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Tariff Authority for Major Ports

G.No. 439 **New Delhi,** **08 October 2021**

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 V. O. Chidambaranar Port Trust for fixation of Dredging Levy at North Cargo Berth (NCB)-II at V. O. Chidambaranar Port Trust as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No. TAMP/11/2021-VOCPT

V.O.Chidambaranar Port Trust ------ Applicant

QUORUM

(i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Sunil Kumar Singh, Member (Economic)

O R D E R

(Passed on this 15th day of September 2021)

This case relates to the proposal received from V.O. Chidambaranar Port Trust (VOCPT) fixation of Dredging Levy at North Cargo Berth (NCB)-II at VOCPT.

2. The main submissions made by the VOCPT for collection of proposed dredging levy at NCB-II are summarized below:

(i). The Authority, vide its Order No.TAMP/27/2009-TPT dated 23 February 2010 had approved upfront tariff for coal handling terminal at VOCPT at NCB-II, based on the proposal filed by VOCPT, following the Guidelines of 2008 for fixation of upfront tariff.

(ii). Consequent upon tender process, the work order for the said project was awarded to M/s. Tuticorin Coal Terminal Private Limited (TCTPL) vide work order dated 12 August 2010, and the Concession Agreement was signed on 11 September 2010. The port had incurred capital expenditure of ₹217.75 crores towards dredging in front of the NCB-II and completed the dredging work during the year 2015-16.

(iii). As the tariff for NCB-II was fixed by the Authority in February 2010 itself and the dredging expenditure incurred by the port was in 2015-16, the said expenditure was not captured in the Berth hire tariff fixation of NCB-II, as the expenditure was incurred by the port.

(iv). The completion of project got delayed and hence M/s.TCTPL started interim operation with effect from 05 January 2018, applying the discounted tariff with WPI indexation of 25.67% on the base tariff fixed, vide Order dated 23 February 2010.

(v). After six months period of interim operations, M/s.TCTPL abandoned the project from June 2018 onwards. Now, the matter has been referred to National Company Law Tribunal (NCLT) by the Lenders and action is being taken by the Resolution Professional to start commercial operation of the project.

(vi). In this connection, it is also submitted to the Authority that with respect to clause 2.4 of Tariff Policy Guidelines, 2018, Net fixed assets transferred to the BOT operator, if any, but reflecting in the Books of Port Trusts as on 31 March of 2017-18 should be excluded for the purpose of calculating RoCE. Accordingly, while arriving at the Annual Revenue Requirement (ARR) for General Revision of Port SOR, the Dredging Expenses for NCB-II was excluded from the Net Fixed Assets as on 31 March 2018 to compute ROCE at 16% while submitting the proposal, vide Port letter dated 27 February 2019.

(vii). It is also brought to the kind attention of the Authority that the tariff approved for NCB-II is very low and not comparable with that of tariff of port operated berths with similar handling facilities.

(viii). It is also submitted that as per the General Revision of SoR vide tariff Order dated 10 October 2019, there was a revenue gap of ₹32.04 crore against the consolidated ARR estimated for the port, including CHD. Considering the trade request, port also send an amendment proposal vide its letter dated 27 April 2020, to reduce pilotage and berth hire charges by 10% for vessels of GRT upto 20,000 GRT. As a result, there is an increase in the revenue gap further to the extent of ₹45.00 crores (approx.).

(ix). In the backdrop, it is to inform that the investment of ₹217.75 crores made by the port towards dredging in front of the NCB-II is not captured either for NCB-II as a separate levy or considered under General Revision of SOR. Hence, the port now submits this proposal for fixation of dredging levy to recover the ARR towards dredging made by the Port for NCB-II on per tonne basis.

(x). In view of the above, to recover the ARR towards the cost of dredging done by the Port in front of NCB-II and to make uniformity in the cost of handling of port operated berths with the tariff of NCB-II, the VOCPT submits this dredging levy proposal for

	The port to examine the proposal in the light of the above observation and propose dredging levy linked to VRC as done earlier as well by the port.	Concessionaire only. With regard to the levy as a service to vessel or to cargo, it is to inform that the Port users are availing services on handling cost per tonne for handling of cargo from any berth and further, the berth is being a PPP mode, there will not be any impact on collection either through vessel or cargo. Further, if the proposal is to levy as a service to vessel, there may be an impact of foreign exchange fluctuation and port would not able to recover the revenue requirement. Hence, Port has proposed to recover the cost by way of cargo handling source linking to the optimal capacity of the Berth of NCB-II. Further, as per Article 8.2 of Concession Agreement (Annexure-1), the Port can levy any infrastructure cess on the cargo handled at the facility.
(iii).	The port to confirm that the depreciation on capital dredging cost incurred in front of NCB-II berth is excluded in last general revision of its SOR.	Though the relevant depreciation on capital dredging cost incurred in front of berths operated under PPP mode viz., VII Berth, VIII Berth and NCB-I, was excluded for a total of ₹76.05 lakhs in computation of ARR in the General SOR revision proposal along with the capital Dredging Expenditure, the depreciation pertaining to NCB-II is inadvertently omitted to be excluded. The applicable depreciation is ₹2.17 crores per annum only against capital cost incurred for Dredging of ₹217.75 crores. In this connection, the Port is already having unbridged revenue gap of more than ₹45 crores, (₹32.05 crores as per General SOR Order dated 10.10.2019 + ₹13.37 Crores as per modification proposal totaling ₹45.42 crores), and considering the depreciation in respect of dredging in front of NCB-II will not have much impact. It is also to mention that there was a continuous reduction in the traffic handled during 2018-19 of 16.02 MMT and 2019-20 of 16.48 MMT as against anticipated traffic of 18.47 MMT considered for arriving the revenue requirement at the time of revision of Scale of Rates in 2019 by 2.45 MMT (2018-19) and 1.99 MMT (2019-20). This has resulted in loss of revenue and increase in unbridged revenue gap also.
(iv).	Furnish a copy of the approval of the Board of Trustees of VOCPT approving subject proposal as the same is not accompanied with the proposal.	Action is being taken to obtain the approval of Board to the subject proposal in the ensuing Board Meeting and the copy of resolution and Agenda will be sent to TAMP accordingly. Subsequently, the VOCPT vide email dated 28 June 2021 has furnished a copy of Board Resolution in the Board Meeting held on 15 June 2021. The Board resolved vide Resolution No.93 to ratify the action taken by the Chairman for having

		submitted the Proposal to TAMP, seeking approval to levy a separate dredging levy at ₹93.64 per M.T. under Section 48 of the Major Port Trust Act, 1963.
(v).	Furnish a copy of the interim order / order, if any, of NCLT or Resolution Professional for revival / to re-start commercial operation of this berth.	Action is being taken by NCLT for revival/ to restart the commercial operation of Berth NCB-II and no interim order has been received from NCLT. In this connection, the copy of EOI called by NCLT is enclosed for reference vide Annexure -2.
(vi).	The port to confirm and certify that there is no restrain on TAMP to take up the proposal of VOCPT seeking approval of dredging levy on vessels arriving at NCB-II when the matter is before the NCLT.	It is to confirm that there is no restriction on TAMP to take up the proposal for levy of separate levy on account of expenditure incurred towards Capital dredging. As informed previously, the Port being Concessioning Authority, can direct the Concessionaire to collect all cesses and charges including infrastructure cess from the users and remit the same to the Concessioning Authority as per Article 8.2 of Concession Agreement.

4.2. In view of the above, the VOCPT has requested to consider the port's proposal to collect dredging levy at ₹93.64 per MT for the cargo handled at NCB-II under Section 48 of the Major Port Trust Act, 1963 and arrange to communicate the approval at the earliest.

5. In accordance with the consultation process prescribed, a copy each of the VOCPT proposal dated 19 January 2021 and e-mail dated 05 March 2021 were circulated to the users/ user organisations seeking their comments. The comments received from the users/ user organisations were forwarded to the VOCPT as feedback information. The VOCPT vide its email dated 17 May 2021 has furnished its reply.

6. A joint hearing in this case was held on 21 May 2021 through Video Conferencing. The VOCPT made a brief Power Point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users/ user organizations have made their submissions.

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

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

(i). The proposal mooted by V. O. Chidambaranar Port Trust (VOCPT) for fixation of Dredging Levy at North Cargo Berth (NCB)-II at VOCPT is mainly because the Port incurred ₹217.75 crores towards capital dredging before berth at NCB-II which is neither captured in the Annual Revenue Requirement (ARR) for arriving at the port tariff nor was it included in the upfront tariff fixed for Coal Terminal Project vide Order No.TAMP/27/2009-TPT dated 23 February 2010 awarded to M/s.Tuticorin Coal Terminal Private Limited (TCTPL). This capex was spent by the Port in the year 2015-16. Hence, port felt there is a necessity to fix dredging levy to recover the ARR comprising of depreciation and Return on Capital Employed (ROCE).

As brought out in the preceding paragraphs, the Upfront tariff proposal of VOCPT for coal handling at NCB-II was approved by this Authority vide Order No.TAMP/27/2009-TPT dated 23 February 2020. Based on the approved upfront tariff, indexed SOR in the name of the BOT operator viz. TCTPL has been notified by this Authority in September 2017. The port has reported that the TCTPL commenced interim operations for six months from January 2018 to June 2018 and then abandoned the project.

The matter is presently before the NCLT for revival of the project. Consequent on revival of the project, the Port proposes to collect the dredging levy on per tonne basis from users against the cargo to be handled at NCB-II to recover the dredging cost incurred by the Port. The port has confirmed that there is no restriction on this Authority to take up the proposal of the port for a separate dredging levy on account of expenditure incurred by the port towards Capital dredging.

The proposed rate is also approved by the Board of Trustees of the VOCPT.

In view of the above submissions made by the port, the proposal of VOCPT for fixation of Dredging Levy at NCB-II at VOCPT is taken up for consideration.

(ii). (a). The VOCPT has proposed a rate of ₹93.64 per tonne to recover the required ARR. The proposed rate is supported with cost calculation by the port which is reproduced here for ease of reference:

Cost Sheet for Dredging Levy towards Dredging cost incurred in front of NCB-II		
Sr. No.	**Description**	**Amount (₹ in lakhs)**
1 (i)	Capital cost of Dredging – completed on 26.10.2015 (Base cost incurred in 2015-16)	21,775.00
(ii)	ROCE @ 16% on the above is due for 5 years (November 2015 to October 2020) (5 x ₹3,484 Lakhs)	17,420.00
	Total (i)+(ii)	**39,195.00**
2	ROCE @ 16% on Sl. No. 1 above	6,271.20
3	Depreciation @ 1% on Sl. No.1 above considering life of 100 years	217.75
4	**Total Annual Revenue Requirement (ARR) (Sl.No.2 +3)**	**6,488.95**
5	**Optimal capacity of NCB-II (In Lakh Tonne)**	69.30
6	**Dredging Levy per tonne to recover the required ARR (4/5)**	**93.64**

(b). As per clause 7.6.1. of the Tariff Policy, 2018 issued by the Ministry of Shipping, when a tariff for service / cargo is not available in the SOR of the concerned Major Port Trust, the port shall approach this Authority for notification of tariff for the said new cargo / service / facility adopting the tariff and Performance Standards, if any, fixed for comparable cargo / equipment / service in any other Major Port Trust. If there is no tariff prescribed in any Major Port Trust or the rate prescribed is not representative for the cargo/ service/ facility envisaged, the Port Trust may file a proposal with reference to optimal capacity following the principles of Tariff Guidelines, 2008 or based on rated capacity or alternatively under cost plus 16% return formula.

Since this is a new facility for which tariff is not prescribed in the existing SOR nor available in any other port, the port has proposed the tariff broadly on cost plus model to recover the depreciation and 16% return on the capital cost of dredging. The port has confirmed that the return on this capex was not included in the ARR computation during the general revision of the SOR of the port in February 2018.

(iii). The items considered by the port for estimating the ARR and our analysis thereon are discussed below:

(a). Capital cost and ROCE :

The port has reported to have invested ₹217.75 crores for the Dredging in front of berth NCB-II in the year 2015-16. As regards the point raised by the Tuticorin Sailing Vessel Owners' Association (TSVOA) and Tuticorin Stevedores Association (TSA) about excluding the grant received from the

Government from the capital cost, the Port has clarified that the Port claims return only on capex less grant received from the Government. The port has confirmed that only the reduced capex is capitalized. The same approach is followed in the current project. The above position is relied upon. Thus, the port has addressed the point raised by the user associations in this regard.

The port has considered 16% ROCE on the gross block of assets. As per Tariff Guidelines of 2018, port is entitled to claim return on capital employed on the net fixed assets and not on gross fixed assets. Moreover, the VOCPT has confirmed that it has claimed depreciation on this capex in the ARR computation for general revision of the port SOR in February 2018. Hence, ROCE is allowed on net fixed Assets to comply with the guidelines position. The port has reported to have completed capital dredging in front of NCB-II in the end of October 2015. Hence, depreciation @ 1% for the year 2015-16 (proportionately for five months i.e. November 2015 to March 2016) and for the years 2016-17 to 2020-21 to the tune of ₹9.617 crores is reduced from the gross block and return on net fixed assets of ₹208.137 crores is considered for computation of 16% ROCE.

(b). Apart from that the port has capitalized ₹174.20 crores on the grounds of ROCE foregone by the port for the years 2015-16 to 2019-20 i.e. (5 years x ROCE of ₹34.84 crores per annum). The argument put forth by the port is that if the project was in operation, the Port would have earned vessel related charges consisting of Port Dues and Pilotage on the vessels handled at NCB-II and Revenue Share on Berth hire and cargo handling charges. In short, the ROCE for the past 5 years is capitalized while arriving at the proposed rate. As stated earlier, the port is entitled to earn ROCE @ 16% on the net fixed assets. The approach adopted by the port of capitalizing the ROCE forgone for the five years is not in line with the general approach followed by this Authority for tariff fixation. Moreover, the VOCPT has confirmed that it has claimed depreciation on this capex in the ARR computation for general revision of the port SOR. The argument put forth by the port that it would have earned VRC and Revenue share from NCB-II if it were in operation cannot be the ground to claim the ROCE for past 5 years in arriving at the dredging levy. Since the approach adopted by the port is not in line with the Tariff Guidelines 2018, this Authority is not in a position to allow 16% ROCE on capitalized cost of ₹174.20 crores claimed by the VOCPT. The cost statement is modified to that extent. Incidentally, even, Seaport Shipping Pvt. Ltd. has raised objection on the said approach adopted by the port.

Based on the above modification, ROCE @ 16% on ₹208.137 crores considered by us works out to ₹33.30 crores as against ₹64.88 crores considered by the port.

(c). **Operating Cost:**

It is seen from the working furnished by the port that depreciation @1% is considered by the Port which is based on the life of capital asset i.e. 100 years. This item is considered as estimated by the port.

(iv). The Annual Revenue Requirement estimated by the port comprises of only two components viz. Deprecation and 16% ROCE. Subject to above modification, the ARR for the dredging comes to ₹35.48 crores per annum as against ₹64.89 crores per annum estimated by the VOCPT.

The port has spread over the estimated ARR over the Optimal Capacity of 69.30 lakhs tonne at the level considered in upfront tariff fixation and arrived at the rate of ₹93.64 per tonne.

As per the modified ARR and following the approach adopted by the port, the dredging levy works out to ₹51.20 per tonne as against ₹93.64 per tonne proposed by the VOCPT. The cost calculation furnished by the VOCPT for fixation of Dredging Levy at NCB-II at VOCPT and modified by us is attached as **Annex**.

As regard the concern raised by the trade that at the proposed rate, the handling cost of the port would increase compared to other ports, the port has done a comparison of the handling rate after adding the proposed dredging levy for similar facilities at other Major ports viz. DPT-JRE, Adani Mormugao Port Terminal Pvt. Ltd and South West Port Ltd operating at MOPT, Vizag General Cargo Terminal and Adani Vizag Coal Terminal Pvt. Ltd operating at VPT, Paradip EQ – 1, 2, 3 Berths on BOT basis and Haldia Port. On such comparison, the port has concluded that the handling rate at VOCPT at NCB-II after considering the proposed dredging levy works out to ₹275.87 per tonne which is lower than other Ports and comparable to VPT – Adani terminal. With the modified rate approved by this Authority, the rate at NCB-II shall be lowest compared to the handling rates of other ports given by the VPT.

Based on the cost calculation, this Authority approves the modified dredging levy of ₹51.20 per tonne on vessels arriving at NCB-II at VOCPT.

(v). Normally, dredging in front of berth is levied on vessel related charges by linking it to Berth hire charges. In the instant case, berth was constructed by the Concessionaire. So, Port has expressed inability to collect dredging levy on Berth Hire. Citing this ground, the VOCPT has proposed dredging levy on per tonne to be levied on cargo handled at NCB-II based on the optimal capacity of the project.

In view of the justification furnished by the port and since there has been no objection from cargo users on unit of levy on per tonne basis, the proposal to collect dredging levy on per tonne basis is approved.

(vi). As regards the concern raised by the trade about retrospective effect, the port has confirmed that the proposed rate shall have prospective effect.

(vii). The Port is already having an unbridged revenue gap of Annual Revenue Requirement to the extent of ₹32.04 crores per annum as per the last general revision of the SOR of the port. The port has anticipated the revenue gap to increase to ₹48.41 crores on account of the approval accorded by this Authority to its earlier proposal for amendment in the SOR which included reduction in VRC for the vessels upto 20,000 GRT.

The additional revenue likely to accrue from the proposed levy cannot be linked to the ARR considered in the last tariff revision as the port has reported that except depreciation which is marginal, the port has not considered ROCE on in this capex during the last general revision of the SOR.

In any case, the revenue shall be within the modified ARR estimated in the current proposal at ₹35.48 crores.

(viii). The rates approved by this Authority generally comes into effect prospectively after expiry of 30 days from the date of Gazette Notification unless otherwise different arrangement is specifically mentioned in the respective tariff Orders. The port has also clarified that it shall have prospective effect. Accordingly, this Authority is inclined to grant approval for the dredging levy after expiry of 30 days from the date of Gazette Notification of the Order in the Gazette of India. The rate prescribed for this item shall also form part of the general revision of the SOR of the port approved under the Tariff Policy, 2018. Hence, the validity of the rate shall be coterminus with the validity of the SOR of the port approved by this Authority vide Order No.TAMP/15/2019-VOCPT dated 10 October 2019.

9.1 In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves following schedule for the collection of Dredging Levy on cargo handled at North Cargo Berth (NCB)-II at VOCPT as Schedule 4.9. Dredging Levy on cargo handled at NCB-II at VOCPT under Section 4 Cargo Related Charge in the existing Scale of Rates of VOCPT vide Order No.TAMP/15/2019-VOCPT dated 10 October 2019:

"4.9. Dredging Levy on cargo handled at North Cargo Berth (NCB)-II:

(1)	Dredging levy on cargo handled at North Cargo Berth (NCB)-II	₹51.20 per tonne

"

9.2 The VOCPT is advised to suitably incorporate the above provision in its SOR.

9.3. The said charges are made effective after expiry of 30 days from the date of notification of the Order in the Gazette of India and its validity shall remain co-terminus to the validity of the existing SOR of VOCPT. The approval accorded will automatically lapse unless, specifically extended by the Competent Authority.

(T.S. Balasubramanian)
Member (Finance)

Annex

COST STATEMENT FOR FIXATION OF DREDGING LEVY AT NORTH CARGO BERTH (NCB)-II AT V. O. CHIDAMBARANAR PORT TRUST FURNISHED BY VOCPT AND MODIFIED BY TAMP.

₹ In lakhs

Sr. No.	Particulars	Estimates by VOCPT in its proposal dated 19.01.2021	Estimates by VOCPT and considered by TAMP
I	Optimal Capacity of NCB-II as assessed in Upfront Tariff Order No.TAMP/27/2009-TPT dated 23.02.2010. [in lakh tonnes)	**69.30**	**69.30**
II	**Capital Cost**		
a.	Capital cost of Dredging – completed on 26.10.2015 (Base cost incurred in 2015-16)	21775.00	21775.00
b.	ROCE @ 16% on the above is due for 5 years (November 2015 to October 2020) (5 x 3,484 Lakhs)	17420.00	0.00
	Total Capital Cost	**39195.00**	**21775.00**
	Net Block of the Capital Cost of dredging after considering depreciation @1% for five years from 2015-16 (proportionate for five months) to 2020-21	**-**	**20813.27**
III	**Operating Cost**		
a.	Depreciation (Life of 100 Years i.e.1%)	217.75	217.75
	Total Operating Cost	**217.75**	**217.75**
IV	**Return on Capital Employed (ROCE) (16% of Capital Cost)** **VOCPT [₹39,195.00 lakhs * 16%]** **TAMP [₹20,813.27 lakhs * 16%]**	**6271.20**	**3330.12**
V	**Total Annual Cost Recovery Requirement (III + IV)**	**6488.95**	**3547.87**
IV	**Tariff ₹ per tonne (V / I)**	**93.64**	**51.20**

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS/USER ORGANISATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F.No. TAMP/11/2021-VOCPT- Proposal from V. O. Chidambaranar Port Trust for fixation of Dredging Levy at North Cargo Berth (NCB)-II at VOCPT.

A summary of comments received from users / user organisations and reply furnished by the VOCPT thereon are furnished below:

Sl. No.	Comments of the users/ user organisations	Reply furnished by VOCPT
1.	**Tuticorin Ship Agents' Association (TSAA)**	
(i).	It is not clear whether the proposal is applicable for previously handled NCB II vessels or applicable for only new vessels to be handled at NCB II in future. Clarity is needed in this aspect.	It is informed that the tariff will be applicable with prospective effect.
(ii).	If the proposal is applicable retrospectively with effect from the year 2018, it will definitely not be possible for our fraternity, i.e. shipping agents to invoice the levy amount to vessel owners/ principals for the past vessels, collect it from owners/ principals and pay the Port. It is an impossible task & will lead only to chaotic situation.	
(iii).	If the port intends to collect the proposed dredging levy of ₹93.64 per MT which is too high, along with existing port charges for future vessels working at berth No.NCB-2, it will be an additional cost to vessel owners/ principals. This will be affecting the cargo volume and will reduce the number of vessels' call to Tuticorin Port drastically.	The expenditure/investment on Dredging in front of NCB-II is neither included in the tariff fixed for NCB-II which was fixed as per the upfront tariff Guidelines, 2008 nor included in the General Revision proposal submitted in February, 2018. After implementation, the cost of handling per tonne in NCB-II including the proposed dredging levy will be similar to the existing handling cost per tonne at IX Berth. If the same is being not levied for the vessels handled at NCB-II, the load will fall on all the vessels handling at other Berths also.
(iv).	There is a proposal to convert 9th berth as a container vessel operating berth. Thereby, all the bulk carriers will be forced to call on the NCB-II only as there will be no other deep draft berth for bulk cargo vessels. If the proposed dredging levy at NCB-II is implemented, this will drastically affect the bulk cargo volume and will reduce the number of vessels' call to VOC Port Tuticorin.	
(v).	Therefore considering the above comments/views of TSAA members, TSAA has requested to take up the matter with concerned authorities not to collect any dredging levy on retrospective basis and also not to charge the levy in future i.e. prospectively also so that the number of vessels calling VOC Port as well as cargo traffic will not be affected.	
2.	**Seaport Shipping Pvt. Ltd. (SSPL)**	
(i).	TAMP Rate was approved on 23.02.2010. Concession Agreement signed on 11.09.2010. Dredging was completed belatedly during the year 2015-16. TCTPL commenced interim operations after a delay of 3 years with effect from 5 January 2018. Abandoned the project within a span of 5 months in June 2018. On a cursory glance of the sequence of events, the project had been in troubled waters since inception.	Factual.

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<tr><td></td><td>The reason for abandoning the project has not been disclosed.
Not explicit on the future course of action on this project.</td><td></td></tr>
<tr><td>(ii).</td><td>The Tariff was fixed based on 2008 guidelines. But relying on 2018 Guidelines, the Net fixed asset as of 31 December 2018 to be excluded. However, in the Cost Sheet, right from 2015 it has been included.</td><td rowspan="4">The expenditure / investment on Dredging in front of NCB-II is neither included in the tariff fixed for NCB-II which was fixed as per the upfront tariff Guidelines, 2008 nor included in the General Revision proposal submitted in February, 2018.

The contention of tariff approved for NCB-II is low, it is to mention that since the cost of ROCE and relevant Depreciation is not included in the NCB-II tariff fixation which was fixed in 2013 i.e., prior to the period of expenditure made (2015-16), the NCB-II tariff was resulted as low.

With regard to ROCE @ 16% included under capital cost, it is informed that if the project is in operation, the Port would have earned vessel related charges consisting of Port Dues and Pilotage on the vessels handled at NCB-II and Revenue Share @ 52.17% on Berth hire and cargo handling charges. Port already lost its revenue and to recover the same, it was included under capital cost relevant to the period upto October 2020.

As rightly stated, the concession of Pilotage & Berth hire charges upto 20,000 GRT was provided for all Berth as a trade promotion measure and the present proposal is only for vessels handled at NCB-II.</td></tr>
<tr><td>(iii).</td><td>The rate approved for NCB II is stated to be low. Pertinent to note that Port is also the party to the rate fixation process.</td></tr>
<tr><td>(iv).</td><td>As a Trade Promotion Measures, concession was accorded to the vessels up to 20,000 GRT. It was a conscious decision by the Port and inappropriate to the present context.</td></tr>
<tr><td>(v).</td><td>Inferred that the ROCE for the 5 years period from 2015 to 2020 have been capitalized. The admissibility of such capitalization is not known. Further no rationale behind claiming ROCE for the dead investment.</td></tr>
<tr><td>(vi).</td><td>It is not clear, whether the Dredging Levy will be a Cargo Related Charges or Vessel Related Charges.</td><td rowspan="4">Though the dredging levy related to service to vessel, the Port could not collect the dredging levy component linked with Berth hire charges, since the berth has been constructed by the Concessionaire and the berth hire charges will be accrued to the Concessionaire only.

With regard to the levy as a service to vessel or to Cargo, it is to mention that the Port users are availing services based on the handling cost per tonne for handling of cargo from any berth and further, the berth is being a PPP mode, there will not be any impact on collection either through vessel or cargo.

Further, if the proposal is to levy as a service to vessel, there may be an impact of foreign exchange fluctuation and port would not be able to recover the revenue requirement as per the applicable tariff guidelines. Hence, Port has proposed to recover the cost by way of cargo handling source linking to the optimal capacity of the Berth of NCB-II.</td></tr>
<tr><td>(vii).</td><td>If it is Vessel Related Charges, in consonance with the Trade Practice, it should be payable on GRT of the vessel or a percentage of Marine Dues as Dredging Levy.</td></tr>
<tr><td>(viii).</td><td>Presumably, in as much as the PPP Operator has abandoned the Project, the Berth will be operated by the Port as a Common User Facilities.</td></tr>
<tr><td>(ix).</td><td>Such being the case, going by precedence and logical conclusion, it should be the Vessel Related Charges. Constraining the trade with an exorbitant Dredging Levy of ₹93.64 will be a blow on the trade, who are already bearing the brunt due the pandemic and its aftermath.</td></tr>
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<tr><td></td><td></td><td>Further, as per Article 8.2 of Concession Agreement, the Port can levy any infrastructure cess on the cargo handled at the facility.</td></tr>
<tr><td>(x).</td><td>Ministry is vociferously advocating the stake holders of the logistics to reduce the logistical cost in India which is pegging at 15 to 16% of GDP, one of the highest in the world to 10% at par with the developed nations. Ports are yet to kick start in this direction and on the other hand, Port cost is being escalated indiscriminately.</td><td>The proposal will make uniformity in the handling cost per tonne comparing with other Berths and as stated by M/s. Seaport Shipping Private Limited, Tuticorin vide para 1(d), the Port is already providing concession in VRC upto 20,000 GRT to make the logistic cost cheaper and a trade promotion measure.</td></tr>
<tr><td>(xi).</td><td>The Chairmen of the Ports are vested with more authorities and operational freedom in the newly enacted Port Trust Act 2021.</td><td rowspan="2">Factual, The Port is in the process of reviewing its tariff in comparison with the nearby other Major Ports and Private Ports.</td></tr>
<tr><td>(xii).</td><td>It is incumbent on the Port to cut the corners wherever possible in order to enhance the competitiveness of Indian Products as the Logistics cost constitute more than 20% of the Product Cost.</td></tr>
<tr><td>3.</td><td>Tuticorin Sailing Vessel Owners' Association (TSVOA)
and
Tuticorin Stevedores Association (TSA)</td><td></td></tr>
<tr><td>(i).</td><td>TSVOA / TSA understand that the Central Government have given a sizeable amount as Grant later for having carried out the Capital Dredging Works. If the Port have availed such Central Government Grant, it is not supposed to treat the costs as expenditure borne by it and pass on it to the Port Users to that extent.</td><td rowspan="2">The Grants received for any Project from the Govt. of India till date, the same is being passed on to the trade by reducing the capital cost and in turn it will reduce the claim of 16% Return and thereby tariff. With reference to the expenditure incurred on Dredging inside the Basin or at the entrance, the same is being met from the Port funds and as per the extant guidelines (1% per annnum towards Depreciation), the same is being collected through tariff.

In the similar way, the Grants received for Dredging in the Harbour Basin had been subsumed against the dredging cost incurred by the Port, thereby benefit has been passed on to the Trade by not proposing any increase in general Revision of Scale of Rates which can been seen from Annexure–I(b) of TAMP's order No.TAMP/15/2019-VOCPT dated 10.10.2019.</td></tr>
<tr><td>(ii).</td><td>Dredging Works carried out inside the basin or at the entrance of the Ports should be treated as development of National/ Inter-National Waterways and the entire costs thereon should be borne by the Central Government.</td></tr>
<tr><td>(iii).</td><td>Importers from this region are already having a strong feeling that the rate/ MT for all cargoes in general in VOCPT is much higher in comparison of the tariff prevalent in other Government Ports. Hence, the proposed increase in rate by way of Dredging Levy will not be healthy for the trade.</td><td>Handling cost per tonne at similar facilities at other Major Ports are as follows:
(In ₹)
<table>
<tr><th>S.N.</th><th>Ports</th><th>Rate Per Tonne</th></tr>
<tr><td>1</td><td>VOCPT (NCB-II)</td><td>275.87</td></tr>
<tr><td>2</td><td>DPT (M/s. JRE Infra Private Limited)</td><td>321.27</td></tr>
<tr><td>3</td><td>MOPT (Adani Mormugao Port Terminal Pvt. Ltd.)</td><td>320.92</td></tr>
<tr><td>4</td><td>MOPT (South West Port Limited (SWPL)</td><td>317.50</td></tr>
<tr><td>5</td><td>VPT (Vizag Gen Cargo Berth)</td><td>285.76</td></tr>
</table></td></tr>
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<table>
<tr><td></td><td></td><td><table><tr><td>6</td><td>VPT (Adani Vizag Coal Terminal Pvt. LTd.)</td><td>275.20</td></tr><tr><td>7</td><td>Paradip (EQ – 1, 2, 3 Berths at the PPT on BOT basis)</td><td>282.63</td></tr><tr><td>8</td><td>Haldia</td><td>342.41</td></tr></table>
It can be seen from the above, the handling charges at VOCPT is lower than the tariff being levied by any PPP Operator for similar purpose at other Major Ports.</td></tr>
<tr><td>(iv).</td><td>Even in case a decision is taken to pass on the costs, working out the Rate of Interest for the Return on Capital Employed (ROCE) should not be done purely on commercial basis and the rate should not be fixed in an exorbitant manner as worked out for this proposal i.e. 16%. Rather, it should be done on the basis of loan sanctioned by NABARD/RBI/SBI for carrying out Government Projects/ Schemes with subsidized rate of interest, considering such project as a key-hole for opening of new avenues of business at National/Inter-National levels.</td><td>ROCE @ 16% considered is as per the TAMP Guidelines. The said ROCE @ 16% consist of both cost of capital and Return from the Projects for which the cost incurred by the Port. It is relevant here to mention that Port already having a unbridged gap of Annual Revenue Requirement to the extent of ₹40.00 crores per annum which was anticipated to increase to ₹48.41 crores on extension of discount on VRC for the vessels upto 20,000 GRT. Further, the unbridged gap was increased due to non-handling of the cargo during the last two years at the desired level of 36.58 MMT. Hence, further reduction of required ROCE could not be possible.</td></tr>
</table>

2. A joint hearing in this case was held on 21 May 2021 through Video Conferencing. The VOCPT made a brief Power Point presentation of its proposal. At the joint hearing, the VOCPT and the concerned users/ user organizations have made the following submissions:

V.O. Chidambaranar Port Trust (VOCPT)

(i). Makes a power point presentation of its proposal.

(ii). Upfront tariff proposal of VOCPT for coal handling at NCB-II I was approved by TAMP vide Order dated 23 February 2020.

(iii). Dredging in front of NCB-II berth was not envisaged; hence Upfront tariff for berth hire did not capture dredging cost.

(iv). Subsequently, Port incurred ₹217.75 crores for capital dredging before berth at NCB-II.

(v). Based on the approved upfront tariff, indexed SOR in the name of the BOT operator viz. Tuticorin Coal Terminal Pvt. Ltd. (TCTPL) has been notified by TAMP in September 2017.

(vi). TCTPL commenced interim operations for six months from January 2018 to June 2018 and then abandoned the project.

(vii). The matter is presently before the NCLT for resolution plan.

(viii). Port could not recover huge expenditure incurred on dredging in front of berth NCB-II. Nor did port earn any return from this investment.

(ix). The port Scale of Rates proposed under Tariff Guidelines, 2018 does not capture return on the capital expenditure on the said capital dredging done in front of NCB-II. This item was excluded then.

(x). The unbridged revenue gap of ₹48.41 crores per annum is left uncovered in last tariff revision of port on ARR model.

(xi). Since the capital dredging cost in front of NCB-II berth incurred by the port is neither captured in the ARR for arriving at the port tariff nor is it included in the upfront tariff fixed for the BOT operator as this was spend by the Port, there is a necessity to fix dredging levy to recover the annual revenue requirement comprising of depreciation and return on capital employed.

(xii). Total ARR is considered at ₹6,488.95 lakhs i.e. only 1% Depreciation and 16% ROCE.

(xiii). Optimal capacity is considered at 69.30 lakhs tonne at the level considered in upfront tariff fixation. The proposed rate works out to ₹93.64 per tonne.

(xiv). The proposal is to recover the proposed dredging levy of ₹93.64 per tonne for cargo handled at NCB-II berth.

V.O. Chidambaranar Port Trust (VOCPT)

(i). We have spent ₹217.75 crores. This was not included in original upfront tariff nor in general SOR.

(ii). The rates will have prospective effect.

V.O. Chidambaranar Port Trust (VOCPT)

(i) No ROCE earned for the said capital expenditure incurred by the port for last 5 years from 2015 to 2021. The ROCE foregone for the 5 years is capitalized while arriving at the proposed rate.

Seaport Shipping Pvt. Ltd. (SSPL)

(i). We have furnished our comments. Whether it is received?
[VOCPT: It is confirmed that the comments of Seaport Shipping Pvt. Ltd. on the proposal of the port has been forwarded by the TAMP to VOCPT. Port has furnished its comments to TAMP.]

(ii). Whether the proposed rate is Cargo Related Charge (CRC) or Vessel Related Charge (VRC)?
[VOCPT: The proposed rate is CRC. Normally, dredging in front of berth is to be loaded on Berth Hire. Here, berth was constructed by the Concessionaire. So, Port cannot collect dredging levy on Berth Hire. Hence, we have proposed rate on per tonne based on the optimal capacity of the project.]

(iii). Capital dredging in front of NCB II was done in the year 2015. The port has now come up seeking tariff for this item. Why in the year 2018, Port did not consider this item in tariff revision of port SOR?
[VOCPT: The capex was incurred in 2015. The project was delayed. And was implemented only in the year 2018. Port did not include in general SOR as, port did not want to apply on all vessels. Since, now the project is abandoned, and gone to NCLT, we are proposing per tonne rate to recover only ROCE and 1% depreciation.]

(iv). There is anomaly in NCB-II and III. For NCB-III, it is collected as VRC. Here if it is on CRC, it will be an anomaly.

GAC Shipping

(i). Whether dredging levy is for future or retrospective?
[VOCPT: It will have prospective effect.]

V.O. Chidambaranar Port Trust (VOCPT)

(i) As regards comments given by Tuticorin Stevedores Association (TSA) forwarded by TAMP, the contention of TSA is that Port gets grants from Government. Hence, tariff should be reduced to that extent.
In this regard, Port clarifies that the Port claims return only on capex less grant received from the Govt. Only the reduced capex is capitalized. In the current project also grant received from the Govt. is reduced from the capex.

(ii). The other point made by TSA is about tariff collected at neighbouring Port.
Port has done a thorough comparison. Per tonne handling cost of cargo is compared with DPT-JRE, MOPT-Adani, MOPT-SWPL, Vizag General Cargo, VPT-Adani, Paradip, Haldia Port. On such comparison, it is found that the after considering the proposed dredging levy, the tariff of VOCPT works out to ₹275.87 per tonne which is found lower than other Ports and comparable to VPT – Adani terminal.

(iii). Port is protecting the interest of port users.

Seaport Shipping Pvt. Ltd. (SSPL)

(i). 16% ROCE is very high. There is negative trend everywhere. Please look into the high ROCE. Request TAMP to consider reduction.
[TAMP: 16% ROCE is as per Tariff Guidelines. It is uniformly followed at all Major Ports. TAMP rate is ceiling rate. Port can offer discount.]

Tuticorin Ship Agents' Association (TSAA)

(i). Tariff is already on the higher side.

(ii). Dredging levy will add to the cost.

(iii). Since there is no competition, cargo may be diverted to other Port.

(iv). Don't increase the tariff.

V.O. Chidambaranar Port Trust (VOCPT)

(i). Rate at NCB-II after the proposed dredging levy will be ₹275.87 per tonne as against NCB-IX rate of ₹275.08 tonne.

Fossil Logistics

(i). We are glad for revival of NCB-II project.

(ii). We understand with new levy, trade will not get benefit.

(iii). Consider concession in proposed rate.

Indian National Shipowners' Association (INSA)

(i). Levy is on CRC and on bulk cargo. It will not impact on vessel.

(ii). The general trend is if port traffic falls, the resultant is Port proposes tariff increase to meet its ARR.

(iii). Though present proposal does not impact VRC, in future if there is loss of cargo, whether Port can confirm that VRC tariff will not be increased?

V.O. Chidambaranar Port Trust (VOCPT)

(i). We have not earned any return on the capital dredging cost incurred by the port in front of NCB-II. In current proposal, we have taken all factors.

(ii). 16% ROCE claimed is as per Tariff Guidelines.

(iii). We always see that port is competitive. But, port should get minimum return.

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