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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 73 **New Delhi,** **28 February, 2014**

NOTIFICATION

In exercise of the powers conferred under 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 Buthello Travels for revision of tariff for two 60 tonnes electronic weighbridges installed in Mumbai Port Trust (MBPT) Docks, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

No. TAMP/14/2013–MBPT

The Buthello Travels --- **Applicant**

QUORUM:

(i). Shri. T. S. Balasubramanian, Member (Finance)
(ii). Shri. C. B. Singh, Member (Economic)

O R D E R

(Passed on this 21st day of February 2014)

This case deals with the proposal received from M/s. Buthello Travels (BT) for revision of tariff for two 60 tonnes electronic weighbridges installed at the Mumbai Port Trust's (MBPT's) Dock.

2.1. The existing rate of ₹60/ per vehicle at the BT was initially approved vide Order No. TAMP/39/2010-MBPT dated 2 May 2011 which was notified in the Gazette of India on 25 May 2011 vide G. No. 114. As per the Order dated 2 May 2011 the rate of ₹ 60/- per vehicle is valid for a period one year from the date of Notification. Accordingly, the said rate was valid till 25 May 2012.

2.2. As per clause 3.1.2. of the tariff guidelines of 2005, the port / terminal has to file its proposal atleast three months before the tariff is due for revision. As the BT had not filed its proposal for revision and nothing was heard in this regard from the BT, it was advised to file its proposal for revision of rate for the two electronic weighbridges vide our letter no. TAMP/39/2010-MBPT dated 3 October 2012. In response, the BT vide its letter dated 10 October 2012 had requested for time till 31 October 2012 to file their copy of accounts and furnish records in this regard. In view of the difficulties expressed by BT, this Authority acceded to the request of BT to allow time to file its proposal and copy of accounts.

3.1. The BT, vide its letter dated 31 October 2012, forwarded the cost statement for the year 2011-12 and copy of Audited Balance Sheet. On a preliminary scrutiny of the proposal, it was seen that the BT had not filed its proposal for fixation of tariff, along with conditionalities governing them, in the prescribed formats with supporting details as prescribed under clause 3.1.1 of the tariff guidelines of March 2005.

3.2. In view of the above, the BT was requested to file its proposal immediately in the prescribed formats along with the proposed draft Scale of Rates vide our letter dated 17 December 2012. Since no response was received from the BT, a reminder to BT was issued on 5 February 2013.

4.1. In this backdrop, the BT under cover of its letter dated 22 February 2013 has filed its proposal for approval of tariff for two 60 tonnes electronic weighbridges installed at the MBPT's Dock. The main points contained in the cost statement furnished with the proposal are summarized below:

(i). The BT has furnished the actual vehicles handled, income and expenditure for the year 2011-12 (10 months), estimates for 2012-13 and projections for 2013-14 to 2015-16. As considered in the initial fixation, the BT has considered the same elements of Operating and Maintenance Cost namely, power cost, repairs & maintenance cost, depreciation, amortization and other expenses (staff cost and overheads).

(ii). As per the initial fixation, the BT has not considered the actual costs incurred such as bank interest and royalty paid to MBPT.

(iii). As per the cost statement, rate for weighing at the electronic weighbridge works out to ₹ 95/- per vehicle as against the present rate of ₹60/- per vehicle.

(iv). The BT has requested not to increase the rate since MBPT is also operating 2 Nos of 60 tonnes weighbridge on their own with the same rate of ₹60/- per vehicle for the weighment.

4.2. The details of the cost statement furnished by the BT are as below:

(₹ in lakhs)

Sl. No.	Description	Actual for the period 1.6.11 to 31.3.12	Current year provisional (2012-13)	Projection for		
				Year 1 (2013-14)	Year 2 (2014-15)	Year 3 (2015-16)
(i).	Capital cost	6,548,549	--	--	--	--
(ii).	Operating & Maintenance cost	3,893,211	3,992,603	4,088,624	4,213,755	4,366,416
(iii).	Return on Capital Employed	907,148	776,675	663,374	564,668	478,368
(iv).	Total revenue requirement	4,800,359	4,769,279	4,751,998	4,778,423	4,844,784
(v).	Actual / projected no. of vehicle handled per annum	41,637	49,964	49,964	49,964	49,964
(vi).	Vehicles per year	49,964	--	--	--	--
(vii).	Proposed & actual tariff per annum	₹ 96	₹ 95	₹ 95	₹ 96	₹ 97

5. In accordance with the consultative procedure prescribed, a copy of the proposal dated 22 February 2013 was circulated to the MBPT and concerned users / user organisations seeking their comments, followed by the reminder dated 26 March 2013. The comments received from users/ user organisations were forwarded to BT as feedback information. The BT has not furnished its comments till finalisation of this case.

6.1. Based on a preliminary scrutiny of the proposal, the BT was requested to furnish additional information / clarifications vide our letter dated 10 July 2013. A summary of the queries raised by us are tabulated below:

Sl. No.	Queries raised by us
(i).	The undertaking furnished alongwith the prescribed tariff filing formats is not signed. The BT is requested to furnish a signed and dated Undertaking in the format prescribed for filing tariff revision proposal.
(ii).	The copy of documents furnished by BT for the year 2011-12 appears to be a photocopy of Income Tax Returns. Therefore, the BT is requested to furnish an original copy of the complete audited accounts for the year 2011-12 pertaining to the weighbridges operated by the BT at the Mumbai Port Trust (MBPT). As the financial year 2012-13 is already over, the BT is also requested to furnish original copy of its provisional annual accounts pertaining to the weighbridges operated by it at the MBPT for the year 2012-13, if audited annual accounts are not available.

(iii).	The cost statements furnished by BT contain actuals for 2011- 12 (10 months), estimates for 2012-13 and projections for the years 2013-14 to 2015-16. Since the year 2012-13 is already over, the BT is requested to update the cost statements for 2012-13 with actuals. The estimates for the subsequent three years from 2013-14 to 2015-16 is updated based on the actuals of 2012-13, if necessary.
(iv).	(a). As per clause 2.13 of tariff guidelines of March 2005, the actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. In this context, the Form 7 of the cost statement filed by the BT does not contain any details. Therefore, the BT is requested to furnish Form 7 duly filled in all respects alongwith reasons for variation.
	(b). Since the year 2012-13 is over, the BT is requested to update the Form 7 analysis for the year 2012-13 also.
(v).	(a). Relying on the estimation of BT that 75 vehicles would avail the weighment service per day per weighbridge, the number of vehicles expected to be handled per annum was arrived at 54750. As per the cost statement, 41637 vehicles have availed the services of the weigh bridges during 2011-12 i.e. 9% less than the estimated vehicles availed the services of the weigh bridges. The reasons for that is explained.
	(b) As per the proposal the BT has handled 41637 vehicles at the weighbridges at the MBPT during the year 2011-12. As per the approved rate of ₹60 per vehicle the BT should have earned ₹24,98,220/- during the year 2011-12. As against that income indicated in the Income Tax returns is ₹27,56,465/. In this connection the BT is requested to explain the reason for the difference and reconcile the difference in the income as per the above working and the income indicated in the Income Tax returns.
	(c). During the initial fixation, the power cost was estimated at ₹4,35,960/- assuming consumption of 2100 units per weigh bridge per month as proposed by BT. As per the cost statement the actual power cost is ₹66104/- for the year 2011-12. That being so,
	(i). Please furnish month wise consumption of units per Weigh Bridge for the period 2011-12 and 2012-13; and
	(ii). In case of any change in the rate of consumption from the estimated units of consumption please furnish the reasons for such change.
	(d) As against the estimated depreciation of ₹ 573720/- the actual depreciation is ₹809907/- which is 41% more than the estimated depreciation. The BT to furnish the reason for the same and also furnish detailed working for arriving at the depreciation of ₹809907/-.
	(e). As against the estimated other expense of ₹832282/- the actual other expenses are ₹2537000/- which is 205% more than the estimated other expenses. The BT to explain the reason for the same.
(vi)	The Guidelines provide flexibility to all the major port trusts / terminal operators to reduce the rates at their discretion on commercial consideration, if they so desire as the tariff fixed is ceiling level. Reduction, if any, granted by BT is quantified and listed out for each the years 2011-12 and 2012-13 and the consequential effect of such concession granted on growth of traffic to be analyzed.
(vii)	As per clause 2.9.10 of the tariff guidelines of March 2005, return allowed is linked to the utilisation factor of the capacity of the port / terminal as assessed by them. The BT is requested to indicate the assessed capacity of each weighbridge and furnish working to substantiate assessed capacity of each of the weighbridges.
(viii)	The number of vehicles estimated to be handled during the year 2012-13 i.e. 49964 is 20% more than the actual vehicles handled in 2011-12 whereas vehicles estimated to be handled during the year 2013-14 to 2015-16 is at the same level of 2012-13. In this connection, BT is requested to explain:
	(a). The basis of estimating the number of vehicles during the year 2012-13 to 2015-16; and
	(b). The estimation of same number of vehicles during the years 2012-13 to 2015-16 without any growth in vehicle handling is justified.
(ix)	The return is allowed on capital employed which comprises of Net Block (i.e. Gross Block minus depreciation minus work-in-progress) plus working capital. It is seen that the BT has not estimated working capital in calculating return on capital employed.

(x)	The rate proposed in the proposal is ₹60 per vehicle as against ₹95 per vehicle as per working of BT. In this connection it is noteworthy that as per clause 2.16.1. of the March 2005 guidelines that the tariff fixed by TAMP is ceiling level and the ports/terminals have flexibility to charge lower rates, if it so desires. In view of that this Authority may not be in a position to approve the proposed rate of ₹60 per vehicle if the rate as warranted by the cost position is different.

6.2. The BT has not responded despite reminder dated 14 August 2013 till finalisation of this case.

7.1 A joint hearing in this case was held on 13 August 2013 at the Office of the Authority. Though agreed in the email dated 13 August 2013 no representative from Buthello Travels was present for the hearing. The MBPT and India Pulses and Grains Association (IPGA) have made their submissions:

7.2. As agreed at the joint hearing, the MBPT vide its letter dated 28 August 2013 has furnished projection for the year 2013-14 in respect of no. of vehicles, total tonnage weighment to be handled and revenue to be earned at the existing rate at two weighbridges at 71D and 7/8 VD operated by the BT as given below :

Sr. No.	Location	Projection for 2013-14		
		No. of vehicles	Total Tonnage to be handled (MT)	Total Revenue to be earned (₹.)
1	7 ID Weighbridge 7/8 VD W/Bridge	63294	828988	3797640/-

7.3. The decisions taken at the joint hearing as brought out in the table given below were conveyed in detail to the BT vide our letter dated 14 August 2013 with a request to furnish its response immediately. The BT furnished its response vide its letter dated 31 August 2013, after a reminder. The decisions taken in the joint hearing and the response of the BT vide its letter dated 31 August 2013 is tabulated below:

Sr. No.	Decision taken in the joint hearing	Response of the BT
(i).	M/s. Buthello Travels to furnish additional information / clarification on various issues vide our letter of even no. 10 July 2013. M/s. Buthello Travels, despite our reminder vide our referred letter dated 14 August 2013, has not responded.	Grant some time to furnish all the additional information / clarification of the highlighted issues. We are not expert in the financial matters so we would have to take the help of our CA in this matter. Since our CA is currently committed to his work regarding filing Income Tax returns of his clients and our company we will be able to clarify only in October 2013.
(ii).	The average operating cost (excluding return) for the years 2013-14 to 2015-16 is ₹.42,22,931/. The average cost for handling the estimated vehicles of 49964 per year comes to ₹85 per vehicle. Considering the return, the average cost to be recovered comes to ₹95 per vehicle. As against that the BT has proposed a rate of ₹60 per vehicle on the ground that Mumbai Port Trust is operating its weighbridge at ₹60 per vehicle. As the proposed rate of ₹.60/- would not recover even the operating cost of the facility, the BT to examine this issue and revisit the expenditure	As per the tender clause / agreement we have deposited ₹10 lac as upfront payment / 5 lac bank guarantee. Even we are collecting lesser revenue and we have sustained for sometime reason is that the rates of BPT weighbridge are ₹.60/- per vehicle. (c). The only way for us to bridge the revenue gap is by keeping uniformity in the tariff of all weighbridges inside the port.

	estimates and traffic estimates and inform us as to how it proposes to bridge the revenue gap between the estimated cost and the proposed rate	According to our earlier letter dated 22 February 2013, our proposed rate was ₹.95/-. We request you to keep uniformity in the tariff for all weighbridges inside the port.

7.4. The BT was informed, vide our letter dated 3 September 2013 that as the BT has already availed considerable time from 13 July 2013, there is no justification for BT to seek time till October 2013. In view of that the BT was allowed time upto 13 September 2013 to furnish its response on the additional information / clarification sought vide our letters of even number dated 10 July 2013 and 14 August 2013 failing which the case will be closed for order.

The BT vide its letter dated 6 September 2013 has submitted that they do not have any additional information / clarification to furnish as requested by our earlier letters. In view of that it has requested to continue with the same existing rates.

8. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of 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.

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

(i). The BT has filed this proposal for revision of its tariff initially fixed vide Order No. TAMP/39/2010-MBPT dated 2 May 2011. As per the initial fixation the validity of the existing tariff was prescribed for one year from the date of notification of the Order in the Gazette of India. As the Order was notified in the Gazette on 25 May 2011 the validity of the tariff initially approved was till 25 May 2012. In terms of clause 3.1.2. the BT had to file its proposal atleast three months before the date of revision of the tariff. The BT has, however, filed its proposal for revision of the tariff only in December 2012, after reminder.

(ii). As mentioned earlier, the BT filed its complete proposal only in February 2013. Since the financial year 2012-13 was over, the BT was requested to update its proposal with actual traffic handled, income and expenditure for the year 2012-13 while requesting to furnish clarification / additional information vide our letter dated 16 July 2013. The BT has not responded to the queries raised nor did it update its proposal or filed the prescribed forms. Even the BT did not attend the joint hearing on its proposal despite agreeing to attend the hearing vide its email dated 13 August 2013. Subsequently, while informing the decisions taken at the joint hearing the BT was reminded to furnish its reply to the queries. The BT vide its letter dated 6 September 2013 has submitted that they do not have any additional information / clarification to furnish as requested vide our earlier letters. This Authority has no powers to summon persons or call for records. While it can seek information from ports/operators, it cannot mandate any information from them and impose timelines for furnishing the requisite information. In the absence of any additional information / clarification from the BT the analysis proceeds based on the available information in the office of this Authority.

(iii). (a). Clause 2.13 of the tariff guidelines of March 2005 requires this Authority to review the actual physical and financial performance at the end of the prescribed tariff validity period with reference to the projections relied upon at the time of fixing the prevailing tariff. If variation in actual performance of more than + or – 20% is observed as compared to the projections, the tariff to be approved has to be adjusted prospectively.

(b). The tariff for use of electronic weigh bridges installed in the MBPT premises was initially fixed based on the estimates for the year 2011-12. The approach followed in the last tariff Order to estimate the cost position for the year 2011-12 is adopted to analyse the actual performance for the year 2011-12. The initial fixation was notified in the Gazette of India on 25 May 2011, as stated earlier. As per para 12.2 of the said Order the approved rate shall come into effect from the date of the notification of the order in the Gazette of India. As the said Order was notified on 25 May 2011 the approved rate was effectively in force for 10 months of the year 2011-12.

The cost estimation in the initial order was made for the year 2011-12. As mentioned above, the BT has neither furnished audited Accounts for the year 2011-12 nor has it furnished any information / clarification sought by us. It has, however, furnished copy of Income Tax return for the year 2011-12. Since the initially approved rate was effectively in force for 10 months of the year 2011-12, the estimated income, expenditure and return as considered in Order dated 2 May 2011 is adjusted for 10 months in order to have like to like comparison with the information relating to the actual income, expenditure and return furnished by the BT alongwith proposal.

(c). The variation in the estimates considered by this Authority in the initial tariff order dated 2 May 2011 as adjusted for 10 months of the year 2011-12 and the actuals as emerging from the Income Tax return for the year 2011-12 is analysed below.

(i). The vehicles estimated to be handled at the weighbridges operated by the BT as per the Order dated 2 May 2011 is 54750 vehicles. On adjustment for 10 months, the number of vehicles estimated to be handled at these weighbridges is 45625. On comparison of the actual vehicles handled, as per the information furnished along with the proposal, with the adjusted estimates it is seen that the actual traffic handled by BT is less than the estimated traffic by 9%.

(ii). Based on 2100 units/month at ₹8.65 per unit for 2 bridges the power cost per annum was estimated at ₹435960/-. On adjusting for 10 months, the estimated power cost would be ₹3,63,300/-. On comparing the actual power cost as per the Income Tax return with the adjusted estimates of power cost, it is seen that the actual power cost is less than the estimated power cost by 82%.

(iii). The annual repairs and maintenance cost was estimated at ₹3,88,398/- being 7% of the total capital cost excluding upfront premium. On adjusting for 10 months, the estimated repairs and maintenance cost would be ₹3,23,665/-. On comparing the actual repair and maintenance cost as per the Income Tax return with the adjusted estimate of this cost, it is seen that the actual repair and maintenance cost is more than the estimated repairs and maintenance cost by 17%.

(iv). The depreciation for the year 2011-12 was estimated at ₹5,73,720/- being per 10.34% of the total capital cost of ₹65,48,549/- less the upfront premium of ₹10,00,000/-. The depreciation as per the Income Tax return as well as the information furnished by the BT alongwith its proposal dated 22 February 2013 is ₹809907/.

As per clause 2.7.1. of the 2005 tariff guidelines for the purpose of depreciation of assets, in the case of private terminals, depreciation will be allowed on straight-line method with life norms adopted as per the Companies Act or *based on* the life norms prescribed in the concession agreements whichever is higher. The license agreement, furnished to us at the time of initial fixation, does not indicate the life norms for the weighbridges. That being so, the depreciation is to be calculated on the Straight Line Method at the rate of 10.34% mentioned in the Companies Act on the value of the assets excluding upfront premium.

The BT has not furnished calculations for arriving at the figure of ₹809907/- despite specific request. In the absence of any information and as the weighbridges are already installed by the BT, the actual depreciation is considered at same level and relied upon as reported by the BT.

(v). The upfront premium of ₹10 lakhs paid by the BT to the Licensor port is amortised over the license period of 10 years. Accordingly, as per the approach followed in the initial fixation, ₹1 lakh is considered for like to like comparison.

(vi). The other expenses consisting of staff cost and overheads was estimated at 15% of the total capital cost excluding upfront premium at ₹8,32,382/. Adjusted cost for 10 months works out to ₹6,93,568/. As against that the actual other expenses as furnished by the BT is ₹25,37,000/-. The abnormal expenditure in this regard remains unexplained inspite of a query in this regard. The position reported by the BT is relied upon. On comparing the actual other cost as reflected in the Income Tax return with the adjusted estimates, it is seen that the actual other expenses is more than the estimated other expenses by 266%.

(vii). As regards the return on capital employed, it is to mention that as per the information furnished by the BT alongwith the proposal the return is ₹9,07,148/-. The BT has not furnished any calculation / information for arriving at the figure of ₹. 9,07,148/-. In the absence of any information and as the weighbridges are already installed by the BT, the return is considered at same level as considered in the initial fixation i.e. at ₹9,39,973/-. It is noteworthy that during the initial fixation of tariff of BT, the capital cost considered was as certified by the Chartered Accountant.

(viii). Thus, on comparing the adjusted estimated expenditure with the overall actual expenditure, it is seen that the actual expenditure shows about 89% increase as compared to the adjusted estimated expenditure for 10 months, before return. On considering return at 16%, the comparison shows that the actual revenue requirement is 61% more than the estimated revenue requirement.

(d). The cost statement for the year 2011-12 indicating the estimates considered in the Order dated 2 May 2011, the adjusted estimates for 10 months and the actuals for 10 months as per the Income Tax return / information furnished alonwith the proposal is attached as **Annex-I**. A summary of the analysis of the actual financial performance at BT and the adjusted estimates as considered in the last tariff Order is tabulated below:

A.	Summary of Actuals for the year 2011-12	Amt. in actuals (₹)
(i).	Actual Total revenue requirement 2011-12 for 10 months	48,33,184
(ii).	Estimated revenue requirement adjusted for 10 months	29,94,226
(iii).	Variation in revenue requirement	18,38,958

(i). As mentioned above, the BT has not furnished the reasons for difference in the actual vis-à-vis the estimates. In view of that it is found not possible to decipher the exact reasons for the variation.

(ii). As per clause 2.13, if the performance variation of more than + or – 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50 % of the benefit / loss already accrued will be set off while revising the tariff. There is a negative variation of 9% in the physical performance and positive variation of about 61% in the financial performance. The reasons for variation between the estimated traffic and actual traffic and the estimated revenue requirement and actual revenue requirement is not explained by the BT, despite reminder. In view of that it is found not possible to adjust the loss in the next tariff cycle. The BT has also not requested to adjust the loss in the future tariff. Infact, the BT has requested to maintain the tariff at the existing level of ₹60 per vehicle. That being so, the exercise of adjustment of loss of the year 2011-12 in the subsequent tariff cycle is not undertaken.

(iv). (a). The BT has estimated traffic for the year 2012-13 at 49964 as against the actual traffic of 41637 handled during the year 2011-12. As mentioned above, the initial tariff approved vide Order dated 25 May 2011 is effectively applicable for a period of 10 months of the year 2011-12. In view of that if the actual traffic for the 10 months of 2011-12 is extrapolated for 12 months than the actual traffic handled in the year 2011-12 would be 49964 vehicles. The BT has also estimated traffic for the year 2012-13 at 49964 vehicles. In view of that it can be concluded that the traffic for the year 2012-13 is estimated at the level of actual traffic for the year 2011-12. The BT has neither updated its proposal with actuals of 2012-13 nor has it responded to our specific query regarding the traffic estimation for the year 2012-13 to 2015-16. The MBPT nor any of the users have objected to the traffic estimation for the year 2012-13 to 2015-16. That being so, the traffic as estimated by BT for the year 2012-13 is relied upon.

(b). The traffic for the year 2013-14 to 2015-16 is also estimated by BT at 49964 vehicles. In otherwords, the BT has not estimated any growth in traffic for the years 2012-13 to 2015-16 over the year 2011-12. As mentioned above BT, has not responded on our query regarding traffic estimation. Even none of the users have commented on the traffic estimation of the BT for the years 2012-13 to 2015-16.

At our request, the MBPT has indicated that the vehicles estimated to be handled at the weighbridges operated by the BT in the year 2013-14 is 63294. This is around 27% more than the traffic estimated by BT for the year 2013-14. In the absence of response of BT on the traffic estimates suggested by the MBPT, the traffic estimate of 63294 vehicles as suggested by the MBPT for the year 2013-14 is relied upon in this analysis.

(c). The MBPT, in its proposal recently filed for general revision of its SOR, has estimated 3% increase in its traffic over the previous year during the period 2014-15 to 2016-17. In line with the traffic estimated by the licensor port i.e. MBPT, a 3% increase in traffic at the BT is considered over the respective previous year for the years 2014-15 and 2015-16. Accordingly, the traffic for the year 2014-15 and 2015-16 is estimated at 65193 vehicles and 67149 vehicles respectively. The proposal filed by MBPT, for general revision of its scale of rates is under consultation stage with the stakeholders and the said proposal is yet to mature for final consideration of this Authority. Therefore, as an abundant measure of caution, it is clarified that consideration of 3% traffic growth in the estimation of traffic for BT should not be construed as an incidental approval to the rate of traffic growth estimated by MBPT in its proposal for general revision of its Scale of Rates.

(v). (a). Clause 2.5.1 of the tariff guidelines of March 2005 requires the expenditure projections to be in line with the traffic projections and with reference to the Whole Sale Price Index for all commodities. The BT has applied a factor of 6.5% over the actual expenditure of 2011-12. This Authority has, however, allowed escalation of 6.5% for the expenditure projections in all the tariff cases decided in the year 2012-13 and 7% for the expenditure projections in all the tariff cases to be decided in the financial year 2013-14.

(b). Inspite of specific request, the BT has not updated the actuals for the year 2012-13. The BT has, however, escalated the expenditure projections for power cost, repairs & maintenance and other cost for the year 2012-13 to 2015-16 by applying the escalation factor of 6.5% over the estimated projections of the corresponding prevision year. Accordingly, the BT applied the escalation factor of 6.5% over the actuals of 2011-12 for estimating these expenditures for the year 2012-13.

As brought out earlier, the tariff initially fixed vide Order dated 2 May 2011 is effective for 10 months of the 2011-12. In view of that and in order to estimate the expenditure projection for the year 2012-13, the actuals of power cost, repairs & maintenance and other cost for the year 2011-12 need to be extrapolated for 12 months. Accordingly, the escalation factor of 6.5% is applied on these actual expenditures as extrapolated for the year 2011-12 for estimation of these expenditures for the year 2012-13. The escalation factor of 7% is applied on the estimated expenditure for the year 2012-13 for estimating the expenditure for the year 2013-14. Similarly, the escalation factor of 7% is applied on the estimated expenditure projection of power cost, repairs & maintenance and other cost for the year 2013-14 and 2014-15 for estimating the expenditure projection for the year 2014-15 and 2015-16 respectively.

(vi). As mentioned earlier, as per clause 2.7.1. depreciation will be allowed on straight-line method with life norms adopted as per the Companies Act or *based on* the life norms prescribed in the concession agreements whichever is higher for private terminals. The license agreement does not indicate the life norms for the weighbridges. Inspite of specific request, the BT has not furnished any calculation for arriving at the depreciation figure indicated in the information furnished along with the proposal. The assets, however, do not appear to have been depreciated on straight-line method. In view of the above and in order to maintain the same approach followed in the initial fixation the depreciation needs to be modified.

As per the approach followed by this Authority in the recently determined cases for fixation of Reference Tariff under 2013 guidelines, depreciation is being calculated as per the Companies Act, 2013. No specific entry is found for weigh bridges in the depreciation schedule to the Companies Act, 2013. The schedule, however, indicates a general rate applicable to plant and machinery other than continuous process plant not covered under specific clause as 6.33% for calculating depreciation on Straight Line Method. Further, as per serial number 6 of the Notes to the Depreciation Schedule if an asset is used for any time during the year for double shift the depreciation will increase by 50% for that period and in case of triple shift the depreciation shall be calculated on the basis of 100% for that period. Since a Port Trust render service round the clock, the weigh bridges installed by the BT would be in use for 24 hours. That being so, rate applicable for triple shift i.e. 12.66% needs to be applied. Accordingly, depreciation is calculated at the rate of 12.66% in line with approach followed in the recent Reference Tariff Orders passed by this Authority.

(vii). As per clause 2.9.1 of the 2005 tariff guidelines, Return is to be allowed on the Capital Employed. The return, however, is linked to the capacity utilization. Full return is allowed for capacity utilization of 60% and above. As mentioned above, the BT has not furnished the capacity of the weigh bridges. There is no formula prescribed for assessing capacity of weighbridge in the upfront guidelines of 2008. In view of that theoretical capacity of the weighbridges could not be assessed by us. Incidentally, it is relevant here to mention that during the initial fixation also the capacity of the weighbridges could not be assessed as the relevant information was not furnished by BT.

In any case, as per clause 2.9.11 of the tariff guidelines of March 2005, if the investment made is in accordance with the obligations under the Licence Agreement, it will be considered for ROCE even if full capacity utilisation is not achieved. Since the investment made by the BT is towards installation of two electronic weighbridges as provided in the License Agreement entered between the BT and the MBPT, ROCE at the maximum level of 16% applicable for the year 2012-13 to 2015-16 is allowed after adjusting the unamortised portion of the upfront premium paid by the BT to the licensor port i.e. MBPT in line with the approach followed in the initial fixation. It is relevant to mention here that this Authority has decided to allow ROCE of 16% for cases to be decided in the year 2013-14.

(viii). The cost statement of the BT is modified in line with the above analysis which is attached as **Annex–II**. A summary of the revenue requirement estimated for the years 2012-13, 2013-14, 2014-15 and 2015-16 in the modified cost statement is given below:

					(figures in ₹)
Sl. No.	**Description**	**2012-13**	**2013-14**	**2014-15**	**2015-16**
I.	Total Expenses	44,86,383	47,51,949	52,37,518	55,43,077
II	Return on Capital Employed i.e. 16%	9,76,177	9,64,593	9,37,009	8,93,425
III	Revenue Requirement	54,62,560	59,16,542	61,74,527	64,36,502
IV	No. of Vehicles expected to be handled	49,964	63,294	65,193	67,149

V.	Actual Revenue Expected per Vehicle	109	93	95	96
VI.	Average Revenue Expected per Vehicle			**95.50**	

(ix). Taking into account the time involved in notification of this Order passed in the case and considering the lead time of 30 days required to be given as per guideline before the Order is implemented, it may be around early week of April 2014. Therefore, and, if the estimated cost position for the year 2014-15 and 2015-16 is considered, the rate per vehicle works out to ₹.95.50. However, the BT has proposed ₹60 per vehicle for approval. Incidentally, it is to state that in the Mumbai Port Trust which also operates weigh bridges for which the existing SOR was approved vide Order No. TAMP/46/2009-MBPT dated 11 October 2011 a rate of ₹60 per vehicle for use of weighbridges installed by the port has been prescribed in clause 9.1.F. The MBPT has recently filed its proposal for general revision of the existing SOR vide its letter dated 20 July 2013 wherein the port has proposed 23% increase in the existing SOR. If 23% increase is allowed over the existing rate of ₹. 60 per vehicle at the weigh bridge being operated by the MBPT, then the existing rate of weighbridge at the MBPT would be closer to ₹74 per vehicle. As per the cost statement the rate for operation of the weigh bridge by BT would be ₹95.50 per vehicle. However, as mentioned above, BT has proposed for approval the existing rate of ₹60 per vehicle for the years 2012-13 to 2015-16.

(x). The MBPT consulted during the proceeding in the case has suggested for parity in the rates of MBPT and the BT. The BT has proposed ₹60/- per vehicle. However, the cost position warrants a rate of ₹95.50/- per vehicle. Grant of approval for the proposed rate of ₹60/- per vehicle will not even cover the estimated operating cost per vehicle. Even the rate of ₹74/- per vehicle after 23% increase over the existing rate of ₹.60/- will not cover the operating cost of the weighbridges. Recognising that the proposed rate of ₹60/- per vehicle is the commercial decision of the BT and keeping in view that the MBPT has also suggested for parity in the rates and since the proposal of the MBPT for general revision of its Scale of Rates is already under consultation stage, this Authority is inclined to approve the rate of ₹.74/- per vehicle for the BT. As per clause 2.16.1. to 2.16.3. of the tariff guidelines of 2005, the rates approved by this Authority are ceiling level rates. The BT has the flexibility to charge lower rates or grant higher rebates or discounts. The BT should take necessary cost reduction measures and improve its efficiency to cover the difference in the rate of ₹.21.50 per vehicle (₹95.50 - ₹74 = ₹21.50).

10.1. Since the cost position estimated for the year 2014-15 and 2015-16 is considered to arrive at the rate, the revised rate for use of weighbridges operated by the BT in the port premises of the Mumbai Port Trust would come into effect from 1 April 2014 or 30 days from the date of notification in the Gazette of India whichever is later and shall remain in force till 31 March 2016. The approval accorded may automatically lapse thereafter unless specifically extended by this Authority.

10.2. The validity of the existing rates at the BT is deemed to have been extended beyond 25 May 2012 till the effective date of implementation of the Order passed.

(T.S. Balasubramanian)
Member (Finance)

ANNEX - I

Comparision of the estimates as considered in the tariff Order dated 2 May 2011 and actuals as reported by the Buthello Travels for the year 2011-12					
					(Figures in actuals)
Sl. No.	**Description**	**Esitmates as per Order dated 2.5.2011**	**Estimates as per Order dated 2.5.2011 adjusted for 10 months**	**Actuals for 10 months of the year 2011-12**	**Variation in % over estimates**
I.	**Total Expenses**				
(i).	Power cost	435960	363300	66104	-82%
(ii).	Repairs & Maintenance	388398	323665	380200	17%
(iii).	Depreciation	573720	573720	809907	41%
(iv),	Amortisation of upfront premium paid to	100000	100000	100000	-
(v).	Other expenses (staff cost and overheads)	832282	693568	2537000	266%
	Total	2330360	2054253	3893211	89%
II	**Return on Capital Employed i.e. 16%**	939973	939973	939973	0%
III	**Revenue Requirement**	3270333	2994226	4833184	61%
IV	**No. of Vehiciles expected to be handled**	54750	45625	41637	-9%

A.	**Summary of Actuals for the year 2011-12**	**Amt. in actuals**
(i).	Actual Total Revenue Requirement 2011-12	4833184
(ii).	Estimated Revenue requirement adjusted for 10 months	2994226
(iii).	Variation	1838958

ANNEX - II

Cost Statement for the weighbridges operated by the Buthello Travels at the Mumbai Port Trust									
Sl. No.	Description	Estimates as furnihsed by Buthello Travels				Estimates as modified by TAMP			
		2012-13	2013-14	2014-15	2015-16	2012-13	2013-14	2014-15	2015-16
I.	**Total Expenses**								
(i).	Power cost	70335	74836	79626	84722	84481	90395	96723	103494
(ii).	Repairs & Maintenance	404913	430827	458400	487738	485896	519908	556302	595243
(iii).	Depreciation	715451	608133	516913	439376	573720	772400	772400	772400
(iv),	Amortisation of upfront premium paid to MBPT over the license period of 10 years	100000	100000	100000	100000	100000	100000	100000	100000
(v).	Other expenses (staff cost and overheads)	2701905	2874826	3058816	3254580	3242286	3469246	3712093	3971940
	Total	**3992603**	**4088624**	**4213755**	**4366416**	**4486383**	**4951949**	**5237518**	**5543077**
II	**Return on Capital Employed**	776675	663374	564668	478368	976177	964593	937009	893425
III	**Revenue Requirement**	**4769279**	**4751998**	**4778423**	**4844784**	**5462560**	**5916542**	**6174527**	**6436502**
IV	**No. of Vehiciles expected to be handled**	49964	49964	49964	49964	49964	63294	65193	67149
V.	**Actual Reveue Expected per Vehicle**	**95.00**	**95.00**	**96.00**	**97.00**	**109**	**93**	**95**	**96**
VI.	**Average Revenue Expected per Vehicle**	_	_	_	_	_	_	**95.50**	

Note 1:

Capital employed at the end of the year	**Year 1 (2011-12)**	**Year 2 (2012-13)**	**Year 3 (2013-14)**	**Year 4 (2014-15)**	**Year 5 (2015-16)**
Cost of weigh bridges at the beginning of the year	5548549	5874829	6101109	6414909	6628709
Less: Depreciation @ 10.34% p.a./6.33% p.a.	573720	573720	386200	386200	386200
Written down value at the end of the year	4974829	5301109	5714909	6028709	6242509
Add: Unamorized amount of upfront premium	900000	800000	700000	600000	500000
Capital employed at the end of the year	**5874829**	**6101109**	**6414909**	**6628709**	**6742509**

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

F. No.TAMP/14/2013 - MBPT	**-**	**Proposal of the Buthello Travels for revision of tariff for two 60 tonnes electronic weighbridges installed in Mumbai Port Trust (MBPT) Docks**

The comments received from users/ user organisations are tabulated below:

Sl. No.	Comments of users / user organisations
1.	**Indian Merchants Chamber (IMC)**
	As the Tariffs desired to be charged is in consonance with the Tariffs charged by MBPT, and which is reasonable, INSA has No Objection to the same.
2.	**India Pulses and Grains Association (IPGA)**
(i).	The request for increase of tariff is untimely and unscheduled. The facilities of the weighbridge were extended free of cost to IPGA members who have been engaged in EXIM trade through the port of Mumbai until the recent past.
(ii).	The payment for weighing the cargo/truck concepted only after the commissioning of this private weighbridges. The cost is additional and also affects the price of the EXIM commodities. Hence, requested to keep revision on hold.

2. A joint hearing in this case was held on 13 August 2013 at the Office of this Authority. Though agreed in the email dated 13 August 2013 no representative from Buthello Travels was present for the hearing. The MBPT and India Pulses and Grains Association (IPGA) have made the following submission:

Mumbai Port Trust:

(i). The service provided by the Buthello Travels is satisfactory. Trade is happy with the service.

(ii). The port agrees with the proposal of the Buthello for not increasing the tariff as any increase will lead to flow of traffic to the weighbridges operated by the port. With the same tariff, traffic will flow evenly to the weighbridges operated by the port and Buthello. Presently, traffic flow to the MBPT weighbridges and Buthello weighbridges is equal.

(iii). We have submitted our general revision proposal. We have asked for about 23% increase in rates. We want parity in weighbridge rates of MBPT and Buthello. Marginal difference in rates is acceptable.

(iv). We will furnish our comments on the proposal of Buthello with specific comments on estimates considered by Buthello.

India Pulses and Grains Association (IPGA):

(v). Tariff should not be charged in the first place since this cost should be treated by the MBPT as part of its overall cost and should be included as part of either stevedoring or cargo handling charges.

(vi). We are happy with the service provided by Buthello.

(vii). We agree with the proposal of ₹. 60 per vehicle. Increase sought by the operator is exorbitant. If increase is reasonable it is acceptable.

(viii). The Mumbai Port Trust (MBPT) has filed its proposal for general revision of its SOR from 1 April 2014. If the tariff charged by the MBPT increases the tariff levied by the Buthello Travels should not increase on the ground that same tariff will lead to even flow of traffic.
