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Tariff Authority for Major Ports

G. No. : 150

New Delhi, 20 August 2004

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 approves the proposal of the Mumbai Port Trust (MBPT) for fixation of rates towards levy of charges for handling / removal of containers from ship side to container yard or *vice versa* as in the Order appended hereto.

(**A.L. Bongirwar**)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/20/2004-MBPT

The Mumbai Port Trust

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Applicant

ORDER

(Passed on this 10th day of August 2004)

This case relates to a proposal received from the Mumbai Port Trust (MBPT) for an amendment to its Scale of Rates for levy of charges for handling / removal of containers from shipside to container yard and vice-versa.

2. The MBPT has made the following submissions:
- (i). Transportation of containers is presently being carried out by vessel agents or container operators by engaging their own contractors.
 - (ii). TAMP advised the MBPT to submit a proposal to provide comprehensive service to containers and levy of box rates. As a first step for prescribing a composite box rate, it is necessary to provide transportation service by MBPT.
 - (iii). MBPT decided to take over the transportation of containers between vessel side and container yard with effect from 15 May 2004 and it is working out a composite box rate in respect of containers.
 - (iv). MBPT has invited bids from private firms for movement of containers between vessel side and container yard and finalized the lowest bid of a private contractor. The rates quoted by the lowest tenderer are as follows:-

Sr. No.	Activity	Rates (in Rs.)
1.	Handling of 20' loaded container from Ship-side to container yard or vice versa	565.00
2.	Handling of 20' empty container from Ship-side to container yard or vice versa	460.00
3.	Handling of 40' loaded container from Ship-side to container yard or vice versa	847.50
4.	Handling of 40' empty container from ship-side to container yard or vice versa	690.00

- (v). MBPT will pay the contractor for rendering the services at the rates mentioned above and the same amount will be recovered from the users and MBPT will not recover any additional charges over and above the charges mentioned above.
- (vi). The existing transporters engaged by the container lines charge Rs.950 per TEU for transportation of container between shipside and container yard irrespective of the status of container, whether empty or loaded, and double the above rate for 40 feet container. By taking over transportation by the Port, the container handling cost in MBPT will be brought down considerably.
- (vii). Since only the amount payable to the transport contractor will be recovered from the port users for running services, the cost details stipulated in the formats have not been furnished. While processing the composite box rates, necessary details of cost as per the guidelines issued by TAMP will be furnished.

3.1. The MBPT has proposed the following charges for handling / removal of containers from shipside to container yard or vice versa.

Description	Upto 20 Feet		Over 20 Feet	
	Rs.565	Rs. 460	Rs. 847.50	Rs. 690
Charges for handling / removal of containers from shipside to Container yard or vice-versa				

3.2. The proposal has been endorsed by the Board of Trustees of the MBPT in its meeting held on 29 March 2004.

4. The MBPT decided to take over the transportation of containers between shipside and container yard with effect from 15 May 2004. In view of the urgency expressed by MBPT, this Authority considered the proposal in its meeting held on 4 May 2004 and approved the proposed rates for handling / removal of containers from shipside to container yard and vice versa on ad-hoc basis for a period of 3 months with effect from 15 May 2004.

5.1. In accordance with the consultation procedure prescribed, the proposal of the MBPT was forwarded to the concerned port users / representative bodies of port users for their comments.

5.2. The comments received from the concerned user organizations were forwarded to the MBPT as feedback information.

6. A joint hearing in this case was held on 19 July 2004 at the Office of the Authority. At the joint hearing, the MBPT and concerned users have made their submissions.

7. 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 available in our website www.tariffauthority.org.

8. At the joint hearing, the MBPT requested to allow additional tariff of Rs. 50/- per TEU for planning and supervision. The MBPT was, therefore, requested to file a detailed proposal on its request to allow additional tariff of Rs. 50/- per TEU for planning and supervision. The MBPT vide its letter dated 22 July 2004 has filed a proposal requesting to allow Rs. 50/- per TEU while fixing the rates for handling and transportation of containers. The points made by MBPT are summarised below:

- (i). The MBPT deploys 67 employees exclusively to attend to the work relating to handling and transportation of containers and the details of these employees are furnished.
- (ii). Per TEU cost works out to Rs.119.65 considering salaries / wages, welfare and terminal benefits estimating the total containers to be handled in 2004-05 at 2,10,500 TEUs as indicated in the memorandum of understanding. The per TEU cost will be Rs. 49.86 in case salaries and wages of these 67 employees are only considered.
- (iii). In view of the above, Rs.50/- per TEU towards administrative cost may please be considered while fixing the proposed rates.

9. At the joint hearing, the MBPT pointed out that the Mumbai & Nhava-Sheva Container Terminal Operators Association (MNSCTOA) is not a user and it had inadvertently suggested the name of MNSCTOA. The MNSCTOA was advised to write to the MBPT immediately explaining how it is a user in relation to the proposal of MBPT. The MBPT was also requested to examine the written submissions MNSCTOA and furnish its response by 26 July 2004. We have not received any response from the MBPT so far. In view of the position

maintained by MBPT, the comments furnished by MNSCTOA on the MBPT proposal were not considered in the analysis.

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

- (i). This Authority while passing order in September 2003 on the MBPT proposal for fixation of rates for providing stevedoring services taken over by it advised the port to submit its proposal for a comprehensive service to container and levy a box rate. The port has stated that it is in the process of working out a composite box rate in respect of containers and as a first step for prescribing a composite box rate, it has taken over the transportation of containers from shipside to container yard or vice versa.

The MANSAs and other users have demanded that MBPT should provide comprehensive service to containers without any further delay. Even though the MBPT had assured in April 2003 that it would introduce box rates immediately, this has not happened even now. Now, the MBPT has assured that it would implement box rate within six months. The MBPT is advised to come up with a proposal for box rate for comprehensive service to containers by 31 October 2004.

- (ii). It is noteworthy that the proposed rates are already in operation on interim basis and most of the user associations have generally endorsed the proposal with the disagreement limited to few issues.
- (iii). The MANSAs have argued that the rates for empty boxes are high. It has made a comparison of the MBPT proposed rates with the rates paid by the lines to transporters for movement of containers from hook point to storage depot. We are not aware of the basis for the rates charged to the Lines. On the other hand the proposed rates are outcome of a tendering process and the port has to pay its contractor the tender value. That being so, the contention of the port that it cannot reduce the proposed rates deserves to be admitted.
- (iv). The users have expressed concern over the fall in vessel productivity in the post-taken over scenario. The port has sought to explain that the lines / agents do not keep the boxes ready for export whereas the performance in the import front is excellent. The MANSAs have pointed out that the pattern of readiness of cargo has not changed after the port took over the transportation. Presumably, there can be some teething problems and the loose ends need to be tightened. The MBPT may immediately analyse the reasons for fall in productivity levels and take remedial measures.
- (v). The MBPT has explained that it had been bearing liability earlier and it will continue to do so without any additional liability. The liability for damage is not a tariff issue but incidental to operations. The relevant Law will apply in this matter.
- (vi). The CSLA has voiced a concern that the service tax element adds to the cost of the lines. As correctly pointed out by MBPT, service tax is imposed by the Government and the port is only a collecting agency. The liability of service tax cannot be absorbed by the port. The relevant law governing levy of Service tax will apply in this case.
- (vii). The MBPT had initially proposed that it would not recover anything in addition to the cost payable to its transport contractor.

In a sudden turnabout, even without a proposal the port pleaded at the joint hearing for an additional charge of Rs.50/- per TEU towards administrative cost. Subsequently, it has furnished a list of 67 employees and their pay

scales. No calculation is shown to justify the additional charge claimed. They have not said that there are new employees and, therefore, surely their salaries are already accounted for. Further, it has not been shown that involvement of these 67 employees arises due to its decision to take over transportation service to containers. If these employees are for container handling activity in general, then the existing handling charges should presumably cover the expenses. If it is not so, then the demand should be for revision of handling charges supported by complete justification. There does not appear to be any merit in the adhoc demand for an additional charge to cover administrative expenses.

(viii). It is noteworthy that most of the users have welcome the MBPT proposal and in fact the port has been complimented by them. Though the proposed rates are not cost based, the port has proposed the rates that emerged from a tender process. Notably, the proposed rates are reported to be substantially lower than the rates charged by the transporters engaged by the container lines. The proposed rates which are already approved for an interim period are, therefore, allowed to continue till a box rate is introduced in another six months time, as agreed by MBPT.

11. In the result, and for the reasons given above, and based on a collective application of mind, this Authority accords final approval to the rates earlier approved on adhoc basis vide Authority's Order No.TAMP/20/2004-MBPT dated 4 May 2004.

12. Consequently, the following amendment to insert Clause-3 below Sub-section (c) (2) of Section-V of Dock Scale of Rates of Mumbai Port Trust made earlier on adhoc basis is regularised:

Section - V

(3). Ceiling rates for handling/removing of containers from shipside to container yard or vice versa.

Description	Upto 20 Feet		Over 20 feet	
	Loaded	Empty	Loaded	Empty
Ceiling rates per container for handling / removal of containers from ship side to container yard or vice versa.	Rs 565/-	Rs. 460/-	Rs. 847.50	Rs. 690/-

(A.L. Bongirwar)
Chairman

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

F. No. TAMP/20 /2004-MBPT - Proposal received from the Mumbai Port Trust for amendment to its scale of rates for levy of charges for handling / removal of containers from shipside to container yard or vice versa.

1. The comments received from the port users / representative bodies of port users are summarised below:

Shipping Corporation of India Limited (SCI)

The MBPT must specify the extent of their liability for damage to the containers / cargo during the transportation undertaken by them.

The Bombay Custom House Agents' Association (BCHAA)

- (i). The proposal appears to be fair in view of the prevailing container traffic at MBPT. We do not have any specific objections.
- (ii). MBPT must ensure that the Terminal Handling Charges (THC) recovered by the shipping lines for the containers at the MBPT is drastically reduced; otherwise, the entire exercise would be futile.

Container Shipping Lines Association (India) (CSLA)

- (i). CSLA is agreeable to the rates.
- (ii). There was no service tax on transportation till the port took over operations. The port now adds service tax to the rates and there is an increase in cost to the line due to service tax element. This needs clarification.
- (iii). The port should indicate the number of trailers, reachstackers which will be deployed per hook.
- (iv). The private transporters were covered by insurance in case of accidents till the port took over the operations. The port should clarify on its liability in case of accidents till the container reaches the pre-stack.

Mumbai and Nhava Sheva Ship-Agents' Association (MANSA)

- (i). MANSA welcomes MBPT's move to take over transportation of containers from shipside to container yard or vice versa.
- (ii). Rates with reference to laden containers are acceptable.

- (iii). Rates for empty containers appear to be on the higher side. Composite rate being paid presently for transportation of 20' empty containers from vessel hook to empty storage yards situated around 25-30 kms from the port ranges from Rs.1000 to 1200. If the MBPT rate for movement upto container yard situated few meters away from the vessel is considered for payment of residual amount to the transporter for movement upto the storage depot, no transporter would move empty containers for a sum of Rs. 500-600 for 20' container and Rs.800-900 for 40' container from container yard to the depot. Hence, the rate be reduced to Rs. 350/- and Rs. 500/- for 20' and 40' container respectively.
- (iv). Though the unit price for transportation of laden containers appears to be reasonable, vessel working has slowed down considerably due to poor quality of transportation ex-vessel provided by the port. The average vessel productivity was 13.98 moves per hour before MBPT took over transportation and it is 10.53 after MBPT took over transportation. This has an impact on the overall vessel costing and cannot be ignored. The Authority may please obtain a commitment and action plan from MBPT before approving the rates.

Federation of Ship Agents' Association of India (FEDSAI)

Views of the Federation are co-incident to the views of its constituent member MANSAA.

2. A joint hearing in this case was held on 19 July 2004 at the Office of the Authority. At the joint hearing, the MBPT and concerned users made the following submissions:-

MBPT

- (i). We have already taken over transportation. We decided to take over transportation so that a single unified agency will provide services which will reduce cost.
- (ii). This is a step towards introducing box rate.
- (iii). For planning and supervision we incur additional cost which is Rs.120/- TEU. With direct cost alone, this is Rs.50/- TEU. Please allow this also.
- (iv). MNSCTOA are not a user. We have inadvertently suggested their name.
- (v). In six months time, we will implement Box rate.

- (vi). Our proposed rates are based on the tender value. We can't reduce rates for empty containers.
- (vii). Our performance for import is excellent. But on export front, we suffer because boxes are not kept ready by Lines / Agents.
- (viii). We will continue to take whatever liability we had been bearing earlier. No additional liability on any account is possible.
- (ix). The problems of ODC and hazardous containers transportation are sorted out. Now, we have no problems.
- (x). Service tax will be levied as per Law.

MANSA

- (i). We need box rate. This is delayed by MBPT. TAMP may set a time limit. Only a box rate can have transparent impact on THC.
- (ii). The proposed rates are OK. Rates for empty boxes are, however, high. Please reduce to Rs.350/- for 20' and Rs.500/- for 40'.
- (iii). Our record shows that the productivity has come down by about 25% after MBPT has taken over the transport operation (13.9 TEU per hour to 10 moves per hour). This increases total cost to us.
- (iv). The liability of MBPT for damage during transportation should be defined.

CSLA

- (i). If MBPT levies this charge, service tax will be applicable. Earlier, we were not required to pay tax for transportation. This is a new liability.
- (ii). We endorse the views of MANSA on box rate and liability of MBPT.
- (iii). There should be a guarantee on minimum level of productivity.

SCI & INSA

- (i). Please see our written submission.
- (ii). MBPT asks us to arrange transportation for over dimensional and hazardous containers. How can we do this in isolated cases?

IMC & BCHA

- (i). We congratulate MBPT for the step taken in right direction.
- (ii). Introduction of box rate is a logical solution and MBPT should expedite.
- (iii). Though transportation cost has reduced after MBPT taken over, no change in THC has been effected by Lines.

WISA

- (i). We endorse the views of IMC.
- (ii). TAMP should be empowered to enforce its orders. This is necessary to bring down THC.
- (iii). Box rate should be only from quay to yard. On board charge cannot be included in box rate and passed on to Trade.

3. Subsequent to the joint hearing, the MANSA has made the following written submissions:

- (i). The cost of movement for a mere distance of half a kilometer, even including lift-on / lift-off which requires only a forklift and not even a reachstacker, should not be half as expensive as moving the container to a distance of 30-45 kilometers. The port can always require the contractor to substantiate his quote by way of cost details.
- (ii). With reference to the port's statement that delay in cargo readiness causes lower productivity, the MBPT should note that the pattern of readiness of cargo has not changed after MBPT took over transportation. MBPT may rectify the operational delay and assure that the rate quoted by it shall be in line with the minimum productivity level.
- (iii). MBPT has circumvented its liability for damage / loss during transportation. Our members straightaway deduct for any loss suffered by them from the invoices of transporters. We want to have a similar arrangement with MBPT.

- (iv). Since, MBPT has taken over the transportation, it should provide service for ODC / hazardous cargo irrespective of the nature.

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