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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.355 **New Delhi,** **13 September 2017**

NOTIFICATION

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the application filed by the TM International Logistics Limited (TMILL) for a review of the Order dated 17 September 2016 passed by this Authority, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/83/2016-TMILL

TM International Logistics Limited … Applicant

QUORUM

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

O R D E R

(Passed on this 21th day of July 2017)

This case relates to the review Application filed by TM International Logistics Limited (TMILL) for review of the Order dated 17 September 2016.

1.2. This Authority had passed an Order dated 17 September 2016 on the proposal received from TMILL for general revision of its Scale of Rates (SOR). This Order has been notified in the Gazette of India on 10 October 2016 vide Gazette No.369. This Authority vide letter no. TAMP/8/2016-TMILL dated 14 October 2016 communicated this position to TMILL. The revised SOR has come into force with effect from 10 November 2016 and shall be in force till 31 March 2019.

2. Clause 3.3.1 of the tariff guidelines of March 2005 enables the Authority to entertain application for review of any tariff Order 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 from the date of notification in the Official Gazette. This Authority has passed Order on 17 September 2016 and the Order has been notified on 10 October 2016. However, the TMILL vide its email dated 27 October 2016 had sought time upto 23 November 2016 to file its Review application. Accordingly, this Authority vide its letter dated 28 October 2016 informed TMILL that TMILL can file its Review application upto 23 November 2016, as requested by it.

3.1. In this backdrop, the TMILL has filed an application dated 22 November 2016 for review of the Order dated 17 September 2016, in accordance with terms of provisions of clause 3.3.1. of the tariff guidelines of March 2005.

3.2. The points for review of the tariff Order as mentioned by TMILL in its e-mail dated 22 November 2016 are summarized below:

(i). Disallowance of Operating cost to the tune of ₹. 26.22 Lacs, ₹. 28.73 Lacs and ₹. 62.72 Lacs for the years 2013-14 to 2015-16:
(ii). Nil working capital considered for 2013-14, 2014-15 and 2015-16
(iii). Review of actual physical and financial performance for the previous tariff cycle (2013-16)
(iv). Excess revenue on account of Wharfage & On-Board charges of Project cargo
(v). Other income for 2016-19 as calculated by the Authority
(vi). Computation of Operational expenses for future years:
(vii). Adjustment of past surplus for the period of 2010-11 to 2012-13.

3.3. Along with the review application, TMILL has also furnished the Reconciliation statement, reconciling the operating expenditure as considered in the Cost Statement vis-à-vis operating expenditure as reflected in the Segregated Accounts for the year 2013-14 to 2015-16. The Reconciliation Statement as furnished by the TMILL is as follows:

For F.Y. 2013-14

Sl No.	Heads of Expenditure	Segregated Accounts	TMILL revision application	Difference
1	Employees Benefit Expenses	258	2297	-106
2	Operating Expenses	1371		

3	Other Expenses	561		
4	Depreciation and amortization expenses	545	373	172
		2736	**2670**	**66**
	Reconciliation of Operating. Overheads, Financial & Miscellaneous Expenses (F.Y. 2013-14)			
5	As per Segregated Accounts (excluding Depreciation, Amortization) (1+2+3)	2191		
6	Less: Royalty Expenses considered of 2nd Highest Bidder	66	Submission of column E	
7	Add: Lease Rental considered as Amortization by Company in Segregated whereas in Revision application this have been considered under Operational Expenses-considering in deprecation in segregated accounts	172	Point No. 4 of column E	
		2297		
	As per TMILL Review Application	**2297**	Point no. 1+2+3 of column D	
	Difference	-		

For F.Y. 2014-15

Sl No.	Heads of Expenditure	Segregated Accounts	TMILL revision application	Difference
1	Employees Benefit Expenses	250	2544	-103
2	Operating Expenses	1565		
3	Other Expenses	626		
4	Depreciation and amortization expenses	580	381	199
		3022	**2925**	**96**
	Reconciliation of Operating. Overheads, Financial & Miscellaneous Expenses (F.Y. 2014-15)			
5	As per Segregated Accounts (excluding Depreciation, Amortization) =1+2+3	2442		
6	Less: Royalty Expenses considered of 2nd Highest Bidder	81	Submission of column E	
7	Less: Depreciation of Other Berth consider in B#12-not considered in our TAMP applicator submitted by TMILL	15		
8	Add: Lease Rental considered as Amortization by Company in Segregated whereas in Revision application this have been considered under Operational Expenses-considering in deprecation in segregated accounts	199	Point No. 4 of column E	
		2544	Point no. 1+2+3 of column D	
	As per TMILL Review Application	**2544**		
	Difference	-		

For F.Y. 2015-16

Sl No.	Heads of Expenditure	Segregated Accounts	TMILL revision application	Difference
1	Employees Benefit Expenses	470	3782	-58
2	Operating Expenses	2353		
3	Other Expenses	900		

4	Depreciation and amortization expenses	613	423	191
		4337	**4204**	**133**
	Reconciliation of Operating. Overheads, Financial & Miscellaneous Expenses (F.Y. 2013-14)			
5	As per Segregated Accounts (excluding Depreciation, Amortization) =1+2+3	3724		
6	Less: Royalty Expenses considered of 2nd Highest Bidder	133	Submission of column E	
7	Add: Lease Rental considered as Amortization by Company in Segregated whereas in Revision application this have been considered under Operational Expenses- considering in deprecation in segregated accounts	191	Point No. 4 of column E	
		3782		
	As per TMILL Review Application	**3782**	Point no. 1+2+3 of column D	
	Difference	-		

3.4. Thus, the TMILL has requested this Authority to review the above issues in the Order passed by this Authority on 17 September 2016, in the light of the submissions made by it.

3.5. In the past, when the ports/ private terminals have filed review application for review of the tariff Order passed by this Authority, the review application so filed by the ports/ private terminals have been processed following the usual consultation process. Accordingly, the review application of TMILL has been processed in a separate proceeding.

4. In accordance with the consultative procedure prescribed, the TMILL review application dated 22 November 2016 was circulated to Kolkata Port Trust (KOPT) and the concerned users/ user organizations who were consulted during the proceedings of the general revision proposal of TMILL, seeking their comments. In this regard, the KOPT vide its email dated 11 January 2017 has informed that after perusing the issues raised by TMILL in the review petition, it is seen that all the issues raised by TMILL are related to decisions taken by this Authority in matters relating to cost statement furnished by TMILL in support of its proposal. As TAMP is the appropriate Authority in such matters, the issues raised by TMILL may be decided by TAMP. Therefore, KOPT has stated that they have no comments to offer on the subject. None of the users / user organizations furnished its comments, till the case was taken up for finalization.

5. Subsequently, the TMILL vide its email dated 17 January 2017 has highlighted the treatment of royalty as cost for deriving the SOR of TMILL for 2016-19. In this regard, the TMILL has stated that this Authority has calculated the royalty cost based on the relevant SOR of KOPT. Subsequently, this Authority has issued a new SOR for KOPT vide Order no. TAMP/23/2016-KOPT dated 2 December 2016, which is effective from 12 January 2017. The rates of KOPT in the new SOR has increased compared to the last one. This Authority has kept provision as below in TMILL's Order related to Royalty cost:

> *"With regard to the Revenue share payable by TMILL based on the KOPT Scale of Rates, it is relevant to state that the Scale of Rates of KOPT is due for revision. The KOPT has already submitted a proposal and the proposal is under consultation process with the relevant stakeholders. Thus, in the event of revision of Scale of Rates of KOPT in future, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the rates to be approved for the various cargo items and services in the revised Scale of Rates of KOPT in the revenue share calculation."*

In view of the change in the SOR of KOPT on a higher side, cost of royalty for TMILL will go up which will have an impact on the SOR of TMILL. Since TMILL does not have the calculation, TMILL has made a request to review the SOR regarding the issue of treatment of royalty as cost.

6. A joint hearing in this case was held on 25 January 2017 at the KOPT premises. At the joint hearing, the TMILL and the KOPT have made their submissions.

7.1. Subsequent to the joint hearing, the TMILL was requested vide our letter dated 12 April 2017 to clarify the following points:

(a). Reconciliation statement provided by TMILL regarding the Operating Expenses for the years 2013-14 to 2015-16.

(b). Reason for considering the area taken per parcel at 10000 sq.m in the calculation of Plot rental income from limestone in each of the years 2017-18 and 2018-19 as against the area taken per parcel at 8000 sq.m for limestone in the year 2016-17.

7.2. The TMILL has responded vide its letter dated 3 May 2017**.** The submission made by TMILL are as follows:

(i). The TMILL has furnished a revised Reconciliation Statement, reconciling the operating expenses as considered in its Cost Statement vis-à-vis operating expenses as reflected in Segregated Accounts for the year 2013-14 to 2015-16. The revised Reconciliation Statement is brought out in the subsequent paragraph.

(ii). The area for the calculation of plot rental income from limestone should be considered as 8000 sq. m. for all financial years i.e. 2016-17 to 2018-19.

(iii). Other income has been increased by more than 10% although operational income has been increased by 10% in line with increase in volume. TMILL is not aware of the reason for increase in other income by more than 10%. It is requested that the same basis may be considered in the Review Application.

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

9. A summary of the points made by the TMILL in its review application, the corresponding relevant extract from the tariff Order dated 17 September 2016 and our analysis thereon are furnished below:

(i). Disallowance of Operating cost to the tune of ₹. 26.22 Lacs, ₹. 28.73 Lacs and ₹. 62.72 Lacs for the years 2013-14 to 2015-16:

(a). Points made by TMILL in its Review Application:

In para no. 12.V. (g). of the Order of TMILL dated 17 September 2016, it has been mentioned that aggregate of operating expenses, overheads and financial and miscellaneous expenses as considered in the Cost statement is higher to the tune of ₹. 26.22 Lacs, ₹. 28.73 Lacs and ₹. 62.72 Lacs for the years 2013-14 to 2015-16. The TMILL has provided all the reconciliation statement as sought by the Authority during the finalization of SOR. The reconciliation was furnished for profit as well as for fixed assets and there was no discrepancy. The said reconciliation statement is again attach for consideration of the Authority. The revised Reconciliation Statement furnished by TMILL vide its email dated 3 May 2017 is reproduce below:

Actuals for F.Y. 2013-14

(Figures in Lacs)

Sl No.	Heads of Expenditure	TMILL application	Considered by TAMP	Diff	Remarks

A.	Operating Costs (excluding depreciation)	1785	1745	(-) 40	Provision made by TMILL on a/c of Royalty on On-Board Supervision, which was not considered by Authority. TMILL did not mention this in the review application for any modification.
B.	Depreciation	373	373	0	
C.	Overheads	486	460	(-) 26	The authority has considered the lower cost. As understand this is related to the Administrative Rent. It is requested to consider this cost as per review application.
D.	Finance & Miscellaneous Expenses (FME)	26	26	0	
		2670	**2604**	**(-) 66**	
	Reconciliation of Operating, Overhead, Financial & Miscellaneous Expenses (F.Y. 2013-14)				
	As per TMILL application	2670			
	Less. Provision made by TMILL on A/c of Royalty on On-Board Supervision, which was not considered by Authority. TMILL did not mention this in the review application for any modification.	(-) 40			
	Add: The Authority has considered lower cost. As understand this is related to the Administrative rent. TMILL requested the authority to consider this cost as per review application.	(-) 26	Refer below reconciliation of lease rental		
		2604			
	As considered by TAMP	2604			
	Difference	0			
	Reconciliation of Rent (including Plot Rent) as in Segregated Accounts and Lease Rentals as Shown in Form 3A:				
	Rent (including Plot Rent) as	90			

	mentioned in Segregated Accounts				
	Add: Lease Rental considered as Amortization by Company in segregated Accounts whereas in proposal this has been considered under Lease Rental	172			
	Less: Administrative Rent included in Rent (including Plot Rent)	(-) 26			
	Lease Rental as shown in Form 3A	236			

Actuals for F.Y. 2014-15

(Figures in Lacs)

Sl No.	Heads of Expenditure	TMILL application	Considered by TAMP	Diff	Remarks
A.	Operating Costs (excluding depreciation)	2018	1966	(-) 51	Provision made by TMILL on a/c of Royalty on On-Board Supervision, which was not considered by Authority. TMILL did not mention this in the review application for any modification.
B.	Depreciation	381	381	0	
C.	Overheads	498	469	(-) 29	The authority has considered the lower cost. As understand this is related to the Administrative Rent. TMILL requested the authority to consider this cost as per review application.
D.	Finance & Miscellaneous Expenses (FME)	29	29	0	
		2925	**2845**	**(-) 80**	
	Reconciliation of Operating, Overhead, Financial & Miscellaneous Expenses (F.Y. 2013-14)				
	As per TMILL application	2925			
	Less. Provision made by TMILL on A/c of Royalty on On-Board Supervision, which was not considered by Authority. TMILL	(-) 51			

	did not mention this in the review application for any modification.				
	Add: The Authority has considered lower cost. As understand this is related to the Administrative rent. TMILL requested the authority to consider this cost as per review application.	(-) 29	Refer below reconciliation of lease rental		
		2845			
	As considered by TAMP	2845			
	Difference	0			
	Reconciliation of Rent (including Plot Rent) as in Segregated Accounts and Lease Rentals as Shown in Form 3A:				
	Rent (including Plot Rent) as mentioned in Segregated Accounts	99			
	Add: Lease Rental considered as Amortization by Company in segregated Accounts whereas in proposal this has been considered under Lease Rental	181	The difference in depreciation is of ₹. 199 lacs but depreciation of other Berth consider in B#12 has not considered in our TAMP application submitted by TMILL (refer Form 3A working sheet of TMILL application.		
	Less: Administrative Rent included in Rent (including Plot Rent)	(-) 29			
	Lease Rental as shown in Form 3A	251			

Actuals for F.Y. 2015-16

(Figures in Lacs)

Sl No.	Heads of Expenditure	TMILL revision application	Considered by TAMP	Diff	Remarks
A.	Operating Costs (excluding depreciation)	2889	2821	(-) 68	Provision made by TMILL on a/c of Royalty on On-Board Supervision, which was not considered by Authority. TMILL did not mention this in the review application for any modification.
B.	Depreciation	423	423	0	

C.	Overheads	850	788	(-) 63	The authority has considered the lower cost. As understand this is related to the Administrative Rent. TMILL requested the authority to consider this cost as per review application.
D.	Finance & Miscellaneous Expenses (FME)	43	43	0	
		4204	**4074**	**(-) 131**	
	Reconciliation of Operating, Overhead, Financial & Miscellaneous Expenses (F.Y. 2013-14)				
	As per TMILL application	4204			
	Less. Provision made by TMILL on A/c of Royalty on On-Board Supervision, which was not considered by Authority. TMILL did not mention this in the review application for any modification.	(-) 68			
	Add: The Authority has considered lower cost. As understand this is related to the Administrative rent. TMILL requested the authority to consider this cost as per review application.	(-) 63	Refer below reconciliation of lease rental		
		4074			
	As considered by TAMP	4074			
	Difference	0			
	Reconciliation of Rent (including Plot Rent) as in Segregated Accounts and Lease Rentals as Shown in Form 3A:				
	Rent (including Plot Rent) as mentioned in Segregated Accounts	133			
	Add: Lease Rental considered as Amortization by Company in segregated Accounts whereas in proposal this has been considered in depreciation in segregated accounts	191			
	Less: Administrative Rent included in Rent	(-) 63			

	(including Plot Rent)				
	Lease Rental as shown in Form 3A	261			

(b). Relevant Extract from the tariff Order dated 17 September 2016:

(Paragraph no. 12(v)(g)

Subject to the difference in the royalty/ revenue share amount and lease rentals as reflected in the Segregated Accounts and as considered in the Cost statement, the aggregate of operating expenses, overheads and financial and miscellaneous expenses in the Cost statement should match with the total expenses (excl. depreciation) in the Segregated Accounts. However, the aggregate of operating expenses, overheads and financial and miscellaneous expenses as considered in the Cost statement is seen to be higher to the tune of ₹.26.22 lakhs, ₹. 28.73 lakhs and ₹. 62.72 lakhs for the years 2013-14 to 2015-16, as compared to the Segregated Accounts of the corresponding period. The Reconciliation statement furnished by the TMILL does not throw light on this difference in spite of request made to TMILL twice to provide reconciliation statement for operating expenses. Therefore, the said amount of ₹. 26.22 lakhs, ₹. 28.73 lakhs and ₹. 62.72 lakhs is adjusted in the management and general overheads reflected in the Cost statement furnished by TMILL for the years 2013-14 to 2015-16.

(c). Analysis:

(i). As already brought out in the Order of September 2016, it is reiterated that though the TMILL had furnished the Reconciliation statement, it did not throw light on the difference to the tune of ₹.26.22 lakhs, ₹. 28.73 lakhs and ₹. 62.72 lakhs for the years 2013-14 to 2015-16 respectively.

(ii). However, in the revised Reconciliation Statement furnished by TMILL now, it is seen that the difference of ₹. 26.22 lakhs, ₹. 28.73 lakhs and ₹. 62.72 lakhs which was adjusted in the Management and General Overheads reflected in the cost Statement for the years 2013-14 to 2015-16 (forming part of September 2016 Order), is the amount relating to Administrative Rent pertaining to leasehold land which, though was included in the Cost Statement by TMILL, did not get reflect in Segregated Accounts due to TMILL having amortised in the Segregated Accounts, whereas considers it as an item of Cost in its Cost Statement. In view of this position, the amount of ₹. 26.22 lakhs, ₹. 28.73 lakhs and ₹. 62.72 lakhs for the years 2013-14 to 2015-16 which was disallowed in September 2016 Order, is treated as an item of Expenditure, based on the Reconciliation Statement furnished by TMILL.

Since the adjustment has been carried out in the year 2015-16 also, which has been considered as base year to estimate the expenditure of the years 2016-17 to 2018-19, the Management and General Overheads for the years 2016-17 and 2018-19 also stands modified, on account of this adjustment.

(ii). Nil working capital considered for 2013-14, 2014-15 and 2015-16

(a). Points made by TMILL in its Review Application:

The Authority in its Order, at para 12(v) (j) (iv) to (v) had calculated current liabilities for the year F.Y. 14,15 and 16 by way of taking an average for Berth no. 12 on the basis of derived total current assets.

In this regard, the TMILL submits that the Authority has maintained its stand while fixation of tariff for the said years vide Order of May 2014 and review Order of March 2015 by considering current liability while calculation of working capital, though while fixation of tariff for the said years vide Order of October 2007 and review of Order of March 2008, the current liabilities considered by the Authority was nil and Guidelines also does not provide any norms for calculation of the same.

Taking this view into consideration, without prejudice to anything aforesaid, no current liabilities should have been considered in the analysis of past performance. This view also become relevant as because sundry debtors is considered as nil by the Authority. These methods of computation has led to an error while fixing tariff for TMILL.

In view of this, the Authority is requested to rectify the error.

(b). Relevant Extract from the tariff Order dated 17 September 2016:

(Paragraph no. 12(v) (j) (iv) to (v)

(iv). The TMILL has not furnished the current liabilities for the years 2013-14 to 2015-16. Non consideration of Sundry Debtors as current assets does not justify to exclude current liabilities altogether, as argued by TMILL. The current liabilities shown in the audited Segregated Accounts is for the entire Haldia division and not with reference to Berth no.12. Therefore, the proportion of Current liabilities of the Haldia Division to the Current Assets of Haldia Division as given in the Segregated Accounts is taken as base and applied to the figures of Current Assets as calculated based on the approach as explained in the preceding paragraphs for the years 2013-14 to 2015-16 in the analysis to calculate current liability.

(v). Since the Current Liabilities are found to be more than the Current Assets, the Working Capital results in a negative figure. Therefore, the Working Capital is considered as NIL for the years 2013-14 to 2015-16. Thus, the Capital Employed works out to ₹.2838.18 lakhs, ₹ 4100.19 lakhs and ₹.3769.66 lakhs for the years 2013-14 to 2015-16 respectively.

(c). Analysis:

(i). As per Clause 2.9.3 of the tariff guidelines of 2005, Capital Employed comprises of ‘Net fixed assets plus working capital’. Clause 2.9.4, defines working capital as ‘Current assets less Current liabilities’. The tariff guidelines of 2005 prescribe norms for determining Current assets. This does not imply that Current liabilities have to be ignored in the assessment of working capital. The current liabilities are thus recognized while determining the working capital in all tariff cases of BOT operators.

(ii). The TMILL had not furnished the current liabilities for the years 2013-14 to 2015-16. This Authority was, therefore, constrained to consider the Current liabilities. For the purpose, the proportion of Current liabilities of the Haldia Division to the Current Assets of Haldia Division as given in the Segregated Accounts was taken as base and applied to the figures of Current Assets as calculated in the Order of September 2016 in the analysis. It is noteworthy that such an approach of determining Current liabilities has been carried out in the past revisions of tariff of TMILL in the year 2011 as well as 2014.

(iii). The TMILL has not pointed out any error apparent on the face of the records considered warranting a review of the September 2016 Order on this aspect. Therefore, no review in this regard is called for.

(iii). <u>Review of actual physical and financial performance for the previous tariff cycle (2013-16)</u>

(a). <u>Points made by TMILL in its Review Application:</u>

The Authority in its Order, at para no. 12.VI. (a).(b).(c) has accepted the fact that there has been a difference of more than (-) 20% in terms of Return on Capital Employed (ROCE) between projection and actual for the period 2013-16.

As per the clause 2.13 of the tariff guidelines, TMILL should get 50% benefit on the past deficit and therefore, rates for 2016-19 should be adjusted accordingly. In view of this, the TMILL request the Authority to consider the same.

(b). <u>Relevant Extract from the tariff Order dated 17 September 2016:</u>

<u>Paragraph no. 12.VI. (a).(b).(c)</u>

(vi). (a). A statement showing the analysis of the performance of TMILL for the years 2013-14 to 2015-16 is furnished by TMILL. A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(₹.In Lakhs)

Particulars	***Aggregate of the Estimates relied upon in the last Order for the years 2013-14 to 2015-16***	***Aggregate of Actuals for the years 2013-14 to 2015-16***	***% Variation***
Traffic (in MTs)	***2650000***	***2928438***	*10.51%*
Op. Income	***11499.85 ****	***10121.25***	*-11.99%*
Total Exps (incl. Depn)	***10606.19***	***9425.26***	*-11.13%*

***** *The operating income estimates are adjusted to reflect the increase granted vide the last tariff Order.*

The details regarding the Actual Return earned by TMILL on the Capital Employed are given in the following table:

(₹. In Lakhs)

Sr. no.	***Particulars***	***2013-14***	***2014-15***	***2015-16***	***Average***
(i).	*Actual Surplus before Return earned by TMILL*	*-84.62*	*112.48*	*604.59*	*210.82*
(ii).	*Actual Capital Employed*	*2838.18*	*4100.19*	*3769.66*	*3569.34*
(iii).	*Actual Return on Capital Employed as a percentage.*	*-2.98%*	*2.74%*	*16.04%*	*5.91%*

(iv).	*Variation in Return on Capital Employed @ 16%*	*-118.63%*	*-82.85%*	*0.24%*	*-67.08%*

(b). As per Clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows the variation of more than + or – 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle.

As can be seen from the above tables, though the actual financial performance is seen to be more than (-) 20%, in terms of ROCE, the actual physical performance is seen to be 10.51%, which is less than (+) 20%. In view of the above position, in terms of the stipulation contained in Clause 2.13, there is no case to set off 50% of the past deficit pertaining to the years 2013-14 to 2015-16 in the current tariff cycle of TMILL.

(c). The analysis of the past performance of the TMILL for the year 2015-16 is based on the draft segregated Accounts for the year 2015-16. This analysis pertaining to the year 2015-16 will be reviewed based on the final audited segregated Accounts for the year 2015-16.

(c). Analysis:

(i). As per Clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows the variation of more than + or – 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle.

(ii). It may be recalled that based on the Ministry of Shipping letter No. 14019/20/2009-PG dated 12 June 2015, the TMILL was , interalia, communicated vide our letter no. TAMP/46/2015-Misc dated 24 July 2015 that this Authority would henceforth take into account both the financial and physical parameters, for the purpose of clause 2.13 of the Tariff Guidelines of 2005.

(iii). In the case in reference, though the actual financial performance was seen to be more than (-) 20%, in terms of ROCE, the actual physical performance was seen to be 10.51%, which was less than (+) 20%. Since both the financial and physical parameters were not more than +/- 20%, in terms of the stipulation contained in Clause 2.13 of the 2005 Guidelines, there was no case to set off 50% of the past deficit pertaining to the years 2013-14 to 2015-16 in the current tariff cycle of TMILL.

(iv). The TMILL has not pointed out any error apparent on the face of the records considered warranting a review of the September 2016 Order on this aspect. Therefore, no review in this regard is called for.

(iv). Excess revenue on account of Wharfage & On-Board charges of Project cargo

(a). Points made by TMILL in its Review Application:

The Authority in para no. 12(xxix) (e) of the Order has considered an excess revenue of ₹.1.3 Crores for 2016-19 against Wharfage & On-Board charges against Project cargo.

This revenue has been already considered by TMILL while projecting the operating income for 2016-19. Hence, there has been a double counting of the revenue which has led to higher projection of revenue. Therefore, the Authority is requested to rectify this error and adjust the tariff accordingly.

(b). <u>Relevant Extract from the tariff Order dated 17 September 2016:</u>

<u>Paragraph no. 12(xxix) (e) & (g)</u>

(e). The increase in the wharfage charges of project cargo and machinery & spares is reported to have been proposed by TMILL, to be in line with rate of KOPT. It is seen that as against the existing wharfage rate of ₹.240/- per MT for Project cargo at KOPT, the TMILL has proposed a rate of ₹. 290/- per MT. It is noteworthy that the KOPT in its current general revision proposal has proposed a wharfage rate of ₹. 277.20 per MT for Project Cargo. Further, as against the existing on board handling charge of ₹.58.32 per MT at KOPT, the TMILL has proposed a rate of ₹. 80/- per MT. It is noteworthy that the KOPT in its current general revision proposal has proposed a wharfage rate of ₹. 67.36 per MT.

It is a known fact that the handling of Project cargo involves more efforts and is also more time consuming as compared to handling of other dry/ break bulk cargo. Recognising this position, while fixing the rate for use of a HMC at TMILL in February 2015, the per tonne rate fixed for handling of Project cargo through HMC is higher at ₹.529.41 per MT as compared to the rate for handling of dry/ break bulk cargo ranging from ₹. 56.25 per MT to ₹. 136.36 per MT.

In view of the above position and considering that the wharfage and on board handling charges proposed by the port for the Project cargo is comparable to the existing wharfage and on board handling charges prevailing at KOPT, this Authority is approve the wharfage rate of ₹. 290/- per MT and on board handling charge of ₹. 80/- per MT as proposed by the TMILL for Project cargo.

This increase granted in the wharfage rate and on board handling charge in Project cargo and the increase in the traffic estimates of Project cargo as discussed earlier, will generate an additional income to the tune ₹.1.29 crores during the remaining tariff validity period of 2 years and 6 months.

(g). Considering the impact in revenue arising due to increase granted in the wharfage rate and on board handling charge in Project cargo to the tune ₹1.29 crores and the reduction in revenue to the tune ₹32.71 lakhs on account of per tonne rates, during the remaining tariff validity period of 2 years and 6 months, the cost position warrants a reduction of 7% in the existing Scale of Rates of TMILL. A working in this regard is shown below:

Particulars	***2016-17 (6 months)***	***2017-18***	***2018-19***	***Total***
Estimated Income at the existing level of tariff	*2814.87*	*5680.25*	*6074.66*	***14569.79***
Reduction in Income on account of approval of per MT rates for on board equipment assistance	*6.34*	*12.69*	*13.68*	***(-) 32.71***
Increase in income on account of higher Wharfage & OBC charges for Project cargo	*25.81*	*51.62*	*51.62*	***129.06***
Revised Operating Income	***2834.34***	***5719.19***	***6112.61***	***14,666.13***

Surplus as assessed in the cost statement		***940.76***
Reduction in Surplus on account of approval of per MT rates for on board equipment assistance		***32.71***
Increase in surplus on account of higher Wharfage & OBC charges for Project cargo		***129.06***
Resultant final surplus		***1,037.11***
Reduction in the existing level of tariff	***7%***	

(c). Analysis:

(i). In the September 2016 Order of TMILL, the income at the then existing level of tariff of TMILL has been taken as base. Thus, in the estimation of income from the Project cargo for the years 2016-17 to 2018-19, the wharfage income has been estimated for each of the year at ₹ 116.01 per MT and the income from the levy of on-board charges has been estimated for each of the year at ₹ 66.27 per MT, as per the then prevailing Scale of Rates of TMILL

(ii). For the reasons brought out in the September 2016 Order of TMILL, the wharfage rate of ₹290/- per MT and on board handling charge of ₹. 80/- per MT as proposed by the TMILL for Project cargo, was approved.

(iii). In view of this position, additional income arising out of levy of higher wharfage rate and on-board handling charges on Project cargo was quantified to the tune ₹.1.29 crores during the remaining tariff validity period of 2 years and 6 months, as given below:

No.	Particulars	2016-17	2017-18	2018-19
1	Quantity (MT)	13,750 (for 6 months)	27,500	27,500
2.	Then Existing Rate			
	- Wharfage	116.01	116.01	116.01
	- OBC	66.27	66.27	66.27
	Total	**182.28**	**182.28**	**182.28**
3.	Proposed rate			
	- Wharfage	290.00	290.00	290.00
	- OBC	80.00	80.00	80.00
	Total	**370.00**	**370.00**	**370.00**
4	Difference between the proposed rate and existing rate (3 – 2)	187.72	187.72	187.72
5.	Additional income (₹ in lakhs) (4 x 1)	25.81	51.62	51.62
6.	**Total additional income for a period of 2 years and 6 months (₹ in lakhs)**		**129.05**	

(iv). From the above, it can be seen that there has not been any double counting of the revenue which has led to higher projection of revenue, as stated by TMILL. Therefore, no review in this regard is called for.

(v). <u>Other income for 2016-19 as calculated by the Authority</u>

(a). <u>Points made by TMILL in its Review Application:</u>
The Authority has increased the operating income by 10% compared to the projection given by TMILL. This is in line with the higher volume considered by the Authority. However, the Authority has increased the other income for 2017-18 and 2018-19 by more than 10% compared to the projection given by TMILL. Due to this methodology adopted by the Authority the income of TMILL has increased by ₹.2.29 Cores (beyond 10% hike).

The TMILL requests this Authority to rectify this error and adjust the tariff accordingly.

(b). <u>Relevant Extract from the tariff Order dated 17 September 2016:</u>

<u>Paragraph no. 12 (xi) (b)</u>

The 'Other Income' as shown in the Cost statement comprises of Plot Rental income and Income from the use of HMC at Berth no. 12.

(i). The TMILL has furnished workings to arrive at the plot rental income for the said years. As seen from the workings, the estimate is based on the assumptions of TMILL about parcel size for each category of cargo, area requirement for each parcel size, number of parcels expected and storage time for each parcel. The assumptions made by TMILL are relied upon in the estimation of income arising from plot rentals. However, the income for the years 2016-17 to 2018-19 has been reworked by us by considering the traffic estimates at the level as discussed in the preceding paragraph.

(ii). The HMC is proposed to be utilised by TMILL in respect of handling cargo like Limestone, Steel (Exports & Imports), Fertiliser Raw materials and Project Cargo. The income from the use of the HMC is seen to have been estimated by the TMILL by taking into account the estimated traffic for the years 2016-17 to 2018-19, the usage and the per tonne rates for the use of HMC for the various cargo items fixed by this Authority in the Review Order of February 2015. The assumptions made by TMILL are relied upon in the estimation of income arising from the use of HMC. However, the income for the years 2016-17 to 2018-19 has been reworked by us by considering the traffic estimates.

(c). <u>Analysis:</u>

(i). The 'Other Income' comprises of Plot Rental income and Income from the use of HMC at Berth no. 12. The Plot Rental income as well as the Income from the use of HMC is based on the traffic estimates for the years 2016-17 to 2018-19. Given that the traffic estimates for the years 2016-17 to 2018-19 given by TMILL were increased by 10%, for the reasons recorded in the September 2016 Order, the Plot Rental income as well as the Income from the use of HMC has also increased.

(ii). The TMILL is of the view that since the traffic estimates for the years 2016-17 to 2018-19 as given by TMILL were increased by 10%, the other income as given by TMILL should also increase by 10%.

(iii). Though the argument of TMILL is sound, it is to state that in the calculation of plot rental income, in addition to the change in the traffic figures, another change has also been effected in the September 2016 Order. However, the same has been inadvertently not explained in the September 2016 Order. The same is explained in the subsequent paragraph.

(iv). In the September 2016, in the calculation of Plot rental income from limestone for the year 2016-17, the TMILL had considered the area taken per parcel at 8000 sq.m. For the years 2017-18 and 2018-19, in the calculation of Plot rental income from limestone, the TMILL had considered the area taken per parcel at 10000 sq.m. In the absence of any reason given by TMILL for the said change, the area taken per parcel in each of the years 2017-18 and 2018-19 was considered at 8000 sq.m. instead of 10000 sq.m. in the September 2016 Order. Thus, with the increase in volume and the plot size having been reduced, the usage of plot would have been for a longer period to accommodate the entire cargo including the 10% additional cargo. Thus, though the traffic volume was increase by 10%, the increase in plot rental income was more than 10%. TMILL has vide its letter dated 5 May 2017 has confirmed that the area should be considered as 8000 sq.m for the year 2016-17 to 2018-19. The same was considered in the analysis~~.~~

(v). Based on a specific request, the TMILL has now stated that the area for limestone should have been considered at 8000 sq. m. for the years 2016-17 to 2018-19.

(vi). In view of TMILL's submissions, there is no error apparent on the face of the records considered warranting a review of the September 2016 Order on this aspect. Therefore, no review in this regard is called for.

(vi). <u>Computation of Operational expenses for future years:</u>

(a). <u>Points made by TMILL in its Review Application:</u>
With regard to current liabilities, working capital (para no. 12(xxvi)(b)(v), as per Form 4A, read with the guidelines, Working Capital includes Current assets and Current liabilities. In so far as sundry debtors are concerned only two months estate income are allowable debtors. TMILL's business had not have debtors of these nature as would be seen from segregated accounts. As such, TAMP have calculated Sundry Debtors as NIL.

Since no sundry debtors are allowed by TAMP for the purpose of calculation of working capital, Current liabilities should also be considered as Nil. Any calculation otherwise on account of Current liabilities would lead to an erroneous computation of working capital. This was one of the reasons that no Current liabilities were taken in the proposal submitted by TMILL.

Therefore, it is requested to rectify the error of computation of Working Capital for the purpose of calculation of capital employed and ensure fair return to the terminal operator as per clause 2.2(ii) of the Guidelines.

(b). <u>Relevant Extract from the tariff Order dated 17 September 2016:</u>

<u>Paragraph no. 12(xxvi)(b)(v)</u>

The TMILL has not furnished the figures of estimated Current liabilities for the years under consideration. As stated earlier, current liabilities relevant for Berth no. 12 have been calculated for the past period. Based on the average ratio between the current assets and current liabilities for the past years i.e. 2013-14 to 2015-16, the current liabilities have been estimated *for the years 2016-17 to 2018-19. Thus, the working capital (Current assets less current liabilities) works out to be NIL for all the years 2016-17 to 2018-19.*

(c). Analysis:

(i). As per Clause 2.9.3 of the tariff guidelines of 2005, Capital Employed comprises of 'Net fixed assets plus working capital'. Clause 2.9.4, defines working capital as 'Current assets less Current liabilities'. The tariff guidelines of 2005 prescribe norms for determining Current assets. This does not imply that Current liabilities have to be ignored in the assessment of working capital. The current liabilities are thus recognized while determining the working capital in all tariff cases of BOT operators.

(ii). The TMILL had not furnished the current liabilities for the years 2016-17 to 2018-19. This Authority was, therefore, constrained to consider the Current liabilities. For the purpose, the average ratio between the current assets and current liabilities for the past years i.e. 2013-14 to 2015-16 of the Haldia Division as given in the Segregated Accounts was taken as base and applied to the figures of Current Assets as calculated in the Order of September 2016 Order for the years 2016-17 to 2018-19 in the analysis. It is noteworthy that such an approach of determining Current liabilities has been carried out in the previous tariff fixation of TMILL in the years 2011 as well as 2014.

(iii). Sundry Debtors is one of the items of Current Assets. While no Sundry Debtors was considered as an item of Current Assets in September 2016 Order, other items of Current Assets like Cash and inventory have been considered in September 2016 Order. Non consideration of Sundry Debtors does not justify exclusion of entire Current Liabilities. If at all some item is to be excluded from Current Liabilities it is Sundry Creditors, which was not furnished by TMILL.

(iv). The TMILL has not pointed out any error apparent on the face of the records considered warranting a review of the September 2016 Order on this aspect. Therefore, no review in this regard is called for.

(vii). Adjustment of past surplus for the period of 2010-11 to 2012-13

(a). Points made by TMILL in its Review Application:
The Authority in its Order at para 12 (viii) has calculated total deficit for 10-11 to 12-13 as ₹.14.57 Cores. However, the Authority has adjusted 20% i.e. ₹. 2.91 Cores, before deriving the adjustment to be made of ₹.5.82 Cores i.e. 50% of net deficit.

As per the clause 2.13 of the Guidelines, 50% of the total benefit/loss is to be adjusted and not after deducting 20%. Therefore, the TMILL request this Authority to rectify this error and adjust the tariff accordingly.

(b). Relevant Extract from the tariff Order dated 17 September 2016:

Paragraph 12 (viii)

(viii). Similarly, in the May 2014 Order of TMILL followed by a Review Order of February 2015, the quantum of rebate and discounts to the tune of ₹.10.67 crores as considered in the said Order of 2015

is reduced from the operating income then relied upon. Therefore, as against the net deficit after return for the years 2010-11 to 2012-13, as assessed in the 2015 Order at ₹. 3.91 crores stands revised at a net deficit after return to the tune of ₹.14.58 crores. Also, the remaining three instalment of the additional surplus over and above the admissible cost and permissible return assessed for the period from 2007-08 to 2009-10 amounting to ₹.459.62 lakhs, which was adjusted during the tariff cycle 2013-14 to 2015-16, also ought not to have been given effect.

In this case, as against the traffic estimation of 3754506 MTs for the period from 2010-11 to 2012-13, TMILL had actually handled 2771757 MTs for the said period. The variation works out to (-) 26.18%. Even, the financial variation works out to be (-) 88.65%. Since both the physical and financial parameters are seen to be more than +/- 20%, the surplus/ (deficit) is to be set off as per MOS letter, as given below:

Particulars	***₹.in Lakhs***
Total deficit 10-11 to 12-13	*-1457.24*
20% to be met by TMILL	*-291.45*
Balance deficit	*-1165.79*
50% to be adjusted	***-582.90***

Therefore, as against the adjustment of 50% past deficit to the tune of ₹. 1.95 lakhs (₹.3.91 crores being the deficit for the period 2010-11 to 2012-13 as assessed in the 2015 Order), an adjustment of deficit to the tune of ₹.5.83 crores ought to have been given effect in the 2015 Order. On account of this position, as against the increase of 90% granted from 01 July 2014 vide tariff Order of May 2014, an increase to the tune of 106.93% ought to have been granted. The financial implication in this regard is assessed at ₹. 847.20 lakhs.

The effect of the said amount to the tune of ₹.847.20 lakhs, arising out of giving effect to the MOS letter, is being taken into effect, while deciding the quantum of increase/ decrease to be effected for the tariff cycle, 2016-17 to 2018-19, as discussed subsequently.

(c). Analysis:

(i). As per Clause 2.13 of the tariff guidelines, if review of actual physical and financial performance for the previous tariff cycle shows the variation of more than + or – 20%, then 50% of such accrued benefit / loss has to be adjusted in the next tariff cycle.

(ii). It may be recalled that based on the Ministry of Shipping letter No. 14019/20/2009-PG dated 12 June 2015, the TMILL was , interalia, communicated vide our letter no. TAMP/46/2015-Misc dated 24 July 2015 that this Authority would henceforth take into account both the financial and physical parameters, for the purpose of clause 2.13 of the Tariff Guidelines of 2005 and that 20% of the surplus would be allowed to be retained by the operator and that only the surplus over and above the 20% shall be shared equally between the operator and the users.

(iii). In the case in reference also, since both the actual physical and financial performance was seen to be more than +/- 20%, it was decided to follow the decision of the MOS in the matter of treatment of deficit as given in detail in the September 2016 Order of TMILL. It is to state that this approach is being followed in respect of quantifying the past period surplus for the purpose of fixing the tariff in respect of all the BOT operators governed by the tariff guidelines of 2005.

(iv). The TMILL has not pointed out any error apparent on the face of the records considered warranting a review of the September 2016 Order on this aspect. Therefore, no review in this regard is called for.

10.1. Subsequent to filing its review application, the TMILL has requested that since the revised Scale of Rates in respect of Kolkata Port Trust has come into effect from 12 January 2017, the cost of revenue share payment estimated to be made by TMILL to KOPT during the years 2016-17 to 2018-19 is modified, in line with the new rates as applicable in respect of KOPT. In this connection, reference is drawn to paragraph no. 12(xvi) of the September 2016 Order, which is reproduced below:

> "As per Clause 5.1(a) read with Clause 4.1(a) of the Licence Agreement, the TMILL has to pay revenue share on all kinds of cargo related charges as per prevailing Scale of Rates of KOPT. However, the TMILL is seen to have considered its own tariff to determine the Revenue share for the various cargo items. The calculation of Revenue share as given by TMILL is, therefore, modified to take into account the rates for the various cargo items as prevalent in the existing Scale of Rates of KOPT, so as to capture the position of the Licence Agreement. Also, in line with the stipulation contained in Clause 2.8.1 of the 2005 guidelines, the maximum admissibility of royalty/ revenue share will be to the extent of the percentage quoted by the second highest bidder for the period after 31 March 2005. Accordingly, the revenue share is estimated for the years 2016-17 to 2018-19 at the rate of 8.126% of the income based on the KOPT Scale of Rates, as applicable.
>
> With regard to the Revenue share payable by TMILL based on the KOPT Scale of Rates, it is relevant to state that the Scale of Rates of KOPT is due for revision. The KOPT has already submitted a proposal and the proposal is under consultation process with the relevant stakeholders. Thus, in the event of revision of Scale of Rates of KOPT in future, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the rates to be approved for the various cargo items and services in the revised Scale of Rates of KOPT in the revenue share calculation.
>
> With regard to Revenue share from Plot Rentals, the TMILL has calculated the same, based on its own Scale of Rates. Taking into account the details as considered by the TMILL in its calculation of plot rentals and the rate of lease rentals for the HDC of KOPT approved in the year 2011 and duly escalated by 2% per annum, the income from plot rentals is arrived at. Thereafter, the revenue share from plot rentals is estimated for the years 2016-17 to 2018-19 at the rate of 8.126% of the plot rental income based on the KOPT Scale of Rates. With regard to the Revenue share from plot rentals payable by TMILL based on the KOPT Rent Schedule, it is relevant to state that the Rent Schedule of KOPT is already due for revision. The KOPT is yet to file a proposal in this regard. Thus, in the event of revision of Rent Schedule of KOPT in future, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the revised Rent Schedule of KOPT in the revenue share calculation.
>
> In respect of revenue share for the income from the use of MHC at TMILL, the revenue share payment for the years 2016-17 to 2018-19 is calculated based on the existing rate of MHC at KOPT to the tune of ₹ 62.40 per MT. In the event of revision of Scale of Rates of KOPT, the TMILL is given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the revised rates for the use of HMC in the revised Scale of Rates of KOPT to be approved, in the revenue share calculation of HMC.

The TMILL in its calculation has considered Revenue share for On board supervision, placement and removal of dunnages and clearing and forwarding charges incase of Steel Shipment a/c – TATA Steel, based on the rate prescribed in its Scale of Rates. Since this approach is not seen in line with the provision in the LA, the said components have not been considered in the calculation of Revenue share.

Further, for the reasons recorded in the earlier tariff Orders of TMILL, the Revenue share is calculated on the cargo related charges prescribed in the Scale of Rates of KOPT for the purpose of this analysis, without going into the details of the arbitration matter referred. By way of abundant caution, it is mentioned that revenue share figures considered in this exercise are only for the tariff fixation purpose and should not be taken as the determination by this Authority of the dispute, between the TMILL and KOPT on the subject payment."

10.2. Since the TMILL has to pay revenue share on cargo related charges as per prevailing Scale of Rates of KOPT and considering that the Scale of Rates of KOPT and the Rent Schedule of land and buildings of KOPT at Haldia and Kolkata was due for revision and that the proposals filed by the KOPT for the review of Scale of Rates and the Rent Schedule was under process, the TMILL was given an opportunity to approach this Authority to review its tariff to the limited extent of incorporating the revised Scale of Rates and Rent Schedule of KOPT in the revenue share calculation.

10.3. With regard to the Scale of Rates of KOPT, this Authority vide its Order no. TAMP/23/2016-KOPT dated 17 November 2016 has revised the tariff at KOPT. The said Order has been notified in the Gazette of India on 13 December 2016 vide Gazette No. 457. The revised Scale of Rates notified on 13 December 2016 has come into effect after expiry of 30 days from the date of notification of the Order in the Gazette of India i.e. with effect from 12 January 2017. Therefore, the revised rates in respect of KOPT is to be considered to arrive at the revenue share payable by TMILL to KOPT, for a period of $2^{1}/_{2}$ months in the year 2016-17 and for the remaining two years i.e. 2017-18 and 2018-19.

10.4. With regard to the revision of Rent Schedule for the lands and building of KOPT at Haldia and Kolkata, this Authority vide its Order no. TAMP/62/2016-KOPT dated 29 March 2017 has approved the lease rentals for the lands and buildings of KOPT at Haldia and Kolkata. The lease rentals as relevant for the purpose of review of the tariff of TMILL is considered in this analysis. The revised lease rentals at KOPT have come into effect from 7 April 2016. Thus, the revised lease rentals to calculate the royalty on plot rentals to be payable by TMILL to KOPT is taken into account, for the years 2016-17 to 2018-19.

11.1. The Cost statement forming part of the tariff Order of September 2016 is modified in light of the above analysis. A modified Cost statement is attached as **Annex-I**. The change is on account of two factors viz. considering of Revenue share based on the revised Scale of Rates and Rent Schedule of KOPT and increase in the Management and General Overheads as tabulated below:

(₹ in Lakhs)

Particulars	**2016-17**	**2017-18**	**2018-19**	**2016-17**	**2017-18**	**2018-19**
	Revenue share			**Management & Administration overheads**		
As considered in September 2016 Order	290.29	294.33	315.92	787.94	807.33	827.19
As considered as per Review Application, 2017	295.41	317.74	342.07	852.21	873.17	894.65
Difference	5.12	23.41	26.15	64.26	65.84	67.46
Total	**252.24**					

11.2. From the above table, it can be seen that the financial implication arising out of the Review application filled by TMILL is to the tune of ₹. 252.24 lakhs. In other words, the quantum of surplus as assessed in the September 2016 Order to the tune of ₹. 1037.11 lakhs now stands revised to ₹. 784.87 lakhs i.e (₹. 1037.11 lakhs less ₹. 252.24 lakhs).

11.3. It may be recalled that based on the surplus position to the tune of ₹. 1037.11 lakhs, this Authority in its September 2016 Order had effected a 7% reduction in the then prevailing tariff. The TMILL has, during the processing of this case, implemented the reduction effected vide the September 2016 Order. The impact of the reduction in tariff effected by this Authority, from the date of implementation of the September 2016 Order i.e. November 2016 to August 2017 (assuming the Order on the Review application comes into effect in September 2017) works out to ₹. 329.87 lakhs, which needs to be reduced from the revised surplus assessed at ₹. 784.87 lakhs, to arrive at the tariff position for the balance 19 months of the Tariff cycle i.e. September 2017 to March 2019. To make it explicit, the above position is explained in the table given below:

Particulars	**2016-17 (6m)**	**2017-18**		**2018-19**	**Total**
Estimated Income at the existing level of tariff	2814.87	5680.25		6074.66	
	6m	**5m**	**7m**	**12 months**	
Estimated Income at the existing level of tariff considered in Sept 2016 Order (now considered for 5 months beginning November 2016)	2345.73	2,366.77	3,313.48	6,074.66	
Income with 7% reduction	2181.52	2,201.10	-	-	
Differential income	164.20	165.67	3,313.48	6,074.66	
Total Differential Income	329.87				
Resultant final surplus based on Review Application			784.87		784.84
Adjustment of the 11 month period loss			329.87		329.87
Surplus after adjustment of the loss			455.00		
Existing tariff to be reduced prospectively (balance 19 months)			**4.85%**		

11.4 From the above table, it can be seen that a reduction to the tune of 4.85% in the tariff prevailing prior to implementation of September 2016 Order is to be effected.

11.5. A revised Scale of Rates giving effect to 4.85% reduction is attached as **Annex-II**.

11.6. The revised Scale of Rates will come into effect from 1 September 2017.

(T.S. Balasubramanian)
Member (Finance)

Annex - I

TM International Logistics Limited (TMILL)
Consolidated Income & Cost statement.

(Rs. In Lakhs)

Sr. No.	Particulars	Actuals			Estimates as relied upon by TAMP in the September 2016 Order of TMILL			Estimates as modified by TAMP in the Review Application		
		2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2016-17	2017-18	2018-19
	Traffic (In MTs)	710789	869461	1348188	1160500	1171500	1265000	1160500	1171500	1265000
I	**Total Operating Income**									
	Cargo handling income	1727.41	2656.71	3990.59	4913.47	4931.77	5288.77	4913.47	4931.77	5288.77
	Others	759.45	300.40	686.68	716.27	748.48	785.89	716.27	748.48	785.89
	Total	**2486.86**	**2957.11**	**4677.27**	**5629.74**	**5680.25**	**6074.66**	**5629.74**	**5680.25**	**6074.66**
II	**Operating Costs (excluding depreciation)**									
	Operating & Direct Labour	655.66	786.68	870.15	913.48	935.95	958.97	913.48	935.95	958.97
	Maintenance Labour	22.28	24.81	94.37	91.75	94.01	96.32	91.75	94.01	96.32
	Equipment Running Costs	212.32	269.24	378.84	376.22	385.48	405.99	376.22	385.48	405.99
	Royalty / revenue share	185.48	225.04	385.73	290.29	294.33	315.92	295.41	317.74	342.07
	Equipment Hire	8.73	32.50	5.96	6.11	6.26	6.41	6.11	6.26	6.41
	Lease Rentals	236.36	253.85	261.25	281.77	295.85	310.65	281.77	295.85	310.65
	Insurance	31.79	16.00	28.08	31.99	66.78	68.42	31.99	66.78	68.42
	Other expenses	392.35	358.18	796.65	779.79	805.89	919.52	779.79	805.89	919.52
	Total	**1744.97**	**1966.31**	**2821.03**	**2771.39**	**2884.54**	**3082.21**	**2776.51**	**2907.95**	**3108.35**
III	Depreciation	372.73	381.36	422.65	439.70	563.49	712.69	439.70	563.49	712.69
IV	**Overheads**									
	Management & Administration overheads	476.91	488.07	831.75	787.94	807.33	827.19	852.21	873.17	894.65
	General Overheads	8.95	9.64	18.57	13.79	14.12	14.47	13.79	14.12	14.47
	Total	**485.86**	**497.71**	**850.31**	**801.73**	**821.45**	**841.66**	**865.99**	**887.30**	**909.12**
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**-116.71**	**111.74**	**583.28**	**1,616.92**	**1,410.77**	**1,438.10**	**1,547.54**	**1,321.52**	**1,344.50**
VI	**Finance & Miscellaneous Income (FMI)**									
	Discounted terminal value receivable as per the concession agreement.	0.56	0.64	0.74	0.94	1.07	1.22	0.94	1.07	1.22
	Other Income	31.44	0.21	0.53	0.00	0.00	0.00	0.00	0.00	0.00
	Total	**32.00**	**0.85**	**1.27**	**0.94**	**1.07**	**1.22**	**0.94**	**1.07**	**1.22**
VII	**Finance & Miscellaneous Expenses (FME)**									
	Contribution to Provident Fund	26.13	28.85	42.68	43.73	44.81	45.91	43.73	44.81	45.91
	Total	**26.13**	**28.85**	**42.68**	**43.73**	**44.81**	**45.91**	**43.73**	**44.81**	**45.91**
VIII	**FMI Less FME (VI) - (VII)**	**5.87**	**(28.00)**	**(41.41)**	**(42.79)**	**(43.74)**	**(44.69)**	**(42.79)**	**(43.74)**	**(44.69)**
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**-110.84**	**83.74**	**541.87**	**1574.13**	**1367.03**	**1393.41**	**1504.75**	**1277.78**	**1299.80**
X	Capital Employed	2838.18	4100.19	3769.66	3651.96	6488.48	5775.78	3651.96	6488.48	5775.78
XI	Return on Capital Employed	454.11	656.03	603.15	584.31	1038.16	924.13	584.31	1,038.16	924.13
XII	Capacity Utilization	88.02%	86.45%	113.00%	101.80%	102.76%	110.96%	101.80%	102.76%	110.96%
XIII	Return adjusted for capacity utilization	454.11	656.03	603.15	584.31	1,038.16	924.13	584.31	1,038.16	924.13
XIV	**Net Surplus / (Deficit) after allowable ROCE (IX - XIII)**	(564.94)	(572.29)	(61.27)	989.81	328.88	469.29	920.43	239.61	375.68
XV	**Past deficit set off**				(282.40)	(282.40)	(282.40)	(282.40)	(282.40)	(282.40)
XVII	**Total Surplus/ (Deficit)**				707.41	46.47	186.88	638.03	(42.79)	93.28
XVIII	**Net Surplus / (Deficit) as a % of operating income (XVII/I in %)**				12.57%	0.82%	3.08%	11.33%	-0.75%	1.54%
XIX	**Average Net Surplus/ (Deficit) as a % of operating income**				5.49%			4.04%		

Particulars	2016-17 (6m)	2017-18	2018-19	Total
Estimated Income at the existing level of tariff	2814.87	5680.25	6074.66	**14569.78**
Reduction in Income on account of approval of per MT rates for on board equipment assistance	6.34	12.69	13.68	**32.71**
Increase in income on account of higher Wharfage & OBC charges for Project cargo	25.81	51.62	51.62	**129.06**
Revised Operating Income	**2834.34**	**5719.18**	**6112.61**	**14,666.13**
Surplus as assessed in the cost statement above	638.03	-42.79	93.28	**688.52**
Reduction in Surplus on account of approval of per MT rates for on board equipment assistance				**32.71**
Increase in surplus on account of higher Wharfage & OBC charges for Project cargo				**129.06**
Resultant final surplus				**784.87**

Annex – II

T M International Logistics Limited
Scale of Rates for operations at Berth No.12 of Haldia Dock Complex

1. **Short title of Commencement**

The Scale of Rates set out herein shall be called SCALE OF RATES of the T M International Logistics Limited (TMILL), Berth No. 12, Haldia Dock Complex of the Kolkata Port Trust.

2. **Definition**

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

(i). 'T M International Logistics Limited' shall mean the company registered under Companies Act, 1956 having its registered office at 43, Chowringhee Road, Kolkata – 71.

(ii). TMILL premises shall mean the area licensed to TMILL including the backup area and any additional land allotted under the License agreement.

(iii). 'Day' shall mean the period starting from 6 am of a day and ending at 6 am on the following day.

(iv). 'Demurrage' shall mean charges payable for storage of cargo within TMILL premises beyond free period as specified in this Scale of Rates and shall not include the cargo stored at the area allotted to a port user on licence basis for storage of cargo.

(v). 'Hazardous I' shall mean the cargo categorized as Hazardous-I in the list of Hazardous Cargo adopted by the Board of Trustees of Kolkata Port Trust from time to time.

(vi). 'Month' shall mean 30 consecutive calendar days including holidays unless otherwise specified.

(vii). 'On Board handling Charges' shall mean charges on Cargo/ Commodity/ Article/ Package/ Container for rendering on board services by the TMILL in the form of supply of manpower for ship loading/ unloading operation.

(viii). 'On-board supervision' shall mean certain services, both on-board and on-shore, rendered by TMILL during ship to shore/shore to ship transfer operation of cargo for achieving greater productivity/efficiency in vessel-operation.

(ix). 'Overside Discharge/ Shipment' shall mean the operation of unloading/ loading of cargo ex/into vessel without passing through the quay at the time of discharge/ shipment operation.

(x). 'Shut out' cargo shall mean export cargo left in the TMILL premises having not been shipped on board the vessel for which it was received for shipment in TMILL premises.

(xi). 'Stock Cargo' shall mean cargo received at the Port for shipment without export documents.

(xii). 'TEU' shall mean Twenty Feet Equivalent Unit of container.

(xiii). 'Transhipment' shall mean transfer of cargo/ container from a sea going vessel/ barge to another sea going vessel/barge for destination to other Port/ Ports.

(xiv). 'Wharfage' shall mean the basic dues recoverable on all cargo/ container landed or shipped or transhipped within the TMILL premises.

3. **General Principles of Assessment:**

(i). The minimum weight/ measurement chargeable shall be 1 tonne/1 CBM although the gross weight/measurement may be less than 1 tonne/1 CBM. In case where the charge is on weight basis and the gross weight is not an exact multiple of 100 Kgs, the same will be rounded off to the next higher multiple of 100 Kgs. Where the gross CBM includes decimals, the same should be rounded off to the next higher whole unit of CBM.

(ii). Rates applicable for a period/ unit other than weight shall be applicable to the part of a period/ unit thereof.

(iii). Unless otherwise specified**,** if TMILL equipment is booked for landing/ shipment of cargo/ container from/ into vessel or for any other purpose by the vessel, equipment hire charge as specified in Section 10.1 shall be levied.

(iv). Cargo Related Charges shall be levied on the owners of the cargo or their Clearing and Forwarding Agents / Handling Agents except where specified otherwise, or in cases where Ship Owners/Steamer Agents agree to pay such charges.

(v). Samples, Catalogues and other articles for which Shipping Companies charge no freight and on which no Customs duty is payable, diplomatic mail bags, crew baggage and all goods meant for TMILL's use at Berth no.12, HDC shall be exempted from payment of all cargo related charges.

(vi). No demurrage shall be charged for the days during which delivery cannot be effected due to strike by the Kolkata Port Trust/ TMILL employees provided, the concerned Importer or his Authorized Agent files the complete delivery documents on payment of all charges prior to commencement of the strike.

(vii). Interest on delayed payments / refunds:

(a). The user shall pay penal interest on delayed payments under this Scale of Rates. Likewise, the TMILL shall pay penal interest on delayed refunds.

(b). The rate of penal interest will be 16.05%. The penal interest rate will apply to both the TMILL and the port users equally.

(c). The delay in refunds will be counted only 20 days from the date of completion of services or on production of all the documents required from the users, whichever is later.

(d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the TMILL. This provision shall, however, not apply to the cases where payment is to be made before availing the services / use of TMILL Terminal facilities as stipulated in the Major Port Trust Act and / or where payment of charges in advance is prescribed as a condition in this Scale of Rates.

(viii). Before classifying any cargo under “unspecified category” or otherwise, if required, to know the nature of cargo for levy of cargo handling charges, the relevant Customs classification shall be referred to in order to find out whether the cargo can be classified under any of the specified categories mentioned in the schedules.

(ix). Users will not be required to pay charges for delays, beyond a reasonable level, attributable to TMILL.

(x). (a). Wherever a specific tariff for a service/ cargo is not available in the notified Scale of Rates, the TMILL can submit a suitable proposal to the TAMP.

(b). Simultaneously with the submission of proposal, the proposed rate can be levied on an ad hoc basis with due notice to Kolkata Port Trust about levy of such rate, till the rate is finally notified.

(c). The ad hoc rate to be operated in the interim period must be derived based on existing notified tariffs for comparable services/ cargo; and, it must be mutually agreed upon by the TMILL and the concerned user(s).

(d). The final rate fixed by the TAMP will ordinarily be effective only prospectively. The interim rate adopted in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively.

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

(xii). The TMILL does not handle the following cargoes at Berth no. 12:
(a). Thermal Coal in bulk.
(b). Coking Coal in bulk.
(a). Various types of coke and other black cargo in bulk.
(a). Various types of liquid bulk cargo handled through pipelines.

(xiii). The rate prescribed for handling of containers is applicable for 20 ft. container. For container above 20 ft. and upto 40 ft. the rate would be 150% of the prescribed rate. For containers exceeding 40 ft. the rate would be 200% of the prescribed rate.

(xiv). In case of coastal cargo/ containers, other than thermal coal, iron ore and iron ore pellets, 60% of the prescribed rates shall be applicable.

4. Wharfage Charges:

4.1 Wharfage on Foreign cargo shall be levied at the rates as mentioned in the table below:

Sl. No.	Particulars	Rate per MT (in ₹)
1	Iron Ore, Iron Ore pellets and Sand	31.53
2	Limestone and all types of ore except iron ore.	63.06
3	Fertilizer materials, MOP, Rock Phosphate, Soda, Sulphur, C.I. Goods, Cement clinker and other dry bulk not specified.	111.00
4	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Rails, Wheels, Sheets and bagged cargo.	94.59
5	Project cargo and machinery & spares (Immobile units) of various shapes and sizes.	290.00
6	Containers - other than over dimensional container	3468.58 per TEU
7	Car, any rubber tyre vehicle, earth moving equipment	6306.49 per unit
8	Logs/Timber/Veneer	165.54 per CBM
9	All other cargo not specified above except those specified at Sec 3.xii.	426.65

4.2 On cargo discharged/ shipped overside, charges shall be levied 70% of the above mentioned rates.

4.3. For transhipment of cargo or shifting of cargo on board, charges shall be recovered at 1.5 times the rates specified in 4.1 above.

4.4. On shutout/ stock cargo, which is taken back from TMILL premises, 50% of wharfage shall be levied. In addition, on-board handling charges & shore handling charges, as may be applicable, shall be levied if labour and/or equipment are/ is supplied by TMILL for handling of cargo.

No additional wharfage shall be levied on shutout cargo if the same is subsequently shipped without being removed from port premises.

5. On-Board Charges:

5.1 On-Board Charges shall be levied on Foreign cargo at the rates as mentioned in the table below:

Sl. No.	Particulars	Rate per MT (in ₹)
1	All types of dry bulk cargo (excludes bag cargo)	47.29

2	Tubes and pipes, Iron and Steel, Newsprint, HRC/CRC, Steel Slabs, Beams, Logs, Rails, Wheels, Sheets and bagged cargo.	126.13
3	Project cargo and machinery & spares (Immobile units)	80.00
4	Containers	433.58 per TEU
5	Car, any rubber tyre vehicle, earth moving equipment when discharged/shipped by using of slings (Rs per Unit)	78.82 per unit
6	All other cargo not specified above except those specified at Sec 3.xii.	63.05

5.2 On cargo discharged / shipped overside, charges shall be levied 70% of the abovementioned rates.

5.3. For transhipment of cargo or shifting of cargo on board, charges shall be recovered at 1.5 times the rates specified in 5.1 above.

6. On-board supervision:

6.1 On-board supervision charges shall be levied for the following services provided by TMILL at berth no. 12 terminal in respect of import/ export cargo at the rates specified below:

a. Unlashing of import cargo.
b. Lashing, securing and dunnaging of export cargo.
c. Providing slings and gears for the cargo handling operation.
d. Tally survey of cargo during discharge.
e. Survey of cargo quality discharged/ shipped.
f. Placement and removal of dunnages at jetty during discharge.
g. Heaping of export bulk cargo at hook point.
h. Supervising/ monitoring/ directing the entire cargo handling work during vessel operation including queuing of trailers/ dumper from plot to jetty and vice versa in order to achieve better discharge/ loading thereby reducing the turnaround of the vessel.

Sl. No.	Particulars	Rate per MT (in ₹)
1	Limestone, Pig Iron and other Ferrous metals, all types of ore and other dry bulk cargo	22.96
2	Tubes and pipes, Logs, Iron and Steel, Bagged cargo, Newsprint discharged from the ship.	141.90
3	Tubes and pipes, Logs, Iron and Steel, Newsprint shipped into ship.	227.72
4	Project cargo and machinery & spares (Immobile units)	262.78
5	Containers	437.96 per TEU
6	Car, any rubber tyre vehicle, earth moving equipment	5255.40 per unit
7	All other cargo not specified above except those specified at Sec 3.xii.	262.77

7. Loading/ Unloading/ Re-Stacking:

7.1 Following charges for supply of manpower and equipment for loading/ un-loading/ re-stacking of Foreign cargo shall be levied at the rates specified in the table below:

Sl. No.	Particulars	Rate per MT (in ₹)
1	Limestone, Pig Iron, Sugar and other Ferrous metals and all types of ore by using hoppers.	31.53
2	Iron Ore and all types of Ore (includes high stacking wherever necessary – double stacking will be avoided)	31.53
3	Soda, Sulphur, C.I. Goods, Cement, all types of bag cargo and other dry bulk not specified	70.07
4	Tubes and pipes, Logs (Rs per CBM), Iron and Steel, Newsprint.	78.84
5	Project cargo and machinery & spares including their packages.	78.84

6	Containers	283.77 per TEU

Note: For removal of doubts it is hereby clarified that where equipment support is provided and charges are levied under clause 10 – 'Miscellaneous charges' then no separate levy will be made under this section.

7.2 Where a cargo is unloaded and stacked simultaneously at the place of unloading, then it would amount to one operation only.

7.3 Where hoppers are used for the unloading of cargo from the vessel and dumpers are loaded using the hopper then it would constitute one operation of loading activity.

8.Transportation

8.1 The following charges shall be levied on cargo, for which TMILL Terminal undertakes any transportation within the port limits.

Sl. No.	Particulars	Rate per MT (in ₹)
1	All types of dry bulk cargo	55.16
2	Tubes and pipes, Logs, Iron and Steel, Newsprint and bagged cargo.	55.16
3	Project cargo and machinery & spares including their packages weighing less than 20 tonnes.	55.16
4	Containers (TEU)	472.96 per TEU

9. Demurrage

9.1.Demurrage shall be levied on Import cargo (other than containerised cargo) after allowing a demurrage-free period as specified below: -

Sl. No.	Description	Demurrage-free period
1.	Hazardous-I cargo	Actual date of landing
2.	All other cargo except those mentioned at Sl. No. 1,3 & 4	3 days after the last landing date of the vessel by which the cargo is imported.
3.	Non-hazardous cargo using port equipment for delivery, non-hazardous cargo for Nepal and Bhutan, Log, Timber and Veneer.	6 days after the last landing date of the vessel by which the cargo is imported.
Sl. No.	**Description**	**Demurrage-free period**
4.	Cargo imported by voluntary/relief organization like Missionaries of Charity, Bharat Sevashram Sangha, Ramkrishna Mission, CARE, CRS, WFP and others as may be accepted by Kolkata Port Trust from time to time on the basis of certification by the Appropriate Govt. Authority of Central Govt./State Govt. and Govt. of Nepal/ Bhutan or their local Consulate General.	30 days after the last landing date of the vessel by which the cargo is imported.

Note

i) Last Landing Date (LLD) is the date on which a vessel completes her import discharge. However, TMILL may declare any other date as such LLD for cargo already discharged from the vessel when the vessel is not doing cargo operation work in working berth for more than 24 hours for any fault/ reason not attributable to TMILL. In such cases, a vessel may have more than one LLD.

ii) For the purpose of calculation of free time, Customs notified holidays and the KoPT/ TMILL's non-operational days shall be excluded. Sundays shall not be excluded for the purpose of calculation of free time unless Customs notified holidays and the KOPT/ TMILL's non-operational days fall on Sundays.

After demurrage charge begins to accrue no allowance is made for Customs notified holidays or KOPT/ TMILL's non-operational days.

9.2 Demurrage on Import cargo (except log, timber, veneer) shall be levied after the expiry of demurrage free period at the following rates: -

Sl. No.	**Type of cargo**	**Rate in ₹ per tonne per day or part thereof.**	
		For the first 15 days.	**16th day onwards**
1.	Hazardous – I	227.16 per tonne	267.24 per tonne
2	All other cargo	53.46 per tonne	80.16 per tonne

9.3 Demurrage on Import log, timber, veneer shall be levied after the expiry of demurrage free period at the following rates: -

Sl. No	**Type of cargo**	**Rate in ₹ per CBM per day or part thereof.**		
		For the first 7 days.	**8th to 14th day**	**From 15th day onwards**
1.	Log, Timber, Veneer	8.03	16.03	24.02

9.4. No demurrage shall be levied on export/stock cargo, except Hazardous-I category, if such cargo is shipped within 30 days from the date of receipt. However, after the 31st day, demurrage on such cargo shall be levied @ ₹ 53.46 per tonne per week or part thereof from the date of receipt till the date of shipment.

9.5 Export cargo of Hazardous-I category shall be received only for direct shipment. In case such cargo is not shipped on the date of receipt, demurrage shall be levied at rate of ₹227.16 per tonne per day or part thereof from the day following the date of receipt upto the date of shipment or removal from port premises.

9.6 Demurrage shall be levied on shutout/stock cargo, other than Hazardous I cargo, @ ₹13.36 per tonne per day or part thereof from the date of receipt of cargo upto the date of removal of cargo from the port premises without being shipped. If shutout cargo is shipped by any subsequent vessel provision of clause.9.4 shall apply.

9.7 On cargo/commodity which is received neither as import nor as export nor as stock for shipment, demurrage shall be levied @ ₹53.46 per tonne per day or part thereof from the date of receipt upto the date of removal of the cargo from the port premises.

9.8 On uncleared /Customs confiscated cargo sold by auction or tender or private agreement or in any other manner demurrage shall be levied at the rates specified at clause 9.2 or 9.3, as the case may be, after allowing free time of 10 days after the date the cargo is made available for delivery.

9.9 The demurrage on cargo shall not accrue for the period during which the TMILL is not in a position to deliver cargo for reasons attributable to the TMILL when requested by the user.

10. Storage and Miscellaneous Services:

10.1 Charges shall be levied for the following services/facility as per table below –

Sl.No	**Particulars**	**Rate (in ₹)**
1	Despatch related services for opening, cleaning and closing of wagons	10.51 per MT
2	Lease rentals for short term allotment of Hard stand land	71.11 per sq.mtr per month
3	Lease rentals for short term allotment of Hard stand Covered shed	112.10 per sq.mtr per month

4	Charges for supply of unskilled labour	222.69 per manshift
5	Equipment hire charges for Front end loaders of Bucket capacity exceeding 3.5 CBM	17814.93 per shift
6	Equipment hire charges for Front end loaders of Bucket capacity not exceeding 3.5 CBM	8907.45 per shift
7	Equipment hire charges for Forklift of capacity below 10 MT	3711.44 per shift
8	Equipment hire charges for Forklift of capacity between 10 MT and 20 MT	17814.93 per shift
9	On-board Equipment Operation (applicable on full parcel size) - All dry Bulk Cargo - HRC/CRC, Plates Sheets, WRC, Tubes/Pipes	 6.50 per MT 13.00 per MT
10	Placement and Removal of dunnages at plot for steel cargo wherever customer demands	17.52 per MT
11	Clearing and Forwarding	7.88 per MT
12	High heaping of bulk cargo at plot	35.98 per MT
13	Equipment assistance charges for Harbour Mobile Crane of 104 MT	
	Description of cargo	**Rate per MT in ₹**
	Iron Ore	53.52
	Limestone	53.52
	Fertiliser and other bulk cargo	70.19
	HRC/CRC Imports	129.74
	Steel Export	107.05
	Project Cargo	503.72
14	Cleaning of Jetty/ deck and water sprinkling for bulk cargo handling wherever necessary for bulk cargo handling.	7.23 per MT

10.2 Equipment hire charges on per shift basis shall be levied at 50% of the specified rates wherever the deployment of equipment is less than or equal to 4 hours in any shift.

10.3 The licensing of open/ covered space by TMILL within its allotted area for a period of up to (11) eleven months on monthly rent basis for storage of import/ export cargo may be done without recourse to a tender procedure. The following conditions shall be followed in such cases:

(i). The period of license shall not exceed (11) eleven months.

(ii). The space allotted shall not be sub-let/ assigned/ transferred/ shared by the allottees.

(iii). Encroachment or unauthorized occupation of land and Railway Tracks etc. by the licensee will involve a liability to pay a penalty at the rate of ten times the scheduled license fee in addition to the cost of rectification of damages caused to the TMILL's properties. If the licensee fails to remove the cargo from the encroached area in spite of notice to do so, the cargo will be removed elsewhere within TMILL's allotted area by TMILL at the risk and cost of the licensee and penal license fee at the rate of ten times the normal rate will be levied on the space occupied by the cargo so removed.

(iv). Cargo stored under a license shall be at the entire risk and responsibility of the licensee. The licensee shall post his own watchman to safeguard the cargo stored at the allotted space and to prevent any unauthorized occupation of such space by others.

(v). The licensee shall not construct or put up any building, erection or convenience on space occupied under license.

(vi). In case the licensee fails to hand over the space in vacant possession on the date of expiry of the license, TMILL shall levy normal demurrage charges as per TMILL's Scale of Rates as applicable from time to time for the period the cargo remains in TMILL's premises beyond the period for which the license was granted.

(vii). The licensee shall agree to comply with all rules and directions issued by TMILL from time to time. If the licensee neglects to comply with such rules or directions, TMILL may terminate the license.

(viii). The license is terminable on 15 days' notice on either side. No claim for any compensation whatsoever for revocation of the license will be entertained.

(ix). The licensee shall agree that all payments and expenses of whatever sort due to TMILL in respect of the license be recovered at the rates prescribed on TMILL's Scale of Rates from time to time.

(x). The licensee shall comply with all instructions, rules or regulations that may from time to time be issued by KOPT, Municipal Authority, the Chief Controller of Explosives, Government of India or whosoever concerned in relation to storage of cargo.

(xi). The license fee will be charged from the date of handing over possession of the land on the actual area to be found on demarcation.

(xii). When the storage area is allotted on license basis for storage of import / export cargo, demurrage on cargo stored in the licensed premises shall not be levied again.

(xiii). The licensee shall be required to utilize the allotted land for the purpose for which it is licensed. No change in purpose of utilization will be allowed without specific written permission from TMILL.

(xiv). The licensee will not cause any damage to TMILL's properties. If, however, any damage is caused, the licensee shall be liable to make good the damages at his own cost and arrangement to the satisfaction of TMILL.

(xv). The licensee shall have to make his own arrangements to keep the allotted land and its surroundings neat, clean and in proper sanitary condition.

(xvi). After the expiry of the licences of the yard/shed, or termination or determination or forfeiture of licence, if the licensee continues to occupy it unauthorisedly, the licensee shall be liable to pay compensation for wrongful use and occupation at the following rates till vacant possession is obtained: -

First 30 days	3 times the rate as per prevailing SOR
Next 30 days	5 times the rate as per prevailing SOR
Continued unauthorized occupation beyond 60 days	10 times the rate as per prevailing SOR

11. Rebates/ Refunds:

(a). Incase a vessel idles at berth no. 12 due to non-availability or breakdown of the port equipment or power failure at TMILL or for any other reasons attributable to TMILL, rebate equivalent to the berth hire charges accrued during the idling period of vessel shall be levied.

(b). If a vessel discharge more than 25000 MT of Limestone/ Fertiliser/ raw material for fertiliser in a single call at Berth no.12, a rebate of 10% shall be allowed on Wharfage charge on quantity exceeding 25000 MT.

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SUMMARY OF THE WRITTEN SUBMISSION MADE BY TMILL IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY.

F. No. TAMP/83/2016-TMILL		**Review application filed by TM International Logistics Limited for review of the Order dated 17 September 2016.**

A joint hearing in this case was held on 25 January 2017 at the KOPT premises. At the joint hearing, the TMILL and the KOPT have made the following submissions:

TM International Logistics Limited

(i). TAMP has calculated our admissible royalty based on the relevant Scale of Rates (SOR) of KOPT. Now the TAMP has revised the SOR of KOPT effective from 12 January 2017 increasing the rates. Cost of royalty will increase due to higher rates given to KOPT. It will have impact on our SOR. Please review our SOR.

(ii). TAMP has disallowed operations cost to the extent of ₹. 1.2 crore for want of proper reconciliation statement. TMILL has provided again adequate reconciliation statement reconciling the figures between the cost statement and Accounts. Please consider the disallowed cost.

[KOPT: TMILL compiles its accounts for whole of its Haldia project. It has not formed Special Purpose Vehicles (SPV) for operations of berth No. 12 of Haldia. Had there been SPV, it would have drawn separate accounts for berth No. 12.]

[TMILL: SPV is a matter of dispute before Arbitrators. We segregate the accounts for our operations at Berth No.12 and other than Berth No. 12. We provide segregated Accounts for our operations at Breath No. 12.]

(iii). We should get the 50% benefit of past deficit since the variation in return is more than 20% in terms of clause 2.13 of guidelines.

(iv). Revenue on account of wharfage and on board charges of project cargo has been counted twice. Please rectify it.

(v). TAMP has increased the operating income by 10% due to similar hike in volume. However, other income is increased beyond 10%. Please rectify it.

(vi). We have not been given 50% benefit of past deficit for the years 2010-11 to 2012-13 as per clause 2.13. We are made to bear 20% of past deficit and 50% of the balance deficit is considered for adjustment. Please relook at it.

(vii). Sundry debtors is considers as nil. In that case current liability also should not have been considered.
