

# Exploring New Avenues of Revenue Augmentation

## (Stevedoring & Shore Handling Services in Ports)

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Every organisation, which is conscious of its financial prospects, remains forever on the lookout to explore new sources of revenue augmentation. Exploring new markets, re-engineering an existing business process, utilisation of material inventory and at times, re-deployment of personnel can be a new area for such revenue augmentation exercise. Take, for instance, the re-pricing of meals at Canteens in Haldia Dock Complex (HDC), commensurate with the factor inputs, which is reported to have yielded extra revenue to the tune of certain Crores of rupees. Take another example of resorting to contracts for mechanised cargo handling at various Berths, through competitive bidding exercise, which is already known to have tremendous potential for revenue augmentation, the benefit of which has become evident in the recent past, especially in Container handling activities in KDS as well as HDC. It is in the context of exploring new avenues of revenue augmentation that pricing of various types of services availed by Port Users, within Port premises, such as stevedoring and shore handling, assume greater importance, in the backdrop of anticipated implementation of the new Stevedoring & Shore Handling Policy, 2016.

### **1.0 The Regulatory Framework for Stevedoring and Shore Handling:**

A Stevedore typically undertakes loading and unloading of cargo from the ship. A Handling Agent engages in shifting of cargo on shore/wharf, transporting cargo within Port area to storage sheds/plots, etc. The main regulatory plank for Maritime and Port activities in India is the **Major Port Trust Act, 1963. Section 42** of this Act is about "**Performance of services by Board or other person**". As provided under **Sub-section 1** of this Section, services like "*landing, shipping or transshipping passengers and goods between vessels in the port and the wharves, piers, quays or docks belonging to or in the possession of the Board; receiving, removing, shifting, transporting, storing or delivering goods brought within the Board's premises*" come within the powers of the Board of Trustees of a Port.

**Sub-section 3** of this Section states that

*"...the Board may, with the **previous sanction of the Central Government**, authorize any person to perform any of the services mentioned in Sub-section (1) **on such terms and conditions** as may be agreed upon."*

The simple meaning from the above is that the Board of Trustees of a Port can undertake stevedoring and shore handling activities, either by themselves or can assign it to a third party. However, such authorization to Agents should be done with "prior permission" of Central Government.

But, what is important to emphasize here is that while assigning such work to a third party, power is vested with Board to frame their own “terms and conditions” to govern the modalities of outsourcing such functions. Because of existence of these very words in Section 42(3), such “terms and conditions” would not precluded creating a “condition” seeking sharing of revenue realized by such Agents/third parties (from Importers/Exporters/Port Users, etc.) with the Port.

- 1.1 **The prior attempts to regulate Stevedoring Service:** There is another Section of the MPT Act which is also of relevance to the above narrated issues. It is **Section 123**, dealing with the subject of “**General Power of Board to make Regulation**”, which empowers the Board of Trustees to make Regulation in regard to

*“reception, portorage, storage and removal of goods brought within the premises for the safe, efficient and convenient use, management and control of the docks, wharves, quays, jetties, railways, tramways, buildings and other works constructed or acquired by, vested in, the Board.”*

Using the power of this Section, various Ports enacted Regulations for Stevedoring and Handling Agents. Such Regulation for Kolkata Port Trust was effected through the “**Calcutta Port Trust (Licensing of Stevedores) Regulation, 1987**”. **Section 3 of this Regulation dealt with the subject of “issue of Stevedoring License” and empowered Chairman to issue Stevedoring License** for a period of 2 (two) years, on application, to persons for acting as Stevedoring Agent at the Port. The licensing fee for Stevedoring, as per the said Regulation, is Rs. 4,500/-, with an additional Rs. 5000/- as Earnest Money, to be refunded if license ceases to operate. However, this Regulation of 1987 **neither stipulated any “condition” for revenue-sharing between Port and such Agents (by way of Royalty or otherwise) nor did it speak about subjecting such Agents to any ceiling rate (to be charged to Importers/Exporters) for services to be performed by them.** In other words, these Agents had full freedom to decide rates for any service to the Importers/Exporters and were not bound to disclose such rates to Port Authorities.

- 1.2 **The Legal basis of Ceiling Rate/SoR for Authorized Agents:** A question that arises here is whenever a Port decides to outsource such activities, i.e., Stevedoring/Shore Handling to a third party/Agent, under the ambit of Section 42(1), what charges are to be allowed to be levied on the end-users (like Importers/Exporters) by such Authorized Agents? Can they be allowed to decide any amount they wish to levy for such services or there should be an upper limit? **This is answered by Section 48 (1) of the MPT Act, 1963**, which says the following:

*The **Authority** shall from time to time, by notification in the Official Gazette, frame a **Scale of Rates** at which and a statement of conditions under which any of the services specified hereunder shall be performed by a Board or any other person authorised under Section 42 at or in relation to the port or port approaches.*

The above Sub-section was substituted by Port Laws (Amdt.) Act, 1997, with effect from 09.01.1997. The word "Authority", in the above Sub-section, means **TAMP (Tariff Authority for Major Ports)**. TAMP was constituted in April 1997 to provide for an independent Authority to regulate all tariffs, both vessel related and cargo related, and rates for lease of properties in respect of Major Port Trusts and the Private Operators located therein. An important word in this Sub-section is "a scale of rate", which means that the said Regulatory Authority was supposed to fix separate "Scales" of "Rates" for Ports as well as for those entities authorized by Ports to perform such Stevedoring and Shore Handling services. **Unfortunately, no separate "Scale of Rates", as envisaged in the above Sub-section, was created for such Stevedoring and Handling Agents by TAMP till 2016 (when a new Stevedoring Policy was formulated by Ministry)** although such "scale of rates" were being regularly made since the year 2000 for Private BoT Operators who were handed over Berths, through competitive PPP tendering routes, after TAMP came into effect. Not only are these Operators subjected to ceiling rates specified in their respective SoR (Scale of Rates), but they are also required to share a tender-determined portion of revenue earned from Port Users.

The above situation was not unique to Kolkata Port Trust, but identical to all the Major Port Trusts. As such, Stevedoring and Handling Agents continued to operate within the Ports, against payment of a paltry amount towards License Fees, and in turn, handling millions of tonnes of cargo and earning huge revenue, without having to share any revenue or Royalty with the concerned Port. In fact, the Ports had no mechanism in place to ascertain even the amount being charged by Stevedoring and Handling Agents from the Exporters/Importers for rendering Stevedoring and Handling services. Thus, there existed no official information as to whether the pricing by these Agents were actually optimal from the point of view of Importers/Exporters, who are the ultimate stakeholders and towards whose benefit & convenience the Port is expected to be attuned to.

The above state of affairs continued for a prolonged period of time [since 1964 (when MPT Act was given effect) till 2016] due to a policy vacuum in an area where considerable scope for revenue augmentation exists. However, the issue of revenue sharing/Royalty upon the numerous Stevedoring Agents/Handling Agents continued to garner serious attention by policy makers over time. In fact, not only the Ports, but even the Ministry and IPA had been engaged with this matter for quite some time. Meanwhile, some Ports had experimented with various models of revenue sharing/Royalty.

## 2.0 Latest policy change in 2016 and introduction of Royalty Scheme:

The policy vacuum in the arena of Stevedoring and Handling Agencies was finally addressed, in a centralized manner, when **Ministry of Shipping** notified on their Website the new **"Stevedoring and Shore Handling Policy"** in **June 2016**. This Policy document provides for not only levying **Royalty** (per MT of cargo serviced) but also fixing a **ceiling tariff** for various Stevedoring and Shore Handling services (above which the Licensed Agents are not permitted to charge users). In addition, the Policy lays down provisions to stipulate **performance norms** (the level of cargo handling output to be achieved by such Agents). Pursuant to the above Policy document, KoPT prepared their own Stevedoring and Shore Handling Regulation, got it approved by Board, notified in the local Gazette and lastly forwarded it to the Ministry for Notification in the Gazette of India. The last leg of the activities prior to actual implementation of this policy, i.e., approval of Central Government and publication in Gazette of India, is currently awaited. Similarly, KoPT also prepared a draft Scale of Rates, containing the ceiling tariff for various cargo handling services, to be applicable to the Stevedores and Shore Handling Agents, who will get License under the latest Policy of 2016, after it finally gets published in the Gazette of India.

The current Policy envisages 2 (two) new aspects, which did not exist earlier (a) Creation of "ceiling tariffs" for various Stevedoring and Shore Handling activities and (b) levying of Royalty on S & SH Agents by Ports.

Aspect	Earlier Policy situation	New Policy of 2016
Provision for any "Ceiling Tariff" for S & SH Agents	Although MPT Act mentioned that the licensed agents should not charge more than the prescribed "Scale of Rates", no such "Scale of Rates", applicable to S & H activities, were made during 1975 - 1996 by any Port. The same situation persisted during 1997-2016 after TAMP was created in 1997 as the sole Authority for fixation of such Rates. During this period Ports were not aware of what the S&H Agents were charging to final stake holders (Importers/Exporters) for rendering their service nor did they demand such information from them. In other words the only obligation these agents had was to pay the annual license fee/renewal fee for continuing their business within Port.	The Policy directs Ports to create a Ceiling Tariff and send it for approval and notification by TAMP. Any S & SH agent is prohibited from charging more than this TAMP-Approved "Ceiling Tariff" or "Scale of Rates" for that activity to Importers/Exporters or their agents.

Provision for any "Revenue-sharing Mechanism"	Although it was stated in the MPT Act that when a Port decides to authorize a third person to undertake cargo-related services they can also frame a "terms and conditions" for operation of such authorized agents within port. However no specific direction for demanding "revenue-sharing" from licensed agents as a pre-condition for issue of licenses (except collection of License Fee) were made by any Port during 1975-1996 nor did TAMP insist upon the same after its creation in 1997.	The current policy envisages collection of such "Royalty" from S & SH Agents. However, it has left the determination of quantum of "royalty" to be levied on such licensed agents on a "per ton" basis to individual Ports. It does not indicate any particular methodology for Ports to follow while deciding the level of royalty
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## 2.1 **Determining the Optimal Royalty Amount? Alternative models for revenue augmentation**

As mentioned above, no definite mechanism has been envisaged in the New Policy of 2016 for determination of quantum of Royalty to be taken from the Authorized Stevedores/Agents. This has been left to the individual Ports themselves. The currently proposed level of Royalty differs from Port to Port (for Kolkata Dock System, it is Rs. 5/- per MT) and will come into effect only after the 2016 Stevedoring Policy gets notified in the Gazette. However, it is obvious that an optimal level of Royalty will depend upon the factor cost sustained by a Stevedoring/Handling Agent for providing the service and his profitability. Authentic official data on what such Agents charge and what profits they generate is not available, since Ports never collected such information from them. Thus, price discovery of such privately rendered services becomes very important.

### **Was there ever a price discovery?**

At present, there are mainly 5 (five) distinct modes of undertaking such Stevedoring and Handling Services within a Port, with varying levels of price discovery, as follows:

Sl. No.	Agency for Operation	Level of Price Discovery
1	By Port using Port's own manpower and equipment	Price discovery not needed as Port is the direct service provider.
2	Through Licensed S & H Agents with only License fees	Undiscovered and unmonitored Price discovery. No revenue generation potential.
3	Through Licensed S & H Agents with License fees, ceiling tariff and Port-determined Royalty	No Price discovery, Minimal Revenue Generation Potential

4	By BOT Operators with pre-determined Revenue-Sharing arrangement with or without Private Investment	Integrated Price discovery, moderate to significant Revenue-generation potential.
5	Mechanized Handling Contract for on-board and on-shore activities through competitive tendering	Perfect Price discovery for constituent services and optimal revenue-generation potential

The first model is no longer prevalent in most Ports. The second model, which was prevalent till 2016, has no revenue potential, since the only income to Ports was the license fees. The third one has limited generation potential since the Royalty is not determined through competitive tendering mode. However, the last 2 (two) models have been quite beneficial to KoPT in recent times, especially the last model. Interestingly, it is only in HDC where a proper price discovery could take place, as a result of competitive tendering in two Berths.

**2.2 The ABG tender and discovery of Stevedoring price:** Now, let us look at the **price discovery for Stevedoring and Handling Services through competitive tendering.** HDC perhaps made the first ever attempt to discover the actual cost of Stevedoring and Handling Services, through a competitive tendering mechanism, whose outcome was very revealing. The finalized rate on ABG was Rs. 80.25 per MT in Berth Number 2 and Rs. 69.05 per MT in Berth No. 8 for performing Stevedoring & Handling activities and that too, by using sophisticated equipment like Mobile Harbour Cranes. As against these contracted service rates, HDC was entitled to collect fees from Importers/Exporters as stipulated in their own TAMP-approved SoR, i.e., at a much higher rate of Rs. 231 per MT for such standard services. The difference between this rate (Rs. 231) and the rate which HDC was paying to the Contractor (Rs. 80.25 and Rs. 69.05) thus landed in the lap of HDC as huge net surplus. During the 2 (two) year period that ABG worked in HDC (**from 11/09/2010 to 22/09/2012**), HDC handled around 10.19 million MT of cargo in these 2 Berths, resulting in a **net revenue gain of Rs. 165 Crores in just 2 (two) years!**

**2.3 Tender-determined Royalty Model : The Optimal Solution?**

After the ABG contract collapsed in Haldia in the year 2012, the HDC Authorities floated a tender in July 2014 for shore handling operations in the Port, for dry bulk commodities. The successful bidder in this tender was required to be the one who quoted the highest quantum of Royalty, to be paid to Port, without exceeding the SOR prescribed for HDC for such operations. For instance, the SOR of Haldia prescribed a rate of Rs. 119.48/- for Shore Handling activity of bulk cargo. The prospective bidders were asked to quote a definite sum, which they should pay to HDC as "Royalty" for every tonne of cargo handled by them, while charging their users, i.e., the Importers /Exporters a rate not exceeding Rs. 119.48 / MT. The successful bidder quoted a maximum Royalty rate of Rs. 14.77 per MT at that time. As per tender

condition, the bidders who match the said rate and agree to pay such Royalty were to be allowed to undertake shore handling service inside the Port. Several agreed to pay (which resulting a panel of 8 such firms), while several others legally challenged the imposition of Royalty on the Shore Handling Agents on the basis of a tender before Calcutta High Court. However, HDC authority continued to levy and collects such Royalty throughout the subsequent Judicial pendency. It is a well known fact that the cost of doing business in the Port area at HDC is generally more than that in Kolkata (as noticed in several important tenders of identical scope in KDS and HDC). The revenue gain, even from such tendering mode, has been quite substantial in various Berths of HDC. In the event of such ground reality, the proposed fixation of Rs. 5 per ton as Royalty in KDS area in 2018 does appear incongruous to a level of Royalty of Rs. 14.77 per ton in HDC and may require to be revisited in due course.

## **2.4 The arguments against a tender-determined Royalty model:**

**2.4.1 The Economy of Scale Argument:** Some Officials, during informal discussion, were of the opinion that the total bulk cargo handling volume in KDS (after discounting the Containerised cargo volume, where operation is handled through a pure-contracting model) is rather low, i.e., of the order of 7 to 8 million tons. Therefore, a level of Royalty higher than Rs. 5.00 / Ton may not be justified. However, JNPT also handles predominantly Containerised cargo and little bulk cargo. In 2016-17, out of a total of 62.15 MMT of cargo handled by JNPT, Containers accounted for 54.53 MMT while non-containerised cargo volume was hardly 7.62 MMT - a situation not very different from KDS. However, the Royalty decided by JNPT is reported to be Rs. 20.00 per MT, i.e., a level that is 400% of Royalty determined for KDS. Further, the rate of Royalty approved by Board of Trustees of Kolkata Port Trust in HDC stands currently at Rs. 14.77 / MT, which represents 12.36% of HDC's SoR for shore handling. Thus, the current level of Royalty proposed for KDS is difficult to be explained by the "economy of scale" logic.

**2.4.2 Royalty-burdened Service Providers may adversely impact cargo volume:** Another opinion is expressed that imposition of Royalty can be burdensome on these Agents and dissuade them from taking initiative to bring more cargo to a Port. Here again, the cargo statistics of HDC in Post-Royalty period does not support such assumption. On the contrary, after the Royalty of Rs. 14.77 / MT was imposed upon the Shore Handling Agents, by way of tender in late 2015 and early 2016, much to their dislike and protest, the growth in cargo volume in HDC had increased by a larger margin than the earlier period (Cargo volume in HDC increased from a level of 34.14 MMT in 2016-17 to 40.49 MMT in 2017-18, representing one of highest YoY growth in recent times). These figures, at the least, belie any presumption of any direct negative correlation between imposition of Royalty and cargo volume in a Port.

**2.4.3 The “Brink of Profitability” Argument revisited:** That the burden of excessive Royalty will ultimately be passed over to the last stakeholders (Importers and Exporters) in the logistic chain, and will not be shouldered by the S & SH Agents themselves, presumes that these Agents are actually operating in the “**brink-of-profitability-region**” of their business operation and hence cannot absorb any “Royalty” imposed upon them. Verifying this would require knowledge of the “income” received by them from their customers and “expense” sustained by them for carrying out their services. The “income” received by these Agents would depend on what “Rates” they charge to the Importers/Exporters for standard on-board and on-shore operation per ton of cargo handled. While “cost of the services” offered by these Agents has been discovered in past from several competitive tendering process (such as the ABG tender of 2010 for bulk handling, the tenders of 2014 for Container Handling, etc.), authentic data on “income” is hard to come by as these Agents do not disclose to Port Authorities the “rates” they charge to their customers for their stevedoring/handling services. The Ports, in turn, have never insisted upon these Agents for disclosing the “rates” charged by these Agents to trade. It needs to be remembered that as per the relevant provision of MPT Act, when a Port authorizes a third person (such as these licensed agents) to carry out cargo related services, the Agents should not charge a rate in excess of the “Scale of Rates”. Since such a Scale of Rates applicable to Stevedores and Handling Agents has never materialized till 2016, these Agents had no policy-restriction on charging any price they wished to the Importers/Exporters for services rendered by them.

For instance, in the Container handling contract in KDS, operational since 2014, the actual cost of rendering Container handling service was discovered to be Rs. 1,748/- per TEU, while the Scale of Rates for KoPT for the same service was in the region of nearly Rs. 5,200/- per TEU. After the above contract came into existence, KoPT have been charging this rate (Rs. 5,000 – 5,200/- per TEU) to Importers/Exporters and reaping the differential as net-surplus. From this, it is clear that the real cost of the Container operation at KDS is Rs. 1,748/-, which would have been sustained by a Licensed Agent, had they been handling the Containers instead of the Contractor. But, the question here is what they would have charged to their customers in past? Were they more likely to charge their customers the SoR rate of Port or something lesser? Actually, there is no reason to believe that they would have charged anything lesser than Port's SoR, when there was no binding Policy provision in past to restrain them.



**2.4.4 Such a view also finds confirmation from another authentic source** - a Tata Group Company, which operates Berth No. 12 in HDC under a 30-Year BoT Contract (operational since 2002), with a "Royalty" share of 10.85% from revenue earned by the Company. This was what was found from their latest "Segregated Berth Specific Financial Result":

Profitability of BoT Operator during 2016-17	
Cargo Handled	1.36 MMT
Revenue earned from Cargo handling at Berth No 12	Rs 74.33 Crores
Total Expense incurred (includes Royalty of Rs 7.909 Crores paid to Port )	Rs 55.00 Crore
Profit Before Tax	Rs 19.32 Crores
PBT as % of Total Revenue	26%

From the above, it can be seen that even after paying Royalty of 10.85%, the Company's Profit Before Tax (PBT) still works out to 26% of the revenue earned from the Berth from just 1.36 MMT of cargo. Although revenue earned depends on the type of commodity handled, the above financials are a good enough indication that the Private Stevedoring and Handling Operators do not have a very thin profit margin and have been enjoying more than decent profitability as compared to other business sectors.

Documentary evidence in past records of KoPT actually state that these Licensed Agents, in the past, might have been charging exorbitantly to their customer, to the consternation of Port Authorities. This evidence comes from a letter written by KoPT to Ministry, when Ministry sought their comment on Stevedoring charges during a previous attempt in formulation of a Stevedoring Policy in 2007-2009. In this letter, KoPT expressed their view in the following words (in their letter vide no. Admn./7343/STV dated 13<sup>th</sup> March, 2008):

**"Stevedoring charges:** *It is proposed that the Stevedores' margin of profit should be regulated by TAMP. The Stevedoring market at present is not sufficiently competitive. As a result, the Stevedores enjoy much greater market power vis-a-vis their customers and there are many allegations that they exploit their customers through competition of exorbitantly high charges, making the transaction cost at the Port unduly high. In fact, under the law, the Stevedores are required to be appointed under Section 42(3) of MPT Act, 1963 and their rates are also to be determined by TAMP."*

#### **2.4.5 Apprehension of business-capture:**

In the context of imposition of Royalty, through tendering mechanism, sometimes apprehension is expressed that such a process can lead to a single/dominant party capturing all shore handling/stevedoring contracts, by choosing to quote a very high Royalty (which, in any case, he may pass on to the eventual stakeholders, i.e., Importers and Exporters). Such a scenario can lead to a monopoly service provider, who can bring down the Port to a halt. However, such apprehensions can be eliminated in various ways - (a) the bid can stipulate a limiting number of Terminals where any successful bidder can operate, even if he emerges as the highest bidder of Royalty, (b) creating a panel of Agents who must be unrelated parties and who match the highest Royalty bidder (as done in the above HDC example), etc. However, it must be borne in mind that success of determination of optimum level of Royalty, through a tendering mechanism, is critically dependent upon a cartel-free bidding process. This is so because although there appear to be a number of such S & SH Agents in various Ports, the cargo handling business in Major Ports appear to be dominated by a very few large service providers.

**3.0 Conclusion:** The collected data and their analysis above appear to support the view that a more rigorous and uniform approach is required for determination of the Royalty, not only in KoPT but also in the Port sector as a whole. The tender-driven Royalty model, prevalent in HDC, can serve as a relatively more robust mechanism for optimal determination of the Royalty. Notwithstanding the present Policy orientation, to collect Royalty as a form of revenue sharing, the "pure-contracting model" for such services currently followed - for Container handling in KoPT and bulk handling at several Berths of HDC - appear to have a substantial edge in Financial terms. Vigilance is in the process of collecting more data, so as to be able to contribute to Port Management more in their continued quest for an optimal solution.

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