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Tariff Authority for Major Ports

G.No.53

New Delhi,

5 February 2016

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 New Mangalore Port Trust (NMPT) to notify the conditionalities to govern the rates prescribed in the Order No. TAMP/41/2014-NMPT dated 21 March 2015 passed by the Authority regarding fixation of tariff for use of port owned 60-64 tonne capacity Mobile Harbour Crane (MHC) for Handling Dry Bulk, Break Bulk cargo and Containers at New Mangalore Port Trust, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/41/2014-NMPT

New Mangalore Port Trust

Applicant

QUORUM:

- (i). Shri. T. S. Balasubramanian, Member (Finance)
- (ii). Shri. Rajat Sachar, Member (Economic)

ORDER

(Passed on this 15th day of January 2016)

This case relates to request received from New Mangalore Port Trust (NMPT) to notify conditionalities to govern the rates prescribed in the Order No. TAMP/41/2014-NMPT dated 21 March 2015 passed by this Authority regarding fixation of tariff for use of port owned 60-64 tonne capacity Mobile Harbour Crane (MHC) for Handling Dry Bulk, Break Bulk cargo and Containers at NMPT.

2.1. This Authority vide its Order No. TAMP/41/2014-NMPT dated 21 March 2015 fixed the hire charge for 60-64 tonne capacity MHC owned by the port for handling the Dry Bulk, Break Bulk cargo and Containers at New Mangalore Port.

2.2 It is relevant here to mention that Para 10 (xvii) of the said Order, states that NMPT has not proposed conditionalities governing the proposed rates. This Authority has prescribed conditionalities / notes for the tariff for the MHC deployed by the authorized service providers as well as for the tariff for the MHC owned and deployed by the Kandla Port Trust (KPT). Therefore, the NMPT was, in the said Order, advised to file a suitable proposal for prescription of conditions governing the application of rates within two months of date of notification of this Order. In the meanwhile, Performance linked tariff for 60-64 tonne MHC was approved by this Authority in the said Order notified on 13 April 2015.

3. The NMPT has now vide its email dated 09 October 2015 referring to the advice rendered at para 10 (xvii) of the said Order, requested this Authority to incorporate the following conditionalities in the Order No. TAMP/41/2014-NMPT dated 21 March 2015 in respect of charges for Port owned 60-64 tonnes MHC approved by this Authority:

- “(i). The formula for calculation of average berth-day output is as follows:
$$\frac{\text{Total Quantity loaded / unloaded by the MHC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hours}$$
- (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 MHC works with another MHC, the Berth-day output for the crane will be ascertained on the basis quantity as recorded by the MHC 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 MHC 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 MHC for more than two hours at a stretch for reasons not attributable to the MHC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of MHC 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 MHC. All stoppages in loading / unloading operations during working of MHC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.

- (vi). No shifting charge shall be levied by the port in case shifting of a vessel from berth to another berth / anchorage become necessary due to breakdown / non-performance of MHC.
- (vii). In case of dispute on the average output, the decision of the port trust will be final and binding."

4. Since the request of NMPT for inserting conditionalities flows from the advice rendered in the Order dated 21 March 2015 and also recognizing that the proposed conditionalities are in line with prescription in other HMC cases as brought out in the subsequent paragraphs, it is not found necessary to have joint hearing or to initiate any consultation on this matter.

5. The conditionalities proposed by NMPT vide its letter dated 09 October 2015 have been compared with the conditionalities prescribed by this Authority while approving the MHC charges at other Major Port Trusts viz. Order No.TAMP/21/2015-VPT dated 15 May 2015 at VPT, Order No.TAMP/22/2007-TPT dated 30 December 2009 at VOCPT, Order No.TAMP/30/2014-PPT dated 28 November 2014 at PPT, and Order No.TAMP/23/2011-KPT dated 29 June 2011 at KPT. It is found that the conditionalities governing the hire charge for MHC proposed by NMPT are exactly in line with conditionalities prescribed for HMC in the KPT as well as in other Major Port Trusts except for one condition relating to Shifting charge. At other Major Ports except KPT, the penalty of ₹1,00,000 is prescribed in addition to recovery of shifting charge from the crane operator, if shifting of a vessel becomes necessary due to breakdown / nonperformance of the MHC. The shifting charge so recovered is to be refunded to the vessel agent while penalty is retained by the port. As against this prescription, the NMPT has proposed that no shifting charge shall be levied by the port in case shifting of a vessel from berth to another berth / anchorage become necessary due to breakdown / non-performance of MHC. In the case of NMPT, since the matter referred is for port owned MHC, the proposed conditionality of not levying shifting charges in case of shifting of a vessel due to breakdown / nonperformance of the MHC is found to be appropriate and hence approved as proposed by the Port. This condition is in line with prescription in the KPT case for 60 tonne port owned MHC.

6.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves insertion of the conditionalities as proposed by the NMPT in the existing Scale of Rates under Section 6.9. - Charges for hire of 60-64 tonne capacity MHC for Handling Dry Bulk, Break Bulk cargo and Containers at NMPT as shown in the **Annex**.

6.2. The NMPT is advised to amend its Scale of Rate accordingly.

(T.S. Balasubramanian)
Member (Finance)

Insert the following conditionalities relating to charges for Port owned 60-64tonnes MHC in the existing Scale of Rates in the Order No.TAMP/41/2014-NMPT dated 21 March 2015 under Section 6.9.-Charges for hire of 60-64 tonne capacity MHC for Handling Dry Bulk, Break Bulk cargo and Containers at NMPT

- (i). The formula for calculation of average berth-day output is as follows:
$$\frac{\text{Total Quantity loaded / unloaded by the MHC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hours}$$
- (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 MHC works with another MHC, the Berth-day output for the crane will be ascertained on the basis quantity as recorded by the MHC 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 MHC 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 MHC for more than two hours at a stretch for reasons not attributable to the MHC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of MHC 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 MHC. All stoppages in loading / unloading operations during working of MHC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.
- (vi). No shifting charge shall be levied by the port in case shifting of a vessel from berth to another berth / anchorage become necessary due to breakdown / non-performance of MHC.
- (vii). In case of dispute on the average output, the decision of the port trust will be final and binding.
