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Tariff Authority for Major Ports

G No.358

New Delhi,

10 December 2014

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963) and in compliance of the direction issued by the Hon'ble High court of Madras, the Tariff Authority for Major Ports hereby disposes of the proposal received from the Chennai Port Trust for revision of the Stevedoring and Clearing & Forwarding charges prescribed in its Scale of Rates as in the order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/19/2014-CHPT

Chennai Port Trust

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Applicant

QUORUM:

- (i). Shri. T.S. Balasubramanian, Member (Finance)
- (ii). Shri. Chandra Bhan Singh, Member (Economic)

ORDER

(Passed on this 28th day of November of 2014)

This case relates to the proposal received from the Chennai Port Trust (CHPT) for revision of the Stevedoring and Clearing & Forwarding (C&F) charges prescribed in its Scale of Rates.

2.1 This Authority had passed an Order No.TAMP/34/2007-CHPT dated 3 July 2008 disposing of the proposal received from the CHPT for revision of Stevedoring and C&F levy at CHPT. The said Order was notified in the Gazette of India vide Gazette No.116 dated 22 July 2008. The validity of the rates approved in the Order dated 3 July 2008 was upto 31 March 2011.

2.2. Subsequently, during the proceedings relating to the general revision proposal of CHPT disposed in November 2010, the CHPT had proposed increase in the range of 62.32% to 77.84% over the existing rates prescribed for stevedoring operations and had proposed to maintain status quo in the rates prescribed for Clearing & Forwarding operations. However, no cost statement relating to these operations had been furnished by the CHPT. That being so, the financial impact of the increase proposed could not be ascertained. Since a comprehensive assessment of the financial/ cost position of the port as a whole had been made while disposing the general revision proposal of CHPT, this Authority decided to continue with the existing rates for the Stevedoring and C & F operations and extended the validity of the Stevedoring and C&F levy upto 31 March 2013, co-terminus with the validity of the existing Scale of Rates of CHPT approved vide Order No.TAMP/45/2008-CHPT dated 10 November 2010.

2.3. Thereafter, since the general revision of SOR at CHPT was due from 1 April 2013, the CHPT was requested vide our letter No.TAMP/39/2005-Misc. dated 7 May 2012 followed by a reminder dated 4 July 2012 to file its proposal for the general revision of its SOR. The CHPT was also requested to include the revision of Stevedoring and C&F levy also as a part of general revision proposal and submit a comprehensive proposal to this Authority. After granting extension of time at the request of CHPT and after reminders, the CHPT vide its letter dated 19 February 2013 and 29 May 2013 filed its proposal for general revision of its SOR.

2.4. During the proceedings relating to the general revision proposal of CHPT disposed recently by this Authority, with regard to revision of stevedoring charges, the CHPT had stated that based on the recent Bipartite Wage Negotiation Committee (BWNC) settlement, salaries and wages of Class III & IV employees have been increased with effect from 1 January 2012. On the other hand, the existing stevedoring charges have not been revised since July 2008. Hence, there is a huge under recovery in the wages paid to the labourers and time-rate wages and levy collected as per SOR. Further, based on the BWNC agreement, a Memorandum of Settlement (MoS) has been entered with the Unions in January 2014 for implementation of National Industrial Tribunal (NIT) award on manning scale. Further, the datum and piece rate incentive have also been revised based on the MoS. As a result, the CHPT made a mention about filing a separate proposal for revision of stevedoring charges, after taking into account the revised wage structure, revised manning scale, datum, piece rate incentive, etc.

3.1. In this backdrop, the CHPT vide its letter dated 17 March 2014 has submitted its proposal for revision of stevedoring and C&F charges. The main points made by the CHPT are given below:

- (i). The Stevedoring and C&F charges at CHPT was last revised by TAMP vide order dated 3 July 2008 with validity upto 31 March 2011. During the general revision of SOR of CHPT in the year 2010, CHPT sought an increase of 62.32% to 77.84% in the Stevedoring charges. However, TAMP did not approve any increase and stated that the existing rates for these operations will continue without any change based on the comprehensive assessment of the financial/ cost position of the port as a whole. Subsequently, TAMP vide letter dated 31 July 2012 has stated that as recorded in paragraph 11 (xxxvii) of TAMP Order dated 10 November 2010, the validity of the existing stevedoring and C&F levy stands extended upto 31 March 2013, co-terminus with the validity of the existing Scale of Rates of CHPT and requested CHPT to include the revision of Stevedoring and C&F Levy also as a part of its General Revision proposal and submit a comprehensive proposal.
- (ii). CHPT has filed a comprehensive proposal for revision of Scale of Rates vide letter dated 19 February 2013. However, no revision has been proposed in Stevedoring charges and C&F Levy in the general revision proposal considering that the Wage Revision for Class III and IV employees with effect from 1 January 2012 was under BWNC discussions. Hence, it was proposed to file a separate proposal for revision of Stevedoring and C&F charges after finalization of wage revision settlement.
- (iii). Subsequently, the Wage Revision settlement for Class III and IV employees with effect from 1 January 2012 was signed on 25 October 2013. The revised salaries and wages for Class III & IV employees have been implemented in CHPT with effect from November 2013. The arrears of wages from January 2012 to October 2013 have also been paid in January 2014.
- (iv). As stated earlier, at present, the stevedoring and C&F charges are collected based on the rates approved by TAMP vide Order dated 3 July 2008. These rates were approved prior to the implementation of wage revision w.e.f. 1 January 2007, which was approved in the year in 2010. As such, two wage revisions have taken place after the existing rates have been fixed by TAMP. Hence, there is a huge under recovery in the actual wages paid to the labourers and time-rate wages collected as per SOR.
- (v). Further, as per the revised cost statements for general revision of SOR, at the existing tariff, the stevedoring sub-activity shows an estimated deficit of ₹ 74.85 crores, ₹ 79.41 crores and ₹ 87.56 crores for the years 2013-14 to 2015-16 respectively, aggregating to ₹ 241.82 crores. Hence, in order to meet the huge deficit in the stevedoring sub-activity, it is proposed to revise the Stevedoring and C&F charges, as given below:
 - (a). It is proposed to revise the existing time-rate wages based on the revised wage rates being actually paid to the workers and taking into account the Dearness Allowance (DA) applicable for January 2014 to March 2014 as of January 2014. A statement showing calculation of wage rates actually paid to different categories of employees as of January 2014, after implementation of wage revision settlement dated 25 October 2013, is furnished.

- (b). A comparative position of wage rates prescribed in the existing SOR and the proposed wage rates is tabulated below:

Sl. No.	Category	Time rate Wages as per existing SOR per shift of 8 Hours (in ₹)	Proposed Time-rate Wages per shift of 8 hours (in ₹)	Increase %
1.	On board supervisor	921.20	2070/-	125%
2.	Tally Clerk	801.30	1620/-	102%
3.	Tindal	626.00	1480/-	136%
4.	Maistry	600.27	1480/-	147%
5.	Winch Driver	575.30	1480/-	157%
6.	Signal man	566.60	1370/-	142%
7.	Mazdoor	646.60	1370/-	112%
Average increase				129%

- (c) Based on the BWNC agreement dated 25 October 2013, a Memorandum of Settlement (MoS) has been entered with the Unions on 10 January 2014 followed by an addendum dated 31 January 2014 for implementation of NIT award on manning scale, revision of datum, piece rate incentive, etc. with suitable modifications. A copy of the MoS dated 10 January 2014 along with annexures and addendum dated 31 January 2014 is furnished. As per this MoS, it is proposed to post integrated gangs for cargo handling operations on board, on shore and in wharves and sheds and therefore, it is proposed that the stevedores will pay only for 6 Mazdoors out of 10 Mazdoors posted in the integrated gang. The posting of balance 4 mazdoors is considered to be for shore operations and their cost has to be met from wharfage income. In view of this, there will be a reduction in the stevedoring wages realized per gang/ shift. The income realized for one gang/ shift for general cargo vessel at the existing time-rate wages and existing gang composition works out to ₹10,606/-. At the proposed time-rate wages and revised gang composition as per MoS, the income for one gang /shift for general cargo vessel works out to ₹ 22,173/-, resulting in an increase of 109%. It can be seen that though the average increase in time-rate wages for different categories of workers is 129%, the additional income on account of proposed revision of time-rate wages works out only to 109%, which is mainly due to reduction in the no. of mazdoors for which wages are proposed to be collected from the stevedores. A working statement in this regard is furnished.
- (d). The additional income likely to be generated on account of the proposed increase of time-rate wages during the years 2014-15 and 2015-16 works out to ₹ 19.71 crores.
- (e). As per the existing SOR, General levy of 192% is collected on the wages except in the case of agricultural produce such as wheat, rice, maize, pulses, sugar, etc. At the existing wage rate, the income on account of general levy works out to ₹ 20,365/- per shift per gang for general cargo vessel. The general levy @ 192% on the proposed revised wage rates works out to ₹ 42,605/- per shift per gang for general cargo vessel, resulting in an increase of 109%. Considering the huge loss in the stevedoring sub activity at the existing tariff, it is proposed to maintain the general levy at 192% on the revised time-rate wages. The estimated additional income in this regard will be to the tune of ₹ 32.20 crores for the years 2014-15 and 2015-16 which would partially meet the deficit in the stevedoring sub-activity.
- (f). The tonnage levy, C&F levy and levy for inter-carting operations are proposed to be increased by 198% at par with the increase proposed for

general cargo and storage in the general revision proposal in order to meet the deficit in the stevedoring sub-activity. The estimated additional income likely to be generated on this account for the years 2014-15 and 2015-16 works out to ₹ 23.79 crores.

- (g). It is proposed to continue the existing levy of ₹ 1/- per tonne approved by TAMP towards recovery of Wage revision arrears since the port has incurred a huge expenditure to meet the arrears of wages from January 2012 to October 2013 due to the recent Wage revision of Class III and IV employees with effect from 1 January 2012. There will be no additional financial implication to the port in this regard.
- (h). As per MoS dated 10.1.2014/ 31.1.2014, the datum and piece rate incentive have been revised. As per clause 42 of BWNC wage settlement dated 25 October 2013, the existing earnings of the workers have to be protected. Hence, the revised piece-rate incentives for different cargo groups have been increased in such a manner that the workers get the same piece rate earnings at the revised datums for the average productivity level. Hence, there will be no financial impact on account of revision of piece rate incentive to the Trust or to the users. In any case, the piece-rate incentive does not form part of SOR and it only prescribes a conditionality that the piece-rate incentive shall be paid at actuals. In the cost statement for stevedoring activity both income and expenses on account of piece rate incentive have been included. However, this will not have any impact on the Stevedoring and C&F Charges.
- (i). To sum up, the existing and proposed stevedoring and C&F charges are tabulated below for ready reference:

Sl. No.	Particulars	Existing	Proposed
1.	Time-rate wages	As per table given in Point No.v(b) above	As per table given in Point No.v(b) above
2.	General Levy	192% of time-rate wages	192% of revised time-rate wages
3.	Tonnage Levy (as per clause 3 (a), Scale-1, Ch-VII of SOR)	₹7.50 per MT	₹22.35 per MT
4.	C&F Levy – General cargo	₹40/- per MT	₹120/- per MT
5.	C&F Levy – Bulk cargo	₹3.75 per MT	₹11/- per MT
6.	Levy for Wage Revision Arrears	₹1/- per MT	₹1/- per MT

- (j). Based on the increase proposed as mentioned above, there will be total estimated additional income to the tune of ₹ 75.70 crores during the years 2014-15 and 2015-16 as against the aggregate deficit of ₹ 241.82 crores for the years 2013-14 to 2015-16, leaving a balance deficit of ₹ 166.12 Crores.
- (k). A separate cost statement for stevedoring charges and C&F levy giving income and expenses at the existing tariff and proposed tariff is furnished. In this cost statement, the operating expenses, management and general overheads, apportioned FMI and FME have been considered at the same figures, as has been considered in the cost statement for stevedoring sub-activity in the general revision proposal. It may be appreciated that even with the proposed increase, the Port would be in a position to recover only 1/3rd of the estimated deficit for the year 2013-2015-16.
- (l). Based on the above, a proposed draft Scale of Rates (Chapter VII) for stevedoring and C&F charges has been furnished. In the proposed draft

Scale of Rates, clauses 11 and 12 of the existing conditions under Scale-1 of Chapter-VII have been modified based on the MoS dated 10 January 2014.

- (m). A Trade Notice dated 31.1.14 was issued to implement the revised Manning Scale, Datum, etc., as per MoS dated 10.1.2014 with Unions and also to collect time-rate wages as per recent wage revision, pending TAMP's approval. However, based on the representation of Chennai Port Stevedores Association (CPSA) against the Trade Notice dt.31.1.14, it was decided to collect existing Wage rate as per SOR till the revised wage rate is approved by TAMP. Subsequently, CPSA filed a Writ Petition in High Court of Madras challenging the Trade Notice dated 31.1.14 issued by Ch.PT. Hence, there is a delay in implementation of revised Manning Scale, Datum as per NIT. However, the proposal for revision of Stevedoring Charges and C&F Levy is worked out based on the reduced manning scale as per MoS.

[Subsequently, the CHPT stated, among other thing, vide its letters dated 30 June 2014/ 7 July 2014 that the Honb'le High Court of Madras vide order dated 2 June 2014 dismissed the Writ Petition No. 4157 of 2014. The CHPT, in order to comply with the order of Honb'le High Court, implemented the Trade Notice dated 31 January 2014.]

3.2. Since the Port has already implemented wage revision and is incurring huge losses on account of Stevedoring charges, the port has sought revision in the Stevedoring Charges and C&F Levy immediately.

3.3. The CHPT has furnished the workings relating to the proposed levy and the proposed draft Scale of Rates along with its proposal dated 17 March 2014.

4.1. In accordance with the consultative procedure prescribed, the proposal of CHPT dated 17 March 2014 was forwarded to the users/ user organizations seeking their comments. The comments received from users/ user organizations were forwarded to CHPT as feedback information. The CHPT vide its letters dated 30 June 2014 and 7 July 2014 has furnished its comments on the comments of users / user organizations.

4.2. While responding to the comments of some of the users vide its letter dated 30 June 2014, the CHPT has also made some submissions, the summary of which is given below:

- (i). The CHPT proposal dated 17 March 2014 sent to TAMP has been placed before its Board in its meeting held on 26 May 2014 and the Board has resolved to ratify the proposal sent to TAMP. The CHPT has furnished a copy of the Board Resolution No.30 dt.26.05.2014 for reference.
- (ii). In the proposal dated 17.3.2014, a mention has been made about the Writ Petition No.4157 filed by the CPSA challenging the Trade Notice dated 31.1.14 issued by the Traffic Manager. In this connection, it is informed that the Madras High Court vide Order dated 2.6.14 has dismissed the Writ Petition No.4157 of 2014 filed by the Chennai Port Stevedores Association observing that there is no illegality or infirmity in the Trade Notice dated 31.1.14. Based on the Court order, the Trade Notice dated 31.1.2014 has been implemented w.e.f. 3.6.2014 including the revised wage rates for all categories of workers deployed for stevedoring operations, pending approval of TAMP. The CHPT has furnished a copy of the Court Order dated 2.6.14.

[It is seen from the order of the Hon'ble court that Ministry of Shipping, Chairman, CHPT and the Traffic manager, CHPT are mentioned as Respondents 1,2 and 3 respectively. Further, as noted from the response to one of our queries, the CHPT has stated that TAMP is not a party either in the Writ Petition or the Writ Appeal filed by the CPSA.]

- (iii). Challenging the order passed in W.P. No.4157 of 2014 dated 2.6.2014, the CPSA filed Writ Appeal No.729 of 2014 before the Hon'ble High Court, seeking to set aside the order passed in W.P. No.4157 of 2014, mainly on the premise that TAMP approval is required to implement the revised wage rates. In this connection, an interim order dated 9 June 2014 has been passed by the Hon'ble Bench stating that "Status Quo as on today to be maintained".
- (iv). The CHPT is facing severe financial crunch. The net loss for the year 2013-14 is to the tune of ₹174 crores. Incase CPSA pursues the matter to get any favourable direction in their favour in future, it would further worsen the financial position of the CHPT. Hence, the approval from TAMP is sought urgently.
5. Based on the preliminary scrutiny of the proposal, the CHPT was requested to furnish additional information/ clarifications on various points vide our letter dated 21 August 2014. The CHPT vide its letter dated 18 September 2014 has responded. A summary of the queries raised by us and the response of the CHPT thereon is tabulated below:

Sl. No.	Queries raised by us	Response of CHPT
(i).	The CHPT, along with its proposal of March 2014 has forwarded a copy of the Trade Notice dated 31 January 2014 issued by the CHPT, interalia, intimating the trade about implementation of the revised manning scale, gang charges, and datum and piece rate incentives with effect from 01 February 2014. In this connection, the CHPT to clarify/ furnish the following:	
	(a). In case of a scenario, where a port comes up with a new facility/ envisages handling of a new cargo, Clause 2.17.1 to 2.17.4 of the 2005 guidelines requires the said port to submit a proposal in this regard to TAMP. Simultaneously, the port can propose levy of the proposed charges on adhoc basis, provided the adhoc rate is based on the existing notified tariffs for comparable services/ cargo and it is mutually agreed upon by the port and the concerned users. Thus, as per the provisions of the 2005 guidelines, the levy of the proposed charges alongwith submission of the proposal to TAMP should be in respect of a new facility or handling of a new cargo. Rendering of stevedoring and C & F services is not a new service. Therefore, the CHPT to intimate us the position whether the action taken by it is in line with the stipulation contained in the 2005 Guidelines.	The Stevedoring and C&F charges approved by TAMP was valid up to 31 March 2011. Subsequently, during the general revision of Scale of Rates in January 2011, TAMP extended the validity up to 31 March 2013 considering the financial/ cost position for the port as a whole. It is submitted that the overall estimated financial/ cost position considered by TAMP in the general revision order could not be achieved due to stoppage of Coal and Iron ore with effect from 1 October 2011 and port has incurred losses during the last tariff cycle itself. However, the old rates were continued even beyond 31 March 2013 considering that the wage revision for Class-III and Class-IV employees with effect from 1 January 2012 was under final stage of negotiation. Subsequently, the Wage revision was implemented in November 2013 and the port has filed a proposal in March 2014. As informed in the proposal, there is a huge difference between the wages prescribed in the SOR approved by TAMP and the actual wages being paid to the labourers owing to implementation of two wage revisions effective from 1.1.2007 and 1.1.2012 respectively. The additional

		outflow in this regard could not be borne by the Port especially after the implementation of the Wage revision settlement of Class-III and IV employees of all Major Port Trusts w.e.f. 1 January 2012 and the Port is struggling to meet the operational expenses. Hence, with a view to improve the financial position to some extent, it was proposed to collect the actual wages from the users pending approval of TAMP. Further, it is seen from the Scale of Rates of VPT, TAMP has allowed to collect the time rate wages payable to workers as per the prevailing wage settlement, which provides for automatic increase of time-rate wages without waiting for TAMP's approval. However, in the case of CHPT since the time-rate wages have been fixed in absolute terms, it has not been revised despite two wage revisions. It may also be taken into account that the port has implemented the revised wages only after a lapse of about 3 months after filing the proposal with TAMP. With regard to financial implication, it is submitted that in the proposal submitted to TAMP in March 2014, the additional income of ₹ 37.70 crores has been considered for the year 2014-15. The actual additional income earned by CHPT on account of revised wage rates, revised manning scale, datum, etc. from 3 June 2014 to 31 August 2014 works out to ₹ 6.03 crores, which may be adjusted against the estimated deficit position. In view of the above, TAMP is requested to take a lenient view of the action taken by the CHPT and approve the revised Stevedoring and C&F charges with retrospective effect from 3 June 2014 in terms of clause 3.2.8 of the Tariff Guidelines 2005.
	(b). Subsequently, the CHPT vide its letter dated 30 June 2014 has, inter alia, intimated us about a litigation pending before the Hon'ble High Court of Madras on the matter and about the interim order passed by the Hon'ble High Court of Madras. In view of this position, the CHPT to clarify the following: (i). The rates being levied by CHPT at present for the Stevedoring and C & F operations.	The time-rate wages and general levy are being collected as per the proposed Scale of Rates furnished vide our letter dated 17 March 2014. All other charges, viz. tonnage levy, C&F levy, etc. are being collected as per Scale of Rates.

	(ii). Since the matter is subjudice, whether it would be appropriate to go ahead with the revision of the rates of Stevedoring and C & F operations, at this juncture.	The litigation pending before the Hon'ble High Court is relating to issues on implementation of NIT Award and collection of revised time-rate wages pending approval of TAMP. It is further stated that TAMP is not a party either in the Writ Petition or in the Writ Appeal filed by the CPSA, which is pending in the Madras High Court. The Hon'ble High Court also has not passed any Orders restraining TAMP from processing the case and passing Orders. Hence, there may not be any legal breach in TAMP processing the case and passing Orders. Further, the issues raised by the Stevedores Association with regard to the implementation of the NIT Award, viz. revision of manning scale, datum, etc. has no relevance to the revision of wage rates, as the wage rates are prescribed based on the actual wages paid to the employees on 'per shift per employee basis'. In other words, any change in the gang composition/ manning scale would not affect the time-rate wages. Hence, TAMP is requested to process the proposal of CHPT and approve the revised stevedoring and C&F charges at the earliest.
(ii).	During the finalization of the general revision case of CHPT, though the cost position pertaining to the Stevedoring activity for the years 2013-14 to 2015-16 was analysed, it has not been taken into account while determining the percentage increase accorded in the general revision case. Thus, it may be noted that the deficit position as reflected in the Cost statement of the Stevedoring activity would act as the guiding factor to determine the increase to be accorded to the prevailing stevedoring levy and C & F levy.	In the cost statement sent in our proposal dated 17 March 2014 for revision of Stevedoring and C&F Charges, the actual/ projected expenditure for all the years has been considered at the same level of expenditure furnished for stevedoring sub activity in the general revision proposal. Accordingly, the position informed by TAMP is taken note of.
(iii).	The cost position in the Cost statement for stevedoring activity furnished by the CHPT for the years 2013-14 to 2015-16, reflect an average deficit to the tune of about 232% at the existing level of tariff. In the proposed draft Scale of Rates, it is seen that the CHPT has proposed different percentage of increase ranging from 102% to 200% for the different categories of workers deployed for the purpose of stevedoring operations as well as in the charges prescribed for clearing & Forwarding operations. In this connection, the CHPT to furnish an analysis and necessary workings correlating the different percentage of increase for the various tariff items sought in the proposed draft Scale of	As requested, the details of the basis adopted for increase in each tariff item in the CHPT proposal dated 17 March 2014, are given below: (i). Time-rate wages – Based on actual wages payable to the workers as on January 2014. (ii). General levy – Maintained at 192% of revised time-rate wages. (iii). Tonnage levy (Item No.3(b) of Scale-1) and C&F levy (Item No.(a)&(b) of Scale-2) – 198% increase over the existing rates at par with the increase proposed for general

	Rates with the aggregate deficit cost position reflected by the Cost statement of the Stevedoring activity. In the absence of such analysis and workings, it may not be possible to accede to different percentage of increase, as proposed by the CHPT.	cargo and storage activity in the general revision proposal. If the estimated deficit position of 232% is considered, the increase warranted would be much higher than the increase proposed. As already stated in our proposal, the additional income proposed to be generated during the years 2014-15 and 2015-16 on account of the revision works out to ₹ 75.70 crores as against the total estimated deficit of ₹ 241.82 crores for the tariff cycle of 3 years from 2013-14 to 2015-16. Considering trade scenario and the concerns expressed by the Users/ User Agencies, the increase proposed has been kept at a lower level. Further, based on the request of the trade/ users at the joint hearing, it has been proposed to reduce the increase in the Tonnage Levy (agricultural produce) and C&F Levy to 42% at par with the increase approved by TAMP for general cargo and storage in the general revision proposal, as against 198% increase proposed earlier.
(iv).	The reason for introducing a note to the effect that the Stevedore will be permitted to indent gang for half shift instead of full shift for incoming and finishing vessels on permanent basis, by making payment of 50% of existing wages and 192% levy on 50% wages, to be explained. The financial implication due to the proposed change to be quantified with detailed workings.	The half-shift gang for incoming and finishing vessels is a long pending requirement of the trade. An analysis was made with regard to arrival and commencement of the work for the vessels handled from January 2012 to June 2012. Out of 117 general cargo vessels berthed during this period, only 25 vessels commenced operations on berthing and the remaining 92 vessels engaged gangs only on the following shifts and remained idle till such time. The Stevedores are reluctant to engage gangs for part shift workings as they have to pay full gang charges. In order to reduce idle hours as well as to improve productivity, the half-shift gang system was introduced after discussions with the recognised Trade Unions and Stevedores Association. As per the half-shift gang system, 50% of wages and 192% levy will be collected for supply of full gang for half-shift. Datum will be reduced to 50% and accordingly the piece-rate incentive will be payable to the workers. After the introduction of the scheme, the Stevedores engaged 176 half-shift gangs for incoming vessels and 45 half-shift gangs for finishing vessels during the period from 1 June 2013 to 30 November 2013. Because of this, approx. 285 hours of vessels' stay at berth was converted as 'productive hours' and around 71,000

		tonnes of cargo was handled. This has resulted in increase of ship day output, reduction of idle hours and Turnaround time. As far as financial implication is concerned, it is stated that there may be marginal revenue loss on account of collection of 50% of wages and levy for half-shift gang. However, this scheme will induce Stevedores to indent labour for half-shifts, additional income will be generated on account of more vessels using this facility. As it may not be possible to estimate how many vessels would have indented the gangs under the old system and when they would have completed the operations, it is difficult to estimate the actual financial implication.																																				
(v).	In the proposed draft Scale of rates, the CHPT has proposed to continue with the percentage levy at the existing level of 192% of time rate wages. The time rate wages is levied reportedly to cover the overheads. In this connection, it may be recalled that during the last review of Stevedoring charges in the year 2008, the CHPT was advised at para 10(vi) of the July 2008 Order, to furnish the information regarding overheads and details of average employment per gang of cargo handling workers to justify the percentage levy of 192%, during the next review of tariff for stevedoring activity. The CHPT is not seen to have furnished the details. The CHPT, therefore, to furnish the requisite information to justify continuance of the percentage levy at the existing level of 192% of time rate wages.	The General Levy is collected to meet the indirect expenses, viz. welfare expenses, medical expenses, leave wages, establishment cost, pension liability and other Administrative expenses incurred by the Port. The details of actual Management and General Overheads for the year 2012-13 and their basis of apportionment to the various main activities and sub-activities are given below: <table border="1"> <thead> <tr> <th>Particulars</th><th>Amount (₹ in lakhs)</th><th>Basis of Apportionment</th></tr> </thead> <tbody> <tr> <td>Material Management Division expenses</td><td>1078.19</td><td>Stores consumed</td></tr> <tr> <td>Medical</td><td>4755.70</td><td>Salaries & Wages</td></tr> <tr> <td>Labour Welfare</td><td>931.62</td><td>Salaries & Wages</td></tr> <tr> <td>Industrial Canteen</td><td>459.38</td><td>Salaries & Wages</td></tr> <tr> <td>Engg. Dept. expenses</td><td>12358.53</td><td>Repairs & Maintenance</td></tr> <tr> <td>Finance & Audit</td><td>2386.47</td><td>Direct Expenses incl. depreciation</td></tr> <tr> <td>Port Security</td><td>2525.58</td><td>Salaries & Wages</td></tr> <tr> <td>Legal Expenses</td><td>62.77</td><td>Direct Expenses excl. depreciation</td></tr> <tr> <td>General Admn. Dept. Expenses</td><td>792.95</td><td>Direct Expenses excl. depreciation</td></tr> <tr> <td>Residential Admn. Expenses</td><td>851.92</td><td>Direct Expenses incl. depreciation</td></tr> <tr> <td>Total</td><td>26203.11</td><td></td></tr> </tbody> </table> The Management and General Overheads are first apportioned to the main activities, viz. Cargo Handling, Port & Dock, Railway and Estate Rental as stated above. The overheads so apportioned to Cargo Handling Activity is re-apportioned to sub-	Particulars	Amount (₹ in lakhs)	Basis of Apportionment	Material Management Division expenses	1078.19	Stores consumed	Medical	4755.70	Salaries & Wages	Labour Welfare	931.62	Salaries & Wages	Industrial Canteen	459.38	Salaries & Wages	Engg. Dept. expenses	12358.53	Repairs & Maintenance	Finance & Audit	2386.47	Direct Expenses incl. depreciation	Port Security	2525.58	Salaries & Wages	Legal Expenses	62.77	Direct Expenses excl. depreciation	General Admn. Dept. Expenses	792.95	Direct Expenses excl. depreciation	Residential Admn. Expenses	851.92	Direct Expenses incl. depreciation	Total	26203.11	
Particulars	Amount (₹ in lakhs)	Basis of Apportionment																																				
Material Management Division expenses	1078.19	Stores consumed																																				
Medical	4755.70	Salaries & Wages																																				
Labour Welfare	931.62	Salaries & Wages																																				
Industrial Canteen	459.38	Salaries & Wages																																				
Engg. Dept. expenses	12358.53	Repairs & Maintenance																																				
Finance & Audit	2386.47	Direct Expenses incl. depreciation																																				
Port Security	2525.58	Salaries & Wages																																				
Legal Expenses	62.77	Direct Expenses excl. depreciation																																				
General Admn. Dept. Expenses	792.95	Direct Expenses excl. depreciation																																				
Residential Admn. Expenses	851.92	Direct Expenses incl. depreciation																																				
Total	26203.11																																					

		activities under Cargo Handling Activity, viz. General Cargo & Storage, POL, Warehouse, Cranage, FC Thangam, Container and Stevedoring and C&F again on the same basis. The actual/ estimated overheads apportioned to Stevedoring sub-activity on the above basis have been mentioned in the Cost statement under Sl.No. (V). The Finance and Miscellaneous Income and Finance & Miscellaneous Expenses have been apportioned to various main activities and sub-activities on the basis of Operating Income and Operating Expenses respectively. The Net Finance & Miscellaneous Expenses so apportioned to "Stevedoring sub-activity" has been mentioned in the cost statement under Sl. No. (IX). The indirect expenses for which general levy is collected is increasing every year. The indirect expenses has increased by about 76% from 2008-09 to 2012-13. Further, there is a huge under recovery of wages during the past years on account of non-revision of time rate wages, General Levy at 192% may be retained for the tariff cycle ending 31 March 2016. It is reiterated that even at the 192% levy, the port is meeting only about 1/3rd of the estimated deficit for the years 2013-14 to 2015-16.
(vi).	With regard to the per tonne levy prescribed for the clearing & forwarding operations for bulk cargo, during the last review of Stevedoring charges in the year 2008, the CHPT had conceded the point made by the user Associations then that the bulk cargo received at transit area by the tippers are off loaded by mechanical system not requiring labour and had agreed to finalize a revised method in consultation with all concerned, particularly labour unions. Accordingly, the then existing charges for clearing & forwarding operations was allowed to continue and the CHPT was advised to report the steps taken by it in this regard within 6 months. We have not heard from the CHPT in this regard till date. In this backdrop, the CHPT again to justify proposing continuance of the per tonne levy prescribed for the clearing & forwarding operations for bulk cargo in the current revision also.	It is informed that in practice, direct delivery/ shipment is permitted in respect of bulk cargo and no C&F levy is collected as per Note No.7 of Scale 2 – Clearing & Forwarding Operations. However, in some cases, the bulk cargo is transported to the licensee's plots and inter-carting operations take place. Hence, the rates are required in order to collect the inter-carting levy as per Note No.5. Further, as already informed in our reply to comments furnished by Hindustan Chamber of Commerce (HCC), action will be taken to rationalize C&F levy in future. As the process involves collection of voluminous data relating to cargo pattern, expenses incurred, etc. and analysis of the same, TAMP is once again requested to allow CHPT to continue the C&F levy with the increase proposed for the time being, i.e. atleast for another six months from the date of revision order.
(vii).	The increase of about 200% sought in the per tonne levy prescribed for the clearing & forwarding operations for general cargo and	As stated earlier, an increase of 198% has been proposed in the C&F levy at par with the increase proposed for general cargo

	193% increase for the bulk cargo, ore and timber/ logs to be justified with reference to the cost position reflected in the Stevedoring activity.	and storage in the general revision proposal. However, based on the request of the trade/ users at the joint hearing, it has been proposed to reduce the increase in the Tonnage Levy (agricultural produce) and C&F Levy to 42% at par with the increase approved by TAMP for general cargo and storage in the general revision proposal, as against 198% increase proposed earlier.
(viii).	In the existing note no. 11 under Scale – 1 relating to prescription of posting of one reliever upto 3 Hooks and 2 relievers for 3 hooks, the CHPT has proposed to modify the said note so as to prescribe posting of one reliever per shift per vessel irrespective of number of hooks. Similarly, in the existing note no. 12 under Scale – 1 relating to prescription of posting of one Supervisor upto 1 Hook and 2 Supervisors for 2 or more hooks, the CHPT has proposed to modify the said note so as to prescribe posting of one Supervisor and one Tindal per shift per vessel irrespective of number of hooks. Both the notes are proposed to be modified based on the MoS letter dated 10 January 2014. In this connection, he CHPT to furnish the following: (a). A copy of the MoS letter dated 10 January 2014 for reference.	MoS refers to Memorandum of Settlement entered with the Unions dated 10 January 2014, a copy of which has already been sent to TAMP along with proposal 17 March 2014. The changes made in the Note No.11 and 12 of Scale-1 Chapter-VII are as per the revised manning scale arrived in the MOS entered with Unions for implementation of NIT Award.
	(b). The financial implication arising due to both the proposed changes to be quantified with detailed workings.	(b). The financial impact of these two changes alone could not be quantified as the details of manpower posted and their cost are not maintained hook-wise.
(ix).	In the existing note no. 5 under Scale– 2, the CHPT is seen to have deleted the portion of the existing note, which required payment of inter-carting operations before rendering the service. The reason for deleting the proposed provision to be explained.	The changes in conditions approved by TAMP vide order dated 3 July 2008 relating to revision of stevedoring charges have not been incorporated due to oversight. The said provision is incorporated in the revised proposed draft Scale of Rates.
(x).	The CHPT appears to have deleted the note no. (1) of Sl. no. III of the existing Scale of Rates relating to charges payable by the cargo like Cobble stones, Cut stones, Barytes, Manganese Ore, Felspar, Blue metals etc., stored in the transit area. The reason for deletion of the said note to be explained.	Reply as furnished in Sl. No. (ix) above. The conditions have been included in the revised proposed draft Scale of Rates.

(xi).	(a). During the last review of stevedoring charges in the year 2008, a special rate of ₹ 1/- per tonne was approved to enable the CHPT to build up reserves to meet the liability of arrear wages on account of the impending revision of pay and allowances of port workers. Since the impact of the wage revision was not known, the special rate of ₹1/- per tonne was approved on an interim basis and was to continue till the (moderated) arrear liability is recovered by the port. In this connection, the port was to quantify the actual arrear liabilities soon after the pay revision is effected and inform this Authority about the position of collection made already and the balance to be recovered, so that the terminal date for discontinuance of the levy could be realistically fixed. The port was also to ensure discontinuance of the special charge immediately on recovery of the wage arrear liability. For the said purpose, the CHPT was advised to maintain a separate account head and review the accumulations under this head regularly and that the excess collection, if any, on this account will be set off fully in the next review of the stevedoring levy at CHPT. The CHPT vide its proposal dated 17 March 2014 has, <i>inter alia</i>, stated that two wage revisions have taken place after the existing rates was fixed by this Authority. It also appears from the said letter that the CHPT has implemented revised salary and wages for Class III and IV employees and arrears also have been paid. In this context, the CHPT to furnish an Account of actual realisation from the special rate from date of implementation of August 2008 Order and the funds utilised to meet the wage arrear liability and the balance, if any, available in the fund as on date.	(a).The total wage arrears pertaining to Stevedoring sub-activity, on account of wage revision effective from 1.1.2007 is ₹ 9.35 crores out of which an amount of ₹1.09 crores only has been collected upto 31.8.2014 towards Special charge to meet wage arrears liability. Hence, it is proposed to continue the levy till the above amount is fully collected.
	(b). The CHPT to clarify whether it still continues to levy the said rate of ₹ 1/- per tonne.	Yes. As stated above, only an amount of ₹1.09 crores has been collected so far towards this levy.
	(c). It may be recalled that the said levy was prescribed by way of note no. (2) of Sl. no. III of the existing Scale of Rates. From the proposed Scale of Rates, it appears that the CHPT has proposed deletion of the said note. This leads to a position that the CHPT has already recovered the liability of wage arrears.	The revised proposed draft SOR is forwarded herewith incorporating the said provision.

6.1. A joint hearing in this case was held on 27 August 2014 at the CHPT premises in Chennai. The CHPT made a Power point presentation of its proposal. At the joint hearing, the CHPT and the concerned users/ organisation bodies have made their submissions.

6.2. As decided at the joint hearing, CHPT was requested vide our letter dated 3 September 2014 to furnish some information/ clarification. The CHPT has responded vide its letter dated 18 September 2014. The details sought by us and the response of the CHPT are tabulated below:

Sl. No.	Information sought by TAMP	Response of CHPT
(i).	The CHPT to revise its proposal, if it so desires, after taking into account the submissions made by the users during the hearing.	Based on the submissions made by the users at the Joint hearing, the proposal is revised as follows: (i). Time-rate wages: The time-rate wages have been arrived based on the actual wages payable to the respective category of workers as of January 2014. Hence, the same has not been revised. (ii). General Levy: In respect of General Levy, the existing rate of 192% has been proposed to be continued taking into account the huge deficit position reflected in the cost statement for stevedoring sub-activity. It is reiterated that even at the 192% levy, the port is meeting only about 1/3rd of the estimated deficit for the years 2013-14 to 2015-16. In view of the above, the General Levy at 192% may be allowed to continue for the current tariff cycle ending 31 March 2016 subject to adjustment, if any, required based on the moderated deficit position (to be) considered by TAMP. (iii). Tonnage Levy and C&F Levy: In the original proposal, an increase of 198% was proposed in the Tonnage based stevedoring levy (applicable for agricultural produce) and C&F Levy for general cargo and bulk cargo at par with the increase proposed for general cargo and storage activity in the general revision proposal. Now, TAMP has passed an Order dated 4 August 2014 in the general revision case approving an across the board increase of 42% in the Scale of Rates, i.e. including General Cargo and Storage activity. Considering the request of the trade / users at

		the Joint hearing, the increase proposed for Tonnage levy and C&F Levy is now reduced to 42% based on the increase approved by TAMP for general cargo and storage activity in the general revision proposal. A revised cost statement and revised proposed draft Scale of Rates are furnished. (iv). Special Levy for Wage Revision Arrears: The total wage arrears on account of wage revision effective from 1.1.2007 pertaining to Cargo Handling Division is ₹ 9.35 crores out of which an amount of ₹ 1.09 crores only has been collected upto 31.8.2014 and the balance of ₹8.26 crores is yet to be recovered. Hence, TAMP is requested to allow CHPT to continue the Special levy of ₹ 1/- per MT till the balance amount is collected.
(ii).	The CHPT to furnish a copy of the Order passed by the Hon'ble Madras High Court on the appeal filed by the Chennai Port Stevedores Association (CPSA) while adjourning the hearing to 16 September 2014 for our reference.	A copy of the interim Order dated 8.8.2014 passed by the Hon'ble High Court in the Writ Appeal filed by CPSA, adjourning the hearing to 16.9.2014, is furnished. [Court made the following order. "Any steps or action taken by the parties in respect of the matter in dispute shall be subject to the final result of the pending appeal. Call on 16.09.2014"]
(iii).	It may be recalled that during the joint hearing, the CPSA had made a mention about the appeal filed by it against the Order dated 9 June 2014 passed by the Madras High Court and that the Appeal is listed for hearing on 16 September 2014 and had, therefore, made a request to defer the revision of stevedoring and C&F Levy till such time the Appeal is disposed. The CHPT to furnish its comments on the plea made by the CPSA.	It is stated that TAMP is not a party either in the Writ Petition or in the Writ Appeal filed by the CPSA, which is pending in the Madras High Court. The litigation is relating to issues on implementation of NIT Award and collection of revised time-rate wages pending approval of TAMP. The CPSA has not challenged the tariff proposal dated 17 March 2014 filed by the CHPT. The Hon'ble High Court also has not passed any Orders restraining TAMP from processing the case and passing Orders. Hence, there may not be any legal breach in TAMP processing the case and passing Orders. In view of the above, TAMP is requested to process the case and pass Orders early.

6.3. As decided at the joint hearing, users / user organisation were requested vide our letter dated 3 September 2014 to furnish their additional written submission, if any, on the subject proposal. Only one of the users viz., Chennai Port Stevedores Association (CPSA) has furnished its additional comments. A copy of CPSA comments was forwarded to the CHPT as feedback information. The CHPT vide its letter dated 21 October 2014 has furnished its comments on the points made by CPSA.

7. The CHPT in its email dated 21 October 2014, while responding to the additional comments made by the CPSA, has conveyed the following direction of the Hon'ble High court of Madras:

- (i). With regard to the Writ Appeal filed by Chennai Port Stevedores Association (CPSA), the arguments in the WA 729 of 2014 was completed on 13 October 2014 and 14 October 2014. The division bench of the Hon'ble Madras High Court vide Order dated 14 October 2014 has disposed of the W.A.No.729 of 2014 filed by the CPSA, with the following directions:
 - (a). The TAMP is directed to consider and dispose of the proposal submitted by Chennai Port Trust seeking revision of tariff, in March 2014, as expeditiously as possible and in any case, within a period of four weeks from the date of receipt of a copy of this Order.
 - (b). The appellant (CPSA), Chennai Port Trust and Madras Harbour Workers Union (MHWU) should be given reasonable opportunity to submit their response before passing Orders by TAMP with regard to revision of rates.
 - (c). Those licensees named in the list submitted by the Chennai Port Trust dated 14 October 2014 and interested to function as stevedores pending determination of rates by TAMP are directed to deposit 1/3rd of the amount indicated in the said statement, within a period of one week from today. The stevedores are further directed to execute Indemnity Bond agreeing to pay the remaining amount to the Chennai Port Trust.
 - (d). All other issues raised by the Appellant are left open to be decided in the appropriate writ proceedings.

8.1. With regard to the direction of Hon'ble Court of Madras, it is relevant to mention here that the CPSA was given an opportunity of hearing in the joint hearing held on 27 August 2014. However, the MHWU was neither consulted in the proceedings nor was invited for the joint hearing, as the MHWU is a labour union and not in the approved list of users and also because the CHPT had not suggested to take MHWU for consultation.

8.2. Therefore, in order to comply with the direction of the Hon'ble Court, a copy of the CHPT proposal dated 17 March 2014 (which has been taken on consultation with the other stakeholders) was forwarded to the CPSA and MHWU vide our letter dated 24 October 2014 for their response in a time bound manner to us and to the CHPT. The said letter was also endorsed to the CHPT with a request to furnish its response on the response of CPSA and MHWU to be received by the CHPT in a time bound manner.

8.3. In response, CPSA vide its email dated 29 October 2014, while stating that the comments furnished by it earlier remain stated and on record, has furnished its additional comments. These additional comments were forwarded to CHPT for its comments. The CHPT has responded vide its letter dated 15 November 2014. The CHPT, while responding to the comments of CPSA, has stated that the comments furnished by CHPT under cover of their letters dated 30 June 2014 and 21 October 2014 in response to the earlier comments of CPSA may be considered.

9.1. In compliance to the direction of the Hon'ble High Court, to give reasonable opportunity to the CPSA, CHPT and MHWU to submit their response before passing order, once again a joint hearing in the case in reference was held on 7 November 2014 at CHPT premises. At the joint hearing, the CHPT made a brief Power point presentation of its proposal.

9.2. At the joint hearing, the Madras Harbour Workers Union (MHWU) has submitted that it agrees with the proposal of the Chennai Port Trust (CHPT) provided it is beneficial to the users and had agreed to confirm this position by its written submission. Accordingly, after a reminder, the MHWU under cover of its letter dated 12 November 2014 has made their submissions.

9.3. During the joint hearing, The CPSA stated that it would furnish a note on the back ground of the Levy of 192% intended to take care of off-wages and other perquisites. In this connection, the CPSA under cover of its letter dated 7 November 2014 has made their submissions.

10. After the joint hearing, we are in receipt of comments from Chennai Custom House Agents Association (CCHAA) vide its letter dated 5 November 2014 (received by us on 11 November 2014) and e-mail dated 7 November 2014 addressed to CHPT also. A copy of the comments furnished by CCHAA under cover of its letter dated 5 November 2014 was forwarded to CHPT for its comments. The CHPT vide its e-mail dated 21 October 2014 has responded to the comments furnished by the CCHAA under cover of its letter dated 5 and 7 November 2014.

11. 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>.

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

- (i). The proposal received from the Chennai Port Trust (CHPT) is for revision of the Clearing & Forwarding Levy and the Stevedoring Levy, which were approved in July 2008. As the CHPT does not undertake direct stevedoring services for cargo handling operations, the licensed stevedores provide such services by engaging the workers from the port and the charges are levied for supply of workers. In this connection, the proposal furnished by the CHPT in March 2014 alongwith the information/ clarification furnished by them during the proceedings of the case in reference has been taken into consideration.
- (ii). When the processing of the tariff case on the proposal in reference filed by CHPT was concluded and ready for disposal in the third week of October 2014 itself, the Hon'ble High Court of Madras has passed an order dated 14 October 2014 disposing the Writ Appeal filed by Chennai Port Stevedores Association (CPSA) by, interalia, directing this Authority to consider and dispose of the proposal of CHPT by passing Order after giving reasonable opportunity to CPSA, CHPT and Madras Harbour Workers Union (MHWU) to submit their response, within a period of four weeks from the date of receipt of the copy of the order. The copy of order dated 14 October 2014 was made available to this Authority by the CHPT on 24 October 2014 under the cover of its letter dated 21 October 2014.

Accordingly, in compliance to the direction of the Hon'ble Court, a copy of the CHPT proposal was forwarded to CPSA and MHWU and a joint hearing was held at second time at Chennai on 7 November 2014. Reasonable opportunity was given to CPSA, CHPT and MHWU to make their respective submissions. Thereafter, this case has been taken up for finalization.

- (iii). The background to the Hon'ble High Court Order dated 14 October 2014 is summarized briefly herein under:

The CHPT forwarded a copy of the Trade Notice dated 31 January 2014 issued by it along with its proposal of March 2014, *inter alia*, intimating the trade about implementation of the revised manning scale, gang charges, and datum and piece rate incentives with effect from 01 February 2014. The CHPT has also made a mention in its proposal about the CPSA challenging the said Trade Notice. In this connection, it was learnt from the CHPT that the Hon'ble Single Judge of Madras High Court vide Order dated 2 June 2014 has dismissed the Writ Petition No.4157 of 2014 filed by the CPSA observing that there is no illegality or infirmity in the Trade Notice dated 31 January 2014. Based on the Court order, the CHPT has reported to have implemented the Trade Notice dated 31 January 2014 including the revised wage rates for all categories of workers deployed for stevedoring

operations, with effect from 3 June 2014, pending approval of this Authority. Consequently, the CPSA preferred an Appeal before the Division Bench of the Hon'ble High Court of Madras against the Order dated 2 June 2014. In this regard, it is relevant here to mention that the matter before the Hon'ble High Court was pertaining to issues on implementation of National Industrial Tribunal (NIT) Award and collection of revised time-rate wages pending approval of this Authority to collect the revised time rate wages. This Authority was neither a party in the Writ Petition or in the Writ Appeal filed by the CPSA. The Hon'ble Division Bench has disposed of the Writ Appeal by their Order dated 14 October 2014.

- (iv). The CHPT issued the Trade Notice dated 31 January 2014 to implement the revised manning scale, datum and piece rate incentives and also revised time rate wages pending approval of this Authority. It was this Trade Notice which was challenged by the CPSA before the Hon'ble Madras High Court by its Writ Petition No. 4157 of 2014. The Hon'ble Single Judge negatived the challenge made to the Trade Notice dated 31 January 2014 issued by the CHPT by His Lordship's Order dated 2 June 2014. The Writ Appeal No. 729 of 2014 filed by the CPSA against the order dated 2 June 2014 passed by the Hon'ble Single Judge has been disposed of by the Hon'ble Division Bench of Madras High Court by their order dated 14 October 2014 directing this Authority to consider and dispose of the proposal submitted by the CHPT in March 2014 seeking revision of tariff within a prescribed time limit after giving reasonable opportunity to the CHPT, CPSA and MHWU to submit their response. Therefore, the mandate before this Authority is to consider and dispose of the proposal filed by the CHPT in March 2014 seeking revision of tariff. Accordingly, this case proceeds further to analyse the proposal of CHPT for disposal.
- (v). During the proceedings, the CPSA has brought to the fore that the port has entered into a bipartite agreement involving the port and Labour Union only instead of a tripartite agreement involving the port, Labour Union and the users, as per the NIT Award. The CPSA has also stated that number of workers to be deployed in the gang as proposed by the port is not seen to be as per the NIT Award. In this connection, it is relevant here to mention that the provisions of the NIT award are for the implementation by the concerned port. As per Clause 2.6.2 of the 2005 tariff guidelines, Manning scale/Datum for different services / operations is to be reckoned at the levels followed by ports based on various settlements. The CHPT has confirmed that the proposed stevedoring charges and C & G levy have been worked out based on the reduced manning scale as per the Memorandum of Settlement. This Authority, thus, has no role to play in the implementation of the NIT award and is, therefore, not an appropriate forum to deal with the points agitated by the CPSA. The matter is already before the Hon'ble Madras High Court by way of Writ petition no. 4207 of 2010 filed by CPSA.
- (vi). As reported by the CHPT, after approval of the revised Clearing & Forwarding Levy and the Stevedoring Levy in July 2008, two wage revisions have been implemented i.e. the implementation of wage revision with effect from 1 January 2007, which was approved in the year 2010 by the Government and implementation of wage revision with effect from 1 January 2012, which has been approved in the year 2013 by the Government. Therefore, the CHPT has reported about existence of a huge gap between the actual wages paid to the labourers and the time-rate wages collected as per SOR. Thus, the proposal from the CHPT for revision of Clearing & Forwarding Levy and the Stevedoring Levy is to enable the port recover the increase in actual wage cost as well to partially meet the deficit of the stevedoring sub-activity, to some extent.
- (vii). After revision of Stevedoring levy and C & F levy in July 2008, the increase sought by CHPT in the said Stevedoring levy in the next review in November 2010 in the range of 62.32% to 77.84% along with the general revision proposal was not approved based on the comprehensive assessment of estimated financial/ cost

position and status quo was maintained in the then existing Stevedoring levy in November 2010 tariff order. This position is admitted by the CHPT. The deficit in the stevedoring activity arose not because of maintaining status quo in the stevedoring levy but because the CHPT could not achieve the financial/ cost position estimated in November 2010 tariff order, due to stoppage of Coal and Iron Ore traffic at CHPT with effect from 1 October 2011.

- (viii). During the finalization of the general revision case of CHPT, which has been disposed of recently by this Authority in August 2014, the cost position pertaining to the Stevedoring activity for the years 2013-14 to 2015-16 has been analysed. However, it has not been taken into account while determining the increase accorded in the general revision case, as it was felt appropriate to consider this position while disposing the separate proposal filed by the CHPT for revision of the Clearing & Forwarding Levy and the Stevedoring Levy. Thus, as already communicated to CHPT and also noted by the CHPT, the deficit position as reflected in the Cost statement of the Stevedoring activity would act as the guiding factor to determine the increase to be accorded to the prevailing Clearing & Forwarding Levy and the Stevedoring Levy.
- (ix). It may be recalled that at paragraph no. 15(xix)(c) of the general revision Order of CHPT disposed in August 2014, the deficit position pertaining to the stevedoring activity has been assessed at ₹ 259.45 crores. It is noteworthy that this deficit takes into account the 50% of the past period actual deficit for the years 2010-11 to 2012-13 relating to the stevedoring activity to the tune of ₹ 60.53 crores as assessed at paragraph no. 15(v)(e) of the general revision Order of CHPT disposed in August 2014. The said deficit of ₹ 259.45 crores pertaining to the Stevedoring activity which was assessed in the general revision Order of CHPT was excluded from the purview of the exercise carried out then, so as to be considered while disposing the proposal for revision of Clearing & Forwarding Levy and the Stevedoring Levy, filed by the CHPT separately. Thus, the same is considered now while disposing the proposal under reference.

The paragraph no. 15 (v) (d), 15 (v) (e), 15 (xix) (b), and 15 (xix) (c) of the tariff order dated 4 August 2014 are reproduced below for ease of reference:

“15 (v) (d). *A summary of the surplus/ deficit position for the years 2010-11 to 2012-13 is given below:*

(₹ In lakhs)

Years	Amount
2010-11	-18977.15
2011-13	-23447.64
2012-13	-21125.76
Total	-63550.55
50% to be set off in future tariff	-31775.28

15 (v) (e). *It is noteworthy that the said deficit position is exclusive of the past period deficit position pertaining to the stevedoring activity. Though the past period deficit position pertaining to the stevedoring activity has been assessed at ₹121.07 crores, it is relevant to mention here that since the CHPT has filed a separate proposal for revision of the Stevedoring and Clearing & Forwarding levy, 50% of the past period deficit relating to the stevedoring activity to the tune of ₹ 60.53 crores is being excluded from the purview of the general revision proposal and would be considered while analyzing the proposal relating to revision of Stevedoring and Clearing & Forwarding levy.”*

“15 (xix) (b). As can be seen from the above table, there will be a net deficit amounting to ₹ 1027.67 crores at the existing level of tariff for the port as a whole during the years 2013-14 to 2015-16. Accordingly, there is a case for effecting an upward increase in the existing level of tariff of CHPT.

15(xix) (c). It is noteworthy that the said deficit position is exclusive of the deficit position pertaining to the stevedoring activity to the tune of ₹ 259.45 crores. Though the cost position pertaining to the stevedoring activity has been assessed, as stated earlier, since the CHPT has filed a separate proposal for revision of the Stevedoring and Clearing & Forwarding levy, the said deficit cost position relating to the stevedoring activity is excluded from the purview of the general revision and would be considered while analyzing the proposal relating to revision of Stevedoring and Clearing & Forwarding levy.”

(x). As against the average deficit to the tune of about 232% at the existing level of tariff in the Cost statement for stevedoring activity furnished by the CHPT for the years 2013-14 to 2015-16, the Cost statement modified by us shows deficit to the tune of about 249%. The modified Cost statement pertaining to the Stevedoring activity is attached as **Annex-I**. The summarised results from the Cost statement are given below:

Sl. No.	Particulars	Operating Income (₹ in crores)				Net Surplus (+) / Deficit (-) (₹ in crores)				Net Surplus (+) / Deficit (-) as a % of Operating Income			
		2013-14	2014-15	2015-16	Total	2013-14	2014-15	2015-16	Total	2013-14	2014-15	2015-16	Average
1.	Stevedoring activity	34.03	34.89	35.12	104.04	-70.95	-85.78	-102.71	-259.45	-208.50%	-245.89%	-292.46%	-248.95%

From the above table, it can be seen that the stevedoring activity is in deficit to the tune of about ₹ 259.45 crores. Thus, there is a case for effecting an upward increase in the existing Stevedoring and Clearing & Forwarding levy.

(xi). (a). As against the average deficit to the tune of about 232% at the existing level of tariff as reflected in the Cost statement for stevedoring activity furnished by the CHPT for the years 2013-14 to 2015-16, the CHPT, in its proposed draft Scale of Rates has proposed different percentage of increase ranging from 102% to 200% for the different categories of workers deployed for the purpose of stevedoring operations as well as in the charges prescribed for Clearing & Forwarding operations. With reference to a specific request made to CHPT to furnish an analysis with necessary workings to correlate the different percentage of increase for the various tariff items sought in the proposed draft Scale of Rates with the aggregate deficit cost position reflected by the Cost statement of the Stevedoring activity, the CHPT has stated the following:

(i). Time-rate wages have been proposed to be increased on an average of about 129%, based on actual wages payable to the workers as on January 2014.

(ii). General levy at 192% has been maintained at the existing level.

Further, with regard to the Tonnage levy for agricultural produce, C&F levy and inter-carting operations, instead of the increase of 198% sought by CHPT in its proposal to keep it at par with the increase proposed by the CHPT for general cargo and storage activity in the general revision proposal, the CHPT has subsequently revised downwards the increase to about 42% only, in line with the increase approved for general cargo and storage in the general revision proposal of CHPT.

- (b). Though the above submissions made by the CHPT are not found sufficient to determine the quantum of increase to be granted in the time rate wages for stevedoring operation, in the existing Stevedoring, it is noteworthy that the CHPT has quantified the additional income likely to be generated based on the quantum of increase sought by it in the tariff items during the period of 2 years viz., 2014-15 and 2015-16, to the extent of ₹ 75.70 crores as given below, as against the aggregate deficit of ₹ 259.45 crores for the year 2013-14 to 2015-16.

(i).	Time-rate wages	₹ 19.71 crores
(ii).	General levy @ 192%	₹ 32.20 crores
(iii).	Tonnage levy, C&F levy and levy for inter-carting operations	₹23.79 crores
	Total	₹75.70 crores

- (c). Therefore, even at the level of increase proposed by the port, the CHPT will continue to be in a deficit position. In other words, about 73% of the deficit assessed for the Stevedoring activity will remain uncovered. In that case, according approval to the various percentage of increase in time rate wages will not result in undue advantage to the CHPT.
- (d). With regard to the proposal of the port to continue to levy the general levy of 192% of time rate wages to cover overheads, it may be recalled that during the last review of Stevedoring charges in the year 2008, the CHPT was advised to furnish information regarding overheads and details of average employment per gang of cargo handling workers to justify the percentage levy of 192%, during the next review of tariff for stevedoring activity. In this connection, the CHPT has furnished the details of the overheads and has stated that the overheads considered under this activity is the allocated portion of the total overheads incurred by the port and that it is on an increasing trend year after year. The CPSA is of the view that since the percentage levy of 192% was approved to enable the CHPT to cover the allocated portion of overheads, the users should not be made to bear the overhead expenses of the port and that it should be borne by the port itself. From the note furnished by the CPSA to explain the back ground of the Levy of 192%, the Note concludes by stating that a levy is charged only on supply of labour to defray the costs such as off wages, attendance money, bonus, pension, etc, and is directly dependent on the utilization of labour. Higher the utilization of labour, the cost of levies will be lower and vice versa. From the note, it can be seen that levy and deployment of labour are interconnected.

In this connection, it is relevant here to mention that, as reported by the port, the continuation of general levy of 192% would enable it earn an additional income to the tune of about ₹ 32.20 crores. When compared with the estimated deficit, this additional revenue constitutes only 12% of the total deficit. Further, as stated by the CHPT at the joint hearing, the rates to be approved by this Authority would be at ceiling level only and that the port has liberty to charge lower rates, if it so desires. The CHPT is prepared to consider better rates if there is business proposition from the concerned party. In view of the above position, the proposal of the port to continue the general levy of 192%, is approved. However, the CHPT is advised to furnish the information regarding overheads and details of average employment per gang of cargo handling workers, due to their interconnection, to justify the percentage levy of 192%, during the next review of tariff for stevedoring activity.

In view of this position, this Authority is inclined to approve the following:

- (a). Grant increase in the time rate wages for different categories of workers as prescribed in Sl. no. 1 of Scale 1 under Chapter VII, at the level proposed by the CHPT.
- (b). Maintain continuance of the general levy of 192% on wages for stevedoring operations as prescribed in Sl. no. 2 of Scale 1 under Chapter VII.
- (c). Tonnage levy as prescribed in Sl. no. 3(b) of Scale 1 under Chapter VII and the C&F levy as prescribed in Scale 2 under Chapter VII at the level proposed by the port.
- (e). While the CCHAA and the MHWU have supported the proposal of CHPT for tariff increase, the SICAL has requested to defer the increase in tariff to the end of financial year and the CPSA and Century Star are seen to be objecting to the quantum of increase sought by the CHPT in the Stevedoring and Clearing & Forwarding levy on the ground that the increase is steep and would drive cargo away from the port and that the increase in rates would make the commodities uncompetitive in the market.

While the concerns expressed by the CPSA are appreciated, it is to be recognized that the cost position for the stevedoring activity reflects a deficit position. Though the CHPT is entitled to seek tariff increase to cover the entire deficit as per the cost plus formula adopted, the port has reported to have made attempts to accommodate the demand of the users and has sought an increase only at a lower level, so as to enable it recover only 20% of the deficit of the stevedoring activity. As stated earlier, the CHPT is agreeable to consider better rates if there is a business proposition from the users.

Two wage revisions in respect of the workers have taken place, since the Stevedoring and Clearing & Forwarding levy were revised on the last occasion. It is but natural for a port to take efforts to meet the increase in the wage costs. However, the port has proposed the quantum of increase at the lower level. The FSAA understood the port's need to increase the tariff.

- (xii). During the last review of stevedoring charges in the year 2008, a special rate of ₹ 1/- per tonne approved on an interim basis to enable the CHPT to build up reserves to meet the liability of arrear wages on account of the impending revision of pay and allowances of port workers was to continue till the arrear liability was recovered by the port. In this connection, the port has reported that out of the total wage arrears pertaining to Stevedoring sub-activity on account of wage revision effective from 01 January 2007 to the tune of ₹ 9.35 crores, only an amount of ₹ 1.09 crores has been collected upto August 2014. As a result, the port has proposed to continue the levy till the above amount is fully collected. Since the income arising out of this levy would be utilized exclusively to meet the liability of arrear wages, the CHPT has reported that there will be no additional financial implication to the port on this account. Based on the submissions made by the port and keeping in view that there is no pointed objection from the stakeholders, this Authority is inclined to allow the port to continue with the levy of ₹ 1/- per tonne. In this connection, the port is advised to maintain a separate account and review the accumulations under this head regularly with intimation to this Authority. The port is also advised to ensure discontinuance of the said levy immediately on recovery of the wage arrear liability. In this connection, it is also communicated to CHPT that the excess collection, if any, on this account will be set off fully in the next review of the stevedoring levy at CHPT, in line with the decision taken in the 2008 Order of CHPT.

- (xiii). (a). The CHPT has started to levy the proposed time rate wages and general levy with effect from 3 June 2014. However, the Tonnage levy, C&F levy for general cargo, C&F levy for bulk cargo and levy for wage revision arrears were continued to be charged as per the existing Scale of Rates.
- (b). As per provisions of Clauses 2.17.1 to 2.17.4 of the 2005 guidelines, the levy of the proposed charges along with submission of the proposal to the TAMP can be made in respect of a new facility or handling of a new cargo. Since, rendering of stevedoring and C & F services is not a new service, the action taken by it does not fall in the ambit of Clauses 2.17.1 to 2.17.4 contained in the 2005 Guidelines.
- (c). In this regard, the CHPT has tried to justify its action by drawing reference to its struggle to meet the operational expenses arising due to stoppage of Coal and Iron ore with effect from 1 October 2011 and owing to additional cash outflow arising due to implementation of two wage revisions. Hence, with a view to improve the financial position to some extent, the port has decided to collect the actual wages from the users pending approval of Authority and has requested this Authority to take a lenient view of the action taken by the CHPT. Accordingly, the port has sought approval for the revised Stevedoring and C&F charges with retrospective effect from 3 June 2014 in terms of clause 3.2.8 of the Tariff Guidelines 2005.
- (d). While Clause 3.2.8 of the 2005 Guidelines stipulates that revised/ modified charges will come into effect prospectively after expiry of some lead time, it also provides that in exceptional cases retrospective effect may be given for reasons to be recorded.
- (e). The CPSA has objected to the retrospective application of rates from 3 June 2014 and pleaded for tariff increase with prospective effect.
- (f). It is the argument of the users association that retrospective application of time rate wages and general levy will cause hardship to them in recovering the dues from ships and cargos which have already been handled. But, it has to be recognized that the CHPT has made known its intention to levy the proposed rates by its Trade Notice dated 31 January 2014, though the Trade Notice was kept in abeyance based on the representation made by CPSA to the CHPT. It is only after a period of around four months of making known its intention to levy the proposed rates pending approval of this Authority, that the CHPT has implemented the proposed rates in respect of time rate wages and general levy based on the findings of the Hon'ble Single Judge.
- (g). It is noteworthy that the Single Judge of High Court of Madras vide Order dated 2 June 2014, while dismissing the Writ Petition No.4157 of 2014 filed by the CPSA, has held that there is no illegality or infirmity in the Trade Notice dated 31 January 2014 (wherein the port had initially decided to levy the revised charges with effect from 01 February 2014). Even while disposing the Writ Appeal filed by the CPSA against the Court Order dated 2 June 2014, the Hon'ble Division bench vide their Order dated 14 October 2014 have neither quashed nor set aside the Order dated 2 June 2014 passed by the Hon'ble Single Judge. The Order of 14 October 2014 passed by the Division Bench, has not set aside the finding of Single Judge in the Order of 2 June 2014 that there is no illegality or infirmity in the Trade Notice dated 31 January 2014, as confirmed by the CHPT. Therefore, it is not found possible to accept the statement made by the CPSA that the Hon'ble Madras High Court has stayed the collection in their Order dated 14 October 2014.

- (h). In view of the above position, this Authority is inclined to regularize the levy of time rate wages and general levy at the proposed rates from 3 June 2014 till the effective date of implementation of the Order passed by this Authority in this case.

It is relevant here to mention that the deficit of ₹ 259.45 crores is pertaining for a period of 3 years viz., 2013-14 to 2015-16. However, the revised Stevedoring and Clearing & Forwarding levy would be in force only during the period of 22 months from June 2014 to March 2016. Thus, the additional income likely to be earned by the CHPT during the period of 22 months, at the level of increase proposed by the port, would be to the tune of about ₹ 69.39 crores, as against the deficit of the stevedoring activity to the tune of about ₹ 259.45 crores.

- (i). As a measure of abundant caution, it is clarified that regularisation of the levy of proposed time rate wages and general levy from 3 June 2014 should not be cited as a precedent by any of the Major Port Trust including the CHPT or Private Terminal operating thereat and implement the proposed tariff without approval of this Authority, since the regularisation of rates in the CHPT case is unique in nature arising in the backdrop of the Orders passed by the Hon'ble Single Judge and Hon'ble Division Bench of the Madras High Court.
- (xiv). The CHPT has proposed introduction of a note to the effect that the Stevedore will be permitted to indent gang for half shift instead of full shift for incoming and finishing vessels on permanent basis, by making payment of 50% of existing wages and 192% levy on 50% wages, based on the long pending requirement of the trade. According to CHPT, the Stevedores are reluctant to engage gangs for part shift workings as they have to pay full gang charges, thereby remaining idle. As reported by the CHPT, the introduction of the proposed provision in consultation with the recognised Trade Unions and Stevedores Association has resulted in increase of ship day output, reduction of idle hours and turnaround time. Further, as per CHPT, though there may be marginal revenue loss on account of collection of 50% of wages and levy for half-shift gang, in the long run, this scheme will induce Stevedores to indent labour for half-shifts, thereby leading to generation of additional income due to handling of more vessels. The CHPT has expressed its inability to quantify additional income arising due to the said scheme. However, based on the position that the tariff fixed now is for a period of around 16 months from the effective date of implementation of the Order to March 2016 and considering the position of the port that the said scheme would initially not lead to any additional income, as reported by the port, this Authority is inclined to approve the proposal of the port in this regard, at this juncture. The Port is advised to furnish the details of the financial implication arising in this regard, during the next review of the stevedoring levy.
- (xv). Based on the revised manning scale arrived in the Memorandum of Settlement (MoS) entered with Unions for implementation of NIT Award letter dated 10 January 2014, the CHPT has proposed modifications to the existing note no. 11 and 12 under Scale – 1. In the existing note no. 11 under Scale – 1 relating to prescription of posting of one reliever upto 3 Hooks and 2 relievers for 3 hooks, the CHPT has proposed to modify the said note so as to prescribe posting of one reliever per shift per vessel irrespective of number of hooks. Similarly, in the existing note no. 12 under Scale – 1 relating to prescription of posting of one Supervisor upto 1 Hook and 2 Supervisors for 2 or more hooks, the CHPT has proposed to modify the said note so as to prescribe posting of one Supervisor and one Tindal per shift per vessel irrespective of number of hooks. Since the proposed modifications are reported to be in line with the MoS, this Authority is inclined to approve the same.

- (xvi). In the existing arrangement, charges are leviable for aggregation at the transit area prior to shipment in case of Cobble stones, Cut stones, Barytes, Manganese Ore, Felspar, Blue Metals etc., any other dry bulk cargo which requires aggregation. The CHPT had been allowed to collect double the wage rate of mazdoor for supply of 2 mazdoors. If additional mazdoors are required, CHPT collects at the prescribed wage rate for one mazdoor. The CHPT has proposed a similar arrangement in the revised proposal also, which is approved.

13.1. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the revised Scale of Rates and the conditionalities governing the levy of charges for supply of cargo handling workers and supervisory staff for stevedoring operations and clearing and forwarding operations as in the Scale of Rates attached as **Annex-II**.

13.2. The revised rates would come into effect after expiry of 30 days from the date of Notification of the Order passed and would remain valid till 31 March 2016. The validity shall automatically lapse unless specifically extended by this Authority. The levy of time rate wages and general levy at the proposed rates from 3 June 2014 till the effective date of implementation of the Order to be passed is regularized.

(T.S. Balasubramanian)
Member (Finance)

Cost statement for Stevdoring and C&F Levy

(Rs. in Lakhs)

Sr. No.	Particulars	Actuals			Estimates at existing level of tariff as furnished by the CHPT			Estimates as modified by us		
		2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2013-14	2014-15	2015-16
I	Operating Income	4962.92	4253.86	3535.61	3403.00	3488.60	3512.00	3403.00	3488.60	3512.00
II	Operating Expenses									
	- Salary & wages	3,556.09	3,377.00	3,361.28	4,436.89	4,880.58	5,368.64	4436.89	4880.58	5368.64
	- Others	23.73	39.66	4.67	15.45	5.75	6.15	15.45	5.75	6.15
	Total	3579.82	3416.66	3365.95	4452.34	4886.33	5374.79	4452.34	4886.33	5374.79
III	Cost of surplus manpower									
IV	Depreciation	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
V	Allocated share of Management and General overheads	2709.17	2698.10	2709.63	3299.39	3437.45	3734.49	2899.30	3073.26	3257.66
VI	Operating Surplus/ Deficit (I) – (II) - (III) - (IV) - (V)	(1,326.07)	(1,860.90)	(2,539.97)	(4,348.73)	(4,835.18)	(5,597.28)	(3,948.64)	(4,470.99)	(5,120.45)
VII	Allocated share of FMI	666.22	482.05	458.91	415.59	386.97	388.65	352.29	348.92	357.00
VIII	Allocated share of FME	2402.75	2694.14	2890.18	3551.62	3492.65	3547.56	3498.76	3447.23	3490.10
IX	FMI Less FME (VII) - (VIII)	(1,736.54)	(2,212.09)	(2,431.28)	(3,136.03)	(3,105.68)	(3,158.91)	(3,146.46)	(3,098.31)	(3,133.10)
X	Surplus / deficit (VI) + (IX)	(3,062.61)	(4,072.99)	(4,971.25)	(7,484.76)	(7,940.86)	(8,756.19)	(7,095.11)	(7,569.30)	(8,253.55)
XI	Capital Employed for the activity	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
XII	Return on Capital employed	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
XIII	Capacity Utilization	73.50%	58.80%	54.35%	63.09%	64.26%	66.19%	54.97%	54.90%	56.55%
XIV	RoCE adjusted for Capacity utilization	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
XV	Net surplus / (Deficit) (X) - (XIV)	(3,062.61)	(4,072.99)	(4,971.25)	(7,484.76)	(7,940.86)	(8,756.19)	(7,095.11)	(7,569.30)	(8,253.55)
XVI	50% of the deficit for the years 2010-11 to 2012-13 considered for set off		-6053.42					0.00	-1008.90	-2017.81
XVII	Total Deficit							-7095.11	-8578.20	-10271.36
XVIII	Deficit as a % of operating income of the respective years	-61.71%	-95.75%	-140.61%	-219.95%	-227.62%	-249.32%	-208.50%	-245.89%	-292.46%
XIX	Average net deficit as a % of operating income				-232.30%			-248.95%		

CHAPTER - VII**I. Charges for Supply of Cargo Handling Workers and Supervisory Staff****Scale 1 - Stevedoring Operations:**

- (1). The time rate wages of different categories of workers for the purpose of stevedoring operations are as follows:

S. No.	Category	Wage rate per shift of 8 hours (in ₹)
1.	On Board Supervisor	2070/-
2.	Tally Clerk	1620/-
3.	Tindal	1480/-
4.	Maistry	1480/-
5.	Winch Driver	1480/-
6.	Signal Man	1370/-
7.	Mazdoor	1370/-

- (2). (a). The stevedores shall pay charges comprising time rate wages and 192% levy on wages for stevedoring operations prior to the engagement of labour.
 (b). The Stevedore will be permitted to indent gang for half shift instead of full shift for incoming and finishing vessels on permanent basis, by making payment of 50% of existing wages and 192% levy on 50% wages.
- (3). (a). The levy structure mentioned at clause (ii) shall not apply in case of agricultural produce such as wheat, rice, maize, pulses, etc., including sugar in bags or jumbo bags or pallaties.
 (b). Such commodities will pay a charge of ₹ 10.65 PMT for deployment of cargo handling workers and supervisory staff for stevedoring operations.
- (4). The piece-rate incentive shall be paid at actuals separately.
- (5). Time limit for payment of charges by users / refund of excess collection by port as well as levy of penal interest for delay will be governed by the provisions prescribed in Chapter - I of this Scale of Rates.
- (6). Whenever any additional man power is required by stevedores, actual wages in respect of the category of the workers intended shall be payable by them in addition to the levy.
- (7). While calculating the piece-rate, the datum will not be adjusted, according to effective hours of working, i.e., there will be no idle hour concept. The datum will be taken as full tonnage for the entire shift without any deduction.
- (8). The Tonnage of Heavy Lift cargoes will be taken as 7 Tons/Unit for calculation of piece rate and for other purposes hitherto adopted.
- (9). The Mazdoor posted in the Gang will be distributed for on shore and on board work as per the operational convenience.
- (10). In case of shortage of Maistry, the Tindal may be posted in his place. Whenever Tindal is in shortage, Maistries will be posted only to bulk vessels of Fertilisers and Ore, where shore crane is put into use (where there is no posting of Winch Drivers).
- (11). One Reliever per shift per vessel will be posted in the categories of Winch Drivers/ Signallers/ Tally Clerks, irrespective of number of hooks.
- (12). One Supervisor and one Tindal per shift per vessel will be posted, irrespective of number of hooks.

II. Scale 2 - Clearing & Forwarding Operations

Nature of Cargo		Levy per tonne (in ₹)
Delivery / Receipt		
(a).	General Cargo	56.80
(b).	Bulk cargo, ore and timber / logs	5.35

Conditions:

1. The applicable C&F will be collected through Import Applications and Export Applications when there is actual deployment of labour for C & F operations and no separate wages will be collected for this work.
 2. The above rates do not include piece rate incentive. The piece rate incentive shall be calculated by CHPT, after completion of delivery / receipt and this is payable by the users, in addition to the above C & F charges.
 3. A sum of Rs.4/- per tonne will be collected in advance in addition to the above towards piece rate incentive for C&F operations which will be adjusted against the actual piece rate calculated by CHPT. Time Limit for refund and payment of penal interest in case of delay will apply as prescribed by TAMP in the General Condition in Chapter - I of this Scale of Rates.
 4. Whenever any additional man power is required by stevedores, actual wages in respect of the category of workers indented shall be payable by them in addition to the levy.
 5. For inter-carting operations, the same rates as applicable for C&F operation will be collected. The charges shall be paid before rendering the service.
 6. For receipt delivery work of general cargo, gangs will be posted at various points and will work for different employers in the given shift. However, a separate gang of 4 mazdoors for bagged cargo will be deployed on request from the Employer with prior intimation to the shift section.
 7. Wherever CHPT has permitted Direct Delivery / Direct Shipment, no charges towards C&F operation is payable for such quantity, which is directly delivered from the hook point or directly shipped without the use of any labour under the control of CHPT whose cost of deployment is recovered by any other charge specified in this Scale of Rates.
- III. (1). In case of Cobble stones, Cut stones, Barytes, Manganese Ore, Felspar, Blue metals etc., and any other dry bulk cargo which requires aggregation at the transit area prior to shipment, the following charges are payable towards the cargoes stored in the transit area. However, these charges are not payable if these cargoes are stored in licensed plot.
- (i). Actual piece rate.
 - (ii). Wages @ ₹2740/- for two mazdoors. The above charges are payable through EA applications on the actual quantity as certified by the CHPT or officials authorised by it. In case additional mazdoors are required separate charges are to be paid extra @ ₹ 1370/- per mazdoor.
- (2). To build up reserves to meet the wage revision arrears liability, a special charge of ₹ 1 per tonne will be collected in all Import and Export Applications, wherever cargo handing division workers are deployed.

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SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS / DIFFERENT USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F. No. TAMP/19/2014-CHPT	Proposal from the Chennai Port Trust (CHPT) for revision of Stevedoring and C&F charges prescribed in the existing Scale of Rates.
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A summary of comments received from concerned users / user organisations and comments of CHPT thereon is tabulated below:

Sl. No.	Comments of users / user organizations	Comments of CHPT
1.	<u>Chennai Port Stevedores Association</u>	
(i).	The proposal by Chennai Port Trust to revise, upwards the Stevedoring and C&F charges is completely unacceptable to CPSA considering that the gazette notified National Tribunal Award for the uniform manning scale has not been implemented in toto by the Port.	The issue of implementation of National Industrial Tribunal Award was discussed in the meeting held on 23.2.2011 under the Chairmanship of Secretary (Shipping), Government of India, New Delhi with the representatives of 5 major federations of the Port and Dock Workers wherein Secretary(S) suggested that non-workable recommendations could be discussed and sorted out and requested the Federations to take the Award as the basic document for future discussion and sort out issues at local level. Also, that while passing the Award, the National Industrial Tribunal has stated at page no.225 of the Award document that the deployment should be strictly according to the scales suggested and also according to the necessity which should be flexible and should be the discretion of the management. The National Industrial Tribunal Award has been implemented in few Ports with modification to the Award to suit the working pattern of the particular Port. Since the Ports are encountering various operational problems, the Award has not been implemented in toto in many of the Ports. For example, in Chennai Port Trust, for handling of General Cargo, the Tribunal Award recommends one Tally Clerk per vessel whereas normally discharge operation in any vessel takes place through two or more hooks. It is impossible for one Tally Clerk to tally the discharge or loading of cargo simultaneously from two or more hooks. As per Section 42 of the Major Port Trusts Act, 1963, the Port acts as a Bailee of the cargo and is required to take charge of the cargo for the purpose of performing the services and is required to give a receipt. Therefore, posting of one Tally Clerk for a general cargo vessel as per the Tribunal Award is difficult to implement and there has to be one Tally Clerk per hook. After detailed discussion, the Management and

		the Unions have signed a Memorandum of Settlement under Sec 18(1) of the Industrial Disputes Act, 1947 on 10.01.2014 and its Addendum on 31.01.2014, for revision of manning scale, deploying integrated gangs for cargo handling operations, revision of datum and piece rate among others. Hence, the Trust arrived at the Memorandum of Settlement for revision of manning scale, datum and piece-rate taking the NIT Award as the base document, as per the provision at page no.225 of the Award document and after detailed discussions and to suit the local conditions, the manning scale for different type of cargoes were arrived at. Pursuant to the Memorandum of Settlement, a Trade Notice of even number dt.31.01.2014 was issued.
(ii).	In the year 2010, the CPSA had approached the Madras High Court vide WP.4207 of 2010 seeking the court's directions to Chennai port to implement the NIT Award. The Port has also made a reference that the CPSA have by WP 4157 of 2014 sought the Madras High Court's intervention to stay the Port's Trade Notice of 31.1.14. On 30th April 2014, the Honourable Single Judge was pleased to pronounce that he will pass orders after the summer vacation until which Chennai port is not to implement the Trade Notice of 31.1.14 in any form, modified or otherwise.	The Chennai Port Stevedores Association filed WP 4157 of 2014 before the Hon'ble High Court, Madras with a prayer to quash the Trade Notice PA/NIT/2009/TM dt.31.01.2014. The Hon'ble High Court vide order dt.02.06.2014 in WP 4157 of 2014 dismissed the Writ Petition. The Chennai Port Trust, in order to comply with the order of the Hon'ble High Court, Madras implemented the Trade Notice dt.31.01.2014 in its totality w.e.f. first shift of 03.06.2014 including the revised Time Rate wages for different categories of workers for the purpose of Stevedoring operations. Further, the Chennai Port Stevedores Association has filed a Writ Appeal WA 729 of 2014 before the Hon'ble High Court, Madras against the order of the Hon'ble High Court, Madras in WP 4157 of 2014. When the matter came up for hearing on 06.06.2014, the Hon'ble High Court ordered <i>Status quo</i> in the matter.
(iii).	An increase in the Stevedoring charges, if permitted by TAMP, will have disastrous consequences on the Trade which is already suffering from severe cargo shortage at Chennai Port leading to lack in employment opportunities. Higher handling charges will only serve to drive away existing cargoes to neighbouring ports. It is pertinent to point out that L&T Katupalli Port has already started handling steel and general cargo which were hitherto coming to Chennai Port and Ennore Port Ltd., and have awarded a BOOT contract to a private operator for a multi cargo terminal, which will be up and running sooner than later.	The Stevedoring and C&F charges were last revised in July 2008. No increase was allowed in the general revision during the year 2011. In the meantime, two wage revisions for Class III & IV employees have taken place with effect from 1.1.2007 and 01.01.2012. Hence, there is huge deficit in the time-rate wages collected as per existing SOR and actual wages paid to the workers, necessitating increase in the stevedoring and C&F charges. Considering the fact that the Stevedoring and C&F charges have not been revised since 2008, the increase proposed may be considered.
(iv).	Furthermore, Chennai Port's cost statement for revision of Stevedoring and C&F charges (marked as page 36) appears to be erroneous considering that the Operating expenses, Allocated share of Management and General Overheads	The revision proposed is based on the actual income/expenditure as per the audited accounts of the Port. The allocation is based on the activity which is linked to all sub-activity in all the cost statements.

	and Allocated share of FME seem to be highly overstated. These numbers need to be looked into in depth before we accept that Chennai Port has made out a case for increase.	The revision is as per the notes given in the sheet.
(v).	Considering all of the above aspects especially the fact that the WP filed by CPSA against the Trade Notice is still to be disposed by the Madras High Court and whose decision will have a direct effect on the proposal made by Chennai Port, we request you to defer passing any orders on Chennai Port's tariff increase proposal.	As stated the remarks to point (ii) above, the Madras High Court has dismissed the WP 4157 filed by CPSA vide Order dated 2 June 2014. TAMP is, therefore, requested to process the case and pass Orders at the earliest please.
	<u>Additional comments dated 7.6.2014</u>	
(i).	The Chennai Port Trust has issued a Trade Notice No. PA/NIT/2009/TM dated 31 January 2014 which is in violation of the order dated 10 January 2014 under Section 48 of Major Port Act. CHPT have to obtain permission and approval after consultative process of discussion with User agencies concerned. The same has not been obtained and therefore, it is requested to take cognizance of the same and pass suitable directive to Chennai Port Trust to refrain from implementing such Trade Notices.	"Series of meetings and discussions were held with the Trade Unions operating in the Port and also with the Chennai Port Stevedores Association (CPSA) on the issues of implementation of NIT Award including revision of manning scale, revision of datum and piece-rate earnings. The process of discussion commenced in 2009 and since April 2013 the Port held eight meetings with the Trade Unions and one meeting with the Chennai Port Stevedores Association on the said issues. As a result, a Memorandum of Settlement dt. 10.01.2014 and its Addendum dated 31.01.2014 under Section 18(1) of Industrial Disputes Act 1947 was arrived at for revision of manning scale, revision of datum and piece-rate earnings. Pursuant to the signing of Memorandum of Settlement, a Trade Notice dt. 31.01.2014 was issued by the Chennai Port Trust. Chennai Port Stevedores Association has filed a Writ Petition before the Hon'ble High Court, Madras to quash the Trade Notice dt. 31.01.2014. Hon'ble High Court, Madras vide their order dt. 02.06.2014 in WP No.4157 of 2014 dismissed the Writ Petition by the CPSA. The Chennai Port Trust, in order to comply with the order of the Hon'ble High Court, Madras implemented the Trade Notice dt. 31.01.2014 in its totality w.e.f. first shift of 03.06.2014".
2.	<u>Hindustan Chamber of Commerce</u>	
(i).	The proposal by Chennai Port Trust to revise upwards the Stevedoring and C&F charges is unacceptable to us.	The HCC has made a general submission and has not mentioned any specific point. Hence, no remarks to offer.
(ii).	It is understood from the Chennai Port Stevedores Association that in 2010 they had approached the Madras High Court vide WP 4207 of 2010 seeking the court's directions to Chennai Port to implement the NIT Award. They also informed HCC that they have	The Chennai Port Stevedores Association filed WP 4157 of 2014 before the Hon'ble High Court, Madras with a prayer to quash the Trade Notice PA/NIT/2009/TM dt.31.01.2014. The Hon'ble High Court vide order dt.02.06.2014 in WP 4157 of 2014 dismissed the Writ Petition. The Chennai Port Trust, in order to comply with the order of the Hon'ble High Court, Madras implemented the

	sought the Honourable Court's intervention to stay Port's Trade Notice of 31.1.14 and that oral orders have been passed restraining the Port from increasing any rates till final orders are passed after the summer vacation.	Trade Notice dt.31.01.2014 in its totality w.e.f. First shift of 03.06.2014 including the revised Time Rate wages for different categories of workers for the purpose of Stevedoring operations. Further, the Chennai Port Stevedores Association has filed a Writ Appeal WA 729 of 2014 before the Hon'ble High Court, Madras against the order of the Hon'ble High Court, Madras in WP 4157 of 2014. When the matter came up for hearing on 06.06.2014, the Hon'ble High Court ordered <i>Status quo</i> in the matter.
(iii).	An increase in the Stevedoring charges or C&F levy, if permitted by TAMP, will have disastrous consequences on the Trade which is already suffering from severe cargo shortage at Chennai Port leading to lack in employment opportunities. Higher handling charges will only serve to drive away existing cargoes to neighbouring ports. It is pertinent to point out that L&T Katupalli Port has already started handling steels and general cargo which were hitherto coming to Chennai Port and Ennore Port Ltd., and have awarded a BOOT contract to a private operator for a multi cargo terminal, which will be up and running sooner than later.	The Stevedoring and C&F charges were last revised in July 2008. No increase was allowed in the general revision during the year 2011. In the meantime, two wage revisions for Class III & IV employees have taken place with effect from 1.1.2007 and 01.01.2012. Hence, there is huge deficit in the time-rate wages collected as per existing SOR and actual wages paid to the workers, necessitating increase in the stevedoring and C&F charges. Considering the fact that the Stevedoring and C&F charges have not been revised since 2008, the increase proposed may be considered.
(iv).	The concept of the C&F Levy needs to be done away with completely. Charging ₹40/ PMT for a service that is not rendered by the Port is incorrect and increasing this charge by 300% will further ensure the cargo shifts to competing ports.	The present proposal to revise the C&F levy is based on the financial / cost position for the Stevedoring and C&F sub-activity and for the port as a whole. The point made by HCC in this regard is taken note of and action will be taken in due course to rationalize this levy.
(v).	Furthermore, Chennai Port's cost statement for revision of Stevedoring and C&F charges (marked as page 36) appears to be erroneous considering that the Operating expenses, Allocated share of Management and General Overheads and Allocated share of FME seem to be highly overstated. These numbers need to be looked into in depth before we accept that Chennai Port has made out a case for increase.	The revision proposed is based on the actual income/expenditure as per the audited accounts of the Port. The allocation is based on the activity which is linked to all sub-activity in all the cost statements. The revision is as per the notes given in the sheet.
(vi).	Therefore, it is requested to TAMP to not approve any increase in rates till there is clarity on the Court ruling.	---

2.1. A joint hearing in this case was held on 27 August 2014 at the CHPT premises in Chennai. The CHPT made a Power point presentation of its proposal. At the joint hearing, the CHPT and the concerned users/ organisation bodies have made the following submissions:

Chennai Port Trust (CHPT):

- (i). The Stevedoring and C & F levy is one of the important levy for the port as it also determines the inflows to the port.
- (ii). The Stevedoring and C & F levy was last revised in 2008 and thereafter there has been two wage revisions. We have, therefore, sought an increase in the existing Stevedoring and C & F levy.
- (iii). We know that the trade has limitations to accept higher quantum of increase in charges. We request TAMP to accord an increase which is viable to the users as well as is sustainable to the port.
- (iv). We have sought an average increase of about 109% in the existing Stevedoring and C & F levy. This percentage of increase would generate revenue only to the tune of about ₹76 crores, when the deficit of the stevedoring activity is about ₹241 cr.
- (v). We wish to continue with the existing rate of ₹1/- per MT (without any increase) which had been approved in the year 2008 to enable the CHPT to build up reserves to meet the liability of arrear wages of port workers.
- (vi). Please don't see TAMP rates as mandatory charges. TAMP rates are at ceiling levels. If any user has a business proposition, we can definitely look into the matter and give better rates. In the matter relating to JSW, if the situation arises, we would have to negotiate.
- (vii). I agree that there are operational issues. But it should be appreciated that we are not over charging the users.
- (viii). The tonnage levy and C&F levy was proposed based on the increase sought in the general revision proposal of CHPT. The same is subject to change depending on the decision to be taken by TAMP in the CHPT general revision proposal.

Chennai Port Stevedores Association (CPSA):

- (i). As per the National Industrial Tribunal (NIT) Award, the port is supposed to enter into a tripartite agreement involving itself, Labour Union and the users. However, the port has entered into a bipartite agreement involving itself and Labour Union only and has not consulted the users. Though some informal discussions took place, no formal discussions were held on the matter.
- (ii). The number of workers to be deployed in the gang as proposed by the port is also not seen to be as per the NIT Award.
- (iii). We have already intimated TAMP about the Appeal filed by the CPSA in the Madras High Court against the Court Order dated 9.6.14. The matter is coming up for hearing on 16.9.14. We request TAMP to defer the matter till such time the appeal is disposed.
- (iv). We feel that the Court Order has not been correctly interpreted by the CHPT. Actually, just a day before the Court Order dated 9.6.14, we received the bills from the CHPT based on the revised rates. On 9.6.14, the Judge was under the impression that the port continues to levy old rates and directed to maintain status quo i.e. old rates. But CHPT has interpreted it as status quo in the revised rates.

- (v). The percentage levy of 192% was approved to enable the CHPT cover the overheads. Why should the users bear the overhead expenses of the port. Port should bear this cost and it should not be passed on to the users. This levy is not required.
- (vi). All the major cargoes which are handled at CHPT belong to JSW. JSW has already intimated us that they will not accept any increase in rates and that if the rates are increased, they will approach other ports to handle their cargo. This situation will badly affect CHPT.
- (vii). Increase to the tune of over 100% is unheard of. If the rates are increased, the port will have to work in isolation.

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- (i). We have long term agreements with our users. The agreement do not provide for increase in rates. This will affect our operational viability. The port's traffic flow will also get affected.
- (ii). We request TAMP to defer the matter till end of the financial year and advise port to refund the excess money collected from us.

Federation of Ship Agents Association of India

- (i). In a logistical chain, the stevedoring charges also constitute a cost element of the cargo. Therefore, any increase in this levy will make the cargo uncompetitive.
- (ii). Prior to 2008, the port was financially sound. Now, due to their financial situation, they are looking at ways to increase their revenue.
- (iii). We understand that the port needs an increase in its tariff. We suggest that the port and the users should sit together and work out a percentage increase which will make the port's rate competitive as well as would be sustainable to the users.

Chennai Custom House Agents Association (CCHAA):

- (i). Just because there is an increase in overheads, it should not be loaded on the users by way of a percentage of time levy.
- (ii). The increase in rates will drive business away from the port.
- (iii). Port should look at cost reduction measures.

Century Star

- (i). The quantum of increase proposed is very high. The increase of C&F levy from ₹40 to ₹120 will definitely have an impact on our imports.

2.2. As decided at the joint hearing, users / user organisation were requested vide our letter dated 3 September 2014 to furnish their additional written submission, if any, on the subject proposal. Only one of the users viz., Chennai Port Stevedores Association (CPSA) has furnished its additional comments. A copy of CPSA comments was forwarded to the CHPT as feedback information. The CHPT vide its letter dated 21 October 2014 has furnished its comments on the points made by CPSA. The comments of CPSA and the comments of CHPT thereon are tabulated below:

Sl. No.	Points made by the CPSA	CHPT Remarks
(i).	Manning scale in the Trade Notice and basis on which the increase sought is not in line with	While adjudicating the issues referred to it, the National Industrial Tribunal, Kolkata passed an

	NIT award. As the manning scale is not in line with NIT, it is not possible to assess the actual impact per gang and thus the increase. As per the Tri-partite settlement for Merger of MDLB with CHPT we are the Employers of the Dock workers and agreement with regard to deployment of onboard workers is our domain and we have to be considered for such agreements. Hence, the bilateral agreement is illegal as per law. The NIT award in toto or a tri-party agreement between the port, stevedores and the respective port unions is a must before we apply the requirement of escalation.	Award dt.19.04.2006, wherein at page 225 of the Award, the Tribunal has stated that the deployment should be strictly according to the scales suggested and also according to necessity which should be flexible and should be the discretion of the management. The three major ports viz., NMPT, VPT and CoPT entered into a Settlement under Sec.12 (3) of the ID Act, 1947 only with the trade unions operating in the respective ports for implementation of the NIT Award with modifications to suit the local conditions. The Chennai Port Trust held several rounds of discussions with the Trade Unions and the Stevedores Association and as a result, arrived at a Memorandum of Settlement under Sec.18(1) of the ID Act, 1947 dt.10.01.2014 and its Addendum dt.31.01.2014 for revision of manning scale, datum and piece-rate. Pursuant to signing of the Memorandum of Settlement, a Trade Notice of even number dt.31.01.2014 was issued. In view of the above, the contention of CPSA that the Trade Notice is not in line with the NIT Award is not correct. With regard to the basis of increase, it is time and again reiterated that the increase is based on the revised wages being paid to the workers after the implementation of BWNC settlement dated 25 October 2013. The Scale of Rates prescribes the wages per shift per day for each category of wages. Hence, the revision of manning scale as per NIT Award will not have any impact on the revised time-rate wages.
(ii).	Levy of 192% even after wage increase is high and unwarranted. Previous two wage increase were not passed on to the trade as the port was charging levy at 192% and the port could manage the cost escalation from this excessive levy collection. Since the present proposal will be based on new wage revision, the levy has to be toned down only to defray cost of statutory requirement like PF/Pension, Gratuity, 12 days of Paid Leave Wages in a calendar year and cost of administering the pool of CHD workers. Such statutory perquisites cannot be more than 50% of the wage per worker. Administrative cost should be limited to no. of employees directly involved in Administration of CHD pool.	Whenever the wages payable to the workers are increased, the indirect expenses such as leave salary, pension contribution, PF, etc. also increases. Even other indirect expenses also increase on account of cost escalation. Hence, the contention of CPSA that with the increased wages, the general levy is bound to come down may not be always true. As CPSA may be aware, the PF, Pension, Gratuity, paid leave, etc. in respect of Major Port Trust employees' are as per the Central Govt. Rules/ BWNC settlement. The paid leave in respect of Port employees is 30 days in a year and not 12 days as mentioned by CPSA. As already informed in our reply to earlier comments of CPSA, even with the proposal to continue with 192% general levy, the port is not in a position to recover the entire expenses incurred under Stevedoring activity.
(iii)	However, Port went ahead with bilateral	

	agreement, without taking into confidence the Stevedores which is against the NIT award, wherein it is tri-partite agreement. Chennai Port Stevedores Association (CPSA) record the following:	
	(a). When every single port strived to implement the NIT award first and then sat with stevedores and unions for an amicable settlement with minor variance from what is awarded by NIT award, we had to approach the court seeking direction to the Port for the same.	The statement of CPSA is not only misleading but contrary to facts. Government of India, Ministry of Labour published the NIT Award in the Gazette of India vide notification no.L-31011/1/2000-IR(M), dated 23.05.2006. The Tribunal Award was forwarded by the Labour Advisor, Industrial Relation Officer of Kolkata Port Trust vide ref.no.LAB/NT-1 of 2000/446, dated 28.06.2006. The Ministry by letter no.LB-14014/1/2000-L-IV, dated 06.07.2006 called for the comments of the Ports on implementation of the Award. CHPT furnished the remarks on the implementation of the NIT Award vide letter no.IR3/23657/2000/S dt.17.08.2006 to the Ministry.
	(b). While the writ is pending in the court, Port went ahead with a bilateral agreement with the Trade Unions disregarding the stevedores completely and signed an agreement, which is completely illegal in our opinion.	
	(c). The wage revision is still pending for approval at TAMP. The Chennai port went ahead with implementation of new manning scale and wages pending approval of TAMP on wages.	
		As the workers were not satisfied with the Award, the Award was challenged in the Hon'ble High Court of Andhra Pradesh by Vishaka Harbour and Dock Workers Union of Vishakapatnam Port Trust praying that the High Court may be pleased to suspend the Award. The Hon'ble High Court of Andhra Pradesh issued status quo regarding the implementation of Award. Thereafter, Vishakapatnam Port Trust filed Counter and vacated the stay petition. Upon hearing the petition, the Hon'ble High Court of AP vide order dt.18.04.2009, modified the status quo orders duly permitting Vishakaptnam Port Trust to implement the Award subject to the following conditions: i. None of the members of the petitioner's union shall be retrenched and ii. Vishakapatnam Port Trust shall not resort to private engagement of stevedoring companies. The modified order of the Hon'ble High Court of AP communication was received from the Ministry vide letter no.LB-14014/1/2001/L-II, dated 22.04.2009 informing ports to take necessary action. In view of the letter dated 22.04.2009 by the Ministry informing the vacation of status quo in the Writ Petition filed by the trade union of Vishakapatnam Port Trust for information and necessary action of the respective ports, the major labour federations representing the Port and Dock employees issued strike notices on the implementation of the said Award. The Managing Director, Indian Ports Association vide his letter

	no.IPA/NIT/CLC/2009 dated 06.05.2009 forwarded a copy of the letter no.1(12)2009-IR, dt.05.05.2009 of Chief Labour Commissioner(C)'s, New Delhi addressed to the leaders of the said labour federations and copied to the Joint Secretary, Ministry of Shipping. Managing Director, Indian Ports Association requested the Chairmen of Major Ports to send a brief note on the Award along with the implementation status of the Award of National Industrial Tribunal on manning scale and further requested to depute an officer to the conciliation meeting proposed by Chief Labour Commissioner (C) at New Delhi on 11.05.2009. Accordingly, the Secretary, Chennai Port Trust was deputed to attend the above conciliation meeting at New Delhi. At the conciliation meeting, after joint discussion, the Chief Labour Commissioner (C) requested the parties present to keep in mind the obligations placed on them under Sec 22 and 33 of the I D Act, 1947 with a direction to hold further discussion at the respective Ports to arrive at an amicable solution. Thereafter, <i>Vishakapatnam Port Trust after discussion with the Trade Unions arrived at a Settlement under Section 12 (3) of the Industrial Disputes Act, 1947 on 25.01.2010.</i> Vishakapatnam Port Trust implemented the Award by arriving at a manning scale to suit the local conditions on the lines of the manning provided in the National Industrial Tribunal Award <i>but the NIT Award in toto was not implemented by the Vizag Port Trust.</i> Chairman, Chennai Port Trust formed a Committee of HODs comprising of CE, CME, TM, DC and FA&CAO to study, discuss and submit a report to decide the modus operandi on implementation of the salient features of the NIT Award in Chennai Port Trust. During 2009, Secretary, CHPT convened meetings with the trade unions and Executive Committee members of the Chennai Port Stevedores Association for implementation of the NIT Award in Chennai Port. In the bilateral meeting held with the Unions on 07.10.2009, it was decided to obtain the details from the ports which implemented the manning scale as per the NIT Award viz., VPT, NMPT and COPT and to form an expert Committee for further discussion with unions and stevedore employers. <i>Before this process could be completed, the Chennai Port Stevedores Association approached the Hon'ble High Court, Madras and filed a Writ Petition (WP 4207 of 2010) during Feb 2010 with a prayer to direct the Chennai Port Trust to implement the NIT Award. Whereas, the Chennai Port and Dock Workers Congress (WP No.8245 of 2010) and Madras Harbour Workers Union (W.P.No.8246 of 2010) have filed WPs</i>
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	<i>before the Hon'ble High Court, Madras to quash the Award. Trust has filed Counter Affidavits in the matter and all the above Writ Petitions are pending.</i> Clause 41.3 of the Bipartite Wage Settlement dt.25.10.2013 for revision of wages for Port and Dock workers of Major Port Trusts stipulate that the National Industrial Tribunal Award on manning scales in the Ports of Kolkata (including Haldia), Chennai and Mumbai shall be discussed between the local Unions and Management and to be implemented within two months from the date of BWNC Settlement. <i>The BWNC Wage Settlement under Sec 12(3) of the ID Act, 1947 was arrived at before the CLC(C), New Delhi. Federation of Association of Stevedores is a party to the 12(3) Settlement.</i> <u>The 18(1) Settlement dt.10.01.2014 is only an interim settlement in as much as Clause 15 of the Terms of Settlement of the Memorandum of Settlement dt.10.01.2014 stipulate that the Management and the Unions will continue to strive for the implementation of National Industrial Tribunal Award in toto.</u> However, the outcome of the Writ Petitions filed before the Hon'ble High Court, Madras viz., 4207 of 2010 for implementation of the NIT Award and 8245 of 2010 & 8246 of 2010 to quash the NIT Award are awaited. It is stated that the Stevedoring and C&F charges approved by TAMP was valid upto 31.3.2011. Subsequently, during the general revision of Scale of Rates in January 2011, TAMP extended the validity upto 31.3.2013 considering the financial / cost position for the port as a whole. It is submitted that the overall estimated financial / cost position considered by TAMP in the general revision order could not be achieved due to stoppage of Coal and Iron ore with effect from 1 October 2011 and port has incurred losses during the last tariff cycle itself. However, the old rates were continued even beyond 31 March 2013 considering that the wage revision for Class-III and Class-IV employees with effect from 1.1.2012 was under final stage of negotiation. Subsequently, the Wage revision was implemented in November 2013 and the port has filed a proposal for revision of stevedoring charges in March 2014. As informed in the proposal, there is a huge difference between the wages prescribed in the SoR approved by TAMP and the actual wages being paid to the labourers owing to implementation of two wage
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		revisions effective from 1.1.2007 and 1.1.2012 respectively. The additional outflow in this regard could not be borne by the Port especially after the implementation of the Wage revision settlement of Class-III and IV employees of all Major Port Trusts w.e.f. 1.1.2012 and the Port is struggling to meet the operational expenses. Hence, with a view to improve the financial position to some extent, it was proposed to collect the revised wages from the users pending approval of TAMP and the same was included in the Trade Notice issued for implementation of NIT Award. Further, it is seen from the Scale of Rates of VPT, TAMP has allowed to collect the time rate wages payable to workers as per the prevailing wage settlement, which provides for automatic increase of time-rate wages without waiting for TAMP's approval. However, in the case of CHPT since the time-rate wages have been prescribed in absolute terms, it has not been revised despite periodical DA increase and two wage revisions. It may also be taken into account that the port has implemented the revised wages only after a lapse of about 3 months after filing the proposal with TAMP. In view of the above, TAMP is requested to approve the revised Stevedoring and C&F charges with retrospective effect from 3 June 2014.
(iv).	The Association had gone to court against the above two points – judgment expected on 16 th Sept 2014.	As intimated by Trust's LA, the matter in WA 729 of 2014 was posted for final hearing on 16.09.2014. However, the matter was listed on 17.09.2014 but not heard. Thereafter, arguments were held on 13.10.2014 and 14.10.2014. The division bench of the Hon'ble Madras High Court vide Order dated 14.10.2014 disposed of the W.A.No.729 of 2014 filed by the CPSA. A copy the Court Order dated 14.10.2014 is furnished.
(v).	The court also passed an interim order on our WA 729- copy attached- enclosure A.	The Appeal (WA 729 of 2014) made by the Chennai Port Stevedores Association is against the Order dt.02.06.2014 passed by the Hon'ble High Court, Madras in WP 4157 of 2014. The order dt.09.06.2014 was passed by the Hon'ble High Court, Madras in the Writ Appeal WA 729 of 2014 wherein it has been ordered "<i>Status quo as on today shall be maintained</i>". In compliance of the order dt.02.06.2014 of the Hon'ble High Court, Madras in WP 4157 of 2014, the Trade Notice of even number dt.31.01.2014 was implemented in its totality w.e.f.03.06.2014 First shift in Chennai Port Trust; the fact of which has been communicated to the Ministry of Shipping. As can be seen from the reply to sl. No.4 above,

		the division bench of the Hon'ble Madras High Court vide Order dated 14.10.2014 disposed of the W.A.No.729 of 2014 filed by the CPSCA.																																								
(vi).	Without prejudice, we observe that the integration of shore gang is done with CHD pool. The shore gang wage and piece rate were recovered from the importer/Exporter by way of wharfage till date. We find amusing that the present proposal integrates shore labour with stevedoring staff/labour but the <i>wharfage</i> collection is not taken in to account in the cost sheet. Shore Workers were maintained because Port is the 'Bailee' of the Cargo as per MPT Act for Liner Cargoes. Predominantly Liner Cargo now is moved in Containers and this cargo is being handled in Private Container Terminals like CCTL, CITPL and Port gets a revenue share from them. So cost of shore workers is to be paid out of that revenue and wharfage collections and not be clubbed to CHD workers pool. Furthermore, cargo being handled on Chennai Port now is 99% Free In and Out (FIO) Dry Bulk Cargo, Import or Export. Especially in import of cargo on Over side Delivery Order (ODO) there is no need of a Port Tally Clerk which is what need based is meant to be as per NIT award. Port cannot impose notional cost of shore labour on us when there is no actual work for them by us, by way of Levies or deployment of unwarranted labour force. Today the 500 odd CHD workers do not get employed even for 15 days as such integration port labour with CHD and passing on the burden to trade is unwarranted, which has to be met out of increased wharfage and the revenue share from container terminals. CHD labour wages and/or levy to be restricted to the actual costs plus formulae provided by the TAMP with ROCE as deemed fit.	It can be seen from the Trade Notice dated 31.01.2014 that though integrated gangs are supplied for cargo handling operations the charges paid by the stevedores is only for a component of the integrated gang and not for the whole integrated gang. Further, it is clarified that the shore gang wages and piece rate have been included in the cost statement General Cargo handling and Storage and does not form part of expenses considered in the cost statement for Stevedoring Activity. Apart from the cargoes that move through containers, the break bulk cargoes handled by the Chennai Port for the last three years is tabulated below:- (in '000 tonnes) <table><tr><th>Commodity</th><th>2011-12</th><th>2012-13</th><th>2013-14</th></tr><tr><td>Granite</td><td>1106</td><td>597</td><td>602</td></tr><tr><td>Iron & Steel</td><td>1007</td><td>1115</td><td>1407</td></tr><tr><td>Sugar</td><td>112</td><td>174</td><td>0</td></tr><tr><td>Cement</td><td>0</td><td>4</td><td>18</td></tr><tr><td>Project Cargo</td><td>368</td><td>295</td><td>238</td></tr><tr><td>Timber and Logs</td><td>102</td><td>133</td><td>84</td></tr><tr><td>Ro-Ro</td><td>324</td><td>355</td><td>268</td></tr><tr><td>Others / Misc</td><td>70</td><td>80</td><td>45</td></tr><tr><td>Total Break Bulk</td><td>3089</td><td>2753</td><td>2662</td></tr></table> Ministry of Shipping vide letter ref no.LB-11021/1/2011-L.1 dt.08.03.2011 forwarded the minutes of the meeting held by Secretary(S) with five Major Port and Dock Workers Federations on 23.2.2011; in which Secretary (S) suggested that non workable recommendations of the Committee could be discussed and sorted out. He requested the Federations to take the Award as the basic document for future discussion and to sort out the issues at local level. Accordingly, for the implementation of NIT Award in Chennai Port Trust, discussions were held and the Memorandum of Settlement was arrived at. The Tally Clerks are posted for bulk vessels for accounting of cargo which forms the basis for piece-rate and incentive calculation. Hence deployment of Tally Clerk is necessary for cargo accounting and capturing data for piece-rate and incentive calculation to the eligible categories of employees. It is necessary for the Port to deploy optimum workforce in an equitable manner for cargo handling and other activities. Madras Dock Labour Board merged with the Chennai Port Trust by way of a settlement dt.25.05.2001	Commodity	2011-12	2012-13	2013-14	Granite	1106	597	602	Iron & Steel	1007	1115	1407	Sugar	112	174	0	Cement	0	4	18	Project Cargo	368	295	238	Timber and Logs	102	133	84	Ro-Ro	324	355	268	Others / Misc	70	80	45	Total Break Bulk	3089	2753	2662
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Total Break Bulk	3089	2753	2662																																							

		under Sec 2(p) and 12(3) of the Industrial Disputes Act, 1947. The Terms of Settlement of the merger settlement stipulate integration of Port Trust shore workers with the MDLB workers. Also, it envisage formation of composite gangs which will work onboard and onshore / sheds. There will be complete interchangability amongst these workers within the composite gangs. The Chennai Port Stevedores Association is a party participant to the merger settlement dt.25.05.2001. With regard to the remarks of CPSA on cost plus formulae, it is stated that the cost statement has been prepared based on actual expenses for the year 2012-13 with projections for the next 3 years following the TAMP guidelines and in the format prescribed by TAMP.
(vii).	During the hearing, FCAO mentioned that separate meeting were held with stevedores on wage increase and manning scale implementation. We would like to place it on record our strong objections to the same. There was never a meeting with Stevedores Association except an informal meeting with few of the office bearers and EC members. The then Vice President of the association had clearly recorded it as an informal meeting and in which we had also sought for an official tri-party meeting to discuss the matter to arrive at a conclusion. A copy of the minutes of the meeting held on 4 June 2013 is furnished. Thus, outcome of an informal meeting, cannot be made as basis of acceptance.	In the bilateral meeting held with the Trade Unions on 07.10.2009, it was decided to obtain the details of the ports which implemented the NIT Award viz., Cochin Port Trust (CoPT), New Mangalore Port Trust (NMPT) and Visakhapatnam Port Trust (VPT). Accordingly, the details were obtained by Secretary, CHPT from NMPT, VPT and CoPT. It is seen that the said three major ports entered into a Settlement under Sec.12(3) of the ID Act, 1947 <u>only</u> with the trade unions operating in the respective ports for implementation of the NIT Award with modifications to suit the local conditions on the lines of the manning provided in the Award passed by National Industrial Tribunal, Kolkata. From the additional comments of the CPSA vide its letter dt.06.09.2014, it is evident that a meeting took place on 04.06.2013 with the office bearers and Executive Committee members of the CPSA on the subject of revision of manning scale in Chennai Port Trust. The proceedings of the same was minuted and CPSA has received the minutes of the meeting. The views of the then Vice President of CPSA was also recorded and reflected in the minutes of the meeting. Though the CPSA would like to term it as an informal meeting, the fact remain that an official communication for convening the meeting was sent to the Chennai Port Stevedores Association by the Trust, the participants from the CPSA have signed as a record for having attended the meeting, proceedings have been minuted and communicated to the concerned. The views of the CPSA was obtained on the issue.
(viii).	There is no Mazdoors, Tally Clerk, Maistry, Tindal category of workers for bulk cargo on board or on shore work. Only Winch / Crane	While adjudicating the issues referred to it, the National Industrial Tribunal, Kolkata passed an Award dt.19.04.2006. Wherein, at page 225 of

	Driver and Signallers as per NIT award. Whereas the manning scale in the Trade Notice is contrary to the same.	the Award, the Tribunal has stated that the deployment should be strictly according to the scales suggested and also according to necessity which should be flexible and should be the discretion of the management. Also, from Ministry's letter ref no.LB-11021/1/2011-L.1 dt.08.03.2011 enclosing the minutes of the meeting held by Secretary(S) with five Major Port and Dock Workers Federations on 23.2.2011, in which <i>Secretary(S) suggested that non workable recommendations of the Committee could be discussed and sorted out . He requested the Federations to take the Award as the basic document for future discussion and to sort out the issues at local level.</i> Accordingly, for the implementation of NIT Award in Chennai Port Trust, discussions were held and the Memorandum of Settlement dt.10.01.2014 under Sec.18 (1) of the ID Act, 1947 and its Addendum dt.31.01.2014 were arrived at. The Trade Notice of even number dt.31.01.2014 was issued pursuant to the Memorandum of Settlement and its Addendum.
(ix).	Increase of C&F levy from ₹40 to ₹120 per operation is a huge jump and not warranted.	Taking into consideration the request/ concern of trade in the Joint hearing, the increase in respect of C&F levy has been restricted to 42% over the existing rate. Accordingly, in the reply sent to TAMP vide our letter dated 18.09.2014, ₹56.80 per Tonne has been proposed as C&F levy.
(x).	Having gone ahead with a bilateral agreement with the Unions on manning scale, Port did show inclination to lower the levy to reduce the overall gang increase. However, in principle we are against integration of 13 member shore gang with on-board gang only to create a myth that the manning scale has come down is not in line with NIT award. NIT award is for the on-board gang and stevedores have nothing to do with the shore gang which was deployed by the port as bailey and charged through wharfage and C&F levy.	As far as levy is concerned, the reply furnished in respect of Sl. No.2 above may kindly be seen. As far as integration of shore gang with on-board gang, the reply in respect of Sl. No.6 above may kindly be seen.
(xi).	Existing importers/ exporters refused to consider any increase till the contracts which run upto April 2014 and beyond. The contracts have provisions only for increase in wharfage, crantage which are collected through Import and Export application and not for increase in labour and levy thereupon for on-board gangs. Thus any implementation in between will cause huge loss to the stevedores.	As already stated, the stevedoring and C&F charges have not been revised since July 2008. The revision proposed is based on the actual wages paid / expenses incurred by the Port and is in line with TAMP Guidelines. The proposed increase is inevitable to the CHPT; without which the port will not be in a position even to meet the operating expenses.
(xii).	Proposed increase which is upto 126% despite NIT's drastic reduction of manning scale (which is not implemented) will only drive away the trade to the neighboring private ports and terminals and thus port will invariably lose revenue despite the increases. This will not serve the purpose.	The average increase in the time-rate wages and levy works out to 109%. Considering that the increase is proposed after a lapse of about 8 years, Users / trade is requested to take it in a positive approach and extend its fullest co-operation in retaining / increasing the traffic.
(xiii).	To conclude, As long as the Port remains as a	

	Trust and the Trade is provided with a Legal Body with powers conferred to ensure reasonable check on the increase of charges in public interest, the Trade of which we are also a member would earnestly request: (a).Consider any increase only upon disposal of writ appeal in Chennai high court against the Trade Notice issued by Port and implemented from 3 June and Writ petition on NIT award implementation, as it will have an impact on actual manpower required to be posted.	It is reiterated that the revision of time-rate wages is based on the actual wages being paid to the workers and revision of manning scale does not have any impact on the time-rate wages. The division bench of the Hon'ble Madras High Court vide Order dated 14.10.2014 disposed off the W.A.No.729 of 2014 filed by the CPSA. A copy the Court Order dated 14.10.2014 is furnished.
	(b).Consider reduction of levy only to meet perquisites and statutory requirement with reasonable Administrative cost for CHD pool.	As already stated, even at the 192% levy, the port is meeting only 1/3rd of the total estimated deficit for the tariff cycle (2013-14 to 2015-16). Hence, TAMP is requested to consider the proposal to retain the General Levy at 192% for this tariff cycle.
	(c).Implementation of any such reasonable increase on prospective manner upon approval and gazette notification by the TAMP. (d).Direction to return all the charges being collected illegally from 3 June 2014.	For the reasons already explained to TAMP in our letter dated 18.09.2014, TAMP is requested to approve the proposed tariff with retrospective effect from 3 June 2014.

2.3. The CPSA vide its email dated 29 October 2014, while stating that the comments furnished by it earlier remain stated and on record, has furnished its additional comments, as given below. These comments have been forwarded to CHPT for its comments. The CHPT has responded vide its letter dated 15 November 2014. The CHPT, while responding to the comments of CPSA has stated that the comments furnished by CHPT under cover of their letters dated 30 June 2014 and 21 October 2014 in response to the earlier comments of CPSA may be considered. The comments of CPSA and comments of CHPT thereon are tabulated below:

Sl. No.	Points made by the Users Association	CHPT Remarks
(i).	The Division Bench of the Honourable High Court of Madras has disposed WA729 of 2014 in our favour by ordering Chennai Port to stop collecting the revised rates since, by statute such rates do not enjoy the approval of TAMP, as mandated by law.	The directions given by the Division Bench of the Hon'ble Madras High Court in its Order dated 14.10.2014 are reproduced below: “(i). The TAMP is directed to consider and dispose of the proposal submitted by Chennai Port Trust seeking revision of tariff, in March 2014, as expeditiously as possible and in any case, within a period of four weeks from the date of receipt of a copy of this Order. (ii). The appellant (CPSA), Chennai Port Trust and Madras Harbour Workers Union should be given reasonable opportunity to submit their response before passing Orders by TAMP with regard to revision of rates.

		(iii). Those licensees named in the list submitted by the Chennai Port Trust dated 14.10.2014 and interested to function as stevedores pending determination of rates by TAMP are directed to deposit 1/3rd of the amount indicated in the said statement, within a period of one week from today. The stevedores are further directed to execute Indemnity Bond agreeing to pay the remaining amount to the Chennai Port Trust. (iv). All other issues raised by the Appellant are left open to be decided in the appropriate writ proceedings.” A copy of the Order is enclosed herewith for ready reference. It can be seen from the above, there is no specific mention / direction to CHPT in the Order to stop collecting the revised rates. Hence, the contention of the CPSA that the Hon'ble High Court has disposed of the Writ Appeal in their favour is not correct.
(ii).	While directing TAMP to dispose the appeal of Chennai Port in 4 weeks, the High Court has asked us to remit 33 % of the difference in the existing scale of rate and Chennai Port's proposed scale of rate and execute a simple indemnity for the remaining 77 % only on the grounds that the Port had started collecting these rates and not for any other reason.	The direction of the Hon'ble High Court to the Stevedores to deposit the difference amount clearly indicates that the implementation of revised rates is subject to the Orders (to be) passed by TAMP in the disposal of the proposal filed by CHPT.
(iii).	The order seeks to imply that it is upto TAMP to decide on the scale of rates at Chennai Port for stevedoring and C&F levy after having passed orders for a general revision in the SOR.	
(iv).	Chennai Port has illegally collected huge sums of money from our members without any authority or any concern for business prospects. Sharply increasing the rates has caused hardship to our members since vessels and cargoes have been diverted.	As CPSA is well aware, the Hon'ble High Court (Single Judge) vide Order dated 2.6.2014 dismissed the Writ Petition filed by CPSA observing that there is no illegality / infirmity in the Trade Notice. As per the above Order, the CHPT implemented the trade notice in totality, i.e. including the revised time-rate wages, with effect from 3 June 2014. Further, while disposing the Writ Appeal filed by the CPSA, the Division Bench of the Hon'ble Madras High Court in its Order dated 14.10.2014 has not set aside or quashed the Single Judge Order dated 2.6.14. Hence, the statement of CPSA that CHPT has illegally collected huge sums of

		money from the Stevedores is in violation of the above Court Order is and strongly objected.
(v).	True, there has been a wage settlement agreement in which we have participated. While we understand that TAMP is inclined to offer an increase in stevedoring and C&F levy, the increase cannot take into consideration the entire wage increase of Chennai port but must be limited to the workers directly engaged in stevedoring activity. Stevedores deal with on board labour alone and have nothing to do with the shore labour who are deployed by the Port for their own operational convenience. Also delivery and receipts of cargoes by the so call C&F labour are activities far removed from stevedoring.	It is to inform that the proposal for revision of stevedoring and C&F charges is based on the income and expenses relating to Stevedoring and C&F activity only. The proposal has been prepared and submitted as per the TAMP Guidelines in force.
(vi).	Any increase that is proposed to be given by TAMP must be prospective and not retrospective as our members have no way of recovering any dues from ships and cargoes that have been handled already.	As stated above, the revised rates were implemented with effect from 3 June 2014 as per High Court Order, even though the proposal was submitted to TAMP in March 2014. Further, the revised rates were collected only after giving advance intimation to the users in the form of Trade Notice. The CHPT has not implemented the rates with retrospective effect and hence the question of recovery of dues from ships and cargoes already handled may not arise.
(vii).	With respect to the financial statements submitted by Chennai Port, the allocated Management & General overheads are too high. For example, for the years 2013-14 to 2015-16, the salary expenditure is given as ₹44.37 cr, ₹48.81 cr and ₹ 53.75 cr. Whereas the allocated share of Management and General Administrative Overheads is ₹ 37.34 cr, ₹ 32.99 cr and ₹ 37.35 cr respectively. It works out to 74%, 70% and 70% respectively. The OHs cannot be to such a large extent when the maximum allowances are already taken into salaries expenses.	The details of overheads and the methodology adopted for allocation of overheads to the stevedoring activity has been furnished in our reply to TAMP queries (Refer Sl. No.(v) of Annex-IV of our letter dated 18.9.2014). The Port has taking all possible efforts to reduce / minimize the overhead expenses. Further, it is reiterated that with the proposed increase, the port is meeting only 1/3 rd of the estimated deficit in the stevedoring activity. Hence, only a portion of the overheads mentioned in the cost statement are recovered from the users.
(viii).	Similarly the allocated share of FME is ₹35.52 cr, ₹34.93 cr and ₹35.48 cr respectively. The same works out to 80%, 72% and 66% respectively. This is also too high.	The major portion of FME, i.e. around 80% of the total FME relates to Pension payments and contribution to Pension Fund / Gratuity Fund, which is a statutory obligation. Hence, the percentage working given by CPSA is not relevant. Further, as stated above, only a portion of the overheads are recovered from the users.
(ix).	It is inconceivable that finance expense can be such a high percentage on salary expenses.	
(x).	We would need to know what are accounted for in the management expenses and finance expenses.	The details of Management Overheads and Finance and Miscellaneous Expenses have already been furnished to TAMP in our proposal dated 17 March 2014 as well as in our letter dated 18.9.2014 as a part of reply to TAMP queries.

(xi).	We would like to reiterate that the overall burden and over staffing at Chennai port cannot be imposed on the stevedores.	As already stated in our reply to Sl. No.5 above, the proposal is based on expenses relating to Stevedoring activity only and the overall burden of CHPT is not imposed on the stevedores.
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3.1. In compliance to the direction of the Hon'ble High Court, to give reasonable opportunity to the CPSA, CHPT and Madras Harbour Workers Union (MHWU) to submit their response before passing order, a joint hearing in the case in reference was held on 7 November 2014 at CHPT premises. At the joint hearing, the CHPT made a brief Power point presentation of its proposal. At the joint hearing, the CHPT, CPSA and MHWU made the following submissions:

Chennai Port Trust (CHPT)

Hon'ble Madras High Court disposed of the Writ Appeal filed by CPSA on 14 October 2014 with a direction to TAMP to dispose of the CHPT proposal within a period of four weeks after giving opportunity of hearing to CHPT, CPSA and MHWU. TAMP has requested CPSA and MHWU to furnish their comments on the CHPT proposal. We have received the comments of Chennai Port Stevedores Association (CPSA) today only from TAMP. We have not received comments of Madras Harbour Workers Union (MHWU). We will furnish our reply on the CPSA comments soon. Please approve the proposed tariff with retrospective effect.

Chennai Port Stevedores Association (CPSA)

- (i). CHPT has started to collect the proposed rates without TAMP's approval. TAMP is yet to pass Order. From which date TAMP's order will be effective?

[Member (finance), TAMP: TAMP normally approves rates with prospective effect. We will take a view on the proposal of the port for approval with retrospective effect]

- (ii). We do not dispute cost increase. But, it should be restricted only to that component of work force involved in stevedoring activity.
- (iii). We want to submit a note on the concept of levy. It generates surplus on the existing Scale of Rates. Levy need not be applied on the enhanced Rate. Existing mechanism takes care of perquisites. There is no need for any levy. If at all the levy is proposed to be continued, we seek reduction in the levy.

- (iv). Wage increase of about 7000 employees of the port cannot be loaded on to the Stevedoring activity that handles about 15% of the total volume.

[CHPT (FA & CAO): We are not charging the cost pertaining to 7000 employees. Our proposal is with respect to Stevedoring Labour only. We have given a detailed cost statement to TAMP]

- (v). We request TAMP to disregard the concept of integrated gang. We are not in agreement with it. Our liability is limited to On-board workers only.

[FA & CAO: we have excluded shore labour from the integrated gang]

Madras Harbour Workers Union

We accept the CHPT proposal provided it is beneficial to the users.

Chennai Port Trust

Stevedores Association invariably takes 4 gang. After implementation of NIT award, there is reduction of 11 man power for general cargo and 4 man power for dry bulk. This is the benefit to the stevedores. Reduction in man power will enable the port to supply more gangs for vessel operation.

[CPSA : We are concerned with on-board ship. We have nothing to do with shore labour who are paid from wharfage]

Chennai Port Stevedores Association (CPSA)

- (i). Please do not pass any Order on manning scale. Implementation of NIT award at CHPT is subjudice. We have filed a case before Hon'ble Madras High Court in 2010 for full implementation of NIT award. The award has no bearing on the revision of tariff. Ignore the submission of Chennai Port regarding NIT award.
- (ii). TAMP's Orders are prospective. Please make this Order also prospective. Chennai Port collected the proposed rates from us without TAMP's approval. Madras High Court has granted stay in this collection and directed TAMP to dispose the case within four weeks. We request TAMP to ensure that tariff increase is with prospective date and not retrospective.

3.2. At the joint hearing, the Madras Harbour Workers Union (MHWU) has submitted that it agrees with the proposal of the Chennai Port Trust (CHPT) provided it is beneficial to the users and had agreed to confirm this position by its written submission. Accordingly, after a reminder dated 13 November 2014, the MHWU under cover of its letter dated 12 November 2014 has made the following submissions:

- (i). The proposal for increasing the stevedoring charges was taken for joint discussions in the hearing held on 07.11.2014, to implement the revision retrospectively.
- (ii). The stevedoring charges revised in the year 2008 prior to the wage revision by settlements in the year 2010 & 2013, have to be revised as the pre revised rates in effect enhanced the benefit to the trade, though this also contributed to the loss in this activity.
- (iii). We therefore, strongly recommend the proposals of the Chennai Port Trust such be accepted and the revision of stevedoring charges may kindly be given effect to retrospectively.

3.3. During the joint hearing, the CPSA stated that it would furnish a note on the back ground of the Levy of 192% intended to take care of off-wages and other perquisites. In this connection, the CPSA under cover of its letter dated 7 November 2014 has made the following submissions:

- (i). It is unfortunate that Chennai Port's presentation included the NIT Award since the matter is sub-judice and has no bearing on the revision of tariff's case. The bi-lateral agreement between the Port and the Unions is illegal as it has excluded the Stevedores' who are the employers. In the merger between the erstwhile Madras Dock Labour Board (MDLB) and Chennai Port, the Memorandum of Settlement reached between the MDLB, the Unions and the Employers dated 04/06/2001 clearly defines the parties involved which includes the stevedores. The copy of this settlement is furnished for your reference.
- (ii). Clause 22 of the Short recital is the precursor of the NIT Award clearly identifies the roles and responsibilities and clauses 1,2 ,8 and 22 among others, of the Terms of Agreement, identify the duties and obligations of the employers.
- (iii). We would, therefore, request you to ignore the submissions of Chennai Port with respect to the NIT award while also considering the fact that the CPSA had, in 2010, filed a case before the Hon. High Court of Madras to pass orders to implement the NIT Award in full as it has been done at Paradip Port and in a modified manner in other Ports.
- (iv). With respect to Chennai Ports submission that there has been' a reduction in numbers due to integration of shore and on board labour, we submit that our duties

and responsibilities lie on board ships and we have nothing to do with Chennai Port's shore labour which are deployed for their own convenience and paid for out of the wharfage collected from the importers and exporters.

- (v). As far as hooking/ unhooking operations on shore are concerned, please refer to Note 5 to the statement showing the Proposed Manning Scale, Piece Rate, Datum which clearly states that as per operational convenience Mazdoors posted on board will be deployed on shore or on board. We do not need the shore labour deployed by Chennai Port.
- (vi). We are not in agreement that the composite, integrated gang be thrust on us as our liabilities are limited to the on board workers only.
- (vii). With respect to the Levy of 192 % that Chennai Port would continue to want to charge, we draw your attention to the Note furnished, which was presented to a TAMP working group by our immediate Past President Mr. R.V.Umashankar.
- (viii). This note explains in detail the historical perspective of the levy and that such a levy was necessary, only to take care of off-wages and other perquisites for the work force.
- (ix). We believe that Chennai Port's current mechanism takes care of such expenses and that there is no need for a levy of any kind.
- (x). If TAMP is inclined to agree to a levy, we would submit that 192 % on the existing scale of rates, is in itself generating surplus funds and there can be no question of applying a levy on a new rate, enhanced by 125%. We seek a reduction in the levy.
- (xi). While we concede that representatives of the Federation of Stevedores (FAS) were a party to the BWINC, we would submit that the wage increase of the entire Port of Chennai comprising of 7000 plus people cannot be loaded on to the segment that is handling just 15 % of the total volume and that the wages of the pool directly related to stevedoring.
- (xii). Lastly, we place on record our dismay, that prompted us to take recourse in the Courts of Law, in that Chennai Port collected the proposed rates from us, the users, without approval from TAMP, which is an unfortunate act. With the Hon'ble High Court of Madras granting a stay in this collection and directing that TAMP disposes the case within 4 weeks, we earnestly request you to ensure that any tariff increase that you order has an implementation date which is prospective and not retrospective.

4. After the joint hearing, we are in receipt of comments from Chennai Custom House Agents Association (CCHAA) vide its letter dated 5 November 2014 and e-mail dated 7 November 2014 addressed to CHPT also. A copy of CCHAA comments furnished by CCHAA under cover of its letter dated 5 November 2014 was forwarded to CHPT for its comments. The CHPT vide its e-mail dated 21 October 2014 has responded to the comments furnished by the CCHAA under cover of its letter dated 5 and 7 November 2014. The comments of CCHAA and the comments of CHPT thereon is tabulated below:

Sl. No.	Points made by CCHAA	CHPT Remarks
	Letter dated 5 November 2014	
(i).	The proposal of the CHPT to increase the C&F levy from ₹40/- to ₹120/- per MT per operation, is not accepted by our organization.	The CCHAA at the joint hearing held on 7 November 2014, agreed to the proposed increase of 42% in the C&F levy. With regard to the request of CCHAA to implement the proposed C&F levy with
(ii).	As of day, ₹ 40/- per MT per operation is itself not working well and if it is going to be increased to ₹120/-, the trade cannot afford this and due to this definitely the trade will move from this port to other port.	

(iii).	Keeping this in mind, we propose that the rate be reduced from ₹ 40/- to atleast ₹ 20/- per MT per operation.	prospective effect, it is stated that as per the Hon'ble Madras High Court (Single Judge) Order dated 2.6.2014, the revised time-rate wages and general levy as per Trade Notice dated 31.1.14 have been implemented with effect from 3.6.2014. The C&F levy is collected as per the existing SoR approved by TAMP, i.e. ₹40/-PMT as it is not covered in the Court Order dated 2.6.14.
(iv).	Our proposal be considered favorably and also the increase proposed by the port is totally opposed by us.	
	Letter dated 7 November 2014	
(i).	We accept the revision for C&F charges and offer our support.	
(ii).	This increase implementation should have prospective effect.	
(iii).	Thereafter, it is suggested that for increase in C&F levy charges in this category, every year 5% to be increased and not this type of huge increase.	

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