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Tariff Authority for Major Ports

G. No. 160

New Delhi, 6 August 2011

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the application filed by the South West Port Limited (SWPL) for a review of the Order No.TAMP/12/2010-SWPL passed by this Authority on 3 November 2010 in respect of revision of the Scale of Rates of SWPL for its operations at the berth nos.5A and 6A in the Mormugao Port Trust as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/11/2011-SWPL

South West Port Limited

- - -

Applicant

ORDER

(Passed on this 26th day of July 2011)

This case relates to the Application filed by the South West Port Limited (SWPL) for a review of the Order No.TAMP/12/2010-SWPL passed by this Authority on 3 November 2010 in respect of revision of the Scale of Rates of SWPL for its operations at the berth nos.5A and 6A in the Mormugao Port Trust (MOPT).

2.1. This Authority had passed an Order on 3 November 2010 disposing the proposal received from the South West Port Limited for general revision of its Scale of Rates for multipurpose cargo berth Nos.5A and 6A at the MOPT. The said Order was notified in the Gazette on 30 December 2010 vide Gazette No.348.

2.2. By the said Order, an across the board reduction in tariff of 9.5% was effected with effect from 1 January 2011 based on the revenue surplus position estimated for the period 2010-11 to 2012-13 as against 32% increase in tariff sought by the SWPL.

3.1. The SWPL has vide its letter dated 28 January 2011 requested to review some of the estimates considered in the said Order.

3.2. Clause 3.3.1. of the tariff guidelines of March 2005 stipulates that application of review of any tariff Order will be entertained to the limited extent of errors apparent on the face of records considered in the relevant proceedings, provided such an application is filed within 30 days of the notification of the Order in the Gazette of India. The tariff Order in reference was notified on 30 December 2010 and the SWPL has filed the review application on 28 January 2011, which is within the prescribed time limit of 30 days.

3.3. The relevant points made by the SWPL for review are brought out in detail at the later part of this Order. The main issues raised for review are as follows:

- (i). Estimates of Repairs and Maintenance cost
- (ii). Estimates of operating and direct labour cost
- (iii). Proposed additions to capital employed
- (iv). Adjustment of future surplus, if any
- (v). Storage income

4. In accordance with the consultative process prescribed, copies of the Review Application dated 28 January 2011 and communication dated 2 February 2011 received from the SWPL were circulated to the MOPT and concerned users/ organisation bodies seeking their comments. The comments received from MOPT and concerned users/ user organisations were forwarded to SWPL as feedback information. We have not received any remark from SWPL in this regard.

5. A joint hearing in this case was held on 29 June 2011 at the TAMP office, Mumbai. The SWPL made a power point presentation of its review application. At the joint hearing, SWPL and MOPT have made the following submissions:

South West Port Limited

- (i). Cargo handling contract:
 - (a). We have now submitted additional documents to show the payments made to contract.

- (b). Arms length relationship is also established by IT assessment.
- (ii). Repairs & Maintenance cost:
 - (a). Our equipment are becoming very old. Past expenditure may not be a true indicator of future repair cost.
 - (b). Please allow 7% of capital cost of mechanical equipments as repair cost. Precedent is available in the upfront tariff cases.
- (iii). We accept the stand taken by TAMP on adjustment of capital expenditure.
- (iv). We have revisited our review request with respect to storage income. We accept the decision taken by TAMP.
- (v). Please consider our request and revise the tariff retrospectively.

Mormugao Port Trust

- (i). Our written comments may be considered.
6. Subsequently, SWPL vide its letter dated 30 June 2011 has stated that though at the joint hearing they agreed for review of their tariff with retrospective effect but, after discussions with vessel agents have realized their difficulty to recover the vessel related charges and pay to SWPL, and hence has requested to effect the revision in tariff with prospective effect only.
7. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received from 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>.
8. Out of the five points agitated in its review application earlier, the SWPL after revisiting its proposal has at the joint hearing agreed with the decisions of this Authority on the capital expenditure on ship loader reckoned with in the year 2012-13 and the storage income considered in the past period as per its books of accounts. The SWPL has, therefore, withdrawn these two points from the proposed review application. Since the final review application of the SWPL is in respect of the three items, the analysis given in the subsequent paragraphs is also restricted to the three items proposed for review by the SWPL.
9. It is relevant to state here that the exercise of review undertaken in this case is only to the extent of (factual) errors apparent on the face of record pointed out by the SWPL as per clause 3.3.1. of the tariff guidelines. This is in line with the approach followed by this Authority in the other review applications decided earlier.
10. An extract of the relevant paragraphs of this Authority's Order dated 3 November 2010, the detailed submissions made by SWPL in the review application and our analysis thereon are as follows:

- (i). **Repairs & Maintenance cost:**

- A. Authority's Order dated 3 November 2010 [Para 13 (xi)]

Actual repairs and maintenance cost reported for the year 2009-10 is Rs.371 lakhs in its Annual Accounts. Considering 1.5% on the gross value of civil works at 3% on the gross value of mechanised equipment and other assets, the SWPL has estimated repairs and maintenance cost at Rs.511 lakhs, Rs.692 lakhs and Rs.728 lakhs for years 2010-11 to 2012-13 respectively. It has stated that the repairs and maintenance cost is likely to increase substantially due to ageing of equipment.

It may be relevant here to note that ageing of the equipment will be gradual and no special circumstance is projected to show that such a happening will be on an accelerated manner in this tariff validity. This general statement is not supported by any documentary evidence or cost analysis.

Repairs and maintenance expenses for the existing assets is estimated applying annual escalation of 3.76% over the actuals reported for previous years 2009-10 in line with the approach followed in case of other private terminals like the Visakha Container Terminal Limited, Vizag Seaport Private Limited, TM International Logistics Limited, etc. The same approach is followed for the subsequent years 2011-12 and 2012-13 as well.

In order to take care of incremental repairs and maintenance cost on the proposed assets to be created in this cycle, the repairs and maintenance cost is estimated at 1% on the civil assets and 2% of mechanical equipment and other assets with reference to the modified additions to gross block of assets considered in this analysis.

Accordingly, the revised estimation of repairs and maintenance cost will be Rs.392 lakhs for the year 2010-11, Rs.408 lakhs in 2011-12 and Rs.548 lakhs in 2012-13.

B. Submission by SWPL in the review application

- (a). Repairs and Maintenance costs which were projected @ 1% on civil assets and 3% on the mechanical & other assets earlier were admitted by TAMP in the case of SWPL and in the case of other private terminals. But now, TAMP has modified the estimates for repairs & maintenance costs on existing assets by applying the inflation rate of 3.76% to the actual costs for 2009-10 and adopted rate of 1% on the civil assets and 2% on mechanical equipment and other assets proposed to be added during the proposed 3 years.
- (b). The objective of TAMP is to move from cost plus approach to normative cost approach to competitive pricing approach. While costs during the initial years may be less, during the later years costs would be much higher when the assets grow old and deteriorate due to wear & tear.
- (c). As per the norms notified by TAMP on 26 February 2008 for setting upfront tariff for services to be rendered at Coal terminal as PPP Project, repairs and maintenance of Civil Assets is allowed at 1% of the cost of all civil assets and 7% of cost of all mechanical and electrical equipments. The Mechanical handling system at SWPL's terminal is only for handling coal and such other bulk cargo as coke. SWPL has mainly handled coal during the period 2007-08 to 2009-10 and more than 80% of the cargo projections for the period 2010-11 & 2012-13 is coal. The conveyor belts which were damaged while in operation require to be replaced and the cost of the same amounts to ₹ 62 lakh. The SWPL has forwarded a copy of the Order placed in October 2010 in this regard.
- (d). The complete mechanical handling system which handles mainly coal and coke may also need major maintenance due to its age. Considering the above aspects, the SWPL has estimated the repairs & maintenance costs conservatively in the tariff proposal and requested TAMP to allow repairs & maintenance expenditure on mechanical handling equipments which are exclusively used for Coal handling at a rate of 7% in line with the TAMP guidelines of 2008.

C. Analysis:

- (a). With reference to the request of SWPL to follow certain norms given in the tariff guidelines of 2008, it is relevant to state that the tariff fixation of SWPL is governed by tariff guidelines of 2005 and not by 2008 guidelines.

Clause 1.3.1. and 1.3.2. of the 2008 guidelines stipulate that the guidelines are applicable for setting tariff caps upfront for PPP projects where the bids are invited after 26 February 2008. It clearly states that the tariff setting of existing Major Port Trusts and Private Terminals operating thereat are governed by the tariff guidelines of 2005. Thus, the point made by the SWPL to apply the norms prescribed in the guidelines of 2008 only for estimating repairs and maintenance cost in its case is not found to be in conformity with the 2005 guidelines.

- (b). It is admitted that during the initial tariff fixation of private terminals in the years 2004/ 2005 where no actuals were made available in determining the tariff, the repairs & maintenance costs was estimated @ around 1% to 1.5% on civil assets and 3% on the mechanical & other assets in the tariff fixation exercise in the case of some private terminals including SWPL.
- (c). In the subsequent tariff revision of these private terminals, when the actual expenditure was made available, the repairs and maintenance cost has been estimated applying annual escalation on the actual cost incurred in the immediate previous year prior to the year of revision and on the additions proposed to the gross block, the repairs and maintenance cost has been allowed at 1% on the civil and @ 2% on the mechanical and other assets. This approach has been applied uniformly at other private terminals.

The repairs and maintenance cost estimated in the tariff Order of the SWPL dated 3 November 2010 is also based on the same approach, as already stated in the Order.

- (d). The point made by the SWPL that the maintenance cost will increase with ageing of the equipment is reiteration of its earlier submissions. This point has already been dealt with in the Order.

Purchase order of ₹ 62 lakhs for replacement of conveyor belt referred by the SWPL in the year 2010-11 seems to be an expenditure, the effect of which will be available to the business for more than one year. This item of expense will, however, be reckoned suitably during the review of actual physical and financial performance with the estimates considered in the next tariff review/ revision cycle.

(ii). **Operating and Direct Labour cost for Cargo handling operations outsourced by SWPL:**

A. Relevant part of [Para 13 (xiii) (b) of the Order dated 3 November 2010]

- (b). *As per the outsourcing contract dated 10 April 2010 furnished by the SWPL, the outsourcing rate for the operation and maintenance is Rs.40/- per tonne for handling coke and coal and Rs.90/- per tonne for steel coil and slab as against existing unit rate of Rs.30.82 and Rs.75 per tonne shown in its working for the year 2009-10. The increase in the unit rate is thus 30% for coal and 20% HR coils which is found to be beyond the admissible annual escalation of 3.76%.*

On perusal of the copy of the contract furnished, it is observed that the outsourcing contract awarded is to JSW Infrastructure Limited which is one of the group companies of the SWPL. Though SWPL has furnished a copy of the quotation of other agencies which is higher than the rates quoted by JSW Infrastructure Limited, in the absence of the SWPL furnishing any corroborate evidence to establish the arms length relationship of this transaction, it is not found appropriate to allow steep hike in the unit rate for this item.

The estimated operating and direct labour cost for the year 2010-11 is revised taking the actuals reported in the year 2009-10 as per the Annual Accounts less the payment made to the MOPT towards CHLD levy as the base and adjusted for the traffic growth and the annual escalation of 3.76% is allowed. The same approach is followed for estimating the operating and direct labour cost for the subsequent two years.

B. Submissions by SWPL in the review application

- (a). The SWPL has outsourced the cargo handling operations to various contractors. The handling rates offered to the contractors were fixed for the period 2007 to 2010 and no hike was offered to the contractors though WPI has escalated by almost 20.5% during 2007-10. The handling rates have been revised from 1 April 2010 as per the revised outsourcing contract.
- (b). TAMP has observed in its Order that SWPL has awarded the cargo handling contract to JSW Infrastructure Limited, as the rate quoted by them is lower than the rates quoted by other competing agencies. But, despite this, TAMP has not allowed the costs at the enhanced cargo handling rates being incurred by SWPL since April 2010 for want of evidence to establish arms length relationship of this transaction.
- (c). As for justification of arms length price of any transaction, attention is invited to Section 92 of the Income Tax Act 1961 wherein Comparable Uncontrolled Price (CUP) method is most widely accepted by Income Tax department for determining the arms length price of a transaction.
- (d). In order to support the arms length nature of the rate agreed between SWPL and JSWIL, copies of quotes from various unrelated, uncontrolled vendors as well as copies of job order entered into between SWPL and JSWIL for Jaigarh Port and copy of order entered into between SKS Ispat & Power and KR Sons Pvt. Ltd. for Vizag Port have been furnished by SWPL alongwith its review application. During the proceedings of the general revision proposal, the SWPL had vide letter dated 31 August 2010 also forwarded copies of the orders/ quotation of few other vendors.
- (e). The SWPL has further stated that the Income Tax Assessment of SWPL for AY 2008-09 has been completed and there is no objection with regard to the pricing of JSW Infrastructure Ltd's (JSWIL) contract. It has furnished the Income Tax Assessment Order for the year 2008-09. SWPL and JSWIL being private companies having some common Directors, section 297A of the Companies Act 1956 is applicable. The order placed by SWPL on JSWIL is entered at a market price has been accepted by the Statutory Auditors in Annual Accounts, copies of which are available with TAMP. SWPL is a Minimum Alternate Tax (MAT) paying company and JSWIL is a normal Tax paying company i.e., the applicable tax rate for SWPL is lower than that of JSWIL. Higher earnings of JSWIL at the cost of SWPL through increased cargo handling charges means higher tax outgo for JSW group.
- (f). The SWPL has subsequently vide letter dated 2 February 2011 forwarded a statement of invoice alongwith invoice copies raised by Jindal Steel Works for handling coal and steel at berth nos.5A and 6A at SWPL for the period April 2010 onwards till 31 December 2010 to substantiate the revised contract rates for outsourcing contract implemented at the terminal. It has also forwarded Certificate of Independent Chartered Accountant certifying the payments made by SWPL on the bills raised by JSW Infrastructure Limited in this regard.

C. Analysis:

- (a). The SWPL vide its letter dated 31 August 2010 during tariff revision of its Scale of Rates had submitted copy of the contract dated 10 April 2010 entered by it with the JSWIL for cargo handling operations. Though the contract was entered by the SWPL in April 2010, the workings furnished by the SWPL in its earlier revised proposal dated 23 June 2010 for revision of its Scale of Rates reveal that the revised contract rates were not taken into account to estimate the operating and direct labour cost. The SWPL had estimated this cost item for the year 2010-11 applying the unit rate of ₹ 33/- tonne for handling coal/ coke/ limestone at berth no.6A and ₹ 78.50 tonne for handling HR coils/ slabs at berth no.5A and for the subsequent years 3.76% annual escalation was applied in the unit rate.
- (b). The effect of the revised contract rate for cargo handling operations outsourced by the SWPL was not considered by this Authority while estimating the operating and direct labour cost only on the ground that no corroborate evidence was furnished by the SWPL to establish arms length relationship of said transaction between the SWPL and the JSWIL. In the Order of November 2010, the operating and direct labour cost has been estimated taking the actual cost incurred in 2009-10 excluding the payment made to the MOPT towards CHLD levy as the base and adjusted for the traffic growth and the annual escalation of 3.76% was allowed.
- (c). Alongwith the review application, the SWPL has submitted documents to establish arms length relationship of the transaction between the SWPL and the JSWIL. It has submitted a copy of Income Tax Assessment for AY 2008-09 and stated that there is no objection in the IT Assessment with regard to the pricing of JSW Infrastructure Ltd's (JSWIL) contract.
- It has furnished copies of the job order issued to the JSWIL by Jaigarh Port in September 2009 where the rate quoted is ₹ 40 per tonne for import cargo (upto 2 Million Tonnes per annum) with sliding rates for increase in the volume and ₹ 75 per tonne for handling export cargo - steel coils/ slabs. In support of arms length nature of the transaction, it has also forwarded copies of orders of unrelated and uncontrolled vendors between SKS Ispat & Power and KR Sons Pvt. Ltd. for Vizag Port which shows the rate for handling steam coal at ₹ 132 per tonne. The rates quoted by other vendors to JSWIL for operations at the SWPL furnished by the SWPL during the tariff revision proceedings of November 2010 are found to be in the range of ₹ 45.50 to 68 per tonne for coal/limestone handling and ₹ 108.50 to 118/- per tonne for handling steel coils/ slabs. Apart from the above, it has also furnished copies of invoices raised by SWPL applying the revised contract rate applicable from 1 April 2010 along with certificate from Chartered Accountant certifying the payment made by SWPL is based on the revised contract rate w.e.f. 1 April 2010.
- (d). Relying on the documents now submitted by the SWPL establishing arms length relationship of the transaction entered between SWPL and JSWIL for outsourcing of cargo handling operation, there is a case to review this item of cost considered in the last tariff Order of November 2010.
- (e). The estimates of operating and direct labour are modified based on the revised contract rate effective from 1 April 2010 i.e. ₹ 40/- tonne for handling coal/ limestone and ₹ 90/- tonne for HR Coil slabs for the years 2010-11 to 2012-13. As per the contract, the revised rate are effective for three years hence the unit rate is applied uniformly for all the three years without any annual escalation otherwise considered for estimating the cost. For this purpose, the estimated throughput for the years 2010-11 to 2012-13 is maintained at the level considered in the last tariff Order of November 2010.

- (f). The revised operating and direct labour cost thus estimated is ₹ 1990 lakhs, ₹ 2160 lakhs and ₹ 2425 lakhs for the years 2010-11 to 2012-13 as against ₹ 1444 lakhs, ₹ 1602 lakhs and ₹ 1876 lakhs considered in the tariff Order of November 2010.

(iii). **Adjustments of surplus in subsequent periods:**

A. Relevant part of [Para 13 (v) (f)] and para 13 (vi) (a), (b) of the Order dated 3 November 2010 relating to adjustment of past surplus and paragraph 14.3 of the Order

Adjustment of past surplus Para 13 (v) (f)

- (f). *The variation in the financial performance in terms actual return earned by SWPL is found to be more than +/- 20%. Hence, as per clause 2.13 of the tariff guidelines, 50% of the surplus earned during the period 2007-08 to 2009-10 is considered for adjustment in this tariff cycle. Incidentally, SWPL has itself proposed adjustment of 50% of past surplus over the next 3 years. Based on our analysis, the quantum of past surplus proposed for adjustment has, however, undergone a change.*

Para 13(vi) (a) and (b)

- (a). *In the last tariff review, the surplus for the (then) previous three years i.e. 2004-05 to 2006-07 was assessed at Rs.431 lakhs which was based on the actual position reported for the years 2004-05 and 2005-06 and the estimates for the year 2006-07, subject to the condition that the actuals for the year 2006-07 would be reviewed in the next tariff cycle and if the variation is more than the level prescribed in the tariff guidelines it would be adjusted in the next tariff cycle. Overall review of 2006-07 based on actuals shows a surplus of Rs.1089 lakhs as against deficit of Rs.2002 lakhs assessed in the last tariff revision. The net gain assessed for the years 2004-06 to 2006-07 relying on the estimates for the year 2006-07 would have been Rs.3523 lakhs as against Rs.432 lakhs assessed in the last tariff Order and considered for adjustment following the tariff guidelines. Effectively, the net differential benefit accrued to SWPL relying on the estimates of 2006-07 vis-à-vis the actuals is Rs.3091 lakhs. As stated in the last tariff and following the tariff guidelines 2005, 50% thereof i.e. Rs.1545.50 lakhs is considered for adjustment.*
- (b). *To summarise, the net surplus for the years 2006-07 to 2009-10 considered for adjustment in the current tariff cycle is as follows:*

(Rs. in lakhs)

Aggregate of net surplus earned by SWPL for the years 2007-08 to 2009-10 (after allowing admissible return on capital employed of 15%)	2007-08	1317	3960
	2008-09	1370	
	2009-10	1273	
Net gain earned in the year 2006-07 based on the review of actuals flowing from the decision in September 2004 Order			3091
Total Surplus for Adjustment in the future tariff cycle			7051
50% of the net surplus pertaining to the past period 2006-07 to 2009-10 adjusted in three years in the current tariff cycle			3525.40

Para 14.3 of the Order

14.3. *The tariff of the SWPL has been fixed relying on the information furnished by the operator and based on various assumptions made as explained in the analysis. If this Authority at any time during the prescribed tariff validity*

period, finds that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, it may require the SWPL to file a proposal ahead of the schedule to review its tariff and to set off fully the advantage accrued on account of such variations in the revised tariff.

B. Submissions by SWPL in the review application

- (a). Stipulation in para 14.3 of the order states that the advantage accrued to SWPL is liable to be set off fully while deciding tariff for the next cycle which is contrary to the para 2.13 of the tariff guidelines 2005. Moreover, Clause 2.4.1 also states that the maximum possible adjustment on account of cost reduction in subsequent tariff fixation is 50% of the surplus thus generated.
- (b). Even though this Authority has effected adjustments while setting the tariff, it has been mentioned at various places in the order that for subsequent tariff fixation 100% of the surplus generated shall be considered which is against the provisions of the TAMP guidelines and surplus, if any, can be adjusted to the extent of only 50%, as envisioned in the TAMP guidelines.

C. Analysis

- (a). As rightly stated by the MOPT and also admitted by SWPL, 50% of the past surplus has only been considered for adjustment in the November 2010 over the tariff cycle of three years. This is in line with clause 2.13. of the 2005 tariff guidelines.
- (b). Mention about adjustment of entire additional accrual in the next tariff revision made at some places in the tariff Order is only in respect of some estimates which are allowed based on the position reported by the SWPL or based on certain assumption without any scope for verification. The gist of these items mentioned in the Order about adjustment of entire accrual in the next tariff review is given hereunder:
 - (i). Para 13 (xv) of the Order: In case of maintenance dredging cost, there is some dispute between the Mormugao Port Trust (MOPT) and the SWPL and the matter has been referred to the arbitrator and is still pending for settlement. The Order states that the maintenance dredging cost estimated for the year 2010-11 based on the bill raised by the MOPT is higher than the past actuals. Hence while admitting this item of expense, it is stated that at the time of the next tariff review, if it is found that the actual cost reimbursed to the MOPT is less than the estimates considered in this analysis or the decision of the ongoing arbitration process is different from the assumption made in this analysis, then the excess estimates considered in the Order will be set off fully. (reference para (xv) of the Order).
 - (ii). Para(ix)(a) of the Order: The said para states some doubt still persists on the actual berth hire income for 2009-10 as it could not be tallied by adopting the productivity parameters furnished by SWPL. Since the berth hire income estimated in the analysis is solely relying on the vessel parameters and the productivity furnished by the SWPL, it is stated that if at the time of the next tariff revision, the actuals of the parameters which are relied upon for estimating the berth hire are found to be significantly varying, the additional revenue accrual will be fully set off in the next tariff revision.

- (iii). Para (xxiv) of the Order: It is held that the deficit arising in the year 2012-13 is contributed by the financial effect of the proposed additional assets i.e. in-motion wagon loading system, single rail line with related assets, reclaimers and replacement of 2 ship unloaders assumed to be in place at the beginning of the financial year 2012-13. Hence, the Order states that if these assets are not commissioned as presumed in the analysis, ahead of schedule review of SWPL tariff will be carried out duly adjusting the surplus accrued to them in the years 2010-11 and 2011-12.

Thus, in the above specific cases where there is some doubt on the presumption/ estimates considered in the analysis, the Order states that if the parameters/ assumptions relied upon for estimating are found to be significantly varying at the time of next review, the additional revenue accruing thereof will be fully set off in the next tariff revision.

- (c). As regards the stipulation in para 14.3. of the SWPL Order, it is a standard para stipulated in the tariff Orders of all Major Port Trusts as well as Private Terminals operating thereat. The said para was also prescribed in the pre-revised tariff Order No.TAMP/19/2006-SWPL dated 29 December 2006 of the SWPL.

It has to be recognised that the tariff are fixed relying on the information furnished by the port/ operators and based on various assumptions. Hence a standard stipulation is made in all the general revision orders of Major Port Trusts/ Private Terminal that if any time during the prescribed tariff validity period it is found that the actual position varies substantially from the estimations considered or there is deviation from the assumptions accepted herein, it may require the port/ operator to file a proposal ahead of the schedule to review its tariff and to set off fully the advantage accrued on account of such variations in the revised.

The stipulation in para 14.3. of the Order is only to take care of such exceptional situation when SWPL chooses not to adhere to the conditions imposed by the said Order.

Thus, there is no apparent error as such on the face of the record pointed out by the SWPL warranting review of the earlier decision.

It may, however, be clarified that the provisions of clause 2.13. of the tariff guidelines will be followed in the normal circumstances while reviewing the actual physical and financial performance of SWPL at the end of the prescribed tariff validity period with reference to the estimates relied upon except in a few cases for reasons stated in the Order.

11.1. In the light of the analysis given above, the estimated operating and direct labour cost considered in the tariff Order of November 2010 has been revised. Since review is warranted only in respect of operating and direct labour cost, all the other items of estimates are maintained at the level considered in November 2010 Order. This means, the income estimates considered in the cost statement is with reference to the then prevailing rates i.e. the Scale of Rates of December 2006. The cost position at the pre-revised tariff level i.e. of December 2006 Order is as follows:

(₹ in lakhs)					
Sl. No.	Particulars	2010-11	2011-12	2012-13	Total
(i).	Overall net surplus/ deficit as per Annex I (a) assessed in November 2010 tariff Order	877	1251	(-)398	1730
(ii).	Operating and direct labour cost estimated in the tariff Order of November 2010 [Sr. No II (i)]	1444	1602	1876	4922
(iii).	Revised operating and direct labour cost as per revised contract rate	1990	2160	2425	6575
(iv).	Impact of revised operating and direct labour cost (iii – ii)	546	558	549	1653
(v).	Revised net surplus/ deficit (i-iv)	330	693	(-)947	76
(vi).	Net Surplus/ Deficit as a % of operating income	4.1%	8.2%	(-)9.9%	0.3%

11.2. The consolidated cost statement and main activity-wise cost statement has been revised to that extent and is attached as **[Annex - I (a) to (c)]**. The summarised position of results disclosed by the modified cost statement is tabulated below:

Sr. No.	Particulars	Operating Income (₹ in lakhs)				Net Surplus (+) / Deficit (-) (₹ in lakhs)				Net Surplus (+) / Deficit (-) as a % of operating Income			Avg. surplus/ deficit %
		2010-11	2011-12	2012-13	Total	2010-11	2011-12	2012-13	Total	2010-11	2011-12	2012-13	
1.	Consolidated cost statement for the terminal as a whole	7990	8459	9599	26048	330	693	(-)947	76	4.1%	8.2%	(-)9.9%	0.3%
2.	Cargo handling Activity	5959	6338	7188	19485	455	723	(-)1241	(-)63	7.6%	11.4%	(-)17.3%	(-)0.3%
3.	Berth hire activity	2031	2121	2411	6562	(-)124	(-)30	294	139	(-)6.1%	(-)1.4%	12.2%	2.1%

11.3. The revised cost statement reflects an overall surplus of ₹ 76 lakhs for the years 2010-11 to 2012-13 and in terms of percentage it is 0.3%. As stated earlier, the said surplus reflected in the cost statement is with reference to the operating income realisable at the tariff approved in December 2006. It is stated here that the impact of 9.5% reduction in the tariff effected in the November 2010 Order is not been considered in the cost statement. The total surplus of ₹ 76 lakhs estimated for the period 2010-11 to 2012-13 based on the current review application may not arise if the revenue effect of the operation of the reduced tariff for the said period is considered. The exact position can be assessed while reviewing the actual physical / financial performance in the next tariff cycle. In view of the position explained above, the tariff of the SWPL is prescribed at the level prevailing prior to the revision of November 2010 Order i.e. at the level prescribed in the tariff Order of 29 December 2006.

11.4. The SWPL has requested to approve the decision with reference to its review application with prospective effect citing the difficulty expressed by the vessel agents to recover the differential bill. That being so, this Order is given prospective effect as requested by the SWPL. As stated earlier, the impact of reduction in the tariff effected by this Authority which presumably would have been implemented by the SWPL from 1 January 2011 has not been considered as part of the review proceedings. It will be analysed while reviewing the actual physical/ financial performance during the next tariff cycle.

11.5. Ordinarily the Orders approved by this Authority are implemented 30 days after the date of notification of the Order in the Gazette. In the instant case as the review warrants to maintain status quo in the 2006 tariff as against 9.5% reduction effected by this Authority in November 2010 Order, the revised Scale of Rates is made effective from the date of its notification in the Gazette.

12. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the revised Scale of Rates of SWPL attached as **Annex - II**.

(Rani Jadhav)
Chairperson

Consolidated Cost statement of South West Port Limited

Rs. in lakhs

Sl. No	Particulars	A C T U A L S			Estimates furnished by SWPL at the tariff approved in December 2006 Order			Estimates of SWPL modified by TAMP		
		2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
	Traffic (in MTs)	4.40	4.63	4.32	4.35	4.65	5.25	4.35	4.65	5.25
	Capacity Utilization	88.0%	92.6%	86.5%	87.0%	93.0%	105.0%	87.0%	93.0%	105.0%
I	Total operating Income									
	(i). Cargo Handling Income	6,838	6,663	6,297	5,925	6,309	7,145	5,958	6,337	7,187
	(ii). Vessel related income	2,498	2,924	2,919	2,046	2,174	2,462	2,031	2,121	2,411
	(iii). Other Income	3	1	54				1.50	1.50	1.50
	Total (i to iii)	9,339	9,588	9,270	7,971	8,483	9,606	7,990	8,459	9,599
II	Operating Costs									
	(i). Operating & Direct Labour	1,462	1,462	1,382	1,663	1,877	2,188	1,990	2,160	2,425
	(ii). Repairs & Maintenance	248	471	371	511	692	728	392	408	548
	(iii). Equipment Running Costs	405	433	412	670	636	647	447	504	655
	(iv). Maintenance dredging	7	37	26	147	153	158	147	152	158
	(v). Royalty / revenue share	896	873	825	776	826	936	780	830	941
	(vi). Lease Rentals to Port	226	237	335	352	369	388	352	369	388
	(vii). Insurance	98	132	122	140	147	181	143	143	181
	(viii). Other expenses	12	21	23	24	25	26	24	25	26
	Total (i to viii)	3,352	3,665	3,496	4,282	4,726	5,252	4,275	4,592	5,322
III	Depreciation	1,448	1,521	1,546	1,585	1,889	2,250	1,583	1,588	2,261
IV	Overheads									
	(i). Mangement & Administration overheads	344	418	521	573	630	693	541	561	582
	(ii). General Overheads	50	63	84	87	90	94	87	90	94
	(iii). Preliminary & Upfront payment write-off	37	37	37	10	10	10	37	37	37
	Total (i to iii)	431	518	642	670	730	797	665	688	713
	Total Expenses	5,231	5,705	5,684	6,537	7,345	8,299	6,523	6,868	8,296
V	Operating Surplus/(Deficit) -(I - II - III - IV)	4,107	3,884	3,586	1,434	1,138	1,308	1,467	1,591	1,303
VI	Finance & Miscellaneous Income (FMI)									
	(i). Other Income	5	65.53	45.44	-	-	-	-	-	-
	(ii). Credit back of Security Deposit refundable at the end of the project period	0.3	0.4	0.4	0.2	0.2	0.2	0.46	0.51	0.57
	Subtotal FMI	5.12	65.93	45.84	0.2	0.2	0.2	0.5	0.5	0.6
VII	Finance & Miscellaneous Expenses (FME)	-	-	-	-	-	-	-	-	-
VIII	FMI less FME (VI - VII)	5.1	65.9	45.8	0.2	0.2	0.2	(0.5)	(0.5)	(0.6)
IX	Surplus / Deficit	4,112	3,949	3,632	1,434	1,138	1,308	1,468	1,591	1,304
X	Net Capital Employed	18,639	17,197	15,723	19,043	24,267	23,717	14,457	12,962	21,411

Sl. No	Particulars	A C T U A L S			Estimates furnished by SWPL at the tariff approved in December 2006 Order			Estimates of SWPL modified by TAMP		
		2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
XI	RoCE for the past period @ 15% for the years 2007-08 to 2009-10 as per the last Order. ROCE @ 16% in the current exercise	2,796	2,580	2,358	3,047	3,883	3,795	2,313	2,074	3,426
XII	RoCE adjusted for capacity utilization	2,796	2,580	2,358	3,047	3,883	3,795	2,313	2,074	3,426
XIII	Net Surplus / (Deficit) [IX-XII]	1,317	1,370	1,273	(1,613)	(2,744)	(2,487)	(845.29)	(482)	(2,122)
XIV	Total Surplus for the year 2006-07 based on review of actuals vis-à-vis the estimates considered in the last Order and the surplus accrued in 2007-08 to 2009-10 based on actuals							7,051		
XV	50% of the surplus for the years 2006-07 and 2007-08 to 2009-10 considered for adjustment. (SWPL has considered to adjust 50% of the surplus assessed by it for the years 2007-08 to 2009-10)				1,488			3,525.4		
XVI	Adjustment of 50% of gain accrued in three years				248	248	248	1,175.12	1,175.12	1,175.12
XVII	Net Surplus / (Deficit) after adjustment of past Surplus				(1,365)	(2,496)	(2,239)	330	693	(947)
XVIII	Net Surplus / (Deficit) as a % of operating income				-17%	-29%	-23%	4.1%	8.2%	-9.9%
XIX	Average net surplus / deficit for the three years 2010-11 till 2012-13					-23%		0.3%		

Cost Statement for Cargo Handling Activity

Rs. in lakhs

Sr. No.	Particulars	Estimated by SWPL at the tariff approved in December 2006 Order			Modified Estimates by TAMP		
		2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
	Cargo	4.35	4.65	5.25	4.35	4.65	5.25
I	Operating Income						
	Cargo handling income	5,925	6,309	7,145	5,958	6,337	7,187
	Other income	-	-	-	1.50	1.50	1.50
	Operating Income	5,925	6,309	7,145	5959	6338	7188
II	Direct Operating Expenses						
	(i). Operating & Direct Labour	1,593	1,770	2,077	1,920	2,036	2,302
	(ii). Repairs & Maintenance + Labour	361	542	578	292	308	448
	(iii). Equipment Running Costs	670	636	647	447	504	655
	(iv). Royalty / revenue share	776	826	936	780	830	941
	(v). Lease Rentals as per concession agreement	140	147	154	140	147	154
	(vi). Insurance	79	99	123	82	95	123
	(vii). Other expenses	24	25	26	24	25	26
	Total	3,643	4,045	4,541	3,686	3,945	4,650
III	Depreciation	1,164	1,468	1,829	1,162	1,167	1,840
IV	Allocated share of Overheads						
	(i). Management & Admin overheads	426	469	516	402	417	433
	(ii). General Overheads	65	67	70	65	67	70
	(iii). Preliminary expenses & Upfront Payment write-off	10	10	10	37	37	37
	Total	500	545	595	503	521	539
V	Operating Surplus (I) – (II) – (III) - (IV)	619	250	180	608	705	159
VI	Credit back of Security deposit	-	-	-	0.46	0.51	0.57
VII	Surplus / deficit	619	250	180	609	705	160
VIII	Capital Employed for the activity	10,702	16,325	16,148	6,459	5,384	14,245
IX	RoCE-Maximum permissible (16%)	1,712	2,612	2,584	1,033	861	2,279
X	RoCE adjusted for Capacity utilization	1,712	2,612	2,584	1,033	861	2,279
XI	Net Surplus / (Deficit) (VII) - (X)	(1,094)	(2,362)	(2,404)	(424)	(156)	(2,119)
XII	Surplus / deficit gain accrued in 2006-07 and 2007-08 to 2009-10 considered for adjustment by us. The SWPL has considered to adjust the surplus assessed by it for the years 2007-08 to 2009-10.		628		2,636		
XIII	Adjustment of gain accrued over three years beginning from 2010-11.	105	105	105	879	879	879
XIV	Net Surplus / (Deficit) after adjustment of past Surplus	(989)	(2,257)	(2,299)	455	723	(1,241)
XV	Net Surplus / (Deficit) as a % of operating income	-16.7%	-35.8%	-32.2%	7.6%	11.4%	-17.3%
XVI	Average net surplus / deficit for the three years 2010-11 till 2012-13	-28%			-0.3%		

Cost statement for Berth Hire Activity

Rs. in lakhs

Sr. No.	Particulars	Estimated by SWPL at the tariff approved in December 2006 Order			Modified Estimates by TAMP		
		2010-11	2011-12	2012-13	2010-11	2011-12	2012-13
I	Operating Income						
	Berth Hire	2046	2174	2462	2031	2121	2411
	Total Revenue	2,046	2,174	2,462	2,031	2,121	2,411
II	Direct Operating Expenses						
	(i). Operating & Direct Labour	70	108	111	70	124	123
	(ii). Repairs & Maintenance incl. Labour	150	150	150	100	100	100
	(iii). Maintenance dredging	147	153	158	147	152	158
	(iv). Lease Rentals payable as per concession agreement (water area 60500 sq mtr)	211	222	233	211	222	233
	(v). Insurance	61	48	58	61	48	58
	Total	640	681	711	590	647	672
III	Depreciation	421	421	421	421	421	421
IV	Allocated share of Overheads						
	(i). Management & Administration overheads	147	162	178	139	144	149
	(ii). General Overheads	22	23	24	22	23	24
	Total	169	185	202	161	167	173
	Total Expenses						
V	Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)	816	888	1128	859	886	1144
VI	Allocated FME Less FMI	0	0	0	0	0	0
VII	Surplus / deficit	816	888	1128	859	886	1144
VIII	Capital Employed for the activity	8339	7940	7567	7998	7579	7166
IX	ROCE - Maximum permissible (16%)	1334	1270	1211	1280	1213	1146
X	RoCE adjusted for Capacity utilization	1334	1270	1211	1280	1213	1146
XI	Net Surplus/ (Deficit) (VII) - (X)	(519)	(383)	(83)	(421)	(327)	(3)
XII	Surplus / deficit gain accrued in 2006-07 and 2007-08 to 2009-10 considered for adjustment by us. The SWPL has considered to adjust the surplus assessed by it for the years 2007-08 to 2009-10.		860		889		
XIII	Adjustment of gain accrued over three years beginning from 2010-11.	143	143	143	296	296	296
XIV	Net Surplus / (Deficit) after adjustment of past Surplus	(375)	(239)	61	(124)	(30)	294
XV	Net Surplus / (Deficit) as a % of operating income	-18.3%	-11.0%	2.5%	-6.1%	-1.4%	12.2%
XVI	Average net surplus / deficit for the three years 2010-11 till 2012-13	-9.0%			2.1%		

SOUTH WEST PORT LIMITED

SCALE OF RATES

1. DEFINITIONS - GENERAL

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

- (i). **“Per Day”** means per calendar day unless otherwise stated.
- (ii). **“SWPL”** means South West Port Limited a company incorporated in India, its successors and assigns.
- (iii). **“Port”** means the Mormugao Port Trust (MOPT) whereas **“Terminal”** means South West Port Limited (SWPL), now or hereafter operated by South West Port Limited.
- (iv). **“Coastal Vessel”** means any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal license issued by the competent authority.
- (v). **“Coastal Cargo”** means any cargo, which the vessel discharges at one Indian port after shipment from another Indian port or vice versa irrespective of its actual origin or destination.
- (vi). **“Foreign Cargo”** means any cargo other than coastal cargo.
- (vii). **“Foreign-going Vessel”** means any vessel other than a coastal vessel.
- (viii). **“Tonne”** or **“MT”** means one Metric Tonne of 1,000 kilograms or one cubic metre.

2. GENERAL TERMS AND CONDITIONS

- (i). The Status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, is the relevant factor to decide whether vessel is ‘coastal’ or ‘foreign-going’ category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.
- (ii).
 - (a). A foreign-going vessel of Indian flag having a General Trading License can convert to coastal run on the basis of a Customs Conversion Order.
 - (b). A foreign-going vessel of foreign flag can convert to coastal run on the basis of a Coastal Voyage License issued by the Director General of Shipping, Government of India only.
 - (c). In cases of such conversion, Coastal rates shall be payable from the time the vessel starts loading coastal goods.
 - (d). In cases of such conversion, coastal rates shall be chargeable only till the vessel completes coastal cargo discharging operations; immediately thereafter, foreign going rates shall be chargeable.
 - (e). For dedicated Indian coastal vessels having a Coastal License from the Director General of Shipping, no other documents will be required to be entitled for coastal rates.
- (iii). Wherever rates of vessel related charges have been denominated in US dollar terms the charges shall be recovered in Indian Rupees after conversion of US currency to its equivalent Indian Rupees at the market-buying rate notified by the Reserve Bank of India, State Bank of India or its Associates or any other Public Sector Banks as may be specified from time to time. The date of entry of the vessel into the port shall be reckoned with as the day for such conversion.

- (iv). A regular review of exchange rate shall be made once in thirty days from the date of arrival of the vessels in cases of vessels staying in the port for more than thirty days. In such cases, the basis of billing shall change prospectively with reference to the appropriate exchange rate prevailing at the time of the review.
- (v).
 - (a). The cargo related charges for all coastal cargo, other than thermal coal, POL including crude oil, iron ore and iron pellets, should not exceed 60% of the normal cargo / container related charges.
 - (b). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship-shore transfer and transfer from / to quay to/ from storage yard including wharfage.
 - (c). Cargo from a foreign port, which reaches an Indian Port 'A' for subsequent transshipment to Indian Port 'B' will be, levied the concessional charges relevant for its coastal voyage. In other words, cargo from / to Indian ports carried by vessel permitted to undertake coastal voyage will qualify for the concession.
 - (d). The charges for coastal cargo / vessels shall be denominated and collected in "Indian Rupee".
- (vi). For the purpose of calculating the dues the unit by weight shall be 1 tonne or 1000 kilograms, the unit by volume measurement shall be 1 cubic metre and the unit by capacity measurement for liquids in bulk shall be 1000 litres.
- (vii). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.5 shall be taken as 0.5 unit and fractions of 0.5 and above shall be treated as one unit, except where otherwise specified.
- (viii). Interest on delayed payments / refunds:
 - (a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the SWPL shall pay penal interest on delayed refunds.
 - (b). The rate of penal interest will be 14.25%. The penal interest rate will apply to both the SWPL and the port users equally.
 - (c). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the SWPL. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act and / or where payment of charges in advance is prescribed in this Scale of Rates.
 - (d). The delay in refunds will be counted only 20 days after the date of completion of services or on production of all the documents required from the users, whichever is later.
- (ix). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
- (x).
 - (a). The rates prescribed in the Scale of Rates are ceiling levels, likewise, rebates and discounts are floor levels. The SWPL may, if it so desires, charge lower rates and / or allow higher rebates and discounts.
 - (b). The SWPL may also, if they so desire, 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 SWPL 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.

- (xi). Users will not be required to pay charges for delays beyond reasonable level attributable to the SWPL.

PART I - VESSEL RELATED CHARGES

SECTION – A – PORT DUES and SECTION – B – PILOTAGE FEES

These services will be rendered to the vessels entering the SWPL's berth numbers 5A and 6A by the Mormugao Port Trust as per their approved Scale of Rates. The charges shall be payable directly to the Mormugao Port Trust by masters / owners / agents of the vessel.

SECTION - C - BERTH HIRE CHARGES

Berth Hire Charges at Berth numbers 5A and 6A shall be payable to SWPL by masters / owners / agents of the vessel at the following rates.

BERTH NO.5A **(Maximum LOA of Vessel 190 mtrs. in conjunction with another vessel of** **LOA 225 mtrs. at Berth No.6A)**

Sl. No.	Class of Vessel	Rate per GRT per hour or part thereof	
		Foreign going Vessel (in US \$)	Coastal Vessels (in ₹)
1.	All Vessels	0.0125	0.34

BERTH NO.6A **(Under Mechanised Operation system)**

Sl. No.	Class of Vessel	Rate per GRT per hour or part thereof	
		Foreign going Vessel (in US \$)	Coastal Vessels (in ₹)
1.	Upto 30,000 GRT	0.0275	0.75
2.	30,001 GRT and above	0.0325	0.87

Notes:

- (1). Berth Hire charges includes charges for services rendered and facilities provided at the Berth, such as occupation of berth, overtime at berth, removal of rubbish collected on board by the vessel and delivered on the wharf, cleaning of Berths, fire watch, etc.
- (2). The above charges are leviable against Masters, Owners or Agents of vessels and other floating craft approaching or lying at or alongside berths per GRT per hour or part thereof.
- (3). The Berth hire charges leviable per vessel is subject to a minimum of US\$ 650.00 in case of foreign going vessel and ₹ 17,402 in case of coastal vessel.
- (4). The period of berth hire shall be calculated from the time the vessel occupies the berth.
- (5). No berth hire charges shall be payable for the period when loading / unloading operations cannot be carried out due to non-availability of the shore cranes / mechanical handling system of SWPL, due to breakdown or any other reason attributable to SWPL.
- (6).
 - (i). Berth hire shall stop 4 hours after the time of vessel signaling its readiness to sail.
 - (ii). The time limit of 4 hours prescribed for the cessation of berth hire shall exclude the ship's waiting time for want of favorable tide conditions, inclement weather, and due to lack of night navigation.
 - (iii). The master / agent of the vessel shall signal readiness to sail only in accordance with favorable tidal and weather conditions.

- (iv). The Penal Berth hire shall be equaled to one-day's (24 hours) berth hire charge for a false signal.
"False signal" would be when the vessel signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reasons attributable to the vessels. This excludes the signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions."
- (7). The de-ballasting time allowed at berth numbers 5A and 6A shall be 3 hours and beyond that penal berth hire charges shall be levied at five times the normal berth hire charges, the incidence being reduced to per hour or part thereof, that may be applicable to the vessel. This will be in addition to the normal berth hire charges applicable for the entire duration of the vessel's stay at the berth.
- (8). Vessels banked on offside of another vessel at these berths, berth hire charges shall be 50% of normal charges payable by such vessels.
- (9). The provisions of the License Agreement shall govern priority Berthing and charges on it, if any. Whenever the priority berthing is granted to a vessel, a fee equivalent to Berth Hire charges for a single day (24 hours) or @ 75% of the Berth Hire charges calculated for the total period of actual stay at the Berth, whichever is higher, shall be levied.
- (10). (i). For providing ousting priority to a vessel, a fee equivalent to berth hire charges for a single day (24 hours) or @100% of the berth hire charges calculated for the total period of actual stay of the vessels at berth, whichever is higher, shall be levied.
- (ii). In addition, shifting out / in charges of the vessels shall be levied on the vessels, which are provided ousting priority.
- (iii). Ousting priority at berth no.6A will be accorded only when a discharge / load rate of 25,000 MT of cargo per weather working day cannot be achieved due to restrictions placed by the vessels.

SECTION – D

CHARGES FOR SUPPLY OF WATER TO VESSELS AND MISCELLANEOUS SERVICES

Charges for water supplied to vessels shall be payable to by masters / owners / agents of the vessel at the following rates:

Sl. No.	Particulars	Rate per 1000 litres	
		Foreign-going Vessel (in US\$)	Coastal Vessel (in ₹)
1.	At Berth	3.65402	97.85

PART - II CARGO RELATED CHARGES

SECTION – A WHARFAGE CHARGES AT BERTH NOS. 5A AND 6A

Wharfage on the cargo handled at berths numbers 5A and 6A shall be payable directly to SWPL, at the rates specified below, by importer or exporter of cargo, on the manifested quantity of cargo, which is declared in the Bill of entry filed with the Customs:

Sl. No.	Particulars of Commodity	Unit	Rate for Import / Export (in ₹)	
			Foreign Cargo	Coastal Cargo
1.	Coal (all types except thermal coal)	MT	30.00	18.00
2.	Metallurgical Coke / Coke / Charcoal	MT	45.00	27.00
3.	Limestone	MT	10.00	6.00
4.	Iron Ore Pellets	MT	30.00	30.00
5.	Metal products, Steel Coils, Slabs	MT	30.00	18.00
6.	Any other bulk cargo not specified above	MT	30.00	18.00

SECTION - B

CARGO HANDLING CHARGES

Cargo Handling Charges at Berth numbers 5A and 6A shall be payable on the manifested cargo directly to SWPL by importer or exporter of cargo at the rates specified below:

At Berth No.5A

Sl. No.	Particulars of Commodity	Unit	Rate for Import / Export (in ₹)	
			Foreign Cargo	Coastal Cargo
1.	Iron Ore Pellets	MT	140.00	140.00
2.	Metal products, Steel Coils, Slabs	MT	159.00	95.40
3.	Any other bulk cargo not specified above	MT	150.00	90.00

At Berth No.6A

Sl. No.	Particulars of Commodity	Unit	Rate for Import / Export (in ₹)	
			Foreign Cargo	Coastal Cargo
1.	Coal (all types except thermal coal)	MT	100.70	60.40
2.	Metallurgical Coke / Coke (all types)/Charcoal	MT	143.10	85.85
3.	Limestone	MT	132.50	79.50
4.	Iron Ore Pellets	MT	140.00	140.00
5.	Metal products, Steel Coils, Slabs	MT	159.00	95.40
6.	Any other bulk cargo not specified above	MT	150.00	90.00

Notes:

- (1). At the berth number 5A, Cargo Handling Charges shall cover the following services:
 - Unloading of cargo from ship to the berth or vice versa,
 - Movement of cargo from the berth to SWPL stackyard or vice versa,
 - Movement within the SWPL stackyard,
 - Unloading from railway wagons or vice versa.
- (2). At the berth number 6A Cargo Handling Charges shall cover the following services:
 - Unloading of cargo from ship to the berth or vice versa,
 - Movement of cargo from the berth to SWPL stackyard or vice versa,
 - Movement within the SWPL stackyard,
 - Loading on railway wagons for rail delivery or vice versa.
- (3). Covering of Wagons by tarpaulin / plastic cover is not included in above handling charges prescribed in the schedule.
- (4). The dunnaging and lashing (inclusive suitable labour & material) will have to be arranged by the users at their costs to the satisfaction of the Master of the vessel.
- (5). 50% of the Cargo Handling Charges shall be payable before the cargo is received for handling. Balance 50% of the Cargo Handling charges shall be payable before the clearance / shipment of the cargo.

SECTION - C

GROUND RENT / STORAGE CHARGES

The storage charges for cargo stored in the stackyard of SWPL shall be as follows:

I. Ground rent / storage charge for import / inward cargo

(in ₹ per MT per day for the balance cargo in SWPL)

Sl. No.	Particulars of Commodity	Rate for first Five days remaining after the free period	Rate for Sixth day to Tenth day	Rate for Eleventh day to Twentieth day	Rate for Twenty-first day onwards
1.	Coal (all types)	10.00	25.00	50.00	100.00
2.	Metallurgical Coke / Coke (all types) / Charcoal	15.00	40.00	75.00	150.00
3.	Limestone	10.00	25.00	50.00	100.00
4.	Any Other dry bulk cargo not specified above	15.00	40.00	75.00	150.00

Notes:

- (1). *THREE Free Days* shall be allowed, after complete discharge of vessel's cargo or when the last package is discharged. For the purpose of calculation of free period, Sundays, Customs notified holidays and Terminal's non- working days shall be excluded.
- (2). *Ground rent / storage charges* shall be payable for all days including Sundays and Customs notified holidays for stay of cargo beyond the prescribed free days.
- (3). After 21 days beyond Free Days, the balance cargo shall be liable to be shifted to other place out of SWPL area at the sole cost and consequences to the importer / exporter.
- (4). For levy of ground rent / storage 'Day' shall be reckoned as from 7.00 a.m. to 7.00 a.m. of the following day.

II. Ground rent / Storage charges for Export / Outward cargo

(in ₹ per MT per day for the balance cargo in SWPL)

Sl. No.	Particulars of Commodity	Rate for first Five days remaining after the Free Period	Rate for Sixth day to Tenth day	Rate for Eleventh day to Twentieth day	Rate for Twenty-first day onwards
1.	Iron Pellets	10.00	25.00	50.00	100.00
2.	Metal products, Steel Coils, Slabs and other general bulk cargo	5.00	10.00	25.00	50.00

Notes:

- (1). In case of export cargo, Seven Free Days shall be allowed from the day the first lot of cargo / consignment has been received. For the purpose of calculation of free period Sundays, Customs notified holidays and Terminal's non-working days will be excluded.
- (2). After the prescribed free days, ground rent / storage charges shall be payable for all days including Sundays and Customs notified holidays as stated above.
- (3). After 21st day beyond free days, the balance cargo shall be liable to be shifted to other place out of SWPL area at the sole cost and consequences to the exporter.
- (4). For levy of ground rent / storage 'Day' shall be reckoned as from 7.00 a.m. to 7.00 a.m. of the following day.
- (5). If the entire cargo accumulated is not within the free period and the balance cargo is earmarked / linked to the next ship, further free period will be allowed from the date of production of documentation in support of this claim. Otherwise, penal ground rent at the appropriate rate applicable as per the rates prescribed in the above schedule shall be payable.

General Note to Section C:

- (1). Storage charges / ground rent on cargo shall not accrue for the period when the SWPL is not in a position to deliver / ship the cargo when requested by the user due to reasons attributable to SWPL.

SECTION - D**DUST SUPPRESSION CHARGES**

The Dust Suppression Charges for water sprayed for suppression of dust for effective pollution control shall be levied on manifested quantity on Coal, Coke and Limestone at the following rates:

For Coal, Limestone and Coke: ₹ 2.15 per MT

This shall be levied from the stage of unloading from the vessel till the cargo is loaded onto railway wagons including storage at SWPL stackyard.

Part- III**OTHER SERVICES****1. VISITOR ENTRY PASS**

	Yearly	Monthly	Daily
(a). Per Application	₹ 200.00	₹ 50.00	₹ 20.00
(b). Per Replacement	₹ 50.00	₹ 50.00	₹ 20.00

2. VEHICLE ENTRY PASS

Per Entry ₹ 75.00

Note: The vehicle entry fee will not be levied on vehicles entering / leaving the SWPL berths for delivery / dispatch of cargo.

3. PHOTOGRAPHY

(a). Film Shooting and Photography	₹ 8500.00 per day
(b). Taking Photographs of Goods handled	₹ 500.00 per day
(c). Taking Photographs of Crews and Others	₹ 250.00 per day
(d). Videography (related to operational activities)	₹ 2500.00 per day

4. CRANE HIRE CHARGES

The hire charges for the SWPL's cranes installed at berth nos.5A and 6A shall be payable directly to SWPL for use for the purposes other than for cargo handling as per following rates:

(a). For 110/42 MT capacity mobile harbour cranes	₹ 25000.00 per hour
(b). For others cranes	₹ 15000.00 per hour

**SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS /
DIFFERENT USER ORGANISATIONS**

F. No.TAMP/11/2011 -SWPL - Review Application filed by the South West Port Limited on the Order No.TAMP/12/2010-SWPL passed by the Authority on 3 November 2010 in respect of revision of the Scale of Rates for its operations at the berth nos.5A and 6A in the Mormugao Port Trust.

A summary of comments received from MOPT and users/ user organisations is given below:

Sl. No.	Comments of MOPT and users / user organisations
1.	Mormugao Port Trust (MOPT)
(i).	The review application made by SWPL on the Order passed by the TAMP dated 3 November 2010 is in respect on few issues viz. (a) Repairs and Maintenance (b) Cargo Handling contract (c) Capital expenditure (d) Cargo Handling Income (e) Adjustment of surplus in subsequent period. These issues have been clarified/ justified by the TAMP in its above Order at para no. 13 XI, XIII(b), XXI(d) respectively and hence port do not want to comment further on these issues.
(ii).	As regards "Cargo Handling Income" SWPL has submitted that the storage income amounts to ₹ 1.42 crores and ₹ 2.93 crores for the years 2008-09 and 2009-10 accounted during the years have not yet received from their users on account of certain issues. The SWPL has decided to write off this huge amount as the users are reluctant to pay. In the absence of the details of the matters, it is not appropriate to comment on this issue.
(iii).	As regards adjustment of surplus in subsequent periods, we have gone through the consolidated cost statement moderated by TAMP and state that TAMP has adjusted 50% of the actual surplus accrued for the period 2007-08 to 2009-10 over the estimates considered in the last Order of the TAMP in deciding the revision of Scale of Rates of SWPL which is in accordance with the TAMP guidelines for tariff fixation.
(iv).	No revised cost statements have been furnished along with the review application.
2.	Goa Chamber of Commerce & Industry (GCCl)
	No comments
3.	Mormugao Port Users Association (MPUA)
	No comments to offer.
4.	M/s. Mukund Limited
	Since there are no operations at SWPL, we have no comments to offer.
