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Tariff Authority for Major Ports

G.No. 251 **New Delhi,** **03 July 2020**

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Sections 48, 49 & 50 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from the Jawaharlal Nehru Port Trust (JNPT) for general revision of its Scale of Rates on 01 June 2020. However, considering the time involved for notifying the (Speaking) Order along with the Scale of Rates approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the Scale of Rates approved by this Authority on 01 June 2020 was notified in the Gazette of India on 18 June 2020 vide Gazette No. 216. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the JNPT for general revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/52/2019- JNPT

Jawaharlal Nehru Port Trust … Applicant

QUORUM

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

O R D E R

(Passed on this 1 day of June 2020)

This case relates to the proposal received from Jawaharlal Nehru Port Trust (JNPT) vide its letter No. JNPT/Fin/TAMP/6078 dated 27 September 2019 for General Revision of its Scale of Rates.

2. The existing Scale of Rates (SOR) of the JNPT was last approved by this Authority vide Order No.TAMP/48/2016- JNPT dated 4 January 2017 which was notified in the Gazette of India on 24 January 2017 vide Gazette No. 29. The said Order had prescribed a tariff validity upto 31 March 2019. Thereafter, the validity of the SOR of all eleven Major Port Trusts including JNPT was extended from 1 April 2019 to 30 September 2019 or till the effective date of implementation of the revised SOR to be notified by this Authority, whichever is earlier.

3.1. All the Major Port Trusts were earlier governed by the Tariff Policy of 2015 for fixation of SOR for handling cargo, vessel and rendering miscellaneous services. Subsequently, the Ministry of Shipping (MOS), vide its letter No. IWT-II/28/2018-IWT dated 26 December 2018 has issued the new “Tariff Policy for determination of Tariff for Major Port Trusts, 2018” for determination of SOR which are due for revision in Major Port Trusts with effect from 1 April 2019 under Section 111 of the Major Port Trusts (MPT) Act 1963. In compliance with the direction issued by the Government of India, this Authority has notified the Tariff Policy Guidelines, 2018 in the Gazette of India vide Gazette No.17 dated 16 January 2019. The Tariff Policy, 2018 has come into effect from 26 December 2018. The said Tariff Policy, 2018 was forwarded to all Major Port Trusts including JNPT vide our letter No. TAMP/79/2018-Misc. dated 25 January 2019. Thereafter, as per Clause 1.5 of the Tariff Policy, 2018, Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 have also been notified in the Gazette of India on 30 January 2019 vide Gazette No.29.

3.2. A copy each of the Tariff Policy, 2018 and the Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 was forwarded to all Major Port Trusts including JNPT to consider it while formulating the General Revision proposal vide our letter Nos .TAMP/79/2018-Misc. dated 25 January 2019 and 04 February 2019 respectively.

4.1 In this backdrop, the JNPT has filed its proposal dated 27 September 2019 for general revision of its Scale of Rates, following Tariff Policy 2018.

4.2. The JNPT has furnished computation of Annual Revenue Requirement (ARR) under Form 1 and Revenue estimation at the proposed Scale of Rates in Form 3. The ARR computation furnished by JNPT is tabulated below:

Computation of Annual Revenue Requirement under Policy for Determination of Tariff for Major Port Trusts, 2018					
Sl. No.	**Description**		**Y1 (2015-16)**	**Y2 (2016-17)**	**Y3 (2017-18)**
			Rs. in lakhs		
(1).	**Total Expenditure (As per Audited Annual Accounts)**	**Note 1**			
(i).	Operating Expenses		39,669.87	44,757.80	41,253.80
(ii).	Depreciation		6,796.81	6,893.96	7,681.97
(iii).	Management & General Overheads		16,047.44	20,475.02	18,456.29
(iv).	Finance & Miscellaneous Expenses		13,211.23	1,653.19	4,514.45
	Sub Total 1 = (i)+(ii)+(iii)+(iv)		**75,725.35**	**73,779.97**	**71,906.52**
(2).	**Less Adjustments:**				
(i).	**Estate related expenses**				
	(a). Operating Expenses		2,495.11	2,954.00	2,796.19
	(b). Depreciation		421.92	561.07	575.74

	(c). Allocated Management & Administrative Overheads		1,007.41	1,393.39	1,271.73
	(d). Allocated FME	refer annexure 2	76.57	0.19	0.06
	Sub Total 2 (i) = (a)+(b)+(c)+(d)		**4,001.02**	**4,908.66**	**4,643.72**
(ii).	**Interest on loans**		**288.94**	**862.93**	**4,237.70**
(iii).	**2/3rd of One Time Expenses, if any like Arrears of Wages, Arrears of Pension / Gratuity, Arrears of Exgratia Payment, etc. (list out each of the items)**	**Note 2**			
	(a). Pension		-	-	-
	(b). Gratuity		-	-	-
	(c). Superannuation Fund		-	-	-
	(d). Leave Encashment		-	-	-
	(e). Provision For Wage Revision		-	570.37	2,553.33
	Sub Total 2 (iii) = [(a)+(b)+(c)+(d)+(e)]		**-**	**570.37**	**2,553.33**
(iv)	**2/3rd of the Contribution to the Superannuation Fund like pension fund, gratuity fund, and leave encashment fund**	**Note 3**	**8,751.17**	**277.56**	**454.95**
(v).	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	**As per Form 2**	4,152.62	7,047.46	5,793.60
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2018.**		**Not Applicable**		
	(a). Operating Expenses		-	-	-
	(b). Depreciation		-	-	-
	(c). Allocated Management and Administrative Overheads		-	-	-
	(d). Allocated FME		-	-	-
	Subtotal 2 (vi) = [(a)+(b)+(c)+(d)]		**-**	**-**	**-**
	Total of 2 = 2 (i)+2 (ii)+2 (iii)+2 (iv)+2 (v)+ 2 (vi)		**17,193.74**	**13,666.98**	**17,683.29**
(3).	**Total Expenditure after Total Adjustments (3 = 1-2)**		**58,531.61**	**60,112.99**	**54,223.22**
(4).	**Average Expenses of Sl. No. 3 = [Y1 + Y2 + Y3] / 3**		**57,622.61**		
(5).	**Capital Employed**				
	(i). Net Fixed Assets as on 31.03.2018 (As per Audited Annual Accounts)				254,899.25
	(ii). Add:Work in Progress as on 31.03.2018(As per Audited Annual Accounts)				135,059.88
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2018 as per Audited Annual Accounts.				38,804.55
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2018 as per Audited Accounts.				3,190.19
	(v). Less : Net value of fixed assets as on 31 March 2018 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2018.				
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines	**As per Form 4 & Note 4**			
	(a). Inventory				42.20
	(b). Sundry Debtors				2,065.90
	(c). Cash				5,352.05
	(d). Sum of (a)+(b)+(c)				**7,460.15**
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]				**355,424.55**
(6).	**Return on Capital Employed 16% on Sl. No. 5(vii)**		**-**	**-**	**56,867.93**
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2018 [(4)+ (6)]**		**-**	**-**	**114,490.53**

(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2018-19 i.e. @ 3.85% (7*1.0385)**				**118,898.42**
(9).	**Ceiling Indexed Annual Revenue Requirement (ARR)**				**118,898.42**
(10).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sr. No. 9 above**	**As per Form 3 & Note 5**			**118,898.42**
(11).	**Revenue gap**				**NIL**
Notes:					
a.	BOT expenses shown in P & L account has not been considered in the above statement.				
b.	Allocated Management and Administrative Overheads for the estates have been taken as per the financials.				
c.	The figure mentioned at serial no.2 (iv) includes contribution made to Pension, Gratuity, Leave encashment and Provident fund.				
d.	The F & M expenditure relating to the pension, gratuity, leave encashment and provident fund have been allocated to estate on the basis of number of employees.				
e.	Management and Administrative expenses allocated on the basis of total cost to expense heads.				
f.	Management and General overhead excludes management and administrative expenses allocated to estate related expenses.				
g.	All the expenses debited to P & L account excluding those related to estate, BOT operators and depreciation have been considered for calculating the cash working capital.				

4.3. The JNPT has furnished in Form 3 working of revenue estimation considering the existing tariff and the proposed tariff for the actual traffic of 2018-19. As per the said form, the total revenue estimation from the proposed Vessel, Container and Cargo related charges is ₹. 1,18,898.42 lakhs. Thus, no revenue gap has been left uncovered by JNPT.

4.4. The Performance Standards proposed by JNPT in Form-6 are as follows:

Sl. No.	Performance Parameters	Existing Performance Standards 2018-19	Proposed performance standards 2019-20
(1).	**Cargo Related Services**		
(a)	Average Ship Berth day Output (in tonnes) in respect of Major Cargo groups		
	(i). Container	23,650	23,750
	(ii). Dry Bulk	4,896	4,900
	(iii). Liquid	9,599	9,750
(b)	Average moves per hour (in TEUs) in respect of Containers	16.11	17.00
(2).	**Vessel Related Services**		
(a)	Average Turnaround Time of Vessels-Port A/c (in days)	1.57	1.6
(b)	Average Pre-Berthing Time of Vessels-Port A/c (in days)	0.29	0.30
(3).	Any other parameters found relevant by the Port	--	--

4.5. No change is proposed by the port in the conditionalities prevailing in its existing Scale of Rates.

4.6. As per the ARR and detailed working furnished therein, following increase in tariff is proposed by JNPT.

No.	Cargo	% of increase sought
1.	Bulk other than liquid	22.56%
2.	Container related Charges	22.56%
3.	Vessel Related Charges	19.03%
4.	Liquid Cargo	22.56%

4.7. Subsequently, the JNPT vide its e-mail dated 24 October 2019 has forwarded the proposed draft SOR of JNPT.

4.8. Since the present Scale of Rates is valid up to 30 September 2019, the JNPT has requested to extend the validity of existing Scale of Rates till 31 December 2019 or date of approval of proposed SOR whichever is earlier.

4.9. The JNPT vide its letter dated 07 November 2019 has stated that the proposal for revision of tariff was approved by the Board of Trustees of JNPT in the Board Meeting held on 09 October 2019. The JNPT has also furnished a copy of the Minutes of the Board Meeting.

5.1. Clause 3.2 and 3.3. of the Tariff Policy, 2018 stipulates that Major Port Trusts shall host the draft SOR along with the proposed Performance Standards on its website, giving the designated email address of Port as well as for TAMP for comments of relevant user organisations / Organisation bodies, within 15 days' time. The Major Port Trusts shall submit its replies on the comments received from Port Users to TAMP not later than 15 days from the last date of receipt of comments from the port user. In this regard, the JNPT was requested vide our letter dated 04 October 2019 to confirm about hosting of its proposal in its website duly providing the designated email address of Port as well as TAMP for comments of relevant stakeholder / users within 15 days's time. The JNPT was also requested to communicate about the same to all the relevant stakeholder / users as per the list enclosed and also intimate TAMP when action is completed.

5.2. After a reminder dated 01 November 2019, the JNPT vide its letter dated 07 November 2019 has confirmed that the proposed SOR was uploaded on the port's website on 24 October 2019 and the proposal in reference has been hosted in the website of the port on 26 October 2019 (nearly after one month from date of its proposal) for comments of the relevant stake holders/ users. The JNPT vide its e-mail dated 02 November 2019 has also confirmed that the uploading on the website, has been informed to all the users/ user associations.

5.3. Based on the proposal as hosted by JNPT in its website, some of the users/ user organisations have furnished their comments. The said comments were forwarded to the JNPT for its comments. The JNPT has responded vide its letters dated 7 December 2019 and 21 December 2019.

5.4 While responding to the comments of the users/ user organisations, JNPT has further stated that since the tariff revision is towards revenue optimization in the long run, proposal submitted to TAMP needed to be pursued. If the emerging market conditions demand that upward revision need to be deferred or rebates to be given on its revised rates, for growth of business or to sustain the existing business, such proposal can be decided by the Board of Trustees of the Port at the appropriate time.

6. A joint hearing on the case in reference was held on 13 November 2019. At the joint hearing, the Users/ User Organisations and JNPT have made their submissions.

7.1. Based on the preliminary scrutiny of the proposal, the JNPT was requested vide our letter dated 13 December 2019 to furnish additional information/ clarification. The JNPT has responded vide its letters dated 21 December 2020 and 14 February 2020. The information sought and the response of the JNPT thereon are tabulated below:

Sl No	**Information sought**	**Response of JNPT**

<table>
<tr><td>1.</td><td>The JNPT to furnish the list of projects considered as “Capital Work in Progress” to the tune of ₹ 1351 crores for calculation of ROCE in its ARR computation in Form -1.</td><td>The JNPT vide its letter dated 21 December 2019 has furnished the breakup of capital work in progress as on 31.03.2018 to the extent of ₹ 1351/- crores.
<table>
<tr><td>Sr no</td><td>Particulars</td><td>Rs. in crores</td></tr>
<tr><td>A.</td><td><u>Plan Work</u></td><td></td></tr>
<tr><td>1.</td><td>Development of Port based SEZ</td><td>151.55</td></tr>
<tr><td>2.</td><td>Deepening & widening of approach channel</td><td>711.06</td></tr>
<tr><td>3.</td><td>Residential & Public Buildings of JNPT</td><td>45.03</td></tr>
<tr><td>4.</td><td>Hinterland Road connectivity to JNPT</td><td>13.93</td></tr>
<tr><td>5.</td><td>Rehabilitation Land</td><td>32.48</td></tr>
<tr><td>6.</td><td>I S P S Code</td><td>3.46</td></tr>
<tr><td>7.</td><td>Development of waste disposal system in JNPT Township & Port area</td><td>1.65</td></tr>
<tr><td>8.</td><td>Development of Centralized Policy Zone</td><td>24.19</td></tr>
<tr><td>9.</td><td>Infrastructure upgradation & ERP implementation</td><td>20.89</td></tr>
<tr><td>10.</td><td>8 Laning of NH- 4B & SH 54.</td><td>2.00</td></tr>
<tr><td>11.</td><td>Development of Dry Port at Jalna</td><td>197.59</td></tr>
<tr><td>12.</td><td>Development of Satellite Port at Vadhawan</td><td>16.50</td></tr>
<tr><td>13.</td><td>Development of Solar Power Plant</td><td>4.54</td></tr>
<tr><td>14.</td><td>Construction of addl. Rail Line</td><td>5.43</td></tr>
<tr><td>15.</td><td>Construction of Flyovers at JNPT</td><td>30.16</td></tr>
<tr><td>16.</td><td>Reconstruction of Container yard</td><td>15.77</td></tr>
<tr><td>17.</td><td>Other Plan works.</td><td>43.31</td></tr>
<tr><td></td><td>Total A</td><td>1319.54</td></tr>
<tr><td>B.</td><td><u>Non-Plans works</u></td><td></td></tr>
<tr><td></td><td>[Miscellaneous civil work, Renovation of guest house, fenders, furniture, 5th container Terminals, Addl. Bulk Liquid berth, computer etc.]</td><td>31.46</td></tr>
<tr><td></td><td>Total (A+B)</td><td>1351.00</td></tr>
</table></td></tr>
<tr><td>2.</td><td><u>Form No. 1</u></td><td></td></tr>
</table>

<table>
<tr><td>(i).
(a)</td><td>The Depreciation expenditure considered at Sl. No. 1 (ii) of Form- 1 for the years 2015-16, 2016-17 and 2017-18 is seen to be inclusive of depreciation pertaining to ‘Expenditure on BOT contracts’, though in note (b) to Form-1, it has been indicated that BOT expenses shown in P&L account has not been considered. Thus, the depreciation expenditure pertaining to the ‘Expenditure on BOT contracts’ to be excluded from the figure of depreciation at Sl. No. 1 (ii).</td><td>While calculating Total expenditure as per audited financial statements, the amount of operating expenses has been understated inadvertently and the same expenditure has been wrongly added in depreciation head. The amount of operating expenditure including depreciation and excluding BOT expenses are as follows:
(₹. In Lakhs)
<table><tr><th>Sr. No</th><th>Description</th><th>2015-16</th><th>2016-17</th><th>2017-18</th></tr><tr><td>i</td><td>Operating expenses</td><td>39669.87</td><td>44757.80</td><td>41253.80</td></tr><tr><td>ii</td><td>Depreciation</td><td>6796.81</td><td>6893.96</td><td>7681.97</td></tr><tr><td></td><td>Total</td><td>46466.68</td><td>51651.76</td><td>48935.77</td></tr></table>
Further it is re-corrected and the excess amount of depreciation correctly added back to the operating expenses and the same has been tallied with audited financial statement which is as follows.
(₹. In Lakhs)
<table><tr><th>Sr. No</th><th>Description</th><th>2015-16</th><th>2016-17</th><th>2017-18</th></tr><tr><td>i</td><td>Operating expenses</td><td>40453.63</td><td>45624.05</td><td>42167.48</td></tr><tr><td>ii</td><td>Depreciation</td><td>6013.06</td><td>6027.71</td><td>6768.29</td></tr><tr><td></td><td>Total</td><td>46466.68</td><td>51651.76</td><td>48935.77</td></tr></table>The aforesaid correction has no effect on the ARR.</td></tr>
<tr><td>(b)</td><td>The reason for not considering Expenditure on BOT contracts in computation of ARR to be clarified.</td><td>BOT Expenditure are excluded from calculation of ARR as these are not related to JNPCT’s main business activity.</td></tr>
<tr><td>(ii).</td><td>The depreciation pertaining to the activity of ‘Management and General Administration’ has been included in the Depreciation expenditure at Sl. No. 1 (ii) as well as part of Management and General Overheads at sl. no. 1 (iii) of Form-1. The same to be considered only under the head of Depreciation and may be excluded from the head of Management and General Overheads.</td><td>While calculating management and general overhead, the depreciation on the same has not been considered as it has been added separately 1 (ii) of Form 1.</td></tr>
<tr><td>(iii).</td><td>The Finance and Miscellaneous (F&M) Expenditure allocated under Estate Related Expenses is seen to be comprising of only expenses relating to retirement Gratuity, Pension, leave encashment as per the figures reported in the Audited Annual Accounts. However, the Other F&M Expenditure viz. bank charges, hire of launches, guest house expenses, sundry expenses are not seen to have been apportioned to Estate related activity. The reasons for not considering the above other F&M Expenditure for apportionment to Estate related activity to be furnished.</td><td>Certain F & M expenditure like bank charges, hire of launces, guest house expenses and sundry expenses are not related with the estate expenses. For verification of the same, the ledger copies for above expenses has been furnished for verification. Therefore the F&M expenses not pertaining to Estate department were excluded from estate related expenses.</td></tr>
<tr><td>(iv).</td><td>As seen from the Form-1, Sl. No. 2 (iii) (e), the JNPT has considered an amount of ₹ 570.37 lakhs (₹ 855.56 lakhs x 2/3) and ₹ 2553.33 lakhs (₹ 3829.99 lakhs x 2/3) towards 2/3rd of Provision for Wage revision for the years 2016-17 and 2017-18 respectively. The JNPT to furnish the workings in support of the said figures, duly reconciling with the figures reflected in the Audited Annual Accounts.</td><td>In point 2 (iii) of Form-1, 2/3rd of One time expenses, if any, like arrears of wages, arrears of pension/ gratuity, arrears of Ex-gratia payment etc. should be reported. Arrears of employee benefits for the financial year 2015-16 was nil. The arrears of employee benefits for the financial year 2016-17 and 2017-18 was ₹ 855.56 lakhs and ₹. 3829.99 lakhs respectively. Ledger copies of the relevant ledgers are furnished for verification.</td></tr>
</table>

(v).	The Finance and Miscellaneous Expenses as per the Annual Accounts for the years 2015-16 to 2017-18 reflect an amount of ₹ 12542.06 lakhs, ₹ 34.84 lakhs, and ₹ 44.44 lakhs respectively towards "Retirement Gratuity/ Pension/ Leave Encashment as per Actuarial Valuation". However, from the workings relating to exclusion of 2/3rd of contribution to Pension Fund in Form-1, the JNPT is seen to have considered the base amount at ₹ 13,126.75 lakhs, ₹ 416.34 lakhs and ₹ 682.43 lakhs respectively during the said three years which differ with audited accounts. The said difference to be reconciled.	The reconciliation between retirement benefit as per annual accounts and base amount of 2/3 contribution to pension fund in Form-1 is furnished by JNPT.
(vi).	Working Capital: As per Clause 2.5 of the Working Guidelines, the Limit on inventory other than capital spares and excluding fuels is six months average consumption; sundry debtors balance at two months estate income & railway terminal handling charges and cash balance will be one month cash expenses. In this backdrop, the JNPT to furnish the detailed working of the following:	
(a).	The inventory excluding fuel and customised spares as in the Accounts for the year 2017-18 (Y3) as relied upon by JNPT in Form 4 is ₹. 84.40 lakhs. Reference to the said figure in the Annual Accounts to be indicated.	The reference in annual account in FY 2017-18 for other inventories excluding fuel and customised spares amounting to ₹ 84.40 lakhs in Form No. 4 is furnished by JNPT.
(b).	The one month cash expense for allowable cash balance as worked out by the JNPT in Form 4 is at ₹. 5,352.05 lakhs for the year 2017-18 (Y3). However, as per the Audited Annual accounts for the year 2017-18, the total cash expenses i.e. total operating expenses excluding BOT expenses and depreciation works out to ₹. 61927.29 lakhs. One month's expenses works out to ₹. 5160.61 lakhs. The JNPT to review and revise the cash balance figure in Form 1 and 4 accordingly.	The revised cash expenses for the FY 2017-18 amounts to ₹ 65138.23 lakhs against the earlier cash expenses of ₹ 64244.54 lakhs as the depreciation was inadvertently considered as per point 1 (ii) of Form No. 1. As a result of revision in cash expenditure, the revised ARR amounts to ₹ 1,18,911.07 lakhs as against the earlier ARR of ₹ 118,898.42 lakhs. In view of the above, the rate of increase for CRC charges will be 22.5764% as against earlier proposed increase of 22.5633%. Similarly, the revised rate of increase in VRC would be 19.0458% as against earlier proposed rate of 19.03%. Since the revision is miniscule, the aforesaid change in ARR is not considered.
3.	**<u>Revenue Estimation at the proposed Scale of Rates (Form No. 3)</u>**	
(i).	The Coastal rates considered for estimating the revenue at the proposed rates on account of Port Dues, Pilotage-cum-towage, berth hire, fresh water charges, Penal Berth hire charges and Mobile Fire Tender Service Charges do not match with the rates proposed in the Draft Scale of Rates (SOR). The JNPT to, therefore, review and revise the coastal rates proposed in the Draft SOR and capture the income in Form no. 4 keeping in view the coastal rates proposed in the Draft SOR.	The coastal rates earlier proposed in draft SOR uploaded on JNPT website has been revised. The comparative of revised coastal rates of Port Dues, Pilotage-cum-towages, berth hire, fresh water charges, Penal berth hire charges and Mobile Fire Tender Services charges with that of Form No. 3 is furnished.
(ii).	The JNPT, while estimating the revenue on account of Pilotage-cum-towage is seen to have considered the existing rate of US $ 0.2582 per GRT for vessels size of 30001 to 60000 GRT and the rate of ₹. 0.2259 per GRT for the vessels size of 60000 GRT above, instead of considering the existing slab-wise rate of US $ 9666 for first 30000 GRT + US $ 0.2582 for per every additional GRT in case of vessel size of 30001 to 60000 GRT and the rate of US $ 17412 for first 60000 GRT + US $ 0.2259 for every additional GRT, for the vessel size above 60000 GRT. Similarly in case of revenue on account of Pilotage-cum-towage	

<table>
<tr><td></td><td>from Coastal vessels, JNPT has considered a single rate for estimating the existing revenue, instead of considering slab-wise rates as per the existing SOR. The JNPT to, therefore, review and revise the revenue estimation from Pilotage-cum-towage in the Form 4 in accordance to the slab wise rates in the existing SOR.</td><td></td></tr>
<tr><td>(iii).</td><td>On comparison of the coastal rates as considered in Form-3 (Annexure A – O of Form -3) and the proposed draft Scale of Rates, it is seen that the majority of coastal rates considered in the Annexures are different from the rates proposed by JNPT in the proposed draft SOR. To cite an example, the difference in the rates in respect for the activities viz. Vessel Related charges- Port Dues (Bulk Vessels, Container Vessels, Offshore Vessels) and Pilotage as given below:
<table>
<tr><th>Description</th><th>Rate per GRT (in ₹.) as per proposed SOR</th><th>Proposed Rate per GRT (in ₹.) as considered in Annexure-A of Form - 3</th></tr>
<tr><td></td><td>Coastal Vessels</td><td>Coastal Vessels</td></tr>
<tr><td colspan="3">Port Dues on</td></tr>
<tr><td>Bulk Vessels</td><td>9.2674</td><td>5.8683</td></tr>
<tr><td>Container Vessels</td><td>7.1580</td><td>4.5114</td></tr>
<tr><td>Off-shore vessels</td><td>1.5141</td><td>1.5117</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td colspan="3">Pilotage</td></tr>
<tr><td>First 30000 GRT</td><td>15.92</td><td>10.0464</td></tr>
<tr><td>Above 30000 upto 60000 GRT</td><td>12.76</td><td>8.0347</td></tr>
<tr><td>Above 60000 GRT</td><td>11.16</td><td>7.0349</td></tr>
</table>
The JNPT to have a relook at the proposed tariff as well as existing tariff for all items and correct them wherever necessary to ensure that the rates as considered in the Annexures to Form-3 are in line with the rates as proposed by JNPT in the proposed draft SOR.</td><td>The Coastal draft SOR rates has been revised and the same now matches with coastal rates as considered in Form No. 3.</td></tr>
<tr><td>(iv).</td><td>A lot of arithmetical/ totaling errors are observed in the Annexure A to O of Form 4. For example, following discrepancy is noticed in case of handling Over dimensional containers from Container Yard to Truck (direct delivery) in case of Import Containers and from Truck to Container Yard (export intake).
<table>
<tr><th rowspan="3">Description</th><th rowspan="3">Existing Rate per TEU (in ₹.)</th><th colspan="3">Quantity (in number of TEUs)</th><th rowspan="3">Revenue to be Generated (₹)</th><th rowspan="3">Revenue as considered in Form-4 (₹)</th><th rowspan="3">% of variation</th></tr>
<tr><th colspan="2">Foreign</th><th>Coastal</th></tr>
<tr><th>Loaded</th><th>Empty</th><th>Loaded</th></tr>
<tr><td colspan="2">At Existing Rates</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>From Container Yard to Truck (direct delivery)</td><td>844</td><td>3,108.50</td><td>1.50</td><td>0</td><td>2,624,840</td><td>5,249,680</td><td>50%</td></tr>
<tr><td>From Truck to Container Yard (export intake)</td><td>844</td><td>1,940.50</td><td>-</td><td>14.00</td><td>1,649,598</td><td>3,299,196</td><td>50%</td></tr>
<tr><td colspan="2">At Proposed Rates</td><td></td><td></td><td></td><td></td><td></td><td></td></tr>
<tr><td>From Container Yard to Truck (direct delivery)</td><td>1034.43</td><td>3,108.50</td><td>1.50</td><td>0</td><td>3217077</td><td>6434181</td><td>50%</td></tr>
<tr><td>From Truck to Container Yard (export intake)</td><td>1034.43</td><td>1,940.50</td><td>-</td><td>14.00</td><td>2021793</td><td>4043603</td><td>50%</td></tr>
</table></td><td>There is no arithmetical/ totally errors in over dimensional containers from container yard to truck (direct delivery) in case of Import and truck to container yard (export intake). The coastal calculation is twice of the normal container handling charges.</td></tr>
</table>

	The JNPT to review and recheck every calculation and the revise the Form-3 accordingly, to avoid any arithmetical errors.	
(v).	Neither the Existing SOR nor the proposed SOR prescribe separate rates for handling Hazardous empty container. However, as seen from revenue estimation for handing for hazardous containers, the JNPT has considered 81% rate of the hazardous loaded container for handing from ship to container yard vice versa for empty hazardous container. In case of handling of container from Yard to Container freight Station or vice versa, container yard to railway flat or vice versa (ICD container only) and container yard to truck or vice versa (direct delivery and export intake) 100% rate of hazardous loaded container has been considered for empty hazardous container. The JNPT to explain the reason for considering a separate rate for empty hazardous container for arriving at the revenue at estimated/ proposed rates instead for considering normal container charges. If the rate is essential, the said rate may be suitably included in the proposed SOR.	The notes in present and proposed SOR states that, "Hazardous containers shall attract 1.25 times the normal applicable charges. The above charges shall be applicable for all types of charges like handling, dwell time, shut-out etc". The hazardous containers do not depend upon rates for hazardous loaded containers. Thus, the rate of Rs. 3828.57 for empty hazardous container is 1.25 times of the rate of Rs. 3062.86 which is the rate for handling normal containers.
(vi).	In the Annexure K of the Form 3, the heading is given as "Dwell time charges for container stored in the port premises and shallow water berth", whereas in the proposed SOR the heading is indicated as "Dwell time charges for container stored in the port premises". The reason for indicating different headings in two different places to be furnished. The correct heading to be indicated.	With reference to Annexure K of the Form 3, the heading "Dwell time charges for container stored in the port premises and shallow water berth", should be considered as correct heading. The same has been rectified in revised SOR.
(vii).	In the Annexure K of the Form 3, the port has not estimated dwell time income from the following: (a). ICD – (Import/ Export and Loaded/ Empty) moved by road/ rail. (b). Transhipment – (Loaded/ Empty). (c). Shutout – (Loaded/ Empty). (d). Back to town – (Loaded/ Empty). The JNPT to confirm that no income was realised during the year 2017-18 from all the above category of containers. Even otherwise, the Port to estimate the dwell time income on a reasonable estimation on all the above category of containers and consider it in the income estimated at the proposed level of tariff.	It is practically not possible to estimate the dwell time income for lack of quantitative details mentioned in Annexure-K of the form 3 in case of following items: (a). ICD – (Import/ Export and Loaded/ Empty) (b). Transhipment – (Loaded/ Empty). (c). Shutout – (Loaded/ Empty). (d). Back to town – (Loaded/ Empty).
4.	**<u>Proposed Scale of Rates</u>**	
(i).	Clause 10.9 of the working guidelines to operationalise the Tariff Policy for Major Port Trust, 2018 prescribes the levy of Pilotage and shifting charges in the three slabs as mentioned below: (i). Up to 30,000 GRT (ii). 30,001 to 60,000 GRT (iii). Above 60,000 GRT A reduction of 20% on the unit rate of the first slab will be effected for the second slab (i.e. 30001 to 60001) and a reduction of 30% on the unit rate of the first slab is to be effected for the third slab (i.e. above 60000 GRT) on the incremental GRT. However, the JNPT in the schedule of pilotage cum towage fee of proposed Draft SOR has proposed a reduction of 20% and 30% on the unit rate of the first slab for the total GRT of the vessel instead of applying applicable reduction on the incremental GRT of the relevant Slabs. The details of the discrepancy is shown below; **A. SCHEDULE OF PILOTAGE-CUM-TOWAGE FEE:**	The proposed pilotage-cum-towage fee of foreign rates has been calculated by the increase in present scale of rate by 19.03%. The proposed scale of rate for the size of vessel having GRT between 30000 to 60000 GRT is 0.3073 dollar having effective discount rate of 19.87% of original base rate of 0.3835 dollar. Similarly the proposed scale of rate for vessel having GRT above 60000 GRT is 0.2689 dollar having discount rate of 29.88% of original base rate of 0.3835 dollar. Similarly coastal rate has been calculated by increase of 19.03% in the present scale of rates. The proposed scale of rate for the size of vessel having GRT between 30000 to 60000 GRT is ₹ 8.0347 having effective discount rate of 20.024% of original base rate of ₹ 10.0464. Similarly the proposed scale of rate for vessel having GRT above 60000 GRT

<table>
<tr>
<td></td>
<td>
<table>
<tr><th rowspan="2">Sr. No.</th><th rowspan="2">Size of Vessels (in GRT)</th><th colspan="2">Rate per GRT as per Draft Proposed SOR</th><th colspan="2">Rate to be considered as per clause 10.9 of the Working Guidelines.</th></tr>
<tr><th>Foreign going vessels</th><th>Coastal Vessels (in ₹)</th><th>Foreign going vessels (in US$)</th><th>Coastal Vessels (in ₹)</th></tr>
<tr><td>1.</td><td>Upto 30000</td><td>0.3835</td><td>15.92</td><td>0.3835</td><td>15.92</td></tr>
<tr><td>2</td><td>From 30001 upto 60000 GRT</td><td>0.3073</td><td>12.76</td><td>US $ 11505 for first 30000 GRT + US $ 0.3068 for every additional GRT</td><td>₹ 477600 /- for first 30000 GRT + ₹ 12.74 for every additional GRT</td></tr>
<tr><td>3</td><td>Above 60000 GRT</td><td>0.2689</td><td>11.16</td><td>US $ 20709 for first 60000 GRT + US $ 0.2685 for every additional GRT</td><td>₹ 8,59,800/- for first 60000 GRT + ₹ 11.14 for every additional GRT</td></tr>
</table>
The JNPT to rectify the SOR and submit the revised draft SOR. The JNPT to also revise the estimation of income from pilotage cum towage at the proposed Scale of Rates in Form -4 as per the revised slab wise pilotage cum towage fee (to be) proposed.
</td>
<td>is ₹ 7.0349 having discounting effective rate of 29.975% of original base rate of ₹ 10.0464.

Thus, the proposed scale of rate satisfy the clause 10.9 of the working guideline to operationalise the Tariff Policy for Major Port Trust, 2018.</td>
</tr>
<tr>
<td>(ii).</td>
<td>In the existing approved SOR, uniform wharfage rate is prescribed for all types of acids under the schedule of wharfage charges for liquid cargo at JNPT shallow water berth (item no. 1(i) of clause 5.2). In the proposed draft SOR, the wharfage rate for a specific commodity “Acetic Acid” is proposed in place of “all types of acids” in the existing SOR. The JNPT to give reasons for modification in the description of the cargo item.</td>
<td>The same has been revised in revised proposed SOR.</td>
</tr>
<tr>
<td>(iii).</td>
<td>The category name of item no. 26 of the wharfage schedule of dry bulk and general cargo has been modified as “Steel Slab/ steel billets” in the proposed draft SOR as against “Steel Slab/ steel billets/steel plates” in the existing approved SOR. The JNPT to furnish the reasons for excluding the <u>Steel plates</u> from the existing description in the wharfage schedule.</td>
<td>The same has been revised in revised proposed SOR.</td>
</tr>
<tr>
<td>(iv).</td>
<td>The JNPT has deleted the two tariff items viz., ‘(viii) VAM’ and ‘(ix) Other Unremunerated’ from the schedule of wharfage charges for liquid cargo at JNPT shallow water berth in the proposed SOR. The JNPT to give the reasons for deletion of the above items in the wharfage charges for liquid cargo at JNPT shallow water berth.</td>
<td>The same has been revised in revised proposed SOR.</td>
</tr>
<tr>
<td>(v).</td>
<td>The clauses no. 3.3.6 A (i) & (ii) and (B) (i) relating to procedure and charges for inter terminal transfer of transhipment of containers between the JNPT and other terminal has been modified in the proposed draft SOR. The JNPT to explain the proposed modification in the above said clauses, with justification.</td>
<td>Due to commencing of e-RTGCs at Port yard, Port is conducting only one operation either lift on or lift off for export/ import container. Therefore, Port has suggested Inter Terminal transfer of Transhipment handling TP equivalent to 50% of TP chargers plus one lift off in case of export container and 50% of TP plus lift off in case of import container.</td>
</tr>
<tr>
<td>(vi).</td>
<td>The JNPT to modify the proposed Draft Scale of Rates, since the revenue estimation and ARR may undergo change in view of the above observation.</td>
<td>The following new cargo item has been added under the category of Chemical in Clause 5.2 in revised proposed SOR.
<table>
<tr><th>Sr. no</th><th>Tariff Category/ cargo item</th><th>Foreign rate per metric tonne (In ₹)</th><th>Coastal rate per metric tonne (in ₹)</th></tr>
<tr><td>(vi)</td><td>Linear alkyl benzene</td><td>171.8</td><td>103.08</td></tr>
</table>
This is a new added chemical item in revised proposed SOR. Hence, the revenue estimation in Form No. 3 is not considered.</td>
</tr>
</table>

7.2. While furnishing the additional information/ clarification, the JNPT has furnished a revised SOR, after incorporating the changes as brought out above.

8.1. Further, the JNPT vide its e-mail dated 16 January 2020 has made the following submissions:

(i). M/s. Indian Oil Corporation Limited (IOCL) is going to carry out bunkering activity from Shallow Water Berth. Since no wharfage rate for HSD to be handled in the Shallow Water Berth is available in JNPT tariff, it has been decided to collect the wharfage charges as per BPCL tariff for HSD at Liquid Cargo Jetty, JNPT.

(ii). TAMP has approved the tariff proposal for BPCL-IOCL Liquid Cargo Jetty at JNPT vide Order No. TAMP/46/2016-BPCL dated 20 February 2017 which is effective from 21 March 2017. Vide the said Order, tariff category for HSD, FO Base Oil, CBFS, AHE is ₹. 77.79 per metric tonne for foreign vessel and coastal vessel.

(iii). BPCL-IOCL Liquid Cargo Jetty being nearby terminal to JNP shallow Water Berth and within JNP Port area, hence, it is proposed to levy the same rate of BPCL in JNPT Tariff as per the following:

Tariff Category/ Cargo item	**Foreign rate per MT (In Rs)**	**Coastal rate per MT (In Rs)**
HSD	77.79	77.79

8.2. Thus, the JNPT has requested to grant approval for the proposed rate.

9. The proceedings relating to joint hearing held in this case are available on records at the office of this Authority. An except of the arguments made by the parties will be sent separately to the relevant parties. These details will also be made available at our website http://tariffauthority.gov.in

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

(i). The Scale of Rates (SOR) of Jawaharlal Port Trust (JNPT) was last revised by this Authority vide Order No. TAMP/48/2016- JNPT dated 4 January 2017. Vide the said Order, the Vessel related charges were increased by 21%, Container and cargo related charges (except liquid cargo) were increased by 16% and the Liquid Cargo charges were increased by 5%. However, the JNPT has reported that it applied the increase in VRC with effect from 01 June 2017 and in respect of container and bulk handling it continued to charge as per the SOR approved in 2014 due to traffic constraint .The validity of the SOR of JNPT approved vide Order of January 2017 expired on 31 March 2019. The validity of said existing SOR of JNPT was extended upto 30 September 2019. In this backdrop, the JNPT has come up with a proposal for general revision of its Scale of Rates. The proposal of JNPT has the approval of its Board of Trustees.

(ii). The Ministry of Shipping (MOS), vide its letter No. IWT-II/28/2018-IWT dated 26 December 2018 has issued the new “Tariff Policy for determination of Tariff for Major Port Trusts, 2018” for determination of SOR of Major Port Trusts which are due for revision with effect from 1 April 2019, under Section 111 of the Major Port Trusts (MPT) Act 1963, which was notified in the Gazette of India on 16 January 2019 vide Gazette No. 17. Thereafter, as per Clause 1.5 of the Tariff Policy, 2018, Working Guidelines to operationalize the Tariff Policy for Major Port Trusts, 2018 have also been notified in the Gazette of India on 30 January 2019 vide Gazette No.29. Thus, the proposal filed by JNPT for general revision of its Scale of Rates is based on the stipulations contained in the Tariff Policy, 2018, and the Working Guidelines.

(iii). The initial proposal was filed by JNPT in September 2019. Subsequently, while furnishing the additional information/ clarification in February 2020, the JNPT has rectified some calculation errors as furnished in its initial proposal and has made some changes in its SOR. The change in the calculation has no impact on the percentage of increase sought by the Port in the Scale of Rates proposed by the Port. Thus, the proposal filed by JNPT in September 2019 and February 2020 along with submissions made by the Port during the processing of the case is considered in this analysis.

(iv). (a). Clause 2.1 of the Tariff Policy, 2018 requires each Major Port Trust (MPT) to assess the ARR which is the average of the sum of Actual Expenditure as per the final Audited Annual Accounts of the three years (Y1), (Y2) and (Y3) subject to certain exclusions as prescribed in Clause 2.2 of the Tariff Policy, 2018 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed including capital work-in-progress obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The JNPT has assessed the ARR based on Audited Annual Accounts for three years i.e. 2015-16 (Y1), 2016-17 (Y2) and 2017-18 (Y3) following clause 2.1 of the Tariff Policy, 2018 and the Working Guidelines notified by this Authority. The JNPT has excluded the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2015-16, 2016-17 and 2017-18. The ARR estimated by the JNPT is certified by the practicing Chartered Accountant, hence considered. The following adjustment done by JNPT in line with provisions prescribed in Clause 2.2. of Tariff Policy 2018 and Clause 2.2. of Working Guidelines are brought out for specific mention along with a few modification required to be done in the computation of the ARR for the reasons explained hereunder:

(i). As per Clause 2.2(i) of Tariff Policy 2018 and the Working Guidelines, the JNPT has excluded expenses related to estate activity i.e. Operating Expenditure (including depreciation) related to estate activity, allocated Management and General Administrative Overheads (MGA) and Financial & Miscellaneous Expenditure.

(ii). As per Clause 2.2(ii) of Tariff Policy 2018 and the Working Guidelines, Interest on loans have been excluded.

(iii). The tariff for port railway services is not fixed by this Authority; it is fixed by the Railway Board. In this regard, while reviewing the tariff in respect of other Major Port Trusts, only the excess of railway expenditure over railway income was considered while determining the ARR. In the case of JNPT, there is no railway income reflected in the Annual Accounts. Therefore, the Railway activity expenditure to the tune of ₹ 121.42 lakhs per annum forms part of the ARR. The Railway activity expenditure is the depreciation expenditure.

(iv). As per Clause 2.2(iii) of Tariff Policy 2018 and the Working Guidelines, 1/3 of one-time expenses like arrears of wages, pension/ gratuity, ex-gratia payments arising out of wage revision etc. are to be included in the Annual Revenue Requirement (ARR). Likewise, 1/3rd of the Contribution to Pension Fund is to be included for the calculation of ARR. This means 2/3rd of the above mentioned expenses are to be excluded in the ARR computation.

In this regard, the JNPT is seen to have considered an amount of ₹ 570.37 lakhs and ₹ 2553.33 lakhs during the years 2016-17 and 2017-18 for exclusion, towards 2/3rd of the provision for wage revision. Since the said amount is not seen to have arisen from the audited annual Accounts of JNPT for the years 2016-17 and 2017-18, and they are being in the nature of provisions, the same is not considered for exclusion in the ARR computation.

Likewise, an amount of ₹ 8751.17 lakhs, ₹ 277.56 lakhs and ₹ 454.95 lakhs have been considered for exclusion from the ARR by the JNPT, during the years 2015-16 to 2017-18, as 2/3rd of the Contribution to the Superannuation Fund like pension fund, gratuity fund and leave encashment fund. As per Notes on Accounts, JNPT has not made any contribution to these Funds as the funds have sufficient balances to care the liability. The amount excluded by the JNPT appear to be actual expenditure booked in the accounts .Therefore, the same is not considered for exclusion in the ARR computation.

(v). As per Clause 2.2. (iv) of Tariff Policy 2018 and Clause 2.2. (iv) of the Working Guidelines, Management and General Administration Overheads subject to a cap of 25% of aggregate of the operating expenditure and depreciation is only to be considered in the ARR calculation. The workings furnished by JNPT are seen to be in order. However, there is difference in the figure of Management & General Overheads considered by JNPT and in the analysis, on account of difference in the operating expenses considered by JNPT and that considered in the analysis.

(vi). As per Clause 2.2(v) of the Working Guidelines issued to operationalize the Tariff Policy, 2018, all expenses relevant for captive berths are to be excluded from the computation of ARR. The JNPT has not reported any expenditure relating to Captive berths.

(vii). The JNPT has excluded the expenditure related to the BOT Contracts, from the ARR, on the ground that these expenses are not related to JNPT's main business activity. The judgment of the port in this regard is relied upon.

(viii). Following the provisions prescribed at Clause 2.3. of the Tariff Policy, 2018 and Clause 2.3. of the Working Guidelines and based on the modifications carried out, as discussed in the preceding paragraphs, the revised average expenditure works out at ₹. 619.14 crores instead of ₹ 576.23 crores assessed by the JNPT.

(v). The JNPT has arrived at capital employed in line with provision prescribed in Clause 2.4. of the Working Guidelines. The JNPT has considered the net fixed assets plus capital work-in-progress as on 31 March 2018 reported in the Audited Annual Accounts.

The JNPT has excluded net value of Fixed assets related to Estate activity and net value of fixed assets transferred to BOT operator as on 31 March 2018 from the Capital Employed. This is relied upon.

(vi). Working capital comprises of Inventory, Sundry debtors and Cash balances.

As per clause 2.5 of the Working Guidelines 2018, in case of inventory other than Capital Spares the limit is six months average consumption. The JNPT has considered Inventory to the tune of ₹ 42.20 lakhs, which is reported to be six months average consumption as per audited Annual Accounts and, thus relied upon.

The cash balance is seen to have been calculated by JNPT by taking into account the monthly cash expenses, excluding depreciation, but including the cash expenses of the Estate activity. The cash balance is reworked to consider one month cash expenses excluding the expenses related to the Estate activity and arrived at ₹. 50.06 crores as against ₹ 53.52 crores, as assessed by JNPT.

The Sundry Debtors at ₹ 20.66 crores is seen to have been computed by the Port as per norms prescribed in clause 2.5. of Working Guidelines. The estate income of ₹ 12395.43 lakhs as reflected in audited accounts has been considered by JNPT to arrive at 2 Months income as per norms.

(vii). Return on Capital Employed at 16% has been worked out on the revised Capital Employed worked out above at ₹. 3550.79 crores which is considered in the ARR computation as against the capital employed of ₹3554.25 crores as considered by the JNPT.

(viii). The ARR is the average of the expenditure for the three financial years 2015-16 to 2017-18 at ₹. 619.14 crores plus 16% Return on Capital Employed at ₹.568.13 crores, thereby aggregating to ₹. 1187.26 crores as on 31 March 2018, instead of the ARR as assessed by the port at ₹ 1144.91 crores.

Further, as per Clause 2.7. of Working Guidelines, the said ARR has been indexed @ 100% of the Wholesale Price Index (WPI) applicable for the year 2018-19 at 3.45% respectively.

Also, it is to state that considering the time involved in passing this Order in the case in reference, notification of the said Order in the Gazette of India and the lead time for the revised Scale of Rates of JNPT approved to come into effect, it is most likely that the revised Scale of Rates of JNPT would come into effect only in the first quarter or early second quarter of the year 2020-21. In view of this position, this Authority is inclined to consider an additional escalation factor of 4.26% over the indexed ARR of 2018-19, in the computation of ARR of JNPT. Such an approach has been adopted in the general revision proposal of Kolkata Port Trust (KOPT), which has been disposed vide Order no. TAMP/34/2019-KOPT dated 20 February 2020.

(ix). The detailed working of ARR calculation given by the port duly certified by Chartered Accountant is relied upon subject to the modification effected as discussed in the earlier paragraphs. The revised computation of ARR as modified by us is attached at **Annex.**

(x). A summary of the ceiling indexed ARR furnished by the JNPT and as considered by us is given below:

(Amount ₹. in crores)

Sr. No.	Particulars	As estimated by the JNPT	As assessed in the Cost Statement
1.	Average Expenses for the years 2015-16, 2016-17 and 2017-18	576.23	619.14
2.	Capital employed as on 31.03.2018	3554.25	3550.79
3.	Return on capital employed @ 16%	568.68	568.13
4.	ARR as on 31 March 2018 (4=1+3)	1144.91	1187.27
5.	Indexation in the ARR @ 100% of the WPI applicable for the year 2018-19 (3.45%)	1188.98	1228.23
6.	Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26%)	-	1280.55
7.	**Ceiling Indexed Annual Revenue Requirement (ARR)**	**1188.98**	**1188.98**

(xi). (a). As per Clause 2.6 of the Tariff Policy 2018, the Major Port Trusts have the flexibility to determine the tariff to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, duly certified by a practicing Chartered Accountant.

The Port has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding traffic handled in 2017-18 as required as per Clause 2.9. of the Working Guidelines. As per Clause 2.6. of Tariff Policy 2018, for drawing the SOR, the JNPT has considered the actual cargo traffic in tonnes for bulk and liquid cargo, in TEUs for container and GRT of vessel handled by the port during the year 2017-18, to draw the proposed SOR within the ceiling indexed ARR. The revenue estimation statement has been duly certified by a Chartered Accountant.

(b). While drawing up the proposed SOR, the JNPT is generally seen to have proposed an increase of about 19% in the vessel related charges and an increase of 22.56% in the containers and bulk cargo related charges. The increase proposed in container and bulk cargo related charges is over the rates approved in the year 2014. Based on the above position, the Revenue Estimation at the proposed level of tariff has been worked out by JNPT at ₹. 1188.98 crores. This is seen to be lower than the Ceiling Indexed Annual Revenue Requirement (ARR) of ₹. 1280.55 crores, as discussed earlier, thereby leaving an uncovered gap of ₹. 91.57 crores.

(c). Clause 2.6 of the Tariff Policy, 2018 gives flexibility to Major Port Trusts to determine the tariff to respond to the market forces based on its commercial judgment and draw the SOR within the ceiling ARR. The revenue estimated by the JNPT at the proposed tariff is within the ceiling ARR and the revenue estimates at the proposed tariff are duly certified by the Chartered Accountant. Hence, this Authority is inclined to approve the increase in existing tariff as proposed by JNPT.

(xii). The Users/ User Associations have objected to the increase proposed by the JNPT in its Scale of Rates. In this regard, the port has stated that the tariff increase of about 16% in the cargo related charges, as granted by this Authority during the last general revision of tariff of JNPT in the year 2017, was not implemented by the port then, for the benefit of trade. The port has also stated that since the time of last revision there has been increase in various input costs and thus, has requested to approve the proposed increase to enable the port undertake various measures for meeting infrastructure needs of JNPT. While responding to the comments of the users/ user organisations, JNPT has further stated that since the tariff revision is towards revenue optimization in the long run, proposal submitted to TAMP needed to be pursued. If the emerging market conditions demand that upward revision need to be deferred or rebates to be given on its revised rates, for growth of business or to sustain the existing business, such proposal can be decided by the Board of Trustees of the Port at the appropriate time. It is noteworthy that the revenue estimation due to increase in vessel related charges and the cargo related charges, as sought by the JNPT in the current general revision, is lower than the ceiling indexed Annual Revenue Requirement. Also, it is relevant here to mention that as per Clause 7.1. of the Tariff Policy 2018, the rates prescribed in the Scale of Rates are ceiling levels. The JNPT has the flexibility to charge lower rates. Further, as per Clause 2.7. of the Tariff Policy 2018, the JNPT is requested to ensure that as a result of revision in the SOR there will not be loss of traffic to the port.

(xiii). In line with the stipulation contained in Clause 5.5.1 of the Working Guidelines issued to operationalise the Tariff Policy, 2018, the rate of penal interest has been prescribed by the JNPT at 15% at Note no. 1.2(viii)(b), which is approved.

(xiv). As per Clause 2.8 of the Tariff Policy, 2018, SOR will be indexed annually to inflation to the extent of 100% of the variation in Wholesale Price Index (WPI) announced by the Government of India. Such adjustment of SOR will be made every year and the adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. Further, as per clause 3.2 of the Tariff Policy, 2018 to be read with clause 2.8 of the Tariff Policy, 2018, annual indexation in SOR at 100% of the WPI is applicable subject to achievement of Performance Standards committed by Major Port Trusts. If a particular port does not fulfil the Performance Standard, no indexation would be allowed during the next year. It is relevant here to state that in the instant case indexation factor for the years 2018-19 and 2019-20 is already considered in the ARR. The next annual indexation in SOR will be applicable from 1 May 2020 subject to achievement of Performance Standards in the year 2019-20. **Since the revised SOR of JNPT will come into effect only after May 2020, the JNPT shall apply the indexation factor on the pre-revised tariff with effect from 1 May 2020, subject to achievement of performance standards in the year 2019-20. When the revised SOR as approved vide this Order comes into effect, the JNPT shall apply the indexation factor on the said tariff with effect from such date the revised SOR comes into effect, subject to achievement of performance standards by JNPT in the year 2019-20.** The note proposed by JNPT is modified to the effect that the SOR approved by this Authority is subject to automatic annual indexation at 100% of the WPI to be announced by this Authority. The annual indexation will be from 1 May 2020 subject to the JNPT achieving the Performance Standards notified alongwith the SOR. If Performance Standards prescribed in the SOR are not achieved, there will be no indexation in SOR for that particular year. The Tariff Policy, 2018 stipulates that annual indexation in the SOR will be automatic subject to achievement of Performance Standards. It does not require the Major Port Trusts to approach this Authority for the same. In order to have transparency, the port is advised to declare the Performance Standards achieved for the period 1 January to 31 December vis-à-vis the Performance Standards notified by this Authority at the level committed by the port within one month of end of the calendar year to this Authority. If the Performance Standards as notified by this Authority are achieved by the port, then the port can automatically index the rates prescribed in its SOR at 100% of WPI announced by this

Authority and apply the indexed SOR w.e.f. 1 May of the relevant year. The indexed SOR by the JNPT has to be intimated by the port to the concerned users and to this Authority.

(xv). As per Clause 3.1 of the Tariff Policy, 2018, the Major Port Trusts shall also commit Performance Standards for cargo related services in terms of average ship berth day output, average moves per hour in case of container handling. It is not necessary to commit cargo-wise ship berth day output. Instead, the Major Port Trusts is propose overall average ship berth day output. For vessel side services, the port shall prescribe Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels and any other parameter which is found relevant by the Port.

The JNPT has retained the level of Performance Standards approved vide the last general revision Order of JNPT. The Tariff Policy, 2018 does not prescribe any method or basis for proposing performance standards.
Therefore, the proposal of the JNPT to continue with the existing Performance Standards, is approved.

It is also relevant here to mention that the Performance Standards committed by the Port are to be considered for the operations carried out exclusively by the Port within the port premises, with its own equipment and will not be applicable to the private service providers authorised by the port for rendering services with its equipment for whom separate benchmark performance standards prescribed in the relevant Order shall be applicable.

(xvi). The clauses no. 3.3.6 A (i) & (ii) and (B) (i) relating to procedure and charges for inter terminal transfer of transhipment of containers between the JNPT and other terminal has been modified in the proposed SOR. In this regard, the JNPT has stated that due to commencement of e-RTGCs at Port yard, Port is conducting only one operation i.e. either lift on or lift off for export/ import container. Therefore, JNPT is stated to have proposed the changes to the said notes. Since none of the BOT operators (who are also concerned) and the users have objected to the proposed change, the notes as revised by the port is approved.

(xvii). This Authority vide its Order no. TAMP/10/2017- JNPT dated 16 May 2017 had passed an Order fixing charges for handling Direct Port Delivery (DPD) Containers. While retaining the rate for handling of DPD containers at ₹ 1688/- for 20’ container and ₹ 2532/- for 40’ container, as approved vide the above referred Order, the JNPT has introduced levy of shifting charges in the event the DPT Containers is shifted to CFS after 48 hours or when the container declared as DPD is shifted to CFS before 48 hours. Since the shifting activity will be involved, the proposed shifting charges is approved.

(xviii). This Authority has vide Order No. TAMP/12/2019-MUC dated 24 July 2019, approved revised Mandatory User Charges (MUC) for DMICDC’s Logistics Data Bank (LDB) project across all the Major Port Trusts and BOT operators operating thereat.

Therefore, the revised MUC on containers for the Logistics Data Bank Service rendered by DMICDC approved by this Authority for a period of two years for common adoption by all Major Port Trusts and BOT terminals thereat shall be applicable in case of KOPT also. A note in this regard, has been proposed by the Port in its SOR, which is approved.

(xix). During the proceedings relating to the case in reference, the JNPT had conveyed that M/s. Indian Oil Corporation Limited (IOCL) is going to carry out bunkering activity from Shallow Water Berth. Since, no wharfage rate for HSD to be handled in the Shallow Water Berth is available in JNPT tariff, the port has proposed to levy the wharfage charges as per BPCL tariff for HSD at Liquid Cargo Jetty, JNPT at ₹ 77.79 per MT.

In this regard, it is to state that Clause 7.6.1 of the Tariff Policy, 2018, interalia, stipulates that whenever a specific tariff for a new service/ cargo is not available in the SOR, of that particular port, the concerned Major Port Trust can approach this Authority for notification of tariff for the said new cargo/ service, adopting the tariff and performance standards if any fixed for comparable cargo/ service in any Major Port Trust. In the case in reference, the port has chosen to adopt the existing rate of BPCL. The proposal of the JNPT in this regard is approved.

(xx). In case of Flat Rack Bundle containers, since only one move is handled and also one container space is occupied, the handling charges and dwell time should be applicable for one container only, based on the request made by Maritime Association of Nationwide Shipping Agencies (MANSA) and Container Shipping Line Association (CSLA), in the proceedings relating to the case in reference, the JNPT has proposed a note to the effect that Incase of Flat Rack Bundle containers, the handling charges will be levied as single container. However all other charges will be levied on per container basis separately. Since the proposed note removes ambiguity, the note proposed by JNPT is approved.

(xxi). Clause 3.7 of the Working Guidelines issued by this Authority to operationalize the Tariff Policy, 2018 stipulates that ordinarily the Order approved by this Authority shall come into effect after expiry of 30 days from the date the Order (to be) passed is notified in the Gazette of India. Accordingly, the SOR approved shall come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India.

(xxii). The validity of the existing SOR of the JNPT was last extended till 30 September 2019 or till the effective date of implementation of the revised Scale of Rates, whichever is earlier. By the time this Order comes into effect, it shall be around June 2020. That being so, the validity of the existing Scale of Rates shall be deemed to have been extended from 01 October 2019 till the revised SOR comes into effect.

(xxiii). As per Clause 3.8 of Working Guidelines, the SOR notified shall remain valid for 3 years after expiry of 30 days from the date of notification of the Order in the Gazette of India. Therefore, the validity of the revised SOR is prescribed for a period of 3 years from the date this Order comes into effect.

(xxiv).(a). As per clause 7.1 of the Tariff Policy, 2018, the rates prescribed in the Scale of Rates are ceiling levels. The ports may, if they so desire charge lower rates. The JNPT may exercise the flexibility to charge lower rates.

(b). As stated earlier, as per Clause 2.7 the Tariff Policy, 2018, it is for the JNPT to ensure that as a result of revision in the SOR there will not be loss of traffic to the port.

(c). If there is any error apparent on the face of record considered or for any justifiable reasons the JNPT may approach this Authority for review of the tariff fixed within 30 days from the date of notification of the Order passed in the Gazette of India.

(d). The modifications proposed by JNPT in the conditionalities governing the Scale of Rates are considered for approval based on justification/ clarification furnished by JNPT. The JNPT may, if necessary, come up with a proposal for amending any of the conditionalities approved, even before the expiry of the tariff validity period.

11.1. In the result, and for the reasons given above, and based on the collective application of mind, this Authority approves the revised Scale of Rates and the conditionalities for the JNPT which have been notified separately. The effective date of the revised Scale of Rates and conditionalities governing the application of revised Scale of Rates will remain the same as already indicated in the separate Order dated 1 June 2020 and shall be in force for a period of 3 years from the date of effect of revised Scale of Rates. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

11.2. The JNPT has committed Performance Standards for cargo related services in terms of average ship berthday output, average moves per hour in case of container handling. For vessel side services, the port has committed Performance Standards in terms of average turnaround time of vessels and average pre-berthing time of vessels and idle time at berth Port.

11.3. The indexation of SOR as provided in Clause 2.8 of the Tariff Policy, 2018 is to be read with Clause 3.2 of Tariff Policy, 2018. If JNPT does not meet the Performance Standard, the JNPT is not eligible for indexation during the next year.

11.4. As per Clause 6 of the Tariff Policy 2018, the JNPT shall furnish to this Authority annual reports on cargo traffic, ship berthday output, average turnaround time of ships, average pre-berthing waiting time. In addition, for the container berths, annual reports is also be provided on average moves per crane hour and average dwell time for containers. The annual reports shall be submitted by the Port within 60 days following the end of each of the year. Any other information which is required by this Authority shall also be furnished to them from time to time

11.5. As per Clause 4 of the Working Guidelines, this Authority shall publish all the information received by it from JNPT under clause 6 of the Tariff Policy, 2018 on its website. However, this Authority shall consider a request from JNPT about not publishing certain data/ information furnished which is commercially sensitive. Such requests should be accompanied by detailed justification regarding the commercial sensitiveness of the data/ information in question and the likely adverse impact on their revenue/ operation upon such publication. This Authority's decision in this regard would be final.

(T.S. Balasubramanian)
Member (Finance)

Annex

Computation of Annual Revenue Requirement under Tariff Policy, 2018, for Determination of Tariff for Jawaharlal Nehru Port Trust (JNPT)

(Rs. in Lakhs)

Sr. No.	Description	Y-1 (2015-16)	Y-2 (2016-17)	Y-3 (2017-18)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i)	Operating Expenses	40,453.63	45,624.05	42,167.48
(ii)	Depreciation	6,297.90	6,394.84	7,183.02
(iii)	Management & General Overheads	15,762.59	20,107.89	18,041.56
(iv)	Finance & Miscellaneous Expenses	13,211.23	1,653.19	4,514.45
(v)	Expenditure on BOT Contracts	6,298.51	8,369.93	7,732.29
	Sub Total 1 = (i)+(ii)+(iii)+(iv)	**82,023.86**	**82,149.90**	**79,638.80**
(2).	**Less Adjustments**			
(i)	**Estate related Expenses**			
	(a). Operating Expenses	2,495.11	2,954.00	2,796.19
	(b). Depreciation	421.92	561.07	575.74
	(c). Allocated Management & Administrative Overheads	1,007.41	1,393.39	1,271.73
	(d). Allocated FME	76.57	0.19	0.06
	Sub Total 2 (i) = (a)+(b)+(c)+(d)	**4,001.02**	**4,908.66**	**4,643.72**
(ii)	**Interest on loans**	**288.94**	**862.93**	**4,237.70**
(iii)	**2/3rd of One Time Expenses, if any like Arrears of Wages, Arrears of Pension / Gratuity, Arrears of Exgratia Payment, etc. (list out each of the items)**			
	(a). Pension	-	-	-
	(b). Gratuity	-	-	-
	(c). Superannuation Fund	-	-	-
	(d). Leave Encashment	-	-	-
	(e). Provision For Wage Revision	-	-	-
	Sub Total 2 (iii) = [(a)+(b)+(c)+(d)+(e)]	**-**	**-**	**-**
(iv)	**2/3rd of the Contribution to the Superannuation Fund like pension fund, gratuity fund, and leave encashment fund**	**-**	**-**	**-**
(v)	**Management and General overheads over & above 25% of the aggregate of the operating expenditure and depreciation**	4,081.41	6,955.67	5,689.91
(vi).	**Expenses relevant for tariff fixation of Captive Berth, if any governed under clause 2.10. of the Tariff Policy, 2018.**		**Not Applicable**	
	(a). Operating Expenses	-	-	-
	(b). Depreciation	-	-	-
	(c). Allocated Management and Administrative Overheads	-	-	-
	(d). Allocated FME	-	-	-
	Subtotal 2 (vi) = [(a)+(b)+(c)+(d)]	**-**	**-**	**-**
(vii).	Expenditure on BOT Contracts	**6,298.51**	**8,369.93**	**7,732.29**
	Total of 2 = 2 (i)+2 (ii)+2 (iii)+2 (iv)+2 (v)+ 2 (vi)	**14,669.87**	**21,097.19**	**22,303.62**
(3).	**Total Expenditure after Total Adjustments (3 = 1-2)**	**67,353.98**	**61,052.71**	**57,335.18**
(4).	**Average Expenses of Sl. No. 3 = [Y1 + Y2 + Y3] / 3**			**61,913.96**
(5).	**Capital Employed**			
	(i). Net Fixed Assets as on 31.03.2018 (As per Audited Annual Accounts)			254,899.25
	(ii). Add:Work in Progress as on 31.03.2018(As per Audited Annual Accounts)			135,059.88
	(iii). Less: Net value of Fixed assets related to Estate activity as on 31.03.2018 as per Audited Annual Accounts.			38,804.55
	(iv). Less : Net value of fixed assets, if any, transferred to BOT operator as on 31 March 2018 as per Audited Accounts.			3,190.19
	(v). Less : Net value of fixed assets as on 31 March 2018 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10. of the Tariff Policy, 2018.			
	(vi). Add : Working Capital as per norms prescribed in clause 2.5. of the Working Guidelines			
	(a). Inventory			42.20
	(b). Sundry Debtors			2,065.90
	(c). Cash			5,006.65
	(d). Sum of (a)+(b)+(c)	**-**	**-**	**7,114.75**
	(vii). Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]	**-**	**-**	**355,079.15**
(6).	**Return on Capital Employed 16% on Sl. No. 5(vii)**	**-**	**-**	**56,812.66**
(7).	**Annual Revenue Requirement (ARR) as on 31 March 2018 [(4)+ (6)]**	**-**	**-**	**118,726.62**
(8).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2018-19 i.e. @ 3.45% (7*1.0345)**			**122,822.69**
(9).	**Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 i.e. @ 4.26% (8*1.0426)**			**128,054.94**
(10).	**Ceiling Indexed Annual Revenue Requirement (ARR)**			**128,054.94**
(11).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl No. 10 above**			**118,898.42**