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TARIFF AUTHORITY FOR MAJOR PORTS

G. No. 173 **New Delhi,** **28 April 2017**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Mumbai Port Trust (MBPT) for renewal/ issue of dry dock license (DDL)/ Wet Dock Permission (WDP) to carry out Ship repairs on board vessels in Mumbai Port Trust Docks, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/7/2017-MBPT

The Mumbai Port Trust - - - Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Rajat Sachar, Member (Economic)

O R D E R

(Passed on this 29th day of March 2017)

This case relates to a proposal received from Mumbai Port Trust (MBPT) for renewal/ issue of dry dock license (DDL)/ Wet Dock Permission (WDP) to carry out Ship repairs on board vessels in Mumbai Port Trust Docks.

2. The MBPT in the proceedings relating to its General revision of its Scale of Rates which culminated into tariff Order No.TAMP/23/2013-MBPT dated 2 January 2015 had proposed licence fees for renewal / issue of dry dock permission for carrying out ship repair job on board vessels. Though the port had furnished workings in support of the rate of ₹ 36800/- for issue of new/ renewal of Annual Dry Dock Licence, no basis had been furnished to arrive at the rate of ₹ 1050/- per application form and no workings had been furnished to arrive at the rate of ₹18400/- for issue of Annual Specialised Job Category I registration and ₹ 3700/- per job per year for issue of Annual Specialised Job category II. In the absence of requisite details and workings the proposed charges for application form, job category I and II were not approved. Further, since approval to the rate of ₹36,800/- for issue of new / renewal of Annual Dry Dock licence alone, may not serve any purpose to MBPT, as they all form part of same tariff category, the proposed provision in totality was not approved. The port was advised to file a separate proposal in this regard, supported by cost details for all tariff items.

3.1. The existing Scale of Rates of MBPT do not prescribe any Licence fees for renewal/ issue of dry dock/ permission for carrying out ship repair specialized job on board vessels. The port has, however, been levying these charges since 2005. Based on the advice of this Authority in 2015, the MBPT has now come up with a proposal for fixation of Licence Fees for renewal / issue of dry dock license (DDL) / Wet Dock Permission (WDP) to carry out Ship repairs on board vessels in MBPT Docks and cost of Booklet.

3.2. The submissions made by MBPT proposal dated 12 January 2017 are summarised below:

(i). The initial cost of the booklet of ₹500/- was fixed on the basis of cost of booklet of Mazgaon Dock Ltd. in the year 2003-04. Later it was increased to ₹600/- in the year 2006-07 and ₹1000/- in 2009-10 and the cost of booklet was fixed to ₹1050/- on the introduction VAT. The fee was last revised in 2006-07.

(ii). The proposal, which was forwarded to TAMP earlier to increase the fees of Dry Dock Licence / Wet Dock Permission by 306% was calculated on the average one day wages shown in the Administrative Report 2011-12.

(iii). However, taking into account all the realistic facts for issue/ renew the Dry Dock License/ Wet Dock Permission, and the manpower requirement, a new proposal is prepared, based on the average one day wages shown in the Administrative Report, 2015-16, which is increased by 63.33% from the existing fees.

(iv). The statement showing the base of calculation of Dry license fee/ wet dock permission fee and levy on renewal of license/ permission is shown below:

Class & No. of employees involved in the	No of days per employee	Total No. of working days	Rate/ Day (based on 2015-16 MBPT Adm. Report)	Total in Rupees

processing and duties	consumed in checking the case	consumed for each case	(₹ in lakh/day)	
Cl.IV-1 No. (office boy-for office assistance)	¼ day for each case	¼ day	C1.VI. 5.62/365 = ₹1540/- per day	385/-
Cl.III-1 No. (office Asstt.-for compiling the files)	3 days for each case	3 days	C1.III. 7.35/365 = ₹2014/- per day	6042/-
Cl.III-1 No. (Typist for preparation of statements)	1 day for each case	1 day	C1.III. 7.35/365 = ₹2014/- per day	N.A.
Cl.I-3 Nos. officers. (Committee members for verification visits and checking all documents / recommending)	1 day for each case	3 days	C1.I. 11.43/365 = ₹3132/- per day	9396/-
Cl.I-1 No. (Dy. CME-for reviewing and recommending)	One sixth day	One sixth day	-- do --	522/-
Cl.I-1 No. (CME - for Admin approval on consolidated note)	One eight day	One eight day	-- do --	392/-
Provision for verification site visits @₹700/- for each committee member for each case)	----	----	----	2100/-
Provision for Stationery /computer related stationery / cyclostyling etc. @ ₹700 for each case.	----	----	----	700/-
			Total	19537/-
			Say	**19600/-**

The validity of license fees has expired on 31 March 2016 and process for the renewal licence has to be started in the month of January 2017.

(v). Based on the above submissions, the MBPT has sought the approval for the following:

(a). To consider the fees for issue of Dry Dock license / wet dock permission as given below:

Proposed Dry Dock License Fees / Activity fees

Dry Dock License Fees ₹19600/- (increased by 63.33%)	**Activity Fees**	
	Per Dry Dock Activity	Per Dry Dock Activity
	₹9800/- (50% of License Fees)	₹1960/- say ₹2000/- (10% of License Fees)

(b). To keep the same cost of Booklet i.e. of ₹1000/- + VAT, being the booklet will be directly downloaded by the firms / contractor from MBPT website.

3.3. Subsequently, the MBPT vide its letter No. MEED/L/1-D/5672 dated 13 January 2017 has made the following submissions:

(i). The validity of the DDL/ WDP, issued in 2016-17 is upto 31 March 2017. The process for inviting application to issue/ renew the DDL/ WDP has to be initiated in the month of January 2017.

(ii). It is proposed to apply the proposed new rates for the year 2017-18 and intimate to the firms as under:

"Annual Licence fee and Activity fee for the year 2016-17 are under revision and consideration by TAMP and will be levied for the year 2017-18. On approval, if the amount is less, then collected excess amount will be refunded and vice – versa.**"**

4. In accordance with the consultative procedure prescribed, a copy each of the MBPT letters dated 12 January 2017 and 13 January 2017 was circulated to all the concerned users/ user organisations seeking their comments. None of the users / user organisations have furnished any comments till the case was finalised.

5.1. The MBPT was requested vide our letter dated 24 January 2017 to furnish some clarification. The MBPT has responded vide its letter dated 03 February 2017. The information sought by us and the response of MBPT thereon are tabulated below:

No.	Information/ clarification sought by us	Response of MBPT
(i).	The MBPT to indicate any other major users/ user organisations who may be consulted in this case, in addition to the users/ user organisations consulted by TAMP.	The list of firms / contractors, who are in ship repair activity and wish to provide their repair service to the owner / agent of the vessel, who have been allotted MBPT dry / wet docks for survey / repair of their vessels and who may register their firm with MBPT as a ship repairer in the year 2016-17 is furnished. (The MBPT has given the contact details in respect of 89 firms who have been issued dry dock licence in the year 2016-17.)
(ii).	The MBPT vide its letter dated 13 January 2017 has sought approval for levy of the proposed rates on adhoc basis, so as to enable it apply the proposed new rates for the year 2017-18. In this regard, as stipulated in Clause 5.7.4 of the Tariff Policy, 2015, the adhoc rate to be operated must be in consultation with the concerned user(s). The MBPT has not furnished any document which reflects the consultation process undertaken by it.	A meeting has been arranged on 07.02.2017 with the existing registered firms / contractor to discuss on the revised rate of dry dock license/ permission.
(iii).	The MBPT to furnish the draft Scale of Rates and the conditionalities governing the proposed levy, for incorporation in the MBPT Scale of Rates.	The draft Scale of Rates has already been furnished with the proposal and the same charges has to be incorporated in the MBPT Scale of Rates for transparency and for information of the users / prospective licensee.
(iv)	There appears to be an anomaly in the proposed rates as the activity fees per dry dock activity is seen to have been prescribed at ₹9800/- and also ₹2000/-. Please clarify this position.	There are two type of jobs (A&B). The jobs come under 'A' category are called dry dock activity, which are carried out only in dry dock such as repairs to underwater portion of the vessel. These jobs are major work. The firms / contractors engage to carry out these jobs which are larger in nature by quantity as well as finance. The previous fee for the same was ₹6000/- which is now proposed as ₹9800/-.

		The jobs come under 'B' category is called wet dock activity. Such type of jobs can be carried out in floating condition. The previous fee for the same was ₹1200/- which is now proposed as ₹2000/-
(v)	The MBPT is requested to furnish the basis for fee for verification site visits of 3 members @ ₹700/- per member and ₹700/- towards stationery for each case.	The Technical Inspection Committee of 03 members visit the site (office / workshop / godown) of the firms / contractors to verify the information given by the firms for registration i.e. office premises / workshop / machineries and verify the documents furnished by the firms. The same has not been increased since 2005. Regarding the stationery charges it is stated than an advertise, to invite the application for issue / renewal of licence / permission is published in the newspapers and as well as post on MBPT website. An intimation letter was also issued to the existing register firms to renew their licence / permission if they desire to do so. After verifying all documents, the firms are issued licence / permission, if found suitable. The fee of the same has not been increased.

5.2. Given that it may be very extensive exercise to consult all the 89 firms as per the list furnished by MBPT, the MBPT was requested vide our letter dated 13 February 2017 to examine whether these firms form part of any association, and furnish the contact details of the said association so as to enable us consult the said association. The MBPT was also requested to furnish the contact details of major users of the facility, if they are not part of any user associations.

5.3. Further, since the MBPT had indicated about having arranged a meeting with the existing registered firms / contractor to discuss on the revised rate of dry dock license/ permission, the MBPT was requested vide our above referred letter dated 13 February 2017 to furnish the list of participants and the Minutes of the said meeting.

5.4. The MBPT has responded vide its letters dated 13 February 2017 and 16 February 2017. The MBPT has stated the following:

(i). There is no association of the Dry Dock License/ Wet Dock Permission holders as per our records.

(ii). The MBPT had fixed a meeting with existing registered firms/ contractors on 07 February 2017 to discuss on the revised rate. Out of 147 Nos. firms/ contractors, only 57 Nos. attended the meeting. The firms/ contractors were requested to send their comments/ concurrence. Only Nine firms have sent their feedback. Out of these, only 08 firms have given concurrence and the remaining 1 firm has not concurred with the proposed revision of licence fee.

(The MBPT has furnished a copy of the Attendance list reflecting the firms who attended the meeting held on 07.02.2017 and has also furnished the copies of the e-mails of 9 parties who have given their feedback.)

5.5. As requested by us, though the MBPT has confirmed that there is no association of the Dry Dock License/ Wet Dock Permission holders, the MBPT has not furnished the contact details of major users of the facility, as sought by us. Thus, we have vide our letter dated 07 March 2017 once again requested MBPT to furnish the contact details of major users of the facility. The MBPT has not responded till finalization of this case.

6. A joint hearing on the case in reference was held on 14 March 2017 at the Office of this Authority. At the joint hearing, the users/ user organisations and the MBPT have made their submissions:

7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the 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 totality of information collected during the processing of this case, the following points emerges:

(i). The existing Scale of Rates of Mumbai Port Trust (MBPT) does not prescribe any Licence fees for renewal/ issue of dry dock/ permission for carrying out ship repair specialized job on board vessels. In view of this position, the MBPT has come up with a proposal in January 2017 for fixation of Licence Fees for renewal/ issue of dry dock license (DDL)/ Wet Dock Permission (WDP) to carry out Ship repairs on board vessels in MBPT Docks. The intention of issue of licence by MBPT is reported to authorize a party to undertake dry docking or wet docking at the port premises and that any unsolicited party does not enter the port premises. The Port has also stated that it does not interfere in the day to day activities carried out by the parties.

(ii). Though the existing Scale of Rates of MBPT does not have a specific provision for levy of Licence fees for renewal/ issue of dry dock/ permission for carrying out ship repair, it is inferred from the submissions made by the Port that the Port has been levying some Licence fees in this regard since 2005. The authority under which the Port has been levying these charges without the approval of this Authority is not known. The MBPT is advised to refrain from levying any charges without the specific approval of this Authority. Nevertheless, given that the proposal of the Port is for prescription of the Licence fees for a future period with effect from 01 April 2017, the proposal is taken up for disposal.

(iii). The MBPT has proposed the annual Dry Dock License Fees at ₹19600/-, the activity Fees for per Dry Dock Activity at ₹9800/- and activity fees for per Wet Dock Activity at ₹2000/-. The Port has also proposed the cost of Booklet at ₹1000/- + VAT. The cost components in respect of the proposed rates are discussed in the succeeding paragraphs.

(iv). The annual licence fees of ₹19600/- has been proposed by the MBPT by taking into account the cost involved in deployment of various category of manpower and the time that will be devoted by each manpower to process a licence, as given in detail by the port as well as the cost of stationery, which has been brought out in the earlier part of the Order.

The requirement of number of various type of manpower is the judgment of the Port and this Authority does not like to delve deep in the manpower requirement as proposed by the Port. The cost of each type of manpower is reported to be based on the actuals for the year 2015-16 and hence, is relied upon.

The stationery cost is reported to include the cost towards publishing of advertisement inviting the application for issue/ renewal of licence/ permission in the newspapers, computer related stationery, cyclostyling. The judgment of the port with regard to estimation of cost in this regard is relied upon.

Based on the working furnished by the MBPT, the rate of ₹19600/- towards annual Dry Dock License Fees as proposed by the Port is approved.

(v). The activity Fees for per Dry Dock Activity at ₹9800/- has been proposed by the Port at 50% of the annual Dry Dock License Fees of ₹19600/-. The activity Fees for per Wet Dock Activity at ₹ 2000/- has been proposed by the Port at about 10% of the annual Dry Dock License Fees at ₹19600/- and rounded off to ₹2000/-. Though the Port has not explained the reason for prescribing activity Fees for per Dry Dock and Wet dock Activity at 50% and 10% of the annual Dry Dock License Fees

respectively, it is seen that the existing activity fees being levied by the MBPT also follow the same pattern. In other words, the existing activity Fees for per Dry Dock and Wet dock Activity have been prescribed at 50% (₹6000/-) and 10% (₹1200/-) of the annual Dry Dock License Fees (₹12000/-) respectively. In view of this position and considering that the users/ user organisations present in the joint hearing have not objected to the rates proposed by the Port, the activity Fees for per Dry Dock Activity at ₹9800/- and the activity Fees for per Wet Dock Activity at ₹2000/- as proposed by the MBPT are approved.

(vi). The cost for the booklet at ₹1000/- plus VAT is reported to be the rate prevailing since 2006-07. The same is allowed to continue with effect from 01 April 2017, given that the users/ user organisations have not objected to the rate proposed by MBPT.

(vii). Considering that the MBPT has proposed for the rates to come into effect from 01 April 2017 and given that none of the users/ user organisations have objected to the levy of the rates approved now with effect from 01 April 2017, this Authority is inclined to approve levy of the rates approved now with effect from 01 April 2017.

(viii). The approval accorded by this Authority for the levy of charges would involve some financial implication, as MBPT may earn additional revenue on account of levy of the charges. The MBPT has quantified the income to be earned by it on account of the proposed levy to be around ₹30 lakhs per annum. Since the said additional income estimated to be earned by MBPT from the proposed rate had not been anticipated and factored while deciding the general revision proposal of MBPT disposed in 2016, there may be a view that some other rate should be adjusted to maintain revenue neutral position.

In this regard, it is relevant here to mention that the question of ensuring a revenue neutral position arises when a port has already been given tariff whatever is due to it, based on the estimated cost position and thereafter it is to be again granted a new tariff. However, in the case of MBPT, it is relevant to recall that in the Order relating to the MBPT general revision case disposed in June 2016, as against the Ceiling Indexed Annual Revenue Requirement (ARR) of ₹1572.19 crores, the Revenue Estimation at the proposed level of tariff as worked out by MBPT was only ₹1306.64 crores, thereby leaving a revenue gap of ₹265.55 crores left uncovered by the Port. So even with the income to the tune of ₹30 lakhs from the levy of the proposed charges, the gap will continue to remain. Therefore, the question of adjustment in some other rate to maintain revenue neutral position does not arise.

9.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves insertion of the following provision as Section 9.6 in the existing Scale of Rates of MBPT:

(a). Fees for issue of Dry Dock license / wet dock permission

Annual Dry Dock License Fees ₹19600/-	**Activity Fees**	
	Per Dry Dock Activity	Per Wet Dock Activity
	₹9800/-	₹2000/-

(b). Cost of Booklet i.e. of ₹1000/- + VAT.

9.2. The levy of the above rates approved now will be effective from 01 April 2017 and may remain co-terminus with the validity of the existing Scale of Rates of MBPT i.e. upto 31 March 2019. The approval accorded shall automatically lapse unless specifically extended by this Authority.

(T.S. Balasubramanian)
Member (Finance)

SUMMARY OF THE ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F. No.TAMP/7/2017- MBPT - Proposal received from Mumbai Port Trust (MBPT) for renewal/ issue of dry dock license (DDL)/ Wet Dock Permission (WDP) to carry out Ship repairs on board vessels in Mumbai Port Trust Docks.

A joint hearing on the case in reference was held on 14 March 2017 at the Office of this Authority. At the joint hearing, the users/ user organisations and the MBPT have made their submissions:

Mumbai Port Trust (MBPT)

(i). Briefly explains the proposal.

(ii). The issue of licence is just to permit a party to undertake dry docking or wet docking at the port premises. The licensed parties undertake repairs of private vessels viz. electrical repairs, hull repairs etc. Port does not interfere in the day to day activities of the parties.

(iii). The licence fee is charged to ensure that any unsolicited party does not enter the port premises.

(iv). The existing licence fee has been in force since 2005. The existing annual licence fee is ₹12000/-, Dry Dock licence fee is ₹6000/- and wet dock licence fee is ₹1200/- The same is now proposed to be increased to ₹19600/-, ₹9800/- and ₹2000/- respectively.

(v). We had a meeting with all the relevant parties. About 56 people had attended the meeting. Out of them, 8-10 parties have agreed to the proposed licence fees.

(TAMP: What is the existing annual revenue arising out of the licence fees?)

(vi). The annual income is roughly about ₹29 lakhs - ₹30 lakhs per annum.

(vii). We request TAMP to approve the licence fees at the earliest, as we intend to apply the proposed licence fees since 01 April 2017.

Indian National Shipowners Association (INSA)

(i). We have no comments to offer.

Vanhood Dredging Co.

(i). We have no comments to offer.

(ii). Even otherwise, 50% increase in licence fees after a span of 12 years is negligible.