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

Tariff Authority for Major Ports

G.No.7 **New Delhi,** **5 January 2015**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Paradip Port Trust (PPT) for fixation of ceiling tariff for the Harbour Mobile Crane (HMC), to be applied commonly at the PPT without reference to any particular service provider, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/30/2014-PPT

Paradip Port Trust **- - -** **Applicant**

QUORUM:

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

O R D E R

(Passed on this 28th day of November 2014)

This case deals with the proposal received from Paradip Port Trust (PPT) for fixation of ceiling tariff for the Harbour Mobile Crane (HMC), to be applied commonly at the PPT without reference to any particular service provider.

2. It may be recalled that this Authority vide its Order dated 30 December 2009 had disposed of the proposal received from PPT fixing tariff for the use of Harbour Mobile Crane (HMC) installed at PPT. This Order was notified in the Gazette of India on 12 January 2010 vide Gazette no. 21.The tariff for the use of HMC at PPT so fixed in December 2009 was a ceiling rate to be applied commonly at the PPT without reference to any particular service provider, as stipulated in Clause 7.2 of the tariff guidelines of 2005, and was valid for a period of three years after expiry of 15 days from the date of notification of the Order in the Gazette of India.

3.1. In June 2014, the PPT had submitted two different proposals for fixation of tariff for HMC of 100 tonne capacity. Given that the validity of the common tariff for the use of the HMC at PPT has expired on 26 January 2013, the 1st proposal submitted by the PPT was for fixing the tariff for the HMC beyond January 2013. It had submitted the 2nd proposal for fixation of tariff for the said additional HMC on the ground that the PPT is going to invite tender for engagement of additional HMC.

3.2. In this connection, it was immediately communicated to PPT vide our letter dated 20 June 2014 that the two proposals dated 6/7 June 2014 and 7 June 2014 filed by PPT seeking two different set of rates for the same capacity of HMC viz. 100T HMC is not seen to be in line with clause 7.2. of the tariff guidelines of 2005. The PPT was, therefore, requested to recast its proposal and file a single revised proposal with governing conditions, proposing to fix one common tariff for the use of HMC to be applied commonly at the PPT without reference to any particular service provider duly clarifying the authorisation arrangement envisaged for the additional HMC.

3.3. Further, since the PPT had proposed higher rate for a new crane apparently stemming from the intention that a new crane with a higher productivity should fetch a better rate for the service provider, the PPT was requested to propose performance linked tariff, thereby providing incentives for better performance and disincentive for performance below the benchmark level. It was also brought to the notice of PPT that the performance linked tariff structure will also, inter alia, suit the situation, when cranes of capacity different from the normative level of 100 tonnes are placed in operation.

4.1. In this backdrop, the PPT vide its letter dated 17 July 2014 has submitted its proposal for fixation of tariff for the use of Harbor Mobile Crane (HMC). The main submissions made by the PPT in its proposal are summarized below:

(i). The calculations have been made considering the annual capacity of one HMC as 2 Million Metric Tonne. This has been arrived considering the average actual cargo handled by one HMC during the period from 2007-08 to 2013-14.

(ii). The cost of the Harbour Mobile Crane has been taken as per the budgetary offer received from the manufacturer which is 34.30 lakh Euro and 2.70 lakh Euro has been considered towards cost of transportation. The customs duty has been considered at 25%. The all-inclusive cost of the HMC in Indian Rupees works out to ₹3700 lakhs. Considering the upfront premium, interest and working capital margin to the tune of ₹950 lakhs, the cost of the HMC has been considered at ₹4650 lakhs.

(iii). The operating expenditure under different heads have been taken as per the norms fixed by the TAMP even though the actual expenditure on these heads are more, as the spares are to be procured from abroad and payments are to be made in foreign currencies. Processing a high rate for HMC may lead to increase in the overall cost of handling of cargo in PPT which may discourage the customers and result in diversion of cargo to nearby ports.

(iv). The installation of Harbour Mobile Crane is badly necessary in Paradip Port for early evacuation of cargo so that the productivity and overall profitability will increase. PPT is not very keen to earn revenue by granting license to the operators, rather it is keen to handle more cargo which will enhance the performance of PPT with deployment of HMCs.

(v). During the joint hearing on 27.06.2014 at Bhubaneswar (relating to some HMC High Court matter), the operators were insisting to have an escalation provision since the operating expenditure includes fuel and labour costs which are increasing every year at average high rate. In view of this, it is proposed to escalate the rate at 60% of the price index as applicable to PPP projects subject to a maximum limit of 3%. Considering the above, the revised rate per tonne stands at ₹82.45 for Foreign Cargo and ₹49.47 for coastal cargo.

4.2. The cost statement furnished by the PPT to arrive at per tonne rate of HMC is as under:-

<table>
<tr><th>Sr. No.</th><th>Particulars</th><th>Basis</th><th>Workings</th><th>₹ in Lakhs</th></tr>
<tr><td>I.</td><td>Cost of 100T Mobile Harbour Cranes (₹ Lakhs) (WDV) (₹2963.70 lakh original</td><td></td><td></td><td>3700.00</td></tr>
<tr><td></td><td>Other Expenses (all other facilities required for operation of machine and includes upfront premium interest working capital margin)</td><td><table>
<tr><th></th><th>Statement of other expenses</th><th>₹ in Lakh</th></tr>
<tr><td>1</td><td>Sundry Debtors (2 months)</td><td>150.00</td></tr>
<tr><td>2</td><td>Upfront Premium</td><td>750.00</td></tr>
<tr><td>3</td><td>Spares</td><td>50.00</td></tr>
<tr><td></td><td>Total</td><td>950.00</td></tr>
</table></td><td>-</td><td>950.00</td></tr>
<tr><td></td><td>Total Capital Cost</td><td></td><td>-</td><td>4650.00</td></tr>
<tr><td>II</td><td>Annual capacity (in Million Tonnes)</td><td></td><td></td><td>2.00</td></tr>
<tr><td>III</td><td>Operating Cost</td><td></td><td>-</td><td></td></tr>
<tr><td>(a)</td><td>Fuel cost</td><td>(As per actuals)</td><td>0.08 ltrs per tonne Rate per Ltr. ₹72/-</td><td>115.20</td></tr>
<tr><td>(b)</td><td>Repairs & Maintenance cost @ 5% of Equipment cost (As per TAMP)</td><td>5% on cost of mechanical equipment</td><td>5%* ₹3700 lakhs</td><td>185.00</td></tr>
<tr><td>(c)</td><td>Insurance (As per TAMP)</td><td>1% on cost of mechanical equipment</td><td>1%* ₹3700 lakhs</td><td>37.00</td></tr>
<tr><td>(d)</td><td>Depreciation (As per TAMP)</td><td>As per norms prescribed in Companies Act</td><td>10.34%* ₹3700 lakhs</td><td>382.58</td></tr>
</table>

(e)	License Fee	As per scale of rates	₹1200 per month*12 months	0.14
(f)	Other Expenses @ 5% of I (As per TAMP)	5% of gross fixed asset value	5%* ₹700 lakhs	185.00
	Total=SL No (a) to (f)			**904.92**
IV	ROCE@16% i.e., after adjustment of depreciation	16% on Capital employed	16%* ₹4650 lakhs	744.00
V	Total cost plus Return on Investment		III + IV	1648.92
VI	Hire charges per shift			
VII	Hire charges per tonne (Foreign)		₹1648.92 lakhs/ 2 million tonnes	**82.45**
VIII	Hire charges per tonne (Coastal)		60%* ₹82.45	**49.47**

4.3. It was seen from the PPT proposal dated 17 July 2014 in reference that the PPT did not furnish the draft Scale of Rates. Since Clause 3.2.4 of the 2005 Guidelines requires circulation of the proposed tariff to the users, the PPT was requested vide our letter dated 23 July 2014 to furnish the proposed draft Scale of Rates along with conditions governing the application of rates.

4.4. Further, since, the PPT has not furnished the names of the prospective service providers, who may have to be consulted on the case in reference, the PPT was also requested vide the above referred letter to furnish the names of the prospective service providers along with their contact details.

4.5. In this backdrop, the PPT undercover of its letter dated 2 August 2014 has furnished the contact details of the service providers of HMC at PPT as well as the draft scale of rates as given below:

Sl. No.	Cargo handled per day	Rate in ₹ per tonne	
		Foreign	Coastal
1.	Below 6000	65.96	39.58
2.	6001-7000	74.21	44.53
3.	Above 7000	82.45	49.47

Note: The above Scale of Rate is applicable for all the type of cargo. The container handling will be as per the existing rate.

5. In accordance with the consultative process prescribed, a copy each of the proposal dated 17 July 2014 and 2 August 2014 received from the PPT was circulated to the concerned users/ user organisations and Service Providers seeking their comments. The comments received from the users/ user organisations and Service Providers were forwarded to the PPT as feedback information. The PPT has responded to the comments of the users / user organisations vide its e-mail dated 30 September 2014 and letter dated 20 October 2014.

6. Based on a preliminary scrutiny of the proposal, the PPT was requested vide our letter dated 11 September 2014 to furnish information/ clarification on some issues. The PPT has responded vide its letter dated 30 September 2014. While responding to the queries, the PPT has furnished a revised proposal. The queries raised by us and the response of PPT thereon are tabulated below:

Sl. No.	Queries raised by us	Response by PPT
1.	The PPT to confirm that the proposal under reference is for fixing the common ceiling rate for the use of HMC at the PPT, without reference to any particular service provider, as stipulated in clause 7.2 of the tariff guidelines of 2005.	The Proposal made vide letter no EM/WS/TECH-04/2014(485) dated 17th July 2014 is for fixing a common ceiling rate for the use of HMC at PPT.
2.	(a). To arrive at the proposed hire charge of ₹82.45 per MT, the PPT is seen to have	The deviation from normative capacity based tariff was based on the discussion

<table>
<tr><td></td><td>considered the average of the actual cargo handled by 1 no. of HMC during the period from 2007-08 to 2013-14, as base. The deviation from normative capacity based tariff to actual traffic based tariff needs justification.</td><td>held with port users from time to time. Further, the rate fixed in 2009 is no more attractive for the operator for which PPT has not got any response during last tender even though it was extended 3 times.</td></tr>
<tr><td></td><td>(b). In terms of clause 7.2 of the 'Tariff Guidelines, 2005' and following the approach adopted by this Authority in fixation of common ceiling tariff under Clause 7.2 of the tariff guidelines of 2005 for operation of Harbour Mobile Crane (HMC) by private operators at some of the major port trusts like New Mangalore Port Trust (NMPT), V.O Chidambaranar Port Trust (VOCPT) and Visakhapatnam Port Trust (VPT) and in the case of CFS – Buffer yard facility at Jawaharlal Nehru Port Trust (JNPT), the PPT is requested to review its proposal based on the normative capacity of the HMC, instead of considering the past actual traffic handled by the different service providers. In this connection, it is noteworthy that even during the fixation of hire charges for HMC at PPT in December 2009, the hire charge was fixed based on the normative capacity of the HMC as then proposed by PPT. The same approach to be adopted to determine the normative capacity of the HMC.</td><td>The fresh proposal has been prepared based on the outcome of the joint hearing held on 22.09.2014. The revised proposal is furnished.</td></tr>
<tr><td>3.</td><td>The PPT has given only the details of the operator wise and yearwise cargo handled through HMC during the years 2007-08 to 2013-14. In this connection, the PPT to furnish the average per day handling rate achieved by each of the operators at 70% utilization (24 hrs * 70%=16.80 hrs) for three broad categories of cargo viz. dry bulk, break bulk and other cargo separately for each of the year during the period 2007-08 to 2013-14.</td><td>The average year wise berth day handling rate achieved by each operators at 70% utilization for three broad categories of Cargo viz. Dry bulk, Break bulk and other are as follows:
A) DRY BULK CARGO
<table>
<tr><th rowspan="2">Sl. No</th><th rowspan="2">Year</th><th colspan="5">Average Handling rate per day by operators at 70% utilisation in Tonne /Day</th></tr>
<tr><th>JSPL</th><th>CREW-1</th><th>Crew-2</th><th>Osl-1</th><th>OSL-2</th></tr>
<tr><td>1.</td><td>2009-10</td><td>8942</td><td>6174</td><td></td><td></td><td></td></tr>
<tr><td>2.</td><td>2010-11</td><td>11554</td><td>8688</td><td></td><td></td><td></td></tr>
<tr><td>3.</td><td>2011-12</td><td>13232</td><td>11827</td><td></td><td></td><td></td></tr>
<tr><td>4.</td><td>2012-13</td><td>B/D</td><td>9768</td><td>8076</td><td>9366</td><td>7088</td></tr>
<tr><td>5.</td><td>2013-14</td><td>10102</td><td>9539</td><td>8088</td><td>10793</td><td>8914</td></tr>
</table>
B) BREAK BULK CARGO
<table>
<tr><th>Sl No</th><th>Year wise</th><th colspan="5">Average Handling rate per day by operators at 70% utilisation in Tonne/Day</th></tr>
<tr><th></th><th></th><th>JSPL</th><th>CREW-1</th><th>Crew-2</th><th>OSL-1</th><th>OSL-2</th></tr>
<tr><td>1</td><td>2009-10</td><td></td><td>498</td><td></td><td></td><td></td></tr>
<tr><td>2</td><td>2010-11</td><td></td><td>779</td><td></td><td></td><td></td></tr>
<tr><td>3</td><td>2011-12</td><td></td><td>673</td><td></td><td></td><td></td></tr>
<tr><td>4</td><td>2012-13</td><td></td><td>609</td><td></td><td></td><td></td></tr>
<tr><td>5</td><td>2013-14</td><td>428</td><td>506</td><td></td><td></td><td></td></tr>
</table>
C) OTHER CARGO
<table>
<tr><th>Sl No</th><th>Year wise</th><th colspan="5">Average Handling rate per day by operators at 70 % utilisation in Tonne/Day</th></tr>
<tr><th></th><th></th><th>JSPL</th><th>CREW-1</th><th>CREW-2</th><th>OSL-1</th><th>OSL-2</th></tr>
<tr><td>1</td><td>2009-10</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>2</td><td>2010-11</td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>3</td><td>2011-12</td><td>596</td><td>664</td><td></td><td></td><td></td></tr>
<tr><td>4</td><td>2012-13</td><td>Nil</td><td>756</td><td></td><td></td><td></td></tr>
<tr><td>5</td><td>2013-14</td><td>526</td><td>508</td><td></td><td></td><td></td></tr>
</table>
However, PPT is proposing to have one HMC in each berth with an additional</td></tr>
</table>

		HMC as standby for which the cargo availability for individual HMC will be affected.
4.	(a). Apart from the capital cost of one HMC at ₹37 crores, the PPT has added the cost towards sundry debtors, upfront premium and spares aggregating to ₹9.50 crores to the capital cost of HMC. In this connection, it is relevant here to mention that apart from the cost of the equipment (incurred upto its installation), no other cost is factored into the capital cost of equipment. Such an approach has been uniformly followed while determining the normative hire charge of HMC at various major port trusts as listed above including in the case of PPT (fixation of hire charge for HMC in 2009).	The revised proposal has been made based on the outcome of the joint hearing held on 22.09.2014.
	(b). Without prejudice to the above, the PPT to furnish/ clarify/ justify the following:	
	(i). The proposal of PPT is to fix tariff for HMC based on certain norms. No norms have been prescribed under 2005 tariff guidelines. If a reference is drawn to the norms prescribed for multipurpose cargo berth under 2008 upfront tariff setting Guidelines, Miscellaneous cost under capital cost to the tune of 5% of equipment cost is considered to cover other cost including working capital margin. The PPT has also considered other expenses at 5% of the Gross value of the equipment. That being so, consideration of sundry debtors and spares separately is seen to be double counting. Therefore, the PPT to clarify the position bringing out the basis for 2 months considered for sundry debtors at ₹150 lakhs and spares at ₹50 Lakhs supported with working.	The revised proposal has been made based on the outcome of the joint hearing held on 22.09.2014. [However, the PPT has not ignored the Sundry Debtors component and cost of spares component from the capital cost of the crane as seen from the revised proposal].
	(ii). When a common tariff is required to be fixed without reference to individual service provider, the PPT to clarify whether consideration of ₹750 Lakhs being the one time upfront premium apparently quoted by one service provider fits into the frame work of clause 7.2.	₹750 lakhs had been obtained during last tendering. But, the same has been ignored in the revised proposal as per the directive of ministry.
5.	While determining the hire charge of HMC at various major port trusts as listed above including in the case of PPT (fixation of hire charge for HMC in 2009), the fuel cost has been considered based on the fuel consumption of 70 litres per hour for 4000 hours per annum. In this connection, the PPT is requested to justify the basis of consumption of 0.08 litres per tonne.	The consumption of 0.08 litres per Tonne has been calculated from the consumption of 70 Liters per hour taking the filling factor of 0.9, cargo density 0.8 and cycle of 32 per hour with grab capacity of 37 CBM. The consumption rate is reasonable and it is less as comparison to Kandla.
6.	The Orissa Stevedores Ltd (OSL) has stated in their comments, a copy of which has been forwarded to PPT that the depreciation has to be at 18.10% as per Companies Act, 2013. The PPT to examine the suggestion of OSL	The observation of Orissa Stevedores Ltd on depreciation has been taken into consideration while calculating the revised tariff by PPT.

<table>
<tr><td></td><td>and rework the cost of depreciation based on the provisions of the Companies Act, 2013.</td><td></td></tr>
<tr><td>7.</td><td>(a) The PPT to confirm that the rate of licence fee considered by it in its calculation, is as per the prevailing Scale of Rates of PPT after applying escalation factor at the appropriate rate. The PPT to also indicate the reference of the Licence Fees in its Scale of Rates.</td><td>The License fee has been considered for the space occupied by the HMC as per sl.no. 1(a) of clause no 2.13 –License fee (page-20 of Scale of Rate-2011).No escalation factor have been considered. The amount has been increased because the actual area required for the operation of the HMC is more than the area considered in the proposal.</td></tr>
<tr><td></td><td>(b) As the PPT is aware, while fixing tariff for HMC at PPT vide tariff order dated 30 December 2009, the license fee for the HMC for idling period of the year was considered for 7 months. In this connection, paragraph No. 12(vi)(c)(v) of the order dated 30 December 2009 may be referred. That being so, consideration of license fee for 12 months by PPT needs justification.</td><td>The license fee has been taken for 12 months as the area is acquired by HMC operators due to utilization of the area as store when there is no maintenance.
Subsequently, the PPT vide its email dated 19 November 2014 (page 189/c) has stated that the license fees is payable by the HMC operator on monthly basis without any breakup.</td></tr>
<tr><td>8.</td><td>The PPT to indicate the yearwise average percentage of foreign and coastal cargo handled by the HMC during the years 2010-11 to 2013-14.</td><td>The percentage of foreign and coastal cargoes handled by HMC are as follows-
<table>
<tr><th rowspan="2">Sl No</th><th rowspan="2">Year</th><th colspan="3">Cargo handled in T/year</th><th colspan="2">Percentage</th></tr>
<tr><th>Foreign</th><th>Coastal</th><th>Total</th><th>Foreign</th><th>Coastal</th></tr>
<tr><td>1</td><td>2010-11</td><td>4011780</td><td>117044</td><td>4128824</td><td>97.17</td><td>2.83</td></tr>
<tr><td>2</td><td>2011-12</td><td>4903255</td><td>69710</td><td>4972965</td><td>98.60</td><td>1.40</td></tr>
<tr><td>3</td><td>2012-13</td><td>6922181</td><td>59093</td><td>6981274</td><td>99.15</td><td>0.85</td></tr>
<tr><td>4</td><td>2013-14</td><td>5719910</td><td>34985</td><td>5754895</td><td>99.39</td><td>0.61</td></tr>
</table></td></tr>
<tr><td>9.</td><td>(a) During the fixation of hire charge for HMC in PPT in December 2009, the hire charges based on the daily performance of the Crane was prescribed separately for each type of cargo viz., Dry Bulk Cargo, Break Bulk Cargo and for Others. In the proposal under reference and as commented by Orissa Stevedores Limited, the PPT has proposed a common performance based rate for all type of cargo viz., Dry Bulk Cargo, Break Bulk Cargo and for Others. The reason for deviating from the approach adopted during the last fixation of hire charge remains unexplained. The PPT to propose performance linked hire charge separately for each type of cargo viz., Dry Bulk Cargo, Break Bulk Cargo and for others.</td><td>The performance linked hire charge of each type of cargo viz. Dry bulk, Break bulk and other as proposed is enclosed.</td></tr>
<tr><td></td><td>(b) The PPT has proposed to escalate the proposed rate at 60% of the price index as applicable to the PPP project subject to a maximum limit of 3%. In this context, the PPT to clarify the following:</td><td></td></tr>
<tr><td></td><td>(i) The proposal of the PPT is being considered as per the tariff guidelines of 2005. That being so, the PPT to clarify whether it will be appropriate to index the tariff to an extent of 60% of the variation in price index as prescribed in 2008 guidelines.</td><td>The proposal for escalation of the rate at 60% of the price index as applicable to PPP projects is as per clause no 2.8-Over all approach of 2008 guidelines.</td></tr>
<tr><td></td><td>(ii) The reason for restricting the escalation to 3% to be brought out.</td><td>The subject to a maximum limit of 3% is considered to have a ceiling on the escalation.</td></tr>
<tr><td>10.</td><td>The hire charge of ₹82.45 per MT derived by the port has been taken as the base for an</td><td>The quantity of 7000 tonnes per day has been fixed for convenience of the users</td></tr>
</table>

	average output of above 7000 tonnes per day. In this connection, it may be recalled that during the fixation of hire charge for HMC in PPT in 2009, the benchmark level of output for Dry Bulk Cargo was prescribed at 12500 tonnes per day, 6000 tonnes for Break Bulk cargo and 3750 tonnes for Others. Benchmarking the performance level for all types of cargo at a lower level of 7000 tonnes per day may be justified. As observed by VISA Steel Limited (VSL) and the VISA Suncoke Limited (VSCL), benchmarking the per day output at a lower level will increase the turnaround time of the vessels with increase in the associated cost. The PPT to follow the approach of prescription of hire charges for HMC with benchmarking level of 12500 tonnes for dry bulk cargo, 6000 tonnes for steel and bagged cargo at 3750 tonnes for others, which is uniformly followed in respect of cases for fixation of hire charge for HMC at other major port trusts.	and HMC operators to avoid dispute. However, a few slabs have been kept in comparison with the 2009 guide lines.
11.	In spite of request made by us vide our letter of even number dated 23 July 2014, the PPT has not proposed conditionalities governing the application of proposed rates. The PPT is to propose conditionalities governing the levy of performance linked tariff for each type of cargo proposed to be handled through HMC.	The conditionalities governing the application of proposed rate are enclosed.

7. As stated above, the PPT has furnished a revised proposal. The revision is mainly seen to be to the extent of change in the capital cost of HMC due to consideration of cost of 2 nos. of additional grabs and change in the working capital component, thereby resulting in changes in the operating costs which is calculated as a percentage of capital cost. Also, the PPT has considered the rate of depreciation at 18.10% instead of 10.34% considered by it earlier. A comparative position of the initial proposal of July 2014 and the revised proposal of September 2014 is tabulated below:

Sr. No.	Particulars	Norms	Initial proposal of July 2014		Revised proposal of September 2014	
				₹ in Lakhs		**₹ in lakhs**
I	Cost of 100T Mobile Harbour Cranes **(₹ Lakhs) (WDV) (₹2963.70 lakh original**			3700.00		3900.00
	Other Expenses (all other facilities required for operation of machine and includes upfront premium interest working capital margin)	Statement of other expenses — ₹ in Lakh 1 Sundry Debtors (2 months) 150.00 2 Upfront Premium 750.00 3 Spares 50.00 **Total** **950.00**		950.00	₹ in lakhs Sundry Debtors (2 months) 150.00 Spares 50.00 **Total** **200.00**	200.00
	Total Capital Cost			4650.00		4100.00
II	**Annual capacity (in Million Tonnes)**			2.00		2.00
III	**Operating Cost**					
(a)	Fuel cost (As per actual)		0.08 ltrs per tonne Rate per Ltr. ₹72/-	115.20		115.20
(b)	Repairs & Maintenance	5% on cost of	5%*	185.00	5%*	195.00

	cost @5% of Equipment cost (As per TAMP)	mechanical equipment	₹3700 lakhs		₹3900 lakhs	
(c)	Insurance (As per TAMP)	1% on cost of mechanical equipment	1%*₹3700 lakhs	37.00	1%*₹3900 lakhs	39.00
(d)	Depreciation (As per TAMP)	As per norms prescribed in Companies Act	10.34%* ₹3700 lakhs	382.58	18.10% WDV on ₹3900 lakhs	492.60
(e)	Licensee Fee	As per scale of rates	₹1200 per month*12 months	0.14	₹1200 per month*12 months*5	0.72
(f)	Other Expenses @5% of I (As per TAMP)	5% of gross fixed asset value	5%* ₹700 lakhs	185.00	5%* ₹3900 lakhs	195.00
	Total=SL No (a) to (f)			**904.92**		**1037.52**
IV	ROCE@16% i.e., after adjustment of depreciation	16% on Capital employed	16%* ₹4650 lakhs	744.00	16%* ₹4100 lakhs	656.00
V	Total cost plus Return on Investment		III + IV	1648.92		1693.52
VI	Hire charges per shift					
VII	Hire charges per tonne (Foreign)		₹1648.92 lakhs/ 2 million tonnes	**82.45**	₹1693.52 lakhs/ 2 million tonnes	**84.68**
VIII	Hire charges per tonne (Coastal)		60%* ₹82.45	**49.47**	60%* ₹84.68	**50.81**

8.1. A joint hearing on the case in reference was held on 22 September 2014 at the premises of PPT in Bhubaneshwar. The PPT made a brief power point presentation of its proposal. At the joint hearing, the PPT and the concerned users / organization bodies/ service providers have made their submissions:

8.2. As decided at the joint hearing, the PPT was requested vide our letter dated 25 September 2014 to take action on some points. The PPT has responded under cover of its letter dated 30 September 2014. The points of action decided at the joint hearing and the response of PPT thereon are tabulated below:

Sl. no.	Points decided at the joint hearing	Response of PPT
(i).	The users present at the joint hearing had expressed uncertainty on the discharge rate considered by the PPT to arrive at the per tonne rate for HMC. During the hearing, the PPT had made a mention about having considered the discharge rate of about 7000 tonnes per day. Some of the users were of the opinion that the discharge rate of 7000 tonnes per day is less. In this context, the PPT had agreed to review the discharge rate of the HMC. The PPT, therefore, to review the discharge rate of the HMC considered in its initial proposal and furnish its revised proposal.	The discharge rate considered as 6000 tonnes may be considered as 7000 tonnes as raised by many users. This discharge rate may be considered for arriving at a rate. However, for a better discharge rate, the operator may be rewarded and for a lower discharge rate, the operator may be penalized.
(ii).	With reference to the upfront payment considered by PPT as an item of capital cost, as agreed at the joint hearing, the PPT to furnish a copy of the written instruction received by it from the Ministry based on the recommendation of One Man Committee regarding Upfront payment.	The copy of the document furnished by the PPT, is a letter dated 24 July 2014, received by it from the Dy. Secretary of Ministry of Shipping (MOS), communicating the PPT about the Action Points to be taken up by the PPT based on the Report on Mechanisation Process at PPT. The action point relating to the

		Upfront payment as contained in the MOS letter is reproduced below: **"***Paradip Port should adopt revenue share model with 'penalty clauses for breakdown' as followed in other Major Ports in the new tender instead of collection of upfront fees & Revenue share or only upfront fee etc. Only revenue share collection model may create more competition among crane providers.***"**
(iii).	During the Joint hearing, the PPT had submitted that the capital cost of ₹37 crores considered as the cost of 1 no. of HMC is inclusive of cost of only 1 no. of grab, whereas, the PPT would require 2 more grabs to ensure smooth operation of HMC. The PPT had agreed to review its proposal so as to include the cost of 2 more grabs. The PPT to, therefore, revise the capital cost of the HMC and furnish its revised proposal, based on the revised workings.	The observation is taken into account for revised costing.

9.1. After the joint hearing, the Seaways Shipping and Logistics Limited (SSLL) vide its letter dated 23 September 2014 has furnished its comments. In the said letter, the SSLL has mentioned that during the joint hearing, the Chairman of the Authority and Chairman of PPT had declared that the HMC charges will be ₹1000/- per container per move at PPT, as was paid by them earlier to the HMC operators. In this context, the SSLL has requested this Authority to issue a circular towards fixation of HMC charges for handling of containers as declared in the meeting to convince their vessel operators.

9.2. A copy of the said letter dated 23 September 2014 was forwarded to PPT, vide our letter dated 26 September 2014, seeking their specific comments. The PPT vide its letter dated 20 October 2014, while responding to the comments made by other users has mentioned that the rate on container handling through HMC has been revised and reflected in the revised proposal of September 2014.

10. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in.

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

(i). Provision of cranage facility is one of the services listed under Section 48 of the Major Port Trusts Act, 1963 and, therefore, the tariff for providing cranage facility needs to be regulated by this Authority. Section 42(4) of the MPT Act read with Section 48 requires this Authority to notify the rates in respect of identified services provided by persons authorised under Section 42(3) of the MPT Act. In cases where the authorization arrangement under Section 42(3) is other than by way of a BOT Concession Agreement, Clause 7.2. of the tariff guidelines of March 2005 requires this Authority to fix ceiling rates for such services to be applied commonly at the concerned ports without reference to the individual service provider. It may be recalled that such an exercise of fixing common ceiling tariff for the use of Harbour Mobile Crane (HMC) at PPT had earlier been undertaken in December 2009. Now again, the PPT has come up with a proposal for fixation of a common ceiling rate of tariff for the use of HMC at PPT without reference to any individual service provider. Though PPT is silent whether its proposal is under Clause 7.2, it has to be recognised that fixation of common ceiling rate at the Major Port Trusts is governed by Clause 7.2 of the 2005 Tariff Guidelines.

(ii). The validity of the tariff fixed in December 2009 has expired in January 2013. The Tariff Order of December 2009 was fraught with litigation and the said order has been set aside by the Hon'ble High Court of Orissa and the appeal filed by this Authority in the Hon'ble Supreme Court challenging the Order of the Hon'ble High Court also has been dismissed. Therefore, tariff for the tariff cycle covered by the tariff Order of December 2009 is required to be fixed afresh as per the directions of the Hon'ble High Court of Orissa. The proposal filed in July 2014 is for future tariff cycle and based on the present cost of the Crane. A new crane will maintain productivity standard, reliability and keep the downtime to the minimum.

(iii). The PPT had initially filed its proposal in July 2014. Subsequently, while responding to the queries raised by us and based on the discussions held with the users/ service providers during the joint hearing, the PPT has filed a revised proposal. As brought out earlier, the revision is mainly seen to be to the extent of change in the capital cost of HMC due to consideration of cost of additional 2 nos. of grabs and change in the working capital component, thereby resulting in changes in the operating costs which is calculated as a percentage of capital cost. Some change has also been proposed in the rate of depreciation considered by it earlier. This revised proposal of September 2014 alongwith the information/ clarifications furnished by the PPT during the processing of the case is considered in this analysis.

(iv). Clause 2.4.1 of the tariff guidelines of 2005, *inter alia*, calls for making attempts to evolve normative cost of each component of port operations. No specific guidelines have been laid down to fix tariff for the use of HMCs, either under 2005 tariff guidelines nor under 2008 tariff guidelines.

Clause 7.2 of the said tariff guidelines, under which the proposal is being considered, does not specify any particular tariff fixing methodology but only talks about the procedural aspects of filing tariff proposal and fixing tariff irrespective of the operator. Since separate set of norms under Clause 2.4.1. are not evolved, the norms prescribed in the tariff guidelines of 2008 are relied upon to test the reasonableness of the norms adopted by the PPT. It is noteworthy that such an approach has been adopted while fixing the tariff for the use of HMC in the cases relating to fixation of tariff for HMCs (governed by Clause 7.2 of the 2005 guidelines) at other major port trusts. The proposal of PPT is discussed elaborately in the subsequent paragraphs.

(v). Capacity of the 100 Tonne HMC:

(a). In order to arrive at the proposed hire charge for the use of HMC, the PPT has considered the average of the actual cargo handled by 1 no. of HMC for a period of seven years in the past from 2007-08 to 2013-14, as base.

(b). In terms of clause 7.2 of the 'Tariff Guidelines, 2005' and following the approach adopted by this Authority in fixation of common ceiling tariff under Clause 7.2 of the tariff guidelines of 2005 for operation of HMC by private operators at some of the major port trusts like New Mangalore Port Trust (NMPT), V.O Chidambaranar Port Trust (VOCPT) and Visakhapatnam Port Trust (VPT), the PPT was specifically requested to review its proposal based on the normative capacity of the HMC, instead of considering the past actual traffic handled by the different service providers. In this connection, it was also pointed out to PPT that even during the fixation of hire charges for HMC at PPT in December 2009, the hire charge was fixed based on the normative capacity of the HMC as then proposed by PPT.

(c). Inspite of the specific request, the PPT did not consider normative capacity of the HMC. In view of cost escalation with efflux of time, the rate fixed in 2009 may not be attractive in the year 2013 or 2014. But, this cannot be the ground to deviate from the fundamental approach followed in all such cases. What transpired in the discussion, the PPT had with the users, which is cited as one of the reasons to deviate from the normative capacity based approach, has not been made available to this Authority. In view of this position, this Authority is not inclined to deviate from the normative capacity based approach of fixing tariff for the HMC uniformly followed in all such cases in other Major Port Trusts. The fixation of tariff based on normative approach linked to performance would encourage an operator to bring efficiency in operations and protects the users from inefficient operations.

(d). The PPT envisages to handle three cargo categories viz., dry bulk cargo, break bulk cargo and other cargo. However, the PPT has not considered cargo handling rate for any category of the cargo, to determine the optimum capacity. The linkage of the proposed rate of ₹82.45 per tonne to the per day output of above 7000 tonnes is not based on any norms or scientific analysis but to suit the convenience of the service provider. Therefore, the handling rate of 12500 tonnes per day for dry bulk cargo, 6000 tonnes per day in respect of break bulk cargo and 3750 tonnes per day in respect of other cargo as per the handling norms uniformly adopted in fixation of tariff for a 100 Tonne HMC in the other Major Port Trusts are considered in the analysis.

(e). Considering 4000 working hours per annum as normative level of working hours (as considered in fixation of tariff for HMC under Clause 7.2 at other Major Port Trusts) the normative capacity of the HMC works out to 2.98 million tonnes incase of exclusive handling of dry bulk cargo, 1.43 million tonnes incase of exclusive handling of break bulk cargo and 0.89 million tonnes incase of exclusive handling of other cargo.

(vi). Capital Cost:

(a). The PPT has estimated the capital cost of the 100 tonne HMC at ₹4100 lakhs. This capital cost consists of three components viz., cost of the HMC at ₹3700 lakhs along with one grab of 37 cbm, cost of 2 nos. of grabs at ₹200 lakhs and other expenses to cover sundry debtors and spares to the tune of ₹200 lakhs.

(b). The documentary evidence furnished by the PPT in support of the cost of the HMC reflects the basic cost of HMC at 3430000 Euros and transportation component to the tune of 270000 Euros with the exchange rate of ₹80 per Euro as considered by PPT and taking into account the component of customs duty @ 25% on the cost of HMC, the cost of HMC is worked out to ₹3700 lakhs by the PPT.

The cost of HMC including transportation has been updated by considering an Exchange rate of ₹77.09 per Euro, to reflect the exchange rate prevailing at the time of analysis of this case. The customs duty is considered at 25%, as proposed by the PPT, on the updated cost of HMC.

(c). The PPT has not furnished documentary evidence in support of cost of grabs. However, the cost of one grab considered at ₹100 lakhs is seen to be reasonable when verified with reference to cost of grabs considered in other upfront/ reference tariff cases, where use of grabs has been envisaged. The cost of grabs is, therefore, relied upon in the analysis.

(d). The PPT has considered other capital cost to the tune of about ₹200 lakhs so as to factor the sundry debtors at ₹150 lakhs and cost of spares at ₹50 lakhs. It appears that the intention of the PPT in this regard is to cover the working capital component. If reference is drawn to the norm prescribed in the guidelines for multipurpose cargo terminal as well as other cargo terminals, it provides for consideration of miscellaneous capital cost at 5% of equipment cost to cover working capital margin and Interest during construction, among other things. Therefore, if 5% of the estimated capital cost of ₹3765.41 is considered, it works out to ₹188.27 lakhs.

(e). Thus, the total Capital cost of the HMC works out to ₹3953.68 lakhs as against ₹4100 lakhs considered by the PPT.

(vii). Operating Cost.

(a). Fuel:

While prescribing the hire charge for a 100 tonne HMC at the other Major Port Trusts, the fuel consumption of 70 litres per hour per HMC for 4000 hours per annum, is considered.

The PPT in its proposal, by considering the filling factor, cargo density, grab capacity etc., has estimated fuel consumption to the tune of 0.08 litres per tonne. The fuel consumption based on 0.08 litres per tonne is reported to be less than the fuel consumption envisaged based on 70 litres per hour, by PPT.

The Orissa Stevedores Limited (OSL) and Utkal Chamber of Commerce and Industry (UCCI) have expressed inadequacy of the fuel consumption considered by the PPT.

In this connection, considering the consumption of 70 litres per hour, as is considered in other HMC cases, it works out to a consumption of about 0.09 litres per tonne (70 litres per hour/ 744 tonnes per hour) in respect of dry bulk cargo, 0.19 litres per tonne (70 litres per hour/ 357 tonnes per hour) in respect of break bulk cargo and 0.31 litres per tonne (70 litres per hour/ 223 tonnes per hour) in respect of other cargo. Thus, as rightly brought out by PPT, these consumption norms are seen to be higher than the consumption of 0.08 litres per tonne considered by the PPT.

In this regard, it is relevant here to mention that the HMC at PPT is envisaged to handle all types of cargo i.e. dry bulk cargo, break bulk cargo and other cargo. In such scenario, when the HMC is used exclusively to handle dry bulk cargo, the consumption of 0.08 litres per tonne considered by the PPT may be appropriate. However, if the HMC is deployed exclusively to handle break bulk cargo or other cargo, the consumption of 0.08 litres per tonne considered by the PPT may not be sufficient. In view of this position, it is felt appropriate to consider the fuel consumption of 70 litres per hour per HMC for 4000 hours per annum, as uniformly considered at other Major Port Trusts for similar cases.

Generally, for estimating the fuel cost, the cost of normal High Speed Diesel (HSD) is considered. During the consultation proceedings relating to fixing tariff for HMC in PPT, in compliance to the directions of the Hon'ble High Court of Orissa, some of the service providers had then submitted that they use premium diesel for HMC operations, which is costlier than the normal HSD, which was not objected by the PPT. In such a scenario, it is felt appropriate to consider the prevailing rate of premium diesel at ₹60.83 per litre, to arrive at the fuel cost.

(b). Repairs and Maintenance cost, Insurance cost and Other Expenses are estimated at 5%, 1% and 5% of the capital cost of the HMC by PPT, which is seen to be in line with the percentages considered for estimating the above said expenses, while fixing tariff for the use of HMC at other major port trusts. The PPT is not seen to have considered the component of the Miscellaneous Capital cost while arriving at the above said expenses. In our analysis, the component of the Miscellaneous Capital cost is also considered while determining the above mentioned expenses.

(c). Depreciation:

Responding to the observation made by the Orissa Stevedores Ltd (OSL), the PPT, in its revised proposal has considered depreciation at 18.10%, reportedly based on the provisions of the Companies Act, 2013. The PPT has, however, not quoted the reference to the relevant provision of the Companies Act, 2013, based on which it has arrived at the depreciation rate of 18.10%.

In this connection, it is relevant here to mention that during the disposal of the proposal received from the Chennai Port Trust (CHPT) for fixation of Reference tariff for the use of HMC, the CHPT had then submitted that the provisions as per the Companies Act 2013 (Schedule II of section 123 Part C(K) (2) and notes under Serial No. 6 of the Companies Act 2013), suggest that the useful life of heavy lift equipment be considered as 20 years. This translates to a depreciation rate of 5% per annum. However, the Act also suggests that the depreciation rate be increased by 100% of existing rate in case of a three shift operation. This would mean that the depreciation rate of 5% gets doubled to 10%. Accordingly, the depreciation in the case of HMC was considered at 10% of capital cost of the HMC.

In the absence of indication of the relevant provision of the Companies Act, 2013, based on which PPT has arrived at the depreciation rate of 18.10%, this Authority is not in a position to consider depreciation at 18.10% per annum. It is, therefore, considered at 10% per annum based on the reference furnished by the CHPT then.

(d). Licence fee:

The licence fee for port land is to be estimated based on the rates prescribed in the Scale of Rates (SOR) of the respective Major Port Trusts. Licence fee has been estimated by the PPT for an area of 500 sq. metres of land area at the rate of ₹12/- per sq. metre per month for a period of 12 months. The requirement of the area of 500sq.mtr as estimated by PPT is relied upon. With reference to the rate of license fee the PPT has stated to have considered the License fee as prescribed in the prevailing scale of rates of the port and the port has not considered the escalation factor in the licence fee.

The reason for not considering escalation factor by the PPT to arrive at the licence fee prevailing during the year 2014 remains unexplained. Further, it is not clear as to the year from when the rate of ₹12/- per sq. metre is being implemented by the PPT, as the general revision proposal of PPT in the past i.e. 2011 as well as 2007 (when this Authority has disposed the general revision proposals of PPT), reflect the rate of licence fee at ₹12/- per sq. metre. The position prior to the year 2007 is not available.

In view of the above position, the rate of ₹12/- per sq. metre per month is considered in the analysis as estimated by the port, without considering escalation factor. Since the prescription in the existing SOR is ₹12/- per sq.mtr., the payment of license by the service provider to the port will be at this level only.

Since the license fee is payable by the operator without any break, as confirmed by the port, the license fee is considered for the entire period of 12 months in the analysis, instead of 7 months idle period of the HMC generally considered while disposing HMC cases of other major port trusts including the PPT HMC Order of December 2009.

(viii). Return on Capital Employed is allowed at 16% of the estimated capital cost of the HMC.

(ix). Thus, the annual revenue requirement, which is the sum total of the annual operating cost and the return on the capital employed, works out to ₹1633.91 lakhs, as against the revenue requirement of ₹1693.52 lakhs, estimated by the PPT.

(x). As per policy direction of the Government, concessional tariff is to be prescribed for coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets) not exceeding 60% of the normal cargo/ vessel related charges. The government policy of allowing concessional rate for coastal cargo is binding on PPT as well as this Authority. Therefore, it is not possible to fix a common rate for foreign cargo and costal cargo, as requested by the OSL. In any case, the concession allowed on Coastal cargo is built into the calculation of rate for foreign cargo. From the details furnished by the PPT, it is seen that the average ratio of foreign and coastal cargo handled by the HMC during the years 2010-11 to 2013-14 works out to 98.71 : 1.29. This position is considered.

(xi). Thus, considering the normative capacity of the HMC at 2.98 million tonnes incase of exclusive handling of dry bulk cargo, 1.43 million tonnes incase of exclusive handling of break bulk cargo and 0.89 million tonnes incase of exclusive handling of other cargo and based on the Annual revenue requirement of ₹1633.91 lakhs and based on the ratio of foreign and coastal cargo, the per tonne rate works out to ₹55.18 per MT for Dry Bulk Cargo, ₹114.97 per MT for Break Bulk Cargo and ₹183.95 per MT in respect of Other cargo, as against the rate of ₹84.68 per MT for Dry Bulk Cargo, ₹176.11 per MT for Break Bulk Cargo and ₹281.95 per MT for Other cargo, as proposed by the port.

(xii). The difference in rate approved by this Authority and proposed by the PPT is mainly attributable to difference arising due to consideration of the normative capacity based approach based on the approach uniformly adopted by this Authority in the disposal of similar cases of other major port trusts as compared to the approach considered by PPT of basing its calculations on the actual/ estimated traffic.

(xiii). (a). It is relevant here to mention that the PPT in addition to proposing of rates for handling Dry Bulk Cargo, Break Bulk Cargo and Other cargo, has also proposed the rate for handling of containers by HMC at ₹2000/- per container in its revised proposal of September 2014. However, the PPT has not furnished any basis or workings to arrive at the rate for handling containers by the HMC, from the revenue requirement pertaining to HMC.

(b). In this connection, it is relevant to recall here that recently, this Authority vide its Order no. TAMP/25/2013-MOPT dated 04 August 2014 has fixed tariff for handling of containers by a 100 tonne HMC. With regard to normative capacity of handling containers by a 100 tonne HMC, for the reasons mentioned in the said Order, the handling rate of 20 moves per hour per HMC was relied upon. Considering the same handling rate of 20 moves per hour and based on 4000 hours of operation of an HMC in the instant case, the normative capacity of the HMC at PPT works out to 80000 containers incase of exclusive handling of containers. Further, considering the revenue requirement of ₹1633.91 lakhs, as already discussed in the preceding paragraph, the rate for handling a container by HMC works out to about ₹2042/-.

However, this cannot be prescribed as it is, for the reason that the share of various types of containers comprising of different categories and sizes of containers i.e. laden and empty, 20'/ 40' and above 40' containers in TEUs handled, hazardous, over dimensional, would have a bearing on the revenue requirement. For example, the handling charges for one 40' container will be 1.5 times that for the 20' container, the handling charges for one above 40' container will be 2 times that for the 20' container, handling rate for hazardous containers will be 1.25 times of the normal container. In the absence of any such analysis made available by the PPT, it is not found possible to prescribe rates for handling of containers by the HMC at PPT. Further, as stated earlier, the rate for handling of containers by HMC at ₹2000/- per container has been proposed by the port in its revised proposal of September 2014. As a result, the users/ service providers are unaware of such a proposal. In view of the overall position, the PPT is advised to file a well analysed proposal, if it so desires, to arrive at the rate for handling various types of containers (within the normative capacity of 80000 containers) by the HMC based on the revenue requirement of ₹1633.91 lakhs, as already assessed.

(c). During the proceedings relating to the case in reference as also mentioned by the PPT in its draft Scale of Rates, it has been brought out by some users/ service providers that the HMC operators at PPT are currently charging ₹1000/- per container for handling containers. This Authority has so far not prescribed any rate for handling of containers by the HMC at PPT. The basis for the said levy is not known. The PPT is, therefore, advised to refrain from levying any charges or allow levy of any charges by the service provider, which does not have the approval of this Authority.

(d). No declaration was made either by this Authority or by the PPT at the joint hearing that the HMC charge will be ₹1000/- per container per move at the PPT, as claimed by the SSLL. When sought specific comments of PPT in this regard, the PPT has also not confirmed any such declaration but simply stated that it has proposed rate for container handling in its revised proposal of September 2014.

(xiv). Based on the above position, the cost statement furnished by the PPT has been modified. The modified cost statement is attached as **Annex**.

(xv). (a). Clause 5.9 of the 2005 Guidelines calls for linking tariff to the benchmark levels of productivity, providing incentive for better performance and disincentive for performance below the benchmark levels. Accordingly, performance linked tariff has been prescribed not only at PPT but also at other major port trusts where the use of HMC is envisaged based on deployment of HMC by the service providers. The tariff has been prescribed for each type of cargo i.e. dry bulk cargo, break bulk cargo and other cargo, by taking into account the base performance level at 12500 tonnes per day, 6000 tonnes per day and 3750 tonnes per day respectively, based on the handling rates considered while determining the normative capacity.

(b). In its proposed Scale of Rates furnished by the PPT alongwith its revised proposal of September 2014, the PPT has proposed performance linked charges based on the base performance level of 7001-9000 tonnes per day in respect of dry bulk cargo, 3501-5500 tonnes per day in respect of break bulk cargo and 2001-4000 tonnes per day in respect of other cargo. For any increase in the performance level above the base level, the PPT has proposed a flat 5% increase in the base rates and for any reduction in the performance level below the base level, the PPT has proposed a flat 5% reduction in the base rates. The base performance level proposed by PPT is not supported by any analysis.

(c). As discussed earlier, the output norm of 12500 tonnes for dry bulk cargo, 6000 tonnes per day for break bulk cargo and 3750 tonnes per day for other cargo has been considered to arrive at the base rate. Therefore, the cutoff point is also required to be linked to the normative level of handling rate for each type of cargo, as stated above.

(d). With regard to prescription of incentive for better performance, a 5% increase at the level proposed by the PPT and that also prevailing in the existing scenario is retained. However, with regard to prescription of disincentive for under performance, if the rate for performance below the benchmark level is prescribed, it may lead to the HMC operator not in a position to recover the estimated annual revenue requirement, thereby putting the operator into a disadvantageous position. Thus, it is felt appropriate that irrespective of performance below the base level, the HMC operator should be in a position to atleast recover the base rate pertaining to the specific cargo category. In view of this position, no rate at reduced level is prescribed for any reduction in the performance level below the base level.

(xvi). The general notes proposed by the PPT, which are found to be in consonance with the general notes approved for similar cases at other Major Port Trusts, are approved.

(xvii). The proposal of the PPT to index the proposed rate to the whole sale Price Index (WPI) to the extent of 60% of the WPI, capping such indexation to 3% per annum is based on 2008 guidelines. Since the proposal for fixation of tariff for HMC is processed under 2005 tariff guidelines, it is not found possible to approve the proposed arrangement.

12.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves to replace the following provision in place of the existing provision contained at Section 2.15(B) in the existing Scale of Rates of PPT in Chapter – II, Cargo related charges:

"2.15 (B). Charges for use of 100 Tonne Harbour Mobile Crane installed by the private operators:

(i). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	**Ceiling rate per tonne (in ₹)**	
	Foreign	**Coastal**
12500	55.18	33.11
12501-13500	57.94	34.77
13501 – 14500	60.70	36.42

Note: To calculate the incremental ceiling rates as shown above, the base rate was enhanced to 105% for first thousand tonnes and for the 2nd thousand tonnes the rate was enhanced to 110% of the base rate. The same methodology shall also be adopted to calculate the rate beyond 14500 tonnes.

(ii). For Break Bulk Cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
6000	114.97	68.98
6001-7000	120.72	72.43

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

(iii). For Other cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in ₹)	
	Foreign	Coastal
3750	183.95	110.37
3751-4750	193.14	115.89

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

Notes:

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

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

(ii). According to the average berth-day output for the vessel from commencement to completion of loading / discharge of cargo, the appropriate rate of crane hire charge will be chosen for recovery from Port users for the full quantity of cargo loaded / discharged.

(iii). If one HMC works with another HMC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the HMC's load meter.

(iv). In case of breakdown of the crane for more than one hour till the vessel leaves the berth, the quantity handled by HMC will be determined taking into account cargo loaded/ discharged prior to break-down divided by crane working hours and multiplied by 24.

(v). In case of stoppages of operation of HMC for more than two hours at a stretch for reasons not attributable to the HMC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of HMC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the HMC. All stoppages in loading / unloading operations during working of HMC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.

(vi). In case shifting of a vessel becomes necessary due to breakdown / non-performance of HMC, the shifting charges of the vessel from berth to anchorage will be recovered from the crane operator in addition to a penalty of Rs.1,00,000/- (Rupees one lakh) only . The shifting charges so recovered will be refunded to the vessel's agent while the penalty will be retained by the Port.

(vii). In case of dispute on the average output, the decision of the Port Trust will be final and binding.**"**

12.2. The rate approved shall come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall remain in force for a period of three years. The approval accorded would automatically lapse unless specifically extended by this Authority.

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

(T.S Balasubramanian)
Member (Finance)

ANNEX

CALCULATION SHEET TO ARRIVE AT THE PER TONNE HANDLING RATE FOR THE 100 TONNE MOBILE HAROUR CRANE AT PARADIP PORT TRUST

(Rs in lakhs)

Sl. No.	Description	Estimates furnished in the Revised proposal of PPT dated 29.09.2014				Estimates as moderated by TAMP		
I	**Optimal capacity**							
						Dry Bulk Cargo	**Break Bulk Cargo**	**Other Cargo**
(i)	Cargo Share	-				100%	100%	100%
(ii)	Cargo Handling rate in tonnes per day	-				12500	6000	3750
(ii)	Cargo Handling rate in tonnes per hour	-				744	357	223
(iv)	Total Working Hours in a year	-				4000	4000	4000
(v)	No. of HMCs considered	-				1	1	1
(vi)	Individual cargo capacity (i*ii*iv*v)	-				2976190	1428571	892857
(vii)	**Annual Handling capacity (in lakh Tonnes)**	**20**				**29.76**	**14.29**	**8.93**
(viii)	**Annual Handling capacity (in Million tonnes)**	**2.00**				**2.98**	**1.43**	**0.89**
II	**CAPITAL COST**							
(i)	Cost of 100T Mobile Harbour Cranes With 2 nos of Grab PPT- (€ 3430000+ € 270000)* Rs 80 TAMP-(€ 3430000+ € 270000)* Rs 77.09	2,960.00				2,852.33		
(ii)	Cost of additional 2 nos. of Grabs	200.00				200.00		
(iii)	Custom Duty @ 25% of cost of HMC	740.00				713.08		
(iv)	Miscellaneous Capital Cost (PPT - Rs 200 lakhs) (TAMP - 5% of Capital cost)	200.00				188.27		
	TOTAL of II (i+ii)	**4,100.00**				**3,953.68**		
III	**OPERATING COST PER ANNUM**							
(i)	Fuel Cost : (PPT - 0.08 Ltrs per tonne* Rate per ltr Rs.72 * 20 lakh Tonnes) (TAMP - 70 ltr per hour* ₹60.83 rate per ltr * 4000 hours)	115.20				170.32		
(ii)	Maintenance & Repair: (PPT - @ 5% on Equipment cost) (TAMP - @ 5% on Equipment cost)	195.00				197.68		
(iii)	Insurance @ 1% on Capital cost	39.00				39.54		
(iv)	Depreciation: (PPT - 18.10% of WDV of Capital cost) (TAMP - 10% of Capital Cost)	492.60				395.37		
(v).	License fee (PPT & TAMP - Rs.12/- per sq.mtr per month * 500 sq.mtr * 12 months)	0.72				0.72		
(vi)	Other expenses @ 5% of Capital cost	195.00				197.68		
	Total Operating Cost (Sum i to vi)	**1,037.52**				**1,001.32**		
IV	**Return on Capital Employed @ 16%**	656.00				632.59		
V	**Estimated Annual Revenue Requirement:**							
	(a). Total Operating Cost	1,037.52				1,001.32		
	(b). Return on Capital Employed	656.00				632.59		
	(c). Total Revenue Requirement	**1,693.52**				**1,633.91**		
VI	**Cost per MT**	**Dry Bulk Cargo**	**Break Bulk Cargo**	**Other Cargo**	**Container**	**Dry Bulk Cargo**	**Break Bulk Cargo**	**Other Cargo**
	(a). Total Annual Requirement (₹ in lakhs)	**1,693.52**				**1,633.91**	**1,633.91**	**1,633.91**
	(b). Capacity	**2000000**				**2976190**	**1428571**	**892857**
	(c). Cost Per MT							
	(i) Foreign	**84.68**	**176.11**	**281.95**	**2000.00**	**55.18**	**114.97**	**183.95**
	(ii) Coastal	**-**	**-**	**-**	**-**	**33.11**	**68.98**	**110.37**

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

F. No.TAMP/30/2014- PPT - Proposal received from Paradip Port Trust (PPT) for fixation of ceiling tariff for the Harbour Mobile Crane (HMC).

A summary of comments received from the users/ user organisations and Service Providers and the comments of Paradip Port Trust (PPT) thereon are tabulated below:

Sl. No.	Comments of the Service Providers	Comments of PPT
1.	**Chennai Radha Engineering Works Pvt. Ltd.**	
	We have no comments to offer now.	-
2.	**M/s. VISA Steel Limited and M/s. VISA Suncoke Limited.**	
(i)	PPT has reduced the capacity of the HMC from 2.97 Million Tons to 2.0 Million Tons. The proposal is silent on the break down/ Shut Down period of the HMC.	The PPT has reduced the capacity of HMC from 2.97 million tonnes to 2 million tonnes considering the breakdown, availability of cargo and the evacuation of cargo from the work site and since discharge of the cargo by HMC are not in the same proportion. This 2 million tonnes has been considered taking into account the actual handling made by different operators.
(ii).	The proposal is silent on the CENVAT credit to be availed by the HMC operators.	The rate proposed by PPT is excluding service tax. Hence, CENVAT credit does not arise.
(iii)	While PPT is trying to reduce the turn time of the vessel, reduction of base discharge rates from 12,500 Mt to 6,000 Mt will increase the turnaround time and the demurrage of the vessel will not only be an additional financial burden on Industries but also will be a national loss.	The discharge rate considered by the PPT as 7,000 tonnes will not stop the operators to handle beyond 7,000 tonnes per day provided cargo availability is there and evacuation of cargo from the work is same proportionate rate i.e. of discharge rate of cargo. This 7,000 tonnes is basically considered to arrive at a reasonable rate of return by the operators
(iv)	The present suggested base rate (₹ 65.96) @ previous base discharge rate (12500 Mt) would be ₹ 137.41 per MT which is 269% (abnormal enhancement).	No specific comments furnished by the PPT.
(v).	The HMCs were installed after qualifying through global tenders. It is suggested that changes in the rates during the Agreement period should not be encouraged.	
(vi)	In the future agreements, the following points may be taken care of:	
(a)	The discharge rate calculation to be done on commencement to completion basis (unless the	

	user makes a request to stop the crane).	
(b)	The HMC operator to be made liable for demurrage of the affected vessel incase of breakdown/ shutdown of HMC.	
3.	**M/s. Orissa Stevedores Limited (OSL) and Utkal Chamber of Commerce and Industry**	
(i)	The average cargo profile for year is taken as 20 lakhs tonnes per annum which is almost same as the quantity derived and mentioned in our representation.	The same quantity of cargo handled per annum has been kept in our revised proposal.
(ii).	Cost of the HMC ₹ 3700 lakhs & other expenses ₹950 lakhs.	The cost of HMC has been kept at ₹3900 lakhs and other expenses at ₹ 200 lakhs.
(iii)	Operating expenditure of HMC:	
(a)	Fuel consumption is taken as 0.08 ltr per MT. But practically it is 0.10 ltr per MT. Accordingly, the fuel cost works out to ₹ 144.00 lakhs in place of ₹ 115.20 lakhs for the 20 lakh MT of cargo.	The consumption of 0.08 litres per tonne has been kept as explained in the revised proposal.
(b)	Repairs and maintenance cost is taken as 5% of the Equipment cost. PPT had also accepted in their proposal that the actual expenditure is more for the repair & maintenance as almost all the spare parts are to be imported from abroad that too from the manufacturer of the HMC. So, taking only 5% on this head is not sufficient. Therefore, 10% of the equipment cost is to be considered for repair and maintenance cost, which works out to ₹ 370.00 lakhs in place of ₹ 185.00 lakhs.	Repair and Maintenance have been kept at 5% of equipment cost as per guideline of TAMP.
(c)	Insurance is taken as 1% of the equipment cost, which is as per the prescribed norms.	Insurance has been kept at 1% of equipment cost as per guideline.
(d)	Depreciation is taken as 10.34% of the equipment cost as per the company's act 1956. But, as per the companies Act 2013, it is to be 18.10%, which works out to ₹ 669.70 lakhs in place of ₹ 382.58 lakhs.	The depreciation has been taken @ 18.10% for a period of five years and worked out to ₹ 492.60 lakhs.
(e)	License fee is taken as ₹ 1200/- per month, stating it is as per the PPT scale of rates. Actually we are paying ₹ 12,360/- per month, which works out to ₹ 1.48 lakhs per annum.	The license fee has been taken at 500 sq. mtr., which works out to ₹ 0.72 lakhs per annum.
(f)	Other expenses are taken as 5% of the equipment cost, which is almost okay.	Other expenses have been kept at 5% of equipment cost as per guideline of TAMP.
(iv)	With the above changes, the Total of Operating cost and ROCE will be ₹ 2151.18 lakhs and the applicable tariff for usage of HMC works out to ₹ 107.56 per tonne. We had submitted in our earlier representation to the TAMP that the applicable tariff is to be ₹ 125.78 per tonne for dry bulk cargo. However, the slab of day output is reduced to 7000 tonne; the tariff of ₹ 107.56 per tonne is feasible. However, the PPT is saying that the rate proposed by them is	The total operating cost and ROCE is ₹1693.52 lakhs and applicable tariff for the usage of HMC has been calculated at ₹ 84.68 per tonne. The performance slab of 7000 tonnes berth day output has been explained in the revised proposal. The rate of different cargo including container have been suggested in the revised proposal.

	applicable for all the types of cargoes, i.e. dry bulk cargo and also steel & bagged cargo. The existing rate for steel & bagged cargo is ₹ 81.36 per tonne for the slab of 6001 to 7000 tonne day output. Now, PPT proposed ₹ 74.21 for the same slab, which is less than the existing rate. This is not feasible. It is to be reviewed and a suitable tariff is to be fixed for Steel & Bagged cargo keeping the earlier formula used in the existing rates. Tariff for container is not mentioned. Our calculation shown in our representation is to be considered for fixing tariff for container cargo.	
(v)	Tariff for Coastal Cargo vessels: As already submitted earlier, HMC provider cannot reduce the rate for coastal cargo. It should be the same as applicable for foreign cargo vessels. We believe there is no rationality or logic in insisting the HMC service provider to reduce the tariff for Coastal cargo vessels. It is not possible for the private parties to give concession to Coastal Cargo vessels by incurring loss. TAMP & PPT has to work out a solution on this issue. It is also requested that TAMP and PPT may kindly provide us the Act/ Rules which insists private HMC operators to give concession in rates to Coastal Cargo Vessels.	This is as per Govt. of India guidelines and hence no comments.
4.	**Federation of Indian Mineral Industries (FIMI)**	
(i)	Iron Ore industry in India including the Eastern Sector is in doldrums. The stringent policy decisions have adversely impacted the industry. Iron ore exports from India have reduced from 117.37 MT in 2009-10 to mere 14.42 MT in 2013-14 (approx. 88% decline). Also from Paradip, it has almost halved from 12.3 MT in 2009-10 to sheer 5.5 MT in 2013-14 (approx 55% decline).	The tariff for fixation of hire charges of HMC has been prepared considering the capital cost of the equipment, and operation and maintenance expenditure. The tariff has no bearing on the reduction in the export of Iron ore. Further, it is to mention that Iron ore is hardly handled through HMC. The rate accepted by the Federation is ₹76.50 per tonne. The tariff has been proposed as per the project cost and operating expenditure,
(ii)	To revive and promote export from Paradip, it is extremely important that the cost to exporters should be economical and competitive. The proposed rate increase of (approx) 13% for the use of HMC from ₹ 73 to ₹ 82.45 is much higher vis-a-vis the rates presently being charged by other Major Ports in Eastern India. It is 27% (approx.) more than what is being charged by Haldia Port and is almost 2.5 times of what is being charged by Vizag. Seeing that there is severe competition between the ports in eastern sector to handle cargo, not-only from the existing ports like Haldia and Vizag but also the new players like Dhamra and Gopalpur it is necessary that the tariff structure of port is cost effective to retain and attract more cargo.	
(iii)	Paradip Port is already charging MGT which is not being charged by other Major Ports like Vizag and Haldla, Moreover, Plot	

	license at Paradip Port has also gone up phenomenally which has further affected exports price realization.	
(iv)	Keeping these facts in mind, it will not be desirable to enhance the rates, as the rates proposed by the PPT is much higher. It is submitted that the Port should either continue to maintain the present rate or else a marginal hike upto 5% i.e. a rate of ₹ 76.50 for foreign cargo. In would be in the interest of all the concerned parties.	
5.	**Steel Authority of India Limited**	
(i)	It is observed that Paradip Port Trust is proposing amendments to the existing scale of rates relating to all types of cargoes handled at port except container handling.	The rate on container handling through HMC was revised and reflected in the revised proposal dated 10.10.2014.
(ii)	While considering proposal for revision of the scale of rates by PPT, it is requested to look into that the tariff fixed by PPT is competitive enough and performance based and scale should be linked with operational parameters like higher discharges rate slab.	

2. A joint hearing on the case in reference was held on 22 September 2014 at the premises of Paradip Port Trust (PPT) in Bhubaneshwar. The PPT made a brief power point presentation of its proposal. At the joint hearing, the PPT and the concerned users / organization bodies/ service providers have made the following submissions:

Paradip Port Trust

(i) We have framed the proposal considering the real practical difficulties faced by us in the last occasion. The normative method has not been considered in toto while framing the proposal.

(ii). Accordingly, considering the practical difficulties and based on the views of the service providers, we have considered cost of Working capital as part of the Capital cost of the HMC.

(iii). In the current proposal, we have considered fuel consumption to the tune 0.08 litres per MT. Based on fuel consumption of 70 litres per hour as considered by TAMP in other cases, it works out to 0.09 litres per MT. Thus, we have considered less fuel consumption.

(iv). HMCs are deployed so as to render efficient services to the users. The intention of the port is not to earn revenue from HMC. At the same time, the service provider also should not be put into loss. The basic objective is to attract crane operators. One of the existing service providers has already refused to renew the contract.

(v). In our proposal, the capital cost of HMC considered at ₹.37 crores considers the cost of only 1 no. of grab. We need 3 grabs for the HMC. The cost of two more grabs to the tune of about ₹ 2.50 crores would be added to the cost of HMC, while responding to the TAMP's queries.

(vi). The HMCs are being deployed with the objective of achieving maximum throughput.

(vii). As the HMCs are imported from Germany, incase of breakdowns, their spares are also to be brought from Germany, which takes considerable time. Therefore, some cushion is to be considered towards maintenance time, which has not been done in the past. Without any maintenance schedule, there were frequent breakdown. We discussed with service providers. We have given daily/monthly maintenance schedule. We plan to deploy 7 HMCs by rotation, so that the users are not affected when one of the HMCs breaks down. Our priority is to evacuate the vessel as quickly as possible. We would take steps to discharge the vessels at the earliest. We would try to strike balance between the service providers and the users.

(viii). The discharge rate of 7000 MT is based on the average. If there is lower discharge rate, service provider gets lower rates. If he does well, he gets more rates. We have considered this benchmark taking into account these factors. Nevertheless, this aspect would again be reviewed.

(ix). The poor response to the tenders floated for operation of the HMC, shows that the rates are not higher and that it is a realistic rate. If we do not give comfortable rate to the service providers, users and port will be the victims.

(x). There may be some deviations in the proposal, but then it is to be seen that the proposal is based on the market conditions.

(xi). We get rush of gearless vessels. There is price advantage in gearless vessels and users are benefited.

Orissa Stevedores Limited

(i). The rate of ₹ 82.45 per MT is based on the traffic of 2 MMTPA. However, there is no clarity on the discharge rate, based on which per tonne rate has been proposed. The same is to be clarified.

(ii). Initially, the rate for HMC was based on the capacity of about 3 MMTPA. However, in the existing scenario, we are not able to reach even 2 MMTPA. In this scenario, the PPT proposes to deploy 3 more HMCs. This will reduce our capacity. Therefore, the base of 2 MMTPA considered to arrive at per tonne rate should also be reduced.

(iii). The guidelines allow repairs and maintenance at 5% of the cost of HMC. But, in actual, it is about 10%. Thus, repairs cost is to be considered at 10%.

(iv). The fuel cost also constitutes about ₹ 3/- per MT.

(v). Due to poor evacuation of cargo, the discharge rates gets affected.
[VSL: Onus of discharge should be either with the port or operator].

(vi). Considering that the efforts involved in handling foreign cargo and coastal cargo is the same, there does not appear to be any reason to prescribe lower rates for coastal cargo. A common rate should be applicable to both foreign and coastal cargo.

Jindal Steel & Power Limited

(i). Difference between handling the cargo by a geared vessel and gearless vessel is about $1.5 to $2. If, by deploying a HMC to handle cargo from a gearless vessel, if we have to pay about 1.5$ more (dollar equivalent to proposed HMC rate of ₹.82.45), then what is the difference in the rate when the cargo of a geared or gearless vessel is handled. There is no incentive for deploying a crane.

VISA Steel

(i). The proposal is silent on the discharge rate considered by the PPT, based on which per tonne rate has been proposed. Lower discharge rate will increase the turnaround time of vessel and demurrage.

[PPT – FA&CAO (i/c): A discharge rate in the range of 6000 – 7000 tonnes per day has been considered. This is based on reality position. Anyway, a slabwise structure has been proposed for HMC. Crane operator can discharge more than 7000 tonnes per day].

(ii). A discharge rate of 6000 is less. The reality is more than 7000 tonnes per day. [Somebody from crane operators side says that the discharge rate is 10000 tonnes per day].

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