TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

New Delhi, the 29th May, 2000

No.TAMP/2/98-KPT - In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), and in supersession of its earlier Notification No.TAMP/2/98-KPT dated 8 December 1998, the Tariff Authority for Major Ports hereby refixes the hire charges of ‘M.L. Surajbari’, a Multipurpose Launch belonging to the Kandla Port Trust, as in the Order appended hereto.

SCHEDULE

Case No.TAMP/2/98-KPT

The Kandla Port Trust .... Applicant

ORDER

(Passed on this 12th day of May 2000)

This case relates to a request from the Kandla Port Trust (KPT) about re-fixation of hire charge for M.L. Surajbari, a multipurpose launch at the Kandla Port Trust (KPT).

2. This Authority had earlier passed an order on 30 November 98 fixing the hire charge of “M.L. Surajbari”, a Multipurpose Launch. As per the order, the rate of hire charge for M.L. Surajbari per hour or part thereof was fixed at Rs. 2,800/- (US $ 66.18) with a rebate of 30% to coastal vessels.

3. The KPT has now come up with a request for reconsideration of the said order and to fix the hire charge at Rs. 4,700/- (US $ 223.72) per hour or part thereof. It has been stated that in their earlier proposal, the following points were not taken into account:

(i). The rate of return on capital employed has been taken as 10.50% instead of 12%.

(ii). As per the existing practice followed (by the KPT), the charges calculated are enhanced by 60% before allowing a rebate of 30% to coastal trade. While sending the earlier calculation, this factor of 60% was ignored. Moreover, the
current conversion rate was considered instead of Rs. 100 = US $ 4.76 (as on 30 June 91) as per Government Guidelines of 1991.

(iii). Because of the points made at (i) and (ii) above, the rate of M.L. Surajbari had worked out to much less than the rates of similar capacity craft available at the port. This gives rise to an anomalous situation that higher capacity craft cost lesser than lower capacity craft.

(iv). As per the practice in vogue, the port has recovered provisional rate of Rs. 4700/- (US $ 223.72) per hour or part thereof for M.L. Surajbari and the bills have been adjusted and settled accordingly. Even the vessel agents might have so settled their accounts with their principals.

4. Based on a preliminary scrutiny of the proposal, the KPT was requested to clarify the following points:

(i). Reasons for considering exchange rate prevailing on 30 June 91 as against Guidelines adopted in the Chennai Workshop (organised by the TAMP) held in February 98 wherein such conversion was to be done with reference to the current exchange rate.

(ii). Reasons for implementing the proposed hire charges of Rs. 4,700/- per hour or part thereof without the approval of the Authority.

5. In its reply, the port has made the following submissions:

(i). There is no specific Guideline as to which conversion rate is to be taken.

(ii). The port has recovered charges at the proposed level on provisional basis as it will not be possible to recover the same at a later stage. However, the final bills are yet to be prepared. In the event, approval of the TAMP to charge the rates provisionally was not taken.

(iii). Services of new equipment cannot be kept idle for want of approved rate.

6. The proposal was circulated for comments to four parties, namely, (a) M/s. J.M. Baxi & Co.; (b) M/s. GAC Shipping; (c) M/s. Atlantic Shipping Pvt. Ltd.; and, (d) M/s. Indian Oil Corporation Ltd. Comments were received from all the parties except M/s. Indian Oil Corporation Ltd.

7. The comments received from the users are summarised below:
M/s. Atlantic Shipping Pvt. Ltd.

The rate of Rs. 4700/- per hour is not justified. We are getting other craft locally on round trip hire of Rs. 13,000/- i.e. from ship to shore or shore to ship, as the case may be, depending upon requirement. We are also allowed free waiting time upto four hours. The Port also charges 50% non-insurance charge.

M/s. GAC Shipping

(i). The exchange rate applied is Rs. 21/- equal to US $ 1. The present exchange rate is more than double. According to this, the hire charges will come to about Rs. 10,000/- per hour, which is very high. Moreover, the port is also charging additional charges of 50% non-insurance charges.

(ii). The incidental and supervision charges are too high. They should not be more than 10% each.

(iii). Additional 60% charges before allowing a rebate of 30% to coastal trade is too high.

(iv). The rate of Rs. 4700/- per hour is reasonable. But conversion to US Dollar rate should be based on current exchange rate.

M/s. J.M. Baxi & Co.

(i). The base of calculation like capital cost depreciation, enhancement of charges by 60% may be judged by the TAMP considering the Government guidelines.

(ii). The Port must take the prevalent exchange rate. In addition to the notified tariff, 50% non-insurance charges are also payable for the tugs except pull back tugs. The basis of non-insurance charges is not clear.

8. The KPT was requested to furnish break up of costs adopted in the calculation of the (proposed) hire charges alongwith clarifications/comments on the following points:

(i). Reasons for levying 50% of the hire charges towards non-insurance of the craft.

(ii). Basis for arriving at the percentages of incidental charges, supervision charges, freight and handling charges and, management and general administrative cost.

(iii). The reason for considering depreciation at present day cost.
The justification for incorporating the effect on devaluation of rupee that had taken place in the years 1966 and 1991, while fixing for the first time now the tariff for M.L.Surajbari.

In its reply, the KPT has offered clarifications as follows:

(i). KPT has not insured any of its craft. 50% non-insurance charges are being recovered separately to cover the various risks to which the craft is exposed while in operation.

(ii). The percentages for calculation of incidental charges and freight handling charges are based on the format approved by the Government, in which the Govt. has directed to charge the same at some percentages on repairs and renewals and cost of fuel, lubricants and consumables. Based on the actual expenditure in the KPT, the same is considered at 15%. The average Management and General Administrative cost as a percentage of operating expenditure is around 20%; and, accordingly, the same has been considered while fixing the hire charges. The percentage of establishment cost to the total cost of operation is around 37%; and, applying to principle of what traffic can bear and cost based tariff, it is the conscious decision of the Govt. to recover supervision charges. Accordingly, the KPT has considered it @ 20%.

(iii). In KPT, assets are considered at replacement cost and additional depreciation of this replacement cost based on the difference in WPI is given effect in the accounts of KPT. As per the guidelines of the MPRC’s Report and also as mentioned by the TAMP in its guidelines, replacement cost should be considered for the calculation of tariffs. Accordingly, it is justifiable to consider depreciation on the present day cost of asset.

(iv). The main reason for incorporating the effect of devaluation of Rupee that had taken place in 1966 and 1991 is to neutralize the effect of devaluation twice of the rupee and to make the trade beneficial. To neutralize the 1966 devaluation, 60% is added to the charges which has Government’s approval; and these charges, after adding 60%, are reconverted into dollar rate as on 30 June 1991. Such conversion is being done based on the guidelines issued by the Govt. of India in 1991. Since then, no fresh guidelines for considering a rate other than the above has been received from the Govt.

With reference to the totality of information collected during the processing of this case, the following points emerge for consideration:

(i). The Return on Capital Employed (ROCE) in the original proposal of the KPT was taken as 16.5% going by an interest figure of 10.5%, erroneously quoted by the KPT. The TAMP is allowing ROCE equal to the rate of interest on Govt. of India loans plus 6% (3% for Repayment, Replacement and Maintenance
Fund plus 3% for Development, Rehabilitation and Modernisation Fund). The current rate of interest on Govt. of India loan is 13.5% and accordingly 19.5% ROCE is to be allowed. As the instant case relates to retrospective revision w.e.f. December 1998 and the port has now corrected its error and proposed 12% towards interest rates, ROCE of 18% (12% + 6%) is allowed.

(ii). The standard format giving the guidelines for calculation of hire charges stated to be issued by the Govt. of India, as referred by the KPT, is only with reference to fixing the hire charges of mechanical equipment. However, the KPT has chosen to follow the same format for fixing hire charges for floating craft also. The general format does not prescribe any specific percentages of different over head costs. The KPT has stated that the percentages of over head cost have been arrived at considering the actual direct expenditure and in-direct expenditure. The KPT has not made any change in the percentage figures, which this Authority had originally considered while issuing its earlier Order. That being so, we adopt the same percentages of over head expenditure in the instant case also.

(iii). While fixing cost based tariff, we have been considering depreciation as well as the as capital cost only on historical value and not on replacement cost basis. This approach was recommended to be continued in our meeting with the FA&CAOs of the Port Trusts as the system was not yet fully designed to shift to calculation of depreciation on a ‘replacement cost’ basis. That being so, and in line with the general practice followed by the Authority for revision of tariff in other ports, in the instant case also we allow capital cost and depreciation based only on historical value.

(iv). The arguments of the KPT to incorporate the effects of devaluation of Rupee that had taken place in 1966 and 1991 are not tenable. It is the stated position of this Authority that, in cases of newly commissioned assets or services conversion of the tariff to dollar rate will be based on the prevailing Customs Rate. Accordingly, in the instant case also the hire charge is to be converted into US Dollar denomination applying the exchange rate that prevailed on the date of the original Order i.e. 30 November 1998. It is to be noted that M.L. Surajbari is a new multipurpose launch for which the hire charge was fixed for the first time by the Authority’s Order on 30 November 1998.

(v). The KPT has revised the annual wage cost from Rs.7,77,601/- to Rs. 8,85,051/- . No reason for the revised cost is given. Since this is a request of the KPT for a ‘review’ of this Authority’s Order dated 30 November 98, consistently with the approach adopted by the Authority in such ‘review’ cases, only facts / data relevant as on 30 November 98 are reckoned with; all information / data pertaining to subsequent periods are ignored as being irrelevant. Accordingly, only the wage cost given originally is considered.
(vi). The KPT has mentioned that 50% of the hire charges are being recovered as non-
insurance charges to cover the various risks to which the craft is exposed while in
operation. It is a normal practice that insurance cost is taken as a percentage of
the value of asset and included in the total cost of the operation for fixing tariff. In
other words, the insurance cost should be included in the hire charge and not levied
separately as a percentage of hire charge. The Kandla Port Trust (KPT) has fixed
non-insurance charges as a percentage of the hire charges without any reference to
the cost of the asset. This practice prevalent in the KPT is not viewed with favour
by this Authority. However, recognising that this system has been in vogue since
long, this Authority requires the KPT to discontinue the practice at the time of their
next general revision of tariffs at which time they can consider any other approach
as may be found to be appropriate.

(vii). The KPT has pointed out an anomalous situation of a higher capacity craft costing
lesser than a lower capacity craft. Prima facie, it appears that the anomaly is due to
the unacceptable practice adopted by the Port Trust to fix the hire charges in US
Dollar terms with reference to the exchange rates prevailing on 30 June 1991. All
the craft commissioned after 30 June 1991 should have the hire charges
denominated in US Dollar with reference to the exchange rate prevailing on the
date of approval of the tariff. To remove the anomaly, the KPT should review and
revise the hire charges fixed for other floating craft with reference to the
conversion system mentioned above.

11. In the result, and for the reasons given above, and based on a
collective application of mind, the Authority re-fixes the hire charge for
M.L. Surajbari at Rs. 2863/- per hour or part thereof with retrospective effect from
8 December 1998. Applying the conversion of 1 US $ = Rs. 42.31 (as on the date
of this Authority’s original Order i.e., 30 November 98), the hire charge in US $
will be US $ 67.67. A rebate of 30% on the rupee rate will be available to the
coastal vessels.

12. Accordingly, the following amendments in the KPT Scale of Rates
are also approved:

"Substitute the following item under Chapter-III miscellaneous
charges, Scale I ‘Schedule of charges for hire of Port’s Floating
Craft, floating dry dock’.

<table>
<thead>
<tr>
<th>S/N</th>
<th>NAME OF CRAFT</th>
<th>UNIT</th>
<th>RATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>24.</td>
<td>M.L. SURAJBARI</td>
<td>Per hour or part thereof</td>
<td>Rs. 2863</td>
</tr>
</tbody>
</table>
Note: A rebate of 30% of the above Rupee rate will be available to ‘Coastal’ vessels.

13. The anticipatory action taken by the KPT to recover tariff at the (higher) rates proposed by it is not approved. The KPT cannot unilaterally ignore the rate notified by this Authority vide its Order dated 30 November 98. The KPT is hereby required to refund the excess amounts collected.

S.SATHYAM, Chairman

[ List of Ports | List of Orders]