7</td>
<td>Weighing Scale (Katawala)</td>
<td>4000 per annum</td>
</tr>
</tbody>
</table>

NOTES

1. Only valid licence holders shall be allowed to carry out above activity.

2. The licences shall be renewed on annual basis.

3. Registered Fishermen’s Co-operative societies will be granted rebate of 50% in the above licence fees.

SECTION – II

WHARFAGE AND DEMURRAGE CHARGES

(A). WHARFAGE

On cargo handled at Hay Bunder, Haji Bunder, Malet Bunder and New Ferry Wharf (except Fish Jetty) and such other Bunders as may be notified separately, wharfage will be recovered as under:

<table>
<thead>
<tr>
<th>Description</th>
<th>Basis of charge</th>
<th>Import</th>
<th>Export</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a). Hazardous</td>
<td>Per Tonne</td>
<td>20</td>
<td>10</td>
</tr>
</tbody>
</table>
(b). Non-Hazardous excluding salt Per Tonne  | 12 | 6  
(c). Salt Per Tonne  | 3 | 3  

(B). DEMURRAGE  

(i). On cargo handled at Hay Bunder, Haji Bunder, Malet Bunder and New Ferry Wharf (except Fish Jetty) or such other Bunders as may be notified separately, demurrage shall be charged as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate per Tonne per day or part thereof</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(b) Hazardous cargo</td>
</tr>
<tr>
<td>(b). Non-Hazardous cargo</td>
<td>4</td>
</tr>
</tbody>
</table>

(ii). No demurrage shall be recovered on cargo landed at other Bunders. Cargo landed at other Bunders, however, shall be removed from wharf on the day of landing either by direct delivery or by shifting to importers premises. The export cargo shall be allowed to be kept on wharf on the day of shipment.

NOTES  

(1). The Board is under no liability whatsoever in respect of any such goods landed at or brought for shipment from the Bunders and / or otherwise, being on its premises and may move them at the risk and cost of the owner, consignee or shipper without incurring any liability and without prejudice to their right to recover the charges due.

(2). Bunder limit means such potion of the wharves and land adjoining the wharves set aside for goods in transit. A wharf may extend to 15.25 meters measured from the wharf front.

(3). Any consignee or shipper or his agent found shipping or removing cargo from any of the Trustees’ Bunders without first paying the wharfage and any other charges due shall be liable to pay double the charges laid down for the same in the Scale of Rates charged at the Bunders.

(4). Wharfage will be assessed on the gross weight of the goods as shown in the invoices and specifications together with Customs documents and Import and Export Applications. Gross Weight, if not in exact multiple of 100 kgs, will be rounded off to the next higher multiple of 100 kgs for levy of the charges.

GENERAL RULES TO SECTION – II  

(1). The charges under the Scale of Rates as above will not be leviable on goods stored at the Bunders and removed thereto under the provisions of Docks Bye Law No.53.

(2). The Board of trustees do not provide labour at the Bunders for the landing shipping or removal of goods. All goods lying at the Bunders remain there at the risk of the consignee or shippers and are in their charge.

(3). Charges on containers and containerised cargo shall be assessed in accordance with the Scale of Rates charged at the Docks.

(4). The minimum charge recovered in any Application-cum-Bill or Bill should not be less than Ten Rupees.