

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
Tariff Authority for Major Ports

G No.185

New Delhi,

23 July 2010

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 New Mangalore Port Trust for fixation of tariff for the use of mobile harbour crane provided by service providers authorised by the port for handling general/bulk cargo at the port.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/26/2007 - NMPT

New Mangalore Port Trust

- - -

Applicant

ORDER

(Passed on this 16th day of June 2010)

The case relates to a proposal received from the New Mangalore Port Trust (NMPT) for fixation of tariff for the mobile crane provided by service providers authorised by the port for handling general/bulk cargo at the NMPT.

2. The NMPT has reportedly signed a License Agreement (LA) on 3 October 2006 with the ABG Heavy Industries Limited (ABGHIL) for providing and operating one rubber tyred Mobile Harbour Crane (MHC) at NMPT. The salient points of the License Agreement are as below:

- (i). The NMPT has issued a license to the ABGHIL for providing and operating a tyre mounted mobile harbour crane to stevedores on hire basis.
- (ii). Licensee to pay security deposit of Rs.50 lakhs in the form of Bank Guarantee.
- (iii). License is for the period of five years from the date of issue of Letter of Acceptance i.e. from 4 September 2006 to 3 September 2011.
- (iv). Licensee to pay annual license fee of Rs.1.06 crores subject to annual escalation of 5% (compounded).

3.1. Earlier, the ABGHIL vide its letter no. ABG/P189/0043/07 dated 10 January 2007 had submitted a proposal for fixing tariff for handling general cargo/bulk cargo by mobile harbour crane.

3.2. From the License Agreement signed between NMPT and the ABGHIL, it was not clear whether the authorization granted to the ABGHIL for providing and operating the MHC was under section 42(3) of the Major Port Trust Act, 1963. The NMPT was, therefore, requested to clarify whether the authorisation granted to the ABGHIL in the LA is under Section 42(3) of the Major Port Trusts Act by way of BOT arrangement.

Clause 7.2. of the tariff guidelines of 31 March 2005 stipulates that in cases where authorization granted by the port trust under section 42(3) is other than by way of a BOT concession agreement, ceiling rates will be prescribed for such services to be applied commonly at the concerned port without reference to the individual service provider based on the proposal to be initiated by the concerned major port trust.

3.3. Since the authorization arrangement with the ABGHIL is not by way of BOT concession arrangement under section 42(3) of the Major Port Trusts Act, 1963 as clarified by NMPT vide its letter dated 2 March 2007, the port was advised to file the proposal for fixation of the crantage charges for the MHC provided by the service provider in line with clause 7.2. of the tariff guidelines.

4.1. In this backdrop, the NMPT has filed the proposal dated 5 May 2007 for fixation of tariff for the mobile harbour crane provided by service providers authorised by the Port for handling general/bulk cargo.

4.2. The main points made by NMPT in the proposal are summarised below:

- (i). (a). The port has 3 number of wharf cranes with a capacity of 10 metric tonnes each. The port has, however, to depend on the ship's derricks in addition to its equipment as the port equipments are ageing whereas the general cargo traffic is increasing.

- (b). Many of the port users are insisting for deployment of heavy duty cranes, so that they can nominate gearless panamax vessels which will improve the performance of the vessels and attract more general/bulk/container cargo vessels at a reduced cost of handling at the NMPT. The port users will also have an advantage in ocean freight by nominating gearless vessels.
 - (c). There is no crane facility at the newly constructed deep draft multipurpose berth no.14. Further, there is a need to install higher capacity cranes at berth no. 1 to 7 till the new facilities are commissioned.
 - (d). In this backdrop, the port has proposed to allow private operators to deploy mobile cranes at port berth.
 - (e). Accordingly, tenders were invited and bidders were asked to quote license fee payable to the Port.
 - (f). Since the proposed arrangement does not fall under Section 42(3) in view of its non-BOT nature, the port has filed the subject proposal in the prescribed format, in accordance with the advice rendered by this Authority. The port has also submitted that the cost details earlier filed by ABGHIL are considered by it subject to modification in the estimation of depreciation and the return on capital employed considered by the operator.
- (ii). (a). Traffic:
- It has handled 2.8 million tonnes, 7.04 million tonnes and 7.70 million tonnes of general cargo during the years 2003-04, 2004-05 and 2005-06 respectively. The NMPT has estimated the traffic to be handled by the HMC at an average level of 11 lakh tonnes per year for the years 2007-08 to 2009-10. Major items of cargo projected to be handled are iron ore, coal, timber logs and other cargo.
- (b). Capacity:
- The capacity of the crane is estimated at 13,39,200 tonnes per annum considering the availability of the crane at 85% in a year and utilisation of the crane at 60% of its availability and at the discharge rate of 300 tonnes per hour. (365 x 24 x 0.85 x 0.60 x 300)
- (c). Capital cost:
- The NMPT has considered the capital cost of the HMC at Rs.1804.64 lakhs as furnished by the ABGHIL.
- (d). Operating Cost:
- The operating cost as provided by the ABGHIL is considered by NMPT in the subject proposal. The details of the operating cost are as follows:
- (i). Direct labour cost is estimated at Rs.28.20 lakhs per annum considering 12 employees and average cost of Rs.2.35 lakh per employee per annum.
 - (ii). Fuel consumption is assumed at 40 litres per hour. The fuel cost is estimated considering the diesel rate at Rs.40 per litre.
 - (iii). The Repairs and maintenance is estimated at 3% of the cost of mobile crane.

- (iv). As per the agreement entered between the port and the operator, the ABGHIL has to pay annual license fee of Rs.106 lakhs to the port with 5% annual escalation. The port has, accordingly, considered the annual license fee of Rs.106 lakhs in the cost statement.
- (v). Other charges like insurance at 1% of capital cost, business promotion and staff welfare and management and general overhead are considered as provided by the operator.
- (vi). The ABGHIL had considered depreciation as per Companies Act. NMPT has revised depreciation calculation based on the life norms prescribed by the (then) Ministry of Surface Transport.
- (vii). Maximum permissible ROCE linked to capacity utilisation @ 15% is considered.

4.3. The cost statement filed by the NMPT reflects the following position:

Sl. No.	Particulars	Rs. in lakhs
(i).	Cost of the crane	1804.64
(ii).	Rated capacity of the crane (i.e. 300 tonnes per hour x 4464 hours)	13,39,200 tonnes
(iii).	Direct labour cost	28.20
(iv).	Fuel cost	32.64
(v).	Repairs & Maintenance cost	54.14
(vi).	Other expenses	60.09
(vii).	Lease rentals	106.38
(viii).	Depreciation	180.46
(ix).	Total cost (iii to viii)	461.91
(x).	Return on capital employed @ 15%	270.70
(xi).	Total Cost plus return	732.61
(xii).	Proposed traffic p.a.	11.00 lakh tonnes
(xiii).	Proposed tariff	Rs.66.60 per tonne

4.4. The NMPT has, accordingly proposed tariff for the mobile harbour crane provided by service providers at Rs.66.60 per tonne.

5.1. Prior to filing the subject proposal, the NMPT had vide its letter dated 26 March 2007 requested this Authority to grant approval for adhoc rate for hire of the harbour crane for the interim period. In this connection the port had furnished copy of the minutes of the meeting held with the port users at the NMPT in the subject matter on 20 March 2007. The minutes of the meeting confirmed that the port users/ stevedores had unanimously agreed for levy of the hire charge for the mobile crane operated by the ABGHIL at Rs.64 PMT provisionally at par with the rates prescribed in the Scale of Rates (SOR) of the Visag Seaport Private Limited (VSPL) at Visakhapatnam Port.

5.2. Clause 2.17.1. to 2.17.3. stipulates that whenever a specific tariff for a service / cargo is not prescribed in the Scale of Rates, the port can submit a suitable proposal and simultaneously levy the rate on adhoc basis till the final rate is notified subject to the condition that the adhoc rate to be operated must be derived based on the existing notified tariff for comparable service / cargo and it must be mutually agreed rate between port and the concerned users. The port had then not filed the suitable proposal while requesting for levy of adhoc rate and hence to that extent the guidelines were not complied with.

5.3. Subsequently, the NMPT filed the proposal in May 2007. Since the adhoc rate proposed was based on the rate prescribed in the Scale of Rates of VSL and as the users had unanimously agreed to the rate, the NMPT was allowed to levy Rs.64 PMT as an interim tariff for deployment of crane by the service provider subject to concession applicable to coastal cargo till fixation of final rates by the Authority.

6.1. In accordance with the consultative procedure prescribed, the proposal was forwarded to the concerned users including the list of additional users/user associations intimated by the port seeking their comments.

6.2. The comments received from users/user organisations were forwarded to NMPT as feedback information. The port has furnished its comments on the comments of some of the user / user organizations.

6.3. ABG Infralogistics Ltd. (ABGIL) (formerly ABG Heavy Industries Limited) separately made its submissions which are forwarded to the NMPT for comments. The port has not furnished its comments on the submissions of the ABGHIL.

7. Based on a preliminary scrutiny of the proposal, the NMPT was requested to furnish additional information / clarifications on a few points vide our letter dated 17 December 2007. The NMPT, vide letter dated 11 March 2008 has forwarded the reply dated 11 February 2008 furnished by the operator to the port on the preliminary queries raised by us. On scrutiny of the reply furnished by the NMPT, it was found that there were some gaps. In view of that, further queries were raised vide our letter dated 7 May 2008. The port, vide its letters dated 23 June 2008 and 24 July 2008, has furnished its reply along with the reply dated 6 June 2008 of the operator on the further queries raised by us. A summary of the queries raised by us and the clarifications furnished by the NMPT are tabulated here below:

Sl. No.	Queries raised by us	Response of NMPT																											
(i).	(a). Furnish the actual traffic handled by the mobile crane operated by the operator in the years 2006-07 (from the date of commencement of operation) and 2007-08 (upto November 2007). Also, indicate the actual operating cost incurred by the service provider for the corresponding period.	The actual traffic handled by the MHC of the ABG Infralogistics Limited (erstwhile ABG Heavy Industries Limited) from the date of commencement of operations in August 2007 till November 2007 is 5.15 lakh tonnes.																											
	(b). As the financial year 2007-08 has drawn to close, the port to furnish actual traffic handled, income and expenditure incurred by the service provider for cargo handling operation by the said mobile harbour crane for the year 2007-08	<p>(i). The actual traffic handled by the MHC of the ABG Infralogistics Limited (erstwhile ABG Heavy Industries Limited) during the year 2007-08 is 10,90,967 MT.</p> <p>The actual operating and maintenance cost incurred for operation of the MHC during the year 2007-08 as furnished by the ABGHIL is as below:</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Sr. No.</th> <th style="text-align: center;">Particulars</th> <th style="text-align: center;">Amount in lakhs</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">1.</td> <td>Establishment cost including direct labour</td> <td style="text-align: right;">28.45</td> </tr> <tr> <td style="text-align: center;">2.</td> <td>Equipment running cost</td> <td style="text-align: right;">47.19</td> </tr> <tr> <td style="text-align: center;">3.</td> <td>Insurance</td> <td style="text-align: right;">2.57</td> </tr> <tr> <td style="text-align: center;">4.</td> <td>License fees</td> <td style="text-align: right;">106.00</td> </tr> <tr> <td style="text-align: center;">5.</td> <td>Lease rentals</td> <td style="text-align: right;">1.15</td> </tr> <tr> <td style="text-align: center;">6.</td> <td>Administration</td> <td style="text-align: right;">7.99</td> </tr> <tr> <td style="text-align: center;">7.</td> <td>Depreciation</td> <td style="text-align: right;">190.85</td> </tr> <tr> <td></td> <td style="text-align: center;">TOTAL</td> <td style="text-align: right;">384.20</td> </tr> </tbody> </table> <p>(ii). The port informed that the ABGHIL are of the view that the expenses incurred during the year 2007-08 cannot be indicative of normal operation and maintenance cost due to uncertainties in operation which arose due to labour dispute and non recruitment/providing of full complement of O&M staff.</p>	Sr. No.	Particulars	Amount in lakhs	1.	Establishment cost including direct labour	28.45	2.	Equipment running cost	47.19	3.	Insurance	2.57	4.	License fees	106.00	5.	Lease rentals	1.15	6.	Administration	7.99	7.	Depreciation	190.85		TOTAL	384.20
Sr. No.	Particulars	Amount in lakhs																											
1.	Establishment cost including direct labour	28.45																											
2.	Equipment running cost	47.19																											
3.	Insurance	2.57																											
4.	License fees	106.00																											
5.	Lease rentals	1.15																											
6.	Administration	7.99																											
7.	Depreciation	190.85																											
	TOTAL	384.20																											

(ii).	<p>(a). Furnish detailed computation of arriving of the rated capacity of the mobile crane at 13.392 lakh tonnes.</p> <p>(b). Since no specific reply was furnished by the port, the query was reiterated.</p> <p>(c). A copy of the purchase order of the mobile crane forwarded by ABG Heavy Industries Limited (ABGHIL) earlier vide letter No. ABG/P189/0043/07 dated 10 January 2007 shows that the mobile crane can achieve a discharge rate of 15000 tonnes per day for loading of iron ore, coal, coke etc. Indicate the discharge rate considered for arriving at the rated capacity of the said mobile crane.</p>	<p>The rated capacity has been assessed taking into account the expected number of working hours at 4464 hours per annum (558 shifts) and the handling rate of 300 MT/hour which works out to 13.392 lakh tonnes. As against that, the operator had considered 102 days with effective 20 hours per day.</p> <p>The port has clarified that the handling rate is considered at 300 tonnes / per hour for arriving at the rated capacity. It has, however, not furnished specific reply to the first part of the query raised.</p>
(iii).	<p>(a). The basis of estimating the traffic likely to be handled by the mobile crane deployed by the private operator to be explained.</p>	<p>(a). ABG Infralogistics Limited projected a traffic of 9.00 lakh tonnes for the year 2007-2008 based on the volume of traffic handled at the Port. Against this, the actual traffic handled by the crane from August to November 2007 is 5.15 lakh tonnes, plus 932 TEUs of containers.</p> <p>(b). A second similar crane was licensed by the Port subsequently and it has already started operations. A third crane is also likely to be licensed during this year. In view of this, the projected traffic of 9.00 lakh tonnes for the year 2007-2008, 11.0 lakh tonnes for the year 2008-2009 and 13.00 lakh tonnes for the year 2009-2010 may not materialize.</p>
	<p>(b). The crane is reported to have handled 5.15 lakhs MT of cargo for the period of four months from August 2007 to November 2007. If this is extrapolated for the full year, the traffic to be handled would be 15.45 lakhs MT. As against this, the port estimates to handle 11 lakhs MT of cargo per annum in the proposal. The port to review and revise the traffic projections and the cost computation with reference to actual cargo handled in the year 2007-08.</p>	<p>The ABGHIL had projected to handle 9 lakh MT for the year 2007-08 depending upon the previous trends. The port had, however, estimated 11.00 lakh MT to be handled by the MHC against which the actual traffic handled was 10.91 lakh MT.</p>
	<p>(c). From the reply furnished by the service provider, it is understood that the NMPT has licensed operation of another similar crane in the port. In view of this the operator has submitted that the traffic estimated in the proposal may not materialise. Please comment</p>	<p>In view of increase in the trend of traffic the port has opted for second crane in order to have faster turn around of the vessels in respect of general cargo. In view of that the apprehension of the ABGHIL that there is likely reduction in the projected cargo may not be true unless and until there is unlikely impediment in the flow of traffic envisaged.</p>

(iv).	Annex II forwarded alongwith the proposal shows that the mobile harbour crane operated by ABGHIL is expected to handle an average traffic of 11 million tonnes for the years 2007-08 to 2009-10. Whereas the cost statement attached to the proposal indicates the cargo traffic of 9 million tonnes [Sl. No. (VI)]. The cost statement may be corrected to reflect correct position. Consequently, suitable adjustment may be made in the capacity utilisation at Sl. No. (VIII).	No specific reply from the port.
(v).	(a). The calculation of the depreciation does not seem to be in line with the method prescribed in clause 2.7.1. of the revised tariff guidelines. Explain the reasons for deviating from the tariff guidelines of 2005 in this regard.	ABG has provided depreciation at 15% on Straight Line Method for a period of five years as the contract is for a period of five years only. The Companies Act, 1956, provides 27.9% for an equipment which works in three shifts. It may be noted that depreciation at 27.9% would be equivalent to depreciation of 16% following straight line method (for a period of five years).
	(b). As per schedule XIV to the Companies Act, 1956 the depreciation rate for plant and machinery for three shifts operation is 10.34% and not 27.9% as furnished in the reply. The calculation of depreciation may be modified applying the relevant rate prescribed in the Companies Act 1956 in line with clause 2.7.1. of the revised tariff guidelines.	<p>The NMPT has clarified that in the cost statement attached with the proposal, depreciation is considered at 10% on straight line method assuming the life of the asset at 10 years. It has submitted that the ABGHIL has considered depreciation at 27.9% on WDV of assets.</p> <p>The ABGIL's in its letter dated 6 June 2008 (as forwarded by the NMPT) has submitted that the port has considered depreciation at 10% based on the life norms of equipment prescribed in the guidelines by the Ministry. It has argued that the economic life of HMC depends on the availability of contract with the port. After the contract period economic life would be nil. Since the contract period of 5 years, it has reiterated that depreciation should be permitted at 20%. The depreciation rate adopted by NMPT is too low. As per the TAMP guidelines too, the rate of depreciation should be 10.34% under Straight Line Method.</p>
(vi).	The actual operating and maintenance cost incurred by the operator for the period from commencement of operation upto 30 November 2007 to substantiate the cost estimates considered for arriving at the proposed rate to be furnished.	<p>The actual operating and maintenance cost from the commencement of commercial operation till the end of November 2007 is reported to be Rs.238.83 lakhs.</p> <p>It has submitted that due to the uncertainties in operation (arising from the labour dispute), full complement of operating and maintenance staff were not recruited during the initial months. ABG now proposes to fill up the required staff and labour.</p>
(vii).	The basis of assuming consumption of fuel at 40 liters per hour to be explained and substantiated with reference to actuals achieved so far. Likewise, the basis of estimating repairs and maintenance cost at 3% of the capital cost to be justified.	<p>(i). ABG has supplied one LHM 300 Mobile Harbour Crane {MHC} at Kolkata Port Trust which is employed in handling containers. Based on actual observations, the average fuel consumption of this crane is 48.26 litres per hour.</p> <p>(ii). The crane deployed at NMPT is of higher capacity (LHM 400) than that deployed at KOPT and is essentially for handling bulk cargo, for which the fuel consumption is higher. Based on actual observation during working, the average fuel</p>

		<p>consumption by this is 53 litres per hour. On the other hand fuel consumption of the crane of same capacity deployed by ABGHIL at the Paradip Port Trust is 65.65 litres per hour.</p> <p>(iii). The running and maintenance cost of the Mobile Harbour Crane has been computed at 3% of its capital cost on the basis of its experience at other ports. It may not be appropriate to relate the maintenance costs incurred during the first six months of a brand new crane for projecting the operational costs over the contract period of five years.</p>
(viii).	(a). The estimates of insurance cost to be substantiated with documentary support.	The estimate of insurance cost at 1% of CAPEX has been made on the basis of rates approved by the Insurance Regulatory Development Authority (IRDA). In this connection it has furnished a copy of Insurance Policy.
	<p>(b). The estimate of insurance cost at Rs.18.05 lakhs with reference to actual insurance premium of Rs.2.57 lakhs paid during the year 2007-08 (April 2007 to November 2007) to be justified.</p> <p>Since the documentary evidence furnished in support of the insurance cost does not clearly indicate the premium amount, the port to furnish documentary evidence in form of insurance premium payment to justify this estimate.</p>	<p>(i). The port has clarified that 1% of the cost of the crane is considered as insurance cost based on the condition in the tender which stipulates vide clause 3.19. that the successful bidder shall take third party insurance as well as cargo/container/vessel/port structures, etc for covering each incident /act.</p> <p>(ii). The bidder has the option to take comprehensive insurance covering all act. The ABGHIL has paid Rs.2.57 lakhs as insurance for the period April 2007 to November 2007. The operator, however, contends that the premium paid now cannot be taken as the basis for forecasting. It has also stated that since it has imported many types of equipment the insurance company has charged low premium as a measure of cross subsidisation. They further state that in view of tender condition and on recruitment of full complement of staff, premium will increase in future years.</p> <p>(iii). The ABGIL (letter forwarded by the NMPT) has submitted that as per the guidelines of Insurance Regulatory Development Authority (IRDA) under CPM policy, MHC is covered under Group III of plant, equipment and machinery for which the prescribed premium is 1% of the replacement value of the crane. Taking third party insurance will be in addition to the above. Hence, it has justified additional premium will be payable on that account.</p>
(ix).	NMPT to confirm whether the lease rentals considered in the computation of hire charges of mobile crane is as per the terms of the agreement entered between the NMPT and ABGHIL for providing and operating the mobile harbour crane. The basis of considering the rate of lease rental at Rs.20.97 per sq. meter per month to be explained.	As per the terms and conditions of the tender the successful bidder is entitled for facilities like water, electricity, office space, etc on payment basis. Hence AGB has provided for license fee of @ Rs.20.97 per sq. mtr. per month for 150 sq. mtr which works to Rs.0.38 lakhs per annum.
(x).	The agreement entered between the NMPT and ABGHIL stipulates that the licensee shall pay annual license fee of Rs.1.06 crores with annual escalation of 5%. This item has been included in the	The port has stated that as per the tender floated, the element of royalty was not considered. However, the offer was to quote for highest license fee per annum, since the period of operation of license is only for five years. The operator has also

	cost computation for arriving at the proposed levy. Please clarify whether this item is of the nature of royalty. It may be noted that the treatment of royalty in tariff fixation has to be in line with clause 2.8.1. of the revised tariff guidelines.	stated that based on tender papers and various correspondences with the port trust, the payment of Rs.1.06 crores is in the form of license fee and not Royalty. This amount is unrelated to the quantity of traffic handled and thus, cannot be treated as Royalty. Besides, the port has allowed two more operators to deploy similar cranes at the same license fee. It has stated that clause 2.8.1 of the revised tariff guidelines will not be applicable in this case.
(xi).	The basis of estimating the cost items under 'other expenses' to be explained.	The "other expenses" relate to local conveyance, printing & stationery and courier charges, telephone, telefaxes, e-mail, vehicle hire charges, stores & consumables, security charges, and other miscellaneous expenditures/contingencies. Estimated expenditure of Rs.1.00 lakh per month on the above items is realistic.
(xii).	If the mobile crane is deployed for ship to shore movement of cargo, transfer from/to quay and to/from storage yard, then concessional tariff at 60% of the proposed tariff level needs to be proposed for coastal cargo as per our Order No.TAMP/4/GenI-2004 dated 7 January 2005 and amendment dated 15 January 2005.	Noted.
(xiii).	The ABG Infralogistics Limited has mentioned in its letter dated 24 November 2007 that the NMPT proposes to issue license to private operators for operating two more mobile cranes apart from the license issued to ABGHIL. As a result, the cargo volume has to be shared between three mobile harbour cranes and the geared vessels. Hence the operator apprehends that traffic projections estimated by the ABGHIL may not materialise and therefore the rate may turn out to be unviable. The NMPT was requested to furnish its comments on the submissions made by the private operator.	(a). The NMPT has not made any specific comment on the points submitted by the operator. It has, however, forwarded the reply furnished by the ABGIL wherein the operator has submitted that the proposal for fixation of tariff for the MHC was based on certain assumptions of port traffic and the throughput that could be expected for their MHC. It had assumed that only one MHC would be licensed and it has no information that the NMPT would grant more licenses. There was no clear indication at any stage, or even now, on the number of Mobile Harbour Cranes that the Port would license. (b). The ABGIL has reiterated that the estimated throughput for its crane may not materialize now and hence, the rate proposed for approval of the TAMP would be unviable. It has requested to revise the rate upwards based on a lower throughput.

8. A joint hearing in this case was held on 17 December 2009 at the NMPT premises where the NMPT and the concerned users / organisation bodies have made their submissions

9.1. As decided at the joint hearing, the NMPT was advised to recast its proposal based on standard capacity and standard costing without relying solely on the actual figures of any of the operators. While doing so, the port was advised to take into account the demand of users for a performance linked tariff scheme to protect their interest in the event of breakdown of the cranes.

9.2. After reminders, the NMPT vide its letter dated 29 January 2010 stated the following:

- (i). The proposal has been revised taking into consideration the average productivity achieved per hour for two financial years 2007-08 and 2008-09.
- (ii). The performance linked tariff scheme cannot be proposed since the down time experienced during the cargo handling operations is very minimum.
- (iii). NMPT has furnished a revised cost statement, which shows a handling rate of Rs.47.77 per tonne.

9.3. The main modifications made by the NMPT in the revised proposal dated 29 January 2010 are summarised below:

- (i). The earlier proposed rate of Rs.66.60 per tonne was based on the estimates for one year. In the revised proposal, the NMPT has considered expenditure estimates for 3 years (2007-08 to 2009-10) and arrived at average rate per tonne. Traffic has been considered at actuals for 2007-08 and 2008-09 and estimates for 2009-10.
- (ii). The rated capacity per annum is maintained at 13,39,200 tonnes as estimated by the port earlier.
- (iii). Earlier, the NMPT considered annual average tonnage of 3 years at 11 lakh tonnes to derive the rate of Rs.66.60 per tonne. In the revised proposal, the NMPT has considered the actual cargo handled for the years 2007-08 and 2008-09 at 10,20,000 tonnes and 17,59,000 tonnes respectively and estimated cargo for the year 2009-10 at 13,59,000 tonnes aggregating to 41,38,000 tonnes. This volume of 41,38,000 tonnes has been considered by NMPT to arrive at the revised rate.
- (iv). The direct labour cost is maintained at Rs.28.20 lakhs per annum without any change. The NMPT has considered fuel cost at Rs.27.20 lakhs, Rs.46.91 lakhs and 36.24 lakhs per annum for the said 3 years instead of Rs.32.64 lakhs considered by it earlier. However, the consumption and cost of fuel has been maintained at 40 litres per hour and Rs.40 per litre respectively.
- (v). The repairs and maintenance cost is considered at 3% of capital cost as considered by it in its original proposal.
- (vi). Other costs such as insurance, business promotion and staff welfare and overheads have been considered at the same level of Rs.18.05 lakhs, Rs.18.04 lakhs and Rs.54.00 lakhs respectively as considered by it in its original proposal.
- (vii). The lease rentals of Rs.106.38 lakhs (Rs.0.38 lakhs for 150 square metre of area and license fee of Rs.106.00 lakhs) is considered without any change.
- (viii). The depreciation is considered at Rs.180.46 lakhs without any change considering the life of the assets as 10 years.
- (ix). ROCE has been considered at 16% adjusted for capacity utilisation instead of 15% considered by it in its original proposal.
- (x). As per the revised cost statement, the rate per tonne works out to Rs.49.81 (instead of Rs.47.77 shown by NMPT) as compared to the rate of Rs.66.60 proposed by the port earlier in its proposal dated 5 May 2007.

9.4. A comparative position of its proposal dated 5 May 2007 and revised proposal dated 29 January 2010 is tabulated below:

(Rs. in lakhs)			
Sl. No.	Particulars	Proposal dated 5 May 2007	Proposal dated 29 January 2010
1.	Cost of Mobile Harbour Crane	1804.64	1804.64
2.	Rated capacity per annum (Tonnes)	13,39,200	13,39,200
3.	Tonnage proposed to be handled per annum	11,00,000	13,79,333 (Average of 3 years)
4.	Estimated number of working hours per annum (hour)	4464	4497
5.	Capacity utilisation (%)	67.20	38.08%, 65.67%, 50.74%
6.	Operation and Maintenance cost		
	(a). Direct Labour	28.20	28.20
	(b). Fuel	32.64	36.78 (Average of 3 years)
	(c). Repairs and Maintenance	54.14	54.14
	(d). Others		
	(i). Insurance	18.05	18.05
	(ii). Business Promotion & Staff Welfare	18.04	18.04
	(iii). Management & Administration Overheads	24.00	24.00
	(iv). Lease Rentals	106.38	106.38
	(e). Depreciation	180.46	180.46
7.	Total Annual Cost [Sl. No.6 (a) to (e)]	461.91	466.05
8.	ROCE	* 270.70	** 221.08 (Average for 3 years)
9.	Annual Revenue Requirement	732.61	687.13
10.	Proposed Rate per tonne (9/3)	66.60	49.81

* Full ROCE at 15%

** ROCE at 16% adjusted to capacity utilisation

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 the totality of information collected during the processing of this case, the following position emerges:

- (i). The New Mangalore Port Trust (NMPT) has granted license to some private crane operators for providing and operating Mobile Harbour Cranes (MHC). The licensees have to pay annual license fee to NMPT, which is akin to royalty / revenue share, in consideration of the licence granted to them to operate in the port.
- (ii). Section 42(4) of the Major Port Trusts Act, 1963 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 Major Port Trusts Act. In cases where the authorisation 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. The

arrangement between the NMPT and the crane operators is reportedly not a BOT arrangement. Provision of crange facility is one of the services listed under Section 42 of the Major Port Trusts Act and, therefore, the tariff for providing crange facility needs to be regulated by this Authority. This position will not undergo a change whether the port itself provides this service or has permitted a private operator to do so. This case is, therefore, taken up for prescription of ceiling rates for the crange service following clause 7.2. of the tariff guidelines of March 2005.

- (iii). Despite a specific advice rendered to the port explaining the correct position that the rates for services offered by an authorised service provider will be commonly applied at the concerned port without reference to individual service provider, the revised cost statement furnished by the port to support the proposed rate is found to be based on the details furnished earlier by the port in May 2007, which was based on the details furnished by a service provider authorised by the port.
- (iv). The NMPT has proposed the hire charge for 104 tonne MHC operated by ABGHIL. The tariff guidelines of March 2005 require prescription of ceiling rate for the port as a whole which is to be applied commonly for identical services / facilities provided by any service provider authorised by the Major Port Trusts without reference to any individual service provider. Given this mandate, it is not possible to prescribe rate solely based on the cost and investment of a particular operator as the revenue model so derived might not necessarily fit in case of another service provider offering the same services. It is, therefore, found appropriate to arrive at the ceiling rate based on standard capacity and normative cost of operating the MHC.
- (v). In Paradip Port Trust (PPT), even though MHC with different capacities are deployed by various crane service providers authorised by the port, for the purpose of fixation of hire charge of MHC, the PPT had formulated its proposal based on certain assumed norms and parameters for MHC of 100 tonnes capacity and hire charge was fixed by this Authority on normative basis vide Order dated 30 December 2009. It is relevant here to mention that at the Tuticorin Port Trust (TPT) also hire charge was prescribed on normative basis for 100 tonne capacity of MHC vide Order dated 30 December 2009. Even at the NMPT, the port has inducted one additional crane and has given an indication that a third crane will also be inducted shortly. This Authority, therefore, decides to prescribe hire charge on normative basis for a 100 tonne capacity MHC.
- (vi). Since the ceiling rate for operating a MHC is to be prescribed on normative basis without reference to individual operators, the tariff arrived must be based on certain norms and parameters. Clause 2.4.1. of the tariff guidelines of March 2005 calls for attempts to evolve normative cost of each component of port operations. Since separate set of norms under Clause 2.4.1. of 2005 tariff guidelines are not evolved, it is found appropriate to adopt the norms prescribed in the tariff guidelines of 2008 for determining the hire charge based on standard cost of operating a MHC at the NMPT. Incidentally, this approach was followed by this Authority in determination of hire charge for the MHC at the PPT and TPT.
- (vii). The tariff guidelines of 2008 for upfront tariff fixation prescribe the handling norms/ guidelines for dedicated facilities such as coal, iron ore and container handling. Apart from that, guidelines / handling norms are prescribed for multipurpose cargo terminal covering dry bulk cargo such as coal, limestones, minerals etc., and break bulk cargo such as steel and bagged cargo and others. The information furnished by the port in this proceeding reveals that major items of cargo projected to be handled are coal, iron ore, timber logs and others. In the absence of information on the share of capacity allocable to different cargo, the standard capacity of the crane is arrived separately for cargo groups (i.e.) dry bulk cargo and break bulk cargo with reference to the handling norms prescribed for respective cargo groups in the guidelines of 2008. For this purpose, number of working hours per annum is considered at 4000 based on normative level of

working hours prescribed in the tariff guidelines of 2008 for estimating power/ fuel cost for loading/ unloading equipment deployed at multipurpose berth.

The tariff guidelines of 2008 prescribe a norm for cargo handling at multipurpose berth at a rate of 10,000 tonnes per day for dry bulk cargo comprising food grains & fertilizer and coal, limestone, minerals etc., The output norm of 10000 tonnes per day prescribed in the tariff guidelines of 2008 is with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each. Since the exercise is to prescribe hire charges for the MHC of 100 tonne capacity, the norm prescribed in the 2008 guidelines for the per day handling rate is adjusted suitably. Considering the higher handling capacity of MHC as compared to the aggregate capacity of the wharf cranes prescribed in the 2008 guidelines, in the absence of any other norms available, it is reasonable to reckon a 25% increase over the handling rate of 10000 tonnes per day prescribed for operation of 3 numbers of 20 Tonne ELL cranes. Similar approach was followed in the case relating to fixation of hire charge of MHC at PPT and TPT. Incidentally, the NMPT has also pointed out at the joint hearing that the MHCs in operation are already achieving an output of around 4000 tonnes per shift.

- (viii). In the proceeding relating to fixation of hire charge for the 100 tonne MHC at the PPT which was recently concluded by this Authority in December 2009, vide Order dated 30 December 2009, the capital cost of the 100 tonnes MHC with two grabs estimated by the PPT and considered by this Authority was Rs.3007.74 lakhs including freight and duties. The estimated capital cost was substantiated with the Budgetary quotation obtained by the PPT. Incidentally, the capital cost as estimated by the PPT was relied upon by this Authority for fixation of hire charge of MHC at the TPT subject to updating the exchange rate with the then prevailing rate vide Order dated 30 December 2009. Capital cost as estimated in the PPT case is considered for the purpose of this analysis subject to updating the exchange rate with the prevailing rate. The exchange rate for conversion of the Budgetary quotation in Euro is updated to Rs.58.2600 to reflect the exchange rate prevailing at the time of analysis of this case. The capital cost of the MHC accordingly works out to Rs.2585.28 lakhs.
- (ix). (a). No exclusive fuel consumption norm for a MHC is prescribed in the tariff guidelines of 2008. Fuel consumption estimated by the PPT for a 100 tonne MHC is 70 litres per hour. The fuel consumption by a 104 tonnes MHC operated by the Vizag Seaport Private Limited, a private bulk terminal operator at the Visakhapatnam Port Trust (VPT), is indicated at 60 litres per hour. The fuel consumption by a 104 tonne MHC operated by the ABGHIL at NMPT is indicated at 53 litres per hour.
- Since no separate norms for consumption of fuel by MHC is available, fuel consumption at 70 litres per hour estimated by PPT and considered in the cases of PPT and TPT for a 100 tonne MHC is considered in this analysis also. The unit cost of fuel considered by the NMPT at Rs.40 per litre is updated to Rs.39.87 per litre prevailing at the time of this analysis.
- (b). The repairs and maintenance cost and insurance are estimated at 5% and 1% respectively of the capital cost of the crane as per the norms prescribed in the guidelines of 2008.
- (c). The NMPT has estimated lease rental at Rs.20.97 per sq.mtr. per month for 150 sq.mtr. amounting to Rs.0.38 lakh per annum reportedly to cover the expenditure towards water, electricity, office space, etc. Since other expenses at 5% of gross value of MHC as per norms prescribed in the guidelines of 2008 is separately considered in this analysis, the estimated amount of Rs.0.38 lakhs is not considered.

The guidelines of 2008 stipulate estimation of license fee based on the rates prescribed in the Scale of Rates of the respective Major Ports. Since the estimated lease rental does not appear to be for the area occupied by the MHC, license fee needs to be considered for the area occupied by the MHC while the crane is not in operation.

The existing lease rate for lease of lands approved vide Order dated 20 January 2005 passed by this Authority prescribes rate for open space for storage of cargo at Rs.790 per 100 sq. mtr. per month applicable from 20 February 2002. The rate bears an escalation at 5% (compoundable) per annum for the period 20 February 2003 to 19 February 2004 as stipulated in the conditionality governing the rate. Thereafter, the rate is to be escalated by 2% per annum till such time the rate is revised by the Competent Authority. The escalated rate for the period 20 February 2010 to 19 February 2011 works out to Rs.952.83 per 100 sq.mtrs. per month. Since the crane will be operating for 4000 hours in a year, license fee for the idling period of the year is considered at Rs.952.83 per 100 sq.mtrs. per month.

- (d). Depreciation is estimated at 10.34% of the capital cost of the crane as per the rate prescribed under the Companies Act, 1956.
- (e). Other expenses are estimated at 5% of the capital cost of crane as per the norms prescribed in the guidelines of 2008.
- (f). The NMPT has considered a sum of Rs.106 lakhs in the cost computation towards annual license fee payable by the operator to the NMPT.

Though the payment is not related to the volume handled, as argued by the NMPT, such payment is akin to revenue share. Revenue share item is not considered as pass through in the tariff fixation exercise of MHC as per the tariff guidelines of 2005 and 2008.

- (x). This Authority has adopted the ROCE at 16% for the tariff cases to be decided during the year 2010-11 which is considered for arriving at the hire charges for MHC. Return is allowed on the average Written Down Value of the MHC for the three years period for which tariff is to be fixed, which works out to Rs.328.10 lakhs.
- (xi). The total estimated annual revenue requirement of operating MHC is Rs.991.50 lakhs which is aggregate of operating cost of crane Rs.663.40 lakhs plus 16% return Rs.328.10 lakhs. As stated earlier, hire charge for MHC is arrived for broad cargo groups with reference to their respective standard capacity.
- (xii). The tariff guidelines of 2008 prescribe norms also for fixation of rate for break-bulk cargo like steel & bagged cargo and other cargo. It prescribes handling rate of 4000 tonnes per day for steel & bagged cargo and 2500 tonnes per day for others with the deployment of 3 numbers of 20 tonne ELL cranes. As stated earlier, the output norms prescribed in the guidelines are with reference to operation of 3 numbers of wharf cranes of 20 tonne capacity each whereas the exercise is to prescribe hire charge for a 100 tonne MHC. Further, it is relevant to mention here that MHC may handle other cargo without grabs not being fitted to the crane. Hence the handling rate prescribed in the guidelines is updated to recognise the above elements.

As decided in the case relating to the fixation of hire charge of MHC at Paradip Port Trust and Tuticorin Port Trust, 50% increase over the handling rate prescribed in the guidelines for steel and bagged cargo and other bulk cargo is reckoned with.

Accordingly, updated normative handling rate of 6,000 tonnes per day for steel and bagged cargo, and 3750 tonnes per day for other cargo are considered in this analysis.

Following these adjusted norms and 4000 hours of working of the crane in a year, as prescribed in the tariff guidelines of 2008 and keeping in view 70% utilisation factor, the rate per tonne for use of MHC works out to Rs.33.31 per tonne for dry bulk cargo, Rs.69.43 per tonne for handling steel and bagged cargo and Rs.111.15 per tonne for other cargo to achieve the estimated annual revenue requirement of Rs.991.50 lakhs for the respective cargo group.

- (xiii). The revised cost statement submitted by the NMPT for use of MHC has been modified in line with the above analysis. A copy of the statement is attached as **Annex**.
- (xiv). Clause 4.3. of the tariff guidelines of March 2005 stipulates prescription of concessional tariff for coastal cargo. The said clause further stipulates that the cargo related charges for all coastal cargo, other than thermal coal and POL including crude oil, iron ore and iron ore pellets should not exceed 60% of the normal cargo related charges.

Despite a request made in this regard, the NMPT has only noted the position and has not proposed concessional tariff for coastal cargo for ship to shore transfer of cargo or vice versa using the MHC.

Prescription of concessional tariff on coastal cargo / container / vessels in cargo related charge and vessel related charge is a policy direction issued by the (then) Ministry of Shipping, Road Transport and Highways (MSRTH) in the Central Government to this Authority which is also incorporated in the tariff guidelines of 2005. The rates prescribed by this Authority are, therefore, bound to reflect the policy decision irrespective of the person who is going to charge such rate. The objective is the concerned section of trade should get the stated benefit.

The estimated annual revenue requirement of Rs.991.50 lakhs will have to be realized from foreign and coastal cargo handled. That being so, the concessional rate requires to be determined taking into consideration the share of the estimated capacity of the MHC for handling coastal cargo and suitable adjustment in the rate for handling foreign cargo. The NMPT has, however, not furnished break up foreign/ coastal cargo handled by the MHC at its port so as to recognise the impact of concessional tariff applicable to coastal cargo while fixing the hire charge of crane. In the absence of information relating to the share of the capacity of the MHC to handle coastal cargo and to comply with Clause 4.3. of the tariff guidelines of March 2005, coastal rate is prescribed at 60% of the rate prescribed for normal cargo. It is, however, open for NMPT to come up with a suitable proposal for adjustment in rates if concessional tariff prescribed for coastal cargo is likely have significant impact on the estimated revenue model considered in this analysis.

- (xv). The users have demanded a performance linked tariff scheme to protect their interest in the event of break down of the cranes. Despite a specific advice given to the port in this regard, the NMPT was reluctant to propose performance linked tariff scheme on the ground on minimum down time of the cranes. The hire charge for 100 tonne MHC crane arrived in this analysis is with reference to the performance for handling different cargo groups adopting the handling norms prescribed in the guidelines of 2008. As it is possible to have actual performance varying from the standards assumed in this calculation, it is necessary to prescribe tariff linked to performance levels. Incidentally, Clause 5.9. of the tariff guidelines of 2005 also recommends linking tariff to the benchmark levels of productivity, providing incentive for better performance and disincentive for performance below the benchmark levels. The performance linked tariff will provide for incentive to the service provider for high performance and disincentive for underperformance.

In the absence of any analysis furnished for determining performance linked tariff scheme, an incentive / disincentive scheme based on the model followed in the case relating to the PPT and TPT is made applicable in this case also. The standard productivity level assumed for arriving at the tariff is treated as the base level. Accordingly, the performance linked tariff structure is prescribed providing for a reward of 5% by way of increment in the base rate if the performance achieved is 1000 tonnes higher than the benchmark level and a disincentive by way of reduction in the base rate by 5% if performance achieved is 1000 tonnes lower than the benchmark.

The performance linked tariff will encourage private service providers to maintain higher efficiency level in order to enhance his returns due to higher rates prescribed. Such efficiency improvement will also be benefit users due to faster turn around of vessel. As stated earlier, the slabs for performance linked tariff introduced are not based on any well analysed data. The NMPT is, therefore, advised to formulate a more scientific incentive / disincentive scheme at the time of the next tariff review of this item.

- (xvi). The tariff guidelines of 2005 stipulate a tariff validity cycle of 3 years. Accordingly, the hire charge for crane fixed by this Authority will be valid for three years from the date of implementation of the Order.
- (xvii). The NMPT has only proposed rates for MHC. It has not proposed any conditions governing application of rates. Since the tariff is fixed linked to productivity level, it is necessary to define the conditions in order to avoid ambiguity. The PPT had in its proposal for fixation of hire charge of MHC proposed formula for arriving at the average berth day output of MHC. It had also proposed provisions to measure performance in case of breakdown of MHC for more than an hour, stoppage of operations of MHC, penalty in case of shifting of vessel on account of breakdown / non-performance of vessel, etc., which may be relevant in the case of NMPT. It is noteworthy that the conditionalities prescribed in the PPT case were incorporated in the TPT case also. Therefore, the conditionalities prescribed in the PPT and TPT cases are incorporated in the NMPT case also. The NMPT is advised to come with a suitable proposal if it finds any other conditions are relevant to the operations of MHC in its port or finds the conditions prescribed by this Authority are not relevant in its case.
- (xviii). As stated earlier, the NMPT proposed an adhoc rate of Rs.64 per tonne. Since the adhoc rate proposed was based on the rate prescribed in the Scale of Rates of Vizag Seaport Private Limited (VSPL) and as the users had unanimously agreed to the rate, the NMPT was allowed to levy Rs.64 per tonne as an interim tariff for deployment of crane by the service provider. The levy of adhoc rate from the date of commencement of operations of MHC at NMPT should be discontinued on the effective date of the implementation of the revised rates notified by this Authority.

12.1. In the result, and for the reasons given above and based on a collective application of mind, this Authority approves the following to be inserted as Section 6.8. - Charges for hire of Harbour Mobile Crane under Chapter - VI Other Charges in the existing Scale of Rates of the New Mangalore Port Trust and the existing Section 6.8. - Miscellaneous Charges may be renumbered as 6.9. - Miscellaneous Charges:

“5.20. Charges for use of Harbour Mobile Cranes installed by the private operators:

- (I). For Dry Bulk Cargo

Average daily crane performance (in Metric Tonne)	Ceiling rate per tonne (in Rs.)	
	Foreign	Coastal
9500-10499	28.31	16.98
10500-11499	29.98	17.98

11500-12499	31.64	18.98
12500	33.31	19.99
12501-13500	34.97	20.98
13501-14500	36.64	21.98
14501 – 15500	38.34	23.00

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 rate for third thousand tonnes was arrived by enhancing the base rate by 115%. The same methodology shall also be adopted to calculate the rate beyond 15500 tonnes. Likewise, ceiling rates for performance below 9500 tonnes shall be calculated by reducing the base rate accordingly.

(II). For Break-bulk cargo:

(A). Steel and Bagged Cargo

Average daily crane performance (in Metric tonne)	Ceiling rate per tonne (in Rs)	
	Foreign	Coastal
5000-5999	65.95	39.57
6000	69.43	41.66
6001-7000	72.90	43.74

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. Likewise, ceiling rates for performance below 5000 tonnes shall be calculated by reducing the base rate accordingly.

(B). Others

Average daily crane performance (in Metric tonne)	Ceiling rate per tonne (in Rs)	
	Foreign	Coastal
2750-3749	105.59	63.35
3750	111.15	66.70
3751-4750	116.70	70.02

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. Likewise, ceiling rates for performance below 2750 tonnes shall be calculated by reducing the base rate accordingly.

Notes:

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

$$\frac{\text{Total Quantity loaded / unloaded by the MHC}}{\text{Total time taken from vessel commencement to completion}} \times 24 \text{ hours}$$

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

(iii). If one MHC works with another MHC or ELL crane/s, the Berth-day output for the crane will be ascertained on the basis of the quantity as recorded by the MHC'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 MHC will be determined taking into account cargo loaded / discharged prior to break-down divided by crane working hours and multiplied by 24.
- (v). In case of stoppages of operation of MHC for more than two hours at a stretch for reasons not attributable to the MHC, appropriate allowance will be allowed to the crane while calculating the total time of crane operation in the vessel. Stoppages of MHC for less than 2 hours will not be taken into consideration for the above purpose. No allowance will be allowed for stoppages attributable to the MHC. All stoppages in loading / unloading operations during working of MHC are required to be certified by the Stevedore of the vessel in the daily vessel performance report.
- (vi). In case shifting of a vessel becomes necessary due to breakdown / non-performance of MHC, 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. Since the adhoc rate is already in operation, the ceiling rates fixed now shall come into effect after expiry of 15 days from the date of its notification in the Gazette of India and shall remain valid for 3 years.

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 may ensure, by suitably including a necessary condition in the authorisation arrangement that the authorised service providers do not charge more than the prescribed ceiling rates.

(Rani Jadhav)
Chairperson

Cost calculation for fixation of rate for use of 100 tonne Mobile Harbour Crane provided by authorised service provider at the New Mangalore Port Trust

A. For Dry bulk cargo

(Rs. in Lakhs)

Sr. No.	Particulars	As furnished by New Mangalore Port Trust		Norms if any prescribed in 2008 tariff guidelines (for multipurpose cargo berth)	Modified Calculation	
		Workings			Workings	For Dry bulk - (a) Food grains & Fertiliser (b). Coal, lime stone, minerals. etc.
I	Cost of Harbour Mobile Crane (Rs. in Lakhs)	-	1804.64			2585.28
II	A. Capacity computed by NMPT					
	Available shifts per annum	365 days * 3 shifts per day	1095			
	Available working shifts per annum (85%)	310 days * 3 shifts per day	930			
	Norms for utilisation	-	60%			
	Capacity in shifts per annum	930 shifts * 60%	558			
	Expected number of working hours per annum	558 shifts * 8 hours	4464			
	Rated capacity per hour (in tonnes)	-	300			
	Rated capacity per annum	4464 hours * 300 tonnes	1339200 tonnes			
	Volume considered for calculation of rate (tonnes)	2007-08 (Actual) - 10,20,000 2008-09 (Actual) - 17,59,000 2009-10 (Estimate) - 13,59,000				
		4138000				
	B. Capacity in tonnes/ annum computed by TAMP					
	Handling rate per hour (in tonnes)			Dry bulk a) Food grain, fertiliser = 10000 tonnes / days (for vessels more than 30000 tonnes parcel size) b) Coal, Lime stone, minerals, etc. = 10000 tonnes / days	25% above the handling norms prescribed in the guidelines i.e. 12500/ (24 hours * 70% utilisation factor)	744
	Working hours per annum			A norm of 4000 hours of working in a year is prescribed for estimating power / fuel cost		4000
	Annual Capacity (in tonnes)					2976000
	Annual Capacity (in Million tonnes)					2.976
III	Operating Cost		Rs. in lakhs			Rs. in lakhs
	(a). Fuel cost	2007-08 1700 hours * 40 litres per hour * Rs.40 per litre 2008-09 2931 hours * 40 litres per hour * Rs.40 per litre 2009-10 2265 hours * 40 litres per hour * Rs.40 per litre	27.20 46.91 36.24		70 ltrs per hour * Rs. 39.87 per litre * 4000 hours	111.64
	(b). Repairs & Maintenance cost	Rs.54.14 lakhs per year (3% of capital cost) (3 * 54.14 lakhs)	162.42	5% on cost of mechanical equipment	5% * Rs.2585.28 lakhs	129.26
	(c). Insurance	Rs.18.05 lakhs per year (1% of capital cost) (3 * Rs.18.05 lakhs)	54.15	1% on cost of mechanical equipment	1% * Rs.2585.28 lakhs	25.85
	(d). Depreciation	Capital cost / 10 years Rs.1804.64 lakhs /10 Rs.180.46 * 3 years	541.39	As per norms prescribed in Companies Act	10.34% * Rs.2585.28 lakhs	267.32
	(e). Rent	(i). Annual License Fee - Rs.106.00 lakhs (ii). Lease rent for 150 sq. mtr. at Rs.20.97 per sq. mtr. per month (150 * 20.97 * 12) 0.3800 * 3 years	318.00 1.14	As per Scale of Rates of concerned port	Rent as estimated by the NMPT is considered as license fee	0.07
	(f). Other Expense			5% of Gross fixed Asset Value	5% * Rs.2585.28 lakhs	129.26
	- Direct Labour	12 employees * Rs.2.35 lakh per employee * 3 years	84.60			
	- Business Promotion and Staff Welfare	Rs.18.04 lakhs * 3 years	54.12			
	- Management and Administration Overheads	Rs.24.00 lakhs * 3 years	72.00			
	Total (a) to (f)		1398.17			663.40
IV	ROCE	(16% * Rs.1804.64 lakhs * 63.47%) + (16% * Rs.1624.18 lakhs * 109.45%) + (16% * Rs.1443.71 lakhs * 84.56%) = Rs.183.27 lakhs + 284.44 lakhs + 195.34 lakhs	663.05	16% on capital employed	16% * Rs.2050.64 lakhs	328.10
V	Total Cost plus Return on investment		2061.22			991.50
	Hire Charge per tonne (Foreign)	Rs.2061.22 lakhs / 41,38,000 tonnes	49.81		Rs.991.50 lakhs /2.976 million tonnes	33.31
VI						
VII	Hire Charge per tonne				60% * Rs.33.31	19.99

B. For break bulk cargo

Sr. No.	Particulars	Working	Steel & bagged cargo	Others
I	Cargo Handling rate at 50% above the norms prescribed in upfront tariff guidelines 2008 for multipurpose cargo terminal (in tonnes / day)		6000	3750
II	Cargo Handling rate in tonnes / hour	Sr. no I / (24 hours * 70% utilisation norm)	357	223
III	Working hours (per annum)		4000	4000
IV	Capacity (tonnes / annum)	Sr. No II * III	1428000	892000
V	Total cost plus return as estimated in Sr. No V in the first table (Rs. in lakhs)		991.50	991.50
VI	Hire Charge per tonne (Foreign going) in Rs. / tonne	Sr. No V / IV	69.43	111.15
VII	Hire Charge per tonne (Coastal) in Rs. / tonne	60% of Sr. No VI	41.66	66.70

@ Note : Workings for capital employed

Gross value of HMC

Rate of Depreciation as per provisions of Companies Act

Rs.2585.28 lakhs

10.34%

Value of HMC at the beginning of the year

Depreciation

Written down value at the end of the year

Average written down value

Year 1

2585.28

267.32

2317.96

Year 2

2317.96

267.32

2050.64

2050.64

Year 3

2050.64

267.32

1783.33

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/26/2007-NMPT - Proposal from the New Mangalore Port Trust for fixation of tariff for the mobile crane provided by service providers authorised by the port for handling general/bulk cargo at the NMPT.

1.1. The summary of the comments received from the users/user organisations and the comments of the New Mangalore Port Trust (NMPT) thereon are tabulated below:

Sl. No.	Comments of users/user organisations	Comments of NMPT
1.	Kanara Chamber of Commerce & Industry (KCCI)	
(i).	Clarify whether the proposed hire charges of the crane at Rs.66.60 per tonne is inclusive of service tax or not.	NMPT has not furnished its comments.
(ii).	The hire charge of the crane is comparatively very high but as the hiring is optional and not compulsory it has no complaint about the rate proposed.	
(iii).	From the present indications, the port users will hire this crane only in the event the ship's crane fail. However, if there are two parties requesting to hire the crane it should be hired to the first party as per the practice of "First Come First Serve" basis.	
(iv).	As the NMPT will be receiving a licence fee of Rs.1. crore 6 lakhs per year they surely will be an interested party. It is hoped that there will not be any direct/indirect coercion on the port user to hire the crane.	
(v).	Presently, the hire charges of Rs.66.60 per tonne are calculated on the basis that the crane would be handling 11 lakh tonnes per year. In the event the crane handles more than this, the benefit should go to the port user.	
2.	Kanara Export Agencies (KEA)	
(i).	The port had negotiations with the union leaders regarding introduction of heavy duty mobile crane and also the owners of the crane displaying the salient features of the crane to port users. It is in agreement for deploying such a huge crane at a huge cost, however, the manning strength of Mangalore Port cargo handling workers have not changed till date. Unless and otherwise the datum cum incentive and the manning strength is changed, it does not see any light of the day for this crane to function at the port.	NMPT has not furnished its comments.
(ii).	The workers had stopped a trial introduction of the crane which resulted in 24 hours complete stoppage of all the loading and discharging at the port resulting in heavy losses to Ship Owners/Stevedores/C&F Agents.	

3.	S.S. Maritime (SSM)	
(i).	The hire charges proposed for the crane is Rs.66.60 per metric tonne. However, as per the present labour situation at NMPT, deployment of labour gangs from the RCHW is a must and it has to make usual incentive payments to the labourers. Hence, all the charges put together will not work out to be economical for the port user.	NMPT has not furnished its comments.
(ii).	To make it viable, the rate should be worked out as below: <ul style="list-style-type: none"> ➤ The hire charges be fixed at Rs.35/- per metric tonne plus normal gang charges and incentives in order to maintain normal working inside the port, else let the port absorb gang booking charges (RCHW) or the incentives paid to the labourers. ➤ As incentive part cannot be taken over by the port, the RCHW payment be absorbed by the port in order to maintain the cost which would attract the Users/ Exporters/ Importers to use the crane. 	
(iii).	If the above pattern is adopted, it could attract more bulk cargo items and gearless vessels, which would add to the volumes of tonnage handled. This will be beneficial to all concerned. But if the existing rate and working pattern continues, a useful equipment like this crane may soon become a monument.	
4.	Sri Ganesh Shipping Agency (SGSA)	
(i).	It agrees with the instant proposal of NMPT for fixation of tariff for mobile harbour crane. However, if the port reduces the strength of the gang for working the shore crane, it will be advantageous for the users.	NMPT has not furnished its comments.
5.	Seaworld Shipping and Logistics Pvt. Ltd. (SSLPL)	
(i).	As it is not making any use of the crane, it has no comments to offer.	NMPT has not furnished its comments.
6.	Association of New Mangalore Port Stevedores (ANMPS) and Aspinwall & Co. Ltd. (ACL)	
(i).	The high labour cost are only due to excessive manning which was fixed 30 years back when the entire cargo items were being handled manually. The gang strengths have not been revised for mechanized handling. When mobile harbour cranes are used it does not require the full strength of the port labour gangs deployed/fixed for handling cargo.	It may not be possible to reduce the gang strength at this stage, which was incorporated in the Agreement between Unions and Management of NMPT. However, the Tribunal Award is pending for implementation where reduction of manning scale is envisaged for all the Major Ports. Therefore, the suggestion given by the Association of New Mangalore Port Stevedores may be considered after implementing the Tribunal Award for all the Major Ports.
(ii).	It has no objection to the proposed rate but subject to the above point. If these are not implemented, the handling rates of the port would be double, making it non-feasible for the EXIM trade to use this crane.	
(iii).	The port may be directed to reduce the	

	labour gang strengths per gang to the actual requirement for mobile harbour crane or as per the National Industrial Tribunal Award applicable to the major ports.	
7.	Mangalore Custom House Agents Association (MCHAA)	
(i).	The cargo handling cost at the port is on the higher side. The proposed rate of Rs.66.60 per MT is based on a very high license fee and after considering all the other expenses and overheads by the licensee. This will further enhance the handling cost.	The port is planning to procure Heavy Lift Rail mounted cranes for facilitating to handle General Cargo / Container Cargo at all the berths. It is to emphasise that Berth No.14, the Deep Draft Berth of 14 mtrs. draught, has been constructed for facilitating to handle cargo by inducting mechanised system through BOT operators. Therefore, the procurement of heavy lift cranes by New Mangalore Port at Berth No.14 may not be required at this stage. Further, it is to state that the maximum bulk cargo is being handled at Berth No.14 by using mobile harbour crane.
(ii)	The Customs vide condition no.2 of the Public Notice No. 05/2007 dated 20.03.07 has declared the port as Custodian. Therefore, the Custodian should provide modern handling equipments in operational condition for handling the container and cargo in the area. The responsibilities of obliging this condition lies with the port and if the port invests in handling equipment, the charges can reasonably be reduced thereby making the port one of the most competitive ports.	
(iii).	The proposed rate is very much on the higher side and there is lot of scope for reducing the same.	

1.2. ABG Infralogistics Ltd. (ABGIL) (formerly ABG Heavy Industries Limited) made separately the following submissions:

- (i). It had projected traffic of 1.3 million tonnes for the purpose of tariff fixation in form 2A based on deployment of one Mobile Harbour Crane (MHC) at the port and considering the fact that presently all vessels carry iron ore, coal, timber etc, calling at the port are geared vessels. The MHC will only be supplementing vessel's own gear and therefore, the available cargo would be shared between the MHC and geared vessels.
- (ii). In the original tender for MHC, the port had not indicated the number of cranes it proposed to licence. Based on the highest license fee offered by them, the port issued license for operation of one crane to it which was commissioned in February 2007. It had, accordingly, submitted the proposal for tariff fixation.
- (iii). It is learnt that the port is issuing license for two more mobile cranes as a result of which the cargo volume would have to be shared between three MHC's and the geared vessels. Therefore, the traffic projections submitted by it might not materialize and the proposed rate of Rs.70 per metric tonne.

1.3. A copy of ABGIL letter dated 24 November 2007 was forwarded to NMPT as feedback information. We have not received the response of NMPT on the submissions made by ABGIL.

2.1. A joint hearing in this case was held on 17 December 2009 at the NMPT premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users / organisation bodies have made the following submissions:

New Mangalore Port Trust

- (i). Use of mobile crane is optional. With two Cranes, last year we have handled more than 4 million tonnes of dry bulk. Third crane will also be introduced shortly.
- (ii). The Cranes are of 104 T capacity. We have achieved an output of 3500T to 4000T in a shift.

Association of New Mangalore Port Stevedores

- (i). The rate should be fixed with reference to capacity. These cranes handle about 3.5 million tonne. The rate should be reduced to Rs.30/- per tonne.

New Mangalore Port Clearing and Forwarding Agents Association

- (i). The volumes are much higher than anticipated originally. Therefore, the rates should be reworked out.

Kanara Chamber of Commerce and Industry

- (i). The crane should be available without breakdown. The users should be asked to pay based on performance of the cranes.

2.2. At the joint hearing, the Association of New Mangalore Port Stevedores and New Mangalore Port Clearing & Forwarding Agents Association filed their identical written submissions which are summarised below:

The Harbour Mobile Crane hire rate had been fixed at Rs.64/- PMT earlier based on 1 Million Tonnes cargo. Today it is 3.8 Million Tonnes. Hence the rate is to be re-fixed proportionately lower to Rs.30/- PMT or less. The rate in other ports like Vizag for this crane is Rs.38/- PMT without any port labour gangs. In Mangalore Port the present rate is Rs.64/- PMT + ST and also a full notional gang is to be booked with official incentive of Rs.1.30 PMT per labour and unofficial incentive (Ghost) of Rs.1.60 to Rs.2/- PMT / Labour. Hence this rate is exorbitant and needs to be reduced to Rs.30/- PMT or less.
