

No. 65

New Delhi, the 13th March, 2001

Tariff Authority for Major Ports

No.TAMP/59/2000 - MBPT

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the representation submitted by M/s. Maldar Catamarans India Private Limited and M/s. Inter Harbour Catamarans Ferry Services relating to reduction of licence fee for water conveyance and passenger fees for hovercrafts and catamarans levied by the Mumbai Port Trust, as in the Order appended hereto.

(S. Sathyam)

Chairman

Case No.TAMP/59/2000 - MBPT

M/s. Maldar Catamarans India Private Limited

and

Applicants

M/s. Inter Harbour Catamarans Ferry Services

Vs

The Mumbai Port Trust (MBPT)

Respondent

ORDER

(Passed on this 14th day of February 2001)

This case relates to a joint representation submitted by M/s. Maldar Catamarans India Private Limited and M/s. Inter Harbour Catamarans Ferry Services requesting to reduce rates of licence fee for water conveyance, port dues and passenger fees for hovercrafts and catamarans levied by the Mumbai Port Trust.

2.1. The Applicants have given the following points in their joint representation:

(i). Though the tariffs for Passenger fee were revised downward in 1998, they are still on the higher side, and are illogical which is detriment to their efforts to provide modern cross harbour means of speedy transportation.

(ii). The reduction in the passenger fee was nullified due to a three fold increase in the Licence fee for Water Conveyance promulgated in December 1998.

(iii). For catamarans on the Gateway-Mandwa route, the levies are charged for 8 months fair weather season. The Hovercrafts on the other hand being all weather craft are charged fees for 12 months without giving any consideration to the fact that the operating jetty, viz., the Gateway of India is not usable during the monsoon period and, therefore, the levy for this period is unjustified.

(iv). The Mumbai Port is not providing any services other than giving permission to use the landing place at Gateway of India and permission for right of way through its water area for which the levies are very high.

(v). M/s. SKS super crafts, a hover craft operator, are paying additional money every month towards rent for the use of the facility of landing at Gateway of India, since a dedicated place is earmarked for them.

2.2. The Applicants have requested this Authority to consider one of the following:

(i). The passenger Fee exclusively charged to Hovercrafts and Catamarans be cancelled since they are already paying three times more on account of the Licence Fee for Water Conveyance.

(ii). Reduce the Passenger fees to a flat rate of Rs.2.50 for 30% capacity for 8 months for Hovercrafts and Catamarans.

(iii). Reduce the Licence Fee for Water Conveyance as applicable to other crafts, i.e., Rs.10/GRT/Month against Rs.30/GRT/Month.

3. Subsequently, M/s. Maldar Catamarans India Private Limited has sent a letter to the MBPT requesting them to consider the case so that, the above matter does not impede the renewal of their Passenger Boat Licence for the year 2000.

4.1. M/s. Gateway Elephanta Jal-Vahatuk Sahakari Sanstha Maryadit, while requesting to be impleaded as a party to these proceedings, have also given the following comments:

(i). Prior to 1991 the fee for issuance of licence for the passenger launch operating in Mumbai was Rs.82/- per annum. In addition, rental for the use of bunders was also required to be paid @ Rs.10/- per month subject to a maximum of 8 times if paid in lump-sum on annual basis. In 1991 both the levies were combined and a composite licence fee of Rs.10/- per GRT was introduced subject to a maximum of 8 months fee if paid in lump-sum on annual basis. In December 1998 a licence fee for water conveyance @ Rs.10/- per GRT was introduced by the MBPT with the approval of the TAMP.

(ii). The revised licence fee for water conveyance is payable for 12 months in a year. In addition it is required to pay a licence fee at the bunders @ Rs.10/- per GRT per month subject to maximum of 8 times of paid in lump-sum on annual basis, which is very high.

(iii). The MBPT also levies a hard charge fee of Rs.3/- per GRT per day for the duration of period when a boat is under repair in the MBPT area. It is difficult to understand why should the hard fee be charged when a licence fee at the bunders is collected for the entire year.

(iv). Even though the MBPT charged all the above fees, they are not providing any matching services. The condition of the hard in particular is so bad that Mercantile Marine Department's Surveyors have refused to visit the craft on the hard for the routine survey. The MBPT does not provide any facility by way of public utility like fresh water, toilet, common office or waiting room for the passengers either at the hard area or at the various landing places.

4.2. In view of above reasons, the Sanstha has requested this Authority to consider the following:

(i). Rationalisation of the various fees.

- (ii). Exploring the possibility of a single window for collection of levies.
- (iii). Reduction in the fees for issuance of licence as also Bunder charges.
- (iv). Improvement in the facilities being provided for the money charged.

5. A copy of the joint representation of M/s. Maldar Catamarans and Inter Harbour Catamarans was forwarded to the MBPT for its comments. The Comments received from the MBPT are summarised below:

(i). The modalities for operation of catamaran/hovercraft, speed boat etc. from Gateway of India were initially approved by the Board in October 1996. This included levy of passenger fee at Rs.5 per passenger in peak hours and Rs.2.5 per passenger in non-peak hours with charges worked out at 60% of the passenger capacity of the craft for the entire year. Subsequently, on receipt of a representation from the operators in May 1998, the Board modified the charges by considering 30% of the passenger capacity in respect of routes between Gateway and Mandwa and at 60% capacity in respect of other route and charges being paid for 8 months excluding monsoon season on the Mandwa route. The revised rate came into effect from 13.8.1998 after receipt of approval of the TAMP.

(ii). Compared to the fees collected by ordinary passenger launches, the charges levied by the operators of catamarans, hovercrafts, speed boats which cater to the higher income and middle income group of passenger are very high. A comparative position of charges payable to MBPT and fees collected by the operators shows that the fees collected by them are very high compared to the total payment made by them to the MBPT on account of Port dues (every 6 months), monthly licence fee under the Scale of rates charged at the bunders, licence fee for water conveyance and passenger fee.

(iii). A sizeable amount is spent by the MBPT for providing safe navigational aids as well as conservancy of the Port. Considering the number of times in a month the catamarans and speed boats are plying in the MBPT waters, the licence fees for water conveyance @ Rs.30 per GRT per month does not appear to be exorbitant.

(iv). Licence fees prescribed in Section I of the Scale of rates charged at the Bunders is a composite charge for various services provided at the Bunders to the craft. Earlier these charges were separately recovered as Ground Rent, Basin Rent and charges for supply of fresh water etc. With the simplification, now only a composite charge called 'Monthly Licence Fee' is levied.

(v). It is true that during the monsoon period Gateway of India jetty is not used; but, during that period the hovercraft service operates from New Ferry Wharf. As only the service to Mandwa is not operated during the monsoon period, concession in this route has already been given. Levy of Passenger fees for a 12 month period on the other routes is thus justified.

6.1. A joint hearing in this case was held on 15 September 2000 at the MBPT premises. At the joint hearing the following submissions were made:

S.K.S. Supercrafts

- (i). Rates are very high. Passenger fee is charged for no service or facility.
- (ii). The MBPT charges levy for 12 months. Our operating season is only 7¹/₂ - 8 months.

- (iii). 60% capacity utilisation is assumed. This is too high and unrealistic.
- (iv). Our viability is affected.
- (v). We should not be charge at all. We pay double levy. We pay to Maharashtra Maritime Board.
- (vi). Our business is capital intensive. We pay taxes which is too heavy a burden on us.
- (vii). We are a public utility. Therefore, totally exempt us.
- (viii). We get no facility. We have no pontoon. There are no fenders at landing jetty and, therefore, our crafts get damaged.
- (ix). We do not know how we can be classified as luxury crafts.

Maldar Catamarans India Private Limited

On an average passenger traffic carried amounts to 32% of carrying capacity. We carry only 18%. We are overburdened.

Mumbai Port Trust (MBPT)

- (i). The operation of the catamarans, hovercraft etc. is within our Port area and we have the jurisdiction which is governed by the MBPT Passenger Boat Rules.
- (ii). The JNPT came in later. They have a right of innocent passage to cross the JNPT channel.
- (iii). We have already made changes. We charge only for 8 months and also charge only for 30% of the capacity.
- (iv). They cater to higher income group. They can easily pay. The traffic figures are certified by the MMB. We charge only for traffic originating in our area and not for out going traffic.
- (v). Their problem was during 1996-98. Taking note of their problem, in 1998 we amended the rates. They want it to be retrospectively effective which is not possible.
- (vi). We will give a note about the history of this case within 2 weeks.

6.2. At the joint hearing, the following decisions were taken:

- (i). The MBPT will give a note about the history of this case.
- (ii). The MBPT will also send its representative to study the Catamaran – Hovercraft operation model at the Cochin Port Trust; and, recast its tariff arrangement thereafter, if necessary.
- (iii). The SCI will, on behalf of the petitioners, give the MBPT a list of points to be studied at the COPT. This will be in the nature of an ‘aide memoir’.

7.1. The Shipping Corporation of India (SCI) has submitted an 'aide memoir' to the MBPT to assist their committee which will study the charges levied to the crafts at the COPT.

7.2. The MBPT has submitted following further information as follow up action on the decision taken in the joint hearing:

- (i). A background note on charges / fees levied on catamarans and hovercrafts.
- (ii). The MBPT collected information from the COPT. Licence fee and inspection charges for passenger boats, are being collected by the COPT as detailed below:

(a).	Survey and measurement	-	Rs.240/-
(b).	Annual inspection	-	Rs.96/-
(c).	Registration	-	Rs.96/-
(d).	Issue or reissue of licence	-	Rs.96/-

(iii). Apart from the above mentioned charges, the craft plying in Cochin Port are required to pay berth hire charges for berthing at COPT jetties which is levied on a per-day basis. In MBPT charges on such crafts are on per-GRT per-month basis under the Bunder Scale of Rates and another charge also on per-GRT per-month basis for use of waterfront known as licence fees for water conveyance. At the COPT, there is no levy of passenger fee. As all types of charges taken together in the MBPT may not compare unfavorably with the licence fees charged every year, and berth hire charged on a daily basis at the COPT.

(iv). When compared with the per passenger fare collected by the operators, the passenger fees levied by the MBPT is meager. In view of this, the levy of passenger fee, monthly licence fee under the Bunder Scale of Rates, and licence fee for water conveyance prescribed in the Scale of Rates for Pilotage is justifiable. Though these levies generate very small revenue, the multiplicity is justified so as to make the operators aware about the different services being rendered by different departments to the crafts.

7.3. Subsequently, the MBPT has clarified that as per information received from the FA & CAO, (COPT) the licence fee required at the time of registration is Rs.432/- and renewal fee is Rs.288/- as against the rates informed earlier. At the COPT, the pilotage charge is also recovered whenever such services are hired. However, no pilotage services required for crafts plying at the MBPT.

8. With reference to the totality of information collected during the processing of this case, and taking into account the arguments advanced at the joint hearing, the following position emerges:

- (i). The representation is about the levy of passenger fee and licence fee for water conveyance charged on catamaran, hovercrafts, etc. in terms of the respective Scales of Rates of the MBPT.
- (ii). The issue relating to licence fee for water conveyance has been elaborately dealt with in this Authority's Order passed earlier today in Case No. TAMP/36/2000-MBPT relating to a representation filed by the Mumbai Ship to Shore Launch Operators (MSSLOA). In this case, this Authority has already decided to review the existing categorisation of floating craft and bunder charges at the time of the next general revision of the MBPT tariffs for Pilotage, Towage, Port Dues, etc. That being so, the representation about immediate reduction in the licence fee for catamarans and

hovercrafts cannot be considered since such a decision in an isolated case will have widespread repercussions.

- (iii). In the same case (i.e. representation made by the MSSLOA), it has also been decided that the MBPT cannot levy licence fee twice from the crafts – once under pilotage order and again as per the Bunder Scale of Rates. The Scales of Rates of the MBPT have been amended to this effect.

In view of this decision, the grievances aired by the Applicants and the Gateway Elephanta Jal-Vahatuk Sahakari Sanstha Maryadit about double levy of licence fee get automatically redressed.

- (iv). The Applicants have also pleaded for reduction in passenger fees by considering a 30% capacity of these crafts for 8 months of operation. In 1997, the MBPT proposed to levy passenger fees based on 60% capacity for 12 months of operation. Subsequently, the passenger fee was reduced in Gateway-Mandwa route by considering only 30% passenger capacity and operation during fair weather season. This reduction was, however, not extended to the crafts plying in other routes. While proposing reduction in the passenger fees in Gateway-Mandwa route, the MBPT had pointed out that the average occupancy of the craft in this sector was about 32% based on the traffic details ascertained by it from the records of the Govt. of Maharashtra. The MBPT did not find any such reduction in traffic in other routes. In support of their pleadings made now for fixing passenger fee considering a craft capacity of 30%, the Applicants have not produced any authentic information to show the actual capacity of passenger carried by their crafts. They have only requested to equate the craft capacity of all catamarans and hovercrafts irrespective of their operating route for the purpose of determining Passenger fees. This request does not, therefore, stand scrutiny.

The MBPT levies passenger fees on crafts plying in the Gateway-Mandwa route only for 8 months in a year. This is under the consideration that the Gateway wharf is not available for operation during the monsoon time. Hovercrafts operating in the other routes are all-weather crafts. The Applicants have argued that the fees are levied for 12 months without giving any consideration to the fact that the Gate of India-wharf is not usable during monsoon period. The MBPT has dismissed this argument by bringing out the correct position that during the monsoon time, the hovercraft services, except in the Gateway – Mandwa sector, operate from the New Ferry Wharf.

At the joint hearing, the MBPT has made it very clear that the levy of passenger fee is based on the traffic figures certified by the Maharashtra Maritime Board. The fee is charged by the MBPT only for traffic originating from Gateway of India and not for the traffic landing at Gateway of India. This is a reasonable arrangement.

In the light of the facts emerging as narrated above, there is no reason for reducing the existing passenger fee for routes other than Gateway-Mandwa, by considering a 30% craft capacity and to restrict such levy only to 8 months in a year.

- (v). The Gateway Elephanta Jal-Vahatuk Sahakari Sanstha Maryadit has also requested for improvement in the facilities available at the Bunder to make them commensurate with the fees charged. Similar complaints about lack of facilities at the Bunders were made by various user groups when this Authority considered the proposal of the MBPT for revision of its Bunder Scale of Rates. In its Order dated 19 July 2000 revising the Bunder Scale of Rates, this Authority had listed certain specific issues relating to the facilities at the Bunders and advised the MBPT to look into them. Subsequently, the MBPT has been requested to intimate the improvements made in Bunders. Response from the MBPT is, however, still awaited. In this context, the MBPT is required to look into this issue and act expeditiously.

- (vi). The MBPT was advised to study the COPT model with reference to the tariff structure relating to levy the fees on passenger boats, ferries, launches etc. The MBPT has, perhaps, misunderstood the purpose of this exercise and has gone ahead with comparing the various rates charged on passenger vessels at both the ports. The MBPT has also brought out that the COPT levies berth hire charges on daily basis on crafts plying in the Cochin Port when they are required to be berthed at the COPT jetties. The position reported by the MBPT is not correct and this may be due to the possible confusion between the passenger launches and ferries plying in the COPT waters and passenger vessels calling at the COPT.

The COPT levies one time registration fee and subsequently annual licence renewal fee on boats registered with it. The Port does not levy any berth hire or port dues on these passenger boats, which are engaged in Inter-Island transportation of passengers. Even though the Embarkation Jetty in the Willington Island has been constructed and maintained by the COPT, it does not levy any charge from the passenger boats for using this jetty.

It may be useful for the MBPT to adopt such a simple single tariff item to levy charges on passenger boats, catamarans, hovercrafts, etc. The MBPT's argument that the multiplicity of tariff is to make the operators aware of the different services being rendered by different Departments of the Port is totally unacceptable. As far as users of the Port facilities are concerned, they pay to the Port Trust and not to individual Departments of the Port. The MBPT is required to review the present arrangement of charging various floating craft, at the time of formulating its proposals for next revision of its Scale of Rates relating to Pilotage, Towage, etc., and to come up with a rationalised tariff structure in this regard.

13. In the result, and for the reasons give above, and based on a collective application of mind, this Authority rejects the joint representation made by M/s. Maldar Catamarans India Private Limited and M/s. Inter-Harbour Catamarans Ferry Services.

(S. Sathyam)

Chairman