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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 393 **New Delhi,** **28 October 2016**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Jawaharlal Nehru Port Trust (JNPT) for fixation of tariff for the services rendered at the Jawaharlal Nehru Port Trust (JNPT) Container Freight Station (CFS) / Buffer Yard (BY), as in the order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/69/2015 – JNPT

The Jawaharlal Nehru Port Trust **- - -** **Applicant**

QUORUM

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

ORDER

(Passed on this 17th day of September 2016)

This case relates to the proposal dated 18 November 2015 and 10 February 2016 received from Jawaharlal Nehru Port Trust (JNPT) for fixation of tariff for the services rendered at the Jawaharlal Nehru Port Trust (JNPT) Container Freight Station (CFS) / Buffer Yard (BY).

2. The Jawaharlal Nehru Port Trust (JNPT), with the approval of the Central Government u/s 42(3) of the Major Port Trusts Act, 1963, has awarded a concession for management and operation of its Container Freight Station (CFS) to M/s. Speedy Multimodes Limited (SML) with effect from 1 January 2006 for a period of 20 years. As per the Work Order issued by JNPT, SML is to levy charges as per rates approved by this Authority.

3.1. Based on a proposal filed by JNPT in August 2012 for review of tariff for services rendered at its CFS / Buffer Yard, this Authority had passed an Order in August 2013 fixing tariff for the JNPT CFS/ BY under clause 7.2 of the Tariff Guidelines of 2005 (as proposed by JNPT and the CFS operator at the relevant point of time) by following the normative approach, by taking into account the normative costs. The Order prescribed a tariff validity upto 31 March 2015.

3.2. As per Clause 7.2 of the tariff guidelines of 2005, in cases where authorisation arrangement u/s 42(3) is other than by way of a BOT concession agreement, ceiling rates are to be prescribed for such services to be applied commonly at the concerned ports without reference to individual service provider. For this purpose, proposals for regulating these charges should be initiated by the concerned Major Port Trust.

4.1. In this backdrop, we received a letter dated 18 November 2015 from JNPT, under cover of which the JNPT has filed a proposal for fixation of tariff for JNPT CFS/ BY, as submitted by DBC Port Logistics Limited (DBCLL) (the then SML) to be effective from 01 April 2016.

4.2. The submissions made by the JNPT in its letter dated 18 November 2015 are summarised below:

(i). In calculating the Annual Revenue Requirement (ARR), expenditure relating to transportation segment has been segregated which could not be independently verified by us and therefore, reliance has been placed on the figures certified by the Auditors of the Company in Form – 1.

(ii). While calculating ARR, the Company has included one-time expenses of ₹67,96,003/- being 1/5th of ₹ 3,39,80,013/- towards arrears of remuneration to employees and provident fund arising out of wage revision agreement for the year 2013-14 and 2014-15. However, the said amount of ₹ 3,39,80,013/- have neither been paid nor provided for in the books of accounts during the erstwhile period.

(iii). As per the ARR statement certified by auditors and explanation provided by the company's representative, the said amount has been provided for and paid after 31.03.2014. As per Clause 2.2 of the working guidelines only the actual expenditure reflected in the audited annual accounts are to be considered in the calculation of ARR. Hence in our opinion, amount of ₹ 67,96,003/- needs to be excluded from the ARR.

(iv). As per Clause 2.8 of the Tariff Policy, 2015, the ARR arrived shall be indexed by 100% of WPI applicable for the year 2014-15 for calculating the ARR and resultant SOR. The notified SOR shall be automatically indexed by 100% of WPI announced in the month of January of that relevant year and the adjusted SOR will come into force from coming 1st April of the relevant year. In this case, the Company has indexed the ARR twice i.e. for the year 2014-15 and 2015-16.

(v). The revised tariff should come into force from 01.04.2016 as against 01.01.2016 indicated by the DBCPLL.

4.3. During the last fixation of tariff for the JNPT CS/ BY in August 2013, the JNPT submitted its proposal based on norm based costing. The proposal was based on technical specification of the facility arrived by JNPT in a scientific manner with the help of a Consultant. Further, inspite of intimating to JNPT vide para no. 20.3 of the Order dated 30 August 2013 and as subsequently reminded to JNPT vide our letters no. TAMP/12/2011-JNPT dated 28 May 2014, 18 November 2014, 05 December 2014 and letter no. TAMP/69/2015-JNPT dated 28 October 2015, the proposal submitted by the JNPT did not contain the following:

(a). A report of the actual physical and financial performance of the CFS/ Buffer Yard operations in the same format in which the cost statement for the tariff proposal had been filed.

(b). A Report showing the comparative position of each of the norms and parameters considered by JNPT in its proposal vis-à-vis the actuals achieved at the JNPT CFS and BY for the period under consideration.

4.4. The JNPT was again requested vide our letter dated 22 December 2015 to furnish the following:

(i). A report of the actual physical and financial performance of the CFS/ Buffer Yard operations in the same format in which the cost statement for the tariff proposal was filed at the relevant point of time.

(ii). A report showing the comparative position of each of the norms and parameters considered by JNPT in its proposal vis-à-vis the actuals achieved at the JNPT CFS and BY for the period under consideration.

(iii). Recast its proposal in line with the stipulation contained in Clause 9.2 of the Tariff Policy, 2015, which corresponds to clause 7.2 of the Tariff Guidelines of 2005 and submit the proposal to this Authority.

5.1. In this connection, the JNPT vide its letter dated 10 February 2016 has furnished the report of the actual physical and financial performance of M/s. DBCPLL along with the comparative position of the norm vis-à-vis the actuals achieved at the JNPT CFS and BY for the period under consideration. The actual physical and financial performance of the CFS/ Buffer Yard operations during the period from October 2013 to March 2015 is given below:

(₹ in crores)

Sl. No.	**Particulars**	**Estimates relied upon in the tariff Order of August 2013**	**Actuals as reported by JNPT**	
			October 2013 to March 2014	**April 2014 to March 2015**
1.	Traffic (in TEUs)	205890	53519	99155
2.	Operating Cost	84.08	32.99	73.06
3.	Capital Employed	69.01	50.61	45.44
4.	Return on Capital Employed	11.04	8.10	7.27
5.	Annual Revenue Requirement (2 + 4)	95.12	41.09	80.33

5.2. Further, the JNPT in its above mentioned letter has made the following submissions:

(i). In 2013, a tariff revision proposal was filed for JNP CFS using the normative approach as per the 2008 guidelines which were in existence at that time. Since then, TAMP has promulgated a new tariff policy, Tariff Policy 2015, which offers a liberalized approach to tariff fixation after considering the comments received from the Trade, Ministry, Ports and other stakeholders.

(ii). It is evident from the historical financial statements that have been submitted by JNP CFS for the financial years 2012-13, 2013-14 and 2014-15, that the tariff revision in October 2013 did not benefit the facility as envisaged at the time of tariff revision. The reasons for this are manifold but a few of them are as follows:

(a). Systemic changes in rules have substantially reduced some types of traffic, especially buffer traffic.

(b). While container traffic through the Port has remained almost static, the number of CFS's has increased creating a supply-demand imbalance.

(c). The practice of nomination premium exerts a strong distortionary force on the trade.

(d). The normative system pre-supposes a capacity of 70% whereas actual utilization due to overcapacity reasons, is in the 30% range. Due to this, allowed tariff is very low.

(e). The JNP CFS has a very high fixed labour cost. The reason for this is that the CFS was asked to absorb 647 labour at the time of taking over the CFS from the previous Licensee. This labour force comprises mainly of Project Affected Persons and it is not possible to reduce this labour strength. In all other CFS's in the JNPT area, contracted labour is used which allows the facility to reduce its fixed costs.

(f). Due to a change in customs regulations, export containers are not compulsorily required to use a buffer yard. This has reduced buffer traffic from JNP CFS. This has two implications on JNP CFS; it has reduced volumes through the CFS bringing them much lower than normative values and it has also increased financial outflow in terms of MGT Shortfall payments made to the port.

(iii). A statement comparing tariffs at a variety of CFS's in the JN Port area with the new (2015) proposal shows that even after the proposed increase, JNP CFS offers a more economical tariff than all its competitors, including Balmer Lawrie CFS.

(iv). JNP CFS has taken advantage of the more forward looking tariff fixation method provided in Tariff Policy 2015 for the following reasons:

(a). The present proposal compares proposed tariff with the Annual Revenue Requirement. It is seen that the ARR corresponds favourably with certified expenses incurred over the last 3 years.

(b). The operation and maintenance contract with JNP CFS is of a long term nature, 20 + 10 years. Keeping in mind this long term nature of the contract it seems that the present submission for tariff revision is more in line with the thinking of TAMP and the Government for the liberalization of the sector.

(c). JNP CFS has been facing difficult financial conditions. The JNP CFS is only 7 kms from the port which is a requirement of the Trade. The Port is of the view that the Trade must have a good CFS provider near the port as this will foster greater trade. The proposal of the JNP CFS should thus be supported so that they are able to improve the service available, closer to the Port.

(d). As the proposed tariff of JNP CFS compares very favourably with the competition it provides the Trade with a suitably located, all service and economical option. In spite of the high costs at JNP CFS, their proposed tariff is still lower than most of their competitors. It is even lower than Balmer Lawrie, which is a PSU.

(e). Mitigation of losses will allow JNP CFS to invest in more infrastructure to the benefit of the Trade. As per new requirements of the Trade both nationally and internationally, the Port and Customs Department are requiring lots of new investment in IT services, public interface options, etc.

(f). As further liberalization of tariff is being considered, it may be more suitable to use the 2015 Guidelines instead of the more rigid 2008 Guidelines.

(v). The tariff proposal that has been submitted should be accepted, as the ARR corroborates with the expenditure over the last three years as certified by the Chartered Accountant. Even after this increase the JNP CFS will not be making a large profit but will be breaking even. It is in the long term interest of the Trade that the JNP CFS continues functioning and continues to provide CFS facilities to the port from a nearby location.

(vi). The Licensor will be monitoring the services provided by the JNP CFS and its performance on a regular basis as per the Concession Agreement.

6. As brought out above, the JNPT insisted for following the Annual Revenue Requirement model for fixation of tariff for its CFS. In accordance with the consultative procedure prescribed, a copy each of the JNPT proposal dated 18 November 2015, our letter of even number dated 22 December 2015 and JNPT letter dated 10 February 2016 was forwarded to the concerned users/ user organisations (as consulted during the last fixation of tariff for the JNPT CFS/ BY) for their comments. Except Mumbai and Nhava-Sheva Ship-Agents Association (MANSA), none of the users/ Associations and Terminal Operators have furnished their comments. The MANSA has stated that the proposal is in order as the proposed tariff is comparable to other CFSs.

7. In the meanwhile, the JNPT was requested vide our letter dated 05 April 2016 followed by a reminder dated 27 June 2016 to furnish some information. The JNPT has responded vide its letter dated 12 July 2016. The information sought by us and the response of JNPT thereon are tabulated below:

Sl. No.	Information sought by us	Response of JNPT
(i).	As per Clause 3.1.2 of the Working Guidelines issued to operationalize the Tariff Policy, 2015, the JNPT is required to send its proposal along with the approval of the Board of Trustees. Alternatively, the said clause enables the JNPT to submit a copy of approval of Board of Trustees within one month from the date of submission of its proposal. However, the JNPT has not furnished the approval of Board of Trustees for the proposal in reference.	As regards approval of Board of Trustees for the proposal in reference, there is no specific delegation under which the tariff proposal is required to be approved by the Board of Trustees before submission to the Regulatory Authority i.e. TAMP. This has not been done in past also.
(ii).	As per Clause 2.1 of the Working Guidelines issued to operationalize the Tariff Policy, 2015, the Port Trust has to assess the Annual Revenue Requirement (ARR). As per clause 2.9 of the Working Guidelines, the Port Trust has to draw the SOR within the ceiling of indexed Annual Revenue Requirement. In the case in reference, the Form 1 to 4 submitted by the JNPT is seen to have been formulated by the CFS operator at JNPT viz., DBC Port Logistics Limited (DBCPLL) and not the Port, as the Forms are seen to have been authenticated by the official of DBCPLL. Since the proposal has emanated from the Port, the Form 1 to 4 forming part of JNPT proposal requires authentication by the JNPT official along with a Certification by a practicing Chartered Accountant/ Cost and Management Accountant, as stipulated in the Guidelines.	The Form 1 to 4 duly authenticated by JNPT officials along with a certification by a practicing Chartered Accountant, is furnished.

8.1. A summary position of computation of Annual Revenue Requirement (ARR) under Policy for Determination of Tariff for Major Port Trusts, 2015, as furnished by JNPT is tabulated below:

(Figures in ₹)

Sr. No.	Description	Y1	Y2	Y3
		(2011-12)	**(2012-13)**	**(2013-14)**
1	Total Expenditure (As per Audited Annual Accounts)			
(i)	Operating Expenses	487,158,942	550,219,153	499,938,645
(ii)	Depreciation	18,238,705	19,903,597	19,374,582
(iii)	Management & General Overheads	42,414,300	57,527,638	53,071,085
(iv)	Finance and Miscellaneous Expenses (FME)	28,436,291	21,141,072	15,376,016
(v)	One Time Expenses Payable (Actual Paid in 15-16)	-	-	33,980,013
	Subtotal 1 = (i)+(ii)+(iii)+(iv)+(v)	**576,248,238**	**648,791,460**	**621,740,341**
2	Less : Railway Related Expenses	-	-	-
3	**Total Expenditure excluding Railway Expenses (3 =1 - 2)**	**576,248,238**	**648,791,460**	**621,740,341**
4 (a)	**Less : Adjustments :**			
(i)	Estate Related Expenses	-	-	-
(ii)	Interest on Loans	**23,472,150**	**17,628,280**	**10,863,702**
(iii)	4/5th of onetime expenses, if any like arrears of wages, arrears of pension / gratuity, arrears of ex-gratia payment, etc (list out each of the items)	-	-	-
	(a) Arrears of Wages			25,937,178
	Subtotal 4 (a) (iii)= [(a)+(b)+(c)]	**-**	**-**	**25,937,178**

(iv)	4/5th of the Contribution to the Pension Fund	-	-	1,246,832
(v)	Management and General Overheads over & above 25% of the aggregate of the operating expenditure and depreciation	-	-	-
(vi)	Expenses relevant for tariff fixation of Captive Berths, if any governed under clause 2.10 of the Tariff Policy, 2015	-	-	-
	Total of 4 (a) = 4(a)(i)+ 4(a)(ii)+4(a)(iii)+4(a)(iv)+4(a)(v)+4(a)(vi)	**23,472,150**	**17,628,280**	**38,047,713**
4 (b)	**Add : Adjustments :**			
	Railway Activity			
	(i) Railway Activity Expenses			
	(a) Operating Expenses	-	-	-
	(b) Depreciation	-	-	-
	(c) Management & Administrative Overheads	-	-	-
	(d) Allocated FME	-	-	-
	Subtotal 4 (b) (i)= [(a)+(b)+(c)+(d)]	-	-	-
	(ii) Railway Income	-	-	-
	(iii) Net Railway Expenses (i-ii)	-	-	-
	(iv) 80 % of (iii) above	-	-	-
5	Total Expenditure after Total Adjustments (5 = 3 - 4(a) + 4(b))	**552,776,088**	**631,163,179**	**583,692,628**
6	Average Expenses of Sl. No. 5 = [Y1 + Y2 + Y3] / 3	**589,210,632**		
7	**Capital Employed**			
	(i) Net Fixed Assets as on 31.03.2014 (As per Audited Annual Accounts)	213,952,100		
	(ii) Add : Work in Progress as on 31.03.2014 (As per Audited Annual Accounts)	-		
	(iii) Less : Net Value of fixed Assets related to Estate activity as on 31.03.2014(As per Audited Accounts)	-		
	(iv) Less : Net Value of fixed assets, if any, transferred to BOT operator as on 31st March 2014 as per Audited accounts	-		
	(v) Less : Net Value of fixed assets as on 31st March 2014 as per Audited Accounts relevant to be considered for captive berths, if any, under clause 2.10 of the Tariff policy, 2015	-		
	(vi) Add : Working Capital as per norms prescribed in clause 2.5 of the working Guidelines			
	(a) Inventory	-		
	(b) Sundry Debtors	-		
	(c) Cash	41,661,554		
	(d)Sum of (a)+(b)+(c)	**41,661,554**		
	(vii) Total Capital Employed [(i)+(ii)-(iii)-(iv)-(v)+(vi)(d)]	**255,613,654**		
8	Return on Capital Employed 16 % on Sl. No. 7 (vii)	**40,898,185**		
9	Annual Revenue Requirement (ARR) as on 31st March 2014 [(6) + (8)]	**630,108,817**		
10	Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15	6.00%		

	Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16	3.82%
11	Ceiling Indexed Annual Revenue Requirement (ARR)	**693,429,712**
12	Revenue Estimation at the Proposed SOR within the Ceiling indexed ARR estimated at Sl. No. 11 above	**694,768,648**

8.2. On a comparison of the existing and the proposed Scale of Rates, it is seen that the port has sought the following increase in the following tariff items, in its proposal:

Sl. No.	Tariff Items	Percentage of increase sought
	CONTAINER FREIGHT STATION TARIFF	
(i)	Import cycle	
	Handling - De-Stuffed Containers	185%
	Cargo Handling Charges - De-Stuffed Cargo	35%
	Handling - Factory De-Stuffed Containers	96%
	Lift on / Off Charges - Loaded Containers	38%
	Lift on / Off Charges - Empty Containers	33%
	Grounding the Container for Delivery	50%
	Shifting the Empty Container for Washing	7%
	Reefer Plugging / Monitoring / Pressure Temperature	60%
	Survey & EIR Charges	233%
	Damaged Container Survey Charges	150%
	Locking Charges	50%
	Shifting Charges for Weighment	30%
	Cargo Storage Charges	35%
	Loaded Container Ground Rent	145%-226%
	Custom Examination for CFS De-Stuffed Containers above 5% less than 25% and above 25%	New Proposed IN SOR
	Empty Container re-positioning at designated empty yard, Transportation for Container Scanning	Not Proposed in SOR
(ii)	**Bonded Warehouse**	35%
(iii)	Import Proposed Tariff	
	Carting Charges	New Proposed IN SOR
	Empty Transportation	Not Proposed in SOR
	Loaded Lift on / Off	38%
	Empty Lift on / off	33%
	Sweeping Charges	40%
	Empty Container Shifting at Stuffing Point	50 %
	Stuffing and Handling	6 %
	Shifting of Loaded Container for weighment	Not Proposed in SOR
	CLP and Bottle Seal	82%
	Survey and EIR	33%
	Reworking	50%
	Cargo Storage Charges	35%
	Loaded Container Ground Rent Charges	145%-226%
	Empty Container Ground Rent Charges	50%
(iv)	Buffer Yard	
	Handling of Factory Stuffed Containers	44%
	Lift On / Off	38%
	Ground Rent for Loaded Container	25%-67%
	Ground Rent for Empty Containers	10%-50%

9.1. The joint hearing in this case was held on 11 April 2016. At the joint hearing, the JNPT made a Power Point presentation of the proposal. At the joint hearing, the JNPT and the concerned users/ organization bodies have made their submissions:

9.2. As agreed at the joint hearing, the JNPT was requested vide our letter dated 13 April 2016 to furnish some information. The JNPT vide its letter dated 27 April 2016 has responded. The information sought by us and reply of the JNPT thereon are tabulated below:

Sl. No.	Information sought by us	Response of JNPT

<table>
<tr>
<td>(i).</td>
<td>In the Power point presentation made by Jawaharlal Nehru Port Trust (JNPT) during the joint hearing, it has been mentioned that systemic changes in Rules have substantially reduced some types of traffic, especially Buffer traffic. In this context, as agreed by JNPT during the joint hearing, the JNPT to furnish a brief note highlighting the reasons for reduction in traffic at the Buffer Yard.</td>
<td>
The market practice with regards the Buffer Yard at the time of awarding the tender i.e. 2005/6 was that all export loaded containers were legally mandated to be brought to Buffer Yard and subsequent thereto it lay upon the buffer yard operator to store and transport the laden container to the Port Terminal to be loaded upon the vessel. This made the Buffer Yard a mandatory location for all laden export containers to be brought to hence leading to a steady traffic.
Over the next years the scenario has altered irrevocably in the main due to (i) public notification no. PN 52/2009 dated 6 August 2009 issued by JNCH which allowed laden export containers to bypass Buffer Yard and to be taken directly into the Port terminals and (ii) the doubling of the number of CFS's in the area.
Earlier JNP-Buffer Yard was the only one Yard who had license for handling of factory stuffed container now every CFS has got the license to handle the factory stuffed container.
Please find below the JNP-Buffer Traffic & all other CFS's Buffer Traffic (in TEUs) from 2006 to 2015.
<table>
<tr><th>Financial Year</th><th>JNP-Buffer Yard</th><th>All Other CFS's</th><th>Total JN Port Volume</th></tr>
<tr><td>2005-2006</td><td>13949</td><td>N.A</td><td>-</td></tr>
<tr><td>2006-2007</td><td>64176</td><td>N.A</td><td>-</td></tr>
<tr><td>2007-2008</td><td>92127</td><td>N.A</td><td>-</td></tr>
<tr><td>2008-2009</td><td>58112</td><td>N.A</td><td>-</td></tr>
<tr><td>2009-2010</td><td>30194</td><td>N.A</td><td>-</td></tr>
<tr><td>2010-2011</td><td>50272</td><td>42587</td><td>92859</td></tr>
<tr><td>2011-2012</td><td>36587</td><td>53406</td><td>89993</td></tr>
<tr><td>2012-2013</td><td>35605</td><td>40715</td><td>76320</td></tr>
<tr><td>2013-2014</td><td>30239</td><td>46852</td><td>77091</td></tr>
<tr><td>2014-2015</td><td>27605</td><td>50870</td><td>78475</td></tr>
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<td>(ii).</td>
<td>The JNPT to furnish the actuals (achieved at the JNPT CFS and BY for the period covered by the last tariff Order of August 2013) with reference to all the norms and parameters as considered in the last tariff Order.</td>
<td>
The JNPT has furnished the Comparative Statement of Norms and Parameters considered in the Proposal Vis a Vis Actuals, as given below:
<table>
<tr><th>Sr.No</th><th>Particulars</th><th>UOM</th><th>As per Proposal</th><th>As per Actual</th></tr>
<tr><td>(i)</td><td>Major handling Equipment</td><td></td><td></td><td></td></tr>
<tr><td></td><td>- Reach stacker</td><td>Nos</td><td>4</td><td>7</td></tr>
<tr><td></td><td>- 10 Ton Forklift</td><td>Nos</td><td>1</td><td>1</td></tr>
<tr><td></td><td>- 03 Ton Forklift</td><td>Nos</td><td>5</td><td>12</td></tr>
<tr><td></td><td>- Empty Container handler</td><td>Nos</td><td>1</td><td>0</td></tr>
<tr><td></td><td>- Tractor trailers</td><td></td><td>83</td><td>112</td></tr>
<tr><td>(ii)</td><td>Major Operating Expenses</td><td></td><td></td><td></td></tr>
<tr><td>(a)</td><td>Salary</td><td>Employees</td><td>1527</td><td>920</td></tr>
<tr><td>(b)</td><td>Electricity Charges</td><td></td><td></td><td></td></tr>
<tr><td></td><td>- For Reefer</td><td>Units per hour per TEU</td><td>3.6</td><td>4</td></tr>
<tr><td></td><td>- For 60ton Electronic Weighbridge</td><td>Units per month</td><td>2100</td><td>2500</td></tr>
<tr><td></td><td>- For others</td><td>Units per month</td><td>61680</td><td>65000</td></tr>
<tr><td>(c)</td><td>Fuel Cost</td><td></td><td></td><td></td></tr>
<tr><td></td><td>- Reachstacker</td><td>Litrs/hr</td><td>20</td><td>18</td></tr>
<tr><td></td><td>- Forklift 10 Ton</td><td>Litrs/hr</td><td>8</td><td>7</td></tr>
<tr><td></td><td>- Forklift 3 Ton</td><td>Litrs/hr</td><td>5</td><td>3</td></tr>
<tr><td></td><td>- Empty Container Handler</td><td>Litrs/hr</td><td>12</td><td>0</td></tr>
<tr><td></td><td>- tractor Trailer</td><td>Litrs/hr</td><td>5</td><td>8</td></tr>
<tr><td></td><td>- Genset</td><td>Litrs/hr</td><td>90</td><td>25</td></tr>
<tr><td></td><td>- 15 Ton Crane</td><td>Litrs/hr</td><td>8</td><td>8</td></tr>
<tr><td></td><td>- 35 Tonne Crane</td><td>Litrs/hr</td><td>17</td><td>15</td></tr>
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	- 75 Tonne Crane	Litrs/hr	25	25
	- Motor Car	₹ /month	5000	20000
(d)	Repair & Maintenance Equipment	% of Gross fixed Asset value		
	- Reachstacker		2%	19%
	- Forklift 10 Ton			
	- Forklift 3 Ton			
	- Empty Container Handler			
	- Others			11%
	- Tractor Trailer			
	- Civil Infrastructure		1%	0%
	- Computers and Other Office Equipment		15%	17%
(e)	Insurance	% of Gross fixed Asset value		
	- Reachstacker		1%	1%
	- Tractor Trailer			
	- Forklift 10 Ton			
	- Forklift 3 Ton			
	- Empty Container Handler			
	- Others			
	- Civil Infrastructure			0%
	- Computers and Other Office Equipment			1%
(g)	RTO Tax	RTO Tax/ Per annum		
	- Reachstacker		₹ 40000	₹ 40000
	- Tractor Trailer		₹ 33750	₹ 30250
	- Forklift 3 Ton		₹ 2100	₹ 2100
	- Forklift 10 Ton		₹ 6100	₹ 12900
	- Empty Container Handler		₹ 8500	-
(h)	General Overheads		5% of Capital Expenditure	4% of Capital Expenditure.

(iii). During the joint hearing, the DBC Port Logistics Limited (DBCPLL) has made a mention about effecting some development of infrastructure and IT related services at the CFS with the proposed increase in tariff, so as to improve the efficiency of the CFS. In this connection, the JNPT is requested to furnish the year wise items of investment and the estimated amount of the investment in infrastructure and IT related services, envisaged at the CFS/ BY during the years 2016-17 to 2018-19, supported by documentary evidences in respect of each of the investments envisaged.

The JNPT has furnished the Details of Investment envisaged at CFS/BY during the year 2016-17 and 2017-18.

(Figures in ₹)

S.N	Particulars	2016-17	2017-18
1	Container Yard-Laying of paver blocks	4,100,000	5,000,000
2	STP Plant & Pumping Station		2,500,000
3	Office Renovations	2,500,000	3,500,000
4	Office Equipment's (Air Conditioners)	530,000	556,500
5	500 KVA Genset		4,500,000
6	Electrical Panel		1,000,000
7	Fire Sprinklers Systems in Shed		1,800,000
8	Reach Stackers (2+2)	50,000,000	52,500,000
9	Tractor Trailers (25+25)	45,000,000	47,250,000
10	10 Ton Forklift		2,200,000
11	3 Ton Forklift(6+6)	6,000,000	6,300,000
12	Servers, Computers , printers,etc	3,675,000	3,858,750
13	CCTV	3,800,000	3,990,000
14	RFID Set up for vehicles & yard		3,600,000
15	Software upgradation	565,000	

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<tr><td>16</td><td>Bio-Metric Systems for Customs</td><td>200,000</td><td></td></tr>
<tr><td>17</td><td>UPS</td><td>500,000</td><td></td></tr>
<tr><td></td><td>Total</td><td>116,870,000</td><td>138,555,250</td></tr>
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The JNPT has furnished documentary evidence in respect of few investments.
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9.3. Subsequently, the JNPT vide its e-mail dated 09 September 2016 has furnished the actual traffic of the JNPT CFS including buffer yard for the years 2011-12 to 2013-14 as given below:

Year	Traffic (in TEUs)
2011-12	135024
2012-13	127526
2013-14	105069

10. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and 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.

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

(i). The JNPT has authorized a service provider to render services at the JNPT Container Freight Station (CFS) / Buffer Yard (BY) and the said authorisation arrangement under Section 42(3) is other than by way of a BOT Concession Agreement. The JNPT and the CFS operator had, at the relevant point of time, proposed to fix tariff for the JNPT-CFS under clause 7.2. Therefore, this Authority had passed an Order in August 2013 fixing common ceiling tariff for the services rendered at JNPT CFS/ BY without reference to the individual service provider, in line with the stipulation contained in Clause 7.2 of the 2005 tariff guidelines, which were then applicable in respect of the Major Port Trusts, based on the proposal filed by JNPT. Vide the said Order, tariff was fixed for the JNPT CFS/ BY following the normative approach, as proposed by the Port then. The said Order prescribed a tariff validity upto 31 March 2015. The JNPT has now come up with a proposal for review of the tariff for the CFS/ BY.

(ii). As stated above, the tariff for the JNPT CFS/ BY was earlier fixed following the stipulation contained in Clause 7.2 of the tariff guidelines of March 2005, (which governs fixation of tariff in respect of identified services provided by persons authorised under Section 42(3) of the Major Port Trusts Act, other than by way of a BOT Concession Agreement). Subsequently, the Ministry of Shipping (MOS) has issued a new Policy for fixation of tariff called Tariff Policy, 2015 for the Major Port Trusts. Clauses 9.1 and 9.2 of the Tariff Poilicy, 2015, correspond to the clause 7.2 of the Tariff Guidelines of 2005.

As per Clause 9.2 of the Tariff Policy, 2015, for fixation of tariff for the services governed by Clause 9.1 and as relevant to JNPT, the port shall file a proposal with reference to optimal capacity following the principles of 2008 guidelines or based on rated capacity (with reference to the technical specification of the service/ facility/ equipment).

(iii). However, for fixation of tariff for the services rendered at the JNPT CFS/ BY, the port has now chosen to follow the Annual Revenue Requirement (ARR) Model as prescribed in the Tariff Policy, 2015, for fixation of tariff for the services rendered at its CFS. The JNPT is of the view that:

(a). The tariff revision in October 2013 did not benefit the facility as envisaged at the time of tariff revision.

(b). Systemic changes in rules have substantially reduced some types of traffic, especially buffer yard traffic.

(c). While container traffic through the Port has remained almost static, the number of CFSs has increased creating more supply than demand.

(d). The practice of nomination premium to attract volume has affected the JNPT CFS. [Nomination premium is not an admissible cost for tariff fixation for JNPT CFS.]

(e). The JNPT is a long term contract and the ARR model is in line with the thinking of TAMP and the Government for the liberalization of the sector.

(f). Despite the high costs at JNP CFS, the proposed tariff is lower than most of the competitors, including Balmer Lawrie, a PSU.

(g). Loss of mitigation will allow to invest in more infrastructure to the benefit of the Trade.

(h). As liberalization of tariff is considered, use of the 2015 Guidelines is more suitable than the normative approach.

(i). The ARR model corroborates with the expenditure incurred over the last three years and that even with the proposed increase in tariff, the CFS will only break even.

(iv). The JNPT, instead of following the methodology as stipulated in Clause 9.1 and 9.2 of the Tariff Policy, 2015, for fixation of tariff for the CFS/ BY, has chosen to follow the ARR model prescribed in the Tariff Policy, 2015, for fixation of tariff for the Major Port Trusts itself, for the reasons brought out earlier. Even after requesting the port to recast its proposal in line with the stipulation contained in Clause 9.1 and 9.2 of the Tariff Policy, 2015, the JNPT has maintained its position of following the ARR model for fixation of tariff for the CFS/ BY. In this connection, the JNPT has furnished the relevant tariff filing forms as authenticated by it as well as by a Chartered Accountant, as required in the Tariff Policy, 2015.

(v). It is relevant to mention here that in cases where common ceiling tariff has been fixed for a service provider authorized by a Port other than by way of a BOT arrangement, fixation of tariff is based on normative approach linked to performance, as it encourages an operator to bring efficiency in operations and at the same time protects the users from inefficient operations. For the purpose, the exercise of tariff fixation takes into account the normative capacity of the facility, normative level of expenses and normative level of investments. Accordingly, the tariff for the JNPT CFS/ BY fixed in August 2013 also took into account the normative capacity of the CFS/ BY facility, normative level of expenses and normative level of investments, as discussed elaborately in the said referred Order.

However, as brought out earlier, the JNPT is of the view that fixation of tariff for the CFS/ BY following the normative approach, as was done in the last tariff Order, would not be beneficial as the normative approach pre-supposes a capacity of 70% whereas the actual utilization is about 30%. Further, the JNPT is of the view that the CFS/ BY is the arm of the port and that, therefore, following the ARR model would be more appropriate.

(vi). (a). With regard to the submission of the port that the CFS/ BY being an arm of the port, adoption of the ARR model is more appropriate to determine its tariff, it is relevant to mention here that when the Major Port Trusts have approached this Authority for general revision of their tariff based on the Tariff Policy, 2015, the Cargo Handling Division (CHD), which is an arm of the port to supply Labour to the Stevedores to carry out the on board operations and whose financials are maintained separately by the port, is also considered by the port alongwith its financials of the port to determine the tariff. In other words, the ARR model as stipulated in the Tariff Policy, 2015, is considered to determine the tariff for the CHD also. Such an approach has been considered while dealing with the general revision proposals of Major Port Trusts viz., Mumbai Port Trust (MBPT), Kandla Port Trust (KPT) and V.O. Chidambaranar Port Trust (VOCPT).

(b). With regard to the capacity utilization aspect, it may be recalled that in the tariff Order of August 2013, the capacity of the container yard at 70% utilization was assessed at 119437 containers at container yard and 86453 containers in the Buffer yard, thus aggregating to 205890 containers. As against the capacity, the CFS/ BY is seen to have handled traffic to the tune of 135024 TEUs, 127526 TEUs, 105069 TEUs and 99155 TEUs during the years 2011-12 to 2014-15 respectively. For a like to like comparision, by considering a surge factor of 1.3, the actual traffic at JNPT CFS/ BY works out to 103865 containers, 98097 containers, 80822 containers and 76273 containers for the respective years. This results in an average capacity utilization of only about 44%. The reduced level of traffic at JNPT CFS/ BY is attributed to increase in the number of CFSs around the port while the overall traffic of the port remaining static. Also, change in customs regulations is reported to have reduced the traffic at BY. In such a scenario, if the tariff is fixed based on the normative approach by considering the normative capacity of the CFS/ BY facility, which is higher around 56% of the actual traffic, the CFS/ BY would not be in a position to recover its entire costs as the actual traffic at the CFS/ BY is very less as compared to the normative capacity.

In this connection, it is relevant here to mention that this Authority while disposing a tariff proposal of a private container terminal took into account the standard capacity approach. However, the approach was not followed while fixing the tariff for the container terminal viz., Visakha Container Terminal Private Limited (VCTPL) on the ground that following such an approach will only be a theoretical exercise as the actual traffic volume was very low thereat. Therefore, the VCTPL case was analysed then based on the actual cost plus approach prescribed in the tariff guidelines of 2005.

In view of the above position, this analysis proceeds further to fix the ceiling tariff for the JNPT CFS/ BY facility following the ARR model, as proposed by the JNPT.

(vii). In the ARR model adopted by the JNPT, the JNPT has arrived at the ARR by taking into account the actual costs incurred at the JNPT CFS/ BY during the years 2011-12 to 2013-14 subject to some adjustments, Return on capital employed @ 16% and the actual traffic for the year 2014-15, as stipulated in the Tariff Policy, 2015, which are discussed in detail in the subsequent paragraphs.

(viii). The JNPT has submitted its proposal in December 2015. Thereafter, at our request, the JNPT in February 2016 has furnished a report of the actual physical and financial performance of the CFS/ Buffer Yard and a comparative position of each of the norms and parameters considered by JNPT in its proposal (which had culminated into the tariff Order of August 2013) vis-à-vis the actuals achieved at the JNPT CFS/ BY. Further, at our request, the JNPT in July 2016 has furnished the tariff filing forms as authenticated by JNPT officials alongwith a certification by a practicing Chartered Accountant. This proposal of JNPT along with the additional information/ clarification furnished by the JNPT during the processing of this case have been considered in this analysis.

(ix). The JNPT is of the view that there is no specific delegation under which the proposal for review of tariff of the CFS/ BY is required to be approved by the Board of Trustees before submission to the TAMP. In this regard, it is relevant to mention here that Clause 3.1.2 of the Working Guidelines, finalized and issued in consultation with the Major Port Trusts, including JNPT, to operationalize the Tariff Policy, 2015, requires a port trust to send its proposal to this Authority alongwith the approval of the Board of Trustees. The Working Guidelines also permit a Major Port Trust to furnish the approval of Board of Trustees within one month from the date of submission of its proposal. Since the proposal has emanated from the port itself, it would have been appropriate for the port to seek the approval of its Board of Trustees, even when the proposal was on consultation. Nevertheless, Clause 3.1.2 of the Working Guidelines does not prohibit this Authority from entertaining the proposal, submitted by a port trust without the approval of its Board.

(x). (a). Clause 2.1 of the Tariff Policy, 2015 requires assessment of the Annual Revenue Requirement (ARR) which is the average of the sum of Actual Expenditure as per the final Audited Accounts of the three years 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) subject to certain exclusions as prescribed the Clause 2.2. of the Tariff Policy 2015 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 2014, duly certified by a practicing Chartered Accountant/ Cost and Management Accountant.

(b). The JNPT has assessed the Annual Revenue Requirement (ARR) based on Audited Annual Accounts of the CFS/ BY service provider for three years i.e. 2011-12 (Y1), 2012-13 (Y2) and 2013-14 (Y3) duly authenticated by the JNPT official and duly certified by a practicing Chartered Accountant. The JNPT has excluded the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2011-12, 2012-13 and 2013-14. The adjustments done by JNPT and the additional adjustments in the operating expenses as done by us are discussed in the subsequent paragraphs:

(i). Before we start with the analysis of the case, it is to state that though the JNPT has considered the expenses as reflected in the annual accounts of the CFS operator, it has excluded the expenses relating to the transportation activity, while arriving at the ARR. From the audited Accounts furnished by the JNPT, it is seen that the CFS renders ‘Transportation services’, ‘Logistics services’ and ‘Services related to Container Freight Station’. According to JNPT, the exclusion is inclusive of expenses relating to the Logistics services also. In other words, the expenses considered by the JNPT pertain to the services rendered exclusively at the CFS. The figures as excluded by the JNPT, as certified by the Chartered Accountant and as endorsed by the JNPT, are relied upon in the analysis.

(ii). While considering the expenses as reflected in the annual accounts of the CFS operator, the JNPT is also seen to have taken into account the Royalty payment as cost made by the CFS operator to the JNPT. As decided by the Govt. in the Ministry of Shipping vide its Order No.PR-14019/6/2002-PG dated 29 July 2003, 'Royalty/ Revenue share' payable to the landlord port by the private operator is not to be allowed as an admissible cost for tariff computation in those BOT cases where bidding process was finalised after 29 July 2003. Since the authorization granted by the JNPT to the service provider is after 29 July 2003, no royalty/ revenue share is admissible as an item of cost. The Royalty payment is, therefore, excluded for the purpose of fixation of tariff of CFS.

(iii). While calculating ARR, the JNPT has included one-time expenses to the tune of ₹67,96,003/- being 1/5th of ₹ 3,39,80,013/- towards arrears of remuneration to employees and provident fund arising out of wage revision agreement for the year 2013-14 and 2014-15. However, as reported by JNPT, the said amount of ₹3,39,80,013/- has neither been paid nor provided for in the books of accounts during the erstwhile period. In view of the above position, the said item of expenditure is excluded from the ARR calculation.

(iv). The ARR model of the Tariff Policy, 2015, recognizes all the admissible expenses incurred by the Major Port Trust as reflected in the audited Accounts subject to certain adjustments, in the tariff determination exercise. Though norms for expenses are not available for the Major Port Trusts, norms are available for the CFS operations at JNPT, which had been developed by JNPT earlier on a scientific manner, during the last review of tariff for the JNPT CFS in August 2013. Since norms are available, it is appropriate to compare the actual expenses now considered by JNPT with each item of normative expenses as relied upon in the August 2013 Order.

(v). Accordingly, a comparative statement showing the normative operating expenditure per container and actual operating expenditure per container, for each item of expenditure, is tabulated below:

(Amount in ₹)

Sl. No.	Item of Operating Expenditure	Normative costs per container as relied upon in August 2013 Order	Average actual expenditure per container during the years 2011-12 to 2013-14
i.	Salary, Wages and Allowances	1232.19	1471.37
ii.	Electricity Charges	136.38	164.38
iii.	Fuel Expenses	870.53	238.96
iv.	Repairs & Maintenance	48.72	394.45
v.	Insurance Charges	33.43	37.63
vi.	Land Lease Rental	322.72	1664.20
vii.	Water Charges	1.57	1.27
viii.	RTO Tax	14.48	3.63
ix.	Equipment Hire Charges	978.58	148.55
x.	Depreciation	250.76	203.40
xi.	General Overheads	194.28	314.69
xii.	Container Handling Charges	0.00	715.41
xiii	Finance & Miscellaneous Expenses	0.00	48.59
	Total	**4083.65**	**5406.53**

(vi). As can be seen from the above table, for some heads of expenses, the actual per container cost is higher than the normative per container cost considered in the August 2013 Order. Similarly, for some heads of expenses, the actual per container cost is seen to be lower than the normative per container cost considered in the August 2013 Order. In the absence of the reasons for variation between the norms and actuals, it is appropriate to compare the overall normative cost per container considered in the August 2013 Order vis-à-vis average actual cost per container incurred during the years 2011-12 to 2013-14. Thus, as against the overall normative per container cost considered in the August 2013 Order to the tune of ₹ 4083.65 per container, the average actual per container cost incurred during the years 2011-12 to 2013-14 is seen to be ₹ 5406.53 per container i.e. about 32% higher than the normative level of cost

One of the main reasons for this increase in the actual cost per container is seen to be the lease rentals. As against the normative lease rentals considered at ₹ 6.64 crores per annum, the average lease rentals considered for the years 2011-12 to 2013-14 is ₹ 15.69 crores per annum. Since the lease rental as furnished by JNPT is at actuals as audited, the same is considered in the analysis.

In this connection, it may be recalled that the CFS operator at JNPT viz., M/s. DBC Port Logistics Limited has filed a Writ Petition No.1276 of 2015 in the Hon'ble High Court of Bombay, impleading JNPT and TAMP as Respondents, with regard to the quantum of lease rentals payable by the CFS operator to the JNPT. Thus, consideration of the lease rentals as reflected in the audited annual accounts of the CFS operator by this Authority should not be construed as to endorsing the contentions of either of the parties on the dispute.

Thus, from the above, except for the lease rentals, the overall average actual per container cost at ₹ 3706.28 incurred during the years 2011-12 to 2013-14 is seen to be lower than the overall normative per container cost at ₹ 3742.33 considered in the August 2013 Order. In other words, consideration of the actual cost/ expenses incurred during the year 2011-12 to 2013-14 in the ARR model approach as proposed by the port, after taking into account certain adjustments as discussed herein below, will not result in factoring more costs/ expenses as compared to the normative costs, while arriving at the tariff for the JNPT CFS/ BY, in the current exercise. In other words, by considering the actual costs, the JNPT CFS is not being allowed to enrich itself unjustly.

(vii). The general overheads considered by JNPT reflects expenses incurred towards Office Expenses, Legal and Professional Charges, Business Promotion Expenses, Rates & Taxes, Directors' Sitting Fees, Auditors' Remuneration, Loss on Sale of Car/ Trailer/ Reach stackers, Provision for Doubtful Debts, Bad Debts Written Off, Service Tax Paid, Business Centre Services Charges, Interest on Delayed Payment, Scrap Assets Written Off and Provision for Doubtful Accrued Income.

Out of the expenses as listed above, the expenses incurred towards Provision for Doubtful Debts, Service Tax Paid, Interest on Delayed Payment and Provision for Doubtful Accrued Income during the years 2011-12 to 2013-14 are not considered in the analysis, in line with the approach adopted in other tariff cases.

(viii). The workings furnished by JNPT takes into account expenses to the tune of ₹ 4.72 crores, ₹ 9.99 crores and ₹ 5.52 crores towards Container Handling charges during the years 2011-12 to 2013-14 respectively. Such a head of expenditure was not considered during the last review of tariff for the JNPT CFS. According to JNPT, this expenditure is incurred on account of lift on/ off, destuffing of containers etc. Based on the clarification furnished by the port, the same is considered in this analysis.

(ix). Subject to the above adjustments, the average operating expenses for the years 2011-12 to 2013-14 works out to ₹ 50.93 crores, as against ₹ 58.92 crores worked out by JNPT.

(x). As against the net fixed assets to the tune of ₹ 24.40 crores as on 31 March 2014, the JNPT has considered the net fixed assets at ₹ 21.39 crores, after excluding the net value of the trucks and trailers used for transportation as reflected in the Annual Accounts. This position is relied upon in the analysis.

(xi). As part of the Working Capital, the JNPT has considered only the cash balance. The said balance is seen to have been calculated by JNPT based on the one month expenses for the year 2013-14 after excluding depreciation and general overheads. In view of the adjustments in the expenses as discussed earlier and after taking into account the general overheads also, the cash balance is reworked at ₹ 3.94 crores.

(c). The total capital employed including the revised working capital works out to ₹ 25.33 crores as against ₹ 25.56 crores arrived by JNPT.

(d). Return on Capital Employed at 16% is worked out on the revised Capital Employed at ₹ 4.05 crores which is considered in the ARR computation.

(xi). The ARR is the average of the expenditure for the three financial years 2011-12 to 2013-14 at ₹ 50.94 crores plus 16% Return on Capital Employed at ₹ 4.05 crores aggregating to ₹ 54.99 crores as on 31 March 2014. Further, as per Clause 2.7. of Working Guidelines, the said ARR has been indexed by JNPT @ 100% of the Wholesale Price Index (WPI) applicable for the year 2014-15 and 2015-16 at 6% and 3.82% respectively. The ceiling indexed ARR works out to ₹ 60.52 crores for the year 2015-16, as against the ceiling indexed ARR worked out by JNPT at ₹ 69.34 crores. A summary of ceiling indexed ARR is given below:

(₹ in crores)

Sr. No	Particulars	2011-12	2012-13	2013-14
1	Total Expenditure after all Adjustments	47.79	55.36	49.66
2	Average Expenses [Y1 + Y2 + Y3] / 3	50.94		
3	Capital employed as on 31.03.2014 including capital work in progress as on 31.03.2014 and working capital as per norms	25.33		
4	Return on capital employed @ 16%	4.05		
5	ARR as on 31 March 2014 (5=2+4)	54.99		
6	Indexation in the ARR @ 100% of the WPI applicable for the year 2014-15 (6%)	58.29		
7	Indexation in the ARR @ 100% of the WPI applicable for the year 2015-16 (3.82%)	60.52		
8	Ceiling Indexed Annual Revenue Requirement (ARR)	**60.52**		

(xii). (a). Based on the position that the Tariff Policy 2015, gives flexibility to the Major Port Trusts to determine the rates to respond to the market forces based on commercial judgment and draw the Scale of Rates within the ceiling of indexed ARR, the JNPT has worked out the revenue estimation indicating each of the tariff items in the proposed SOR for corresponding traffic handled in 2014-15. In the exercise, the revenue estimation has been made by JNPT at ₹ 69.47 crores to match with the ceiling indexed ARR as arrived by it at ₹ 69.34 crores. Considering that the ceiling indexed ARR has been moderated by us at ₹ 60.52 crores, as brought out above, the tariff proposed by JNPT is to be reduced in such a manner so as to result in a revenue estimation of ₹ 60.52 crores.

(b). Given that the ceiling indexed ARR as revised by us at ₹ 60.52 crores is lower by about 13% as compared to the ceiling indexed ARR as estimated by JNPT at ₹ 69.34 crores, there is a case to reduce the rates proposed by JNPT by 13%.

However, the JNPT is seen to have proposed some amendments to its Scale of Rates in the form of introduction of some new tariff items and deletion of some existing tariff items. In view of the above position, it is appropriate to consider the impact of the said tariff items in the revenue estimation to arrive at the quantum of reduction to be effected in the proposed Scale of Rates of the JNPT CFS/ BY. The amendments to the Scale of rates, as proposed by JNPT, are discussed in the following paragraphs.

(c). The JNPT has proposed a note to the effect that Reefer container shall attract 1.50 times the normal applicable charges. Accordingly, in the proposed Scale of Rates, the JNPT has considered the rate for Reefer containers at 1.50 times the normal container. In this regard, it is to state that in the Scale of Rates for the container terminal operated by JNPT itself as well as in the Scale of rates of the neighbouring private BOT terminals operating at JNPT, the rate for the normal and reefer containers are maintained the same. In this backdrop, the JNPT has not explained the reason for proposing tariff at 1.50 times the normal container for Reefer container. In view of this position, the rate for Reefer container is also prescribed at the level of the normal container.

(d). The existing Scale of Rates prescribes a rate of ₹ 1664/- per TEU towards Carrying out of De-stuffing operation in the open area, at the request of consignees / shipping agents, stuffing the cargo back after custom examination in to the container and stacking of loaded container in the container yard, in the Import cycle. The JNPT has trifurcated the said rate into three categories viz., Custom Examination and De-Stuffing upto 5% at ₹ 350/- per TEU, Custom Examination and De-Stuffing above 5% and less than 25% at ₹ 500/- per TEU and Custom Examination and De-Stuffing above 25% at ₹ 1500/- per TEU. Given that the proposed arrangement will be beneficial to the users, the same is approved subject to reduction in the rates as proposed by JNPT, as discussed subsequently.

(e). The JNPT has introduced levy towards Fuel and Energy Surcharge at ₹ 500/- per TEU, Documentation charges at ₹ 250/- per TEU and Congestion surcharge at ₹ 500/- per TEU, in the Import cycle.

The levy of any surcharge towards Fuel and Energy would be governed by the extant Government policy. Prescription of a separate levy towards Fuel and Energy Surcharge in the JNPT CFS/ BY would lead to port facing difficulties in incorporating the changes in the rates of surcharge as is notified by the Government from time to time. In view of this position, levy towards Fuel and Energy Surcharge need not form part of the Scale of rates of JNPT CFS/ BY.

Some work relating to documentation will be involved at the CFS/ BY. Given that none of the users have objected to the proposed levy, the same is approved subject to reduction in the rates as proposed by JNPT, as discussed subsequently.

The tariff to be levied by the CFS operator should commensurate for the services rendered by it. In other words, users are bound to pay for the services availed by them. Congestion is a phenomena arising due to, among other things, the difficulties faced in evacuation of cargo. It is not a regular service warranting levy of charges from the users. In view of the above position and in the absence of any monitoring agency for levy of congestion charge, the proposed rate is not approved. Accordingly, the note proposed by the port that Port Congestion Charges will be levied extra during congestion period, is also not approved.

(f). The existing Scale of Rates prescribes a rate of ₹ 1500/- per TEU towards movement of empty containers between JNPT and MBPT nominated area and vise versa, in the Import cycle. The port has proposed deletion of the said rate. The judgment of the port in this regard is relied upon. Accordingly, the proposed deletion is approved.

(g). In view of the changes in the tariff as discussed above, it is seen that considering the impact of the said tariff items in the revenue estimation, a reduction to the tune of 13.1% is to be effected in the rates proposed by JNPT. While doing so, it has been ensured, that the rate so reduced will not result in a rate at a level lower than the existing level of tariff.

(h). Based on the workings furnished by JNPT and considering the rates approved and considering the traffic of JNPT CFS/ BY for the year 2014-15, it is seen that the JNPT CFS/ BY would generate an estimated revenue to the tune of ₹ 60.49 crores.

(xiii). The JNPT has proposed definition for the term ‘Force Majeure’ to mean any act of God, act of public enemies, war, warlike acts, terrorism, restraint of governments, princes or peoples of any nation, riots, strikes, lockouts, insurrections, civil commotion, civil disobedience, floods, earthquakes, fire, restrictions due to quarantines, epidemics, storms or any other causes beyond the reasonable control of the party claiming an event of Force Majeure. The said definition is forming part of the Agreement entered into by the JNPT with the CFS/ BY operator. It, therefore, need not be specifically incorporated in the Scale of Rates of the CFS/ BY. The same is, therefore, not approved for incorporation in the Scale of Rates.

(xiv). The existing note no. (xv) in the existing Scale of Rates to the effect that handling and transport operations (export operations) shall incorporate provision of labour for chocking and lashing of cargo, is proposed to be deleted. The reason for the proposed deletion has not been brought out by JNPT. Hence the existing note is retained.

(xv). The JNPT has proposed under each Section a note to the effect that Service tax @ 14% will be charged extra where ever applicable. This note is prescribed as a General note in the Scale of Rates.

Further, given that the Service tax is subject to periodic changes, the note is modified to the effect that Service tax as applicable will be charged extra where ever applicable.

(xvi). The JNPT has proposed a note to the effect that all charges are on per TEU basis unless specified otherwise. Special equipment, if used, will be charged at actuals. The proposed note is approved.

(xvii). The JNPT has proposed notes to the effect that all cheques/ DDs/ POs to be drawn favouring "DBC Port Logistics Ltd." Payable at Mumbai/ Navi Mumbai, non-acceptance of Outstation cheques, Payment by cheque to be subject to prior approval of CFS operator Management, Penalty of ₹. 10,000/- per instrument for dishonour Cheque, Charges to be paid between 1000 hrs to 2000 (Monday to Saturday), acceptance of Cheque/ Draft on 24 hrs basis however deliveries will be subject to customs availability, mandatory weighment of scrap containers at CFS, applicability of any additional charges/ expenses incurred inside port, all consignment being received at the CFS to be adequately insured against all possible risks during transportation, storage, handling and the CFS assuming no liability in this respect, CFS under no obligation to maintain insurance of Containers, Cargo or contents of Containers of the Customer, the Customer to take out and maintain adequate Insurance in respect of its cargo or contents of Containers, CFS reserving the right to not allow those cargo/ cargo with containers to enter, which do not have adequate Insurance in respect of its cargo, accurate Hazardous declaration, the CFS reserving the right to allow or reject specific hazardous commodities in the premises, prior permission to be obtained for hazardous cargo to be handled, Applicable taxes extra as per applicable laws, CFS User to follow all CFS Safety instructions & guidelines, movement of containers to be subject to Weight restriction imposed by Govt. Authorities, Type of Trailer (Normal/Low bed) use for Movement of ODC cargo is solely at the discretion CFS management and as per respective Ports Guidelines for carriage of ODC Cargo, For safety reasons, all ODC cargo to be moved on Low Bed Trailer only, payment of charges is not guarantee for services, which is strictly on completion of all Customs and other statutory formalities, CFS not to be liable for any failure to perform its obligations under scope & terms of services caused by Force Majeure provided it gives prompt notification to the other party and all Disputes are subject to Mumbai Jurisdiction only.

The said notes are seen to be related to the operational aspects at the CFS and does not appear to have bearing on the tariff of the CFS/ BY. Hence, the proposed notes need not form part of the Scale of Rates.

(xviii). The JNPT has also proposed a note enabling it to levy ₹ 2,700/- per container for movement after vessel cut-off time and levy of ₹ 2,000/- for Normal Trailer & ₹ 2,500/- for Low-bed Trailers, if CFS loaded vehicle is detained over and above permitted time period due to situation beyond control or scope of service of CFS. The JNPT has neither furnished the basis to arrive at the proposed rates nor has it furnished the income estimated on account of the proposed levies. In view of this position, the proposed note could not be approved.

(xix). Given that the JNPT has followed the ARR model to determine the tariff for the JNPT CFS/ BY, it has also proposed Performance standards. The port has proposed to move out the import containers out of the port within 72 hours of container being made available for delivery to CFS, subject to some conditions. Similarly, the port has proposed to move the export containers past the port/ terminal gates within 24 hours of completion of all export documentation, availability of Customs LET and completion of all payments to CFS, subject to some conditions. The performance standards as proposed by the JNPT are prescribed along with SOR.

(xx). As per Clause 2.8. of the Tariff Policy, 2015, SOR will be indexed annually to the inflation to the extent of 100% variation in Wholesale Price Indexed (WPI) announced by the Government of India occurring between 1 January 2014 and 1 January of the relevant year and the adjusted indexed SOR will come into force from 1 April of the relevant year to 31 March of the following year. Further, as per clause 3.2 of the Tariff Policy 2015 to be read with clause 2.8 of the Tariff Policy 2015, annual indexation in SOR at 100% of the WPI is applicable subject to achievement of committed Performance Standards. If the Performance Standard is not fulfilled, no indexation would be allowed during the next year. It is relevant to state that in the instant case indexation for the year 2015-16 is already considered in the ARR computation and for drawing the SOR. The next annual indexation in SOR will thus be applicable from 1 April 2017 subject to increase in inflation index and achievement of Performance Standards in the year 2016-17. That being so, a note is inserted in the SOR 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 April 2017 subject to increase in inflation index announced by us and the CFS operator 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, 2015 stipulates that annual indexation in the SOR will be automatic subject to achievement of Performance Standards. It does not require approaching this Authority for the same. In Order to have transparency, the port is advised to declare the Performance Standards achieved by the CFS/ BY 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 the concerned users as well as to this Authority. If the Performance Standards as notified by this Authority are achieved by the CFS/ BY operator, then the port can automatically index the rates prescribed in the SOR at 100% of WPI announced by this Authority and apply the indexed SOR w.e.f. 1 April of the relevant year. The indexed SOR is to be intimated by the port to the concerned users and to this Authority. The Note in this regard is incorporated in the Scale of Rates.

(xxi). During the joint hearing, the JNPT has reported about the CFS operator effecting some development in infrastructure and IT related services at the CFS, with the proposed increase in tariff, so as to improve the efficiency of the CFS. In this connection, as per the details furnished by JNPT, an investment to the tune of ₹ 11.69 crores is envisaged during the year 2016-17 towards Laying of paver blocks at Container Yard, Office Renovations, installing Air Conditioners, Purchase of 2 no. of Reach Stackers, 25 nos. of Tractor Trailers, 6 nos. of 3 Ton Forklift, Servers, Computers, printers, CCTV, Software upgradation, Bio-Metric Systems for Customs, UPS etc. Similarly, during the year 2017-18, an investment to the tune of ₹ 13.86 crores is envisaged towards Laying of paver blocks at Container Yard, STP Plant & Pumping Station, Office Renovations, installing Air Conditioners, 500 KVA Genset, Electrical Panel, Fire Sprinklers Systems in Shed, 2 no. of Reach Stackers, 25 nos. of Tractor Trailers, 10 tonne forklift, 6 nos. of 3 Ton Forklift, Servers, Computers, printers, CCTV, RFID Set up for vehicles & yard etc. The JNPT is advised to ensure deployment of the above said equipment and completion of the civil works by the CFS operator during the relevant period.

12.1. In the result, and for the reasons give above and based on a collective application of mind, the revised SOR and the Performance Standards of the JNPT CFS/ BY, which is attached as **Annex– I,** is approved.

12.2. The revised SOR will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India and shall remain in force till 31 March 2019. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

12.3. The JNPT has committed Performance Standards for import movement and export movement at the JNPT CFS/ BY. If the JNPT CFS/ BY does not fulfil the Performance Standard, no indexation is eligible for the next year. The indexation of SOR as provided in Clause 2.8 of the Tariff Policy, 2015 is to be read with Clause 3.2. of Tariff Policy 2015.

12.4. The JNPT is advised to ensure deployment of the equipment and completion of the civil works by the CFS operator during the year 2016-17 and 2017-18.

12.5. (a). If there is any error apparent on the face of record, the JNPT may approach this Authority for review of the tariff fixed, giving adequate justification/ reasoning within 30 days from the date of notification of the Order passed in the Gazette of India.

(b). Further, the JNPT may also for any other justifiable reasons, approach this Authority for review of the tariff fixed giving adequate justification/ reasoning within 30 days from the date of notification of the Order (to be) passed in the Gazette of India.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

SCALE OF RATES FOR THE CONTAINER FREIGHT STATION AND BUFFER YARD OF JAWAHARLAL NEHRU PORT TRUST.

CHAPTER 1

Definitions

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

i. "Reefer Container" shall mean a refrigerated container used for carriage of perishable goods with provision for electrical supply to maintain the desired temperature.

ii. "Hazardous Container" shall mean a container containing hazardous goods as classified under IMO.

iii. "Free period" shall mean the period during which cargo/ container shall be allowed storage free of demurrage charges/ground rent charges and this period shall exclude Sunday(s), customs holidays and CFS's non-working days.

iv. "Over dimensional container" shall mean a container carrying over dimensional cargo beyond the normal size of standard containers and needing special devices like slings, shackles, lifting beam etc. They also include damaged containers and other types which require special devices.

v. "Demurrage" shall mean charges payable for storage of cargo within CFS's premises beyond free period, as specified in the scale of rates.

vi. "Full Container Load" (FCL) shall mean a container containing cargo belonging to one consignee in the vessel's manifest.

vii. "Less than a Container Load" (LCL) shall mean a container containing cargo belonging to more than one consignee in the vessel's manifest.

viii. Container Freight Station (CFS) – shall mean the Container Freight Station of Jawaharlal Nehru Port Trust located at Sonari Village, Navi Mumbai, 400 707.

ix. Buffer Yard (BY) – shall mean the Buffer Yard of Jawaharlal Nehru Port Trust located at Sonari Village, Navi Mumbai, 400 707.

x. TEU means Twenty Equivalent Units – term for ISO container.

xi. "Back to Town Cargo" shall mean a cargo entering the CFS for export but unable to be exported for whatever reason and taken back to town.

GENERAL TERMS AND CONDITIONS:

i. Containers less than and upto 20 feet in length will be reckoned as one TEU for the purpose of tariff.

ii. Handling charges for containers more than 20' in length and upto 40' in length will be 150 per cent of the charges applicable to containers upto 20' in length.

iii. Storage/ground rent charges for containers more than 20' in length and upto 40' in length will be 200 per cent of the charges applicable to containers upto 20' in length.

iv. Handling charges for container more than 40' length will be 200 per cent of the charges applicable to containers upto 20' in length.

v. Storage/ground rent charges for containers more than 40' in length will be 300 per cent of the charges applicable to containers upto 20' in length.

vi. Containers other than that of standard size requiring special devices or slings for handling will be charged twice the rate applicable to containers upto 20' in length. Such a container will also include damaged container and any other types requiring special devices.

vii. Hazardous container shall attract 1.25 times the normal applicable charges.

viii. The 'free time' will commence after the container reaches the CFS from the Port Container Yard.

ix. CFS shall ensure that the container is available at the ground tier when the importer approaches for clearance of his consignment. The consignee shall not be liable for payment of ground rent until the container is grounded and cleared.

x. Interest on delayed payments / refunds:
The user shall pay penal interest on delayed payments and the CFS shall pay penal interest on delayed refunds. The rate of interest will be 15% and will apply to both the CFS and the port users equally.

The delay in payments by user will be counted beyond 10 days after the date of raising the bills. This provision will not apply to the case where payment is to be made before availing of the services / use of CFS properties as stipulated in the MPT Act, 1963 and / or prescribed as a condition in the tariff.

The delay in refunds by the CFS will be counted beyond 20 days from the date of completion of services or on production of all documents required form the user, whichever is later.

xi. (a). The rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The CFS may, if it so desires, charge lower rates and/or allow higher rebates and discounts.

(b). The CFS may, if it so desires, rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling level.

(c) The CFS should notify the public such lower rates and/or rationalisation of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.

xii. The storage charges on abandoned FCL containers/shipper owned containers shall be levied upto the date of receipt of intimation of abandonment in writing or 75 days from the day of landing of the container, whichever is earlier subject to the following:

(i). The consignee can issue a letter of abandonment at any time.

(ii). If the consignee chooses not to issue such letter of abandonment, the container Agent/MLO can also issue abandonment letter subject to the condition that,

(a) the Line shall resume custody of container along with cargo and either take back it or remove it from the port premises; and

(b) the line shall pay all port charges accrued on the cargo and container before resuming custody of the container.

(iii). The container Agent /MLO shall observe the necessary formalities and bear the cost of transportation and de-stuffing. In case of their failure to take such action within the stipulated period, the storage charge on container shall be continued to be levied till such time all the necessary actions are taken by the shipping lines for de-stuffing of cargo.

(iv). Where the container is seized/confiscated by the Custom Authorities and the same cannot be de-stuffed within the prescribed time limit of 75 days, the ground rent/ storage charges will cease to apply from the day the Custom order release of the cargo subject to lines observing the necessary formalities and bearing the cost of transportation and de-stuffing. Otherwise, seized/confiscated containers should be removed by the line/consignee from the port premises to the Customs bonded area and in that case the storage charge shall cease to apply from the day of such removal.

xiii. Users shall not be required to pay charges for delays beyond a reasonable level attributable to the CFS.

xiv. Ground rent/storage charges shall not accrue for the period during which the CFS is not in a position to deliver the containers for reasons attributable to it when requested by the users.

xv. The handling and transport operations (export operations) shall incorporate provision of labour for chocking and lashing of cargo.

xvi. Service tax as applicable will be charged extra where ever applicable.

xvii. **Annual Indexation**:

(a). The SOR is subject to automatic annual indexation at 100% of the WPI to be annually announced by the Authority. The next annual indexation will be from 1 April 2017 subject to the CFS/ BY operator achieving the Performance Standards prescribed below. If Performance Standards prescribed in the SOR are not achieved, there will be no indexation in SOR for that particular year.

(b). The JNPT should declare the Performance Standards achieved by the CFS/ BY operator annually for the period 1 January to 31 December vis-à-vis the Performance Standards notified by the Authority at the level committed by the port within one month of end of the calendar year to the concerned users as well as to the Authority. If the Performance Standards as notified by the Authority are achieved by the port, then the port will automatically index the SOR at 100% of WPI announced by the Authority and apply the indexed SOR w.e.f. 1 April of the relevant year. The indexed SOR to be levied by the CFS/ BY operator is to be intimated by the port to the concerned users and to the Authority.

xviii. **Performance Standards:**

(a). Import Movement Import Containers will be moved out of the port within 72 hours of the container being made available by the terminal for delivery to the CFS. Import movement performance will not be met under the following conditions:

i. If congestion is prevalent in the area as notified by the Trailer Operators Association.

ii. If the Port/Terminal is unable to deliver the container.

iii. Defective documentation or other shortcoming that is not under the control of the CFS.

iv. Any restriction due to authorities such as the Port, Terminal, Customs, Police etc. that prevent the container being moved.

v. If the shipping line/ Consignee does not intimate the CFS about job order.

(b). Export Movement: Export containers will be moved past the port/terminal gates within 24 hours of the completion of the following:

i. All export documentation.

ii. Availability of Customs LET.

iii. Completion of all payments to the CFS.

Export Movement performance will not be met under the following conditions:

i. If congestion is prevalent in the area as notified by the Trailer Operators Association.

ii. Appropriate documentation, complete in all respects, is submitted to the CFS 24 hours before cut-off.

iii. Any restriction due to authorities such as the Port, Terminal, Customs, Police etc. that prevent the container being moved.

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CHAPTER 2

Import Operations

Sr. No.		SERVICE DESCRIPTION	20' (Rupees)	40' (Rupees)
A	**HANDLING & TRANSPORATION SERVICES**		**General Cargo**	**General Cargo**
	(I)	Import Container FDS Delivery (Loaded Delivery)	4,258	6,387
		LOLO, Grounding, stacking, survey, lift-on to the party's vehicle for delivery		
	(II)	Import Container DDS Delivery (De-stuffed)	5,388	8,082
		LOLO, Grounding, stacking, de-stuffing, survey, empty container shifting in the yard, LOLO		
B	**Custom Examination**			
		Destuffing and Restuffing of Cargo, carried out as per request of consignee for Custom Examination		
	a	Custom Examination and De-Stuffing upto 5 %	304	456
	b	Custom Examination and De-Stuffing above 5 % and less than 25 %	435	652
	c	Custom Examination and De-Stuffing above 25 %	1,304	1,955
	NOTE:			
	(i)	Hazardous container shall attract 1.25 times the normal charges		
	(ii)	Reefer container shall attract the same as the normal charges.		
	(iii)	FR/OT/ODC container shall attract 2 times the normal charges.		
	(iv)	45 FEET CONTAINER H & T IS 1.5 TIMES MORE 40' GENERAL CONTAINER		
C	**GROUND RENT - LOADED CONTAINERS**			
	(i)	1st to 3rd day	Free	Free
	(ii)	4th to 7th day (per day)	109	217
	(iii)	8th to 15th day (per day)	217	435
	(iv)	16th to 30th day (per day)	435	869
	(v)	31st day and beyond (per day)	869	1,738
	NOTE:			
	(i)	Ground Rent for 45' length will be 300% of the charges applicable to containers upto 20' length		
	(ii)	Hazardous container shall attract 1.25 times the normal charges		
	(iii)	Reefer container shall attract the same as the normal charges.		
	(iv)	FR/OT/ODC container shall attract 2 times the normal charges.		
D	**GROUND RENT - EMPTY CONTAINERS**			
	(i)	1st to 15th day (per day)	25	50
	(ii)	16th day onwards (per day)	100	200
E	**CARGO STORAGE & DEMURAGE**			
	(i)	1st 3 days from date of de-stuffing	Free	
	(ii)	1st Week to 4th Week(after free period)	124	Sq Mtr Per Week
	(iii)	5th Week onwards	187	Sq Mtr Per Week
	NOTE:			
	(a)	The utilisation of space will be computed on grid area basis. Each grid being 6.25 Sq.Mtrs. Even for utilisation, the demurrage payable will be for full grid as the cargo covered by an ocean BL will be treated as one consignment for the purpose of calculation of space utilised.		
	(b)	The cargo lying unclear beyond 4 week of storage, after the free period, a demurrage to the tune of 50% of the storage would be additionally levied on the consignment from the initial date of container arrival after fifth week onwards.		
F	**GENERAL OPERATION SERVICES**			
	(i)	Lift-on / Lift-off Loaded Container	174	261
	(ii)	Lift-on / Lift-off Empty Container	87	130
	(iii)	Shifting Empty Container for washing / cleaning	468	702
	(iv)	Weightment - Loaded Container	1,304	1,955
	(v)	Grounding for container Delivery	521	782
	(vi)	Survey and EIR charges	217	326
	(vii)	Damage Container Survey Charges	217	326
	(viii)	Documentation Charges	217	326
G	**OTHER CHARGES**			
	(i)	Cargo Handling Charges	136	Per MT
	(ii)	Insurance Charges (per week)	Paise 12.50 per Rs.1,000/- on Value +Duty	
	(iii)	Locking charges	26	
	(iv)	Reefer Plugging / Monitoring Charges	287	Per TEU for Four H
H	**Bonded Warehouse**			
	Storage and Demurrage Charges			
	(i)	1st Week to 4th Week(after free period)	124	Sq Mtr Per Week
	(ii)	5th Week onwards	187	Sq Mtr Per Week
		Insurance Charges (per week)	Paise 12.50 per Rs.1,000/- on Value +Duty	

CHAPTER 3

Export Operations

Sr. No.		SERVICE DESCRIPTION	20'	40'
			Rupees	
A		**Carting Charges / Cargo Handling Charges**		
	1	Unloading the export cargo from the mouth of road vehicles of party at the export unit / open yard after due inventrorisation and stacking at the storage point / yard (excluding the warai charges)		
		- By Using Labour	60.83	Per MT
		- By Using Equipment	69.52	Per MT
B		**Handling of Export Cargo**	**20' (Rupees)**	**40' (Rupees)**
	1	Providing Labour, shifting the empty containers to the stuffing point, stuffing the cargo.	3,787.00	5,680.50
	2	**Re - working of Export Containers** Providing Labour / Equipment for taking out required number of pacakages from the stuffed containers, packing / unpacking for custom examination if required, re-stuffing	4,779.50	7,169.25
	NOTE:			
	a)	Hazardous Container shall attract 1.25 times the normal charges.		
	b)	Refer Container shall attract the same as normal charges.		
	c)	FR/OT/ODC Container shall attract 2 times the normal charges.		
C		**CARGO STORAGE & RESERVATION**	**Rupees**	
	1	1st 7 Days from date of cargo arrival in CFS	NIL	
	2	1st Week to 4th Week (after free period).	87	Per Sq. Mt Per Week
	3	5th Week onwards.	130	Per Sq. Mt Per Week
	4	Reservation Charges (For 400 Sq. Mtrs. & above).	130	Per Sq. Mt Per Month
	NOTE:			
	a)	The minimum storage charges will be taken for 5 Sq. Mtrs and in multiples thereof.		
	b)	In case the area is utilised by the cargo in the general space and if the cargo is not stuffed within the free period of seven days from its receipt; charges will be payable by the party before the stuffing of cargo is taken up.		
	c)	The free time will be calculated from the first date of carting against a particular shipping bill irrespective of actual receipt date/s of the entire cargo.		
	d)	After allowing seven days free, if the cargo is not stuffed within four weeks of its receipt, a demurrage to the tune of 50% of the storage would be additionally levied from the fifth week onwards.		
	e)	Reservation of space will be given for a minimum period of three months on advance payment for three months and in case the party wants to withdraw the reservation; one month notice will have to be given to cancel the reservation. The extension will be given on advance payment being made on quarterly basis.		
D		**GENERAL OPERATION SERVICES**	**20' (Rupees)**	**40' (Rupees)**
	1	Lift-on / Lift-off - Loaded Container	173.80	260.70
	2	Lift-on / Lift-off - Empty Container All Types	86.90	130.35
	3	Shifting Empty Container for stuffing - Per Move	260.70	391.05
	4	Sweeping Charges of empty Container	30.42	45.62
	4	CLP and Bottle Seal Charges	86.90	130.35
	5	Survey and EIR Charges	173.80	260.70
			Rupees	
	6	Reefer Container Plugging Charges for four hours	287	Per TEU / four hours
	7	Shifting Cargo from one place to another within CFS	136	Per MT
	8	Loading "Back-to-town Cargo" on Party's Vehicle	136	Per MT
E		**OTHER CHARGES**	**Rupees**	
	1	Cargo Handling Charges By Labour	61	Per MT
	2	Cargo Handling Charges By Equipment	70	Per MT
	3	Insurance Charges (For BTT Cargo - Per Week)	Paise 12.50 Per Rs.1000/- FOB Value	
			20' (Rupees)	**40' (Rupees)**
F		**GROUND RENT - EMPTY CONTAINERS**		
	1	1st to 15th Day (Per Day)	13.04	26.07
	2	16th Day onwards (Per Day)	65.18	130.35
G		**GROUND RENT - LOADED CONTAINERS**		
	1	1st to 7th Day (Per Day)	108.63	217.25
	2	8th to 15th Day (Per Day)	217.25	434.50
	3	16th to 30th Day (Per Day)	434.50	869.00
	4	31st day and beyond (Per Day)	869.00	1,738.00
	NOTE:			
	1	Ground rent for containers more than 40' length will be 300% of the charges applicable to containers upto 20' length.		
	2	Hazardous container shall attract 1.25 times the normal charges.		
	3	Reefer container shall attract 1.5 times the normal charges.		
	4	FR/OT/ODC container shall attract 2 times the normal charges.		

CHAPTER 4
Buffer Yard Operations

Sr. No.		SERVICE DESCRIPTION	20' (Rupees)	40' (Rupees)
A	**HANDLING of Factory Stuffed Containers**			
	1	Export Container Factory Stuffed Buffer Movement Receiving factory stuffed container at BY. Off-loading from party's vehicle, Stacking, inventorisation, lift-on on cfs vehicle.	3,041.50	4,562.25
	2	Lift On / Lift Off of Loaded Containers	173.80	260.70
	3	Lift On / Lift Off of Empty Containers	100.00	150.00
	NOTE:			
	a)	Hazardous Container shall attract 1.25 times the normal charges.		
	b)	Refer Container shall attract the same as normal charges.		
	c)	FR/OT/ODC Container shall attract 2 times the normal charges.		
		ADDITIONAL CHARGES: Factory Stuff Container Movement on Low Bed Vehicle.	-	-
	NOTE: 45 FEET CONTAINER H & T IS 1.5 TIMES MORE 40' GENERAL CONTAINER			
B	**GROUND RENT - LOADED CONTAINERS**			
	1	1st to 3rd day	-	-
	2	4th to 7th day (per day)	108.63	217.25
	3	8th to 15th day (per day)	217.25	434.50
	4	16th to 30th day (per day)	434.50	869.00
	5	31st day and beyond (per day)	869.00	1,738.00
	NOTE: 45 FEET CONTAINER GROUND RENT IS 300 TIMES MORE GENERAL 20' CONTAINER			
C	**GROUND RENT - EMPTY CONTAINERS**			
	1	1st to 15th day (per day)	43.45	86.90
	2	16th day onwards (per day)	130.35	260.70

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

F. No. TAMP/69/2015- JNPT		**Proposal received from the Jawaharlal Nehru Port Trust (JNPT) for Fixation of tariff for the services rendered at the Jawaharlal Nehru Port Trust (JNPT) Container Freight Station (CFS) / Buffer Yard (BY).**

The joint hearing in this case was held on 11 April 2016 at the Office of the Authority. At the joint hearing, the JNPT had made a Powerpoint presentation of the proposal. The JNPT and the concerned users/ organization bodies have made the following submissions:

Jawaharlal Nehru Port Trust (JNPT)

1. Makes a brief power point presentation of its proposal. Hard copy is given. Briefly explains the proposal.

2. JNPT CFS is the arm of JNPT. Therefore, the ARR model is followed in the tariff proposal.

3. Normative approach is not beneficial due to the following reasons:

   (i). Systemic changes in Rules have substantially reduced some types of traffic, especially Buffer traffic.
   (ii). Number of CFSs have increased creating a supply – demand imbalance.
   (iii). Practice of nomination premium exerts a strong distortionary force on the trade.
   (iv). Normative system pre-supposes a capacity of 70% whereas actual utilization due to overcapacity reasons, is in 30% range. Due to this, allowed tariff is low.
   (v). High fixed labour cost handed over from JNPT. The labour force comprises of PAP and it is not possible to reduce this labour strength.
   (vi). In all other CFSs in the JNP area, contracted labour is used which allows the facility to reduce its fixed cost.
   (vii). Due to non-existence of buffer traffic, overall volumes are much lower than normative values and it has also financial outflow in terms of MGT shortfall.

Association of Multumodal Transport Operators of India (AMTOI) / Indian Merchants' Chamber (IMC)

4. The CFSs get their volumes from the Shipping Lines, by paying nomination premium. However, since Rates for the JNPT CFS/ BY is determined by TAMP, they do not have the luxury to bear the nomination premium. Due to this, the JNPT CFS/ BY is not in a position to attract volumes.

5. The JNPT CFS/ BY is not in a position to compete with other CFS players in the vicinity, even though their rates are lower.

6. In addition, the JNPT CFS/ BY has huge baggage in the form of fixed labour cost and other labour issues, which is not prevalent at other CFSs.

7. Overall, the JNPT CFS/ BY is at a disadvantageous position when compared to the other CFS in the vicinity.

8. The rates proposed for the JNPT CFS/ BY now are lower than the market rates.

Bombay Custom House Agent's Association (BCHAA)

9. The rates proposed for JNPT CFS/ BY is okay.

Shipping Corporation of India Limited (SCI)

10. We have no problem to the proposed rates.

DBC Port Logistics Limited (DBCPLL)

11. There has been a reduction in traffic at the Buffer Yard owing to some changes in the Customs Rules and Regulations. Further, prior to the last revision in 2015, the tariff of JNPT CFS/ BY had not been revised for about 14 years. In view of this position, no infrastructure development has been carried out in the past.

12. With the proposed increase in tariff, development of infrastructure and IT related services is envisaged, thereby leading to improvement in efficiency. This improvement in efficiency will help in attracting more volumes to the JNPT CFS/ BY.

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