

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

TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 122

New Delhi, 25 July, 2003

NOTIFICATION

In exercise of the powers conferred under Section 49 of the Major Port Trust Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Kandla Port Trust regarding review of rates for its launches falling in the capacity range 401-600 BHP as in the Order appended hereto.

(A.L. Bongirwar)
Chairman

Tariff Authority for Major Ports
Case No. TAMP/64/2002-KPT

The Kandla Port Trust

- - - -

Applicant

ORDER

(Passed on this 8th day of July 2003)

This case relates to a proposal received from the Kandla Port Trust (KPT) for a review of the rates for its launches falling in the capacity range 401-600 BHP.

2. The Scale of Rates (SOR) of the KPT was revised by this Authority's Order dated 8 April 2002, which was notified in the Gazette of India on 17 April 2002. In the revised SOR, the hire charges for the launch of capacity 401-600 BHP were not included based on the information furnished by the KPT.

3.1. The KPT has stated the following reasons in support of its proposal:

- (i). By oversight, the capacity of the two launches viz. M.L. Surajbari and M.L. Sagarika was wrongly communicated as 2x325 BHP and 2x176 BHP instead of 2x234 BHP and 2x235 BHP respectively. Therefore, there exists a slab for the capacity range 401-600 BHP for which no rate is prescribed in the existing SOR of the KPT.
- (ii). The Authority had approved the rates for M.L. Surajbari and M.L. Sagarika vide its orders dated 12 May 2000 and 14 February 2001 respectively i.e. prior to the General revision Order of the KPT. It has adopted the same rates on ad-hoc basis as a temporary arrangement subject to the approval of the Authority, which are as follows:

Sl. No.	Name of the Craft	Capacity	Rate per hour or part thereof	
			Rs.	US\$
1.	M.L.Surajbari	2x234 BHP	2863	67.67
2.	M.L.Sagarika	2x235 BHP	4519	163.19

3.2. The KPT has also proposed to levy prospectively a rate for 400-600 BHP capacity launches on per hour or part thereof basis of US\$ 126.09 and Rs.3815 in respect of foreign-going vessels and coastal vessels respectively.

4. In accordance with the consultative procedure adopted, the KPT proposal was forwarded to the concerned user organisations for their comments.

5. A joint hearing in this case was held on 10 June 2003 at the KPT premises. At the joint hearing, the KPT and the concerned users have made their submissions.

6. 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 at our website www.tariffauthority.org.

7. At the joint hearing, the KPT agreed to review the existing rates for all categories of floating crafts and submit a revised proposal within 10 days. The main points made in the revised proposal submitted by the KPT are summarised below:

- (i). Classification of the crafts and launches is redone on the basis of BHP. The rates proposed are based on the rates already approved by the Authority at the time of the last general revision of tariff. For the launches M.L. Surajbari and M.L. Sagarika now falling under the revised slab 401-1500 BHP, the same rate proposed for the slab 401-600 BHP in its original proposal has been applied.
- (ii). Rates of the fire fighting craft and water barge 'Bhimsen' are kept unchanged.

(iii). Rates proposed for each category are as follows:

Sl. no.	Description	Unit	Rate	
			Coastal vessel (in Rs.)	Foreign-going vessel (in US\$)
A.	Crafts:	Per hour or part thereof		
	Upto 200 BHP		1024.00	34.58
	201-400 BHP		3000.00	100.00
	401-1500 BHP		3815.00	126.09
	1501-2000 BHP		10000.00	475.00
	above 2000 BHP	13500.00	500.00	
		(Subject to a minimum of Rs 40,500)	(Subject to a minimum of US\$ 1500)	
B.	Fire fighting craft	Per block of 8 hour or part thereof	38680.00	1841.17
C.	Water Barge 'BHIMSEN'	Per hour or part thereof	3410.00	162.32

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

- (i). Prior to the last general revision of the Scale of Rates of the KPT, hire charges for different types of floating crafts were prescribed for individual crafts. Since this system was found not to be a very rationale arrangement, this Authority advised the KPT to propose hire charges based on capacity range instead of individual craft basis. Such a rationalization was subsequently proposed by the KPT; and, it was approved by this Authority at the time of the last general revision of the Scale of Rates of the KPT.
- (ii). It is relevant here to mention that the rates prescribed in the revised SOR are based on the average of the rates earlier approved for the individual crafts by classifying them under the appropriate capacity ranges. As a matter of fact, the KPT did not report any craft in the capacity range of 401-600 BHP. Since no craft was reportedly existed in this range, the question of prescribing hire charges therefor did not arise. KPT has now admitted that it had wrongly reported the capacities of M.L. Surajbari and M.L. Sagarika which should, in fact, fall in the capacity range of 401-600 BHP. The proposal of the KPT is to rectify this error.
- (iii). Since the two crafts in the capacity range of 401-600 BHP are in use and no rate for them is available in the revised SOR, the KPT has relied on the pre-revised rate fixed for these two individuals launches. This approach is not found to be unreasonable given the circumstances faced by the Port. Strictly speaking, the rates notified by this Authority earlier for individual craft have been superceded with the notification of revised Scale of Rates prescribing hire charges based on the capacity range of floating crafts. In view of the circumstances explained earlier, the KPT has to apply the pre-revised rates till a revised rate for 401-600 BHP is prescribed by this Authority. The KPT has, therefore, sought approval in the form of ratification to the temporary arrangement introduced by it of charging ad hoc rates based on the pre-revised tariff for M.L. Surajbari and M.L. Sagarika. While the ad hoc rate adopted for M.L. Sagarika is based on the pre-revised rate earlier approved by this Authority, coastal vessel rate for M.L. Surajbari is not found to be in line with the approval of this Authority. While fixing the rate for M.L. Surajbari vide its Order dated 12 May 2000, this Authority prescribed that a rebate of 30% of the hire charges prescribed for foreign going vessels should be allowed to coastal vessels. The condition about allowing rebate for coastal vessels has been omitted by the KPT in the ad hoc arrangement adopted by it. Subject to a modification with respect to the coastal

vessel rates for M.L. Surajbari, this Authority ratifies the ad hoc rates for M.L. Surajbari and M.L. Sagarika adopted by the KPT.

- (iv). As has been correctly pointed out by the GCCI, the rate originally proposed by the KPT for 401-600 BHP is more than the rate prescribed for launches of capacity 'above 600 BHP'. Further, if M.L. Sagarika and M.L. Surajbari are to be excluded from some other slabs to be brought under 401-600 BHP, there can be a change in the rates for the other slabs also. The KPT was, therefore, advised to re-work out classification of launches in a rational manner and propose rates for different capacity ranges by taking the average. The KPT has submitted such a revised proposal in which it has rationalized the capacity ranges and clubbed all the tugs and launches together.
- (v). With reference to the existing Scale of Rates, the proposed re-classification will not have any repercussions in rates in the capacity range of upto '200 BHP', '201-400 BHP', '1501-2000 BHP' and 'above 2000 BHP'. Considering the capacity of individual craft furnished by the KPT and individual rates therefor prescribed earlier by this Authority, the average rate for tugs and launches in the re-classified capacity range of 401-1500 BHP comes to US\$ 121.67 and Rs 3110.44 instead of the rates proposed by the KPT of US\$ 126.09 and Rs 3815 respectively for foreign going vessels and coastal vessels. Since the principle of average rate is adopted for the re-classification of capacity groups, the KPT proposal is modified with reference to the rate proposed for 401-1500 BHP

7. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the following:

- (i). Levying hire charges for M.L. Surajbari and M.L. Sagarika based on the rates notified vide this Authority's Orders No. TAMP/2/98- KPT dated 12 May 2000 and TAMP/61/2000-KPT dated 14 February 2001 respectively from the date of implementation of the revised Scale of Rates approved vide Authority's Order dated 8 April 2002 till the date of notification of this Order in the Gazette of India, and;
- (ii). Substitution of Schedule 6 of Chapter-IV of the Scale of Rates of KPT by the following Schedule with prospective effect from the date of the notification of this Order in the Gazette of India:

"6. Schedule of charges for use of port floating craft

Sl. no.	Description	Unit	Rate	
			Coastal vessel (in Rs.)	Foreign-going vessel (in US\$)
A.	Crafts: Upto 200 BHP 201-400 BHP 401-1500 BHP 1501-2000 BHP above 2000 BHP	Per hour or part thereof	1024.00 3000.00 3110.44 10000.00 13500.00 (Subject to a minimum of Rs 40,500)	34.58 100.00 121.67 475.00 500.00 (Subject to a minimum of US\$ 1500)
B.	Fire fighting craft	Per block of 8 hour or part thereof	38680.00	1841.17
C.	Water Barge 'BHIMSEN'	Per hour or part thereof	3410.00	162.32

(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/64/2002-KPT - 1 the Kandla Port Trust regarding review of rates for its launches falling in the capacity range 401 – 600 BHP.

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

Shipping Corporation of India (SCI)

They have no objection to the proposal of the KPT.

Federation of Port Users & Customs House Agents' (FPUCHA)

- (i). It is not possible to ascertain the reasonability of the proposal submitted by the KPT as the method of arriving at the quantum of charges i.e. the cost factor information viz. the likely usage of the craft, expenditure incurred, running expenses etc., is not enclosed.
- (ii). No comments are offered in the absence of material information.

Gandhidham Chamber of Commerce & Industry

- (i). Revised SOR prescribes the rate for the launches of capacity 'above 600 BHP' is as Rs.2387.65 for coastal vessel and US\$ 90.80 for a foreign-going vessel. The rate now proposed by the KPT for the launches of capacity '401-600 BHP' is Rs. 3815 and US\$ 126.09 for a coastal vessel and a foreign-going vessel respectively, which is totally irrational, illogical and unacceptable. By any standards of judgment, the rate for a launch having capacity '401-600 BHP' can never be more than the rate for a launch of capacity 'above 600'.
- (ii). It is requested to reconsider the proposal thoroughly and prescribe the rate for the launches of 401-600 BHP reasonably lesser than the rate prescribed by the Authority for the launches of capacity 'above 600 BHP' in the revised SOR.

2. A joint hearing in this case was held on 10 June 2003 at the KPT premises in Gandhidham. At the joint hearing the following submissions were made:

Kandla Port Trust (KPT)

- (i). (a). We were following craft-wise rates prior to the last general revision.
- (i). (b). Now these rates are notified based on the capacity ranges.
- (ii). There was a wrong classification of 'Surajbari' and 'Sagarika' in our earlier proposal, hence this proposal.
- (iii). We admit that there will be change in other slabs. We will modify all the rates and submit a revised proposal.

Federation of Port User & Customs House Agents' Association (FPUCHAA)

- (i). We do not know the costing details of the proposal.
- (ii). TAMP may see whether the proposal is in line with TAMP's earlier Order of Feb 2001.

Kandla Port Steamship Agents' Association (KPSAA)

- (i). Revision, if any, should be prospective.
- (ii). We endorse the views of the FPU.
