



कोलकाता पोर्ट ट्रस्ट
KOLKATA PORT TRUST
हल्दिया गोदी परिसर
HALDIA DOCK COMPLEX
शिपिंग एंड कार्गो हैंडलिंग प्रभाग
Office of General Manager (Traffic)



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No. MTO/G/115i/Pt.VIII/472

March 28, 2016

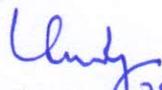
TRADE CIRCULAR

Trade has already been notified vide Circular No. MTO/G/115i/Pt.IV/791 dated 31.03.2015 that Haldia Dock Complex, Kolkata Port Trust has granted Handling Agency License to 8 firms for rendering shore handling services in respect of dry bulk cargo across all multipurpose berths (except Berth No. 4A&12) with required manpower and equipment to the Importers/Exporters/Ship Agents. The names & particulars of such Handling Agents along with the scope of their services under the scheme and detailed terms & conditions thereof were also notified. It was further notified that the above arrangements will abide by the order dated 04.09.2014 of the Hon'ble Calcutta High Court.

- Reference is also drawn to this office Circular vide no. MTO/G/115i/Pt.VI/1911 dated 20.07.2015 wherein the Trade has been notified that all the Shore Handling Agents who have already been issued Shore Handling License as well as the three writ petitioners who have challenged the above scheme in the Calcutta High Court, are required to undertake shore handling of dry bulk cargo at HDC (KoPT) (except Berth No. 4A & 12) through conventional methods under the terms & condition of the Royalty scheme including the ceiling rates which has already been notified through the Trade Circular dated 31.03.2015. It was further notified that all the Shore Handling Agents including the three writ petitioners who will undertake shore handling of dry bulk cargo at HDC (as stated above) will be required to pay Royalty to HDC/KoPT @ Rs. 14.77/- per MT of cargo handled.
- In terms of interim order(s) dated 01.02.2016 of the High Court, Calcutta in respect of appeal(s) filed by KoPT vide MAT No. 83 of 2016, No. 84 of 2016 and No. 85 of 2016, the 3 respondent / writ petitioners are required to be allowed to undertake shore handling of dry bulk cargo at HDC subject to furnishing of an undertaking in the form of an affidavit undertaking to abide by the new terms and conditions envisaged in the impugned notice so far as the royalty and other charges in the event the appeal is allowed upholding imposition of impugned terms & conditions as proposed in the notification including the royalty & other charges.
- Now in compliance with the aforesaid interim order(s) dated 01.02.2016 of the Hon'ble Appeal Bench, High Court, Calcutta and consequent to furnishing of required undertaking(s) in the form of affidavits, the 3 respondents / writ petitioners viz. Ripley & Co. Stevedoring & Handling Pvt. Ltd., J.M. Baxi & Co. and Lee & Muirhead Pvt. Ltd. are allowed to undertake shore handling of dry bulk cargo at HDC without prejudice to the rights and contentions of KoPT in the pending appeal(s) bearing MAT No. 83 of 2016, No. 84 of 2016, and No. 85 of 2016 subject to final order of the Hon'ble Appeal Bench in the said appeals.

The said interim order(s) dated 01.02.2016 of the Hon'ble Calcutta High Court in respect of MAT No. 83 of 2016, No. 84 of 2016 and No. 85 of 2016 is available in the KoPT/HDC websites.

5. This Circular will be effective from the date of its issuance.


(S.K. Saha Roy) 28/2/16
General Manager (Traffic), I/C

M.A.T. 83 of 2016
The Board of Trustees for the Port of Kolkata & Ors.
-Versus-
Ripley & Co. Stevedaring & Handling Pvt. Ltd. & Anr.

Mr. Jayanta Kumar Mitra
Mr. Abhrojit Mitra
Mr. Ashok Kumar Jena ...For the Appellants

Mr. Suddhasatwa Banerjee ...For the Writ Petitioner/Respondent

Re.: C.A.N. 698 of 2016 (Stay)

Heard the matter in part.

Meanwhile, the appellants are given liberty to prepare and file requisite number of informal paper books annexing all papers used before the learned Single Judge – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of three weeks from today.

The contract between the parties came to an end on May 15, 2015. Since the writ petition was filed on July 2014 challenging the new terms and conditions proposed in the notification, the writ petitioner respondent Ripley & Co. Stevedaring & Handling Pvt. Ltd. was enjoying the benefit of interim order till disposal of the writ petition. Since they succeeded in the writ petition, we find no good reason to grant any stay order in favour of the appellant to the disadvantage of the writ petitioner. However, the appellant must be protected, in case he is successful in the writ appeal.

Therefore, we are of the opinion that the respondent writ petitioner is liable to pay in terms of new tender terms and conditions so far as the royalty and other charges as demanded by the appellant in the

impugned notice inviting tender.

It is made clear that the respondent/writ petitioner shall furnish an undertaking in the form of affidavit undertaking to abide by the new terms and conditions envisaged in the impugned notice so far as the royalty and other charges in the event the appeal is allowed upholding imposition of the impugned terms and conditions as proposed in the notification including the royalty and other charges.

Subject to the above opinion, operation of the impugned order passed by the learned Single Judge is stayed.

It is made clear that all those participants who are successful in the new tender process floated by the appellants and carrying on the handling business shall not have benefit of the interim order passed by us.

The matter will appear in the list after three weeks.

The application is, thus, disposed of.

(Manjula Chellur, Chief Justice)

(Joymalya Bagchi, J.)

10 01.02.16
akb

M.A.T. 84 of 2016
The Board of Trustees for the Port of Kolkata & Ors.
-Versus-
Lee & Muirhead Pvt. Ltd. & Anr.

Mr. Jayanta Kumar Mitra
Mr. Abhrojit Mitra
Mr. Ashok Kumar Jena ...For the Appellants

Mr. Tilok Bose ...For the Writ Petitioner/Respondent

Re.: C.A.N. 699 of 2016 (Stay)

Heard the matter in part.

Meanwhile, the appellants are given liberty to prepare and file requisite number of informal paper books annexing all papers used before the learned Single Judge – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of three weeks from today.

The contract between the parties valid upto February 27, 2016. Since the writ petition was filed on July 2014 challenging the new terms and conditions proposed in the notification, the writ petitioner respondent Lee & Muirhead Pvt. Ltd. & Anr. was enjoying the benefit of interim order till disposal of the writ petition. Since they succeeded in the writ petition, we find no good reason to grant any stay order in favour of the appellant to the disadvantage of the writ petitioner. The respondent shall continue to enjoy the privilege of the interim order passed earlier till the disposal of the appeal. However, the appellant must be protected, in case he is successful in the writ appeal.

Therefore, we are of the opinion that the respondent writ petitioner is liable to pay in terms of new tender terms and conditions so far as the royalty and other charges as demanded by the appellant in the impugned notice inviting tender.

It is made clear that the respondent/writ petitioner shall furnish an undertaking in the form of affidavit undertaking to abide by the new terms and conditions envisaged in the impugned notice so far as the royalty and other charges in the event the appeal is allowed upholding imposition of the impugned terms and conditions as proposed in the notification including the royalty and other charges.

Subject to the above opinion, operation of the impugned order passed by the learned Single Judge is stayed.

It is made clear that all those participants who are successful in the new tender process floated by the appellants and carrying on the handling business shall not have benefit of the interim order passed by us.

The matter will appear in the list after three weeks.

The application is, thus, disposed of.

(Manjula Chellur, Chief Justice)

(Joymalya Bagchi, J.)

11 01.02.16
akb

M.A.T. 85 of 2016
The Board of Trustees for the Port of Kolkata & Ors.
-Versus-
M/s. J.M. Baxi & Co. & Anr.

Mr. Jayanta Kumar Mitra
Mr. Abhrojit Mitra
Mr. Ashok Kumar Jena ...For the Appellants

Mr. Tilok Bose ...For the Writ Petitioner/Respondent

Re.: C.A.N. 700 of 2016 (Stay)

Heard the matter in part.

Meanwhile, the appellants are given liberty to prepare and file requisite number of informal paper books annexing all papers used before the learned Single Judge – printed, typewritten or cyclostyled, as the case may be – out of court, within a period of three weeks from today.

The contract between the parties valid upto February 27, 2016. Since the writ petition was filed on July 2014 challenging the new terms and conditions proposed in the notification, the writ petitioner respondent M/s. J.M. Baxi & Co. was enjoying the benefit of interim order till disposal of the writ petition. Since they succeeded in the writ petition, we find no good reason to grant any stay order in favour of the appellant to the disadvantage of the writ petitioner. The respondent shall continue to enjoy the privilege of the interim order passed earlier till the disposal of the appeal. However, the appellant must be protected, in case he is successful in the writ appeal.

Therefore, we are of the opinion that the respondent writ petitioner is liable to pay in terms of new tender terms and conditions so far as the royalty and other charges as demanded by the appellant in the impugned notice inviting tender.

It is made clear that the respondent/writ petitioner shall furnish an undertaking in the form of affidavit undertaking to abide

by the new terms and conditions envisaged in the impugned notice so far as the royalty and other charges in the event the appeal is allowed upholding imposition of the impugned terms and conditions as proposed in the notification including the royalty and other charges.

Subject to the above opinion, operation of the impugned order passed by the learned Single Judge is stayed.

It is made clear that all those participants who are successful in the new tender process floated by the appellants and carrying on the handling business shall not have benefit of the interim order passed by us.

The matter will appear in the list after three weeks.

The application is, thus, disposed of.

(Manjula Chellur, Chief Justice)

(Joymalya Bagchi, J.)