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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.336 **New Delhi** **29 September 2015**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the request made by the Kandla Port Trust to amend the note prescribed in the Order No.TAMP/41/2012-KPT dated 4 August 2014 relating to fixation of per tonne rate for on-board labour of Cargo Handling Division of the Port as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/41/2012-KPT

Kandla 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 4th day of September 2015)

This case deals with the request made by Kandla Port Trust (KPT) to the amend the note prescribed in the Order No.TAMP/41/2012-KPT dated 4 August 2014 relating to fixation of per tonne rate for on-board labour of Cargo Handling Division (CHD) of the KPT approved by this Authority vide Order No.TAMP/41/2012-KPT dated 13 August 2013.

2.1. This Authority had passed an Order No.TAMP/41/2012-KPT dated 13 August 2013 disposing of the proposal filed by the KPT for fixation of per tonne rate for on-board labour of CHD of the port which was notified in the Gazette of India on 2 September 2013 vide Gazette No.229.

2.2. In the said Order, based on the submissions made by the KPT, the following Note was prescribed below clause 3-Charges for Composite Rate for On-Board Labour of Cargo Handling Division under Chapter III of the Scale of Rates (SOR) of the KPT:

> "*The revenue for actual quantity handled by a stevedore to be divided by the actual numbers of gangs supplied to arrive at the per gang cost and compare the same with the revenue requirement per gang. If the actual revenue per gang is more than the maximum average revenue requirement per gang i.e. ₹24,555/-, the surplus will be refunded to the stevedore while in case of shortfall the same shall be recovered from the stevedore*."

2.3. Subsequently, the KPT vide its letter dated 10 March 2014 sought amendment to the said note. The KPT requested to replace it with the following note so as to reportedly remove the anomaly relating to revenue requirement for handling foreign and coastal cargo:

> *"The revenue for actual quantity handled by a stevedore to be divided by the actual numbers of gangs supplied to arrive at the per gang cost and compare the same with the revenue requirement per gang. If the actual revenue per gang is more than the maximum average revenue requirement per gang i.e. ₹25,575 for Foreign Cargo (other than iron ore and thermal coal), ₹15347/- for Coastal Cargo (other than iron ore and thermal coal) and ₹24,555/- from iron ore and thermal coal, the surplus will be refunded to the stevedore while in case of shortfall, the same shall be recovered from the stevedores*"

2.4. In view of the above request of KPT, this Authority passed an Order no.TAMP/41/2012-KPT dated 4 August 2014. In the said Order, the note prescribed under Clause – 3 in the Order No.TAMP/41/2012-KPT dated 13 August 2013 was replaced with the following note:

> "*The revenue for actual quantity handled by a stevedore is to be divided by the actual numbers of gangs supplied to arrive at the per gang cost and compare the same with the revenue requirement per gang. If the actual revenue per gang is more than the maximum average revenue requirement per gang i.e. ₹24,555/- for handling foreign cargo or ₹14733/- for handling coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets), the surplus will be refunded to the stevedore while in case of shortfall the same shall be recovered from the stevedore*."

2.5. The said amended note was made effective from the date the original Order No.TAMP/41/2012-KPT dated 13 August 2013 came into effect.

3.1. In connection with the said Order dated 4 August 2014, the KPT vide its letter dated NIL September 2014 has made the following submissions:

(i). Para 4(vii). (a). of the Order dated 4 August 2014 states that the impact of coastal cargo has already been captured for entitled cargo i.e. cargo other than thermal coal and iron ore in computing the average revenue per gang of ₹24,555. As per the example cited in the said para of the Order, the total revenue for the traffic projected from fertilizer cargo works out to ₹66,021,817 and ₹4,401,454 at the rate of ₹59.51 per tonne and ₹39.71 per tonne for foreign and coastal cargo respectively, aggregating to ₹70,423,271. Considering 2868 gangs, the per gang revenue comes to ₹24,555. Thus, the impact of coastal cargo is already captured while arriving at the levy for foreign cargo.

(ii). It is admitted that the impact of coastal cargo is captured while arriving at the levy for foreign cargo. However, if same is not considered in the note prescribed under clause 3, then the impact of coastal cargo rate already captured while arriving at levy for foreign cargo will be taken away.

(iii). With reference to the example cited in the para 4 (vii) (a), of the Order dated 4 August 2014, the port has stated that considering 90:10 ratio for foreign and coastal cargo respectively, average revenue requirement for foreign and coastal cargo is worked out as under:

Total gangs	2868
Foreign: Coastal ratio	90:10
No. of gangs to handle foreign cargo	2581.2
No. of gangs to handle coastal cargo	286.8
Average revenue per gang from Foreign cargo	66021817 / 2581.2 = ₹25577.95 per gang
Average revenue per gang from Coastal cargo	4401454 / 286.2 = ₹15346.77 per gang

(iv). Therefore, as per the amendment to the note no. 3 prescribed in the Order dated 4 August 2014, the loss per gang to KPT on handling foreign and coastal cargo is:

Foreign Cargo	₹25577.95 (minus) ₹24555.00 = ₹1022.95 per gang
Coastal cargo	₹15346.77 (minus) ₹14733.00 = ₹613.77 per gang

(v). Considering foreign and coastal cargo in the ratio of 90:10 for every 10 units of cargo handled by port, the on board labour charges shall have to be recovered as under:-

As per KPT's Proposal			**As per TAMP's Order dt.4.8.2014**		
(in ₹)			(in ₹)		
Foreign Cargo	9*25578=	230202	Foreign Cargo	9*24555=	220995
Coastal Cargo	1*15347=	15347	Coastal Cargo	1*14733=	14733
Total for 10 units		245549	Total for 10 units		235728
Therefore per unit =		24554.9	Therefore per unit =		23572.8
Say ₹		24555/-	Say ₹		23573/-

(vi). In view of the above, as per its proposal the average per gang revenue should be ₹24,555/- which is as per TAMP Order dated 13 August 2013. Whereas as per TAMP Order dated 4 August 2014, the average revenue per gang will be ₹23,573/-, which is less than the average per gang revenue requirement approved by TAMP vide Order dated 13 August 2013.

3.2. In view of the above the KPT has requested to review the average revenue requirement prescribed in the note for handling foreign and coastal cargo to ₹25,578/- and ₹15,347/- in respect of cargo other than thermal coal and POL including crude oil, iron ore and iron ore pallets respectively instead of ₹24,555 and ₹14,733 prescribed for the foreign / coastal cargo in the Order dated 4 August 2014. The KPT has accordingly proposed the following note (modification is highlighted bold):

> *"The revenue for actual quantity handled by a stevedore is to be divided by the actual numbers of gangs supplied to arrive at the per gang cost and compare the same with the revenue requirement per gang. If the actual revenue per gang is more than the maximum average revenue requirement per gang i.e.* ***₹25578/-*** *for handling foreign cargo or* ***₹15347/-*** *for handling coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets), the surplus will be refunded to the stevedore while incase of shortfall the same shall be recovered from the stevedore."*

3.3. The KPT has subsequently followed up this matter regularly.

4.1. As per the Cost Statement attached as Annex-II to the Order dated 13 August 2013, the average revenue requirement for CHD is assessed at ₹24,555 per gang. Taking the average revenue requirement at ₹24,555 per gang, the per tonne rate is arrived for each of the commodities capturing the impact of concession available to coastal cargo. The KPT has also admitted that the impact of coastal cargo is considered in arriving at the per tonne rate for foreign cargo and coastal cargo rate. It has to be recognized that in the instant case implementation of the per tonne rate is also governed by the note prescribed under the schedule. As per the said note, the actual revenue collected by the stevedores at the prescribed per tonne rate has to be divided by the gang deployed to arrive at the actual revenue earned per gang. This has to be compared with the maximum revenue per gang prescribed in the note i.e. ₹24,555 / gang for foreign cargo and ₹14,733 / gang for coastal cargo. The contention of KPT is that while the impact of coastal concession is considered while prescribing the per tonne rate, the impact of coastal concession is not considered in the note while prescribing the maximum revenue per gang based on the average revenue per gang estimated at ₹24,555 for foreign cargo / coastal cargo. As a result, there is loss to the port which is explained by the KPT with example.

4.2. For this purpose the example given in the said Order with reference to traffic of fertilizer / fertilizer raw material (break bulk cargo) estimated by KPT at 1,109,422 tonnes of foreign cargo (90%) and 123,269 tonnes of coastal cargo (10%) is brought out below in a tabular format:

Sr. No.	Particulars	Fertilizer / fertilizer raw material (Foreign cargo 90%)	Fertilizer / fertilizer raw material (Coastal cargo 10%)	Total
(i).	Traffic estimates of Fertiliser/ Fertiliser Raw Material as considered in 13 August 2013 Order (in tonnes)	1,109,422	123,269	1,232,691
(ii).	Rate prescribed in the said Order dated 13 August 2013 after considering the impact of coastal concession (₹ per tonne)	59.51	35.71	--
(iii).	Revenue collected at the rate prescribed rate (in ₹)	66,021,703	4,401,936	70,423,639
(iv).	Total no. of gangs to be deployed			2,868
(v).	Average revenue requirement per gang (in ₹/ gang)			24,555
(vi).	**Average revenue requirement prescribed in the note in Clause 3 in the Order dated 4 August 2014. (₹ Per gang)**	**24,555**	**14,733 (for cargo other than thermal coal, POL including crude oil, iron ore pellets and iron ore.)**	**--**

The revenue estimates furnished in the above table at Sr. No. (iii). slightly differs from the revenue estimates indicated in para 4 (vii) of the Order which states revenue for traffic prescribed for fertilizers cargo at ₹66,021,817 for foreign cargo and ₹4,401,454 for coastal cargo aggregating to

₹70,423,271. This is because the unit rate in excel working considered in the August 2014 Order did not round off decimals in to two digits. This, however, was only to cite as an example and does not change the average revenue per gang which comes to ₹24,555 per gang as estimated in the Order dated 13 August 2013, 4 August 2014 and in the current exercise.

4.3. With reference to the said example the KPT by way of calculation has shown that non consideration of impact of Coastal Concession in the maximum revenue per gang prescribed in the note below clause 3 under Schedule will lead to loss of ₹1,033 per gang for foreign cargo and ₹614 per gang for coastal cargo. This situation arises because the gang which is to be deployed to handle coastal and foreign cargo, has not been segregated in the ratio of foreign/ coastal for the purpose of prescribing the maximum revenue per gang in the note. The detailed example now furnished by the KPT for arriving at the figure of ₹25578/ gang for foreign cargo was not furnished by the KPT while processing the earlier Order dated 4 August 2014. Based on the submission by KPT which is supported with an example as given in para 3.1.(iii), (iv) and (v) above, there appears to be a case to modify the amended note prescribed in the Order dated 4 August 2014 as proposed by the KPT. The example given by the KPT in its submissions is brought out below in a cohesive manner:

Sr. No.	Particulars	Fertilizer / fertilizer raw material (Foreign cargo 90%)	Fertilizer / fertilizer raw material Coastal cargo 10%)	Total
(i).	Average revenue per gang prescribed by the Authority in the Order dated 4 August 2014 (₹/gang)	24,555	14,773	--
(ii).	Revenue collectable at the prescribed per tonne rate (in ₹) as given at Sl No (iii) in para 4.3. above	66,021,703	4,401,936	70,423,639
(iii).	Gangs to be deployed (Ratio of 90:10)	2,581.2	286.8	2,868
(iv).	Maximum revenue per gang in the Note prescribed under clause 3 should be (ii/iii) (₹ / gang)	25,578	15,347	24555 Avg
(v).	Maximum revenue prescribed in the note under clause 3 in the Order dated 4 August 2014 is (₹ / gang)	24555	14733	23573 Avg
(vi).	As per the amended note in the Order dated 4 August 2014, the KPT will incur loss as it will have to refund to the Stevedores due to incorrect prescription of the maximum revenue per gang in the note (₹/ gang) (iv-v)	1023	614	982 Avg
(vii).	**Hence the maximum revenue only for the purpose of the note need to be corrected as** (₹ / gang)	**25,578**	**15,347**	--

4.4. It is reiterated that the amendment is required only in the note in the prescription of the maximum revenue per gang. This amendment is required only for cargo entitled for coastal concessions. For cargo not entitled for coastal concession, the maximum revenue per gang will remain ₹24555/- per gang. The KPT while proposing the amended note has not mentioned the maximum revenue per gang for the cargo categories not entitled for coastal concession. In the amendment to the note proposed by us, maximum revenue per gang for the cargo categories not entitled for coastal concession needs to be prescribed to avoid any ambiguity.

4.5. Since the implementation of the per tonne rate prescribed in the August 2013 Order is interlinked to the note prescribed under the schedule, the amendment **may have to be** given effect from the date the Order of 13 August 2013 came into effect.

5.1. In the result, and for the reason given above, and based on a collective application of mind, this Authority replaces the note prescribed under Clause- 3 of Chapter III approved vide Order No.TAMP/41/2012-KPT dated 4 August 2014 as follows:

> "*The revenue for actual quantity handled by a stevedore is to be divided by the actual numbers of gangs supplied to arrive at the per gang cost and compare the same with the revenue requirement per gang. If the actual revenue per gang is more than the maximum*

average revenue requirement per gang i.e. ₹25,578/- for handling foreign cargo or ₹15,347/- for handling coastal cargo (other than thermal coal and POL including crude oil, iron ore and iron ore pellets) and ₹24,555/- per gang for both foreign and coastal cargo from thermal coal, POL including crude oil, iron ore and iron ore pellets, the surplus will be refunded to the stevedore while in case of shortfall the same shall be recovered from the stevedore."

5.2. The amendment approved will be deemed to have come into effect from the date the Order No.TAMP/41/2012-KPT dated 13 August 2013 came in to effect.

5.3. The KPT is advised to suitably modify the relevant note in its Scale of Rates.

(T.S. Balasubramanian)
Member (Finance)