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**Tariff Authority for Major Ports**

**No.TAMP/112/2000-CHPT**

**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 for fixation of hire charges for 4.8 tonne Linde make imported EFLT of Chennai Port Trust (CHPT), as in the Order appended hereto.

( **S. Sathyam** )

**Chairman**

**Case No.TAMP/112/2000-CHPT**

**The Chennai Port Trust (CHPT)**

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**Applicant**

**ORDER**

(Passed on this 14<sup>th</sup> day of February, 2001)

This case relates to a proposal received from the Chennai Port Trust (CHPT) for fixing hire charges for a 4.8 Tonne Linde make imported Electric Fork Lift Truck (EFLT).

2. In its proposal, the CHPT has stated that an EFLT of 4.8 tonne capacity has been purchased by it from M/s. Lansing Linde, United Kingdom and is exclusively used for destuffing / stuffing packages from / to the containers in addition to the use of delivery / receipt of packages. The CHPT has proposed the hire charges for this EFLT at Rs.4650/- per shift or part thereof. This hire charge has been worked by the Port considering the economic life of the equipment as 8 years and based on estimated operation & maintenance expenditure and utilisation.

3. Copies of the proposal were circulated to main users / representative bodies of port users for their comments. The comments received from them are summarised below:

**Chennai Port Stevedores Association (CPSA)**

(i). The hire charge for the EFLT was Rs.1365/- per shift earlier. The TAMP in its order dated 22 March 2000 increased the hire charges by 100%. Accordingly, the CHPT is presently charging Rs.2730/- per shift towards hire charges of EFLT / DFLT having capacity upto 5 Tonne.

(ii). Modern and new equipment are brought only to improve productivity; and, therefore, the present proposed revision of Rs.4650/- is not warranted especially when the last increase was effected only in May 2000.

(iii). Since the capacity of the newly procured EFLT is only 4.8 tonnes, the existing rate of Rs.2730/- may be allowed to continue without any change.

#### **The Madras Chamber of Commerce and Industry (MCCI)**

(i). As per the present Scale of Rates for Power Crane / Fork Lift Truck of 5 tonnes capacity, the rate is Rs.2730/- per shift. Therefore, the Port Trust proposal to charge Rs.4650/- is a very steep hike.

(ii). The Port Trust has also taken in its calculation of hire charges, the life of the equipment as only eight years.

(iii). Under the heading 'operations cost', the port trust has shown a figure of Rs.3,50,000/- . Surprisingly, exactly the same cost is also shown for maintenance. The maintenance cost particularly of materials during the warranty period must be replaced by the manufacturer and can not be passed on to the user.

(iv). A more objective analysis of the costs and life cycle of the vehicle will enable a more equitable rate per shift.

#### **The Shipping Corporation of India (SCI)**

(i). At present, in the Scale of Rates of the CHPT there is a rate for fork lift truck which is Rs.2730/- per shift with a minimum charge payable for half shift. Since a specific rate for the said service is already available, the same shall be made applicable to the new fork lift also. If the charge is to be revised whenever an existing equipment is replaced it will lead to instability of the Scale of Rates.

(ii). While the present tariff provides for hire charges for half a shift, the reason for charging full shift charges on this new EFLT even for a few hours usage has not been explained by the port.

(iii). The basis for levy of Rs.3,50,000/- each towards operation cost and maintenance cost is not given in the cost sheet which seems to be on the higher side.

(iv). Supervision charges are taken as 40% of the total operation cost and maintenance cost. Since the storage charges at 20% is already taken into consideration for the materials, the supervision charges should be 40% of the labour cost only under the heading "operation cost" and "maintenance cost".

(v). The cost sheet does not provide for scrap value of the equipment while calculating the depreciation. Since no scrap value is considered, depreciation should be in line with the general practice followed in industry. As per the Companies Act 1956, depreciation for the equipment under consideration is only 7.07% per annum and not 12.5% per annum as is being proposed.

(vi). The CHPT has assumed interest @ 18% per annum, which is not only high but also imaginary as currently the bank's maximum lending rate as per RBI guideline is 16.5% per annum on daily balances. However, for calculation purposes, we can take half-year rates. Accordingly, the equated interest per year will work out to 9% per annum.

(vii). The CHPT has estimated the fork lift truck to be operational for only 450 shifts in a year. Considering the demand for the equipment and the monopolistic situation inside the port, it is felt that 720 shifts can be considered as appropriate especially when the port trust wants to charge the full shift charge, even for an hour's usage. Except for the 6 closed holidays, the port trust will be

working for 359 days in a year; and, even assuming that one shift per day, on an average, will be required for maintenance / breakdown / repairs, etc., the fork lift can be used for 2 shifts a day which works out to 720 shifts annually.

(viii). A cost sheet worked out by the SCI after considering the above points shows the cost per shift as Rs.2000/-.

#### **The Hindustan Chamber of Commerce (HCC)**

(i). The supervision charge claimed is quite high and this does not form part of the services as the same is covered in the import application and wharfage paid for the cargo being handled.

(ii). The charges calculated are too high and the same shall be around Rs.2500/- to encourage better utilisation.

(iii). The utilisation of this EFLT can be much higher as on each working day LCL cargo is handled by the port trust. The rate can reasonably be fixed at Rs.2500/- per shift; and, the half shift option must also be available.

#### **The Chennai Custom House Agents Association (CCHAA)**

(i). The cost sheet indicates interest and return on capital amount to 18%. Since depreciation of the asset is also charged, the interest and return on capital can be limited to 10%.

(ii). The total number of working shifts per annum is taken as 450, which is too low. The same can be taken as 600 for a period of one year and if necessary can be re-worked later.

#### **The Container Shipping Lines Association (CSLA)**

They have no comments to make.

4. Based on a preliminary scrutiny, the CHPT was asked to give further information / clarification on the cost statement as well as its observations on the users' comments. The main points in reference arising out of the cost statement are briefly summarised hereunder:

- (i). The reasons for proposing hire charges on a 'per-shift' basis instead of a 'per-hour' basis.
- (ii). Past trends of availability and utilisation norm for similar capacity EFLT.
- (iii). Basis of determining the operation, maintenance, supervision and storage costs, and confirmation whether these are incremental costs.

5. The CHPT has replied to all the points raised by us. The Port has also furnished its observations on users' comments. The CHPT replies are briefly summarised below:

- (i). In line with the supply of gangs of the Dock Labour Board and the CHPT for handling of cargo on board vessels and wharf respectively, the EFLTs are supplied on a 'per-shift' basis. The hire charges are accordingly proposed on a shift basis.
- (ii). Availability and utilisation of EFLTs of similar capacity cannot be compared, as this EFLT is the first of its kind to be purchased. Since it is expected to work only for one shift / two shifts a day the calculation based on 450 working shifts per annum is in order.

- (iii). CHPT has furnished past trends of expenditure incurred on operation and maintenance, and also clarified that supervision and storage cost are not incremental cost.

6. In addition to this, the CHPT has furnished its observations on the comments made by different users, the salient points of which are given below:

- (i). The hire charges for newly acquired equipment will always be on the higher side, when compared with the rate for existing equipment, in view of higher capital cost.
- (ii). During general revision, the CHPT has proposed only a 100% increase in the rates for this activity even though the cost deficit was around 377%. If the CHPT had applied entire deficit to be covered by revised tariffs, the hire charges of old EFLT's would have been more or less equal to the hire charge now proposed for the new equipment.
- (iii). Normally, for equipment purchased within a short span only the same rates can be applied without any tariff increase.
- (iv). Supervision charges for EFLT is not covered in wharfage paid for cargo.

7. Subsequently, the CHPT revised the hire charges to Rs.4760/- per shift considering a return on capital employed (ROCE) @ 20%. Earlier, the CHPT worked out hire charges based on a ROCE of 18%.

8. A joint hearing in this case was held at the CHPT on 25 January 2001. At the joint hearing, the following submissions were made:

**The Chennai Port Trust (CHPT)**

- (i). CHPT wants to recover the heavy investment made in this Truck.
- (ii). The deficit at the time of general revision was more than 300% under craning & equipment hire activity. TAMP has allowed only a 100% increase. Hence, the existing charge of Rs.2730/- per shift was arrived at otherwise it will be over 4500/-
- (iii). For the life, manning, etc., we have strictly followed the Government guidelines.
- (iv). Downtime, etc., have also been taken into account while calculating the cost of per shift.
- (v). There is no compulsion on the users to use the new EFLT.
- (vi). Only expenditure on consumables has been taken into account. Therefore, 'warranty' has no implication.

**Chennai Port Stevedores Association (CPSA)**

- (i). We are happy with the old EFLT. Why a new EFLT is forced on us?
- (ii). If the rate of the new EFLT is higher than the old one, then we will not requisition for the new one. So, the new EFLT will remain idle.

**The Tamil Chamber of Commerce (TCC)**

- (i). Why has the new EFLT been purchased now when the container terminal is going to be privatised soon?
- (ii). If different EFLTS have different rates then the trade will have difficulty in recovering higher rates from the consignee.

**The Chennai Steamer Agents Association (CSAA)**

25% downtime estimated in the cost calculation is too high.

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

- (i). The CHPT Scale of Rates contains specific charges to be levied when cranes / fork lift trucks are hired out by the Port. The existing hire charges for fork lift trucks of 5 tonne capacity is Rs. 2730/- per shift with a minimum of Rs. 1365/- per half-shift. It is noteworthy that this rate has been approved by this Authority in April 2000.
- (ii). The CHPT's statement that this sub-activity was showing a revenue deficit of about 377% at the time of general revision but an increase in tariff of only 100% was allowed by this Authority is correct. But it gives a wrong impression that this Authority had allowed the Port to operate under a loss. Eventhough the rates under this activity have not been increased to the level as warranted by revenue deficit, this Authority had revised tariffs at the time of the last general revision which would have yielded a desired return on capital employed for the Port as a whole for the year 2000-01 and 2001-02 @ 20%. That being so, the deficit which continued even after the revision of rates under this sub-activity had been adjusted elsewhere by increase in other tariffs.
- (iii). The new EFLT procured, like the existing forklift trucks in its fleet, will also be hired out by the Port mainly for stuffing / destuffing of containers. The existing FLT's have rates for half shift also. In case of the new EFLT the Port has argued that it has prescribed only a full shift rate in line with supply of DLB and Port Trust labour gangs for handling of cargo. The analogy of supply of labour for on board and shore operations is not correct. The EFLT will be used for stuffing / destuffing of containers; and, the existing FLT's are hired out for half a shift also for similar purpose. In view of this position, it is reasonable to have a half shift rate for the new EFLT also. Irrespective of this, it must be recognised that prescription of hire charges on a per-hour basis will be more reasonable; the Port is, therefore, advised to examine this for adoption at the time of the next general revision of its tariffs.
- (iv). The arguments advanced by the port users for operating the new EFLT at the existing rate for FLT's of 5 tonne capacity have some force. The nature of service for which the EFLT is hired and its capacity are more or less similar to the existing FLT's. It is, therefore, reasonable to hire out the EFLT at the rates applicable to similar capacity FLT's. Even in the existing Scale of Rates, separate rates are not prescribed for individual FLT's. It is a common pool rate for the entire fleet of FLT's of 5 Tonne capacity.

The danger of underutilisation of the EFLT, if a higher rate is prescribed, has been clearly brought out by the Chennai Port Stevedores Association, whose members are the main users of the FLT's. Significantly, the Port has also mentioned during the joint hearing that there is no compulsion on the users to hire the EFLT.

The Port's argument about higher capital cost of the new equipment warranting a separate rate is valid. The Port must also realise that for similar services in the Port, the tariffs have to be similar. Only when the service rendered varies or a new facility is created at a huge cost, can there be a separate rate.

Non-recovery of capital cost on new equipment will only be a short term phenomenon confined only to the period between the date of procurement of equipment and the next general revision of tariffs following immediately after the procurement. In the next general revision of tariff, the cost of the new equipment gets automatically added to the capital base of the Port and accordingly return is allowed on the enhanced capital employed by the Port.

Similar logic is seen to be followed in other sectors of transportation. An Airline operator does not revise the airfare immediately after every addition of new aircraft to the fleet. Passenger fares and freight are not revised by the Railways after completion of each and every gauge conversion project or fleet augmentation / modernisation.

Even in case of Ports, berth hire or wharfage is not revised when a new berth is constructed and put into use or when a new crane is installed in the existing berth. Only when a dedicated facility created, a separate rate for that is specified in the interim period. Otherwise, in all cases narrated above, revision of tariffs takes place at the time of periodic general review. It is to be recognised that replacement and modernisation is a continuous process and such process should not be a reason to destabilise the Scale of Rates frequently, unless an exceptional circumstance emerges warranting an immediate prescription of revised / new rates.

- (v). In the light of the position discussed above, the new EFLT can be treated as a part of existing pool of FLT's and hire charges be levied by the Port accordingly at the existing rates.
- (vi). In view of the above decision, the costing details submitted by the CHPT are not scrutinised in depth as it will be an infructuous exercise.

10. In the result, and for the reasons given above, and based on a collective application of mind, this Authority rejects the proposal of the CHPT. The CHPT is directed to levy the existing hire charges for FLT's of 5 tonne capacity prescribed in its Scale of Rates, even in the case of the new EFLT in reference.

( **S. Sathyam** )

**Chairman**