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Tariff Authority for Major Ports

G No. 20

New Delhi,

12 January 2010

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 Tuticorin Port Trust for fixation of tariff for the use of Harbour Mobile Cranes as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/22/2007-TPT

Tuticorin Port Trust

Applicant

ORDER

(Passed on this 30 day of December 2009)

This case relates to a proposal received from Tuticorin Port Trust (TPT) for fixation of hire charges of 80 tonne mobile crane operated by M/s.PSTS & Sons Private Limited the service providers authorised by the port.

2.1. It was understood from some trade members that private operators have deployed mobile harbour cranes at Tuticorin Port and few other ports as well. There was, however, no tariff prescribed for such services offered by the authorised service provider in the Scale of Rates of the major ports.

2.2. Clause no. 7.2. of the revised tariff guidelines stipulates that in cases where authorisation arrangement granted to service providers under section 42(3) of the Major Port Trusts, Act 1963 is other than by way of a BOT concession agreement, ceiling rates will be prescribed by this Authority based on a proposal from the Port Trust. The rates so fixed for such services will be commonly applied at the concerned port without reference to individual service provider. The TPT was, therefore, requested to examine the matter and initiate appropriate action.

3.1. In this backdrop, the TPT has filed the proposal for fixation of hire charge of 80 tonne mobile crane operated by a private operator authorised by the port. The port has pointed out that M/s.PSTS & Sons Private Limited (PSTSSPL) are operating 80 tonne mobile crane inside the green gate area of the port based on license issued by the port. They are providing the crane for handling its own cargo as well as the cargo handled by other users.

3.2. The TPT has modified the cost statement furnished to it by the service provider. As per the revised cost position, rate per shift works out to be Rs.45,082 per shift as against Rs.1,36,352 per shift (i.e. US\$ 3000 per shift) collected by the service provider.

3.3. The cost calculation submitted by the TPT is tabulated below:

(in Rs.)

Sr. No.	Particulars	Revised by TPT (cost per annum)
A.	Fixed Cost	
(i).	Depreciation @ 10.34% on cost for Triple shift & PSTS adopted 4.75% for single shift.	4,307,466
(ii).	Insurance	1,281,837
(iii).	Rent	446,412
(iv).	Security charges	111,600
(v).	Interest on Term loan	-
(vi).	Salary & others	1,742,400
(vii).	Docks safely fee & other expenses	150,000
	Total (A)	8,039,715
B.	Variable Cost	
(i).	Diesel & Oil	54,64,260
(ii).	Cost of spares and other maintenance charges	54,15,576
	Total (B)	108,79,836
C.	Return on Investment @ 15%	5,424,533
D.	Total cost + Return (A+B+C)	243,44,084
E.	No. of shifts per annum	540
F.	Hire charge per shift (D/E)	45,082

3.4. The TPT has sought approval of the proposed tariff of Rs.45,082/- per shift for hire of 80 tonne mobile crane. It has also requested to approve the action of the port in having permitted the operator to operate the equipment at the rate of US \$ 3000 per shift (i.e. Rs.1,36,352/-) pending the approval of the proposed rate by TAMP.

4. In accordance with the consultative procedure prescribed, the proposal received from TPT was forwarded to PSTSSPL and the concerned users/ user associations for their comments. The comments received from PSTSSPL and the concerned users / user associations were forwarded to the TPT as feedback information / comments. The TPT has furnished its comments on the comments of the users / user associations.

5. Based on a preliminary scrutiny of the proposal, the TPT was requested to furnish additional information/clarifications on various points vide our letter dated 20 April 2007. The TPT has furnished its reply vide letters dated 24 May 2007. A summary of queries raised by us and information / clarifications furnished by TPT is tabulated below:

Sr. No.	Queries raised by us	Reply furnished by TPT
(i).	Explain the reasons for granting authorisation of hire charge of mobile crane deployed by M/s.PSTS & Sons Private Limited (PSTSSPL) at US\$ 3000 per shift (i.e. Rs.136352) pending approval of final rates when as per the own calculation of the port, rate works out to be Rs.45081 per shift.	TAMP is under the impression that the use of the crane is continuous on specified berths which is not the case. The crane is used by the firm for its own purposes and is made available on casual basis whenever there is a specific requirement from the other stevedores. The rate of US\$ 3,000 per shift is being levied by the company from the users of the crane. The representatives of Tuticorin Stevedores Association (TSA) has accepted the rate vide the minutes of the meeting held on 12 March 2007 with M/s.PSTSSPL, TSA and M/s.Diamond Shipping Agencies. It has forwarded a copy of the minutes of the said meeting. The rate of US \$ 3,000/- is continued to be levied subject to the approval of TAMP.
(ii).	Furnish total cargo handled by this mobile crane for the last two years 2005-06 and 2006-07 and the cargo estimated to be handled in the next three years.	The port does not have details of the total cargo handled by the subject mobile crane for the past period as the same is newly introduced w.e.f. 25 July 2005. The information may be obtained from the Company.
(iii).	Explain the reasons for not adopting the unit of levy of this tariff on per tonne basis instead per shift basis. Examine the possibility of proposing the unit of levy on per tonne basis or atleast on per hour basis instead of per shift basis.	Normally, the charges for ports' mobile harbour cranes are being levied on per hour basis and not in relation to tonnage handled. Hence, the adoption of tonnage as unit of levy is not practicable in such cases of bulk handling in the berths.
(iv).	Furnish a detailed computation of capacity assessment of the crane in terms of number of hours of working and throughput following the utilisation norms prescribed by the Government.	Detailed computation of capacity assessment of the crane in terms of number of hours may be obtained from the Company directly as the equipment is used both for own purposes and by other users occasionally.
(v).	If this mobile crane is deployed for ship to shore movement of cargo, transfer from /to quay and to / from storage yard, then concessional tariff at 60% of the proposed tariff level need to be proposed for coastal cargo as per our Order No.TAMP/4/Genl-2004 dated 7 January 2005 and amendment dated 15 January 2005.	While the port has the facility of cross-subsidising the concessional charges, there is no scope for such cross subsidisation in case of private equipment deployed by private service provider. Therefore, the suggestion is not relevant.

6. A joint hearing in this case was held on 13 July 2007 at the Tuticorin Port Trust premises. At the joint hearing, TPT, PSTSSPL and the concerned users / user associations have made their submissions.

7.1. As decided in the joint hearing, the TPT was requested to initiate action on the following points vide our letter dated 20 July 2007:

- (i). Examine the legal provisions relating to regulating tariff of authorised service providers and comment whether this case would fall within the ambit of Section 42 of the Major Port Trust Act, 1963.
- (ii). To identify similarly placed cases within its area of operation and propose its plan of action.

7.2. Since the reply furnished by the TPT vide letter dated 20 August 2007 did not clarify the issues raised, query was reiterated apart from seeking additional information on the following point with reference to its proposal vide our letter dated 22 October 2007:

- (i). It is understood from the comments received from user associations' that the TPT in addition to the berth hire charges collects 20% of berth hire as cranage charges from the users for use of crane provided by the crane service provider. The TPT in its letter dated 21 June 2006 has also confirmed about the collection of such charges as revenue share payable to the port. Copy of the Annual License given to M/s.PSTS & Sons by the TPT (forwarded by TPT vide fax dated 14 November 2006) does not mention about collection of any additional charge from the users. As per the provision of the MPT Act, the major ports cannot collect any tariff for the services listed under section 42 whether provided by the port directly or through service providers authorized by the port unless the tariff is approved by this Authority. Since TPT has not provided the crane and the private operator who has put up the crane at the concerned berth collects hire charges separately from the users, it does not appear to be appropriate for the port to levy 20% of berth hire charges as cranage charge. TPT is requested to furnish full justification and this Authority towards collection of 20% of berth hire as cranage element.

7.3. The TPT has vide letters dated 13 December 2007 furnished further clarifications on the issue raised in the joint hearing. The submissions made by the TPT in both its letters with reference to the points made at the joint hearing are summarised below:

- (i). Private operator of equipment are allowed to ply and operate inside the port area based on the license granted by the port as per the Scale of Rates (SOR) approved by this Authority under charges for miscellaneous items of services (license fee for entry of vehicles).

The Authority may like to take a decision in this respect considering the practical situation expressed at the time of joint hearing viz. usage of equipment by owners themselves, and also the usage of equipment by others in a limited way which is unpredictable. In this connection, it is also requested to refer to its comments on the comments of the users.

- (ii). With reference to the point raised as to whether the subject case falls within the ambit of Section 42 of MPT Act, 1963, it has submitted that the subject case has been referred by the Authority with the request to initiate appropriate action for submission of proposals in respect of authorised service providers. When sought clarification as to the application of above provision to all service providers, the Authority has clarified that regulation of rates for each individual service provider need not be done but as a whole for a port without reference to individual service providers.
- (iii). It has submitted that the said equipment of 80T mobile crane is the only equipment authorised by the TPT for providing service in the port and hence, as per the direction of the Authority a separate proposal has been submitted.

- (iv). In respect of similar other cases, port has collected details from the authorised service providers, which are under examination in the light of the TAMP directions. It would submit proposal for proposing charges for the port as a whole in due course of time.
- (v). The TPT has clarified that collection of 20% of berth hire as cranage charges for use of the crane by authorised service provider is not in vogue. Actually, the rebate inbuilt in the berth hire is towards provision of wharf crane charges in crane berths of VOC I, II, III and IV.

The cranage charge inbuilt in the berth hire charges is only for the supply of wharf crane (excluding grabs). The same does not cover provision for other cranes. Hence, the issue of collection of 20% of berth hire charges as cranage does not arise. However, based on agreement with the Tuticorin Stevedores Association, M/s.PSTS and Sons and M/s.Diamond Shipping Agencies, license fee for the equipment equivalent to the 20% of the berth hire is being collected either from the owner or the user as the case may be which is in line with TAMP Guidelines para 2.17.4. The provision of 20% of the berth hire charges as revenue share is a different issue, emanating from Government guidelines to adopt the revenue share model in respect of authorised service providers. This is not included in the annual license formats as the same is a new phenomena.

8.1. With reference to the TPT's reply dated 20 April 2007 to our queries raised earlier, the TPT has expressed its inability to furnish the details of actual / estimates of cargo handled by the services provider on the pretext that it does not have the requisite information. It has requested to obtain the requisite information directly from the operator. In this regard, it was clearly brought out that it is for the TPT to file a proposal and hence port was again advised to collect the necessary information from any relevant source and submit thereon. The information / clarifications sought from the TPT are:

- (i). Year-wise traffic handled, income earned and expenditure incurred by the service provider for operating 80 tonne mobile crane at the port wharves from the date of its operation i.e. from July 2005 till 31 December 2007 along with estimates for the next three months (i.e. January to March 2008) duly certified by their Chartered Accountant.
- (ii). Cargo estimated to be handled using 80 tonne mobile crane during the next three years i.e. 2008-09, 2009-10 and 2010-11.
- (iii). A copy of the minutes of the meeting held on 12 March 2007 between Tuticorin Stevedores Association, M/s.PSTS & Sons Private Limited and M/s.Diamond Shipping Agencies.

8.2. The port vide its letter dated 19 May 2009 has enclosed a copy of the letter dated 12 May 2009 received from the service provider - M/s.PSTS Logistics Private Limited, furnishing details of the shifts handled and revenue earned in the previous years from 2005-2006 to 2008-2009 and the projections for the years 2009-10 and 2010-2011.

9.1. Since the reply furnished by the TPT was not relevant to the information sought by us, it was emphasised that nature and the quantum of traffic handled at the berths where the 80 tonne mobile cranes supplied by the service provider would be relevant for fixation of hire charge for the crane. The TPT was, therefore, once again requested vide our letter dated 5 June 2009 to furnish details of traffic handled at berths where harbour mobile crane service is provided with breakup of cargo mix.

9.2. The TPT vide letter dated 18 June 2009 has provided nature and quantum of cargo handled during the years 2006-07 to 2008-09 as furnished by the service provider.

10.1. This Authority decided to seek further additional information / clarifications from the TPT. Accordingly, the TPT was vide our letter dated 29 October 2009 requested to furnish the annual throughput of cargo handled by the HMC since its commissioning along with breakup of the commodities and cargo-wise performance level achieved by the HMC.

10.2. The TPT vide letter dated 23 November 2009 has furnished details of annual throughput of cargo handled by the HMC during the years 2005-06 to 2009-10 (upto 17 November 2009) along with the breakup of commodities handled on tonnage basis as forwarded by the service provider. Stating that the crane is utilised only intermittently and not on continuous basis, the port has expressed its inability to furnish the performance levels achieved by the HMC in handling each categories of cargo.

11. 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>.

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

- (i). The Tuticorin Port Trust (TPT) has granted license to a private crane operator for operating Harbour Mobile Crane inside the green gate area of the port. The crane is reportedly deployed by a private crane operator for handling its own cargo as well as the cargo handled by other users.
- (ii). Section 42(4) of the Major Port Trusts Act, 1963 read with Section 48 requires this Authority to notify the rates in respect of identified services provided by persons authorised under Section 42(3) of the MPT Act. In cases where the authorization arrangement under Section 42(3) is other than by way of a BOT Concession Agreement, Clause 7.2. of the tariff guidelines of March 2005 requires this Authority to fix ceiling rates for such services to be applied commonly at the concerned ports without reference to the individual service provider. The TPT has not categorically stated that the authorisation granted to the service provider to operate mobile harbour crane in the port is under Section 42(3) of Major Port Trusts Act, 1963 other than by way of the BOT arrangement. But, provision of cranaage facility is one of the services listed under Section 42 of the MPT Act and, therefore, the tariff for providing cranaage facility needs to be regulated by this Authority. This position will not undergo a change whether the port itself provides this service or permits a private operator to do so. Since the said service is one of services identified under Section 42 of the Major Port Trusts Act, 1963, the tariff for providing such service is to be regulated by this Authority. This case is, therefore, taken up for prescription of ceiling rates for the cranaage service following Clause 7.2. of the tariff guidelines of March 2005.
- (iii). Despite a specific advice rendered to the port explaining the correct position that the rates for services offered by an authorised service provider will be commonly applied at the concerned port without reference to individual service provider, the cost analysis furnished by the port to support the proposed rate is reportedly based on the details furnished by the existing service provider authorised by the port.

There has been considerable delay on the port's side in furnishing the information sought by this Authority. It took considerable time and regular reminding to obtain necessary clarifications and additional information from the port. Under the tariff guidelines, it is the obligation of the port to file proposal in cases like the one under consideration and to enforce the ceiling rates fixed by this Authority. The port at one stage has gone to the extent of advising this Authority to collect necessary details directly from a service provider operating at the port. The exercise is not for fixing tariff for the services provided by any individual operator but to set a ceiling rate for the identified port service offered at the Tuticorin Port. The details finally furnished by the port are also based on the information it obtained from the service provider without any independent examination.

- (iv). The TPT has proposed hire charge for an 80 tonne harbour mobile crane operated by M/s.PSTSSPL. Tariff Guidelines of 2005, require prescription of ceiling rate for the port as a whole which is to be applied commonly for identical services / facilities provided by any service provider authorised by the Major Port Trust without reference to any individual service provider.

Given the above mandate, it is not possible to prescribe rate solely based on the cost and investment of a particular operator as the revenue model so derived may not necessarily fit in case of another service provider offering the same services. It is, therefore, found appropriate to arrive at the ceiling rate based on standard capacity and normative cost of operating mobile harbour crane.

- (v). In Paradip Port Trust (PPT) even though HMC with different capacities are deployed by various crane service providers authorised by the port, for the purpose of fixation of hire charge of HMC, the PPT has formulated its proposal based on certain assumed norms and parameters for HMC of 100 tonnes capacity.

Even at the TPT, possibility of induction of additional cranes in future cannot be ruled out. This Authority, therefore, decides to prescribe hire charge on normative basis for a 100 tonnes capacity HMC and link the tariff to the performance of the crane. Linking of tariff with performance will to a great extent take care of the interest of users and the service provider even when the actual capacity of the crane deployed varies within a range from the standard HMC considered in this exercise.

- (vi). It is to be noted that from the user's point of view, that the duration of deployment of the crane for loading / unloading operations may not be much relevant. The tariff should correlate to the tangible output i.e. cargo handled. The port was, therefore, advised to propose tariff on tonnage basis instead of shift basis. The TPT has not acceded to our advice citing that the charges for ports' mobile harbour cranes are being levied on per hour basis and not in relation to tonnage handled. It has also not assessed the capacity of the cranes in tonnage basis. It is admitted the existing Scale of Rates of some of the major ports including TPT prescribe hire charge of crane in relation to time. This may be because such rates were mainly for miscellaneous services and also due to the fact that there were no norms then evolved for arriving at the crane capacity with reference to the productivity of cranes.

Since the ceiling rates for operating a HMC is to be prescribed without reference to individual operators, the tariff arrived must be based on certain norms and parameters. Clause 2.4.1. of the tariff guidelines of March 2005 also calls for attempts to evolve normative cost of each component of port operations. Since separate set of norms under Clause 2.4.1. of 2005 tariff guidelines are not evolved, it is found appropriate to adopt the norms prescribed in the tariff guidelines of 2008 for determining the hire charge based on standard cost of operating a harbour mobile crane. The fixation of tariff based on normative approach linked to performance would also encourage service providers to bring efficiency in operations and protects the users from inefficient operations.

- (vii). The tariff guidelines of 2008 for upfront tariff fixation prescribe the handling norms/ guidelines for dedicated facilities such as coal, iron ore and container handling. Apart from that, guidelines / handling norms are prescribed for multipurpose cargo terminal covering dry bulk cargo and break bulk cargo which are found relevant in this case based on cargo profile handled by the crane in the past few years. The information furnished in this proceeding reveal that though granite is the main cargo handled by the existing HMC at TPT, other cargo such as project cargo, machinery, urea, MOP, rock phosphate, etc. are also handled by HMC during the years 2006-07 to 2008-09. Similar cargo items are expected to be handled in future. Despite specific request, the TPT has not furnished the exact cargo share likely to be handled by the harbour mobile crane. No meaningful analysis of cargo mix can be drawn from the list of cargo items furnished by the TPT as the unit of cargo handled is not uniform.

In the absence of availability of information on the share of capacity allocable to different cargo, the standard capacity of crane is arrived separately for cargo groups i.e. dry bulk cargo and the break bulk cargo with reference to the handling norms prescribed for respective cargo groups in the guidelines of 2008. For this

purpose, number of working hours per annum is considered at 4000 based on normative level of working hours prescribed in the 2008 guidelines for estimating the power / fuel cost for loading / unloading equipment deployed at multipurpose cargo berth.

The tariff guidelines of 2008 prescribe a norm for cargo handling at multipurpose berth at a rate of 10,000 tonnes per day for dry bulk cargo comprising food grains & fertilizer and coal, limestone, minerals etc., The output norm of 10000 tonnes per day prescribed in, the tariff guidelines of 2008 is with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each. Since the exercise is to prescribe hire charges for the HMC of 100 tonne capacity, the norm prescribed in the 2008 guidelines for the per day handling rate needs to be adjusted suitably. Considering the higher handling capacity of HMC as compared to the aggregate capacity of the wharf cranes prescribed in the 2008 guidelines, in the absence of any other norms available, it is reasonable to reckon a 25% increase over the handling rate of 10000 tonnes per day prescribed for operation of 3 numbers of 20 Tonne ELL cranes. Similar approach is followed in the case relating to fixation of hire charge of HMC at Paradip Port Trust. It is notable that the one the three cranes operated in the port of Paradip which is reportedly 100 tonnes capacity has performed in the range of 11319 tonnes to 12451 tonnes per day.

- (viii). The capital cost of the 100 tonne HMC with two grabs estimated by the Paradip Port Trust for fixation of hire charge of HMC is Rs.3007.74 lakhs including freight and duties. The estimated capital cost is substantiated with the budgetary quotations obtained by the PPT. Capital cost as estimated by the PPT is relied upon and considered for the purpose of this analysis subject to updating the exchange rate with the prevailing rate. The exchange rate applied by the PPT for conversion of the budgetary quotations in Euro is Rs.67.78 which is updated to Rs.66.7875 to reflect the exchange rate prevailing at the time of analysis of this case. The capital cost of HMC accordingly works out to Rs.2963.70 lakhs.
- (ix). (a). There is no explicit fuel consumption norm for a harbour mobile crane prescribed in the tariff guidelines of 2008. Fuel consumption estimated by the Paradip Port Trust for a 100 tonne mobile crane is 70 litres / hour. The fuel consumption by a 104 tonne HMC operated by the Vizag Seaport Private Limited a private bulk terminal operator in Visakhapatnam Port Trust is indicated at 60 litres / hour.
- Since no separate norms for consumption of fuel by HMC is available, fuel consumption estimated by PPT for a 100 tonne HMC is considered. The unit cost of fuel considered by the TPT at Rs.34.83 per litre is updated to Rs.34.98 per litre prevailing at the time of analysing this case.
- (b). The repairs and maintenance cost and insurance are estimated at 5% and 1% respectively of capital cost of crane as per the norms prescribed in the guidelines of 2008.
- (c). The guidelines of 2008 stipulate estimation of license fee based on the rates prescribed in the Scale of Rates of the respective Major Ports. The TPT has estimated rent at Rs.4.46 lakhs under the head 'Other items'. Presuming that the estimates furnished by the TPT are based on the prevailing rates, the rent estimated by the TPT is considered as license fee in this analysis
- (d). Depreciation is estimated at 10.34% on the capital cost of the crane as per the rate prescribed under the Companies Act 1956.
- (e). Other expenses are estimated at 5% of the capital cost of crane as per the norms prescribed in the guidelines of 2008.
- (x). The TPT has estimated return on capital employed at 15% on the depreciated value of assets. This Authority has adopted the ROCE at 16% for the tariff cases to be decided in the year 2009-10 which is considered for arriving at the hire

charge for HMC. Return is allowed on the average written down value of assets for three years period for which tariff it to be fixed which works out to Rs.376.13 lakhs.

- (xi). The total estimated annual revenue requirement of operating HMC is Rs.1111.00 lakhs which is aggregate of operating cost of crane Rs.734.87 lakhs plus 16% return Rs.376.13 lakhs. As stated earlier, hire charge for HMC is arrived for broad cargo groups with reference to their respective standard capacity.
- (xii). The tariff guidelines of 2008 prescribe norms also for fixation of rate for break-bulk cargo like steel & bagged cargo and other cargo. It prescribes handling rate of 4000 tonnes per day for steel & bagged cargo and 2500 tonnes per day for others with the deployment of 3 numbers of 20 tonne ELL cranes. As stated earlier, the output norms prescribed in the guidelines are with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each whereas the exercise is to prescribe hire charge for a 100 tonne HMC. Further, it may be relevant to mention that HMC may handle other cargo without grabs not being fitted to the crane. Hence the handling rate prescribed in the guidelines need to be updated to recognise the above elements.

Despite several request made to the TPT to furnish the average performance of cargo handed by the HMC at the port, the TPT has expressed its inability to furnish the requisite details stating that the crane is utilised only intermittently and not on continuous basis. It has furnished details of annual throughput of cargo handled by the HMC during the years 2005-06 to 2009-10 along with the breakup of commodities. No conclusion could be drawn about the average performance of handling with reference to various other break cargo such as machinery, project cargo, etc., Based on the data of quantum of cargo handled and the number of shifts for handling such cargo provided by the TPT with reference to granite which is one of the main commodity handled by the crane at the TPT, it is observed the handling performance level varies in the range from 2475 tonnes per day to 4341 tonnes per day during the last four years.

For the reasons explained in the preceding paragraph and also recognising that the handling rate of granite reported by TPT is achieved by a second hand harbour mobile crane, this Authority is of the view that considering 50% increase over the handling rate prescribed in the 2008 guidelines may not be unrealistic. This Authority, therefore, decides to reckon a 50% increase over the handling rate prescribed in the guidelines for steel and bagged cargo and other break bulk cargo. Similar approach is followed in the case relating the fixation of hire charge of HMC at Paradip Port Trust.

Accordingly, updated normative handling rate of 6,000 tonnes per day for steel and bagged cargo, and 3750 tonnes per day for other cargo are considered in this analysis.

Following these adjusted norms and 4000 hours of working of the crane in a year, as prescribed in the tariff guidelines of 2008 and keeping in view 70% utilization factor, the rate per tonne for use of the HMC works out to Rs.37.33 per tonne for dry bulk cargo, Rs.77.80 per tonne for handling steel & bagged cargo and Rs.124.55 per tonne for other cargo to achieve the estimated annual revenue requirement of Rs.1111.00 lakhs for the respective cargo group.

- (xiii). The statement submitted by the TPT for use of HMC has been modified in line with the above analysis. A copy of the statement is attached as **Annex - I**.
- (xiv). Clause 4.3. of the tariff guidelines of March 2005 stipulates prescription of concessional tariff for coastal cargo. The said clause further stipulates that the cargo related charges for all coastal cargo, other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo related charges.

The TPT has not proposed concessional tariff for coastal cargo for ship to shore transfer of cargo or vice versa using the HMC on the grounds that private equipment deployed by private service provider do not have scope of cross subsidizing the concessional charge, the facility which is otherwise available to the port.

Prescription of concessional tariff on coastal cargo / container / vessels in cargo related charge and vessel related charge is a policy directions issued by the (then) Ministry of Shipping, Road Transport and Highways (MSRTH) in the Central Government to this Authority which is also incorporated in the tariff guidelines of 2005. The rates prescribed by this Authority are, therefore, bound to reflect the policy decision irrespective of the person who is going to charge such rate. The objective is the concerned section of trade should get the stated benefit.

The estimated annual revenue requirement of Rs.1111.00 lakhs will have to be realized from foreign and coastal cargo handled. That being so, the concessional rate requires to be determined taking into consideration the share of the estimated capacity of the HMC for handling coastal cargo and suitable adjustment in the rate for handling foreign cargo. The TPT has, however, not furnished break up foreign/ coastal cargo handled by the HMC at its port so as to recognise the impact of concessional tariff applicable to coastal cargo while fixing the hire charge of crane. In the absence of information relating to the share of the capacity of the HMC to handle coastal cargo and to comply with Clause 4.3. of the tariff guidelines of March 2005, coastal rate is prescribed at 60% of the rate prescribed for normal cargo. It is, however, open for TPT to come up with a suitable proposal for adjustment in rates if concessional tariff prescribed for coastal cargo is likely have significant impact on the estimated revenue model considered in this analysis.

- (xv). The hire charge for 100 tonne HMC crane arrived in this analysis is with reference to the performance for handling different cargo groups adopting the handling norms prescribed in the guidelines of 2008. As it is possible to have actual performance varying from the standards assumed in this calculation, it is necessary to prescribe tariff linked to performance levels. Incidentally, Clause 5.9. of the tariff guidelines of 2005 also recommends linking tariff to the benchmark levels of productivity, providing incentive for better performance and disincentive for performance below the benchmark levels. The performance linked tariff will provide for incentive to the service provider for high performance and disincentive for underperformance.

The proposal filed by the TPT does not contain any productivity linked tariff. In the absence of any productivity related details made available by the TPT, it is not possible to evolve a scientific formula for prescribing an incentive / disincentive tariff scheme with reference the productivity of HMC.

In the absence of any analysis furnished for determining performance linked tariff scheme, an incentive / disincentive scheme based on the model followed in the case relating to the PPT is made applicable in this case also. The standard productivity level assumed for arriving at the tariff is treated as the base level. Accordingly, the performance linked tariff structure is prescribed providing for a reward of 5% by way of increment in the base rate if the performance achieved is 1000 tonnes higher than the benchmark level and a disincentive by way of reduction in the base rate by 5% if performance achieved is 1000 tonnes lower than the benchmark.

The hire charge for HMC proposed by the TPT is Rs.45082 per shift. As against this, the hire charge for HMC for handling other break bulk cargo based on the unit rate of Rs.124.55 per tonne for achieving 3750 tonnes in a day will be Rs.155689/- per shift. The per tonne rate fixed by this Authority may appear to be higher than the tariff on shift basis proposed by the TPT. This is mainly because the capital cost and the relevant operating cost considered by the TPT are very low as compared to the tariff fixed by this Authority based on standard cost of providing the service of HMC. Further, it has to be recognised that at the rate proposed by the TPT on shift basis, users are likely to be burdened for the full shift rate even if

the HMC underperforms. But, since the tariff is prescribed on per tonne basis and linked to productivity level, users will pay for the output at the stated level of performance.

At the same time, the performance linked tariff will encourage private service providers to maintain higher efficiency level in order to enhance his returns due to higher rates prescribed. Such efficiency improvement will also be benefit users due to faster turn around of vessel. As stated earlier, the slabs for performance linked tariff introduced are not based on any well analysed data. The TPT is, therefore, advised to formulate a more scientific incentive / disincentive scheme at the time of the next tariff review of this item.

- (xvi). The tariff guidelines of 2005 stipulate a tariff validity cycle of 3 years. Accordingly, the hire charge for crane fixed by this Authority will be valid for three years from the date of implementation of the Order.
- (xvii). The TPT has only proposed rates for HMC. It has not proposed any conditions governing application of rates. Since the tariff is fixed linked to productivity level, it is necessary to define the conditions in order to avoid ambiguity. The PPT has in its proposal for fixation of hire charge of HMC proposed formula for arriving at the average berth day output of HMC. It has also proposed provisions to measure performance in case of breakdown of HMC for more than an hour, stoppage of operations of HMC, penalty in case of shifting of vessel on account of breakdown / non-performance of vessel, etc., which may be relevant in the case of TPT. Hence, the conditionalities prescribed in the PPT case are incorporated in the TPT case also. The TPT may come up with a suitable proposal if it finds any other conditions are relevant to the operations of HMC in its port or finds the conditions prescribed by this Authority are not relevant in its case.
- (xviii). The Tuticorin Chamber of Commerce and Industry and Tuticorin Stevedores Association have pointed out that the TPT in addition to the berth hire charges collects 20% of berth hire as cranage charges from the users for use of crane provided by the crane service provider. While processing the case, most of the users / user associations have objected said the levy collected by the TPT.

Whilst the TPT at one place has clarified that the issue of collection of 20% of berth hire charges as cranage does not arise as cranage charge is inbuilt in the berth hire charges. The TPT at other place also admits that that based on agreement with the Tuticorin Stevedores Association, M/s.PSTS and Sons Private Limited and M/s.Diamond Shipping Agencies, license fee for the equipment equivalent to the 20% of the berth hire is being collected either from the owner or the user as the case may be.

This Authority would not like to intervene if any additional charge is collected by the port from the authorised service provider as a part of the licencing arrangement between them as such payment is akin to revenue share. Revenue share item is not considered as pass through in the tariff fixation exercise of HMC as per the tariff guidelines of 2005 and 2008.

However, statutory provision does not allow either the TPT or any service provider authorised by the port to collect any charge from users under any name which has not been approved by this Authority. The TPT should refrain from collecting any charge linked to berth hire from the users for permitting use of HMC as no such tariff is approved by this Authority.

As correctly stated by the TPT, the berth hire charge prescribed in the Scale of Rates of the port is inclusive of wharf crane. A rebate of 20% is prescribed in the existing Scale of Rates if a vessel is berthed in a non-crane berth. Since the HMC is provided by a service provider at berths where port has not deployed its own wharf crane, berth hire applicable for non-crane berth should only be applied by the port. If crane deployed by service provider is hired by users, then, the charges for use of HMC prescribed by this Authority will be payable by them separately to the operator.

- (xix). The TPT in its proposal has sought approval of the proposed rate of US\$3000 per shift levied by the service provider on an adhoc basis pending the approval of the rate by this Authority. It has stated that the proposed rate was levied based on the agreement with Tuticorin Stevedores Association, M/s. Diamond Shipping Agencies and service provider M/s. PSTSSPL. The proposal of the TPT was taken on consultation with the relevant stake holders and the joint hearing convened in this case was to hear the views of the stake holders on the proposed rate of US\$3000 per shift. Users have not raised any pointed objection on the rate proposed.

It is notable that implementation of adhoc rate by the port is subject to certain conditions prescribed in the tariff guidelines. The adhoc tariff authorised by the TPT is not fully in compliance with clause 2.17.1. to 2.17.3. of the tariff guidelines.

However, recognising that generally the users have not raised pointed objection on the rate proposed by the TPT during the proceedings of this case, this Authority ratifies the action of the TPT and recognizes the measure of TPT to implement the rate of US\$ 3000 per shift on ad-hoc basis for use of the HMC. The levy of proposed rate on ad-hoc basis is allowed from the date of commencement of operations of HMC at TPT till the effective date of the implementation of the revised rate notified by this Authority. The TPT is advised to refrain in future from implementing any tariff arrangement on adhoc basis which is not in conformity to the tariff guidelines.

- (xx). Tuticorin Custom House Agent's Association citing that there are number of other equipment such as fork lifts trucks, cranes, front end loaders, etc., being operated in the port area has requested this Authority to also regulate tariff of other handling and transport services offered in the port area. When specifically advised the port to identify similarly placed cases within its area of operation and propose its plan of action, the port has submitted that the 80T mobile crane is the only equipment authorised by the TPT for providing service in the port. As agreed by the TPT subsequently during the proceeding of this case, the port is advised to file proposal in respect of similar other cases which fall under ambit of tariff regulation to regulate such tariff items in terms of clause 7 of the 2005 tariff guidelines.

13.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves the following to be inserted in Schedule 5.20. - Charges for hire of Harbour Mobile Crane under Chapter - V Miscellaneous Charges in the existing Scale of Rates of the Tuticorin Port Trust:

“5.20. Charges for use of Harbour Mobile Cranes installed by the private operators:

- (i). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in Rs.)	
	Foreign	Coastal
9500-10499	31.72	19.03
10500-11499	33.59	20.15
11500-12499	35.46	21.28
12500	37.33	22.40
12501-13500	39.20	23.52
13501-14500	41.07	24.64
14501 – 15500	42.94	25.76

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The rate for third thousand tonnes was arrived by enhancing the base rate by 115%. The same methodology shall also be adopted to calculate the rate beyond 15500 tonnes. Likewise, ceiling rates for performance below 9500 tonnes shall be calculated by reducing the base rate accordingly.

- (II). For Break-bulk cargo:
- (A). Steel and Bagged Cargo

Average daily crane performance (in Metric tonne)	Ceiling rate per tonne (in Rs)	
	Foreign	Coastal
5000-5999	73.91	44.35
6000	77.80	46.68
6001-7000	81.69	49.01

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 7000 tonnes. Likewise, ceiling rates for performance below 5000 tonnes shall be calculated by reducing the base rate accordingly.

- (B). Others

Average daily crane performance (in Metric tonne)	Ceiling rate per tonne (in Rs)	
	Foreign	Coastal
2750-3749	118.32	70.99
3750	124.55	74.73
3751-4750	130.78	78.47

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes. The same methodology shall also be adopted to calculate the rate beyond 4750 tonnes. Likewise, ceiling rates for performance below 2750 tonnes shall be calculated by reducing the base rate accordingly.

Notes:

- (i). The formula for calculation of average berth-day out put is as follows:

$$\frac{\text{Total Quantity loaded / unloaded by the HMC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hours}$$

- (ii). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from port users for the full quantity of cargo loaded / discharged.
- (iii). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.
- (iv). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded / discharged prior to break-down divided by crane working hours and multiplied by 24.
- (v). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.
- (vi). In case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of Rs.1,00,000/- (Rupees one lakh only). The shifting charges so recovered will be refunded to the vessel's agent while the penalty will be retained by the port.

(vii). In case of dispute on the average output, the decision of the port trust will be final and binding.”

13.2. Since the adhoc rate is already in operation, the ceiling rates fixed now will come into effect after expiry of 15 days from the date of its notification in the Gazette of India and shall remain valid for 3 years.

13.3. As per clause 7.2. of the tariff guidelines, the rate approved by this Authority for Harbour Mobile Crane is a ceiling rate and will apply commonly at the port for identical facility / service offered at the port without reference to any particular service provider. As per clause 7.3. of the tariff guidelines, the Port Trust may ensure, by suitably including a necessary condition in the authorisation arrangement that the authorised service providers do not charge more than the prescribed ceiling rates.

(Rani Jadhav)
Chairperson

Cost calculation for fixation of rate for use of 100 tonne Harbour Mobile Crane provided by authorised service provider at the Tuticorin Port Trust

A. For Dry bulk cargo

Rs. in Lakhs

Sr. No.	Particulars	As furnished by Tuticorin port Trust		Norms if any prescribed in 2008 tariff guidelines (for multipurpose cargo berth)	Modified Calculation	
		Workings			Workings	For Dry bulk - (a) food grains & fertiliser (b). Coal, lime stone, minerals. etc.
I	Cost of Mobile Harbour Crane (Rs. Lakhs)		416.58			2963.70
II	A. Capacity (in terms of shifts / hours per annum) computed by TPT					
	Available working shifts per annum	300 days * 3 shift per day	900			
	Norms of availability as per Government guidelines		60%			
	Capacity in shifts per annum	900* 60%	540			
	Capacity in terms of hours / annum		4320			
	B. Capacity in tonnes/ annum computed by TAMP			Dry bulk		
	Handling rate per hour (in tonnes)			a) Food grain, fertiliser = 10000 tonnes / days (for vessels more than 30000 tonnes parcel size) b) Coal, Lime stone, minerals , etc. = 10000 tonnes / days	25% above the handling norms prescribed in the guidelines i.e.12500/ (24 hours * 70% utilisation factor)	744
	Working hours per annum			A norm of 4000 hours of working in a year is prescribed for estimating power / fuel cost		4000
	Annual Capacity (in tonnes)					2976000
	Annual Capacity (in Million tonnes)					2.976
III	Operating Cost		Rs. in lakhs			Rs. in lakhs
	(a). Fuel cost	Fuel (30 ltrs per hour * Rs. 34.83 per litre * 4320 hours) + oil (2 ltrs per hour * Rs. 110 per litre per unit * 4320 hours)	54.64		70 ltrs per hour * Rs. 34.98 per litre * 4000 hours	97.94
	(b). Repairs & Maintenance cost		54.16	5% on cost of mechanical equipment	5% * Rs.2963.70 lakhs	148.19
	(c). Insurance		12.82	1% on cost of mechanical equipment	1% * Rs.2963.70 lakhs	29.64
	(d). Depreciation	10.34% * Rs. 416.58 lakhs	43.07	As per norms prescribed in Companies Act	10.34% * Rs.2963.70 lakhs	306.45
	(e). Rent (License Fee)	-	4.46	As per Scale of Rates of concerned port	Rent as estimated by the TPT is considered as license fee	4.46
	(f). Other Expense		20.04	5% of Gross fixed Asset Value	5% * Rs.2963.70 lakhs	148.19
	- Security Charges	1.12				
	- Salaries & Others	17.42				
	- Dock Safety and other Exp	1.50				
	Total (a) to (e)		189.20			734.87
IV	ROCE	15% * Rs.361.63 lakhs	54.25	16% on capital employed	16% * Rs.2350.81 lakhs	376.13
V	Total Cost plus Return on investment		243.44			1111.00
VI	Hire Charge per shift	Rs. 243.44 lakhs /540 shifts	45082			
VII	Hire Charge per tonne (Foreign) in Rs.				Rs.1111.00 lakhs /2.976 million tonnes	37.33
VIII	Hire Charge per tonne (Coastal)				60% * Rs. 37.33	22.40

B. For break bulk cargo

Sr. No.	Particulars	Working	Steel & bagged cargo	Others
I	Cargo Handling rate at 50% above the norms prescribed in upfront tariff guidelines 2008 for multipurpose cargo terminal (in tonnes / day)		6000	3750
II	Cargo Handling rate in tonnes / hour	Sr. no I / (24 hours * 70% utilisation norm)	357.00	223
III	Working hours (per annum)		4000	4000
IV	Capacity (tonnes / annum)	Sr. No II * III	1428000	892000
V	Total cost plus return as estimated in Sr. No V in the first table (Rs. in lakhs)		1111.00	1111.00
VI	Hire Charge per tonne (Foreign going) in Rs. / tonne	Sr. No V / IV	77.80	124.55
VII	Hire Charge per tonne (Coastal) in Rs. / tonne	60% of Sr. No VI	46.68	74.73

@ Note : Workings for capital employed

Gross value of HMC

Rate of Depreciation as per provisions of Companies Act

Rs. 2963.70 lakhs

10.34 %

Year 1

Year 2

Year 3

Value of HMC at the beginning of the year

Depreciation

Written down value at the end of the year

Average written down value

2963.70

306.45

2657.25

2657.25

306.45

2350.81

2350.81

2350.80684

306.45

2044.36

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

F. No.TAMP/22/2007-TPT - Proposal from the Tuticorin Port Trust for fixation of hire charges of 80 tonne mobile crane operated by M/s.PSTS & Sons Private Limited the service providers authorised by the port.

The summary of the comments received from the users / user organisations and comments of TPT thereon is given below:

Sr. No.	Comments of user / user organisations	Comments of TPT
1.	Tuticorin Custom House Agent's Association	
(i).	No shore crane facilities or mobile cranes are provided by the TPT in the berths. To facilitate the trade for cargo handling operations, the port authorised PSTSSPL to make available 80 tonne mobile crane at the TPT berths. It needs to be noted that heavy investment is made by the service provider for procurement of the crane. The interest evinced by the service provider for extending the service needs to be appreciated and encouraged by the TPT.	Shore wharf crane of 20 tonnes is available in berth nos. III & IV. The TPT has initiated action to procure one (10T) and (6T) wharf cranes.
(ii).	It may be relevant to state that there are number of lorries, fork lifts trucks, cranes, front end loaders, etc., which operate in the port area. Since the TPT has filed a proposal for fixation of hire charges of private equipment owned by M/s.PSTSSPL, TAMP may consider whether it is possible to fix hire charges for other means of handling and transport in the port area.	No comments furnished.
(iii).	The port has in the general revision proposal proposed 100% increase in entry fee / annual license fee applicable to private equipment. There is no justification for such increase by TPT.	It is outside the preview of the current proposal.
(iv).	The TPT has informed that other private users of the mobile crane have to pay crantage charges @ 20% of berth hire for use of crane deployed by PSTSSPL. In fact the port has started collecting this amount after discussion.	The point made by TCHAA is outside the purview of TAMP as fixation of revenue share was in agreement with private equipment operator.
(v).	In this backdrop, it has requested TAMP to take a fair approach while fixing hire charges for 80 tonne mobile crane operated by M/s PSTSSPL.	
2.	All India Chamber of Commerce & Industries, Tuticorin Port Handling Agents Association & Tuticorin Ship Agents Association	
(i).	They have reiterated the submissions made by the TCHAA.	Comments on the points made by TCHAA is already furnished.

3.	Tuticorin Stevedores Association	
(i).	Annual Licence Fee for the equipment is proposed (as high as Rs.42300/-) per shift in the general revision proposal filed separately by the port. Handling equipment play a vital role for boosting the productivity and the efficiency levels of the port.	No specific comments furnished.
(ii).	Undue taxing on the equipment is disincentive to attract investment on equipment. At the neighbouring port of Chennai, the annual licence fee for the equipment is only Rs. 1500/.	
(iii).	M/s PSTS & Sons Pvt. Ltd., who have offered their willingness to provide mobile crane of 80 tones to facilitate trade and other users at the berths not having availability of shore crane, should be supported by all means as heavy investment have been made by them for procurement of the crane.	
(iv).	It has been temporarily fixed that the service receiver has to pay crantage @ 20% of berth hire charges to the port and to pay USD 3000 per shift as hire charge to the service provider.	
(v).	There should be some cushion while fixing the royalty amount payable to the TPT as crantage charges @ 20% of berth hire viewing the benefits of the users at large.	
4.	Tuticorin Chamber of Commerce and Industry	
(i).	By a rough and ready method any such mobile crane will have a life span of 5 years without much of maintenance. In the first three years, the capital value and interest element will be pulled out by PSTSSPL. The last two years will be the profit element and the same may be divided by 5 years and the rent for the users may be fixed accordingly.	No specific comments furnished.
(ii).	The depreciation rate applicable for income tax returns may be taken into consideration to fix the capital value of the equipment for each of the years in a sliding way. There cannot be dual depreciation one for Income Tax and another for fixation of tariff by the Authority. If the interest @ 24% is considered on such capital cost, it may not be of much burden on the consumers or for the crane provider.	
5.	PSTS Logistics Pvt. Ltd.	
(i).	In Tuticorin Port, wherever there is no shore crane facility, there is no other alternative crantage facilities for users. Being one of the major granite handling agent, it has made huge investment in bringing an 80 tonne mobile Gottwald crane which would be of immense help in case of vessels without own gears. In general, the trade has appreciated its investment and are using the services whenever there is a need for availing of such a facility.	No specific comments furnished.

(ii).	The return on investment made for procurement of this crane has not even reached break-even point for the last two years. Last year, utilisation level by third party was only 25.5 shifts and during current year so far it has been used by other party for 1 shift only.	
(iii).	In the meanwhile, the TPT has informed that other third party users has to pay cranage charges at 20% of berth hire as a royalty for usage of crane. In fact, the port has started collecting this rate. TAMP is requested to take a fair decision on this issue in the interest of port users at large and service providers.	

2. A joint hearing in this case was held on 13 July 2007 at the Tuticorin Port Trust premises. At the joint hearing, the following submissions were made:

M/s. PSTS & Sons Private Limited

- (i). The crane is used mainly for our use. Seldom we handle others cargo. In the last 6 months we have not handled any outsiders' cargo.
- (ii). Please allow market forces to decide if anyone else require our crane.

Tuticorin Port Trust

- (i). Many equipment are brought into port. There may not be a serious necessity to single out this equipment.

The Tuticorin Steamer Agents' Association & Tuticorin Stevedores' Association

- (i). We feel it would be better to allow this rate to be determined by market forces.
