(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G No. 186 **New Delhi,** **20 June 2014**

NOTIFICATION

In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the New Mangalore Port Trust for fixation of provisional rates for Single Point Mooring (SPM) facility at NMPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/17/2014-NMPT

New Mangalore Port Trust - - - **Applicant**

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)

(ii). Shri. Chandra Bhan Singh, Member (Economic)

O R D E R

(Passed on this 20th day of May 2014)

This case relates to the proposal received from New Mangalore Port Trust (NMPT) for fixation of adhoc rates for handling of vessels at Single Point Mooring (SPM) facility at NMPT.

2.1. The NMPT vide its letter dated 24 February 2014 had filed a proposal seeking approval of rates for SPM operations on provisional basis till the final rates are determined by this Authority. This proposal was not accompanied with consent of the concerned users.

2.2. The NMPT has subsequently vide its letter dated 2 April 2014 sought approval of the following rates on provisional basis totally adopting rates prescribed in the existing Scale of Rates of Cochin Port Trust (COPT) for SPM operations based on the consent letter of Mangalore Refinery and Petrochemicals Limited (MRPL) dated 25 March 2014:

(a).	Port dues	@ US $ 0.377 per GRT
(b).	Pilotage charges	@ US $ 0.4259 per GRT
(c).	Wharfage	₹25/- per MT
(d).	Tug Hire charges	US $ 606.56 per hour

2.3. The NMPT has stated that its proposal dated 2 April 2014 supersedes its earlier proposal dated 24 February 2014.

2.4. The NMPT has also forwarded the consent letter of MRPL dated 25 March 2014. It is seen that MRPL in its letter dated 25 March 2014 (forwarded by the NMPT) has conveyed its acceptance for adoption of the above mentioned rates provisionally till such time final rates for SPM facility are notified and have requested to adopt the proposed provisional rates from the date of operation of SPM facility. The MRPL in their consent letter addressed to NMPT has requested refund of excess paid to the port as per the present calculation.

3. It may be relevant to mention that the NMPT has filed a proposal dated 14 March 2014 for fixation of final rate for SPM operations along with detailed cost calculation which has been taken on consultation with this concerned users including MRPL and is being processed separately. The final rate proposed by NMPT are found to be higher than the provisional rates proposed by it. The NMPT has sought approval of the final rates from the date of commencement of commercial operation at SPM reported to be 29 August 2013.

4.1. The NMPT has reported that commercial operations at SPM commenced on 29 August 2013. The MRPL has also not disputed this position. The existing Scale of Rates of the NMPT do not prescribe any specific rate for the SPM operations at the NMPT. The proposal for fixation of final rate filed by NMPT based on the cost of operations, has to be processed following the usual consultation process prescribed. In the meantime, there has to be an interim tariff arrangement authorizing port to levy the rates till the final rates are fixed for SPM operations, as the operations at the said SPM have already commenced.

4.2. Clause 2.12 of the 2005 guidelines stipulates inter alia, that when a new facility is commissioned or existing facilities are privatised by any port trust, the initial tariff to be allowed should not exceed the existing tariff level at the same port for comparable facilities. If such comparison is not available, prevailing tariff at comparable nearby port can be considered as the reference level. The initial tariff so adopted will be valid for the first year of operation whereafter revised tariff will be fixed based on the admissible cost and investment of the private operator.

4.3. In the instant case, SPM is a new facility created at the NMPT by the MRPL for handling its crude at SPM. As stated earlier, no specific rate is prescribed in the Scale of Rates of the NMPT for SPM facility. The NMPT has proposed wharfage charge, pilotage fee, tug hire charges (for pull back operations) and port dues for the SPM operations on provisional basis till the final cost based rates are determined. For this purpose, the NMPT has adopted the rate prescribed in the existing Scale of Rates of the Cochin Port Trust for SPM operations which is carried out by Bharat Petroleum Corporation Limited (BPCL).

4.4. The MRPL in its letter dated 25 March 2014 while giving consent to the proposed rate on provisional basis has requested to approve the same from the date of commencement of the commercial operations. It may be relevant here to state that this Authority in the last tariff general revision Order of NMPT dated 6 January 2012 had categorically advised the NMPT to file a well analysed proposal for SPM operations well ahead of commencement of operations and till such time a separate rate for SPM is determined, NMPT was allowed to levy the wharfage rate prescribed in the Scale of Rates of the NMPT. The NMPT failed to file the proposal for SPM operations well ahead of commencement of operations. It is only after follow up that the NMPT has filed its proposal dated 2 April 2014. The said proposal for fixation of provisional rate is based on the consent of the concerned user i.e. MRPL for the proposed wharfage as well as cargo related charges on provisional basis till a final rate is determined.

4.5. The proposal of the NMPT seeking approval of interim rate for SPM adopting the rate prescribed for similar operations in Cochin Port Trust is found to be in line with the provision prescribed in clause 2.12 of the 2005 guidelines. Moreover, the proposal filed by the NMPT has the consent of the concerned user viz. MRPL for levy of the proposed rate both cargo related charge i.e. wharfage and vessel related charges on provisional basis till the final rates are determined. Since the proposal for fixing interim tariff arrangement is in line with the provision in the 2005 guidelines and also consented by the MRPL, this Authority is inclined to endorse the consented proposal of the NMPT for levy of rates on provisional basis subject to a few modifications viz. prescribing the rate for port dues as prevailing in the Scale of Rates of NMPT instead of COPT rate and inclusion of concessional rupee denominated vessel related charges towards coastal leg as per the Government policy and the tariff guidelines of 2005 which are explained in the subsequent paragraphs.

4.6. The NMPT has proposed to adopt the port dues of US$0.377 per GRT per entry for foreign-going vessel as per the port dues prescribed in the existing Scale of Rates of the COPT. Port dues is a fee for entry of vessel into the port. At COPT, the port dues for Crude oil tankers at SBM has been prescribed at par with the port dues for tanker vessels at the berths. The existing Scale of Rates of NMPT prescribes uniform port dues for all categories of vessels referred as “Ships/ Steamers”. Since port due is a fee for entry of the vessel and following the analogy followed in COPT, it is found appropriate to prescribe port dues for SPM vessel at par with port dues applicable in the existing SOR of NMPT for POL vessels i.e. USD 0.143 per GRT per entry for foreign-going vessel and ₹2.52 per GRT per entry for coastal vessel.

4.7. The NMPT has proposed rate only for foreign going vessel. It has not proposed the corresponding vessel related charges for the coastal leg. The tariff guidelines of 2005 as well as the coastal concession policy of the Government requires prescription of concessional rate for coastal vessel towards vessel related charges at 60% of the rate prescribed for its foreign counterpart. Since the NMPT has adopted the pilotage and tug hire charge for SPM from the existing Scale of Rates of COPT for foreign going vessel, the rates applicable for coastal vessel can also be adopted from the existing Scale of Rates of the COPT as provisional rate. The tariff guidelines of 2005 do not envisage concession in the cargo related charges viz. wharfage for Crude.

4.8. Ordinarily, the rates approved by this Authority have prospective effect. But in the instant case, though the NMPT commenced commercial operations at SPM in August 2013, in the absence of any proposal from the port’s side well head of commencement of operation, there is no rate approved for the various SPM related services like pilotage, tug hire etc., offered by the port. Thus, a fait accompli situation is arisen before this Authority for prescribing the rate from the date of commercial operations at SPM. That being so, this Authority approves the provisional rates for SPM operations retrospectively from the date of commencement of commercial operations at SPM i.e. 29 August 2013 as reported by the NMPT and confirmed by MRPL. Clause 2.12. of the 2005 tariff guidelines while allowing to adopt the tariff of nearby port for comparable services for an initial period of one year, also stipulates that if, it is established that adoption of existing tariff would cause hardship to the operator, in view of higher level of investment made, then in that case the cost based final tariff would be allowed right from commencement of the operation. Thus, if at the time of fixation of final rate it is found that adoption of COPT rates on provisional basis will cause hardship to the port, then fixation of final rate will be dealt with in an appropriate manner following Clause 2.12 of the 2005 tariff guidelines. Clause 2.12 of the tariff guidelines allows the interim tariff arrangement for period of one year. Hence, the said provisional rates are approved for a period of one year from 29 August 2013 or till the effective date of implementation of the Order disposing of the proposal filed by NMPT for fixation of final rate for SPM, whichever is earlier.

4.9. The MPRL while conveying consent to the provisional rates has made a request to NMPT to refund the excess amount reportedly paid by MRPL to NMPT. The details of rate levied by NMPT and the amount paid by MRPL are not made available to us. The NMPT also has not furnished any comments on the request made by MRPL. This position has arisen because the NMPT has not filed the proposal for fixation of tariff for SPM operations well ahead of commencement of operations as advised by the Authority in the tariff Order dated 6 January 2012. Therefore, it is for the NMPT to look into the request made by the MRPL.

5.1. In the result, and for the reasons explained above, and based on collective application of the mind, this Authority approves the provisional rates for SPM facility as attached in **Annex** with retrospective effect from the date of commencement of commercial operations at SPM i.e. 29 August 2013.

5.2. The interim tariff arrangement will be valid for a period of one year from 29 August 2013 or till the effective date of implementation of the Order disposing of the proposal filed by NMPT for fixation of final rate for SPM whichever is earlier.

5.3. The NMPT is directed to amend its Scale of Rates accordingly.

(T.S. Balasubramanian)
Member (Finance)

<u>Annex</u>

<u>Insert the following in the existing Scale of Rates of the New Mangalore Port Trust approved vide Order No.TAMP/34/2010-NMPT notified in the Gazette of India on 21 February 2012 vide Gazette No.38.</u>

(i). <u>Insert the following in the Schedule 2.1. - Port Dues under Chapter II – Vessel Related Charges in the existing Scale of Rates of the NMPT</u>:

Vessels chargeable (Sea going vessels of 15 tonnes and above)	Rate per GRT		Frequency of payment in respect of the same vessel	
	Foreign-going vessel (in US $)	Coastal vessel (in ₹)	Foreign-going vessels (in US $)	Coastal vessels (in ₹)
Crude Oil Tanker at SPM	0.143	2.32	Each entry	Each entry

(ii). <u>Insert the following as item (iii) in the Schedule 2.2. - Pilotage under Chapter II – Vessel Related Charges in the existing Scale of Rates of the NMPT</u>:

Classification of the vessels	Rate per GRT	
	Foreign - going vessel (in US $)	Coastal vessel (in ₹)
(iii). Pilotage fee for SPM operations		
(a). Upto 30000 GRT	0.4259	11.69
(b). 30001 GRT to 60000 GRT		
(c). 60001 GRT and above		

(iii). <u>Insert the following as Schedule 2.2.1. - Charges for Hire of Tugs for SPM operations under Chapter II – Vessel Related Charges in the existing Scale of Rates of the NMPT</u>:

2.2.1. Charges for Hire of Tugs

Particulars	Rate per tug hour or part thereof	
	Foreign - going vessel (in US $)	Coastal Vessel (in ₹)
Tug hire charges for SPM operations	606.56	16645.00

(iv). <u>Insert the following as Sl. No.3(j) under Schedule 3.2. Bulk Cargo under Chapter III – Schedule of Wharfage Charge in the existing Scale of Rates of the NMPT</u>:

Sl. No.	Cargo	Unit	Foreign (in ₹)	Coastal (in ₹)
3.	**P.O.L.**			
	(j). Crude oil at SPM	MT	25.00	25.00
