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Tariff Authority for Major Ports

G No. 37 **New Delhi, 21 February 2012**

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 proposal received from the New Mangalore Port Trust for introduction of RCHW levy and wages from the existing percentage based levy to per tonne basis as in the Order appended hereto.

(Rani Jadhav)
Chairperson

Tariff Authority for Major Ports
Case No. TAMP/19/2011-NMPT

New Mangalore Port Trust - - - **Applicant**

O R D E R
(Passed on this 6th day of January 2012)

This case relates to a proposal dated 17 March 2011 filed by the New Mangalore Port Trust (NMPT) for modifying the existing percentage based levy for deploying workers from the Registered Cargo Handling Wing (RCHW) to commodity-wise per tonne rate.

2.1. This Authority had initially vide Order dated 9 August 2001 approved revision in the levy for deployment of workers from the RCHW and had advised the port to propose commodity-wise rate linked to productivity for deploying RCHW workers within six months. The port was again advised to propose per tonne rate while revising the Scale of Rates vide Order dated 11 May 2006.

2.2. The NMPT had, accordingly, filed its proposal in July 2008 proposing RCHW levy on per tonne rate basis (commodity-wise) instead of levy on percentage basis (on wages) in vogue in the port. The port had, however, later withdrawn the proposal. Accordingly, this Authority, vide Order dated 3 March 2010 had closed the proceedings relating to the proposal filed in July 2008 as withdrawn. While closing the case, the port was again advised, to formulate its revised proposal taking into consideration the observations and suggestions made by the users and this Authority during the processing of the case.

3.1. In this backdrop, the NMPT has filed the instant proposal. The NMPT has proposed levy for deployment of RCHW workers from existing percentage basis (on wages) to per tonne rate (commodity-wise) linked to productivity. The NMPT has stated that the per tonne rate has the following advantages, namely,:

(i). Proposal to recover RCHW levy and wages on per tonne basis has much added advantage in deriving a simplified procedure.

(ii). Since the collection of the proposed levy is proposed to be done in advance, the burden of the users will reduce as penalty for non-payment can be avoided.

(iii). The exporters and importers will know in advance the cost of handling at the port without ambiguity. Moreover, the audit objection arising due to existing pattern of calculation of levy can be avoided.

(iv). The NMPT has submitted cost statements at the existing levy without taking into account the payment of wage arrears w.e.f. 1 January 2007 and the cost statements at the existing levy after taking into account the payment of wage arrears and its effect. As per the cost statement the position for the current year 2010-11 and the three years 2011-12 to 2013-14 is tabulated below:

₹ in lakhs

Sl. No.	**Particulars**	At existing levy without taking into account the payment of wage revision arrears (**Annex II A of the proposal –page 4/C**)				At existing levy taking into account WRC arrears and its effect (**Annex II B of the proposal –page 17/C**)			
		2010-11	**2011-12**	**2012-13**	**2013-14**	**2010-11**	**2011-12**	**2012-13**	**2013-14**
I.	Total income								
	(a).Wages	614.41	616.75	852.89	1043.73	898.37	1019.74	1413.45	1733.50
	(b).Incentive	1169.13	1169.13	1250.50	1338.03	1169.13	1169.13	1250.50	1338.03
	(c).Levy	881.63	891.84	1221.68	1496.02	1439.02	1654.88	2283.06	2802.05
	TOTAL INCOME	**2665.17**	**2677.72**	**3325.07**	**3877.78**	**3506.52**	**3843.75**	**4947.01**	**5873.58**
II.	**TOTAL COST**	**5799.89**	**6696.73**	**8298.24**	**9384.36**	**5936.35**	**6848.84**	**8463.36**	**9565.99**
III.	Capital Employed	374.01	429.77	529.87	597.55	374.01	429.77	529.87	597.55
IV.	ROCE	59.84	68.76	84.78	95.61	59.84	68.76	84.78	95.61
V.	**Net surplus/ deficit**	(3194.56)	(4087.77)	(5057.95)	(5602.19)	(2489.67)	(3071.85)	(3601.13)	(3788.02)
VI.	Net surplus/ deficit as % of income	-117.62%	-150.09%	-149.57%	-142.0%	-69.29%	-78.13%	-71.08%	-62.86%

3.2. The NMPT has made following points in respect of the Cost Statements submitted by it:

(i). The present proposal is only for recovery of levy & wages on per tonne basis excluding incentives. The actual incentive paid to the workers is reimbursed by Stevedores.

(ii). For the estimation purpose, the wages is taken at the per tonne rate of 2009-10 for RE 2010-11 and BE 2011-12 and @ 30% increase on 2011-12 for 2012-13 projection considering the wage revision which is due from 1-1-2012. For the projection of 2013-14, 15% increase is considered over the previous year estimate towards increase in wages and DA. Projections in line with AWP Index for each commodity adjusted for traffic growth is not considered in this proposal.

(iii). Break-up of Finance and Miscellaneous Expenses considered for cost statement mainly comprise of Pension and Gratuity provision for retirees which is taken as 27% and 8.33% of Wages and actual pension and gratuity paid / payable to Retires drawing pension and Family Pension is considered with 10% annual increase on 2009-10 for estimates the 2010-11 to 2013-14 figures. PLR for projection is taken 10% more than 2011-12 for the years 2012-13 and 2013-14.

(iv). One time expenses like arrears in the Wage / Pension, VRS compensation pertaining to RCHW are not included in the cost statement as per TAMP guidelines.

(v). Other expenses on Management and General Overheads include cost of Uniform, Medical expenses, Salary and other allowances paid to Administrative personnel of the RCHW Wing, expenditure on office items like, Postage, Printing and Stationery, WC Act payments, transport, Training and Seminars for workers etc.

(vi). Computation of Working Capital is in line with the norms prescribed which is 1/12th of the Operating Expenditure. This is considered as the collection of charges in advance for deployment of labour is considered as an optional condition depending upon the Administrative convenience.

(vii). The cost statements have been compiled in line with the revised manning scales implemented in New Mangalore Port Trust with effect from 12-08-2009.

3.3. The NMPT has stated that the methodology of per tonne rate and other allied matters on the earlier proposal of the NMPT of July 2008 was discussed in the joint hearing held by TAMP on 17 December 2009. Interalia, the stevedores had indicated that the manning scales should be brought down and the datum should be reviewed. The NMPT has stated that the manning scales as per the National Tribunal Award have been implemented. However, the review of datum would take some more time due to impending problems connected with the existing agreements and other labour issues. It has stated that the per tonne rate proposed is the same level as submitted in the 2008 proposal despite the fact that the throughput of general cargo has drastically reduced due to restriction on iron ore export and there has been substantial increase in wages and other overheads.

3.4. The per tonne levy proposed by the NMPT for deployment of the workers from RCHW along with some of the important conditionalities governing the proposed levy is as follows:

Sl. No.	Commodity	Total Labour deployment charges (₹ per MT)	Average Productivity per Gang per vessel (in MT)
1.	Iron Ore	25	800
2.	Coal	25	700
3.	Lime stone	25	800
4.	Coke	35	420
5.	Granite	35	275
6.	MOP	40	250
7.	Maize	45	300

8.	Pig Iron	45	400
9.	DAP	50	260
10.	Rock Phosphate	50	210
11.	Urea	50	220
12.	Clay	30	200
13.	Machinery	100	180
14.	Timber	100	85
15.	Wood pulp	50	90
16.	Wheat	35	740
17.	Sulphur	40	540
18.	M. Logs	100	85
19.	Bentonite	45	470
20.	Yellow Peas	25	940
21.	Container per TEU	450	75 TEU
22.	Other foodgrains and cereals	35	740
23.	Other Bulk Cargo not classified above	45	250

Proposed conditions:

(i). The rate indicated above is in addition to the actual incentives calculated as per the respective clauses of prevailing settlement / scheme and payable to the NMPT by the licenced stevedores.

(ii). In order to avoid anticipated adhoc booking of gangs and idling them, a penalty for slow productivity is leviable as below:

a).	Below 10% reduction in Average handling	No Penalty
b).	10 to 20% reduction in Average handling	10% above SOR
c).	Above 20% reduction in Average handling	15% above SOR
d).	Above 30% reduction in Average	30% above SOR

(iii). Additional levy, if any will be charged over and the above until completion of recovery schedule.

(iv). Interest on delayed payments / refunds. The Stevedores shall pay interest at SBI-PLR plus 2% per annum on the delayed payments for Incentive and different bills. Likewise, the Port shall pay penal interest at the above rate on delayed refunds. Delay in payment by stevedores will be counted only 10 days after the date of raising the bills by NMPT RCHW A Wing.

(v). The above Labour deployment charges are increased by 30% w.e.f. 01.01.2012 to 31.03.2013, and by 49.5% from 01.04.2013 for the purpose cost increase due to Revision of Pay Scales due on 01-01-2012.

(vi). The Rates as approved above shall be applicable for a period of 3 years from the date of Notification.

3.5. The port has furnished the Administration Report for 2008-09 and 2009-10 as well as RE/ BE for 2010-11 and 2011-12.

4. In accordance with the consultative procedure prescribed, the proposal received from the NMPT (except the Annual Accounts and Administrative Report) was circulated to the concerned users/ user associations for seeking their comments. No comments are received from the users / user association despite a reminder. The Kanara Chamber of Commerce and Industry and Association of New Mangalore Port Stevedores however filed their submissions at the joint hearing held on 21 June 2011.

5.1. A joint hearing in this case was held on 21 June 2011 at the New Mangalore Port Trust (NMPT) premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users/ organisation bodies have made their submissions.

5.2. At the joint hearing, the Association of New Mangalore Port Stevedores (ANMPS) and Kanara Chamber of Commerce and Industry (KCCI) have filed their written submissions.

5.3. As agreed at the joint hearing, the port was advised to convene a meeting with the users/ user associations within one week to explain its proposal and in particular the calculation made to arrive at the proposed tonnage based rate and the users are requested to furnish its comments, if any, within 10 days after the meeting with the NMPT. The details of the discussions in the meeting may be forwarded to us immediately thereafter.

6.1. As decided at the joint hearing, the NMPT has vide its letter dated 21 July 2011 communicated that a meeting with users/ user associations was convened on 4 July 2011 explaining the existing system of levy and the proposed levy. It has forwarded a copy of the minutes of the meeting which was attended by representatives of user associations' viz. KCCI, Stevedores Association, Clearing and Forwarding Agents Association and Customs House Agents Association. The NMPT has also forwarded copies of representations of Mangalore Chemicals Limited, Indian Potash Limited and Indian Farmers Fertilizers Co-operative Limited which states that the proposed increase in labour handling charges is very high.

6.2. The minutes of the meeting brings out the main issues raised by the user associations and the point-wise clarification furnished by NMPT to them. A summary position drawn from the minutes of the meeting held by the NMPT highlighting the issues raised by the user associations and clarifications furnished by NMPT is tabulated below:

Sl. No.	Issues raised by user associations	Clarifications by NMPT in the said meeting with user associations
(i).	The representative of KCCI suggested to constitute a Working Group to arrive at a Consensus for fixing levy on handling charges of NMP.	The constitution of working group may not be required at this stage, since the proposal is prepared and submitted in consultation with various Associations and TAMP desires to have the views on the existing proposal.
(ii).	The average productivity on individual cargo is to be considered as datum for implementation.	Datum shall not have impact while calculating levy on per tonne basis as incentive is not part of it.
(iii).	The manning scale is to be introduced fully as per the recommendation of Tribunal Award.	Manning scale has been implemented partially and efforts will be taken to implement 100% by negotiating with Unions amicably in the interest of NMPT.
(iv).	Reconciliation of the cost as per the observations made in KCCI's letter dated 17 June 2011.	Reconciliation of cost as per the observations made by KCCI in their letter dated 17 June 2011 will be submitted at the earliest.
(v).	Hidden const / incentives to be considered while proposing levy on per tonne basis.	Hidden cost / Incentives are separate part, therefore, it has not been considered while submitting the proposal to TAMP on levy per tonne basis.
(vi).	Implementation of per tonne levy shall be implemented prospectively after obtaining the approval from TAMP.	All scale of rates shall have a 3 years cycle of operation and will have prospective effect. Per tonne levy will follow the same procedure.
(vii).	Wharfage charges are to be taken into consideration while introducing the levy on per tonne basis.	The wharfage charges may not be required to include while computing levy on per tonne basis.
(viii).	Liabilities on causalities while handling of cargo are to be considered on account of NMPT.	Liabilities on causalities are to be considered on account of Stevedores as per the stevedoring policy adopted by Ministry of Shipping. Hence port is unable to consider it at local level.
(ix).	Penalty on low productivity shall not be	The penalty on account of low productivity is

	considered.	required to improve the productivity and performance of the port. However, TAMP at liberty to consider it or drop it.

6.3. With reference to meeting held by NMPT with the users/ user associations, the Association of New Mangalore Port Stevedores has furnished its comments to the draft minutes of the meeting vide its letter dated 8 July 2011.

6.4. The ASPINWALL & Company Limited have also vide its letter dated 19 August 2011 made further submissions with reference to the joint meeting held with the port. They have stated that fertilisers are used for agricultural purpose and any escalation in the levy would affect the farmers and hence have requested to revise the tonnage levy for fertilizer to ₹25/- PMT to be at par with other cargo's like – Coal/ Iron Ore/ Limestone.

7.1. Based on a preliminary scrutiny of the proposal, the NMPT was requested vide our letter dated 4 July 2011 to furnish additional information/ clarifications. The NMPT vide its letter dated 15 September 2011 has furnished its clarifications on the queries raised by us, alongwith revised cost statement and further submissions on its proposal.

7.2. A summary of the queries raised by us and the replies received from NMPT is tabulated below:

Sl. No.	Queries raised by us	Reply received from NMPT
(1).	**General**:	
(i).	The proposal of NMPT contains four sets of cost statements. Please clarify which of the cost statements is considered by the port for arriving at the proposed rates.	Consequent on updating the data for 2010-11 actuals, only one set of cost statements is submitted
(ii).	The NMPT has already filed a separate proposal for general revision of its tariff which is being processed separately. With reference to that proposal, the NMPT has already been advised vide our letter No.TAMP/34/2010-NMPT dated 4 May 2011 to file a separate cost statement for RCHW considering this activity as a separate sub-activity under cargo handling activity duly reconciling the figures with the relevant set of cost statements filed in this proposal. As already advised, the traffic, income and expenditure considered in the cost statement filed in this proposal should match with those of the sub-activity cost statement for RCHW to be filed in the general revision proposal. The NMPT may confirm that there is no overlapping of any cost elements or capital employed estimated in its general revision proposal and in the cost statement submitted for RCHW.	In the cost statements submitted for SOR, no separate formats have been submitted for RCHW income/ Expendr. as SOR does not contain the element of handling charges of the traffic by RCHW. SOR formats however, included the overall income and expenditure of the RCHW Wing as a whole mainly for the reason that the administrative expenses of the Wing in addition to earnings is to be met by the NMPT Revenue. The Capital Employed adopted in this proposal is 1/12 of Operating expenditure as no separate asset is exclusively apportioned to RCHW Wing to work out the Capital Employed. Hence there is no overlapping in cost element or Capital Employed.
(iii).	(a). The NMPT is requested to update the cost statements with the actuals for the year 2010-11. The estimates for the subsequent years viz. 2011-12 to 2013-14 may be reviewed and modified, if necessary, with reference to the actuals for the year 2010-11.	Cost statements have been updated for 2010-11 and subsequent year's estimation.
	(b). The Annual Accounts of the port do not show the income and expenditure of the RCHW wing separately. However, the RE 2010-11 and BE 2011-12 furnished by the port report the figures relating to RCHW activity separately, viz. actuals for the year 2009-10, RE 2010-11 and	It is confirmed that figures adopted for actuals 2008-09 to 2010-11 are from Audited Annual Accounts and for BE 2011-12 from approved Budget. However, income for 2011-12 adopted in the present proposal is as per the calculation submitted along with the Cost Sheets. Separate

	BE 2011-12. While updating the cost statements with actuals of 2010-11, please furnish a statement giving account code wise income and expenditure of the RCHW activity (as in page 15 and 30 of RE 2010-11).	statement is also enclosed giving the details of expenditure with a reconciliation statement.
	(c). The Profit & Loss Account for the RCHW wing furnished by the NMPT for the year 2010-11 may be updated with actuals and for 2011-12 to 2013-14 also if the estimates are modified by the port.	Since updated and submitted.
(2).	**Traffic**:	
(i).	Explain the reasons why no traffic growth is considered for estimating income of RCHW for the year 2011-12 when 5.8% growth in cargo volume is projected by NMPT in its general revision proposal for the same year.	Growth indicated for SOR is on total cargo where as Traffic projected for per-tonne is the one proposed to be handled by RCHW Wing where not much growth is possible.
(ii).	Explain the basis of assuming 7% annual growth in the traffic for the RCHW activity for years 2012-13 and 2013-14. Confirm it is in line with the traffic growth projected in the general revision proposal filed by NMPT.	Traffic adopted for General Revision of SOR has been adopted for per Tonne levy also.
(3).	**Income Estimation**:	
(i).	The existing levy for RCHW is prescribed on percentage of basic wages i.e. at 160% / 180% of basic wages. Whereas, the income from the levy at existing tariff estimated by the NMPT is on per tonne basis. Sample check of the income estimated for the years 2011-12 to 2013-14 at the proposed rates shows the levy percentage is about 150% of the per tonne wage cost as against existing levy prescribed at 160% / 180%. Please confirm that the income from levy is estimated at the existing tariff for the years 2011-12 to 2013-14.	It is confirmed that consequent on incorporating additions to Pay such as Dearness Allowance, Variable DA,, and Dearness Pay elements, the levy rate was brought down to 150% effective from 1-9-2007. The income from wages considered in the Wage statement is as per the actual bills raised on Stevedores with reference to deployment of labour.
(ii).	Confirm whether the income from wages considered in the cost statement is with reference to wages paid/ payable for the actual deployment of labour from RCHW.	
(iii).	The income from wages and levy considered in the cost statement in Annex - IIA (without wage revision impact) and Annex - IIB (with wage revision impact) do not match with the RE 2010-11 and BE 2011-12 figures. Please reconcile.	Only one set of updated statements compiled and furnished with the present proposal.
(iv).	Since RE 2010-11 is after considering the impact of wage revision, it is not clear why the income from wages and levy should differ in the two statements, viz. Annex - IIA and IIB. Please explain with workings.	In the present proposal actual for 2010-11 is furnished.
(v).	As per cost statement IIB, the sum of income from wages and levy at the existing tariff is estimated at ₹2337.39 lakhs, ₹2674.62 lakhs, ₹3696.51 lakhs and ₹4535.55 lakhs for the years 2010-11 to 2013-14 respectively. Whereas at the proposed per tonne rate (which includes both wage and levy component), the income estimated in Annex - IIIB is ₹2000.50 lakhs, ₹2000.50 lakhs, ₹2735.31 lakhs and ₹3356.11 lakhs respectively for the corresponding years. Thus, at the proposed tariff, the revenue is estimated to reduce thereby resulting in increase in the average deficit in the RCHW activity from 70% at the	Statements II-B and III-B are not submitted in view of updating actuals for 2010-11.

	existing tariff to 110% at the proposed tariff level. Please explain.	
(4).	**Expenditure projections**:	
(i).	The estimation of wage cost shows an increase of 18%, 30% and 15% in the years 2011-12, 2012-13 and 2013-14 respectively over the estimates of the respective previous year. Likewise, the other expenditure, management and general overheads are also escalated by 7% to 40% during this period. The Authority has decided to allow annual escalation of 6% for the cases to be decided during the year 2011-12. The NMPT may therefore modify the estimates for the years 2011-12 to 2013-14 considering annual escalation at the stated level.	Cost statements for 2010-11 have been updated and for future projection increase has been provided at 6% for the first year of 2012-13 and 3% for subsequent years of 2013-14 & 2014-15.
(ii).	The port has considered 30% increase in the wage cost for the year 2012-13 on account of wage revision due from 1 January 2012. The basis of adopting 30% increase on account of wage revision may please be explained.	Remarks same as above.
(iii).	With reference to the wage element shown on accrual basis in Annex - IIB, the following points may be furnished for RCHW activity:	Statements II-B is not submitted in view of updating actuals for 2010-11.
	(a). Actual wage cost (excluding provision for wage revision) for the years 2006-07 to 2009-10 dully tallying with figures reported in Annual Accounts.	Total wage arrears paid for the years 2006-07 to 2009-10 is ₹13,66,07,219.43. Provision made for the years 2006-07 to 2008-09 is ₹1,92,89,673.
	(b). Provision for wage revision made in the years 2006-07 to 2009-10.	Reply not furnished
	(c). Impact of wage revision year-wise.	Arrears accounted for is:- Jan 2007 to Mar. 2009 ₹9,18,84,207.61 Apl 2009 to Mar, 2010 ₹4,47,23,011.82
	(d). Please furnish the total wage revision arrears paid and indicate the years in which arrears is accounted/ paid with year-wise details. Explain the treatment given in the Annual Accounts and the cost statement in this regard.	Details of Wage revision paid:- Total paid in 2009-10 ₹13,66,07,219.43 Classified as Against Accrued Prov ₹1,92,89,673.00 For the year 2009-10 ₹4,47,23,011.82 Relating to Pre Year ₹7,25,94,534.61
(iv).	(a). Please furnish the basis of estimating the incentive payments to labourers deployed from the RCHW.	Existing pattern of incentive will continue without any change even after per Tonne rate is implemented
	(b). The port has stated that revision of datum may take some more time due to impending problems connected with existing agreements and other labour issues. The present status and the expected time of implementing the revised Datum may please be indicated.	The matter has been discussed with the Port Users to come up with a proposal. This is being pursued vigorously.
(v).	The basis of apportionment of common expenditure such as management and general overheads, other expenditure, etc. to the RCHW activity may be explained.	This relates to all Indirect expenditure for the management of RCHW Wing as booked in the Annual Accounts and estimated on the basis of actuals for 2010-11
(vi).	Indicate the average days of employment of the cargo handling workers for the last three years 2008-09 to 2010-11 and the estimated position for the next three years.	Average days of deployment 2008-09 - 18.05 2009-10 - 13.59 2010-11 - 8.13 2011-12 - 8.00 2012-13 - 8.25 2013-14 - 8.30 2014-15 - 8.50
(vii).	The NMPT has stated that the manning scale	

	are implemented in compliance with the National Tribunal Award implemented with reference to the deployment of labour from RCHW. In this regard furnish the following information:	
	(a). Indicate the surplus manpower identified by the port after the implementation of the revised manning scale. Clarify whether the expenditure attributable to such surplus work force has been included in the cost statement.	Since there is retirement every month, no surplus is attributable due to implementation of revised manning scale.
	(b). Indicate the steps proposed to be taken by the port to reduce the cost of surplus manpower if any.	Not applicable in view of remarks at (a) above.
(5).	**<u>Finance and Miscellaneous Expenses</u>**:	
(i).	The basis of estimating the pension and Gratuity at 27% and 8.33% of total wage cost may be explained.	27% estimate for Pension is adopted as provided in Income Tax Rule 87. This is as per the Tax assessment made in IT Return of NMPT.
(ii).	Furnish actuarial valuation of Pension Fund and Gratuity Fund in respect of employees of RCHW as on 31 March 2011. Also, indicate the pension fund/ gratuity fund balance as on that date.	The actuarial valuation as on 31-3-2011 for Pension Fund and Gratuity fund is ₹156 crores and ₹21.06 crores respectively
(iii).	Recognising that pension/ gratuity payments are generally made from pension/ gratuity funds maintained for that purpose, explain the reason for considering pension/ gratuity payments for retirees as an expenditure in addition to the contribution made to these funds.	At present Pension and Gratuity payments are made as per actual eligibility. However the compensating amount received from LIC/SBI Life linking the Annuity purchased is on the lesser side as increase/revision in rate subsequently is not absorbed by LIC/SBI Life. For this purpose provision made for Pension and actual payments of Pension and Gratuity are taken for cost purposes.
(iv).	Note 6 of the format prescribed by the Authority stipulates that pension payments made by the port to the extent it is not drawn from the fund and the contribution made to the pension fund relevant to current year towards pension liabilities of existing employees based on actuarial valuation shall be considered. The port may confirm its compliance.	Remarks given for Para 5(i) above apply to these points also. Fund value also comprises Annuities purchased for Pensioners.
(6).	**<u>Capital Employed</u>**	
(i).	Confirm that there are no common assets of the port apportionable to RCHW activity.	Confirmed.
(ii).	The estimation of working capital at one month operating expenditure is not found to be as per clause 2.9.4. of the tariff guidelines. Explain the relevance of estimating as charges for deployment of labour is generally collected in advance by the port.	One months Operating Expenditure as applicable to Estate and Railway activities as per Para 2.9.9 of TAMP guidelines dated 28-3-2005 has been adopted.
(7).	**<u>Scale of Rates</u>**:	
(i).	The Authority with reference to its earlier proposal of NMPT of July 2008 for per tonne levy of RCHW had advised the port to justify the average productivity per gang with reference to the productivity of cargo handling workers achieved during the last three years in terms of average output per hook per shift, commodity-wise, and also in terms of revised datum. The port has, however, not adhered to the advice rendered earlier citing difficulty in data availability in the present set up and port has stated that the rates and the average productivity proposed now is same as proposed	

	by them earlier. In this context the following points may be clarified:	
	(a). The proposal does not explicitly state how deficit at the existing levy based on percentage of basic wages is proposed to be bridged with the proposed per tonne levy. On the contrary, the cost statement show increase in the deficit level at proposed per tonne rate. Please clarify.	Deficit in the working can be brought down if the quantum of traffic handled increases irrespective of per-tonne tariff fixed. It becomes therefore necessary that whenever deficit results, some percentage is to be met out of surplus in wharfage to off-set the difference.
	(b). Explain the basis of arriving at the cargo-wise rate on per tonne basis.	Gang composition and method of handling differs from cargo to cargo. Hence rate of per tonne varies from item to item.
	(c). Explain the basis adopted for arriving at the cargo-wise average productivity per gang.	Same remarks as indicated above.
	(d). The average productivity proposed in the current proposal is same as considered in the July 2008 proposal. Please show the implementation of the revised manning scale/ datum to be implemented will not have any impact on the productivity. The average productivity is a crucial element for prescribing per tonne rate. The NMPT is advised to arrive at the average productivity on a scientific manner and also considering the productivity levels achieved by the port after implementation of the revised manning scale since August 2009 instead of solely proposing the productivity proposed in its 2008 proposal.	No impact on the average productivity due to implementation of the revised manning Scale as the composition of gang strength has been brought down. It is therefore assumed that the productivity proposed in 2008 proposal may be ideal in all respects.
	(e). Clarify, whether the proposed average productivity per gang is with reference to per shift basis.	Per Shift basis.
(ii).	It is observed that the port has proposed uniform rate per tonne for coal, iron ore, limestone, yellow peas even though the productivity of these cargoes are not at different levels. Similarly, uniform rate is proposed for granite, coke and wheat though there is the productivity level for these cargoes differ. The NMPT may review its proposal and arrive at the rate in a scientific manner taking into consideration the productivity level of different cargo items, the revised manning scale and the cost thereat.	Uniform rate for certain item of cargo is provided at a lower rate keeping in view what traffic can bear as rate fixation cannot be directly linked to productivity level.
(iii).	(a). The intention of the proposed note No.2 proposing penalty to avoid anticipated adhoc bookings of gang and idling them is not clear and hence may be explained along.	Note 2 has been revised to keep single rata penalty of 10% above SOR for 10% and above reduction in average handling. This is proposed to avoid ad-hoc booking of gangs and idling them. An additional clause is also provided for 10% reduction of SOR for 10% and more of average handling.
	(b). The basis followed for the proposed penalty percentage at 10%, 20% and 30% for underperformance may be explained. The Authority in its Order No.TAMP/41/2008-NMPT dated 3 March 2010 has advised NMPT to explore the possibilities of introducing performance linked tariff scheme which will not only impose penalty for under-performance but also encourage efficiency in line with Clause 4.7.1. of the tariff guidelines. Whilst the port has proposed penalty for under performance it has	The present proposal is a single rate of 10% penalty which is proposed as the barest minimum rate. Provision has been made in Tariff that any excess handling over and above datum prescribed in excess of 20% per Gang, per shift, 10% rebate on per Tonne Rate will be allowed in all cargos

	not proposed incentive for better productivity. The port is advised to adhere to the advice rendered earlier and modify its proposal suitably.	
(iv).	As per clause 4.3 of the tariff guidelines of 2005 the cargo / container related charges for all coastal cargo / containers, other than thermal coal and POL including crude oil, Iron ore and Iron ore pellets are entitled for coastal concession and their tariff should not exceed 60% of the normal cargo / container related charges. The NMPT is requested to adhere to the policy directions of the Government of India and propose concessional tariff for coastal cargo/ containers taking into consideration the impact of allowing such coastal concession on the revenue. Please furnish detailed working (cargo-wise) in this regard giving the share of foreign/ coastal volume in the estimated traffic.	The issue and views pointed out have been covered in the Revision of Scale of Rates separately submitted to TAMP. Incidentally it is clarified that for Containers wharfage is charged on the basis of loaded/empty containers irrespective of the category of cargo stuffed/destuffed. The Costal concession in tonnage levy has therefore not been provided.
(v).	The NMPT has stated that additional levy if any will be charged over and above the proposed per tonne rates until complete recovery as per the schedule. In this connection, please clarify the following:	
	(a). The proposed note is vague. Please clarify what is the additional levy proposed to be collected, the basis of such levy and its revenue impact.	Additional levy is not covered in Tonnage levy proposal. At present additional levy is being charged as per the approval of TAMP for specific purpose. The progress of the recovery is separately watched.
	(b). The Authority vide its Order No.TAMP/78/2003-NMPT dated 18 November 2004 had approved additional levy to recover ₹1.97 crores towards wage arrears of RCHW workers for the period 1 January 1998 to 31 October 2000. In the last tariff revision Order of the NMPT passed on 11 May 2006 in para 8 (xxvii), the additional levy was increased as proposed by the port. At that time, the NMPT reported that ₹102.96 lakhs has been recovered till December 2005 and expected to recover the entire arrears by the January 2008. Please indicate the factual position as to when the wage arrears of ₹1.97 crores was fully recovered from additional levy approved by the Authority. Also, confirm whether NMPT has stopped collecting the levy immediately when the wage arrears of ₹1.97 crores was recovered as advised in the said Order.	As the proposal for introduction of per-ton rates does not include element of additional levy, the data called for will be separately dealt with and a report will be sent in due course.
(vi).	(a). The proposed note no.(4) relating to interest on delayed payments/ refund may be modified by prescribing a specific interest rate based on the prevailing Prime Lending Rate of the State Bank of India.	The proposed note has been modified indicating the specific interest at 12% PA.
	(b). The other conditions relating to penal interest on delayed payment by the users/ delayed refund by the port may be updated in line with the provision stipulated in the tariff guidelines which is uniformly prescribed in the Scale of Rates of the NMPT and other major ports/ private terminal operators.	Other conditions have been suitably modified.
(vii).	The note 6 of proposed Scale of Rates states	Necessary changes have been made to

	that the proposed levy shall apply for 3 years period from the date of notification whereas the note proposed at Sl. No.5 of proposed Scale of Rates seeks graded increase of 30% w.e.f. from 1.1.2012-2013 and 49.5% from 1.4.2013. Both these notes are contradictory and hence may be explained.	propose the rates for 3 year period from the date of Notification and Cost data has been calculated accordingly.
(viii).	The basis of proposing graded increase of 30% w.e.f. from 1.1.2012 and 49.5% from 1.4.2013 may be explained with reference to the cost statement at the existing tariff level. Additional revenue expected to be earned year-wise at the proposed graded increase may be furnished along with detailed working.	The graded increase has been deleted to provide same rate for 3 year cycle.

7.3. Apart from the above, the NMPT has made further submissions as summarised below:

(i). The present proposal is only for levy & wages per ton excluding incentives. The actual incentive paid to the workers is reimbursed by Stevedores. The wages, incentive and levy income is taken as actuals of 2008-09, 2009-10 and 2010-11 included in the Annual Accounts. For BE 2011-12, wages and levy income is taken equal to actuals of 2010-11 with 3% increase. For estimation of 2012-13, wage and levy is taken equal to actuals of 2010-11 with 6% increase and for 2013-14 and 2014-15, 3% increase of the respective previous year income is considered. However, for Incentive income for 2011-12 and estimates for the years 2012-13, 2013-14 and 2014-15, the average rates of the actual of 2010-11 have been taken without change as incentive is not linked to the wage structure. For 2011-12, income for Incentive and Levy as adopted in the approved Budget has not been taken. Hence to some extent there is variation in the figures between BE and Cost Statement. It is clarified that the figures in the Cost Statements are more realistic as per the calculation Sheets enclosed to the Cost Statements. Increase of 6% is provided in the year 2012-13 in view of the expected wage revision due from 1-1-2012.

(ii). Operating expenditure for 2008-09, 2009-10 and 2010-11 is as per the Annual Accounts. For BE 2011-12, the same is as per the Government approved Budget. Estimate for 2012-13, 2013-14 and 2014-15 is adopted same as the figures adopted for SOR separately submitted to TAMP. Projections in line with AWP Index for each commodity adjusted for traffic growth is not considered in the proposal.

(iii). Break-up of Finance and Misc. Expenses considered in the cost statement mainly comprise of Pension provision for retirement benefits which is taken as 27% of the Salary/ Wage expenses. Actual Pension and Gratuity paid to retirees is taken for 2008-09 to 2010-11 and 10% annual increase on 2010-11 is taken for estimates of 2011-12 to 2014-15 PLR is taken as per actuals for 2008-09 to 2010-11 and 10% increase on 2010-11 for estimates of 2011-12, 2012-13, 2013-14 and 2014-15.

(iv). One time expenses like arrears in the Wage/ Pension, VRS compensation are not included in the cost statement as per TAMP guidelines.

(v). Allocated Management and General Overheads include cost incurred on the Administrative personnel on Roll and other cost on Administrative expenses. Expenditure as per Annual Accounts is adopted for 2008-09 to 2010-11 and as per approved BE 2011-12 and for estimates of 2012-13 to 2014-15 figures as adopted for SOR submitted separately to TAMP is adopted. This include cost on Uniforms, Medical expenses, Salary and other allowances paid to Administrative personnel of the RCHW Wing, expenditure on office items like, Postage, Printing and Stationery, WC Act payments, transport, Training and Seminars for workers etc.

(vi). Computation of Working Capital is taken as equal to 1 month of the cash Operating Expenditure. This is as per the guidelines 2.9.9 of TAMP dated 28-3-2005 specified for similar items like Estate and Railway activity.

(vii). The cost statements have been compiled in line with the revised manning scales implemented in New Mangalore Port Trust with effect from 12-08-2009.

(viii). Uniform Rate of certain items of cargo even when productivity per gang varies is provided as the lowest Rate which the cargo can bear.

(ix). Since the per Tonne Levy proposes penalty and the parties affected by the levy proposal requests for rebate, a Clause/ condition may be considered for incorporation as follows:-

"Any excess handling over and above the datum prescribed in excess of 20% per Gang, per Shift, 10% rebate on per tonne Rate will be allowed in all cargoes"

7.4. The cost position reflected by the revised cost statement filed by the NMPT is given below:

(**₹ in lakhs**)

Sl. No.	**Particulars**	**Actual**	**Actual**	**Actual**	**BE**	**Proposed**		
		2008-09	**2009-10**	**2010-11**	**2011-12**	**2012-13**	**2013-14**	**2014-15**
I.	Total income							
	(a). Wages	779.48	660.48	557.87	-	-	-	-
	(b). Incentive	2332.87	1544.90	657.48	650.51	667.73	738.51	835.59
	(c). Levy	1154.34	976.38	823.28	2295.75	2302.75	2488.95	2905.53
	TOTAL INCOME	**4266.69**	**3181.76**	**2038.64**	**2946.26**	**2970.48**	**3227.46**	**3741.11**
II	**TOTAL COST**	**4714.02**	**4659.37**	**4359.03**	**6452.47**	**4722.76**	**4925.76**	**5140.85**
III	Capital Employed	351.95	336.44	272.61	429.77	288.82	297.82	307.10
IV	ROCE	52.79	53.83	43.62	68.76	46.21	47.65	49.14
V	Net surplus/ deficit	(681.00)	(1759.91)	(2611.63)	(3986.53)	(2060.39)	(2016.90)	(1729.18)
VI	Net surplus/ deficit as % of income	-14.72%	-53.62%	-125.97%	-132.97%	-67.81%	-61.02%	-44.91%

8.1. Subsequently, during the processing of the general revision proposal the NMPT has vide letters dated 5 December 2011 and 8 December 2011 made further submissions/ clarifications. Some of the submissions made by the NMPT in the general revision case which may be relevant to the RCHW proposal are summarised below:

(i). With regard to iron ore traffic it has submitted that only 49000 tonnes is so far handled during the current year upto November end. This indicates that the projection proposed (3.10 lakh tonnes) in the Tariff proposal may not materialize. The traffic projection of iron ore made in the tariff proposal for the next three years (i.e. 12.00, 13.00 and 15.00 lakh tonnes) will not materialize and it may be considered as zero since the ban imposed on iron ore export is continuing and there is uncertainty of lifting it in the near future considering the present scenario. Hence, the cargo related and vessel related income projected thereof will have to be treated as nil. The port has furnished reduction in revenue (both cargo & vessel). The port has requested to consider the impact of Iron ore ban for export may be considered in the income computed on per ton proposal. The reduction in the revenue furnished by NMPT in its calculation for the RCHW on account of reduction in the iron ore traffic is ₹71.41 lakhs, ₹334.90 lakhs, ₹358.89 lakhs and ₹432.85 lakhs for the years 2011-12 to 2014-15 respectively.

(ii). No additional income from RCHW is there at the proposed rate. It is under deficit only. Further reduction will come because of reduction in iron ore fines due to ban and coal shifting to BOT operation.

(iii). It is confirmed that the expenditure of RCHW and Capital employed are all captured in overall cost statement.

(iv). Expenditure:

(a). Port has considered 6% escalation (3% for increment + 3% for IDA) taking the actual expenditure for 2010-11 as the base which is justifiable. But we retained the BE/RE as approved by Government for 2011-12. However, we have not projected the hike which is likely due to wage revision w.e.f. 1-1-2012. For this purpose 15% hike may be considered. In this regard the calculation of wage revision impact based on 2010-11 actual is furnished. The total impact of wage revision estimated at 15% of the wage cost in the year 2012-13 is ₹1216.81 lakhs. For the subsequent years, the port has applied 6% annual escalation on the wage revision impact. In the calculation for wage revision impact furnished by the NMPT for the port as a whole, the impact furnished for the RCHW is ₹383.90 lakhs, ₹406.94 lakhs and ₹431.36 lakhs for the years 2012-13 to 2014-15 respectively.

(b). Further the port has requested to consider the effect of in wage revision on the pension and gratuity contribution at 27% and 8.33% respectively.

(v). Basis for productivity has been indicated, on an average, taking into account the actual tonnage handled and number of gangs booked in handling that volume of cargo. The data provided in the proposal was based on 2006-07 and 2007-08. The relevant information relating to average productivity (cargo wise) achieved by RCHW for the years 2009-10 and 2010-11 is also furnished.

8.2. The NMPT has concluded that the further submissions made by it will increase deficit and may warrant revision in rates. Hence, the earlier proposal of port not to affect any change in the tariff except on certain items needs to be reviewed and TAMP is requested to increase the tariff suitably taking into account the proposed changes. Hence, it is requested that the TAMP may kindly consider favourably and take over all view and increase the tariff accordingly including the per tonne rate proposed for the RCHW.

9. 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.

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

(i). The New Mangalore Port Trust (NMPT) has proposed to change the existing percentage based levy for deployment of labour from the Registered Cargo Handling Labour Wing (RCHW) to per tonne rate (commodity-wise). This Authority has always preferred the rates for stevedoring services to be prescribed on per tonne basis with productivity linkage and had advised the port to move to per tonne levy even in the 2001 as well as 2006 Order while revising the Scale of Rates of the port. It may be relevant to state here that while dealing with the proposal of Visakhapatnam Port Trust for determining the levy for labour deployment of labour from Cargo handling Labour division after the merger of Visakhapatnam Dock Labour Board (VDLB) with the Visakhapatnam Port Trust (VPT), it was brought out that the Ministry of Shipping vide its letter No.LB-13018/4/05-L-II dated 24 June 2009 has formulated a new Stevedoring policy wherein it has directed all the port trusts to calculate the stevedoring levy on tonnage basis instead of percentage of wages of labour.

It is notable that per tonne rate linked to productivity of workers will act as an incentive to stevedores to achieve better performance and the said approach will foreclose the scope for multiple accounting of the cost of same labour gang. The proposal of the NMPT complies with the Stevedoring Policy of the Government and is a forward looking step.

(ii). The NMPT had initially confirmed that manning scales as per the National Tribunal Award has been implemented by the port with effect from 12-08-2009 and the cost statements have been prepared based on the revised manning scales. Some of the user associations have stated that the revised manning scales awarded by the National Tribunal has not been fully implemented by the port and have requested to bring down the manning scale to a reasonable levels as finalized by the National Tribunal Award for Major Ports. The Association of New Mangalore Port Stevedores have argued that the proposed per tonne levy will be misleading and lead to complications for stevedores. They have contended that the proposal of the NMPT for per tonne levy should not be considered unless the manning scales and datum are fully revised. The port has agreed that manning scale has been implemented partially by them and efforts will be taken to implement 100% by negotiating with unions amicably in the interest of the port.

As regards review of datum, the port has submitted that it would take some more time to review the datum due to impending problems connected with the existing agreements and other labour issues. The port has stated non revision of datum will not affect the rates proposed; it has impact only on the incentive payment. The proposed per tonne rate does not factor the incentive payments.

The proposal filed by the NMPT is in line with the stevedoring policy announced by the Ministry, and, as can be seen later, does not fully meet the cost position even after the proposed tariff rationalisation. In view of the assurance given by the port that the revised manning scale will be implemented in full and datum will also be revised after consultation with the labour unions which will involve some time, this case is analysed to fix the per tonne levy filed by the NMPT based on the revised manning scale partially implemented by the port and considered in their estimates. The proposal for next review/ revision should capture the effect of full implementation of the revised manning scale and datum and hence the port is advised to initiate necessary steps in this direction.

Some of user associations have mentioned about additional cost involved due to ghost money required to be paid at the port. The port is advised to frontally address this issue made by the user associations and eliminate such practice and bring in transparency in their system of working.

(iii). The actual volume of the port traffic which avail the services of labour deployment from the RCHW shows a downward trend in the last three years. The actual volume handled by RCHW is reported at 126.81 lakhs tonnes in the year 2008-09 which has gone down to 108.52 lakh tonnes in the year 2009-10 and the actuals handled in the year 2010-11 dropped to 61.71 lakh tonnes. The cargo volume expected to avail services of labour from RCHW is estimated at 61.05 lakh tonnes in 2011-12, 61.85 lakh tonnes in the year 2012-13, 69.05 lakh tonnes in the year 2013-14 and 78.45 lakh tonnes in the year 2014-15. The port has clarified that traffic assumed for RCHW cannot be commensurate to the growth level in the general revision proposal. The traffic estimated by the NMPT for RCHW for the years 2011-12 to 2014-15 is relied upon in this analysis subject to modification in the iron ore traffic (other than KIOCL).

The NMPT in its general revision proposal has stated that the traffic of iron ore (other than KIOCL) as initially projected at 3.1 lakh for the year 2011-12, and 12 lakh tonnes, 13 lakh tonnes and 15 lakh tonnes for the years 2012-13 to 2014-15 will not materialize based on the actual position ascertained for the year 2011-12 and has requested to consider the iron ore traffic (other than KIOCL traffic) at 0.5 lakh tonnes in the year 2011-12 and nil for the subsequent years in view the ban imposed on iron ore export by the Hon'ble Supreme Court. In the general revision proposal for the reasons explained, the iron ore traffic (other than KIOCL) is assumed at 1 lakh tonne for each of the years 2011-12 to 2014-15. The same position is maintained in the RCHW proposal. Accordingly, the modified traffic projection considered in the RCHW proposal is 58.95 lakh tonnes, 50.85 lakh tonnes, 57.05 lakh tonnes and 64.45 lakh tonnes in the years 2011-12 to 2014-15 respectively. The effect of reduction in the iron ore traffic on the existing levy, wages and incentive income is estimated at ₹57.7 lakhs, ₹307 lakhs, ₹340.5 lakhs and ₹404 lakhs for the years 2011-12 to 2014-15 respectively in the general revision proposal. The same position is maintained in this case also.

(iv). The port has furnished revised cost statement at the existing levy as well at the proposed per tonne rate vide its letter dated 15 September 2011 and has confirmed that the figures adopted are as per the Audited Accounts of 2010-11. Subsequent to filing the revised updated cost statements vide its letter dated 15 September 2011, the port vide its letter dated 5 December 2011 has requested this Authority to consider various financial implications of wage revision impact of class III and class IV officers due from January 2012 at 15%, to consider annual escalation in cost estimation at 6% instead of 3% annual escalation considered by the port and to consider the effect of reduction anticipated in the iron ore traffic. The port has not considered the financial impact of these items in the cost statements but has furnished the financial impact and requested to consider them while determining their tariff. The impact of reduction in the iron ore traffic is considered as explained in the preceding paragraph. The impact of wage revision at 15% of the wage cost and annual escalation at 6% instead of 3% is considered in the general revision proposal in view of submissions made by the port. The same modifications are carried out while preparing the cost statement for the RCHW activity. The modifications/ analysis with reference to the cost statement filed by the NMPT for RCHW is explained hereunder:

(a). The port has stated that expenditure projections of wages for the year 2011-12 is as per Budget Estimates. For the year 2012-13, the port has stated that 6% annual escalation is considered and for the subsequent two years 3% annual escalation is applied. For other items of expenditure, the port has stated that the 5% escalation is applied annually. On examining the cost statement filed by the NMPT, it is observed that the total operating expenditure and the management and general overheads (excluding depreciation) show 57% and 66% increase respectively in the year 2011-12 and the estimate of finance and miscellaneous expense shows 28% increase in the year 2011-12 over the actuals reported for the year 2010-11. For the subsequent year 2012-13, the total expenditure show 11% to 36% reduction over the previous year estimates and for the years 2013-14 and 2014-15 the increase is found to be in the range of 3% to 7% per annum over the estimates of the respective previous years.

This Authority has been allowing an escalation factor of 6% for the expenditure projections in all tariff cases of major ports and private terminals decided in the financial year 2011-12. The estimates furnished by the NMPT are modified applying the annual escalation of 6% for each of the years 2011-12 to 2014-15 over the actuals/ estimates of the respective previous years in line with the approach followed in the general revision case of the NMPT which is being processed simultaneously.

(b). As requested by the port, the impact of wage revision due for class III and class IV employees with effect from 1 January 2012 is considered at 15% from the year 2012-13 onwards taking the modified estimate of 2011-12 as the base.

(c). As explained earlier, annual escalation in all other items of expense, viz. leave expense, allocation of management and general, and other expenditure is allowed at 6% taking the 2010-11 actuals furnished by NMPT as the base. Annual escalation in the Finance and Miscellaneous Expenses for the year 2011-12 is also restricted to 6% as against 28% increase estimated by the port. In the general revision proposal, the port has not estimated any annual escalation in the FME and hence the same approach is followed here. The effect of wage revision on the contribution to Pension and Gratuity Fund at 27% and 8.33% of wages revision impact as considered in the general revision proposal is captured in this cost statement as well.

(d). Income comprises wages for labour deployed, incentive payment which is reimbursed from the stevedores and income from existing percentage based levy. The income from wages, incentive and levy are moderated in view of reduction estimated in the iron ore traffic as explained in the preceding paragraph. While estimating the income for wages and levy for deployment of labour from RCHW, the port has derived the revenue per tonne from actuals of 2010-11 and applied 3% annual escalation for estimating the income for the year 2011-12. For the year 2012-13, it has adopted 6% annual escalation in the unit rate derived for 2010-11 and for the years 2013-14 and 2014-15, the port has considered 3% annual escalation over the respective previous years. In the modified cost statement prepared by us, 6% annual escalation is allowed in the income estimation in line with the modification done in the expenditure side instead of 3% adopted by the port. Further, the impact of 15% wage revision due for class III and class IV officers from January 2012 is captured on the income side as well from the year 2012-13 onwards with reference to the income estimates furnished for deployment of labour. As claimed by NMPT, incentive is levied separately and not part of this exercise. The estimated realisation furnished by the port is retained except for adjustments to reflect the changes in iron ore traffic.

(e). The port has considered capital employed for the RCHW activity. It has confirmed that there are no common assets of the port allocable to RCHW activity, however, one month operating expenditure being part of Working Capital is considered as Capital Employed in the cost statement. As per clause 2.9.4. of tariff guidelines, working capital is current assets excluding specific fund less current liabilities. The computation of working capital by the NMPT at one month expenditure without taking into consideration current liability is not in line with the tariff guidelines. The working capital for the port as a whole assessed in the general revision proposal came as negative figure. Hence the working capital in the current proposal which is treated as capital employed by the NMPT is considered as nil.

(f). Subject to above modification, the revised cost statement at the existing rate is attached as **Annex - I**. Since the year 2011-12 will draw to a close by the time the Order approved in this case is implemented, the cost position for the years 2012-13 to 2014-15 is considered. It may be relevant to state here that the cost statement for RCHW reflects a deficit of ₹2612.06 lakhs in the year 2011-12 at the existing rate of levy. As seen in the general revision case, the entire estimated deficit of ₹2612.06 lakhs for the years 2011-12 is met from the surplus generated in the cargo handling activity as a whole.

Summary of the cost position reflected in the revised cost statement at the existing to percentage based levy for the years 2012-13 to 2014-15 is given below:

(**₹ in lakhs**)

Particulars	**2012-13**	**2012-13**	**2013-14**	**Aggregate for 3 years**
(i). Income Estimates (including incentive income)	2395.32	2835.02	3361.98	8592.31
(ii). Net deficit	-3032.57	-2995.78	-2906.37	-8934.71
Net Surplus / Deficit in % of income	-126.60%	-105.67%	-86.45%	-103.98% Avg

(g). From the cost statement, it is seen that the RCHW activity is in huge deficit 103.98% on an average for the three years 2012-13 to 2014-15 at the existing levy. In absolute terms the aggregate deficit is ₹8934.71 lakhs.

The aggregate total income of RCHW activity estimated by the NMPT at the proposed per tonne levy is ₹9939.06 lakhs for the three years 2012-13 to 2014-15. The income estimated by the NMPT does not capture the effect of reduction in the iron ore traffic, which was subsequently indicated by the port. The total estimated income at the proposed rate will be ₹2559.85 lakhs in the year 2012-13, ₹2779.5 lakhs in the year 2012-13 and ₹3218.5 lakhs in the year 2014-15 aggregating to ₹8557.85 lakhs after revising the estimate of iron ore traffic.

(h). The working of income calculation for the past period indicates that a few commodities like limestone, iron ore, coal, coke, urea etc., which are handled mechanically (using Harbour mobile cranes) also require to deploy labour from the RCHW. The derived per tonne rate for wages and levy for these cargo items based on the revenue realised furnished by the port for the years 2009-10 and 2010-11 is found to be lower than the average revenue realised for manual operation as the productivity of handling similar cargo, achieved in MHC berths is higher. The port has not proposed separate per tonne rate for cargo items handled by HMC and proposed to treat it at par with manual handling operations. It may not be appropriate to apply the per tonne rate proposed for manual handling of the cargo items as the productivity of handling cargo by HMC vary widely from manual handling operations. The per tonne rate for coal, coke, iron ore, limestone, urea, etc. handled by HMC (mechanical) is, therefore, prescribed separately based on the average per tonne revenue realisation for the last two years 2009-10 and 2010-11. When the effect of this correction in the proposed rate is considered, the revised income is likely to be ₹2069.94 lakhs in the year 2012-13, ₹2218.61 lakhs in the year 2012-13 and ₹2586.75 lakhs in the year 2014-15 aggregating to ₹6875.30 lakhs for the three years period which means ₹1717.01 lakhs lower than the income estimated at the existing levy at ₹8592.31.

As can be seen from the cost statement, the RCHW activity is in deficit to the tune of ₹8937.71 lakhs for the three years period 2012-13 to 2014-15 at the existing rate of levy. At the rationalized per tonne rate proposed by the NMPT and after taking into consideration the correction in the rate for a few cargo items handled by HMC, the deficit of the RCHW activity will widen to ₹10651.72 lakhs for the three years period. However, recognising that the proposal for the per tonne levy is being introduced in the port for the first time and the actual impact on users in view of the tariffs linked to productivity cannot be assessed fully at this juncture, the rates as proposed by the port is approved subject to correction of rates for cargo handled by HMCs.

It may be relevant to state here that the RCHW activity forms part of the cargo handling activity in the general revision proposal which is processed separately. The income from the RCHW activity at the proposed rate is considered in the general revision proposal. The tariff reduction considered in the general revision proposal in view of the overall surplus position is after taking into consideration the deficit estimated in the RCHW activity at the proposed rate. Since the entire deficit in the RCHW activity is offset by the other cargo handling activity, the NMPT is not to any disadvantageous position. At the same time users are also not burdened with any increase from the per tonne rate proposed by the port though the deficit in this activity is expected to increase at the proposed per tonne rate.

(i). As per clause 4.3 of the tariff guidelines of 2005 the cargo / container related charges for all coastal cargo / containers, other than thermal coal and POL including crude oil, Iron ore and Iron ore pellets are entitled for coastal concession and their tariff should not exceed 60% of the normal cargo/ container related charges. Despite request, the port has proposed any separate coastal concession rate for coastal cargo. Concessional rate for coastal cargo eligible for coastal concession is prescribed in line with the tariff guidelines. From the traffic details furnished in the general revision proposal, it is observed that the coastal cargo eligible for coastal concession is not significant.

(v). The NMPT has proposed per tonne rate for deployment of labour from RCHW linked to productivity of gangs. The port has clarified that the gang productivity proposed is the output per shift. This Authority with reference to its earlier proposal for per tonne levy of RCHW had advised the port to consider average productivity per gang with reference to the productivity of cargo handling workers achieved during the last three years in terms of average output per hook per shift, commodity-wise, and also in terms of revised datum. The port has, however, not adhered to the advice while formulating the current proposal and has proposed the rate as well as the average productivity as per its July 2008 proposal. While processing this case, our advice rendered earlier was reiterated, which is not adhered to. The port has, however, on our request, furnished the average productivity achieved by gang deployed from RCHW (cargo-wise) for the years 2009-10 and 2010-11. It is observed that the average productivity/ gang /shift proposed by the port is lower than the average actual productivity achieved in the last two years. There is no reason to prescribe a productivity level lower than the level already achieved by the port in the past. The per tonne rates approved are linked to productivity which will be 10% more than the average productivity actually achieved by the port for the last two years 2009-10 and 2010-11. For cargo items like, pig iron, yellow peas, maize, food grains, other bulk cargo, no past data about productivity achieved for the years 2009-10 and 2010-11 is available because this cargo were not reportedly handled earlier. For these cargo items, the average productivity of gang per shift as proposed by the port with 10% increase is prescribed in the absence of actual data of the productivity of these cargo achieved in the past.

(vi). This Authority in its Order No.TAMP/41/2008-NMPT dated 3 March 2010 had advised NMPT to explore the possibilities of introducing performance linked tariff scheme which will not only impose penalty for under-performance but also encourage efficiency in line with Clause 4.7.1. of the tariff guidelines.

The port had initially proposed penalty at 10%, 20% and 30% for underperformance but subsequently it has proposed a single slab. Whilst the port has proposed penalty for underperformance it had not proposed incentive for better productivity. The port has subsequently modified its proposal and proposed to allow rebate of 10% on the proposed rate if the average handling is 20% over and above the gang shift productivity. It has also proposed penalty at 10% of the rate prescribed for 10% reduction in the average handling rate prescribed. There is no reason for proposing different levels of incentive and penalty for variation in performance levels. Uniform reward / penalty is prescribed and in three slabs instead of single slab proposed by the port. Reward of 10% if the productivity achieved is 10% higher that the productivity per gang/ shift is prescribed. Similarly, penalty by way of 10% reduction in per tone rate is prescribed if productivity achieved is 10% lower than the productivity per gang/ shift prescribed. Penalty / incentive is prescribed in three slabs for every 10% variation in the productivity levels. The scheme now proposed to be introduced is not based on any well analysed data. The variation in the productivity level may have some impact on the wage cost for actual deployment of labour which is not considered while devising the proposed scheme. The NMPT is, therefore, advised to formulate a more scientific incentive/ disincentive scheme at the time of the next tariff review of this item and taking into consideration the effect of variation in the productivity level on the per tonne rate for deployment of labour.

(vii). This Authority vide its Order No.TAMP/78/2003-NMPT dated 18 November 2004 had approved additional levy to recover ₹1.97 crores towards wage arrears of RCHW workers for the period 1 January 1998 to 31 October 2000 which was incorporated in the Scale of Rates of the NMPT last revised in 2006. As per the note prescribed in its SOR, this additional levy had to be stopped once the short recovery is collected. During the last revision, the port had stated that it would complete the short recovery by January 2008. In the cost statement, the income estimated at the existing levy shows nil income against the additional levy category. The port has confirmed that the proposed per tonne levy also does not include additional levy and hence it may not have any impact on the estimates considered in this revision exercise. The additional levy prescribed in the existing Scale of Rates is deleted.

The port had agreed to give its report that it has stopped collecting the levy when the wage arrears of ₹1.97 crores were recovered but has not furnished the requisite information till disposal of the case. The port is advised to furnish its compliance report within three months from the date of notification of the Order in this regard.

(viii). It has to be recognized that the financial position analysed in this case is done along with the general revision proposal wherein the cost position for the years 2012-13 to 2014-15 are considered for determining the tariff of the port. Since this case has been finalized simultaneously with the general revision of the port, it is found appropriate to implement the Order from the date of implementation of the revised Scale of Rates of the NMPT approved in the general revision case i.e. from 1 April 2012. The revised per tonne levy for deployment of labour from the RCHW is accordingly incorporated in the revised Scale of Rates of the NMPT under Chapter - VII.

11. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves insertion of the following Chapter - VII in the Scale of Rates of the NMPT for levy of charges for supply of cargo handling worker from Registered Cargo Handling Labour Wing for cargo handing operations:

"Chapter VII

Levy for supply of cargo handling worker from Registered Cargo Handling Labour Wing for cargo handing operations

Sl. No.	Commodity	Foreign Cargo (₹ per tonne)	Coastal Cargo (₹ per tonne)	Benchmark productivity per Gang per shift (in tonnes)
1.	Iron Ore	25	25.00	1644
2.	Coal	25	15.00	1352
3.	Lime stone	25	15.00	1268
4.	Coke	35	21.00	792
5.	Granite	35	21.00	794
6.	MOP	40	24.00	972
7.	Maize	45	27.00	637
8.	Pig Iron	45	27.00	440
9.	DAP	50	30.00	958
10.	Rock Phosphate	50	30.00	944
11.	Urea	50	30.00	733
12.	Clay	30	18.00	220
13.	Machinery	100	60.00	316
14.	Timber	100	60.00	193
15.	Wood pulp	50	30.00	99
16.	Wheat	35	21.00	814
17.	Sulphur	40	24.00	594
18.	M. Logs	100	60.00	94
19.	Bentonite	45	27.00	840
20.	Yellow Peas	25	15.00	1034
21.	Container per TEU	450	270	82 TEU
22.	Other foodgrains and cereals	35	21.00	814
23.	Other Bulk Cargo not classified above	45	27.00	275
24.	Iron ore by HMC	4.83	4.83	4993
25.	Coal (mechanical by HMC)	4.75	2.85	4028

26.	Coke (mechanical by HMC)	6.93	4.16	2787
27.	Lime stone (mechanical by HMC)	5.38	3.23	3772
28.	Urea (mechanical by HMC)	12.48	7.49	1163
29.	MOP (Mechanical by HMC)	4.85	2.91	5422

Notes:

(i). The rate indicated above is in addition to the actual incentives calculated as per the respective clauses of prevailing settlement / scheme and payable to the NMPT by the licensed stevedores.

(ii). Following penalty / incentive in the rate prescribed will apply for performance below / higher than the benchmark level of productivity per gang/ shift prescribed in the schedule :

On achieving productivity higher than the benchmark level of productivity per gang/shift prescribed in the schedule	Rebate on the rate prescribed in the above schedule if the productivity achieved is higher than the benchmark productivity per gang/shift (in %)	On achieving productivity lower than the benchmark level of productivity per gang/shift prescribed in the schedule	Penalty on the rate prescribed in the above schedule if productivity is lower than the benchmark productivity per gang/shift (in %)
Upto 10% higher than the productivity prescribed	10%	Upto 10% lower than the productivity prescribed	10%
Above 10% to 20%	20%	Below 10% to 20%	20%
Above 20% to 30%	30%	Below 20% to 30%	30%

”

(Rani Jadhav)
Chairperson

ANNEX - I

COST STATEMENT FOR REGISTERED CARGO HANDLING WING OF NEW MANGALORE PORT TRUST AT THE EXISTING PERCENTAGE LEVY

Rs. in lakhs

Sl. No.	Particulars	Actual	Actual	Actual	Estimates at the existing rate furnished by NMPT				Estimates at the existing rate modified by TAMP			
		2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2011-12	2012-13	2013-14	2014-15
	Traffic (in lakh tonnes)		108.52	61.71	61.05	61.85	69.05	78.45	58.95	50.85	57.05	64.45
I	**Operating Income**											
a	Wages	779.48	660.48	557.87	630.2	686.46	799.66	936.5	635.46	752.48	905.78	1088.49
b	Incentive	2332.87	1544.90	657.48	650.51	667.73	738.51	835.59	624.617	532.1	590.55	662.97
c	Levy	1154.34	976.38	823.28	931.4	1014.7	1183.42	1387.24	938.90	1110.74	1338.68	1610.51
	Total I	**4266.69**	**3181.76**	**2038.63**	**2212.11**	**2368.89**	**2721.59**	**3159.33**	**2198.98**	**2395.32**	**2835.02**	**3361.98**
II	**Operating Cost**											
a	Wages to workers	1471.32	2025.05	2199.10	3200.00	2331.05	2400.98	2473.01	2331.05	2854.82	3026.10	3207.67
b	Leave, OT	134.21	107.29	26.72	80.00	28.32	29.17	30.05	28.32	30.02	31.82	33.73
c	Incentive	2334.32	1545.02	657.18	1169.13	696.61	717.51	739.03	624.62	532.1	590.55	662.97
d	Other Expenditure	102.68	131.43	140.74	296.5	147.91	155.19	162.82	149.18	158.14	167.62	177.68
	Sub Total	**4042.53**	**3808.79**	**3023.74**	**4745.63**	**3203.89**	**3302.85**	**3404.91**	**3133.17**	**3575.08**	**3816.10**	**4082.06**
e	Depreciation											
f	Finance & Misc. Expr.	671.49	850.58	1335.29	1706.84	1518.87	1622.92	1735.94	1,415.41	1,551.04	1,694.81	1,847.21
	Sub Total	**671.49**	**850.58**	**1335.29**	**1706.84**	**1518.87**	**1622.92**	**1735.94**	**1415.41**	**1551.04**	**1694.81**	**1847.21**
	Total II	**4714.02**	**4659.37**	**4359.03**	**6452.47**	**4722.76**	**4925.77**	**5140.85**	**4548.58**	**5126.1196**	**5510.92**	**5929.27**
III	**Surplus (I-II)**	**-447.33**	**-1477.61**	**-2320.4**	**-4240.36**	**-2353.87**	**-2204.18**	**-1981.52**	**-2349.60**	**-2730.80**	**-2675.90**	**-2567.30**
IV	Allocated Managt & Gl Overheads	180.88	228.47	247.61	411.56	261.91	270.95	280.31	262.47	301.77	319.88	339.07
V	**Net Surplus (III-IV)**	**-628.21**	**-1706.08**	**-2568.01**	**-4651.92**	**-2615.78**	**-2475.13**	**-2261.83**	**-2612.06**	**-3032.57**	**-2995.78**	**-2906.37**
VI	**Capital Employed (Working Capital)**	**351.95**	**336.44**	**272.61**	**429.77**	**288.82**	**297.82**	**307.10**	**-**	**-**	**-**	**-**
VII	**Return on Capital Employed**	52.79	53.83	43.62	68.76	46.21	47.65	49.14	-	-	-	-
	(15% & 16%)											
VIII	**Net deficit after ROCE (V-VII)**	**-681.00**	**-1759.91**	**-2611.63**	**-4720.68**	**-2661.99**	**-2522.78**	**-2310.97**	**-2612.06**	**-3032.57**	**-2995.78**	**-2906.37**
IX	**Net deficit as % of Operating Income (NMPT has considered before ROCE, percentage arrived by us after considering ROCE)**	**-14.72%**	**-53.62%**	**-125.97%**	**-210.29%**	**-110.42%**	**-90.94%**	**-71.59%**	**-118.79%**	**-126.60%**	**-105.67%**	**-86.45%**
X	**Average Net deficit (after ROCE) as % of Operating Income**						**-90.86%**				**-103.98%**	

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

F.No.TAMP/19/2011 - NMPT - Proposal from the New Mangalore Port Trust for introduction of RCHW levy and wages from the existing pattern to per tonne basis.

A joint hearing in this case was held on 21 June 2011 at the New Mangalore Port Trust (NMPT) premises. The NMPT made a power point presentation of its proposal. At the joint hearing, NMPT and the concerned users/ organisation bodies have made the following submissions:

New Mangalore Port Trust

(i). Our proposal is to switch over from percentage based levy to per tonne rate.

(ii). We prefer per tone levy as it would be transparent and it would be sufficient to revise the rates once in 3 years. Percentage levy, the bill payable undergoes change every 3 months due to revision of wage structure.

(iii). We have taken 2009-10 as the base year because in that year, manning scales were rationalised, wage revision was introduced and iron ore was handled to the optimal level.

(iv). Our proposal is to maintain revenue neutral with reference to year 2009-10 and also to recover the deficit by tariff increase.

(v). Our rates are without incentive payment. Therefore, prima facie, non revision of datum won't affect the proposed rates.

Kanara Chamber of Commerce and Industry

(i). Annual Report of NMPT mentions about 8% increase in revenue from RCHW. How the cost statements at Annex II project a complete reverse position?

(ii). Datum is not revised for a long time. Unless datum is revised, we can't go ahead with per ton rate.

(iii). This method penalises stevedores for under performances of port workers. This is unfair.

Stevedores Association

(i). In the existing proceedings, we have given detailed observations on per tone levy. Please consider them. Rationalisation of manning scales and revision of datum are pre requisite for introducing per ton.

1.2. At the joint hearing, the Association of New Mangalore Port Stevedores (ANMPS) and Kanara Chamber of Commerce and Industry (KCCI) have filed their written submissions which are summarised below:

Association of New Mangalore Port Stevedores

(i). This will only further complicate the procedure by excluding official and unofficial incentives, O.T. charges etc., from the per metric tonne rate. The proposal for penalties for under performance by port labour due to their own reasons being hoisted the concerned Stevedore is itself very complicated and not justifiable.

Once a per tonne rate is fixed by the port, the port should guarantee the average productivity per gang and make good of any shortfall by reduced per tonne rate charged to the Stevedore.

(ii). The collection of wages in advance based on Shipping Bills/ Bills of Entry is a big burden on the Stevedore. No exporter/ importer/ Government Agency pays any advance to the Stevedore for this purpose. Hence this will lead to extra cost and expensive subsequently to the Principals.

(iii). In this regard this proposed per tonne Scale of Rates will be highly misleading and if notified will only misguide the Export/ Import Trade as to total cost, causing many complications for the Stevedore as well exporters/ importers/ Government Agencies.

This proposed per tonne rate does not include many cost to the port workers like:

(a). Official incentives of all kinds.

(b). Penalties to be levied by the RCHW for supposed underperformance, which is itself disputable since for the port workers failing to do their duties properly the penalty is proposed to be hoisted on the Stevedores.

(c). Ghost monies of many kinds demanded and to be paid to the same port workers is not reflected in the tonnage rate. This has reached very high levels at this port compared to all Indian Ports.

(iv). This pattern of collection of tonnage rate may be prevailing at some ports but those ports do not have such high manning, such low datums and such exorbitant ghost monies.

(v). It has requested to shelve this proposal from the port until the following are set aright at this port:

(a). The present Manning Scale should be brought down to reasonable levels as finalised by the National Tribunal Award for Major Ports and prevalent for Cargo handling in Major Ports like Cochin, Chennai, Visakhapatnam, Kolkata, etc.

(b). The unreal datum levels should fully reflect the actual average productivity achieved in the last 3 years at this port.

(c). The Exorbitant Ghost Monies, which is a major contributory factor in the actual costing, is rationalised to the levels prevailing in the neighbouring ports and this major cost should be included in the tonnage rate charged by NMPT. Otherwise the so-called tonnage rate/ levy will be only misguiding the import/ export trade.

(d). The component of Portrage which is included in the wharfage charged by NMPT on the trade has to be taken into consideration before calculating tonnage levy/ wages.

(vi). In the above background without implementing fully the National Tribunal Award Manning Scale or calculating on the basis of actual average productivity nor including the additional cost of Ghost Monies and other incentives and costs mentioned in Annexure 1 of the NMPT's proposal in the per tonne cost, the whole exercise in such computed tonnage rate/ levy would be highly misleading to the import/ export trade.

Instead of "multifarious advantages" to the port and trade the proposed tonnage rate/ levy would be a grave dis-service to the port and the trade together.

<u>Kanara Chamber of Commerce and Industry</u>

(i). **Manning and Datum Levels:**

At the joint meeting of TAMP held on 17th December 2009, the Port users along with KCCI had clearly indicated that the manning of scales and datum should be reviewed. We do not agree on the information given by the Port regarding manning scale proposed to be implemented by the Port as per Annexure VA of Port application request dated 17.03.2011. The manning scales under 'Note' dilutes the very effect to the spirit of the intention reducing manning scales. KCCI is of the firm opinion that the Datum implementation should be fixed first, prior to arriving at any change to the existing tested system. Any unreasonable approach will lead to a labour union problem effecting productivity.

(ii). **Mismatch of Figures:**

In the Annexures to the proposal, the actual operating income for the Financial Year 2008-09 has been shown at ₹42.67 crores and ₹31.82 crores for the year 2009-10 which indicates fall in operating income by 25.42%. However, in reality, as per the Administrative Report for the year 2009-10, the total Cargo Handling & Storage charges collected for the F.Y. 2008-09 is ₹197.19 crores and that for the F.Y. 2009-10 ₹211.67 crores. The same indicates an increase of 7.34% over the previous year. Apparently there is a mismatch of figures. While the Administrative Report shows an increase in income, the proposal for the increase in Tariff shows a reduction.

These lower figures have been considered for arriving at the proposed increase in the tariff. Moreover the estimated figures shown for the F.Y. 2010-11 has been taken at ₹26.65 crores which prima facie appears to be unrealistic compared to the past years results and the Administrative Reports. Since F.Y. 2010-11 has already concluded, the actual figures need to be considered. There is no need for guessing the income. The figures given as per proposal cannot independently be matched to figures in Administrative Report. KCCI prays to the Hon'ble TAMP that these figures must be certified by a competent professional.

(iii). **Levy of Penalty for Slow Productivity on Stevedores:**

As per Note 2 of Annexure - I of the proposal, the Port proposes to levy penalty for slow productivity on the stevedores. In reality the employees are those of the Port Trust and the NMPT, without fixing datum, proposes to levy penalty for slow productivity which is inequitable and not in the interest of trade and the principles of equity and natural justice. The concept of levy should not be entertained at all.

(iv). **Labour Development charges for RCHW as per Annexure - I:**

The KCCI prays that TAMP prevail upon the Average Productivity per gang per Vessel in MT and the same be declared as the Datum for all reference matters. Expenditure is not elaborated and not in co-relation to cost statement of service.

(v). **The Hidden Cost Factor:**

It cannot be denied that the trade is silently suffering from hidden costs as the same are not disclosed.

What is the guarantee that even after introduction of RCHW levy and wages from the existing pattern to per tonne basis the trade is not misguided on the undisclosed costs that can arise later?

(vi). The KCCI has all along taken the stand that ROCE working and projections should be transparent to project factual situation.

(vii). The KCCI is for progressive change but not until the issues of Manning, Datum and Expenditure working with respect to the basis of costing are reworked on actual projections in full measure first, until which time this issue be deferred.

2.1. With reference to meeting held by NMPT with the users/ user associations, the Association of New Mangalore Port Stevedores has furnished its comments to the draft minutes of the meeting vide its letter dated 8 July 2011.

Sl. No.	Comments of users/ user organisations
1.	**Association of New Mangalore Port Stevedores**
(i).	It is clear that direction of the Ministry of Shipping to NMPT to implement a levy on per tonne basis is only along with implementation of NMPT **Labour Manning Scale** as recommended by the Tribunal Award. Since the Port admits that the said Tribunal Award has only been partially implemented the levy on per tonne basis is not to be implemented until 100% implementation of the Tribunal Award which is a must.
(ii).	The user Associations had raised in the joint meeting with TAMP on 21 June 2011 the basis of calculation / computation of the tonnage levy on cargo since it was not given in the Port's proposal. TAMP has directed that this should be discussed among other concerns of the Port Users at a meeting to be called by the Port. Though the minutes mention that the said meeting on 4 July 2011 called for by the Port with the User Association is "intended to discuss the proposal in toto", in fact the details of how the proposed per tonne rates were arrived at were not disclosed by the Port's officials. Hence the issue remains unresolved for lack of clarity.
(iii).	The Port maintain that "**Cargo Datum** shall not have any impact while calculating levy as per tonne basis." The Port has not clarified how it has arrived at a per tonne rate without considering the datum in calculation. This is inconceivable and lacks transparency. Hence the unreal cargo Datum levels should fully reflect the actual average productivity achieved in the last 3 years before introduction of levy on tonne rate.
(iv).	**Hidden costs** / **Incentives** are only due to the Extraordinary demands of the Port Labour for doing their usual duties. The Port labour are being fully paid for their duties as per All India Major Ports Wage Agreements. It is also a know fact that only a small part of the deployed labour gangs are working, while whole gang collects their demanded **Ghost monies on per head basis**, adding up to the Port users cost. If the proposed per tonne levy on cargo ignores all these hidden costs it would be highly misleading to the Import / Export Trade and hence counter productive and not at all transparent.
(v).	Wharfage charges of the Port include a component of Porterage labour cost collected and hence the Port has to deduct this component while calculating the per tonne levy on cargo towards Port labour cost.
(vi).	Since it is the Port's proposal to levy Port labour charges on tonnage basis then it is obvious that it is taking over the responsibility of its labour's performance, productivity etc. and all liabilities thereof including injuries, casualties to its own labour. This is all inclusive in the per tonne system as against a labour supply basis as at present.

2.2. The ASPINWALL & Company Limited vide its letter dated 19 August 2011 has stated that at the joint meeting, they have referred issue of tonnage levy proposed for fertilizer at NMPT was quite high as compared to the same category of number of labourers for handling Coal / Iron Ore / Limestone was charged at ₹25/- PMT whereas for fertilisers like MOP - ₹40/-, DAP - ₹50/-, Urea - ₹50/- PMT. During discussion port agreed to reduce the levy to ₹25/- PMT. But, the port without any discussions/ revising seems to have sent the proposal to TAMP.

In this regard, they have enclosed the letters received from major Importers of Fertiliser like – M/s.Indian Potash Ltd., M/s.IFFCO Ltd., M/s.Mangalore Chemical and Fertilisers Ltd., requesting for reduction in labour handling charges. Since New Mangalore Port Labour / handling charges for fertilizer are very high compared to other Major Ports, as NMPT has many hidden Labour costs / payments, which has been brought to your kind attention by the Stevedores Association and the Kanara Chamber of Commerce.

Therefore, it has requested to revise the tonnage levy for fertilizer to ₹25/- PMT to be at par with other cargo's like – Coal/ Iron Ore/ Limestone. The fertilisers are used for agricultural purpose and any escalation in the levy would affect the farmers.

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