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New Delhi, the 26 November, 2001

**TARIFF AUTHORITY FOR MAJOR PORTS**

**NOTIFICATION**

In exercise of the powers conferred by Section 49 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal of the Visakhapatnam Port Trust for fixation of hire charges for 15 tonne capacity electrical level luffing wharf crane as in the Order appended hereto.

( S. Sathyam )

Chairman

Tariff Authority for Major Ports

Case No.TAMP/53/2001-VPT

Visakhapatnam Port Trust (VPT)

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Applicant

**O R D E R**

(Passed on this 5th day of November 2001)

This case relates to a proposal received from the Visakhapatnam Port Trust (VPT) for fixation of hire charges for 15 tonne capacity electrical level luffing (ELL) wharf crane.

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

(i). 15 tonne capacity ELL wharf cranes were acquired and installed on the berths for the purposes of cargo handling operations.

(ii). The Berth hire charges approved by the Authority vide its Order dated 16 May 2001 relating to general revision of the Scale of Rates (SOR) of the VPT include the related crane hire charges also; but, not a separate hire charge for the crane.

(iii). These cranes are hired by users, for the purpose of taking delivery of the cargo, etc., against specific indents. In order to recover the hire charges as and when these cranes are hired for other purpose, separate hire charges are required to be fixed.

(iv). Presently a provisional rate of Rs. 2285/- per hour or part thereof, subject to a minimum of 2 hours, is being charged by the port.

2.2. While working out the hire charges, considering a 20 year life of the wharf crane, the VPT has reportedly taken into account return on investment @ 18% of the original capital cost, depreciation as per the approved rates; repairs and renewals @  $3\frac{1}{3}\%$  of the capital cost; staff charges; cost of power; lubricants and consumable; and, management and general administration overheads @ 20% of the expenses. The VPT has arrived at a charge of Rs. 2285/-

per hour or part thereof by considering an annual utilisation of 365 days and 3 shifts of 8 hours every day.

2.3. In this backdrop, the VPT initially requested to approve a hire charge of Rs. 2285/- per hour or part thereof subject to a minimum of 2 hours for the wharf crane; and, regularise the transactions already effected.

3. A copy of the proposal was forwarded to all concerned port users/ representative bodies of port users for comments. Comments have not been received from any of these user-organisations.

4. A joint hearing in this case was held on 23 July 2001 in Visakhapatnam. At the joint hearing, the following submissions were made:

Visakhapatnam Port Trust (VPT)

- (i). We need not have itemised overheads; we will have only an overall allocation.
- (ii). Power cost is considered as per the APSEB norms. If they have agents/subagents and insist on going through them, there will be incidentals.
- (iii). We will give the bases of percentages applied for various overheads.
- (iv). The Audit objects and asks for return on heavy investments; power from APSEB costs a lot; we need to focus on this.
- (v). We will try to rationalise; we will try to relate it to the rate for 10 tonne cranes.

Indian National Shipowners Association (INSA), Visagapatnam Chamber of Commerce and Industry (VCCI), Visakhapatnam Port Users Association (VPUA), Visakhapatnam Stevedores Association (VSA) and Visakhapatnam Steamship Agents Association (VSAA)

- (i). What was the revenue earned through 'crane hire' in the last 3 years? Revenue from crane hire is fractional; let us not waste too much of time on this.
- (ii). ROCE and tariff are two different things. For tariffs you take various other factors into account (what traffic can bear, equality of opportunity, etc.).
- (iii). We enter into long-term contracts; we have to estimate our costs. We do not know which crane will be given to us. If different rates are prescribed, it becomes difficult.

5.1. At the joint hearing it was decided that the VPT would furnish a note on the following points:

- (i). In the backdrop of itemized overhead charges, does the generalised Management and General Administration overhead @ 20% amount to double charging.
- (ii). The bases of the various percentage charges cited.
- (iii). The APSEB system of releasing power through Agents / sub-agents, to explain 'incidentals' on power cost.

(iv). Date of procurement of the ELL cranes.

(v). Feasibility of categorisation of cranes – e.g., heavy lift; lifts with capacity of 10 MT and above, etc. – for the purpose of prescribing pool rates.

5.2. The points made by the VPT in response are summarised hereunder:-

(i). The cost sheet has been recast as per the deliberation at the joint hearing and in accordance with the guidelines given by the (then) Ministry of Surface Transport vide its letter dated 28 October 1978. The relevant items of costs considered in the revised cost sheet are justified as indicated below:

(a). The percentages adopted for management & general administration overheads; and, workshop, stores, general services and other overheads in the operating cost was considered as per actual of 2000-01 as indicated below:

Sl. No.	Description	Actuals – 2000-01 (Rs. in crores)
1.	Total Operating cost	176.40
2.	Expenditure on Management & General administration	57.18
	LESS: Engineering & Workshop overheads	16.32
	LESS: Stroke keeping	3.27
	Total	37.59
3.	Percentage of MGA to operating cost (3/1)	21.31%
4.	Expenditure on workshop, stores, general services and other overheads	19.59
5.	Percentage of workshop, stores, general services and other overheads to operating cost (5/1)	11.11%

(b). Power is purchased directly from the Andhra Pradesh State Electricity Board (APSEB) and from M/s. Rain Calcining Ltd. and the cost statement indicating a power cost of an Rs.49.25 lakhs has been arrived at on the basis of average working load of 228 KW @ 4.80 per KW per hour for (250x18) 4500 hours. There are no incidentals on power cost in the APSEB tariff.

(c). Considering 250 work days a year and 3 shifts of 8 hours per day, the rate works out to Rs. 3116/- per hour. If the norm for equipment availability and utilisation is taken as a base (i.e. 85% of 365 days i.e. 310 days), then the rate works out to Rs. 2513 per hour.

(ii). The feasibility of arriving at a uniform rate for cranes irrespective of the capacity of the cranes is not found realistic since majority of the 10 tonne electric wharf cranes were procured in a phased manner; hence and the economic life as well as the operating cost of cranes having different capacities will also vary. As such, it is proposed to adopt a separate rate for 15 tonne wharf cranes.

5.3. On being enquired again, the VPT has responded by furnishing the requisite information relating to procurement/commissioning of cranes, and also stated that revision of the rate proposed is sought retrospectively from the date of raising of provisional bills.

6. With reference to the totality of information collected during the processing of this case, and based on a collective application of mind, the following position emerges:

(i). The VPT has added two 15 tonne capacity ELL wharfage cranes to its fleet of cargo handling equipment on 28 September 1998 and 28 October 1999 respectively. These cranes are installed on the berths. The existing berth hire charges include crane element also. The proposed hire charges for these cranes are applicable only when they are hired for those activities that are not included in the normal berth hire. It is relevant to mention here that a port can reasonably seek recovery of separate hire charges on cranes / cargo handling equipment, provision of which is not a pre-condition for levy of berth hire, wharfage, handling charge, etc. The existing scale of rates, however, does not prescribe a separate hire charge for these 15 tonne ELL cranes.

(ii). The VPT had fixed provisional hire charges and collecting them from the hirers since the date of commissioning of these cranes. It has to be recognised that the Port Trusts do not have any statutory power to prescribe (even) provisional rates for the services provided by them. The tariff setting arrangement envisaged in the MPT Act requires approval of this Authority to levy such charges for the services provided or use of the Port Trust's properties. That being so, the action of the VPT to prescribe provisional hire charges cannot be said to be legally correct and administratively appropriate.

(iii). As has been mentioned above, the VPT is collecting provisional hire charges since September 1998. Its proposal for general revision of Scale of Rates was decided by this Authority in May 2001. Strangely, the general revision proposal did not include hire charges in reference. None of the user-organisation consulted as a part of the proceeding relating to general revision of the VPT Scale of Rates had also pointed out this omission in the VPT's proposal.

(iv). This Authority had earlier advised some of the major ports to work out a 'pool rate' for equipment / floating craft on the basis of ranges of capacity rather than for individual equipment. In the instant case, the VPT has, however, explained that it is not realistic in its case to prescribe such 'pool rate' since a majority of the other wharf cranes were procured in a phased manner and the economic life as well as operating costs vary.

The existing Scale of Rates prescribes hire charges of electrical cranes (of different capacities) varying from Rs. 140/- per hour to Rs. 905/- per hour. In the case of the cranes in

reference, the electricity cost itself comes to around Rs. 820/- per hour. That being so, clubbing them with the existing cranes for the purpose of realising hire charges at the notified rate available in the Scale of Rates is not a reasonable arrangement. This differential in rates is still, however, remain unexplained. Even if the cranes are old, the operation cost will be more or less at a comparable level. This raises a doubt about the reasonableness of the existing rate for other electrical and mobile cranes insofar as their adequacy to cover the operational cost incurred by the Port. It will be useful for the VPT to review the existing equipment hire charges and come up with a suitable proposal for tariff adjustment, if necessary. While doing so, the VPT may consider proposing 'pool rates' with reference to different ranges of capacity.

(v). The VPT had initially worked out hire charges considering utilisation of these cranes on all 365 days in a year. Subsequently, it has modified its costing by considering utilisation of 250 days in a year based on the norm for berth occupancy. Considering the lay-up period required for any of this electro-mechanical equipment, 100% utilisation considered by the VPT earlier cannot be taken as a reasonable estimation.

The Port has indicated an annual utilisation of 6000 hours based on 250 working days with three shifts working in a day. The guidelines issued by the Government in 1982 stipulate an availability norm of around 88% for electrical wharf cranes having more than 10 tonne capacity assuming 352 days per annum. Considering a 3 shift working of the crane as reported by the VPT, the capacity available per annum thus comes to around 7430 hours. When compared with the utilisation reported by the VPT, the capacity utilisation of these cranes is around 81%. It is to be recognised that the maximum level of return on capital employed can be sought only when the assets are utilised nearly to their capacity levels. A port cannot seek to maximise return when capacity created is not fully utilised. Recognising this fact this Authority has already decided in cases relating to some other port trusts and private terminals to link return with capacity utilisation. In line with the general principle adopted by this Authority, the return on capital employed in the instant case can be allowed only to the extent of 81% of the maximum admissible level of 19.5%. Incidentally, the VPT has considered only 18% ROCE in its calculations. Nevertheless, the return on investment needs to be scaled down with reference to the capacity utilisation and the maximum return allowable.

(vi). The VPT has explained the bases for arriving at different overheads considered by it in the cost calculations. Likewise, it has also modified the electricity cost with reference to the current APSEB tariff. It has also confirmed that no incidentals on powers cost are incurred.

(vii). Recently, this Authority allowed a general revision of Scale of Rates of the VPT adopting 'cost plus' model of tariff setting. All overhead expenses have been duly accounted for in the pricing model adopted. Overhead expenses remaining constant for the port as whole for a given period, if they are allocated to these cranes in reference, then, to that extent there must be a reduction in some other activity. Since such reduction has not taken place elsewhere, inclusion of overheads is an excess allocation and double counting. That being so, overhead elements considered by the VPT in its calculation of hire charges are excluded.

It is noteworthy that a similar stand has been taken by this Authority while approving hire charges for a mobile crane at the New Mangalore Port Trust.

(viii). The VPT has estimated an expenditure of 3.33% of capital cost of the crane towards repairs and renewals, which appears to be somewhat on the higher side. Despite our request to justify the bases of various percentage charges cited, the information in this regard was not made available. Considering the fact that these cranes have been in operation since 1998, the information sought cannot be difficult to collect. Be that as it may, the estimate for repair and renewals furnished by the VPT is accepted without modification recognising the fact that there may be some incremental expenditure on supervision, record-keeping etc; and, no separate overhead element is allowed in the costing.

(ix). The VPT has not specifically included the insurance cost in its calculation for arriving at the proposed hire charges. It is advisable for the VPT to consider actual insurance cost of the equipment and claim damages and compensation only from the insurance company and not from the users. The VPT is advised to adopt this approach at the time of formulating its proposal for the next revision of this tariff item.

(x). Subject to the above, the calculation of the hire charges for the 15 tonne capacity ELL wharfage crane has been revised. The revised calculation sheet is annexed. The revised working indicates a hire charge of Rs. 2800/- per hour or part thereof, which is approved.

(xi). The VPT has proposed a minimum charge for 2 hours on every occasion of hire. The VPT has explained that a minimum charge for 2 hours is required for advance planning and movement of cranes. It is noteworthy that the existing conditionality in the Scale of Rates of the VPT relating to crane hire charges clearly indicates that the hire charges cover only the period of working of the cranes. That being so, it is reasonable for the Port to seek a minimum guarantee of at least 2 hours of usage considering the planning and mobilisation of the cranes to the work spot. It is relevant here to mention that the existing Scale of Rates of the VPT in respect of hire charges of equipment prescribes a minimum charge equivalent to hire charges for 2 hours. That being so, the minimum hire charge proposed by the VPT is found to be reasonable and approved.

(xii). As has been mentioned earlier, the VPT is levying provisional hire charges @ Rs.2285/- per hour since September 1998. The VPT has requested this Authority to approve the hire charges retrospectively to regularise the transaction already completed.

It is to be recognised that the hire charges now approved by this Authority are based on current cost details. If the same rate is to be applied retrospectively, it becomes necessary to adjust it with reference to the cost position available in 1998. Since this has not been done, there appears no justification to extend the rate of Rs.2800/- per hour retrospectively from September 1998. In any case, the provisional rate fixed by the port is less than the rate approved by this Authority. That being so, this Authority approves the rate of Rs.2285/- per hour or part thereof retrospectively from September 1998 only for the purpose of regularising the transactions that had already taken place and the modified hire charges of Rs.2800/- per hour or part thereof for prospective application.

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

(i). Hire charge of Rs.2285/- per hour or part thereof subject to a minimum charge of Rs.4570/- for 15 tonne capacity ELL wharf crane with retrospective effect from September 1998 till expiry of 15 days from the date of notification of this Order in the Gazette of India.

(ii). Hire charge of Rs.2800/- per hour or part thereof subject to a minimum charge of Rs.5600/- for hire of 15 tonne capacity ELL crane with effect from 15 days after the date of notification of this Order in the Gazette of India.

7.2. The VPT is directed to amend its Scale of Rates accordingly.

( S. Sathyam )

Chairman

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