No. 59  New Delhi, the 28 March, 2002

TARIFF AUTHORITY FOR MAJOR PORTS

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 of the Visakhapatnam Port Trust for fixation of wharfage charges on materials carried by the OSVs of the ONGC vessels as in the Order appended hereto.

( S. Sathyam )

Chairman

This case relates to a proposal from the Visakhapatnam Port Trust (VPT) about fixation of wharfage charges on materials carried by the Off-shore Supply Vessels (OSV) belonging to the Oil and Natural Gas Corporation Limited (ONGC).

2. The VPT has made the following points in its proposal:

(i). It is not possible to treat the ONGC vessels separately for extending any type of concession in view of the policy of dispensing with the possible cross subsidisation; and also, because the ONGC activity does not contribute to the commercial shipping of the port.

(ii). The cargo handled by the OSVs of the ONGC consists of Tubulars, Barytes, Cement, Chemicals and Miscellaneous items. The wharfage charges calculated, based on the quantity handled during the period July 2000 - June 2001 by applying the revised tariff works out to Rs.4200/- per trip of per OSV of ONGC as against the collection of Rs.5000/- per month for 3 to 4 trips of an OSV prior to revision of tariff.
It is, therefore, proposed to fix the wharfage at Rs.4200/- per trip per OSV of the ONGC for oil exploration purpose.

3.1. The proposal of the VPT has been made in pursuance of a representation from the ONGC for a review of increase in the Port dues and other charges for the ONGC vessels due to revision in the Scale of Rates (SOR) of the VPT.

3.2. The points made by the ONCG in its representation are summarised below:

(i). The ONGC vessels engaged in the oil exploration activity have an offshore supply base at Visakhapatnam, and operate from a jetty at the fishing harbour. The jetty is constructed exclusively for the operations of ONGC vessels and has been financed from the funds of the ONGC. These OSVs handle material/equipments below 1500 tonnes with 5.5 meters draft. The VPT land admeasuring 2853 sq. meters adjacent to the jetty has also been taken on lease for 30 years.

(ii). In the previous Scale of Rates (SOR) of the VPT, certain concessions were granted to the vessels handling cargo below 1500 tonnes, vessels berthed at the jetties/mooring etc. in the vessel-related charges, which were applicable to the OSVs of the ONGC also. Similarly the wharfage on the ONGC vessels was levied @ Rs.5000/- per vessel per month.

The revised SOR of the VPT (notified on 4 June 2001), however, does not prescribe any such concession to the vessels in the cargo-related or vessel-related charges.

(iii). The revision of charges has resulted in an increase of 281% in the port dues, 189% in the pilotage and 389% in the berthing charges (for one day stay). This is accompanied by withdrawal of collection of wharfage at a flat rate of Rs.5000/- per vessel per month for the ONGC vessels operating at the fishing harbour.

(iv). The OSVs of the ONGC are treated as cargo vessels; and, the material/equipment despatched through the OSVs meant for drilling is treated as cargo under export/import. This has resulted in filing of export-import application and payment of wharfage on the basis of weight/volume/value of the material loaded / unloaded from the OSVs at the jetty.

3.3. In view of the above, the ONGC had made the following requests:
(i). To consider offering concessions to the ONGC vessels as are offered under clause 2.1(1), 2.2D(1) and 2.3.6 of Section-2 of the vessel-related charges of the revised SOR.

(ii). To collect the wharfage charges at a flat rate as were collected from the ONGC vessels prior to the revision of the SOR; and hence, exempt from filing the export/import application for the drilling material/equipment.

4.1. The representation of the ONGC was forwarded to the VPT. The VPT has responded with the present proposal. The proposal of the VPT was forwarded to the ONGC for comments.

4.2. In addition to reiterating the position relating to operation of the ONGC vessels at Visakhapatnam, the abnormal hike in the tariff, and their request to re-introduce the wharfage charges per vessel per month at a flat rate, the ONGC has made the following comments:

(i). As the correct value of the used drilling items despatched to/return from the digs could not be assessed, the VPT was requested to fix the wharfage at a flat rate, which were prescribed at Rs.5000/- per vessel per month.

Due to our inability to assess the correct value of the used drilling items, the material loaded/unloaded from the OSVs is classified under the category of unenumerated goods in the revised SOR; and, the wharfage charges are levied at the highest slab applicable to the unenumerated goods i.e. @ Rs.40/- per MT.

(ii). The operations of the OSVs from base to rigs and vice versa and also despatch of material to rigs varies from time to time depends upon the requirement of the drilling rigs.

(iii). The particulars of the wharfage charges paid during the period June 2001 - September 2001 as per the revised SOR indicate the following position:

   Per month (84,635/4) --- Rs.21,159/-

   - Per vessel per month (19,971/4) --- Rs.4,993/-
5. The comments of the ONGC were sent to the VPT as feedback information. In response, the VPT has made the following points:

(i). The proposed rate of wharfage of Rs.4200/- per trip per OSV was arrived at based on the information furnished by the ONGC itself; and, is not hypothetical.

(ii). The ONGC has now sent another representation alleging that the proposed wharfage rate of Rs.4200/- per trip of an OSV is high; and, has also furnished different information on wharfage charges paid to the VPT, which cannot be accepted.

(iii). It is once again submitted that the ONGC vessels shall not be treated separately for extending any type of concession in the vessel-related charges; and, the proposed wharfage rate of Rs.4200/- per trip of an OSV shall only be consider which is based on the information furnished by the ONGC.

6. In the meanwhile, the ONGC has once again requested this Authority to take up the matter of review of Berth Hire Charges.

7.1. A joint hearing in this case was held on 6 February 2002 at the VPT. At the joint hearing, the following submissions were made:

Visakhapatnam Port Trust (VPT)

(i). Let the lump sum rate be changed to a ‘per trip’ basis.

(ii). The ONGC gave calculations and proposed Rs.4179/-; now they have reduced it to Rs.2300/-. Let them show the details. If they are reasonable, we will accept.
(iii). We do not agree with their second demand about VRCs. If their vessels are small, they get the benefit on GRT terms.

(iv). The ONGC argument is based on the old ratio of 60% (vessel) and 40% (cargo) component. In the last revision, it was given the goby. The ONGC cannot, therefore, take advantage of that now.

(v). We agree to reduce the rate to Rs.3500/-

Oil & Natural Gas Corporation Ltd. (ONGC)

(i). (a). The rate arrived at in the first calculation, Rs.4179/-; in the second calculation, Rs.2333/-; and, in the third calculation, Rs.3108/-. Let the rate be somewhere between Rs.3108/- and Rs.4179/-.

(b). Our calculations are based on actuals. We agree to Rs.3500/-

(ii). The vessel-related charges are very high; ours are small vessels. Please give the non-crane rebate of 60%.

(iii). Increase of 500% in the pilotage and berth hire is very excessive. I have to bring only small vessels. We have to use the fishing harbour and cannot afford to pay very high rates.

(iv). In case of small vessels, GRT terms may be there, but we are hit by the minimum rates.

7.2. At the joint hearing, the ONGC furnished a comparative statement of berth hire charge paid / payable to the VPT as per the pre-revised / revised tariff respectively giving justification for the review of Berth hire charges.
8. With reference to the totality of information collected during the processing of this case, the following position emerges:

(i). Prior to revision of the Scale of Rates of the VPT in June 2001, wharfage on cargo/materials handled out of ONGC vessels in the Fishing harbour was levied at a flat rate of Rs. 5000/- per month per vessel. In the revised SOR, this specific provision was deleted from the wharfage schedule, as proposed by the VPT. This proposal was based on the overall approach adopted by the VPT to do away with concessions offered to small packages.

(ii). It is admitted that the ONGC was not consulted at the time of last general revision of the VPT Scale of rates. At the same time, it is also to be recognised that it is not possible for us to consult each and every port user. We held consultations with major port users and all relevant representative bodies of port users. Nevertheless, the ONGC has now been given an opportunity of hearing as a part of this proceeding.

(iii). Considering the representation made by the ONGC, the VPT has now proposed to introduce a fixed wharfage rate without going into the details of the materials handled by the OSVs of the ONGC in a voyage. This prescription appears to be reasonable, as it will avoid the hassles of ascertaining details of assorted materials handled.

The ONGC has pleaded for re-introduction of the lump sum monthly wharfage rate per vessel. The methodology adopted by the VPT to arrive at the proposed rate takes into account actual trips made by the OSVs for a period of nearly one year. If a monthly rate is considered, it will be in the region of around Rs.11,500/- per OSV.

It will definitely be a more logical and transparent method to levy wharfage charges based on the frequency of usage. That being so, this Authority is inclined to approve the approach adopted by the VPT to levy wharfage on ONGC materials carried in a trip of the OSVs.

(iv). At the joint hearing, the ONGC furnished an updated calculation of wharfage taking into account data for a more recent period. As per the revised calculations, the wharfage rate works out to about Rs.3108/- per tip of OSV. As pointed out by the VPT, there have been frequent revisions in the figures furnished by the ONGC, perhaps, due to seasonal and cyclic changes in the number of trips made by the OSVs. Nevertheless, both the ONGC and the VPT agreed to a wharfage of Rs.3500/- per trip. This Authority has therefore, no reservation to approve the mutually agreed wharfage rate of Rs.3,500/- per trip of OSV of ONGC.
(v). The ONGC has made another request to allow concession to its OSVs in vessel-related charges as was available in the pre-revised Scale of Rates.

In the pre-revised Scale of Rates a concessional rate was prescribed for vessels loading / discharging cargo upto 1500 tonnes. In line with the overall approach adopted to do away with concessions to small parcel size, this provision was deleted from the Scale of Rates at the time of last general revision. It is to be recognised that vessel-related charges are levied based on GRT of vessels and, the OSVs will automatically get the advantage of lower charges in totality due to its smaller size.

The issue agitated by the ONGC about a rebate in berth hire for non-crane berth is not relevant since the revised SOR of the VPT contains separate berth hire charges for crane berths and non-crane berths. If the jetty used by the ONGC vessels does not have any wharf crane installed by the VPT, then the prescribed non-crane berth hire charges will be leviable on them. There is, therefore, no justification in the demand for an additional rebate of 60% in the berth hire charges.

(vi). The argument of the ONGC that the cost of construction of the jetty used by its OSVs was financed by it is not relevant since the ‘net block’ of assets considered at the time of last general revision for allowing return on capital employed contained only those assets created by the VPT.

(vii). The VRCs fixed at the time of last revision are common to all users and not only to the ONGC. There appears to be no reason to review these rates for the following reasons:

(a). Rates were fixed considering a ROCE of around 10% (as sought by the VPT) for the VPT as a whole as against the maximum permissible level of 19.5%

(b). Disparity in the rates between foreign going and coastal vessel was maintained in line with the Government policy and the approach adopted by this Authority commonly for all the major ports.

(c). The ONGC has not pointed out any error apparent on the fact of the record.

In view of the position explained above, the request of the ONGC for a review the existing vessel related charges at the VPT cannot be allowed.
9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves a wharfage charge of Rs.3500/- on materials for oil exploration purposes carried per trip of the OSVs of the ONGC.

9.2. The VPT is directed to incorporate the wharfage rate approved in its Scale of Rates appropriately.

9.3. The revised wharfage rate shall come into effect on expiry of 15 days from the date of notification of this Order in the Gazette of India.

(S. Sathyam)

Chairman