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Tariff Authority for Major Ports

G No. 165

New Delhi

16 August 2007

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 from the Visakhapatnam Port Trust (VPT) for levy of overtime charges for the staff deployed for floating crane operations as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/52/2006 - VPT

Visakhapatnam Port Trust

Applicant

ORDER

(Passed on this 7th day of August 2007)

This case relates to the proposal dated 12/18 December 2006 from the Visakhapatnam Port Trust (VPT) for levy of overtime charges for staff deployed for operating floating crane.

2. The VPT has made the following main points in its proposal:

- (i). Floating cranes are hired at the request of the trade for cargo handling operations and necessary hire charges are being levied as per the rates prescribed in the Scale of Rates.
- (ii). Prior to the recent revision in May 2006, necessary overtime charges at actuals were collected for deployment of the staff beyond the working hours duly taking into consideration the salaries paid to the concerned employees.
- (iii). In this regard, it has submitted that usually, more than 20 employees are deployed for working on the floating cranes at the request of the trade beyond working hours, roster offs and on holidays for about 10 to 15 hours. The approximate overtime payable to each employee is about Rs.100/-per hour. Accordingly, the VPT has to pay about Rs.2000/- per hour for these employees.
- (iv). In the general revision proposal, a separate note was incorporated by VPT in the proposed Scale of Rates for levy of Rs.100.00 per hour or part thereof towards overtime charges whenever the staff is deployed on overtime for working of floating cranes. The proposed note was approved while approving the revised Scale of Rates of the VPT. However, the note proposed by VPT inadvertently omitted to mention the word 'per employee'. As a result, overtime charges are collected from the users @ Rs.100/- per hour or part thereof irrespective of the number of employees engaged (i.e. for about 20 employees).

3. The VPT has proposed to amend the said note in its Scale of Rates to state that levy of the overtime charges shall be @ Rs.100/- per hour or part thereof per employee whenever staff is deployed to work on overtime.

4.1. In accordance with the consultative procedure prescribed, the proposal of VPT was forwarded to users / user organisations seeking their comments. Despite reminder, we have not received comments on the proposal from any users / user organisations except Visakhapatnam Customs Clearing Agents Association (VCCAA).

4.2. The comments received from the VCCAA were forwarded to the VPT for feedback information. The VPT has furnished its comments on the comments of the VCCAA.

5. The VPT was requested to clarify the tariff setting arrangement under which port collected overtime levy prior to the revision of its SOR by this Authority in June 2006. In response the VPT has clarified that it had not incorporated any provision in the SOR approved in 2001 towards overtime charges for the staff deployed beyond working hours since the port was collecting OT charges at actuals from the trade. Apart from this, it has reiterated the submissions made earlier on the comments of VCCAA.

6.1. A joint hearing, in this case was held on 12 June 2007 at the premises of Visakhapatnam Port Trust. At the joint hearing VCTPL, VPT and the concerned users made their submissions.

6.2. As decided in the joint hearing, the Visakhapatnam Port Trust (VPT) was advised to review its proposal taking into consideration the submissions made by the users / user associations and file a revised proposal supported by cost justification.

6.3. The VPT has accordingly reviewed its proposal and filed a revised proposal. The main submissions made by the VPT are summarised below:

(i). It has reiterated that the floating cranes are envisaged for working only in general shift of 8 hours and not on 24 hours basis as contended by the trade. The basic rate of the said cranes was accordingly fixed considering the staff strength of 22 for general shift.

(ii). The proposal has been re-examined as regards the issue raised about overlapping of cost elements. The normal wage rates and OT rates per employee considered in the revised proposal are given below:

(a). Average normal wages consisting of pay, DA and other allowances is Rs. 16,297 per employee. Hence wage rate per hour works out to Rs. 67.90 (i.e. 16297 /30 days x8 hrs)

(b). Over time allowances payable at double the rate for working beyond normal norms on mean pay plus DA is Rs.120.38
 Less: Normal wage rate already included in basic rate Rs.67.90
 OT allowance to be collected from the trade Rs.52.38

(iii). On the basis of this revised working, VPT agrees to collect Rs.53/- per hour employee as against Rs. 100/- per employee per hour proposed in its initial proposal. However, at the request of the trade to build in the above OT charges in the hire charge of floating crane, it has furnished the following working:

Total Average No. of hours the cranes were engaged	257 hrs.
overtime in 2006-07	
Total OT element=Rs.52.38 x 22 x 257	= Rs.2,96,157/-
Total available working hours for the crane	= 240 days x 8 hours
Per crane	= 1920 hours

Hence the rate proposed to be included towards OT charges in the basic rate = Rs.2,96,157/ 1920 = Rs.154.24.

(iv). Accordingly, the hire charge of floating crane prescribed in the existing Scale of Rates at Rs. 2001 per hour or part thereof is proposed to be revised to Rs. 2155 per hour after incorporating the OT charge. The revised proposed hire charge of floating crane was discussed with the trade on 18 June 2007 and the trade has communicated its acceptance to the same.

(v). In this backdrop, it has requested to amend the hire charges of floating cranes prescribed in schedule 5.1.1. and 5.1.2. of the existing of Scale of Rates as follows:

(a). **5.1. Floating Crane Charges**
5.1.1. 150 Ton Floating Crane

Item No.	Weight of package or nature of charge	Unit	Rate (in Rs.)	(Rate in Rs.) for second operation
1.	Upto 50 tonnes	Per hour or part thereof	Rs.2150/- per hour or part thereof subject to a minimum of Rs.4300/-	Rs.1075/- per hour or part thereof subject to a minimum of Rs. 2150/-

There will be no change in rates for item Nos. from 2 to 10.

5.1.2. 60 Ton Floating Crane

Item No.	Weight of package or nature of charge	Unit	Rate (in Rs.)	(Rate in Rs.) for second operation
1.	Upto 50 tonnes	Per hour or part thereof	Rs.2150/- per hour or part thereof subject to a minimum of Rs.4300/-	Rs.1075/- per hour or part thereof subject to a minimum of Rs. 2150/-

(b). The existing note at SI.No.8 of 5.1. Floating Crane charges stands deleted.

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 made available at our website <http://tariffauthority.gov.in>

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

- (i). The proposal of the Visakhapatnam Port Trust (VPT) is for amendment in the provision relating to overtime charges on floating cranes prescribed in the last tariff revision of the Scale of Rates of VPT notified in the Gazette of India on 5 June 2006.
- (ii). The Scale of Rates of VPT prior to the tariff revision approved in June 2006 did not prescribe any separate tariff for overtime charges. Prior to the last tariff revision, the overtime charges at actuals were collected by the port as reported by both the VPT and the users.

In the last tariff revision, the VPT had proposed to introduce overtime charges for staff deployed on overtime for operating floating crane. This Authority is generally not in favour of prescribing separate overtime charges since ports are expected to render service round the clock.

While processing the tariff revision of the VPT case, the proposed provision was approved without any detailed analysis since it was not a significant tariff item and also no user associations had raised any pointed objection for introduction of the proposed provision for levy of overtime charge.

- (iii). The port has pointed out that it incurs an expenditure of Rs.2000 per hour towards overtime to employee as against Rs.100 per hour collected from the users as per the provision approved in the SOR. It has, therefore, requested to modify the existing unit of levy of overtime charge as Rs.100 per hour or part thereof per employee.

On being pointed out about overlapping of cost elements in the proposed rate, it has subsequently reviewed and reduced the rate to Rs.53 per hour or part thereof per employee and also suggested to merge the overtime charges into the basic hire charge of floating crane based on the statistics of total overtime paid in the year 2006-07 and the available working hours of crane.

Accordingly, in the revised proposal, existing hire charges of 150 tonnes and 60 tonnes floating crane is proposed to be increased by Rs.155 per hour or part thereof after building in the overtime charges. Consequently, suitable modifications are proposed in the minimum hire charge and charges for second operation of floating cranes.

- (iv). It is relevant here to note that the Visakhapatnam Port operates round the clock. Hence, it is generally expected that the services be also offered round the clock.

The VPT has clarified that the working hours of the floating crane is for 8 hours only during the general shift and not for 24 hours. The basic rate for hire of crane is reported to have been fixed considering the staff strength deployed for the general shift only.

The Visakhapatnam Customs Clearing Agents Association (VCCAA), Visakhapatnam Steamer Agents Association and Visakhapatnam Stevedores Association all are of the view that overtime charges for staff deployed is perhaps already built in the existing hire charge of floating crane.

In the revised proposal, the port has attempted to eliminate double counting of normal wages from the overtime charge. It is relevant to mention that the employee cost will also include LTC, medical expenses, PF contribution and other connected overheads. These cost elements are, however, not excluded from the overtime charges in the revised proposal.

Further, the issue agitated by the user Associations about the overtime charges already built in the basic hire charge of floating crane has not been addressed by the VPT. No detailed cost break up of the existing hire charge of floating cranes is furnished by the port to remove the doubt of double counting of this cost element in the basic rate.

- (v). In light of the above position, this Authority is not inclined to approve the proposal of the VPT for modification in the overtime charges prescribed in the existing Scale of Rates at this juncture without undertaking detailed analysis of the cost components included in the existing hire charge.
- (vi). Recovery of overtime charges separately does not appear to be a reasonable arrangement, as the basic charges are in any case recovered for the extended working hours also. The existing note no 8 under Schedule 5.1.2., in Schedule 5.1. Floating Crane Charges prescribing overtime charges for staff deployed on overtime for operating floating crane is, therefore, deleted.

This may not have any significant financial impact on the port since the overtime charges payable by VPT is estimated to be around Rs.3 lakhs per annum in the cost estimates considered at the time of the last general revision.

9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority rejects the proposal filed by the VPT for amendment in levy of overtime charges for staff deployed on overtime for operating floating crane.

9.2. Note No 8 under Schedule 5.1.2., in Schedule 5.1. Floating Crane Charges, in Section 5- Charges for hire of craft / equipment in the existing Scale of Rates of VPT is deleted.

(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/52/2006- VPT - Proposal from the Visakhapatnam Port Trust for levy of overtime charges for the staff deployed for floating crane operations.

1. The summary of the comments of the Visakhapatnam Customs Clearing Agents Association (VCCAA) and the comments of the Visakhapatnam Port Trust (VPT) thereon are tabulated below:

Sl.No.	Comments of the VCCAA	Comments of the VPT
(i).	<p>The VPT works on 24 hours basis. The charges for floating crane levied by VPT is inbuilt of overtime charges payable to the staff deployed for operations on floating crane. The operational staff roaster will be shift wise and on rotation.</p> <p>It is, therefore, not necessary to levy overtime charges once again for the staff deputed for operation of floating crane.</p>	<p>(a). The working hours for floating cranes is 0700 to 1200 hours and 1300 to 1600 hours and not 24 hours as stated by the VCCAA.</p> <p>(b). At the request of the trade, the floating cranes are engaged after working hours or on holidays and overtime (OT) charges are collected from the trade at the actuals. In order to overcome the difficulty of computing of the OT payable and delay in sending the bills to the trade, it was proposed to charge Rs.100 per hour per employee whenever they are booked for overtime. Due to typographical error, the word 'per employee' was omitted in the draft proposed SOR, which was approved by this Authority.</p> <p>(c). As per the SOR approved by this Authority, the VPT is collecting OT charges at Rs.100/- per hour or part thereof towards staff overtime charges irrespective of the number of employees engaged whereas it is paying around Rs.2000/- per hour as OT charges to the employees engaged on floating craft beyond working hours.</p> <p>(d). It has, therefore, reiterated its request to modify the OT charges at Rs.100/- per hour or part thereof per employee or Rs.2200/- per hour or part thereof irrespective of number of staff deployed beyond working hours.</p>

2. A joint hearing, in this case was held on 12 June 2007 at the premises of Visakhapatnam Port Trust. At the joint hearing, following submissions were made:

Visakhapatnam Customs Clearing Agents Association, Visakhapatnam Steamers Agents Association & Visakhapatnam Stevedores Association.

- (i). Before 2006, overtime charges were levied separately at actuals, which was discontinued since this practice was cumbersome.
- (ii). We feel that the cost is included in the basic rate.
- (iii). Port Trust is supposed to provide 24 hours service. That being so, it is unfair to require the users to pay for overtime.

Visakhapatnam Port Trust

- (iv). We will review the proposal