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TARIFF AUTHORITY FOR MAJOR PORTS

G No. 114 **New Delhi, 25th May 2011**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Buthello Travels for approval of tariff for two 60 tons electronic weighbridges installed in Mumbai Port Trust (MBPT) Docks, as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports

Case No. TAMP/39/2010 – MBPT

The Buthello Travels **- - - - -** **Applicant**

O R D E R

(Passed on this 2nd day of May 2011)

This case relates to a proposal filed by M/s.Buthello Travels (BT) for approval of tariff for two 60 tons electronic weighbridges installed at the Mumbai Port Trust (MBPT) Docks.

2. BT in September 2009 had requested this Authority to approve tariff for two 60 tons electronic weighbridges to be installed by them at Mumbai Port. BT had also submitted a working sheet broadly indicating the monthly maintenance charges and the royalty to be paid to the MBPT. It had proposed the weighment charges of ₹ 60 and ₹ 90 per vehicle upto 30 tons and above 30 tons respectively.

3. Since it was not made clear whether the arrangement between the BT and MBPT was in terms of Section 42 (3) of the MPT Act, 1963, the proposal dated 17 September 2009 of BT was returned to them vide our letter dated 22 September 2009 with an endorsement to the MBPT for its information. The MBPT vide its letter dated 15 January 2010 responded, as summarized below:

(i) The MBPT Board had sanctioned the proposal in September 2007 to install two electronic weighbridges of 60 ton capacity each on BOT basis.

(ii) The highest offer of M/s.Buthello Travels was accepted by the Board in August 2009.

(iii) As per tender condition the successful bidder shall recover weighment charges from the port users as per Scale of Rates approved by TAMP. The successful bidder would get the rates approved by TAMP as per Clause 14.3 of the relevant tender.

(iv) MBPT has proposed the rate of ₹ 60 per vehicle for similar service in the comprehensive tariff revision proposal filed before TAMP.

4. Since the authorization arrangement was not clearly explained, the port was requested to clarify the position. The queries raised by us and the response of MBPT are summarized below:

Sl. No.	Queries raised by us	Response of MBPT
(A)	**Our letter dated 20 January 2010**	**MBPT letter dated 30 January 2010**
(i)	Section 42 (4) of the Major Port Trusts Act, 1963, read with Section 48 ibid requires rates to be notified by this Authority in respect of identified services provided by persons authorized under Section 42 (3) ibid. It is not clear from the communication of MBPT as to the nature of licensing arrangement adopted in this case. If the licensing is of BOT nature, then tariff is to be fixed based on a proposal from the licensee following his cost and investment. If the licensing is by any manner other than BOT, tariff will be fixed based on a proposal by the landlord port as per clause 7.2 of the tariff guidelines of March 2005.	Project for installation of two 60 tonne electronic weighbridges by private operator is on BOT basis for a period of 10 years.

(ii)	MBPT has claimed to have filed a proposal for fixing tariff, for weighbridges as a part of its general revision proposal. But, it has also mentioned that clause 14.3 of the relevant tender requires the successful bidder to get the rates approved by this Authority. The action of MBPT and the tender condition appear to be contradictory.	As per condition Nos. 14.3 and 15 of the tender document, successful bidder would get the weighment charges approved by TAMP and recover the approved charges from the users. TAMP is requested to consider the proposed weighment charges for approval.
(iii)	It is also not clear whether approval of the Government under Section 42 (3) has been obtained by the MBPT.	Ministry of Shipping (MOS) has already been apprised that the project is of a very small nature and involves an investment of approximately ₹ 20 lakhs only. The project has been approved by the Board of Trustees of MBPT and therefore at implementation stage. It is, therefore, presumed that MBPT need not approach the Government for approval eventhough it is termed as PPP project. Hence sanction of Government under Section 42 (3) may not be insisted.
(iv)	Even the proposal filed by MBPT is not accompanied by any justification.	MBPT has not furnished any comments.
(B)	**Our letter dated 4 February 2010**	**MBPT response dated 2 November 2010**
(i)	MBPT has confirmed that the project of implementation of two 60 tons electronic weighbridges by private operator is on BOT basis. It is further observed that MBPT while addressing the Government on the PPP project has not even sought its approval, considering the small quantum of investment of about ₹ 20 lakhs involved therein.	The MOS vide its letter No. PD-18011/1/2010-MBPT dated 26 October 2010 has conveyed the ex-post-facto approval of Government of India for awarding the contract to Buthello Travels for installation of two electronic weighbridges in the Docks on BoT basis on PPP mode at an estimated cost of ₹ 20 lakhs. Hence, TAMP is requested to consider the proposed weighment charges of Buthello Travels for installation of electronic weighbridges in the Docks.
(ii)	The fact that the Board of Trustees of the MBPT has approved the project and the tender document containing a condition that the successful bidder would get the weighment charges approved by this Authority does not authorize this Authority to frame the Scale of Rates for recovery of the charges by the private operator from the users.	
	As already informed in our letter dated 20 January 2010,Section 42 (4) requires rates to be notified by this Authority in respect of identified services provided by persons authorized under Section 42 (3) ibid. Section 42 (3) ibid specifically requires prior approval of the Government to the authorization to be granted by a Port Trust. Since this Authority is not vested with the powers to waive a statutory requirement, the proposal dated 17 September 2010 submitted by Buthello Travels can be considered by this Authority after approval of the Government under Section 42 (3) is obtained by MBPT.	

5. As per the information furnished by MBPT, its Board has accorded sanction in September 2007 to install the weigh bridges. The initial tender invited in October 2008 was discharged and fresh tender was invited in May 2009. This tender was finalized in August 2009 when the MBPT Board accepted the offer of M/s. Buthello travels. As per clause 1.3.1 of the

notification dated 26 February 2008 the guidelines issued thereunder apply to all PPP projects for which bids will be invited by setting tariff caps upfront. Since in the case of BT, tariff cap is not set prior to bidding, this case falls under Tariff Guidelines 2005. Accordingly, MBPT was advised on 13 December 2010 to advise BT to forward a proposal for fixation of tariff, alongwithconditionalities governing them, in the prescribed formats with supporting details as prescribed under clause 3.1.1 of the tariff Guidelines of March 2005. A copy of the said letter was also endorsed to BT for necessary action.

6. In this backdrop, the BT under cover of its letter dated 13 December 2010 has filed a proposal for fixation of the tariff for the two weighbridges installed at the MBPT Docks. The proposal of the BT is for a rate of ₹ 130.51 per vehicle including service tax. The BT has also requested to give escalation at 10% in rates every three years.

7. In accordance with the consultative procedure prescribed, the proposal of BT was forwarded to the concerned user organizations for comments. However, we have not received comments from any of the user organizations till finalization of this case.

8.1. On a preliminary scrutiny of the proposal it was found that some additional information / clarification from BT were required. The additional information / clarification sought from the BT and response from BT are summarized below:-

<table>
<tr><th>Sr. No.</th><th>TAMP's Query</th><th>Response of BT</th></tr>
<tr><td>(i)</td><td>A copy of the Agreement entered into with MBPT to be furnished.</td><td>Furnished</td></tr>
<tr><td>(ii)</td><td>In letter dated 17 September 2009, BT had proposed the weighment charges at ₹ 60 and ₹ 90 per vehicle upto 30 tons and above 30 tons respectively. In its letter dated 13 December 2010, it has proposed a rate of ₹ 130.51 per vehicle. BT to clarify why the rate proposed later has been increased substantially.</td><td>A rough estimate had been prepared earlier. But, we realized later that a number of heads had been missed out. Also the site of the weighbridge was changed a number of times which added to our outgoings.</td></tr>
<tr><td>(iii)</td><td>A stand-alone Scale of Rate for the weighment services to be rendered by BT has to be approved. BT is, therefore, advised to submit a draft Scale of Rates and the conditionalities attached thereto.</td><td>Draft Scale of Rates has been furnished as under:-
<table>
<tr><th>Sr. No.</th><th>Description of Vehicles</th><th>Charges per vehicle (in ₹)</th></tr>
<tr><td>1.</td><td>Upto 30 tons</td><td>60</td></tr>
<tr><td>2.</td><td>Above 30 tons</td><td>120</td></tr>
</table>
(BT has not furnished a stand alone SOR and the conditionalities attached thereto)</td></tr>
<tr><td>(iv)</td><td>Copies of two tax invoices amounting to ₹9,44,375/- each of Rockwell Tech Electronics have been submitted. BT to substantiate the payments made against these invoices.</td><td>Details of payment made to Rockwell Tech Engineers are as follows:
<table>
<tr><td colspan="3">Bill amount ₹ 944375 x 2 =</td><td>₹ 1888750</td></tr>
<tr><td colspan="3">Payment details</td><td rowspan="8"></td></tr>
<tr><td>Cheque No.</td><td>Date</td><td>Amount (₹)</td></tr>
<tr><td>904065</td><td>07.9.09</td><td>50,000</td></tr>
<tr><td>715454</td><td>10.12.09</td><td>7,23,812</td></tr>
<tr><td>715485</td><td>25.1.10</td><td>4,98,351</td></tr>
<tr><td>715526</td><td>17.3.10</td><td>2,25,587</td></tr>
<tr><td>715537</td><td>29.3.10</td><td>2,35,000</td></tr>
<tr><td>715596</td><td>22.6.10</td><td>1,25,000</td></tr>
<tr><td colspan="2">Total Paid</td><td>18,57,750</td><td>₹ 18,57,750</td></tr>
<tr><td colspan="2">Balance to be paid</td><td></td><td>₹ 31,000</td></tr>
</table></td></tr>
<tr><td>(v)</td><td>A copy of invoice dated 15 April 2010 amounting to ₹ 28,30,600 of</td><td>Details of payment made to B. Chandrashekhar is furnished.</td></tr>
</table>

	M/s. B. Chandrashekhar, Engineers and Contractors, pertaining to the civil works of installation of the two weigh bridges has been submitted. BT to substantiate the payment against this invoice.	(BT has furnished a statement to show payment of ₹ 26,03,929/- and ₹ 2,26,671/- as balance to be paid. Of the amount of ₹ 26,03,929/-, payment through five cheques have been made aggregating to ₹ 10,36,249/-. The balance ₹ 15,67,680/- consists of several cash payments. The quantum of cash payments made ranges from ₹3035/- and ₹ 1,50,000/- per transaction.)
(vi)	In the cost statement submitted, ₹ 6,82,016/- has been considered as depreciation, arrived at @ 10.34% on ₹ 65,95,896/-. The item-wise break-up of the capital assets and the calculation of depreciation on these assets to be furnished. BT to note that depreciation has to be arrived at as per the norms prescribed in the Companies Act, 1956 or any norms prescribed in the concession agreement, if any, whichever is higher	Depreciation on ₹ 65,95,896/- has been calculated at the rate of 10.34% as per the Companies Act. [BT has not furnished the item-wise break-up of capital assets and workings for the depreciation].
(vii)	While arriving at the cost of machinery BT has considered ₹3,34,226/-as pre-construction period interest and ₹ 38,570/- as loan processing charges. BT to evidence the cost incurred on these counts.	The bank statement showing the details is furnished.
(viii)	While arriving at the capital employed, BT has included the bank guarantee amount of ₹ 5,00,000/-. It is informed that capital employed will comprise net fixed assets (Gross Block minus Depreciation minus Work-In-Progress) plus working capital. The amount of ₹5,00,000/- cannot, therefore, be considered as capital employed.	We have included Bank Guarantee in the capital employed. However, we have taken only the cost of plant and machinery (₹ 65,95,896/-) for the purpose of depreciation. (while arriving at the ROCE BT has considered the Bank Guarantee amount of ₹ 5,00,000/- as part of capital employed)
(ix)	The repairs and maintenance expenditure has been considered at ₹ 7,92,000/- per annum. The basis on which this figure has been estimated to be informed.	We have taken an approximate amount of ₹ 33,000/- per machine per month towards maintenance cost. Actual amount may vary.
(x)	₹1,80,000/- has been considered as overhead expenses. The break-up of this expenditure to be furnished.	We have taken an approximate amount of ₹ 7,500/- per machine per month as overhead expenses. Actual amount may vary.
(xi)	The basis on which electricity charges at the rate of ₹ 35,000/- per month has been arrived at to be elaborated.	Total electricity charges of ₹ 35,000/- per month include both for operating the machines as well as the consumption at the office.
(xii)	As per the cost sheet only 75 vehicles per day per weighbridge will avail the weighment service. BT to reconfirm the number of vehicles that will be availing the weighment facility.	75 vehicles per day is just a rough estimate. It could be more or less.
(xiii)	BT has considered the royalty payment and service tax as part of	Royalty payment has not been taken for tariff computation. Service tax has to be borne by us, so

	cost while arriving at the rate to be charged. BT to note that the royalty payable will not be allowed as an admissible cost for tariff computation as decided by the Government in the Ministry of Shipping. Since the service tax is not to be borne by BT, it is not understood why this element has been considered in the cost statement while arriving at the rate per vehicle.	we have taken it for the computation.

8.2. A copy of the proposal of BT was forwarded to MBPT with a request to offer its comments with specific reference to the agreement, if any, entered into with BT, the cost of equipment, the expenditure on civil construction and porta cabins, the upfront payment received, the maintenance expenditure estimated and the number of vehicles that will be availing the weighment facilities. The MBPT furnished its comments. A copy of MBPT comments was forwarded to BT for its comments. The BT has not responded. The comments of MBPT are furnished below:-

(i) Licence agreement has been signed with M/s.Buthello Travels on 6 November 2009.

(ii) As per clause 14.3 of the tender the successful bidder shall recover wieghment charges from port users as per their Scale of Rates approved by TAMP.

(iii) Cost of weighment bridge proposed by M/s. Buthello Travels appears to be 40 to 50% on lowerside compared to prevailing market rates.

(iv) Cost of civil works appears to be 25 to 35% higher than present market rates. Expenditure on porta cabin appears to be in line within market rates.

(v) M/s. Buthello Travels have paid the upfront fee of ₹ 10 lakhs.

(vi) At the three weighbridges in the Docks 1,29,977 vehicles were weighed during the financial year 2009-10. Taking that as a base for five weighbridges (including two of M/s.Buthello Travels) an approximate 50,000 vehicles would be using the facility of two electronic weighbridges of M/s.Buthello Travels.

(vii) 17 number of employees comprising of 8 staff, 4 supervisor, 1 Manager, 4 security guards as shown by M/s. Buthello Travels towards maintenance of weighbridge seems to be on higher side.

(viii) Preconstruction penal interest and loan processing charge as shown by M/s.Buthello Travels does not seem to be as per TAMP guidelines for fixation of tariff.

9.1. A joint hearing in this case was held on 17 February 2011 at the office of this Authority. MBPT pointed out that in its letter dated 8 February 2011 addressed to us, it has stated that the cost of weighment bridges mentioned by the weighbridge operator appears to be 40 to 50% on lower side compared to the prevailing market rates. MBPT requested that its comments may be read as the equipment cost proposed by the weighbridge operator is on the higher side compared to the prevailing market rates.

9.2. As decided at the joint hearing, the BT was requested to furnish requisite information /documents. While furnishing the requisite information to this Authority, the BT was advised to forward a copy to MBPT to enable their scrutiny. The BT has responded.BT has also furnished its reponse to MBPT. Information / documents sought from BT and the response of BT are summarized below:

<table>
<tr><th>Sl.No.</th><th>Information / documents sought from BT.</th><th>Response of BT.</th></tr>
<tr><td>(i)</td><td>BT to furnish a certificate from its Chartered Accountants confirming the actual capital cost incurred in installation of the two weighbridges.</td><td>BT has furnished the certificate of Chartered Accountants dated 1 March 2011 which certifies that the actual cost incurred in installation of two weighbridges by BT is ₹65,48,579/-. The details of certificate are as given below:
<table>
<tr><td colspan="3">Annexure to Certificate dated 01/03/11 issued to M/s.Buthello Travels

Details of cost of installation of Weigh Bridge at Mumbai Port Trust</td></tr>
<tr><td colspan="3">COST OF FIXED ASSETS:</td></tr>
<tr><td></td><td>₹</td><td>₹</td></tr>
<tr><td>Cost of Construction for Foundation and Civil Works

<u>Cost of Equipments</u>
Electronic Weigh Bridge
Octroi Charges Paid

<u>Cabin</u>
Portable cabin
Renovation of room-tiling etc

Upfront Fees Paid to BPT

Preoperative Expenses:
Interest on Loan</td><td>

1,888,750.00
52,500.00

300,000.00
150,000.00

326,699.00
38,750.00</td><td>2,830,600.00

1,941,250.00

450,000.00

1,000,000.00

326,699.00</td></tr>
<tr><td>TOTAL COST</td><td></td><td>6,548,549.00</td></tr>
<tr><td>Sources of Fund to meet the above cost
Term Loan from Bank
Own Sources</td><td></td><td>

3,857,000.00
2,691,549.00</td></tr>
<tr><td>TOTAL SOURCES</td><td></td><td>6,548,549.00</td></tr>
</table></td></tr>
<tr><td>(ii)</td><td>BT to justify the estimated operation and maintenance cost with respect to the actual expenditure incurred in the past.</td><td>We have given approximate working for the monthly outgoings for two weighbridges, since it has to be operated for 24 hours and 365 days. This is our first project. We do not have any experience of the past.</td></tr>
<tr><td>(iii)</td><td>BT to furnish its annual accounts containing the transactions pertaining to the procurement and installation of the weighbridges.</td><td>₹ 27,85,498/- has been reflected in the financial year 2009-10. The balance will be shown in the current financial year 2010-11.
The capital cost appears to be on the higher side, because of the civil construction cost which increased by almost 40%. As the construction site was changed almost four to five times, the machinery and labour cost increased. Over and above, we had to pay almost 35% more for labour deployed to work inside the port.</td></tr>
</table>

9.3. Subsequently, the BT has furnished further information / clarification which is summarized below:

(a). Estimate for electricity charges:

(i). We have roughly estimated the amount of ₹ 35,000/- per month for two weighbridges.

(ii). At present, both the weighbridges are not in operation. But, electricity bills come to ₹ 3,000/- approximately per weighbridge on an average consumption of 265 units per month at ₹ 8.65 per unit. Once the weighbridges are in operation, we expect an average consumption of 2100 units per month at ₹ 8.65 amounting to ₹18,000 per weighbridge. (The BT has furnished a copy of the electricity bill raised by the MBPT for January 2011 in support of the unit cost of ₹ 8.65).

(b). Estimate for Repairs & Maintenance charges:

The maintenance of the weighbridges includes the painting of weighbridges to protect from corrosion, since it is close to the sea and salty weather. We will have to paint thrice a year. The expenditure is as follows:

		₹
(i).	Painting ₹ 50,000/- X 2	1,00,000
(ii).	Stamping ₹ 25,000/- per weighbridge	50,000
(iii).	Digital indicator / printer ₹ 25,000/- per year	25,000
(iv).	Change of Load cells ₹ 35,000/- X 16	5,60,000
(v).	Calibration every 3 months ₹ 6,000/- X 3	18,000
(vi).	Labour charges for replacing load cells ₹ 10,000X16	1,60,000
	Total per year	**9,13,000**
	Per month	76,083
	Per Weighbridge approximately	38,041

9.4. Since the MBPT has the expertise in operating and maintaining three weighbridges at the docks it was requested, as decided at the joint hearing, to go through the proposal of BT along with the queries raised by us and the reply given thereto by BT and furnish an assessment report to enable us to deal with the case. MBPT was also required to scrutinize the information furnished by BT under cover of its letter dated 1 March 2011. After reminders, the MBPT furnished its response which is summarized below:-

(i) (a) Cost of Civil Works considered by BT in the cost statement and included in the Certificate of Chartered Accountants appears to be 25% to 35% higher than present market rates.

(b) Expenditure on porta cabin appears to be in line with market rates.

(ii) Cost of electronic weighbridge mentioned by BT appears to be 40 to 50% on lower side as compared to prevailing market rates.

(iii) Bank Guarantee of ₹5,00,000/- cannot be considered as capital employed.

(iv) 1,29,977 vehicles were weighed at their weighbridges in the Docks during the financial year 2009-10

(v) Since service tax will not be borne by BT, this component considered by BT in the cost statement is not in order.

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

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

(i). A License Agreement (LA) has been signed between Mumbai Port Trust (MBPT) and M/s.Buthello Travels (BT) for installation of two electronic weighbridges in the Docks on Build, Operate and Maintain basis for a period of 10 years, to provide service to the users for weighing the vehicles. The MBPT has followed revenue sharing model as consideration to grant License to the BT. The BT is authorised by the MBPT to collect weighment charges from the users of the weighbridge.

(ii) The MBPT has obtained the approval of the Government for awarding the contract to BT for installation of the weighbridges at the MBPT on Public Private Partnership (PPP) mode. As brought out earlier, 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 authorized under Section 42 (3) of the MPT Act. It is noteworthy that the MBPT itself provides the service now and to augment the capacity, it has authorised a private operator to provide the service.

(iii) The guidelines for Upfront tariff setting for PPP Projects at the Major Ports were notified in the Gazette of India on 26 February 2008 vide Gazette No.27. As per clause 1.3.1 of the said guidelines, the guidelines apply to all PPP projects for which bids will be invited by setting tariff caps upfront. In the case of BT, the bidding process was concluded in August 2009. Since MBPT has not opted to fix tariff cap prior to bidding in the case of BT, this case will fall under the tariff guidelines of March 2005.

(iv) Clause 2.12 of the guidelines of March 2005 stipulates that when a new facility is commissioned or existing facilities are privatized by any Port Trust, the initial tariff to be allowed will not exceed the existing tariff level at the same port for comparable services. The initial tariff so adopted will be valid for the first year of operations where after revised tariff will be fixed based on the admissible cost and investment of the private operator. The Scale of Rates of the Licensor port MBPT notified on 1 December 2006 vide Order dated 28 September 2006 does not prescribe separate rates for weighment service rendered by the MBPT at the weighbridges operated by it. Since there is no reference rate available in the existing Scale of Rates of MBPT, tariff is set based on the estimates furnished by the BT for operation of its weighbridges.

The BT has formulated its proposal dated 13 December 2010 based on its estimates of vehicle traffic, capital cost and cost of rendering the weighment service for such vehicles. As admitted by the BT, the operating expenses considered by it are rough estimates and the actual expenses may vary. Further, since clause 2.12 stipulates that the initial tariff to be fixed will be valid for the first year of operation, the proposal of the BT is taken up for fixing tariff for first year of operation.

(v) The MBPT has the expertise in operating and maintaining weighbridges as three such weighbridges are already in operation at MBPT. Accordingly, the port was requested to scrutinise the proposal of BT and other documents made available to it and furnish an assessment report. However, the report furnished by the MBPT is not found to be comprehensive enough to cover all aspects of the case in reference.

The capital cost considered by the BT at ₹ 65.49 lakhs includes the upfront payment of ₹ 10 lakhs paid to MBPT. With reference to the capital cost, the MBPT has stated that except for the porta cabin, the civil cost proposed by the BT is on the higher side and cost of weighbridge is lower compared to the prevailing market rates. However, the BT has substantiated the capital cost with a certificate issued by the Chartered Accountant. The capital cost certified by the Chartered Accountant is relied upon and reckoned with in this analysis.

(vi) The BT was specifically advised to justify each cost elements / overheads considered in the calculation of tariff. The BT has, however, stated that the estimates furnished by it are approximations and the actuals may vary.

It is relevant to mention here that the total cost of operating the weigh bridges (including depreciation) is estimated by the BT at₹ 52.66 lakhs which is found to be around 80% of the capital cost of the said facility. The operating cost thus estimated by the BT seems to be on the higher side. The MBPT also has not furnished its specific comments on the various items of operating cost estimated by the BT except stating that the number of employees considered by BT for operating the weighbridges is on the higher side.

(vii). Clause 2.4.1. of the tariff guidelines of March 2005 calls for attempts to evolve normative cost of each component of port operations. Since separate set of norms under Clause 2.4.1 are not evolved, the norms prescribed in the tariff guidelines of February 2008 can be relied upon to test the reasonableness of the estimates. Recently, for determining hire charge of harbour mobile crane deployed by private service providers at the V.O.C. Port Trust, Paradip Port Trust, New Mangalore Port Trust and Visakhapatnam Port Trust, the norms prescribed in the guidelines of 2008 have been applied to assess the reasonableness of the estimates. A similar approach was followed while fixing of tariff for 'in-motion railway weigh bridges' at the Visakhapatnam Port Trust.

The tariff guidelines for upfront tariff fixation prescribe norms for assessing the optimal capacity, operating cost, etc., for various cargo handling terminals. The tariff to be fixed in this case is for an isolated facility for which no separate norms are prescribed in the 2008 guidelines. It is, however, observed that the norms prescribed in the guidelines for estimating the operating cost for various cargo terminals as well as container terminals are almost on similar lines except with reference to the norms prescribed for consumption of power and fuel and repairs and maintenance. The norms for these three cost elements are prescribed depending on the nature and type of handling equipment.

(viii). The power cost is estimated by the BT assuming consumption of 2100 units per month per weighbridge. In the absence of any exclusive consumption norms prescribed in the guidelines for weighbridge, the power consumption assumed by the BT is considered. The unit rate adopted at ₹ 8.65 is substantiated with copy of the electricity bill dated 25 February 2011 raised by the MBPT towards power consumption for the month of January 2011.

(ix). The BT has estimated the repairs and maintenance cost at ₹ 9.13 lakhs per annum. Though it has furnished the break-up for the estimate, it has not substantiated the same with any documentary evidence. That being so, and following the approach adopted by this Authority in fixing charges for in-motion railway wagon weighbridge at the Visakhapatnam Port Trust vide Order dated 30 December 2009, the highest norm prescribed in the 2008 guidelines for estimating repairs and maintenance cost, i.e. 7% of the total capital cost excluding upfront premium is considered in the analysis.

(x). Clause 2.7.1 of the tariff guidelines of 2005 requires the Private Terminals to compute depreciation 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. Upfront tariff guidelines also require to follow the Companies Act for estimating the deprecation. The copy of the License Agreement made available to us does not indicate any life norms for the weighbridges. The BT has estimated depreciation @ 10.34% per annum on Straight Line Method, as per the Companies Act, on the total capital cost including upfront premium. The estimated depreciation is moderated applying 10.34% on the value of the assets excluding upfront premium. The upfront premium of ₹10 lakhs is amortised over the license period of 10 years. The return is allowed on the unamortized portion of the upfront premium.

(xi). The BT has estimated other expenses like salaries & wages, telephone charges, printing & stationery and overhead expenses aggregating to ₹ 35.40 lakhs. The guidelines prescribe the norm for estimating other cost which cover staff cost, management and general overheads and miscellaneous cost. The norm prescribed in the guidelines for estimating this item is 5% of the gross value of assets for a cargo handling terminal. The highest norm prescribed for estimating other expense is 15% of the gross value of assets for a container handling terminal having lower capacity. Recognising that the weighbridge is also not a full-fledged service and also due to its relatively low capital base and following the approach adopted while fixing charges for in-motion railway wagon weighbridge at the Visakhapatnam Port Trust vide Order dated 30 December 2009, highest norm available in the 2008 guidelines for estimating other expenses is considered in the analysis.

(xii). There is no formula prescribed for assessing capacity of weighbridge in the upfront guidelines. The BT has estimated that 75 vehicles would avail the weighment service per day per weighbridge. Considering 360 days in a year, the total number of vehicles per annum for both the weighbridges is worked out by BT at 54,000 vehicles. As assessed by the MBPT, 50,000 vehicles approximately would avail the service per year at the two new weighbridges installed by BT. The number of vehicles per day estimated by the BT is relied upon. The operator has declared that the weighbridges have to be operated for 365 days in a year and accordingly the total number of vehicles per year is worked out. The modified number of vehicles works out to 54,750 per year for both the weighbridges, which is considered in this analysis. However, if any, advantage is found to have accrued to the BT owing to variations in actual number of vehicles handled by it, such financial surplus will be adjusted in the next tariff cycle as stipulated in Clause 2.13 of the tariff guidelines of March 2005.

(xiii). (a). The BT has considered Return on Capital Employed (ROCE) @ 16% of the total capital cost. ROCE is to be allowed in terms of Clause Nos.2.9.1. and 2.9.2. of tariff guidelines of 2005. Therefore, ROCE is calculated on the estimated capital employed as at the end of the first year of operations.

(b). As per clause 2.9.10 of the tariff guidelines of March 2005, return allowed will be linked to the utilisation factor of the capacity of the port / terminal as assessed by them. The capacity of the weighbridges is not assessed by the BT. As stated earlier, there are no norms available for assessing capacity of weighbridge in the guidelines. Therefore, theoretical capacity of the weighbridges could not be assessed by us.

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 2010-11 is allowed. It is relevant to mention here that the rate of ROCE applicable for the tariff cases to be decided in the year 2011-12 is yet to be finalised. Therefore, if a position contrary to the rate considered now emerges, the Authority shall review the tariff approved in this case.

(xiv). Subject to the above, the calculation furnished by the BT for fixing charges of using the weighbridge has been revised. The revised calculation sheet is attached as **Annex**. The total cost of operating the two weighbridges plus return on capital employed is estimated at ₹ 32.70 lakhs as against ₹ 66.14 lakhs estimated by the BT. As per the modified calculation, the rate works out to ₹59.73 per vehicle, say ₹ 60/- per vehicle.

The BT in its proposal dated 13 December 2010 proposed a single rate including Service Tax for providing the service at the weighbridge. Subsequently, when requested to furnish the Scale of Rates, it has proposed the charges for providing weighment service in two slabs, viz. ₹ 60/- per vehicle for vehicles upto 30 tons and ₹ 120/- per vehicle for vehicles above 30 tons without the element of Service Tax. The rationale for proposing the charges in two slabs as well as the basis for proposing the rate for the vehicles of above 30 tons at twice the rate proposed for vehicles upto 30 tons are not explained. Further, the break-up of the total number of vehicles in terms of the two slabs and the workings considered in arriving at the proposed rates of ₹ 60/- and ₹ 120/- are not made available to us. In the absence of requisite details, we are not in a position to prescribe differential slab rates, as proposed by the BT. Therefore, a single rate of ₹ 60/- per vehicle is approved. Despite specific request, the operator has not furnished any conditionalities to govern the levy of rate.

12.1. In the result, and for the reasons given above and based on a collective application of mind, the rate of ₹ 60/- per vehicle for using the 60 tonnes electronic weighbridges installed and operated by M/s.Buthello Traders in the MBPT Docks is approved.

12.2. The approved rate shall come into effect from the date of notification of the Order in the Gazette of India and shall be in force for a period of one year from the effective date of implementation of the rate approved. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

12.3 The BT should furnish to this Authority through MBPT its annual accounts and performance report for operating the weighbridges within 60 days of closing of the accounting year. If BT fails to provide such information within the stipulated time limit, the MBPT may initiate appropriate action against BT.

12.4 The tariff of the BT has been fixed relying on the information furnished by the operator and based on various assumptions made as explained in the analysis. If this Authority at any time during the prescribed tariff validity period, finds that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, it may require the BT to file a proposal ahead of the schedule to review its tariff and to set off the advantage accrued on account of such variations in the tariff.

12.5 In this regard, the BT is advised to furnish a report of the actual physical and financial performance within 15 days of completion of each quarter of a year in the same format in which the cost statement for the tariff proposals are filed. The report should also be accompanied with the reasons for variation from the estimates relied upon for fixing the tariff in force. If a variation of (+)/(-)20% is observed between the actual and the estimates for two consecutive quarterly period, TAMP may call upon the concerned operator to submit their proposal for an ahead of schedule review. If the BT fails to file a tariff proposal within the time limit to be stipulated by TAMP, this Authority may proceed suo motu to review the tariff.

(Rani Jadhav)
Chairperson

Annex

FIXATION OF TARIFF FOR TWO NOS. 60 TONNES ELECTRONIC WEIGHBRIDGES INSTALLED AT MUMBAI PORT TRUST DOCKS BY M/S.BUTHELLO TRAVELS ON BUILD, OPERATE & MAINTAIN BASIS

Sl. No.	Description	Estimates furnished by Buthello Travels		Estimates modified by us	
		Workings	Amount (Rs.)	Workings	Amount (Rs.)
I	**CAPITAL COST**				
(i)	Cost of laying foundation and civil works		2830600		2830600
(ii)	Electronics weighbridge - 2 Nos.		1941250		1941250
(iii)	Portable cabin & renovation of room tiling		450000		450000
(iv)	Upfront premium paid to MbPT		1000000		1000000
(v)	Pre-operative Expenses (Interest on loan)		326699		326699
	Total (i) to (v)		**6548549**		**6548549**
II	**OPERATING & MAINTENANCE COST**				
(i)	Power cost	2100 units / month x Rs.8.65 / unit x 12 mths x 2 weighbridges	435960	2100 units/month x Rs.8.65 / unit x 12 months x 2 weighbridges	435960
(ii)	Repairs & Maintenance	Painting Rs.1,00,000 Stamping Rs.50,000 Digital indicator/printeRs.25,000 Change of load cell incl. labour (Rs.45,000 / cell x 16 cells p.a.) Rs.7,20,000 Calibration Rs.6000/- per 3 months Rs.18,000 ---------------- Total Rs.9,13,000 =========	913000	7% of the total capital cost excluding upfront premium	388398
(iii)	Depreciation	10.34% on total capital cost	677120	10.34% on total capital cost excluding upfront premium	573720
(iv)	Amortisation of upfront premium paid to MbPT over the license period of 10 years		0	Rs.10,00,000 / 10 years	100000
(v)	Other expenses (staff cost and overheads)	Salaries & wages: 21 employees x Rs.1,37,139 p.a.) - Rs.2879928 Printing&Stationery (12500 x 2 x 12) - Rs.300000 Telephone charges Rs.15,000/- p.m. x 12 months - Rs.180000 Overhead expenses Rs.7500 p.m. per weighbridge x 12 - Rs.180000 --------------- Total Rs.3539928 =========	3539928	15% of the total capital cost excluding upfront premium	832282
	Total (i) to (v)		**5566008**		**2330360**
III	Return on capital employed @16% of Capital Cost	16% on the total capital cost	1047768	16% on capital employed at the end of first year (Note 1)	939973
IV	**Total Revenue Requirement (II + III)**		**6613776**		**3270333**
V	No. of vehicles expected to be handled per annum in the two weighbridges	75 vehicles / day x 360 days x 2 weighbridges	54000	75 vehicles / day x 365 days x 2 weighbridges	54750
VI	**Proposed tariff per vehicle (in Rs.)**	Rs.6613776 / 54000 vehicles	**122.48**	Rs.3270333/54750=59.73 rounded off to Rs.60/-	**60.00**

Note 1:

Capital employed at the end of the year	**Year 1**
Cost of weigh bridges at the beginning of the year	5548549
Less: Depreciation @ 10.34% p.a.	573720
Written down value at the end of the year	4974829
Add: Unamorized amount of upfront premium	900000
Capital employed at the end of the year	**5874829**