Tariff Authority for Major Ports

G No. 174       New Delhi,       30 August 2007

NOTIFICATION

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal from the Visakhapatnam Port Trust (VPT) for enhancement of fee for Marine Officers deployed for handling vessels of M/s. Hindustan Shipyard Ltd., and other vessels as in the Order appended hereto.

(A.L. Bongirwar)
Chairman
This case relates to a proposal from the Visakhapatnam Port Trust (VPT) for an upward revision of fee for marine officers deployed for handling vessels of M/s. Hindustan Shipyard Ltd., and other vessels.

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

(i). The services of marine officers are occasionally utilised for vessel movements of M/s. Hindustan Shipyard Limited (HSL), and for some other users.

(ii). The firms give a requisition for services of marine officers. The charges for the services are deducted from the running account of the firm and the marine officers attending to the movements are paid for the services rendered.

(iii). The services of extra officers / masters who are off duty are used sometimes for ‘test run’ of newly constructed vessels or for shifting of vessels within the HSL area for handling over sized vessel, checking draft in case of excess draft vessels, cold move vessels, standby pilot in case of hazardous cargo vessels like LPG, ammonia, barge movements, dredger movements, etc. At times, two pilots are engaged in piloting a vessel, for safety reasons.

(iv). As per the practice in vogue, the remuneration of extra officers / masters are revised every 5 years. The present fee of Rs.900/- and Rs.2250/- for extra officers and master respectively is in force with effect from 20 July 2000 vide sanction of Chairman (VPT).

(v). The proposal for revision of the existing fee for marine officers could not be included during the comprehensive revision of its Scale of Rates for want of consent of the HSL. The revised proposed rates have been negotiated with HSL and the same has been agreed by the HSL. It has forwarded the letter of HSL dated 13 March 2007 giving consent to the proposed tariff.

(vi). The rate agreed by the HSL is proposed to be made applicable to other trade/port users as well who avail the services of the marine officers as per practice in vogue.

2.2. The existing rates reported to be levied by the VPT vis-à-vis the fee proposed is tabulated below:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Unit</th>
<th>Existing Rate</th>
<th>Proposed Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fee for Extra Officers</td>
<td>Per head per movement</td>
<td>Rs.900/-</td>
<td>Rs.1350/-</td>
</tr>
<tr>
<td>Fee for Masters</td>
<td>Per shift per vessel</td>
<td>Rs.2250/-</td>
<td>Rs.3375/-</td>
</tr>
</tbody>
</table>
3.1. In accordance with the consultative procedure prescribed, proposal of the VPT was forwarded to the Hindustan Shipyard Limited and the concerned users / user organisations seeking their comments.

3.2. The HSL has conveyed its acceptance to the rates proposed by the VPT. No other user organisation has filed any written submission.

4. A summary of additional information/clarifications sought from the VPT and reply furnished by VPT is tabulated below:

<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Queries raised by us</th>
<th>Reply furnished by VPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i).</td>
<td>The proposal of the VPT states that fee for extra officers/ masters are being levied by the port since 2000 based on the sanction of the Chairman (VPT). The SOR approved by this Authority in May 2006 and also the pre-revised SOR of 2001 do not prescribe any tariff for these services. Clarify under what tariff setting arrangement the fee was collected by the port since 2000.</td>
<td>Since long time, the services of marine officers are being utilised by M/s. HSL for docking and undocking of vessels without any detriment to their official duties with the approval of the administration. The services were also extended to HPCL and other agencies to ensure safety of LPG and other Ships. The fees of extra officers and marine officers were being revised once in five / six years after mutual agreement with M/s. HSL / other agencies and are being approved by the Chairman (VPT). Since these charges are being collected for services rendered by marine officers who are off duty, the same will be paid to such officers and VPT is not beneficiary of such charges.</td>
</tr>
<tr>
<td>(ii).</td>
<td>(a). Indicate the income earned by the VPT for the years 1999-2000 to 2006-07 from levy of this fee from M/s. Hindustan Shipyard Limited (HSL) and other vessels.</td>
<td>(a). It has furnished the requisite details for the years 1999-2000 to 2006-2007. A summary position of the last four years is tabulated below:</td>
</tr>
<tr>
<td></td>
<td>(b). Furnish the number of incidence when marine officers were hired in each of the years from 1999-2000 to 2006-07.</td>
<td>(b). It has furnished the requisite details. Incidences when extra officers were engaged by HSL is in the range of 2125 to 4857, masters were engaged 41 to 208 times during the years 2003-04 to 2006-07. The other vessels hired extra officers 14 to 112 times during the corresponding period.</td>
</tr>
<tr>
<td>(iii).</td>
<td>Indicate the income earned during the last three years from the levy of such fee from the HSL vessels and from other vessels. Also, clarify whether there is any arrangement to avail this service from other sources in case of vessels other than the HSL vessels.</td>
<td>The rates are approved by Chairman (VPT) only since the fee collected is paid to marine officers, who attend to such movements, on off duty. There are no alternate arrangements available for vessels other than HSL vessels for availing of these services.</td>
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</tbody>
</table>

5. A joint hearing, in this case was held on 12 June 2007 at the Visakhapatnam Port Trust premises. At the joint hearing, the VPT and the concerned users have made their submissions.
6.1. As decided in the joint hearing, the Visakhapatnam Port Trust (VPT) was advised to furnish further information/clarifications on the following points:

(i). Examine in detail and communicate the views whether the proposed charge for pilots engaged during their off duty for the subject work comes under the definition of tariff which is to be regulated by this Authority.

(ii). Explain the reasons why the VPT should levy such a charge if the work is carried on privately by the pilots during their off duty time. Also, clarify whether such engagement is permitted by the applicable service regulations.

(iii). The Scale of Rates of the VPT prescribes levy of pilotage fee and shifting charges. These charges are for the requisite services which are to be provided by the port trust. The user is not concerned with the resources to be engaged by the port trust for providing such services. In this context, please clarify whether proposed charges for deployment of extra marine officers for handling vessels are levied in addition to the prescribed pilotage fees/shifting charges. If so, explain the reasons, why additional pilotage charges should be levied separately.

6.2. The additional information furnished by the VPT are summarised below:

(i). The port is of the opinion that the subject work does not come under the definition of tariff which is regulated by this Authority. TAMP in the last revision of Scale of Rates of the VPT in May 2006 has approved pilot fees (extra officer) at Rs. 900/- per head per movement vide item no. (iii) in schedule 5.3. This tariff is for deployment of marine officers when specifically requisitioned by the trade for the operations of the nature indicated at item (iii) below. This existing tariff item has to be deleted in case TAMP decides that payment of pilot fees (extra officers fees) does not come under their purview.

(ii). Although the work is carried out by the marine officers during their off duty, it is not carried out privately. Both the port and the trade community are getting benefited by this arrangement. It is not possible and feasible for the marine officers to collect such charges individually. Hence, the port is collecting such charges from M/s Hindustan Shipyards Ltd. and trade since long time and paying it to marine officers after deducting income tax and deducting one third fees which is credited to port funds as per provisions of Service Regulations 12.

(iii). There is no levy of additional pilotage/shifting charge. The proposed charge is for providing additional marine officer whenever required in a particular circumstances like for safety reasons, deficiency in the ship, over size vessels, overdraft vessels, non-conventional vessels like drilling rigs which cannot be normally handled by one pilot because of their shape and size, handling of semi built vessels from M/s Hindustan Shipyards, stand-by pilot for the ships handling dangerous cargo like LPG, Ammonia, Naptha where such services are essential to keep a pilot officers on board for any exigency, etc.

7. 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

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

(i). The proposal of the VPT is to regularise and increase the charges collected by the port since July 2000 based on approval granted by Chairman of the port trust for deployment of marine officers during their off duty by M/s. Hindustan Shipyards Limited and other vessels for undertaking particular tasks.
(ii). The tariff to be levied by the major ports of India with reference to the services listed in sections 48, 49 and 50 of the Major Port Trusts, Act 1963 require approval of this Authority.

The clarification furnished by the port shows that the services of pilot/marine officers under the specific circumstances are not provided by the VPT directly to HSL vessels and other vessels. It only permits its marine officers/extra officers to perform the job for others when they are off duty.

The explanation furnished by VPT clearly indicates that the relevant activity is not relating to port service for which tariff is to be regulated by this Authority. It is more of a service matter to be administered by the port as per the extant rules. It is noteworthy that the VPT has also subsequently realised this position and informed that the subject levy of fees will not come under the regulatory ambit of this Authority.

(iii). This Authority in the last tariff revision at VPT has approved pilotage fee of Rs. 900 per head per movement for deployment of officers when requisitioned by the trade for similar work. The fee for masters and fee for extra officers presently being collected by the VPT is not approved by this Authority.

The reference made by VPT about this tariff item flows from the approval granted by this Authority vide Order notified on 3 February 2005 with reference to proposal of VPT for levy of separate pilot fees for pilot services engaged by the private BOT operator Vizag Seaport Limited for carrying out dredging operations for construction of berths. While approving the tariff, this Authority had mentioned that such tariff might be applied in similarly placed cases instead of conceding its application only to VSL.

The same tariff item continued in the last tariff revision proposal of the VPT and hence in the revised Scale of Rates approved by this Authority. Neither while approving this tariff item initially nor at the time of the last tariff revision, the VPT had brought to the notice of this Authority the position which has emerged now.

In view of the clarification furnished by VPT in the proposal under reference that Rs. 900 per head per movement prescribed in the Scale of Rates is levied with reference to extra pilot officers deployed during their overtime, the existing entry in Schedule 5.3. of the Scale of Rates of VPT stands deleted. Incidentally, even the VPT admits that this tariff item has to be deleted if this Authority does not approve the proposal under reference.

(iv). Notwithstanding the position discussed above, it is reiterated that a port has to provide pilotage/shifting services with all necessary resources against levy of the approved pilotage fees/shifting charges. In such cases, there cannot be any additional charge for providing any extra man or machine power.

In the result, and for the reasons given above, and based on a collective application of mind the proposal filed by the VPT is returned.

9.1. The pilot fees prescribed at item no. 3. in Schedule 5.3. under Section-5 in the existing Scale of Rates of the VPT is deleted.

(A.L. Bongirwar)
Chairman
Proposal from the Visakhapatnam Port Trust for enhancement of fee for Marine Officers deployed for handling vessels of M/s. Hindustan Shipyard Ltd. and other vessels.

1. A joint hearing, in this case was held on 12 June 2007 at the Visakhapatnam Port Trust premises. At the joint hearing, the following submissions were made:

**Visakhapatnam Port Trust**

(i). This charge is levied for supply of marine officers off duty to other works.

(ii). This arrangement is in vogue. We propose to revise the rates upwards.

**Hindustan Shipyard Limited**

(iii). We agree with the proposed rates.