(Published in Part - III Section 4 of the Gazette of India, Extraordinary)

Tariff Authority for Major Ports

G.No.270 **New Delhi,** **22 July 2020**

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Sections 48 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from the Vizag Seaport Private Limited (VSPL) for general revision of its Scale of Rates for the vessels handled by it at berths EQ-8 and EQ-9 at the Visakhapatnam Port Trust, in the Meeting of this Authority held on 1 June 2020. However, considering the time involved for notifying (Speaking) Order along with the Scale of Rates, approved by this Authority, this Authority decided to notify only the revised Scale of Rates immediately. Accordingly, the revised Scale of Rates approved by this Authority on 1 June 2020 was notified in the Gazette of India on 18 June 2020 vide Gazette No.212. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the VSPL for general revision of its Scale of Rates as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports

Case No.TAMP/11/2020-VSPL

Vizag Seaport Private Limited - - - Applicant

QUORUM:

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

O R D E R

(Passed on this 1st day of June 2020)

This case relates to the proposal dated 30 January 2020 forwarded by the Vizag Seaport Private Limited (VSPL) vide its e-mails dated 31 January 2020 and 11 February 2020 for general revision of its SOR for the vessels handled by it at berths EQ-8 and EQ-9 at the Visakhapatnam Port Trust (VPT).

2.1. The existing SOR of VSPL was last approved by this Authority vide Order No.TAMP/19/2017-VSPL dated 19 January 2018 which was notified in the Gazette of India on 26 February 2018 vide Gazette No.78. In the said tariff Order dated 19 January 2018, based on the deficit reflected in the cost statement, Shore handling charges were increased from ₹45 per tonne to ₹65 per tonne (44% increase), BMHS charges were decreased from ₹150 per tonne to ₹140 per tonne (7% increase), Railway siding charges were deleted, Dust suppression system charge was increased from ₹1.50 per tonne to ₹2.00 per tonne (33% increase), Wharfage charges were increased in range of 5% to 34% as proposed by VSPL and Berth hire charge was increased from 0.0072 US$ to 0.0083 US$ (15% increase).

2.2. Subsequently, this Authority had passed an Order No.TAMP/24/2018-VSPL dated 03 October 2018 disposing of the Review Application filed by VSPL which was notified vide Gazette No.413 dated 06 November 2018. The said Order prescribed the validity of the SOR till 31 March 2020. In the said review Order dated 03 October 2018, berth hire charge was revised to US$ 0.0089 per GRT per hour which was given prospective effect after expiry of 30 days from the date of notification in the Gazette of India.

3.1. The Ministry of Shipping (MOS) vide its letter No.PR-14019/20/2009-PG (Pt.IV) dated 05 March 2019 has issued a Tariff Guidelines for BOT operators operating in all Major Port Trusts and previously governed by 2005 Tariff Guidelines in exercise of powers conferred on it by Section 111 of the Major Port Trusts Act, 1963, and directed this Authority to act accordingly with immediate effect. The Tariff Guidelines for BOT operators operating in Major Port Trust and previously governed by 2005 Tariff Guidelines has been notified in the Gazette of India Extraordinary (Part III Section 4) on 07 March 2019 vide Gazette No.92. Thereafter, as per Clause 1.7 of the Tariff Policy, 2019, Working Guidelines to operationalize the Tariff Policy is notified in the Gazette of India vide Gazette No.244 dated 11 July 2019 after consultation with Major Port Trusts and the BOT operators governed under the erstwhile 2005 Tariff Guidelines.

3.2. As per Clause 4.2 of the Tariff Guidelines, 2019, each BOT Operator shall submit the proposed SOR, 60 days prior to the expected date of implementation of its SOR i.e. by 31 January 2020. In this regard, the VSPL was vide our letter dated 31 January 2020 was requested to file its proposal for General Revision of its Scale of Rates, following Tariff Guidelines, 2019, read with the Working Guidelines issued to opeartionalise the Tariff Guidelines, 2019, immediately.

4.1. In this backdrop, the VSPL has filed its proposal dated 31 January 2020 following Tariff Policy, 2019 for fixation of tariff in respect of EQ 8 and EQ 9 berths at VPT for a period of three years from 01 April 2020. The VSPL has submitted the following:

(i). SOR has been drawn with revenue lower than the ceiling ARR based on our commercial judgment and the Scale of Rates of VPT and other terminals in Vizag.

(ii). Separate berth hire rates are proposed for EQ 8 berth under mechanized cargo operation and EQ 9 berth under non mechanised operations.

(iii). In line with the Annual Revenue Requirement (ARR) and considering the SOR of VPT and other berths, increase in tariff is proposed on various cargo related charges as detailed in Form 5.

4.2. The VSPL has furnished detailed computation of ARR under Form-1 and Revenue estimation at the proposed rate in Form-4.

(i). A summary position of ARR computation furnished by VSPL is tabulated below:

(₹ in lakhs)

Sl. No.	Description	Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(1).	**Total Expenditure (As per Audited Annual Accounts)**			
(i).	Operating expenses (including depreciation)	11,438.25	13,641.12	14,794.00
(ii).	Finance and Miscellaneous expenses (FME)	3,124.96	2,511.19	2,187.39
	Total Expenditure 1=(i)+(ii)	**14,563.21**	**16,152.31**	**16,981.39**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	152.03	150.85	143.33
(ii).	Other expenditure items, if any, to be listed	(703.37)	(490.69)	(341.20)
	Total of Adjustments 2=(i)+(ii)	**(551.34)**	**(339.84)**	**(197.87)**
(3).	**Less Adjustments:**			
(i).	Actual Royalty/ Revenue share paid to the port	693.96	791.82	876.35
(ii).	Interest on loans	3,075.19	2,486.14	2,165.22
(iii).	Provision for bad and doubtful debts	8.22	80.62	31.03
(iv).	Provision for slow moving inventory	-	-	-
(v).	Other provisions, if any	-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	**3,777.37**	**3,358.59**	**3,072.60**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	520.00	593.00	656.00
(5).	**Total Expenditure after Total Adjustments (5=1+2-3)**	**10,754.50**	**13,046.88**	**14,366.92**
(6).	Average Expenses of Sl. No.5 = [Y1+Y2+Y3]/3			**12,722.77**
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			34,749.18
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			6.73
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			2,398.28
	(a). Inventory			-
	(b). Sundry Debtors			-
	(c). Cash			-
	(d). Sum of (a)+(b)+(c)			-
	(iv). Total Capital Employed [(i)+(ii)+(iii)]			**37,154.20**
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			5,944.67
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+(8)]**			18,667.44
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 3.45% and the indexed ARR for the year Y4 will be (9) x 1.0345)**			**19,311.47**
(11).	**Ceiling Indexed ARR as given in Sr.No.10 above**			**19,311.47**

Sl. No.	Description	Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**			**17,263.00**

(ii). The VSPL has furnished the working of revenue estimation for the existing tariff as well as the proposed tariff in Form 4 for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is ₹17,163/- lakhs.

4.3. The VSPL has also furnished Form Nos.1, 2, 3, 4, 6A, 6B and 7 duly certified by the practicing Chartered Accountant.

4.4. The VSPL has vide e-mail dated 11 February 2020 furnished proposed SOR along with copy each of the Audited Annual Accounts for the years 2016-17, 2017-18 and 2018-19.

4.5. The VSPL has proposed increase/ (decrease) to meet the estimated ARR as given below:

Descriptions	% Increase / Decrease	
	Foreign	**Coastal**
Berth Hire Charges	Upto 11.24%	62.88% to 80%
Wharfage charges	0.33% to 90%	-53.95% to 166.67%
Demurrage Charges	Status quo	
Stevedoring Charges	0% to 132.56%	-13.60% to 125%
Shore Handling Charges	24.62%	
100T HMC	Status quo	
Charges for hire of Gantry unloader	Deleted	
Charges for railway maintenance and siding charges	Re-introduced	
Storage charges	33% to 50%	
Dust suppression system charges	50% to 100%	
Weighment Charges	20% to 66.67%	
Material Handling System for handling bulk cargo	7.21%	
Tarpaulin coverage charges	20%	
Miscellaneous charges		
Visitors / vehicles entry pass	Status quo	
Photography	400%	

5. In accordance with the consultative procedure prescribed, a copy each of the proposal dated 31 January 2020 and 11 February 2020 along with all enclosures (excluding the Audited Annual Accounts) was forwarded to the VPT and concerned users/ user organisations seeking their comments. We have received comments only from M/s.Steel Authority of India Limited (SAIL) a copy of which was forwarded to VSPL as feedback information. The VSPL has furnished its response.

6. A joint hearing in this case was held on 26 February 2020 at the VPT premises. The VSPL made a brief power point presentation of its proposal. At the joint hearing, the VSPL, VPT and the concerned users/ organisation bodies have made their submissions.

7. Based on the preliminary scrutiny of the proposal, the VSPL was requested vide our letter dated 3 March 2020 to furnish additional information/ clarifications on a few points by 10 March 2020. The VSPL vide its e-mail dated 12 March 2020, subsequent e-mails dated 16 March 2020 and 6 April 2020 has furnished its reply. A summary of the additional information/ clarifications sought by us and the corresponding replies furnished by the VSPL is tabulated below:

<table>
<tr><th>Sl. No.</th><th>Information/ clarifications sought by us</th><th>Reply furnished by VSPL</th></tr>
<tr><td>1.</td><td><u>Annual Revenue Requirement (ARR) (Form-1):</u></td><td></td></tr>
<tr><td>(i).</td><td><u>Form-1, Sr. No.1, Total Expenditure</u>: The total expenditure figures match with Audited Annual Accounts of the years 2016-17 to 2018-19. However, the individual figures viz., Operating Expenditure (including depreciation) and Finance and Miscellaneous Expenses do not match with respective figures as per Audited Annual Accounts. The VSPL to consider these figures as per Audited Annual Accounts. There is minor mismatch in total expenditure for the years 2016-17 and 2018-19 from the figures reported in the Audited Annual Accounts of the said years which may also be corrected.</td><td>Below is a reconciliation between audited financials and Tariff form No.1:
<table>
<tr><th>As per Audited financials:</th><th>2016-17</th><th>2017-18</th><th>2018-19</th></tr>
<tr><td>Operating Expenditure

This includes.
1. Purchase of traded goods
2. Changes in Inventory of traded goods
3. Operating expenses</td><td>8,640.43</td><td>10,539.09</td><td>11,511.79</td></tr>
<tr><td>Employee benefit expenditure</td><td>612.74</td><td>729.93</td><td>908.58</td></tr>
<tr><td>Finance Costs</td><td>3,124.96</td><td>2,511.19</td><td>2,568.52</td></tr>
<tr><td>Depreciation and Amortization</td><td>1,411.41</td><td>1,466.20</td><td>1,458.61</td></tr>
<tr><td>Other Expenditure</td><td>773.69</td><td>905.90</td><td>533.85</td></tr>
<tr><td>Total Expenditure</td><td>14,563.23</td><td>16,152.31</td><td>16,981.35</td></tr>
<tr><td>As per Forms:</td><td></td><td></td><td></td></tr>
<tr><td>Operating expenses (including depreciation)</td><td>11,438.25</td><td>13,641.12</td><td>14,794.00</td></tr>
<tr><td>Finance and Miscellaneous Expenses (FME)</td><td>3,124.96</td><td>2,511.19</td><td>2,187.39</td></tr>
<tr><td>Total Expenditure</td><td>14,563.21</td><td>16,152.31</td><td>16,981.39</td></tr>
<tr><td>Difference</td><td>0.02</td><td>0.00</td><td>(0.04)</td></tr>
</table>
There is a minor mismatch due to casting of balance sheet prepared in lakhs. Difference of ₹2 thousand and ₹4 thousand respectively in 2016-17 and 2018-19 is adjusted in revised forms.</td></tr>
<tr><td>(ii).</td><td>As per Clause 2.3.2 of Tariff Guidelines, 2019 in case there is variation in the expenditure reported under IND AS and IGAAP, then necessary adjustments need to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. In this regard, Form 6A, furnished by the VSPL at Sr. No.2 shows adjustments under the head “Other Expenses” towards replacement cost, cost of development, other finance charges, gratuity, lease rental and loss on sale of asset from IND AS to IGAAP for the years 2016-17 to 2018-19 respectively by way of showing as exclusion from the ARR computation. In this regard, the VSPL to clarify the following:</td><td></td></tr>
</table>

	(a). The VSPL to briefly explain the treatment given under IND AS for the items which are considered for exclusion while drawing the statement under IGAAP.	Summary of IND AS Impact given in VSPL financial Statements: 1. Replacement Cost: • The Company has applied IND AS 11 (Appendix A-Service Concession Arrangements) on the date of transition which is being carried forward in subsequent years. • The Net present value of decommissioning cost to be incurred at the end of Service concession agreement is added to Intangible Assets. • Interest on the above NPV is shown as Finance Cost in the year 2018-19 (Refer Note no.21 in Signed Financial Statements) and in the year 2016-17 and 2017-18 the same is shown as provision for replacement cost in Other Expenses (Refer Note no.23 in 2017-18 and Note no.4.23 in 2016-17 in Signed Financial Statements). 2. Cost of Development: • As per Appendix A- Service Concession Arrangement construction or upgradation revenue is recognised during the service concession period based on the stage of completion of the work performed. • Thus, the cost of construction including margin is capitalised to Intangibles as Right to use as per Service Concession Arrangement and the same is routed through Profit and Loss account. • Thus, there is Construction Cost and corresponding Construction Revenue accounted in Profit and loss account. Therefore Construction Cost is reduced from total expenses as IND AS adjustment. • Refer Explanatory Note no.4.18 and 4.20 for the FY 2017, Note no.15(e) and 19 for the FY 2018. 3. Other finance Charges: • As per IND AS 109, the Processing Charges paid for borrowings needs to be amortised over period of loan. Thus on the date of transition borrowing cost which was debited to Profit and Loss in previous periods were reversed and netted off with borrowings in the financial statements. After the transition date, based on the working, portion of processing charges is debited to PL account which is reversed as IND AS adjustment in the form. 4. Gratuity: • Actuarial gains and losses are recognized in other comprehensive income and not reclassified to profit and loss in a subsequent period as per Ind AS 19. • Therefore, any gain/ loss is not debited to Employee cost, same is directly taken to Other

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Comprehensive Income in Statement of changes in equity.

5. Lease Rental Expenditure:
Fair valuation of interest free security deposits is accounted on transition date and the difference between the carrying value and NPV is taken to Prepaid Deposit which is amortised over the period of the lease agreement.
6. Depreciation as per IND AS;
On application of Appendix A of IND AS 11, the Company has recognised intangible asset arising from a Service Concession Arrangement (SCA) to the extent the Company has a right to charge for use of the concession infrastructure over the period of SCA. Therefore, amortisation/ deprecation was computed retrospective and the effects was given as on transition date and in subsequent periods.
7. Loss on Sale of Asset;
Sale of assets forming part of Intangible Asset is credited to the block and no gain/ loss is accounted in IND AS.
</td>
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<td></td>
<td>(b). The lease rental reported in the Annual Accounts is ₹478.88 lakhs, ₹251.55 lakhs and ₹544.00 lakhs for the years 2016-17 to 2018-19 respectively. As against that, the VSPL has in Form 6 A shown the IND AS figure of lease rent at ₹3.27 lakhs, ₹3.27 lakhs and ₹5.46 lakhs for the years 2016-17 to 2018-19 respectively which do not match with figures reported in the Audited Annual Accounts. This figure appears to be the adjustment figures. The VSPL to furnish as per the format the figures as per IGAAP, IND AS figures duly matching with the Audited Accounts and the differential which need to be captured as adjustment in Form 1.</td>
<td>
Lease rental expenses includes Fair Valuation of Security Deposit for WAB and VPT. The said adjustment is the IND AS figure of ₹3.27 lakhs for 2016-17, 2017-18 and 5.46 lakhs for 2018-19 is taken in Form 6A and the whole expenditure of lease rental is considered as a part of Operating expenses in Form 1. Effect for ARR calculation is correctly given.
<table>
<tr><th>As per Financials</th><th></th><th>2016-17</th><th>2017-18</th><th>2018-19</th></tr>
<tr><td>Lease Rental Expenses – IND AS</td><td></td><td>3.26</td><td>3.26</td><td>5.46</td></tr>
<tr><td>Lease Rentals – VPT Others</td><td></td><td>5.85</td><td>11.74</td><td>8.65</td></tr>
<tr><td>Lease Rent to Exim Park</td><td></td><td>258.40</td><td>64.90</td><td>68.79</td></tr>
<tr><td>Lease Rent to VPT</td><td></td><td>195.23</td><td>166.12</td><td>437.83</td></tr>
<tr><td>Lease Rent to WAB Plot</td><td></td><td>16.14</td><td>5.52</td><td>23.28</td></tr>
<tr><td></td><td>(A)</td><td>478.88</td><td>251.55</td><td>544.00</td></tr>
<tr><td>Less: IND AS Entry</td><td>(B)</td><td>3.26</td><td>3.26</td><td>5.46</td></tr>
<tr><td>Lease Rent expenditure (IGAAP)</td><td></td><td>475.62</td><td>248.29</td><td>538.55</td></tr>
</table>
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<td></td>
<td>(c). Likewise, the figures of Other Finance expense, Gratuity and Loss on sale of asset in Form 6A under the column IND AS also could not be matched/ correlated with figures reported in the Audited Annual Accounts. The VSPL to, therefore, furnish the figures as per IGAAP, IND AS figures duly matching with the Audited Accounts and the differential as per the format prescribed. The differential need to be captured as</td>
<td>
Other Finance Expenses (under Finance Costs) includes Amortization of Borrowing Cost as per IND AS. Following are the details of borrowing cost shown for last 3 years, which are shown as adjustment in respect of IND AS in Form 1.
<table>
<tr><th></th><th>2016-17</th><th>2017-18</th><th>2018-19</th></tr>
<tr><td>As per Financials</td><td></td><td></td><td></td></tr>
<tr><td>Finance Cost (*)</td><td>3,124.96</td><td>2,511.19</td><td>2,187.39</td></tr>
<tr><td>Less: Borrowing cost – IND AS</td><td>2.47</td><td>7.99</td><td>7.61</td></tr>
<tr><td>Finance Cost as per IGAAP</td><td>3,122.49</td><td>2,503.20</td><td>2,179.78</td></tr>
</table>
</td>
</tr>
</table>

<table>
<tr><td></td><td>adjustment in Form 1.</td><td>(*) Excluding Finance Cost related to Obligation under Service Concession Arrangement shown in Note no.21 for the FY 2018-19.

• Gratuity adjustment in Form 6 A represents actuarial gain/ loss which is required to be shown under Other Comprehensive Income as per IND AS – 19 “Employee Benefits” and not to be debited to Employee cost in profit and loss account. The same can be matched from “Other Equity” Note in Statement of Changes in Equity in each Audited accounts for last 3 years. The same can also checked from the disclosure given as per IND AS 19 below Provision notes in all the years. (Refer Note no.4.13 for FY 2017, 13(b) for FY 2018 and 13(b) for FY 2019 in the signed Financial Statements) The said gain/ loss is shown as adjustment in Form 1.
<table>
<tr><th>As per Financials</th><th>2016-17</th><th>2017-18</th><th>2018-19</th></tr>
<tr><td>Gratuity as per Financials</td><td>7.64</td><td>11.17</td><td>13.34</td></tr>
<tr><td>Less: Re-measurement gain (IND AS) (*)</td><td>4.22</td><td>1.37</td><td>(7.32)</td></tr>
<tr><td>Gratuity as per IGAAP</td><td>3.42</td><td>9.80</td><td>20.66</td></tr>
</table>

• Loss on Sale of Asset as per IND AS is Zero, since the sale proceeds is credited to Block of Intangible and Profit and Loss will be accounted once the block is NIL. However, under IGAAP loss would be booked and hence ₹45.67 lakhs has been calculated under IGAAP and added to Expenditure for ARR calculation in Form 6A and consequently in Form 1 as well.</td></tr>
<tr><td>(iii).</td><td>The figure considered by the VSPL for exclusion under the head interest on loan in Form-1 for the year 2018-19 is ₹2,165.22 lakhs. This does not match with the figures reported in Audited Annual Accounts at ₹2,151.41 lakhs for the year 2018-19. This item of exclusion to be corrected and considered as reported in the Audited Annual Accounts.</td><td>Amount of ₹2165.22 lakhs includes interest on short term loans of ₹13.82 lakhs which is grouped under other Finance Cost in Notes to Financial Statements.

Hence, interest of ₹2151.41 lakhs plus ₹13.82 lakhs is ₹2165.22 lakhs which we have shown in Form 1.

No such short term loan interest was there in FY 2016-17 and 2017-18.</td></tr>
<tr><td>(iv).</td><td>The VSPL has excluded the provision for bad and doubtful debts of ₹8.22 lakhs, ₹80.62 lakhs and ₹31.03 lakhs in the years 2016-17 to 2018-19 respectively from the total expenses as per clause 2.3 (ii) of the Tariff Guidelines 2019. These figures could not be cross checked with the Audited Annual Accounts. The VSPL to clarify under which head these items are reported in the Audited Annual Accounts.</td><td>The figures can be cross checked by referring to Allowance on impairment of trade receivables under the head Other Expenses in each of the Audited Accounts.

TAMP may also refer the movement in expected credit loss allowance shown under Trade receivable schedule in each of the Audited Accounts.

Refer Note No.4.8(ii) in reports for FY 17-18 and 6.1(A) for the FY 2017-18 and 2018-19.</td></tr>
<tr><td>(v).</td><td>In the reconciliation statement furnished in Form 6B reconciling the</td><td>VSPL have considered only IND AS entries under this reconciliation (for Expenditure excluded in</td></tr>
</table>

	total expenditure as per Audited Annual Account for the years 2016-17 to 2018-19 vis-à-vis the total expenditure considered in Form 1, it is seen that the Total Expenditure in Sl. No.4 in reconciliation statement in Form 6B does not match with the Total Expenditure in Sl. No.5 in Form-1. The Reconciliation Statement to be corrected in the light of the above observation.	the ARR computation). However, as suggested by TAMP, VSPL have considered other expenses also and Revised Reconciliation Statement is furnished.
(vi).	The following to be furnished:	
	(a). Justification for including Traded goods to the extent of ₹144.20 lakhs in the year 2018-19.	This is in line with Matching Principle of matching each revenue item with relevant expenditure.
	(b). Justification for including cargo handling charges outside terminal to the extent of ₹429.25 lakhs, ₹652.62 lakhs and ₹708.52 lakhs for the years 2016-17, 2017-18 and 2018-19 respectively.	VSPL was required to handle at least six grades of Coking coal of Sail and for most of the time terminal stockpile area is occupied by Sail's cargo leaving little space for stocking cargos handled at EQ-9. Due to such acute space constraints, there was a challenge of gross under- utilisation of EQ-9 berth for want of storage area at the back up of the EQ-9 berth. Increase in cargo dwell time due to shortage of rakes was a further constraint on storage space inside our terminal. To overcome this, certain volume were handled by giving only delivery at hook point and the Handling agents (Stevedore) shifted the cargo to their plots taken on lease from VPT outside our terminal. However, most of our customers contract require VSPL to offer full shore handling services. Hence in the same way, VSPL had to shift cargos handled at EQ-9 berth to plots of VPT adjacent to our terminal, taken on lease by Stevedore of VPT and incurred expenditure for associated stock management services like Tarpaulin covering, Security, Plot rentals, dust suppression etc. on such stevedore's plots. In addition, VPT collects dust suppression charges for such movement of cargos on roads. All such expenditure are accounted under this item which are essential to avoid gross underutilisation of the EQ-9 berth and to achieve the target throughput.
	(c). The VSPL has considered ₹152.04 lakhs for the year 2017-18 as construction cost. If the construction cost is related to Service Concession Agreement as per IFRIC 12, the said expenditure may be excluded.	The said expenditure is excluded as IND AS Adjustment (Cost of Development as per IND AS) in the year 2017-18. Thus, the same is already excluded in Form 6 B.
	(d). The nature of other finance cost of ₹22.21 lakhs, ₹25.05 lakhs and ₹35.99 lakhs considered for the years 2016-17, 2017-18 and 2018-19 to be clarified.	Includes Bank Guarantee Charges, Finance Charges on Car Loan and Amortization of Processing Cost etc.
	(e). It may be clarified why the interest on others to the extent of ₹27.56 lakhs for the year 2016-17 should be admitted as expenditure.	Interest on others includes interest of ₹22.67 lakhs paid to VPT on delayed payment of differential royalty as per arbitration award. Remaining ₹4.89 lakhs on account of payments made to service tax department on availing

		ineligible input credits.
	(f). Inclusion of Finance cost related to obligation under Service Concession Agreement to be justified.	No finance cost in relation to obligation under SCA is included as allowable expenses. Refer Form 6A which Excludes "Replacement Cost as per IND AS "for all the years as adjustment to total cost.
	(g). Justification for charges for shortfall in committed discharge to the extent of ₹46.30 lakhs in the year 2016-17, the charges being penalty in nature.	Charges for shortfall in committed discharge is not considered as an expenditure for ARR calculation in Form 1. It is shown as operating expense in 2016-17 balance sheet but the same is netted off against revenue as a regrouping in the year 2017-18. Further, it may be noted that the Guidelines prescribe only certain items of expenditure i.e. Royalty, Interest on loans, Provisions for bad debts, slow moving inventory and other provisions only to be adjusted against total expenditure. This item is not covered under any such disallowance. Further, it is to be noted that it is a compensation for not achieving the contracted discharge rate and most of the times it is due to non-evacuation of cargos of previous vessels on wharf by our clients taking cargo from hook point.
	(h). Justification for provision for replacement cost of ₹276.85 lakhs considered for the year 2016-17.	Provision for Replacement cost has been considered as a part of Other expenses and subsequently removed as an IND AS adjustment to arrive at IGAAP (Refer Form 6A).
(vii).	<u>Form 3 - Computation of Working Capital</u>: As per Clause 2.6 of Tariff Guidelines, 2019 the norm for computation of working capital is limited to one year's average consumption of inventory for capital spares and other items of inventory at six months' average consumption of stores excluding fuels. Limit on cash balance will be one month's cash expenses. Advance payment of Revenue Share/ royalty and advance payment of lease rental/ license fee to the landlord port flowing from the contractual obligations will be recognised as a part of sundry debtors. In the light of the above provision in the TG 2019, with regard to the computation of Working Capital in Form no.3, the VSPL to clarify/ furnish the following:	
	(a). The VSPL has considered cash at ₹0.024 lakhs in computation of working capital which is not found as per the prescribed norm. Cash expense for working capital computation may be corrected and considered as one month cash expense of the year 2018-19 as per clause 2.6 of the Tariff Guidelines,	Based on the formula given by TAMP, average cash expenditure is revised as per the said revised formula provided by TAMP as per the Tariff Guidelines, 2019.

	2019. To explain, as the per the cost statement furnished by the VSPL in the original proposal dated 31 January 2020 cash expense works out to ₹1,063.75 lakhs (i.e. admissible expenses ₹14,366.92 lakhs for the year 2018-19 - ₹1,601.94 lakhs depreciation as per IGAAP/ 12 = ₹1,063.75 lakhs). The VSPL to make necessary modification to comply with the Tariff Guidelines.	
	(b). As regards capital spares, the VSPL has given a figures of ₹458 lakhs as one year's average consumption of capital spares. However, the VSPL has considered ₹399.96 lakhs as allowable inventory towards capital spares in the computation of working capital at Sr. No.(i). Thus, there is mismatch in these two figures. This may be corrected. The VSPL to indicate under which head this item is captured in the Annual Accounts of the year 2018-19.	One year's average consumption by VSPL is ₹458 lakhs. However, the closing inventory of spares is only to the extent of ₹399.96 lakhs which is considered for Working Capital working. TAMP may refer Note 9 of the Audited Annual Accounts of March 2019. The head also includes Fuel Stock of ₹8.13 lakhs which is not admissible in Working Capital working as per TG 2019 and hence appropriately excluded by the Company.
	(c). As per the TG 2019 and as per note prescribed under Form-3, advance payment of Revenue Share/ royalty and lease rental/ license fee to landlord port flowing from the contractual obligation will be recognized as part of sundry debtors. As per LA entered by the VSPL with the VPT, the VSPL is not required to make any advance payment of revenue share or the lease rent. Hence, as recorded in the last tariff revision Order none of the items flowing from the License Agreement qualify for consideration as sundry debtors. As against that, the VSPL has considered ₹1,998.30 lakhs in Form-3 which is not in line with Tariff Guidelines, 2019. The VSPL to make necessary corrections in the computation of Working Capital in this item to comply with the guidelines position.	As per Clause No.5.2 of License Agreement, VSPL has entered into lease agreement with VPT for Land lease. As per Lease Agreement rent shall be paid in advance. The VSPL has vide its e-mail dated 16 March 2020 furnished copy of Lease Agreement entered by VSPL with VPT which requires VSPL to make advance payment of lease rental. Accordingly, lease rentals to VPT for terminal and Exim park are shown in revised Tariff form 3. Subsequently, VSPL vide its email dated 16 March 2020 had furnished copies each of lease agreement with VPT for Terminal and Exim park.
(viii).	<u>Indexed ARR</u>: The VSPL has indexed the estimated ARR of ₹19,311.47 lakhs arrived based on actuals for the years 2016-17 to 2018-19 by 3.45%. The applicable indexation to be considered is 4.26% for the year 2019-20 instead of 3.45%. The VSPL, therefore, to revise ARR by applying the indexation factor of 4.26% in place of 3.45%.	 ARR is revised by applying the indexation factor of 4.26%.
(ix).	**<u>Fixed Asset Statement as per IGAAP considered in ARR (Form-</u>**	On transition to IND AS, VSPL has elected to continue with carrying value of all of its PPE

<table>
<tr><td></td><td><u>7)</u>:
As per Audited Annual Accounts, disposals in the year 2018-19 for Plant & Machinery and Vehicles is ₹808.77 lakhs and ₹10.37 lakhs respectively. As against that, the VSPL has considered ₹1,455.30 lakhs and ₹12.39 lakhs respectively which do not match with the disposal figures reported in the Annual Accounts. The VSPL, therefore, to consider figures of disposal as per Audited Annual Accounts for the year 2018-19. Consequently, necessary correction may also be done in depreciation figures under IGAAP and Return on Capital Employed (ROCE).</td><td>recognised as at 01 October 2014. Accordingly carrying value of Plant and Machinery and Vehicles are shown as disposals in the year 2018-19.

As per IGAAP, total value of assets were shown as disposals in Form 7. Loss on sale of asset is shown as item in Form 6B and hence no change is required in tariff forms.

Difference in disposal as per IGAAP and Audited Annual Accounts is because the Financial Statements are prepared as per IND AS and hence depreciation on Service Concession Assets differs from the life of Assets under IGAAP.

This differences are adequately adjusted as an IND AS Adjustment in Form 6A and 6B by VSPL.
<table>
<tr><th></th><th></th><th>Plant & Mach</th><th>Vehicles</th></tr>
<tr><td>Gross Value</td><td>A</td><td>1,455.30</td><td>12.39</td></tr>
<tr><td>Carrying value as at 01.10.14</td><td>B</td><td>1,202.68</td><td>10.37</td></tr>
<tr><td>Depreciation upto 30.09.14</td><td>C</td><td>252.62</td><td>2.02</td></tr>
<tr><td>Depreciation from 01.10.14 upto disposal</td><td>D</td><td>348.23</td><td>6.47</td></tr>
<tr><td>Total Depreciation</td><td>C+D</td><td>600.85</td><td>8.49</td></tr>
<tr><td>Sale proceeds</td><td>E</td><td>808.77</td><td>5.26</td></tr>
<tr><td>Loss on sale of Asset</td><td>A-(C+D)-E</td><td>45.68</td><td>(1.36)</td></tr>
</table></td></tr>
<tr><td>2.</td><td><u>Revenue estimation (Form-4)</u>:
As regards estimation of revenue, the following points are observed:</td><td></td></tr>
<tr><td>(i).</td><td><u>Wharfage Charges and Stevedoring charges:</u>
Revenue from wharfage charges and stevedoring charges are estimated only for a few cargo item viz. Coal, Fertilisers, Steam Coal, Pet Coke, Gypsum, Iron Ore, Manganese Ore and others. For all other cargo items for which tariff are proposed, the VSPL has not estimated any revenue from wharfage charges and stevedoring charges. Further, for the cargo items for which wharfage and stevedoring revenue are estimated, it is observed that it is only for foreign cargo and not for coastal cargo.</td><td>Below are the cargo-wise details of average quantity handled by VSPL for the last 3 years. Accordingly, revenues are estimated for cargo items in the ARR. For all other cargo items for which tariff are proposed, VSPL shall be in a position to handle whenever customers approach to handle these cargoes through our terminal.
No coastal cargos are envisaged on the basis of last three years' experience and same will be handled as per extant policies on rates and terms applicable for Coastal cargos.
<table>
<tr><th>Description</th><th>Average per annum [Lakh MT]</th><th>% Cargo</th></tr>
<tr><td>Coking Coal</td><td>28.74</td><td>42.00</td></tr>
<tr><td>Steam Coal</td><td>15.28</td><td>22.33</td></tr>
<tr><td>Gypsum</td><td>6.20</td><td>9.06</td></tr>
<tr><td>Lime Stone</td><td>2.70</td><td>3.94</td></tr>
<tr><td>Manganese Ore</td><td>1.71</td><td>2.50</td></tr>
<tr><td>Iron Ore</td><td>3.91</td><td>5.71</td></tr>
<tr><td>Pet Coke</td><td>7.10</td><td>10.37</td></tr>
<tr><td>Fertilisers</td><td>-</td><td>-</td></tr>
<tr><td>Bauxite</td><td>2.29</td><td>3.34</td></tr>
<tr><td>Others</td><td>0.50</td><td>0.74</td></tr>
<tr><td>-</td><td>68.43</td><td>100.00</td></tr>
</table></td></tr>
<tr><td>(ii).</td><td>Tariff items are prescribed in existing SOR and also included in proposed SOR with revised tariff; but no revenue is estimated by the VSPL in</td><td></td></tr>
</table>

	Form-4 for the following tariff items:	
	(a). Berth Hire Charges for coastal vessel.	As VSPL has not handled significant coastal vessels during the last 3 years with respect to annual quantities. Hence, income is not envisaged from coastal vessels. VSPL has estimated revenue considering 100% foreign vessels. If some quantity is estimated for coastal vessels, then revenue shall get reduced by 40% and revenue requirement will increase correspondingly which is not found desirable.
	(b). Penal Berth Hire Charges for over stayal of vessels.	VSPL has collected penal berth hire charges in one or two cases only during the last 3 years. Hence, no income is estimated for this tariff.
	(c). Charges for supply of water to vessels.	VSPL has not collected charges for supply of water to vessels during the last 3 years. Hence, income is not envisaged.
	(d). Charges on transshipment cargoes.	Same as above.
	(e). Demurrage charges (imports/ exports/ transhipment).	Same as above.
	(f). Shore operation services for coastal cargo.	Same as above.
	(g). Charges for deployment of Equipment: (i). 104 tonnes HMC for coastal cargo. (ii). Dust suppression system charges (Break bulk). (iii). Weighment charges for 120 tonne electronic Motion Weigh Bridge.	Included under revenue from Shore handling. (i). Same as above. (ii). Break bulk not at all handled. (iii). This is an optional service.
	(h). Charges for other services.	--
(iii).	As regards (i) and (ii) above, the VSPL is requested to confirm that no cargo traffic/ services are rendered by the VSPL for the above items in the year 2018-19 and no revenue was earned during the year 2018-19. If the traffic was not handled by the VSPL in the year 2018-19, the VSPL may consider traffic of the years 2016-17 and/ or 2017-18 as base for revenue estimation for the above items. The VSPL may consider to simplify the Scale of Rates and delete the tariff items for which no traffic is envisaged or services proposed to be rendered by VSPL.	As VSPL has not handled significant coastal vessels during the last 3 years with respect to annual quantities, income is not envisaged from coastal vessels. Coastal volume is about 6.5%. However VSPL has estimated revenue for 100% considering only foreign vessels, which is 40% higher revenue compared to revenue from coastal vessels. Tariff items are proposed if customers do feel to handle these cargoes through our terminal then the same shall be applicable. VSPL being a multi cargo terminal and considering seasonal nature of some cargos, it is felt essential to have the rates fixed.
(iv).	It is observed that there is slight mismatch for the following few items as regards the tariff rates considered by the VSPL for estimation of revenue in Form 4 vis-à-vis rates proposed in the draft Scale of Rates: **₹ / per MT**	Necessary changes made as suggested.

Sr. No.	Particulars	Rates proposed in draft SOR (for	Proposed rates considered by VSPL for revenue estimation in

<table>
<tr><td></td><td><table>
<tr><th></th><th></th><th>foreign cargo)</th><th>Form-4 (for foreign cargo)</th></tr>
<tr><td>(i).</td><td>Wharfage charges</td><td></td><td></td></tr>
<tr><td>(a).</td><td>Pet Coke</td><td>57</td><td>45</td></tr>
<tr><td>(b).</td><td>Others</td><td>76</td><td>40</td></tr>
<tr><td>(2).</td><td>Stevedoring charges</td><td></td><td></td></tr>
<tr><td>(a).</td><td>Manganese Ore</td><td>40</td><td>36</td></tr>
<tr><td>(b).</td><td>Others</td><td>60</td><td>40</td></tr>
</table>
The VSPL is requested to make necessary corrections in the revenue estimation in the light of above observation.</td><td></td></tr>
<tr><td>3.</td><td><u>Scale of Rates:</u></td><td></td></tr>
<tr><td>(i).</td><td><u>General Terms and Conditions</u>:
The Authority has passed common adoption Orders for all Major Port Trusts and BOT operators operating thereat including VSPL from time to time and all the Major Port Trusts and BOT operators operating thereat including VSPL were requested to include suitable notes in the SOR. However, the VSPL has not included suitable notes in the proposed SOR in line with following common adoption Order:</td><td></td></tr>
<tr><td></td><td>(a). Amendment Order No.TAMP/53/2015-VOCPT dated 25 September 2018 in common adoption Order No.TAMP/53/2015-VOCPT dated 26 November 2015 relating to provision prescribed for concessional coastal tariff for ships and cargo that move from one Indian Port to another Indian Port through the territorial waters of Sri Lanka or Bangladesh in terms of Notification No.38/2018-Customs (N.T.) dated 11 May 2018 issued by the Central Board of Indirect Taxes and Customs, Department of Revenue, Ministry of Finance.</td><td>Provisions as per Amendment Order No.TAMP/53/2015-VOCPT dated November 26, 2015 for System for classification of vessel for levy of Vessel Related Charges (VRC) and Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate has been incorporated in revised SOR.</td></tr>
<tr><td></td><td>(b). The Authority had passed the Order No.TAMP/12/2019-MUC dated 24 July 2019 as common Order incorporating a provision towards levy of Mandatory User Charge (MUC) on containers for the Logistics Data Bank Service to be rendered by Delhi-Mumbai Industrial Corridor Development Corporation (DMICDC) in the Scale of Rates of all the Major Port Trusts and BOT operators operating thereat for a period of two years as per the common adoption Order by all Major Port Trusts and BOT terminals thereat shall be applicable in case of VSPL also.

The VSPL to incorporate the provisions in the SOR stipulated in</td><td>Provision for Mandatory User Charges (MUC) as per Order No.TAMP/12/2019-MUC is specifically for containers. VSPL is not handling any container cargo, hence the same is not applicable.</td></tr>
</table>

	these common Orders.	
(ii).	The VSPL has proposed following new tariff items: (a). Wharfage charges for Bauxite. (b). Stevedoring Charges for Bauxite and Manganese Ore. The basis for the proposed new tariff items may be explained. The Revenue estimate does not capture, revenue from these new tariff items. The VSPL to include probable revenue estimate for these new items even if no revenue would have been earned during the year 2018-19.	 As VSPL has handled average quantity of 2.29 Lakh MT Bauxite cargo during the last 3 years, which is equivalent to 3.34% of total cargo handled, a separate wharfage and Stevedoring rates are proposed to avoid ambiguity in future on levy of said charges. Proposed stevedoring rates for Bauxite and Manganese ore are in line with bulk cargo like cement clinker. However, without bauxite, our volume has been projected 99.5% on commodity wise. We may handle bauxite under remaining 0.5% and hence no projection is given.
(iii).	During the last revision the VSPL had proposed for deletion of railway siding, administration and maintenance charges stating that this tariff item is not being collected by the VSPL. The VSPL has now proposed a re-introduce this tariff item under Schedule 4.2 at ₹6/- per tonne towards charges for railway maintenance and siding charges. It is seen that in the tariff Order prior to the last revision i.e. Order No.TAMP/5/2011-VSPL dated 11 October 2011 the tariff approved by the Authority for the railway siding charges was ₹3.20 per tonne which is proposed to be increased to ₹6.00 per tonne. The basis for the revised tariff item may be explained. The Revenue estimate does not capture, revenue from these new tariff item. The VSPL may include probable revenue estimate for these new item even if no revenue would have been earned during the year 2018-19.	A discount rate was proposed during 2010 while introducing the new tariff. Refer Annexure VIII of our covering letter dated 24 August 2011, wherein we have furnished revenue requirement. Considering escalation in expenditure, now we have proposed rate of ₹6 PMT. We have estimated revenue considering 100% for Coal handled through bulk material handling system and 60% for all other cargoes.
(iv).	Clause 8.2.2 of the Working Guidelines to operationalize the Tariff Guidelines, 2019 for determination of tariff for BOT operators stipulates that while drawing up the SOR, the BOT operators shall as far as possible do away with ad valorem wharfage rate if any, in its existing SOR and determine specific wharfage rate in these cases taking into consideration special care to be taken for handling this cargo or a market determined tariff. Even during the last tariff revision, the Authority advised VSPL to propose unit rates for electrical goods and	As informed during the last tariff revision, these two goods are rarest items and not handled generally. Hence cost of handling and other factors to be considered will have to be gained by experience in due course. We therefore request for continuation of ad-valorem rate for the present.

<table>
<tr><td></td><td>machinery on the basis of cost of handling and special care, if any, required to be taken while handling the said cargo. However, the VSPL has proposed wharfage rates on ad-valorem basis for electrical goods and machinery. In this context, the VSPL to propose wharfage rate for electrical goods and machinery based on weight or volume of cargo with reference to cost of handling the relevant cargo instead of proposing ad-valorem rate in line with the advice rendered in the last tariff Order and in compliance with the Working Guidelines.</td><td></td></tr>
<tr><td>(v).</td><td>In the existing Scale of Rates, Schedule 2.1.2 prescribes penal berth hire charges for over stayal of vessel beyond berth occupancy as per norms prescribed in clause 2.1.4. Schedule 2.1.4 prescribes commodity-wise per vessel per shift output for import cargo and export cargo separately for about 34 cargo items.

In the proposed Scale of Rates, the VSPL has rationalised/ modified the Schedule 2.1.4 and proposed per day output for 5 group of commodities. In this regard, the VSPL to furnish the following clarifications:</td><td></td></tr>
<tr><td></td><td>(a). The reasons for the proposed modification.</td><td>Proposed modification is in line with VPT norms vide Trade Circular No.907 dated 30.06.2018 and Trade 912 dated 09.07.2018 on norms of handling dry bulk cargo and levy of penal charges. (Copy attached)</td></tr>
<tr><td></td><td>(b). The basis for arriving at the proposed vessel output in tonnes per day. Also, furnish the actual average per day output for the last three years for each of the five cargo groups.</td><td>Following are the actual average per day output for the last three years:
<table>
<tr><th rowspan="2">Cargo</th><th colspan="4">Avg. Discharge Rate</th></tr>
<tr><th>2016-17</th><th>2017-18</th><th>2018-19</th><th>Avg.</th></tr>
<tr><td>Coking Coal</td><td>22,720</td><td>23,550</td><td>22,735</td><td>23,002</td></tr>
<tr><td>Steam Coal</td><td>16,176</td><td>15,636</td><td>14,430</td><td>15,414</td></tr>
<tr><td>Gypsum</td><td>16,899</td><td>16,694</td><td>12,995</td><td>15,530</td></tr>
<tr><td>Lime Stone</td><td>12,205</td><td>13,790</td><td>13,446</td><td>13,147</td></tr>
<tr><td>Manganese Ore</td><td>12,079</td><td>11,976</td><td>5,702</td><td>9,919</td></tr>
<tr><td>Iron Ore</td><td>16,973</td><td>14,530</td><td>12,535</td><td>14,679</td></tr>
<tr><td>Pet Coke</td><td>16,447</td><td>13,151</td><td>16,809</td><td>15,469</td></tr>
<tr><td>Fertilisers</td><td>-</td><td>-</td><td>-</td><td>-</td></tr>
<tr><td>Bauxite</td><td>13,574</td><td>15,013</td><td>19,301</td><td>15,963</td></tr>
<tr><td>Others</td><td>4,416</td><td>7,135</td><td>8,891</td><td>6,814</td></tr>
</table></td></tr>
<tr><td></td><td>(c). The VSPL has grouped various cargo item into one group and proposed the tonnes per day. The VSPL to confirm that the handling rate for the commodities grouped together are similar/ same.</td><td rowspan="2">VPT had issued Trade Circular No.907 dated 30.06.2018 and Trade 912 dated 09.07.2018 on norms of handling dry bulk cargo and levy of penal charges.
It is confirmed that the handling rates for the commodities grouped together are similar/ same.</td></tr>
<tr><td></td><td>(d). In Form-5, the VSPL has stated that the revised norms proposed are as per the Output per Ship Berth Day (OSBD) norms. The VSPL to</td></tr>
</table>

	elaborate which OSBD norms are adopted and give reference of applicability of those norms to the BOT operators under TG 2019 who were earlier governed by the TG 2005.	
(vi).	In the existing Scale of Rates, Schedule 2.1.2 prescribes penal berth hire charges for over stayal of vessel beyond berth occupancy as per norms prescribed in clause 2.1.4. Schedule 2.1.2 (i) prescribes permitted to berth occupancy after completion of cargo operation without attracting penal berth hire charges. In the proposed Scale of Rates, the VSPL has now proposed to reduce permitted period of berth occupancy for stayal after completion of cargo operation from 10 hours to 4 hours for any vessel which requires "Securing" and Food grains vessels requiring fumigation and in all other cases from 7 hours to 4 hours. The VSPL to explain basis and reasons for the proposed modification and confirm, whether the revenue impact of the same is captured in Form 4.	These modifications are proposed based on our past experience and in line with modifications made by VPT. Reduced hours were found sufficient as there were hardly any such case of delay. Hence, revenue too was not considered in the estimate in Form-4.
(vii).	The tariff increase proposed by VSPL for foreign going vessel works out 11.24% increase in berth hire charges for Berth No.EQ-8, 1.12% increase in berth hire for Berth No.EQ-9. However, the increase for coastal vessel works out to 80.03% and 62.88% respectively. Likewise, the increase proposed in penal berth hire charges and charges for supply of water for coastal category is higher than the tariff increase proposed for foreign category. The steep increase in the proposed rates for coastal category arose because the VSPL has arrived at rate for coastal container by restating it with the prevailing exchange rate and then pegging it at 60% thereof which is not in line with the prevailing applicable coastal concession policy of the Government. The coastal concession policy of the Government is not amended to allow restatement with reference to prevailing exchange rate for coastal cargo/ container handling rate during each general revision. The VSPL, therefore, to examine the proposal and make necessary correction to comply with the coastal concession policy of the Government.	As VSPL has not handled significant coastal vessels during the last 3 years with respect to annual quantities, income is not envisaged from coastal vessels. And hence, no need to change Form 4. Coastal rates are modified in Proposed SOR in line with coastal concession policy of the Government. Effectively coastal rates are not 60% of foreign vessels tariff which is not in spirit of the policy.

	Consequently, the revenue estimation in Form 4 may also be modified as per the revised rates to be proposed by the VSPL in the light of the above observation.	
(viii).	It is seen that the wharfage rate and stevedoring charges for Iron ore, Iron ore pellets and Thermal Coal for coastal cargo are proposed applying 60% concession over the rates proposed for the foreign cargo. In this regard, it is relevant to state that as per the coastal concession policy of the MOS, crude including POL products, iron ore and thermal coal are not entitled for coastal concession. In line with the coastal concession policy, coastal wharfage rate and stevedoring for these items should be prescribed at par with foreign rate. Further, in line with the decision of the Authority based on the recent proposal of the NMPT for general revision of the SOR approved by the Authority vide Order No.TAMP/78/2018-NMPT dated 24 July 2019, based on the clarification of the NMPT, it is understood that pet coke is equivalent to Petroleum products. Hence, as per the coastal concession Policy, this cargo is also not entitled for coastal concession. The VSPL, therefore, to make necessary correction in line with the coastal concession policy.	For revenue estimate of coal, both thermal and non-thermal, the Company considered only foreign vessels based on the previous years' experience. Though, in revised SOR, concession for coastal vessels carrying coal other than thermal coal has been proposed as per the tariff policy, there is no need to change the revenue estimates as all the coal are considered for foreign vessels. In the revised proposed SOR, the VSPL has not proposed Coastal Concession for thermal Coal, Iron Ore, Iron ore pellets and Pet coke.
(ix).	Further, wharfage rate for machinery proposed by VSPL is uniform for both foreign and coastal cargo for this item. This cargo is entitled for coastal concession of 40%. The proposed rate to be corrected to fall in line with the coastal concession policy of the Government and revenue estimate may also be corrected accordingly.	In the revised proposed SOR, the VSPL has proposed coastal concession for Machinery.
4.	**<u>Past Period Surplus</u>:**	
(i).	Clause 3.1.2 of the Tariff Guidelines, 2019 stipulates that in case of operators who have not approached Courts, the surplus/ deficit upto the period of first tariff fixation under this Guidelines shall be dealt with as per Clause 2.13 of the 2005 Tariff Guidelines as reproduced below: *"The actual physical and financial performance will be reviewed at the end of the prescribed tariff validity period with reference to the projections relied upon at time of fixing the prevailing tariff. If*	

<table>
<tr>
<td></td>
<td>performance variation of more than + or - 20% is observed as compared to the projections, tariff will be adjusted prospectively. While doing so 50% of the benefit/ loss already accrued will be set off while revising the tariff."

The VSPL, therefore, to furnish the statement showing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle as done in earlier tariff revision exercises under erstwhile Tariff Guidelines, 2005 and make necessary adjustments from the estimated ARR in case there is variation in both physical and financial parameters by +/-20%.</td>
<td>Statement showing the actual physical and financial performance vis-à-vis the estimates relied upon in the previous tariff cycle is enclosed. Also enclosed statement on reconciliation of expenditure and income between Audited financials and Forms for the FY 2017-18, 2018-19 and 2019-20 (up to December 2019 based on limited audit financials). Projections are made for January 2020 to March 2020 based on 9 months actuals up to December 2019. There is no variation in both physical and financial parameters by +/-20% (considering January 2020 to March 2020 also) and there is a deficit of ₹631 lakhs for the tariff cycle. We will update actuals for the period ended 31 March 2020 once audit is completed for records.</td>
</tr>
<tr>
<td>(ii).</td>
<td>The Authority during the last tariff revision Order No.TAMP/19/2017-VSPL dated 19 January 2018 in para 16(xv)(c), while estimating repairs and maintenance cost of own HMC has considered approach of VSPL for estimating expenditure i.e. based on 2016-17 actuals with 2% annual escalation and adjusted for the tonnage expected to be handled by VSPL owned HMC. The repairs and maintenance cost as estimated by VSPL towards maintenance of its own HMC was considered and it was stated in the said that the actuals will be reviewed with the estimates, and, if any, advantage is accrued on account of relying the estimates during the next tariff revision, it will be adjusted in the next tariff cycle as per the guidelines.

The VSPL, therefore, to furnish the actuals as per the Audited Accounts for the years 2017-18 to 2019-20 as against the estimate of repairs and maintenance cost considered during the last revision for the years 2017-18 to 2019-20 is at ₹1113.43 lakhs, ₹1145.27 lakhs and ₹1178.01 lakhs respectively to comply with the decision on the last tariff Order.</td>
<td>Due to frequent break downs and repairs beyond control and expenditure, VSPL has decommissioned one of its Harbour Mobile Cranes from Nov 2018 onwards. The said crane was sold as scrap Post Dec 2019. There is no significant repair and maintenance expenditure for remaining Harbour Mobile crane as the same is being used sparingly with reduced capacity. Due to the said reasons (Decommission of One Crane and Utilisation of other crane with reduced capacity), quantity handled by own cranes is reduced there by expenditure is also reduced for the last two years. This has resulted to increase in quantity by hired cranes and respective expenditure is increased.

Below are the details of actual expenditure with respect to estimated expenditure.
<table>
<tr><th>Repairs and Maintenance</th><th>2017-18</th><th>2018-19</th><th>2019-20</th></tr>
<tr><td>Projected</td><td>1,113.44</td><td>1,145.27</td><td>1,178.01</td></tr>
<tr><td>Actuals</td><td>1,076.64</td><td>1,078.39</td><td>999.35</td></tr>
<tr><td>Diff</td><td>3.42%</td><td>6.20%</td><td>17.88%</td></tr>
</table>

Also find details of quantities handled by Hired and own cranes
<table>
<tr><th rowspan="2">Year</th><th colspan="2">Qty by Hired crane</th><th colspan="2">Qty by Own cranes</th></tr>
<tr><th>MT in lakhs</th><th>%</th><th>MT in lakhs</th><th>%</th></tr>
<tr><td>FY 2017-18</td><td>36.30</td><td>56.81</td><td>27.60</td><td>42.99</td></tr>
<tr><td>FY 2018-19</td><td>41.32</td><td>69.20</td><td>18.39</td><td>30.80</td></tr>
<tr><td>FU 2019-20 (Dec)</td><td>36.99</td><td>78.94</td><td>9.87</td><td>21.06</td></tr>
<tr><td></td><td>114.61</td><td></td><td>55.86</td><td></td></tr>
</table>

As stated above, no advantage is accrued on account of relying the estimates made during the last tariff cycle and no adjustment is required.</td>
</tr>
<tr>
<td>(iii).</td>
<td>During the last tariff revision Order</td>
<td>This matter is still sub judice. VSPL is remitting</td>
</tr>
</table>

<table>
<tr>
<td></td>
<td>No.TAMP/19/2017-VSPL dated 19 January 2018 in para 16(xx), while estimating customs mining charges under the head “other expenses”, the VSPL had estimated ₹90.18 lakhs in the year 2017-18 (For the next two years, this item was escalated by 2% per annum) as against this expense is reported to be nil in the years 2014-15 to 2016-17 as per the break-up of expenses furnished by the VSPL. From the submissions made by VSPL, it appears that these charges are under litigation for the period 2014-15 to 2016-17. The estimate of ₹90.18 lakhs for the year 2017-18 was considered by the Authority, based on Customs Demand Note dated 22 June 2017 issued to VSPL for the period April 2017 to Sept 2017 at ₹47.13 lakhs. In this regard, in para 16(xx) of the Order, it is stated that if, at the time of next tariff revision while reviewing the estimates with the actuals, it is observed that the estimate allowed under this item is not incurred by VSPL, the expense allowed in the last revision shall be adjusted i.e. nullified in the current revision.

The VSPL, therefore, to furnish actual expenses incurred by VSPL for the year 2017-18 towards customs mining charges as per the Audited Annual Accounts.</td>
<td>50 % of the periodical demand raised by the Customs as per the conditions of the Court order for stay of demand. However, entire expenditure is provided in the books of accounts.

Customs manning charges:
<table>
<tr><th></th><th>2017-18</th><th>2018-19</th><th>2019-20</th></tr>
<tr><td>Projected</td><td>90.17</td><td>91.98</td><td>93.82</td></tr>
<tr><td>Actuals</td><td>448.10</td><td>106.95</td><td>79.35</td></tr>
<tr><td>Diff</td><td>396%</td><td>16.27%</td><td>-15.42%</td></tr>
</table>

Following are the details of demands received from commissioner of customs and expenditure booked under respective years.
<table>
<tr><th>Demands received for</th><th>Total Amount</th><th>2017-18</th><th>2018-19</th><th>2019-20</th></tr>
<tr><td>Oct 2012 to June 2014</td><td>137.77</td><td>137.77</td><td>-</td><td>-</td></tr>
<tr><td>July 2014 to Sep 2017</td><td>263.21</td><td>263.21</td><td>-</td><td>-</td></tr>
<tr><td>Oct 2017 to March 2018</td><td>47.13</td><td>47.13</td><td>-</td><td>-</td></tr>
<tr><td>April to June 2018</td><td>29.86</td><td>-</td><td>29.86</td><td>-</td></tr>
<tr><td>July to Sep 2018</td><td>25.18</td><td>-</td><td>25.18</td><td>-</td></tr>
<tr><td>Oct to Dec 2018</td><td>26.21</td><td>-</td><td>26.21</td><td>-</td></tr>
<tr><td>Jan to March 2019</td><td>25.69</td><td>-</td><td>25.69</td><td>-</td></tr>
<tr><td>April to June 2019</td><td>26.93</td><td>-</td><td>-</td><td>26.93</td></tr>
<tr><td>July to Sep 2019</td><td>26.21</td><td>-</td><td>-</td><td>26.21</td></tr>
<tr><td>Oct to Dec 2019</td><td>26.21</td><td>-</td><td>-</td><td>26.21</td></tr>
<tr><td></td><td>634.39</td><td>448.10</td><td>106.95</td><td>79.35</td></tr>
</table></td>
</tr>
<tr>
<td>5.</td>
<td>As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guidelines, by way of a separate Agreement with the concerned Major Port Trust. The VSPL to furnish a copy of the separate Agreement as per the prescribed format forwarded by the MOS vide letter No.PR-14019/20/2009-PG (PT-IV) dated 08 March 2019 to all the Major Port Trusts including the VPT duly signed by the VSPL and the VPT.</td>
<td>We have requested from VPT. VSPL shall submit in due course. However, VSPL have already confirmed to VPT that VSPL accepts to submit its proposal for tariff revision from 1.4.2020 under the Tariff guidelines, 2019 in response to their query. (Copy attached)

Subsequently, the VSPL has vide e-mail dated 6 April 2020 furnished a copy of the Agreement signed by the VSPL.

[The Agreement is to be signed by VPT also which is yet to be furnished.]</td>
</tr>
</table>

8. The VPT was also requested vide our letter dated 3 March 2020 to furnish additional information/ clarifications on a few points by 10 March 2020. The VPT vide its e-mail dated 18 March 2020 has furnished its reply. A summary of the additional information/ clarifications sought by us and the corresponding replies furnished by the VPT are tabulated below:

<table>
<tr><th>Sl. No.</th><th>Information/ clarifications sought by us</th><th>Reply furnished by VPT</th></tr>
<tr><td>(i).</td><td>Furnish comments on the computation of ARR as furnished by VSPL in its Form-1.</td><td>Royalty paid by VSPL for the year 2016-17 to 2018-19 and its admissibility is as under:
<table>
<tr><th></th><th>Royalty paid</th><th>Admissibility</th></tr>
<tr><td>2016-17</td><td>₹693.96</td><td>₹519.57</td></tr>
<tr><td>2017-18</td><td>₹791.82</td><td>₹592.84</td></tr>
<tr><td>2018-19</td><td>₹876.35</td><td>₹656.12</td></tr>
</table>

Escalation factor for 2019-20 is 4.26% but not 3.45% as considered by VSPL at Sl. No.10 of Form-1.</td></tr>
<tr><td>(ii).</td><td>In Form-4, the VSPL has indicated the actual traffic for the years 2016-17 to 2018-19 as given below and average traffic at 68,43,271 TEUs for revenue estimation. The VPT to confirm the actual traffic considered by the VSPL for the said years and the average traffic of 68,43,271 TEUs considered by the VSPL in the revenue estimation.
<table>
<tr><th colspan="3">Actual Traffic in TEUs</th><th rowspan="2">Average</th></tr>
<tr><th>Y1 (2016-17)</th><th>Y2 (2017-18)</th><th>Y3 (2018-19)</th></tr>
<tr><td>63,24,345</td><td>71,55,969</td><td>70,89,500</td><td>68,43,271</td></tr>
</table></td><td>The actual traffic handled (in Metric Tonnes) by VSPL from 2016-17 to 2018-19 is as follows:
<table>
<tr><th></th><th>Traffic</th></tr>
<tr><td>2016-17</td><td>6362933</td></tr>
<tr><td>2017-18</td><td>7092286</td></tr>
<tr><td>2018-19</td><td>7102977</td></tr>
<tr><td>Total</td><td>20558196</td></tr>
<tr><td>Average</td><td>6852732</td></tr>
</table>
Also, the average of traffic stated by VSPL works out to 68,56,605 but not 68,43,271.</td></tr>
<tr><td>(iii).</td><td>Also furnish its comments on the estimation of revenue at the proposed level of tariff as furnished by VSPL in its Form-4.</td><td>No comments to offer.</td></tr>
<tr><td>(iv).</td><td>The Audited Annual Accounts of the VSPL under IND AS reports the lease rental at ₹478.88 lakhs, ₹251.55 lakhs and ₹544.00 lakhs for the years 2016-17 to 2018-19 respectively. As per Clause 2.3.2 of Tariff Guidelines, 2019 in case there is variation in the expenditure reported under IND AS and IGAAP, then necessary adjustments need to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. In this regard, the VPT is requested to furnish the actual lease rent paid by VSPL in this regard for the years 2016-17 to 2018-19 and also confirm that it is as per the provisions of the License Agreement.</td><td>The actual lease rent paid by VSPL for the years 2016-17 to 2018-19 are as follows:
<table>
<tr><th></th><th>Actual lease rent paid</th></tr>
<tr><td>2016-17</td><td>₹493.38 lakhs</td></tr>
<tr><td>2017-18</td><td>₹375.43 lakhs</td></tr>
<tr><td>2018-19</td><td>₹625.02 lakhs</td></tr>
</table>

The above amounts does not include disputed rentals of ₹25.10 crores.</td></tr>
<tr><td>(v).</td><td>As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the BOT operator shall agree to abide by this guidelines, by way of a separate Agreement with the concerned Major Port Trust. The VPT to furnish a copy of the separate Agreement as per the prescribed format forwarded by the MOS vide letter No.PR-14019/20/2009-PG (PT-IV) dated 08 March 2019 to all the Major Port Trusts including the VPT duly signed by the</td><td>No such separate agreement under Tariff Guidelines, 2019 was entered by VSPL till date.</td></tr>
</table>

	VSPL and the VPT.	

9.1. While furnishing the additional information/ clarifications which is brought out earlier paragraph, the VSPL vide its e-mail dated 12 March 2020 has furnished revised proposal comprising revised Form-1 (ARR) and revised Form-4 (Revenue Estimation):

(i). A summary position of revised ARR computation furnished by VSPL is tabulated below:

(₹ in lakhs)

Sl. No.	Description		Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
(1).	**Total Expenditure (As per Audited Annual Accounts)**	**Note 1**			
(i).	Operating expenses (including depreciation)		11,438.27	13,641.12	14,793.96
(ii).	Finance and Miscellaneous expenses (FME)		3,124.96	2,511.19	2,187.39
	Total Expenditure 1=(i)+(ii)		**14,563.23**	**16,152.31**	**16,981.35**
(2).	**Adjustments in respect of items where there is variation in figures reported as per IND AS (as per Audited Accounts) and IGAAP**	**Form 6A and Note 2**			
(i).	Depreciation		152.03	150.85	143.33
(ii).	Other expenditure items, if any, to be listed		(703.37)	(490.69)	(341.20)
	Total of Adjustments 2=(i)+(ii)		**(551.34)**	**(339.84)**	**(197.87)**
(3).	**Less Adjustments:**				
(i).	Actual Royalty/ Revenue share paid to the port		693.96	791.82	876.35
(ii).	Interest on loans		3,075.19	2,486.14	2,165.22
(iii).	Provision for bad and doubtful debts		8.22	80.62	31.03
(iv).	Provision for slow moving inventory		-	-	-
(v).	Other provisions, if any		-	-	-
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]		**3,777.37**	**3,358.59**	**3,072.60**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	**Form 2 and Note 3**	519.57	592.84	656.12
(5).	**Total Expenditure after Total Adjustments (5=1+2-3)**		**10,754.09**	**13,046.72**	**14,367.00**
(6).	Average Expenses of Sl. No.5 = [Y1+Y2+Y3]/3				**12,722.60**
(7).	**Capital Employed**				
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)				34,749.18
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)				6.73
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019	**As per Form 3 & Note 4**			1,717.02
	(a). Inventory				-
	(b). Sundry Debtors				-
	(c). Cash				-
	(d). Sum of (a)+(b)+(c)				-
	(iv). Total Capital Employed [(i)+(ii)+(iii)]				**36,472.94**
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**				5,835.67
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+(8)]**				18,558.27
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be**				**19,348.86**

Sl. No.	Description		Y1 (2016-17)	Y2 (2017-18)	Y3 (2018-19)
	(9) x 1.0345)				
(11).	**Ceiling Indexed ARR as given in Sr.No.10 above**				**19,348.86**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**	**As per Form 4 & Note 5**			**17,356.00**

(ii). The VSPL has furnished the working of revenue estimation for the existing tariff as well as the proposed tariff in Form 4 for the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3. As per the said form, the total revenue estimated at the proposed level of tariff is ₹17,356/- lakhs.

9.2. The VSPL has also furnished Form Nos.1, 2, 3, 4, 6A, 6B and 7 duly certified by the practicing Chartered Accountant.

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

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

(i). The Scale of Rates (SOR) of Vizag Seaport Private Limited (VSPL) was last revised by this Authority vide Order No.TAMP/19/2017-VSPL dated 19 January 2018, following the Tariff Guidelines of 2005, which stipulated cost plus pricing model and the revised SOR was notified in the Gazette of India on 26 February 2018 vide Gazette No.78. Subsequently, this Authority has passed an Order No.TAMP/24/2018-VSPL dated 03 October 2018 disposing of the Review Application filed by VSPL which was notified on 06 November 2018. The validity of the SOR was prescribed till 31 March 2020.

(ii). The Ministry of Shipping (MOS), as a policy direction under Section 111 of the Major Port Trusts Act, 1963, has issued Tariff Guidelines, 2019, for BOT operators who were previously governed by 2005 Tariff Guidelines. Consequent to the issue of the Tariff Guidelines, 2019, by the MOS, the tariff fixation exercise in respect of the VSPL is to be governed by the stipulations contained in the Tariff Guidelines, 2019 and the Working Guidelines issued to operationalize the Tariff Guidelines, 2019.

The VSPL has filed its proposal dated 31 January 2020 for general revision of its SOR under the Tariff Guidelines, 2019 and Working Guidelines 2019. The VSPL has furnished the requisite information/ clarification sought by us along with revised Annual Revenue Requirement (ARR), draft SOR and modified estimates of revenue vide its email dated 12 March 2020. The final revised proposal filed by VSPL vide its email dated 12 March 2020 along with submissions made by the VSPL, port and SAIL during the processing of the case are considered in this analysis. The revised cost statements and modified revenue estimates furnished by VSPL are duly certified by a practicing Chartered Accountant.

(iii). (a). Clause 2.1 of the Tariff Guidelines, 2019, requires each BOT Operator to assess the ARR which is the average of the sum of Actual Expenditure as per the final Audited Annual Accounts of the immediate preceding three years (Y1), (Y2) and (Y3) at the time of submitting the proposal subject to certain exclusions as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines issued by this Authority plus Return at 16% on Capital Employed obtaining as on 31st March Y3, duly certified by a practicing Chartered Accountant/ Cost Accountant.

(b). The VSPL has assessed the ARR based on Audited Annual Accounts for three years i.e. 2016-17 (Y1), 2017-18 (Y2) and 2018-19 (Y3) duly certified by a practicing Chartered Accountant. While assessing the ARR, the VSPL has made exclusions of the expenses not admissible in ARR computation for arriving at the Average annual expenses for the year 2016-17, 2017-18 and 2018-19, as prescribed in Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019. The ARR estimated by the VSPL is found to be in order and hence considered based on clarification furnished during the processing of the case except for few modifications for the reasons explained in the following paragraph.

(i). Clause 2.2 of the Tariff Guidelines, 2019, *inter alia*, stipulates that Royalty/ Revenue share payable to the landlord port by the BOT operator in those cases where the bidding process was finalized before 29 July 2003 tariff computation will be taken into account to the extent of the next highest bidder in the ARR computation.

Accordingly, during the years 2016-17 to 2018-19, Revenue share as reflected in the Audited Annual Accounts of corresponding period to the tune of ₹693.96 lakhs, ₹791.82 lakhs ₹876.35 lakhs respectively are excluded. Since the bidding process in respect of VSPL was finalised before 29 July 2003, revenue share to the extent of the next highest bidder i.e. 12.811% has been considered in the computation of ARR i.e. ₹519.57 lakhs, ₹592.84 lakhs and ₹656.12 lakhs during the years 2016-17 to 2018-19 respectively. This is in line with the clause 2.2 of the tariff guidelines of 2019.

(ii). As per Clause 2.3.1 (ii) of the Tariff Guidelines, 2019, Interest on loans, provision for bad and doubtful debts, provision for slow moving inventory etc., are to be excluded.

Accordingly, the VSPL has excluded the Interest on loans, to the tune of ₹3075.19 lakhs, ₹2486.14 lakhs and ₹2165.22 lakhs; ₹8.22 lakhs, ₹80.62 lakhs and ₹31.03 lakhs towards provision for bad and doubtful debts during the years 2016-17 to 2018-19 respectively.

The ARR computation by the VSPL captures the interest on others to the extent of ₹27.56 lakhs for the year 2016-17. The VSPL has clarified that the interest on others comprises of ₹22.67 lakhs paid to VPT on delayed payment of differential royalty as per arbitration award and ₹4.89 lakhs is on account of interest payments made to service tax department on availing ineligible input credits. Since both these interest payments by the VSPL are of penal nature are excluded by us from the ARR computation so as not to burden the users for default of the VSPL.

(iii). Clause 2.3.2 stipulates that in case there is variation in the expenditure reported under IND AS and IGAAP (like depreciation), then necessary adjustments to be done in ARR computation by excluding IND AS figure and considering figures as per IGAAP. The Audited accounts of VSPL are IND AS compliant. The VSPL has made necessary adjustment in the Depreciation and under the head “Other Expenses” towards replacement cost, cost of development, other finance charges, gratuity, lease rental and loss on sale of asset from IND AS to IGAAP for the years 2016-17 to 2018-19 respectively by way of showing as exclusion from the ARR computation to capture these items as per IGAAP to comply with the Guideline position.

Further, the VSPL has explained the adjustments done by it from the audited figures reported under IND AS to IGAAP for the purpose of ARR computation which is brought out in the earlier paragraphs. The VSPL has furnished the requisite working in Form 6A which is duly certified by practicing Chartered Accountant and the same is relied upon.

For the purpose of the analysis, the lease rent for the years 2016-17 to 2018-19 as furnished by the VSPL duly certified by the practicing Chartered Accountant is considered.

(c). Following the provisions prescribed at Clause 2.2, 2.3.1 and 2.3.2 of the Tariff Guidelines, 2019 and the Working Guidelines and based on the adjustments as discussed above, the VSPL has arrived at average expenses for the years 2016-17 to 2018-19 at ₹127.23 crores. The modified average expense as per our working comes to ₹127.13 crores on account of one modification done in the year 2016-17 as explained above.

(iv). (a). As per clause 2.5 of the Tariff Guidelines, 2019 Capital Employed will comprise of Gross Fixed assets (Property, Plant & Equipment) [as arrived as per the Indian Generally Accepted Accounting Principles (IGAAP)] plus capital work in progress as on 31 March/ 31 December of the year Y3 to be restated from the figures reported under IND AS in the Audited Annual Accounts and working capital as per norms prescribed. The Audited Annual Accounts for the year 2018-19 reports Gross fixed Tangible Assets of ₹298.65 crores under the IND AS. The VSPL has considered gross fixed assets at ₹347.49 crores as per IGAAP in line with provision prescribed in Clause 2.5 of the Tariff Guidelines, 2019. The VSPL has furnished the prescribed Form 7 giving computation of gross fixed assets as per IGAAP duly certified by practicing Chartered Accountant. The Gross Fixed Assets as on 2018-19 considered by the VSPL as per IGAAP duly certified by the Chartered Accountant is relied upon and considered.

The VSPL has considered capital work-in-progress at ₹6.73 as reflected in the audited Annual Accounts for the year 2018-19.

(b). Working capital comprises of Inventory, Sundry debtors and Cash balances, as per Clause 2.6 of the Tariff Guidelines, 2019. The norm prescribed for the computation of working capital is limited to one year's average consumption of inventory for capital spares and other items of inventory at six months' average consumption of stores excluding fuels. The VSPL has reported annual consumption of capital spares at ₹458.00 lakhs. However, for computation of working capital, the VSPL has considered the closing inventory of capital spares at ₹399.96 lakhs. This is not in line with the prescribed norm. Therefore, this item is modified and considered at one year's average consumption of capital spares at ₹458.00 lakhs less Fuel ₹8.13 lakhs i.e. ₹449.87 lakhs.

The cash balance is seen to have been computed as per norms prescribed in clause 2.6 of Tariff Guidelines, 2019.

As per the clause 2.6 of the Tariff Guidelines, 2019 read with clause 2.2 of the Working guidelines to operationalise the Tariff Guidelines, 2019, advance payment of lease rental / license fee to landlord port flowing from the contractual obligations will be recognised as sundry debtor for computation of working capital. The VSPL in its revised proposal has captured ₹253.31 lakhs in the working capital computation being 50% of the advance lease rent paid by it to the VPT in the year 2018-19. The VSPL has clarified that as per Clause No.5.2 of License Agreement dated 28 November 2001, VSPL has entered lease agreement with VPT for lease of Terminal and for land at Exim Park vide agreement dated 29 July 2005 and dated 29 July 2015 respectively. As per both Lease Agreements, the VSPL is required to pay the lease rent in advance every year.

The License fees paid by VSPL to VPT for the year 2018-19 is reported to be ₹506.62 lakhs. 50% thereof comes to ₹253.31 lakhs which is considered by the VSPL in the computation of working capital. This is found to be in line with Guideline position and the general approach followed where there is advance payment of license fee every year.

(c). Subject to modifications as explained above, the modified capital employed works out to ₹365.23 crores as against total capital employed arrived by VSPL at ₹364.73 crores. Return on Capital Employed (ROCE) considered by VSPL at 16% is ₹58.36 crores. The modified ROCE works out to ₹58.44 crores based on the modified Capital Employed.

(v). The ARR comprises of the average of the expenditure for the three financial years 2016-17 to 2018-19 plus 16% ROCE. The ARR arrived by VSPL is ₹185.58 crores (₹127.22 crores + ₹58.36 crores). The modified ARR arrived by us works out to ₹185.57 crores (₹127.13 crores + ₹58.44 crores). Further, as per Clause 2.8 of Tariff Guidelines, 2019, the said ARR needs to be indexed @ 100% of the WPI applicable for the year 2019-20 which is 4.26%. The indexed ceiled ARR assessed by the VSPL is ₹193.49 crores applying 4.26% indexation. As per the modified ARR computation done by us the modified indexed ceiling ARR works out to ₹193.48 crores for the year 2019-20 (₹185.57 crores * 1.0426). This does not include of past period adjustment. The analysis relating to the past period is brought out in subsequent paragraphs.

The final detailed working of ARR calculation furnished by the VSPL which has been duly certified by Chartered Accountant is relied upon. This is subject to minor modification as explained above. The detailed ARR calculation furnished by the VSPL and modified ARR calculation by us are attached as **Annex - I** (**a**) and (**b**) respectively.

(vi). Clause 3.1.2 of the Tariff Guidelines, 2019 stipulate that in case of the BOT operators who have not gone to the Court against the previous Order of this Authority, the surplus/ deficit for the past period till the period of tariff fixation during the first fixation of Tariff under the Tariff Guidelines of 2019 is to be done as per clause 2.13 of the Tariff Guidelines, 2005.
The estimates considered in the last tariff Order is for the years 2017-18 to 2019-20. Hence, review of the estimates vis-à-vis the actuals need to be done for these three years. The VSPL has furnished Cost Statement for the past period 2017-18 and 2018-19 based on Audited Annual Accounts. The year 2019-20 is still not over and the accounts are not finalized. The VSPL has, therefore, for the year 2019-20 considered actuals for nine months from April 2019 to December 2019 and estimates for three months from January 2020 to March 2020 for comparison purpose of actuals with estimates considered in the last tariff Order for the year 2019-20. The VSPL has furnished reconciliation statement of the expenditure reported in the Audited Annual Accounts for the years 2017-18 and 2018-19 and for the year 2019-20 considered actuals for nine months from April 2019 to December 2019 and the expenditure considered in the cost statement. The year 2019-20 is just now over, however, the Audited Accounts for this year is not available. This Authority, therefore, for the purpose of past period analysis, goes ahead based on the approach followed by the VSPL, subject to review during the fixation of tariff for next tariff cycle based on actuals for 2019-20.

Based on the reconciliation statement furnished by the VSPL, the figures considered by the VSPL in the past period statement are considered in the analysis subject to a few modification as explained in the subsequent paragraphs.

The actuals for the year 2019-20 shall, however, be reviewed based on the actuals as per the Audited Annual Accounts for the year 2019-20 during the next tariff revision of the VSPL.

(vii). The analysis is as given below:

(a). The actual traffic handled by VSPL during the period from 2017-18 to 2019-20 is 71.16, 70.90 and 71.93 lakh tonnes respectively aggregating to 213.98 lakh tonnes as against the estimated traffic of 62.00, 63.24 and 64.49 lakh tonnes for the corresponding period respectively aggregating to 189.73 lakh tonnes estimated in the tariff Order dated 19 January 2018 as well as review Order dated 03 October 2018.

The VPT has furnished the actual traffic handled by the VSPL at 63.63, 70.92 and 71.03 lakh tonnes and the aggregate traffic at 205.58 lakh tonnes. The traffic figures furnished by the VPT are lower than the actual traffic reported by the VSPL. The difference in traffic figures remains unexplained by VPT. Therefore, for the purpose of this analysis, the actual traffic figures furnished by the VSPL are considered.

The variation in the physical performance is 12.78% positive which is found to be less than +/-20%.

(b). The income estimates considered in the last tariff Order for the years 2017-18 to 2019-20 are adjusted to capture the effect of tariff increase granted in the tariff Order dated 19 January 2018 as well as review Order dated 03 October 2018 for a like to like comparison with the actual income from the date of implementation of the Order.

The opinion of Attorney General for India conveyed by Ministry of Shipping vide its letter dated 12 June 2015 is that the actual income earned by the operator based on their Audited Accounts should be considered and not any notional income. Therefore, for the purpose of analysis of the past period, the actual income as reported in the Audited Annual Accounts for the years 2017-18 and 2018-19 and for the year 2019-20 actuals/ estimates as furnished by the VSPL and supported with reconciliation statements are considered.

It is seen from the reconciliation statement that the VSPL has reduced ₹945.79 lakhs, ₹609.28 lakhs and ₹470.47 lakhs from the actual revenue reported in the Annual Accounts of the years 2017-18 and 2018-19 and the actuals/ estimates of the year 2019-20. This exclusion is towards income received under EPCG and scrap sale from cargo gathered by sweeping internal roads and rake cleaning. Since these income has accrued to the VSPL on account of the terminal, these items are captured under FMI in the cost statement prepared by us.

(c). The estimates of depreciation in the cost statement prepared during the last revision was based on IGAAP. From the year 2016-17, the VSPL has followed IND AS method of accounting. For a like to like comparison, the VSPL has considered the depreciation figure under IGAAP and has reconciled the same with the IND AS figures. The depreciation figures as considered by the VSPL are relied upon and considered.

(d). The VSPL has considered lease rent at 248.29 lakhs, ₹538.55 lakhs and ₹502.15 lakhs for the years 2017-18 to 2019-20 respectively in the past period cost statement. When the VPT was sought information on the lease rent paid by VSPL, the port has indicated the actual lease rent of ₹375.43 lakhs and ₹625.02 lakhs for the years 2017-18 and 2018-19. The VPT has not furnished the figures for the years 2019-20.

The estimates for the years 2017-18 to 2019-20 considered during the last tariff revision was based on the then accounting method as per IGAAP followed by the VSPL. The VSPL has furnished reconciliation of the lease rent reported in the Annual Accounts under IND AS to IGAAP figures considered in the cost statement for the past period for the years 2017-18 and 2018-19 respectively and the adjustment done in this regard is duly certified by the practicing Chartered Accountant in Form 7 and hence the same is considered.

(e). It is seen from the reconciliation statement that the VSPL has not excluded provisions for bad and doubtful debts reported in the Annual Accounts while drawing the past period cost statement for the years 2017-18 and 2018-19. The VSPL has, however, made necessary adjustment in this regard in the ARR computation in Form 1. Hence, in the cost statement for the past period prepared by us, the provisions for bad and doubtful debts reported in the Audited Annual Accounts for the years 2017-18 and 2018-19 are excluded. Apart from the above, the VPT has not made necessary adjustment as regards Gratuity payment from INDAS to IGAAP though it has done necessary adjustment of excluding it in the computation of ARR. Hence, similar adjustment is done in the past period cost statement.

(f). Further, the VSPL has, on the expenditure side reduced ₹144.19 lakhs toward purchase of scrap inventory. Since the interlinked income from sale of scrap from sweeping of cargo is considered by us under the FMI for the past period, the corresponding nature of expenditure is captured in the cost statement for the past period prepared by us.

(g). The VSPL has considered admissible Revenue share paid to VPT for each of the years 2016-17 to 2018-19 in line with the Tariff Guidelines, 2005 and Tariff Guidelines, 2019.

(h). The interest on loans has also been excluded by VSPL for each of the years 2017-18 to 2019-20 in line with the general approach followed by this Authority.

(i). The Capital employed considered during the last tariff revision under the then applicable Tariff Guidelines of 2005 is Net Fixed Assets + working capital as per the prescribed norms. The Net Fixed Assets reported in the Audited Annual Accounts is based on IND AS. The VSPL has considered capital employed at ₹16,953.29 lakhs, ₹14,965.08 lakhs and ₹13,414.52 lakhs for the years 2017-18 to 2019-20 respectively for the purpose of computing ROCE.

The Net Fixed Assets under IGAAP as furnished by the VSPL duly certified by the practicing Chartered Accountant is ₹18,398.11 lakhs, ₹16,906.02 lakhs and ₹15,281.49 lakhs for the years 2017-18 to 2019-20. The net fixed assets considered by the VSPL in the computation of capital employed for the past period do not match with the Form 7 figures which is duly certified by the Chartered Accountant. Since the net fixed assets under the IGAAP furnished by the VSPL in Form 7 are duly certified by the practicing Chartered Accountant, the same are considered for the years 2017-18 to 2019-20 for the past period.

The working capital is considered as per norms. The Stores and spares consumed is captured in line with the norms prescribed in the Tariff Guidelines of 2005. The cash balance is considered at one month cash expense in line with the guideline position. The current liabilities as reported in the audited annual accounts of the respective years is considered. Subject to the above adjustments, Working Capital works out to negative and hence treated as Nil.

(j). A copy of the cost statement reviewing estimates of 2017-18 to 2019-20 vis-à-vis actuals of the corresponding period is attached as **Annex - II**.

(k). A summary of the comparison of the actuals vis-à-vis the estimates considered in the last tariff Order is tabulated below:

(**₹ in crores**)

Particulars	**Aggregate for the years 2017-18 to 2019-20 in absolute terms**		**Variation in %**
	Estimates as per tariff Order	**Actuals**	
Traffic (in lakh tonnes)	189.73	213.98	12.78%
Total Operating Income	405.67	485.56	19.69%
Total Expenditure including FME less FMI, Depreciation and overheads	329.67	399.48	21.17%
Surplus/ deficit before Return	76.00	86.08	13.26%
Capital Employed (Average)	158.32	168.62	6.50%
16% Return on Capital Employed	76.00	80.93	6.50%
Net Surplus after ROCE (before adjustment of past surplus)	0.00	5.15	--

(l). The findings of the analysis with reference to the past period relating to the period from 2017-18 to 2019-20 are given below:

(i). The actual aggregate traffic handled by the VSPL is 213.98 lakh tonnes as against the estimated traffic of 189.73 lakh tonnes during the period from 2017-18 to 2019-20. The variation in the physical parameters i.e. actual traffic handled is 12.78% positive in comparison to the estimates.

(ii). The operating income earned by the VSPL is ₹485.56 crores as against estimation of ₹405.67 crores for the corresponding period resulting in positive variance of 19.69%.

(iii). On the expenditure side, the actual aggregate expenditure for the years 2017-18 to 2019-20 is ₹399.48 crores as against the estimated expenditure of ₹329.67 crores considered in the last Order for the corresponding period. The total actual expenditure thus shows positive variance of 21.17% in comparison to the expenditure estimated in the last tariff Order.

(iv). The average capital employed for the period from 2017-18 to 2019-20 is ₹168.62 crores as against average estimated capital employed of ₹158.32 crores. The variation in the average capital employed comes to 6.50% negative.

(v). As per the modified cost statement for the past period prepared by us, the VSPL has earned aggregate surplus of ₹5.15 crores after admissible cost and 16% ROCE for the period from 2017-18 to 2019-20.

(vi). The average annual return earned on the average capital employed thus works out to 17.02%, as shown in the following table:

(**₹ in crores**)

Particulars	2017-18	2018-19	2019-20	AVG.
Actual Surplus/ deficit before return	30.61	29.41	26.07	86.09 (Total) 28.70 (Avg.)
Actual Capital Employed	183.98	169.06	152.82	168.62 (Avg.)
Actual Return earned on capital employed	16.64%	17.40%	17.06%	17.02%

(vii). 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 +/ (–) 20%, then 50% of such accrued benefit/ loss has to be adjusted in the next tariff cycle. As per the opinion of AG also as conveyed by the MOS, variation in both physical and financial parameters should be taken into account for the purpose of clause 2.13. Further, as per the opinion of the AG, if the variation in both the physical and financial parameters is more than 20%, then 20% of the surplus is to be allowed to be retained by the operator. It is only the surplus over and above the 20% that shall be shared equally i.e.50:50 between the operator and the users. In nutshell, 60% of additional surplus is allowed to be retained with the operator and 40% additional is to be shared with users by considering adjustment in future tariff.

It can be seen from the above analysis that the variation in the physical parameter i.e., actual traffic handled is less than 20% i.e. 12.78% positive and financial performance in terms of return on capital employed is positive but the variation is not more than 20% (20% variation over 16% comes to 19.20%). Since the variation in both the parameters are found to be less than +/(-) 20%, there is no case for adjustment of past period surplus in the current tariff cycle following the opinion of the AG on the interpretation of clause 2.13 of the Tariff Guidelines of 2005.

(m). As stated earlier, since the Audited Accounts for the year 2019-20 is not available at the time of finalizing this case, the comparison of estimates for the year 2019-20 considered in the last tariff Order along with the actuals/ estimates for the year 2019-20 furnished by the VSPL in the current tariff revision exercise and considered in the past period analysis shall be again reviewed with reference to the Audited Accounts for the year 2019-20 at the time of next review. Adjustment, if any, to be done in the future tariff on account of variation shall be governed by the applicable Tariff Guidelines.

(n). During the last tariff revision Order dated 19 January 2018 in para 16 (xx), while estimating customs manning charges under the head "other expenses", the VSPL had estimated ₹90.18 lakhs in the year 2017-18 with 2% escalation in the subsequent years as against nil expense reported in the years 2014-15 to 2016-17. The estimate of ₹90.18 lakhs for the year 2017-18 was considered by this Authority, based on Customs Demand Note dated 22 June 2017 issued to VSPL for the period April 2017 to Sept 2017 and the tariff Order stated that if at the time of next tariff revision while reviewing the estimates with the actuals, it is observed that the estimate allowed under this item is not incurred by VSPL, the expense allowed in the last revision shall be adjusted i.e. nullified in the current revision. The VSPL has furnished the actuals expenditure reported under this item for each of the three years 2017-18 and 2019-20 and clarified that the matter is still subjudice and that the VSPL is remitting 50% of the periodical demand raised by the Customs as per the conditions of the Court order for stay of demand. The expenditure reported by the VSPL for each of the three years 2016-17 to 2019-20 is found to be higher than the level estimated in the last tariff order. That being so, no adjustment is warranted on this account.

(o). Further, during the last tariff revision Order in para 16(xv)(c), as regards estimation of repairs and maintenance cost of HMC owned by the VSPL it was brought out that the VSPL had not renewed AMC for its own HMC for the year 2016-17. However, in view of unforeseen breakdown, value of spares consumed under AMC in the past years, the expenditure for the past year was taken as the base and 2% annual escalation thereon was considered for estimation of the expenditure for the years 2017-18 to 2019-20 by VSPL. The approach adopted by the VSPL was considered in the said Order and it was stated that the actuals will be reviewed with the estimates, and, if any, advantage is accrued on account of relying the estimates during the next tariff revision, it will be adjusted in the next tariff cycle as per the guidelines.

When sought actuals from the VSPL in this regard, the VSPL has clarified that due to frequent break down and repairs beyond control, the VSPL has decommissioned one of its HMC from November 2018 onwards and sold as scrap post December 2019. Thereby, quantity handled by own cranes is reduced but there has been increase in expenditure of hired cranes. The VSPL has given the details of the estimates vis-à-vis actuals in this regard which is brought out in the earlier paragraphs. The VSPL has categorically stated that no advantage is accrued on account of relying the estimates made during the last tariff cycle and no adjustment is required. Based on the submissions made by the VSPL and also recognizing that the past period analysis, the variation is not found in both the parameters viz. physical and financial more than +/(-) 20% variation, no adjustment is warranted on this account.

(viii). As brought out in the preceding paragraphs, the modified indexed ceiling ARR was arrived at ₹193.48 crores for the year 2019-20. As stated in the analysis in the preceding paragraphs there is no case for past period adjustment based on the analysis given in the preceding paragraphs.

(ix). (a). As per Clause 2.10 of Tariff Guidelines, 2019, for drawing the SOR, the traffic to be considered would be the average of the actual traffic handled by the BOT operator during the years Y1, Y2 and Y3, duly certified by the concerned port. The average traffic considered by the VSPL for the years 2016-17 to 2018-19 is 68.43 lakh tonnes. The VPT has furnished the actual traffic handled by the VSPL at 63.63, 70.92 and 71.03 lakh tonnes and the average of three years traffic is worked out at 68.53 lakh tonnes. There is slight variation in the average traffic furnished by the VPT by 0.10 lakh tonne. The reason for variation remains unexplained by VPT. For the purpose of this analysis, the average traffic of 68.43 tonnes for the years 2016-17 to 2018-19 considered by the VSPL for revenue estimation is relied upon.

The VSPL has not estimated revenue from coastal vessel/ cargos citing that no coastal cargos are envisaged based on last three years experience. The VSPL has not estimated penal berth hire charges. When sought clarification, it has stated that in one or two cases only during the last 3 years it has earned revenue from this item and hence no income is estimated for this tariff.

(b). Clause 2.11.1 of Tariff Guidelines, 2019, gives flexibility to the BOT Operators to determine the rates within the estimated ARR to respond to the market forces based on commercial judgment. The proposal of the VSPL is within the guideline provision.

The tariff increase proposed by the VSPL in the revised proposal is tabulated in the earlier paragraphs and hence not reiterated for the sake of brevity. The VSPL has stated that it is facing stiff competition from stevedores, BOT operators in VPT and neighboring private ports like Gangavaram. Users go by lowest rates in VPT. That being so, tariff hike in VRC and CRC is proposed after lot of deliberation. VSPL has stated that it has proposed balanced tariff hike for ship and cargo interest keeping in view all the points.

At the proposed tariff, VSPL does not envisage to meet full ARR. The ARR gap left uncovered is to the tune of ₹19.92 crores.

(c). The existing SOR of VSPL prescribes uniform berth hire charges for berth nos.EQ 8 and EQ 9. In the proposed SOR, separate berth hire charge for EQ8 and EQ9 berths are proposed by the VSPL adopting the approach followed by another BOT operator viz. SWPL in MOPT who also, like the VSPL, has two berths of which one is for conventional and the other is for mechanised handling. The increase proposed in berth hire charges for EQ8 which is a mechanised berth is at 11.24% and for EQ9 berth marginal increase of 1.12% is proposed. The Steel Authority of India Ltd. (SAIL) has pointed out that the proposed increase in berth hire charge by 11.2% will impact them.

The VSPL has clarified that out of the proposed increase of 11.2%, there is escalation factor of 4.26% for the year 2019-20. Balance increase works out to only 6.94% which is proposed so as to meet the estimated annual revenue requirement. The VSPL has justified that even at the proposed berth hire charges, it is still much lower than the berth hire charges at other BOT terminals in VPT, Gangavaram Port as well as SWPL operating in MOPT. Further, benefit of lower turnaround time is enjoyed by users from the mechanized operations at berth no.EQ8.

(d). The VSPL has stated that increase proposed in wharfage rate and Stevedoring rates is to maintain parity with the rates of VPT and also to meet the estimated ARR. Only for a few cargo items, wharfage rate proposed is higher than the rates prescribed in the SOR of the VPT. No increase is proposed in HMC charge. The VSPL has proposed new tariff items i.e. (a). Wharfage charges for Bauxite and (b). Stevedoring Charges for Bauxite and Manganese Ore. The wharfage rate for bauxite in VPT is ₹50/- per tonne. The wharfage rate proposed by VSPL at ₹40/- per tonne is lower than the wharfage rate at VPT. The stevedoring rates for Bauxite and Manganese ore proposed by the VSPL are stated to be in line with bulk cargo like cement clinker. The VSPL has not estimated any revenue from these items. However, there is revenue gap of ₹19.92 crores left uncovered. Hence, revenue, if any, accrues from these new tariff items it may get subsumed in the revenue gap left uncovered. The tariff proposed for these two new items is, therefore, approved as proposed by the VSPL.

(e). In the SOR prior to the last revision, the tariff for railway siding, administration and maintenance charges was prescribed at ₹3.20 per tonne. During the last revision, the VSPL had proposed for deletion of this item stating that it is not being collected by the VSPL. The VSPL has now proposed a re-introduce this tariff item under Schedule 4.2 at ₹6/- per tonne towards charges for railway maintenance and siding charges. The SAIL has objected this tariff item stating that, the VPT already levies Terminal Charges for use of sidings within VPT including VSPL sidings. Hence, a separate charge for maintaining the siding should not be passed on to users and it should be within the purview of railway tariff fixation for respective ports.

The VSPL has clarified that the VSPL has constructed railway lines from Anakapalley gate to its berths inside the terminal and it is a notified private siding and as such VSPL incurs recurring expenditure for maintaining the railway sidings and associated administrative expenditure. The VSPL has confirmed this tariff item is different from the siding charges collected by VPT for maintenance of their entire Railway lines. As stated earlier tariff for this item was prevailing in the SOR of VSPL in the pre-revised SOR. Based on the clarification furnished by the VSPL and also recognizing that the revenue estimates captures the revenue from this tariff item, the proposed tariff is, therefore, approved.

(f). For Shore handling operations, the existing rate of ₹65/- per tonne is proposed to be increased to ₹81/- PMT. The VSPL has explained that shore handling is the highest cost for VSPL. With Environment Pollution Control measures and NCLT, the shore handling cost has increased. Additional cost is incurred to take care of pollution control measures, like covering with tarpaulin, etc. Based on the clarification furnished by the VSPL and also recognizing that the revenue estimates captures the revenue from this tariff item, the proposed tariff is, therefore, approved.

(g). At the rates proposed in the revised Scale of Rates, the VSPL has estimated revenue of ₹173.56 crores. The VSPL has given detailed working of revenue estimation indicating each of the tariff items in the proposed SOR for corresponding average traffic for the years 2016-17 to 2018-19, as required as per Clause 2.11.1 of the Tariff Guidelines, 2019. The revenue estimation statement has been duly certified by a Chartered Accountant. The revenue estimation furnished by the VSPL is relied upon.

(x). As per clause 1.9 of the Tariff Guidelines 2019, the BOT operator shall continue to abide by the provisions contained in the existing Concession Agreement entered into with the concerned Major Port Trust. Simultaneously, the *BOT operator* shall agree to abide by this guidelines, by way of a separate Agreement with the concerned Major Port Trust. The VSPL has stated that it has requested the VPT in this regard and shall submit the same in due course of time. However, VSPL have already furnished written confirmation to the VPT that it accepts to submit its proposal for tariff revision from 1.4.2020 under the Tariff Guidelines, 2019. The VSPL has, subsequently, furnished the copy of separate Agreement duly signed by VSPL. However, it is not signed by the VPT. The VSPL is requested to furnish a copy of the separate Agreement as per the prescribed format forwarded by the MOS vide its letter dated 08 March 2019 to all the Major Port Trusts including the VPT duly signed by both the VSPL and the VPT for our records.

(xi). Based on the above analysis, a summary of the ceiling indexation ARR furnished by the VSPL and as considered by us based on the modified cost statement is given below:

(₹ in crores)

Sr. No.	**Particulars**	**ARR computation furnished by the VSPL**	**ARR computation modified by us**
1	Average admissible Expenses for the years 2016-17, 2017-18 and 2018-19 [Y1+Y2+Y3]/3	127.23	127.13
2	Capital employed as on 31.03.2019 including capital work in progress as on 31.03.2019 and working capital as per norms	364.73	365.23
3	Return on capital employed @ 16%	58.35	58.44
4	ARR as on 31 March 2019 (4=2+3)	185.58	185.57

5	Indexation in the ARR @ 100% of the WPI applicable for the year 2019-20 (4.26% for the year 2019-20)	193.49	193.48
6	Ceiling Indexed Annual Revenue Requirement (ARR)	193.49	193.48
7	Revenue estimated by the IGTPL at proposed rate	173.56	173.56
8	Revenue gap	19.93	19.92

(xii). Clause 8.2.2 of the Working Guidelines to operationalize the Tariff Guidelines, 2019 for determination of tariff for BOT operators stipulates that while drawing up the SOR, the BOT operators shall as far as possible do away with ad valorem wharfage rate if any, in its existing SOR and determine specific wharfage rate in these cases taking into consideration special care to be taken for handling this cargo or a market determined tariff.

The VSPL has continued to proposed wharfage rates on ad-valorem basis for electrical goods and machinery. The VSPL was, during the processing of this case, requested to propose wharfage rate for electrical goods and machinery based on weight or volume of cargo with reference to cost of handling the relevant cargo instead of proposing ad-valorem rate in line with the advice rendered in the last tariff Order and in compliance with the Working Guidelines.

The VSPL has clarified that these two goods are rarest items and not handled generally at the terminal. Hence cost of handling and other factors to be considered will have to be gained by experience. The VSPL has, therefore, requested for continuation of ad-valorem rate for the present. In the current proposal, in the absence of any proposal of VSPL to prescribe wharfage on per unit basis, the wharfage rate for these two cargo items are allowed to be prescribed on ad-valorem rates as proposed by the VSPL. The VSPL is, however, advised to review and explore the possibility of proposing specific wharfage rate on unit basis instead of ad-valorem basis to comply with the provision in the clause 8.2.2 of Working Guidelines during the next revision.

(xiii). In the existing Scale of Rates, Schedule 2.1.2 prescribes penal berth hire charges for over stayal of vessel beyond berth occupancy calculated as per norms prescribed in the SOR in schedule 2.1.4 wherein commodity-wise per vessel per shift output for import cargo and export cargo are prescribed separately for 37 cargo items. In the proposed Scale of Rates, the VSPL has rationalised/ modified the Schedule 2.1.4 and proposed per day output for 6 group of commodities. The VSPL has clarified that the proposed modification is in line with VPT Trade circular dated 09.07.2018 on norms of handling dry bulk cargo. None of the users including SAIL have objected the proposed rationalised norms.

Further, for levy of penal berth hire charge for over stayal of vessel the VSPL has proposed to reduce permitted period of berth occupancy for stayal after completion of cargo operation from 10/ 7 hours to 4 hours. The VSPL has clarified that the proposed reduction in hours is based on its past experience and in line with modifications made by VPT and that reduced hours are found sufficient as there are hardly any such case of delay. Based on the clarification furnished by the VSPL, the modification proposed by the VSPL in the existing schedule 2.1.2 and 2.1.4 is approved.

(xiv). It is seen that tariff increase proposed by VSPL for foreign going vessel works out 11.24% for Berth No.EQ-8 and 1.12% increase in berth hire for Berth No.EQ-9. However, the increase for coastal vessel works out to 80.03% and 62.88% respectively. Likewise, the increase proposed in penal berth hire charges and charges for supply of water for coastal category is higher than the tariff increase proposed for foreign category. The steep increase in the proposed rates for coastal category arises because the VSPL has arrived at rate for coastal container by restating it with the prevailing exchange rate and then pegging it at 60% thereof which is not in line with the prevailing applicable coastal concession policy of the Government. The coastal concession policy of the Government is not amended to allow restatement with reference to prevailing exchange rate for coastal cargo/ container handling rate during each general revision. When the VSPL was requested to examine and make necessary correction to comply with the coastal concession policy of the Government and consequently modify the revenue estimation, the VSPL has stated that coastal rates are modified in revised proposed SOR in line with coastal concession policy of the Government. However, it is seen that the VSPL has not made necessary correction in the proposed SOR in respect of rates for coastal vessel for the above items. The coastal vessel rates for the above items i.e. berth hire charge, penal berth hire charge and charges for supply of water are modified in the revised SOR to comply with the coastal concession policy of the Government i.e. the restatement done by the VSPL with reference to prevailing exchange rate is removed and tariff increase proposed for coastal vessel is done at par with the percentage of tariff increase proposed for its foreign counter part. This will not have any impact in the revenue estimation as such because the VSPL has not estimated any revenue from coastal vessel as stated earlier.

(xv). In the original proposal, the wharfage rate and stevedoring charges for Iron ore, Iron ore pellets and Thermal Coal for coastal cargo are proposed applying 60% concession over the rates proposed for the foreign cargo. In this regard, it is relevant here to state that as per the coastal concession policy of the MOS, crude including POL products, iron ore and thermal coal are not entitled for coastal concession. In line with the coastal concession policy, wharfage rate and stevedoring rate for these items for coastal cargo should be prescribed at par with foreign rate. Further, in line with the decision of this Authority based on the recent proposal of the NMPT for general revision of the SOR approved by this Authority vide Order No.TAMP/78/2018-NMPT dated 24 July 2019, based on the clarification of the NMPT, it is understood that pet coke is equivalent to Petroleum products. Hence, as per the coastal concession Policy, this cargo is also not entitled for coastal concession.

In the revised proposed SOR, the wharfage rate proposed by the VSPL for coastal thermal Coal, Iron Ore, Iron ore pellets and Pet coke is at par with foreign rate which is found to be in order and hence is approved.

However, under stevedoring charges, the VSPL has not made necessary correction for coastal thermal Coal, Iron Ore and Pet coke. Hence in the revised SOR, necessary correction is made by prescribing stevedoring rates for coastal cargo for these items at par with the foreign rate in line with the coastal concession policy of the Government as they are not entitled for coastal concession.

(xvi). The VSPL has deleted the existing note no.18 dealing with lower charges to utilize services beyond regular hours to encourage exports / importers which was incorporated in pursuance to the MOS letter No.PD/14033/101/2015-PD.V dated 03 February 2016 based on which a common adoption Order No.TAMP/14/2016-Misc. dated 16 February 2016. The existing note no.18 is continued to be prescribed in the revised SOR as it is uniformly prescribed in SOR of all the Major Ports and BOT operators and it is based on common adoption Order.

(xvii). The existing note relating to storage charges under Section–3.6.2 at beyond the free period is slightly modified by the VSPL. The existing clause regarding levy of storage charges at ₹3/- per tonne for storage beyond 30 days and upto 45 days in addition to the second fortnight charges is deleted. The VSPL has retained the storage charges beyond 45 days. The proposed modification is approved, as the rationalisation would give relief to the users.

(xviii). The VSPL has proposed to delete the existing note under Section–4.5 (Material Handling System) for handling bulk cargo relating to levy of composite rate of ₹140/- per tonne if all the items specified in the schedule are provided. The VSPL has stated that customer has to take consolidated services and the VSPL has withdrawn the concession. That being so, the existing note under the schedule is redundant. The proposed deletion is approved.

(xix). As per Clause 2.12 of the Tariff Guidelines, 2019, the SOR will be indexed annually to inflation to the extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Government of India occurring between 1st January to 31 December of the relevant year. Such adjusted SOR will come into force from 1st May of the relevant year to 30th April of the following year. The VSPL has not proposed any note in this regard. In the current revision, the annual indexation of 4.26% pertaining to the year 2019-20 is captured. That being so, they are entitled for annual indexation in the tariff for the year 2020-21 i.e. from 1 May 2020. Since 1 May 2020 has already crossed, VSPL shall be entitled for annual indexation in the SOR approved by this Authority on the day the revised SOR comes into effect. **The annual indexation at 60% for the year 2020-21 announced by this Authority is 1.13% under Tariff Guidelines, 2019. Hence, the revised SOR approved by this Authority needs to be indexed by 1.13% by the VSPL and apply the revised SOR from the date it comes into effect.** The relevant note as regards annual indexation approved in case of other BOT operators is prescribed in the SOR of the VSPL.

(xx). Clause 4.9 of the Tariff Guidelines, 2019 prescribe tariff validity cycle of three years subject to annual indexation as mentioned in clause 2.12. Therefore, the validity of the revised SOR is prescribed for a period of 3 years from the date of effect of revised SOR subject to annual indexation clause prescribed in the SOR.

(xxi). Clause 4.8 of the Tariff Guidelines, 2019 stipulates that ordinarily the Order approved by this Authority shall come into effect after expiry of 30 days from the date the Order is notified in the Gazette. Accordingly, the revised SOR will come into effect after expiry of 30 days from the date of notification of the Order in the Gazette. The existing SOR of VSPL is valid upto 31 March 2019. By the time, the revised SOR comes into effect it may be around beginning of the financial year 2020-21. Hence, existing SOR is deemed to have been extended from the date of expiry till the revised SOR shall come into effect.

(xxii). It is relevant here to state that the VSPL has filed Writ Petition No.33402 of 2011 challenging the tariff Order of October 2011 in the Hon'ble High Court of Andhra Pradesh to the extent of reduction effected by this Authority in the tariff of Harbour Mobile Crane (HMC) from ₹72.75 per tonne to ₹36.70 per tonne. The Hon'ble High Court has passed an interim Order on 19 December 2011 permitting the VSPL to charge and collect at ₹72.75 per tonne until further orders. The Hon'ble Court has also directed VSPL that for all such tariffs, levied and collected on HMC after 22.12.2011, the Petitioner shall keep an account of every such transaction and in the event of the Petitioner not succeeding in its Writ Petition, amount collected by VSPL over and above the tariff of ₹36.70 per tonne fixed under the impugned order shall be subject to further orders of the Hon'ble Court. The Writ Petition is yet to be disposed of by the Hon'ble Court.

During the subsequent tariff revision approved by this Authority vide Order No.TAMP/18/2014-VSPL dated 15 May 2015 and Order No.TAMP/19/2017-VSPL dated 19 January 2018, the VSPL for the purpose of past period analysis had considered the actual income from HMC reported in the Annual Accounts for the years 2011-12 to 2013-14 and 2014-15 and 2015-16 upto 7 July 2015 till the revised rated in the Order dated 15 May 2015 came into effect. In view of the specific interim Order of the Hon'ble High Court permitting VSPL to collect the pre-revised rate of ₹72.75 per tonne and also the direction of the Hon'ble High Court to VSPL to keep the separate accounts for the differential revenue collected which is subject to the decision of the Court, the actual revenue from HMC reported in the Annual Accounts for the years 2011-12 to 2013-14 and 2014-15 and 2015-16 upto 7 July 2015 was considered for the purpose of past period analysis as done by VSPL.

The consolidated position as regards revenue collectable by the VSPL for HMC as per the tariff Order dated October 2011 for the period 2011-12 to 2013-14 and 2014-15 and 2015-16 upto 7 July 2015 and the revenue actually collected by the VSPL based on the statement furnished by the VSPL as tabulated in para 16(vi)(d) of Order No.TAMP/19/2017-VSPL dated 19 January 2018 is reproduced below for ease of reference:

Year	Revenue collected by VSPL from hire of HMC in pursuance of the interim Order of the Hon'ble High Court dated 19.12.2011	Revenue collectable for hire of HMC at the rate ₹36.70 per tonne as approved by this Authority in the October 2011 Order	Differential revenue collected by VSPL over and above the rate for HMC approved by this Authority based on the interim Order of the Hon'ble High Court for the period from 19.12.2011 (date of interim Order of Hon'ble High Court) till 09.07.2015 i.e. revised rate approved in May 2015 Order came into effect assessed in the January 2018 Order
2011-12 (from 19.12.2011) (Refer Note A)	22,018,254	17,582,150	4,435,744
2012-13	82,924,841	65,957,810	16,967,031
2013-14	90,609,219	70,753,209	19,856,011
Total – A (as furnished in para 12(iv) (b) of the Order dated 15 May 2015)	**195,552,314 (Refer Note B)**	**154,293,529**	**41,258,786**
2014-15	124,291,963	101,128,145	23,163,818
2015-16 (upto 7.7.2015)	24,240,493	19,624,686	4,615,808
Total B	**148,532,456 Refer Note (C)**	**120,752,831**	**27,779,625**
Grand Total (A+B)	**344,084,770**	**275,046,359**	**69,038,411**

(A). *The interim Order of the Hon'ble High Court directed VSPL to keep separate account of differential levy collected after 22.12.2011. VSPL has, however, furnished the details from 19.12.2011 i.e. from the date of the interim Order of the Hon'ble High Court.*

(B). *The VSPL has reported during processing of May 2015 Order that they are not able to collect ₹72.75 permitted by the Hon'ble High Court. The statements furnished by the VSPL shows that VSPL has collected different rates for hire of HMC in the range of ₹36.95 per tonne to ₹49.50 per tonne.*

(C) *The statements furnished by the VSPL during the processing of this case shows that VSPL has collected hire charges of HMC in the range of ₹38.20 per tonne to ₹47.74 per tonne for the period 1 April 2014 till 7 July 2015.*

In the January 2018 Order, this Authority held that the VSPL has assessed the total differential revenue collected by it over and above the tariff approved by this Authority at ₹690.38 lakhs for the period 2011-12 i.e. from 19 December 2011 being the date of the interim Order of the Hon'ble High Court to 7 July 2015. The total differential collection by VSPL is subject to the final decision of the Hon'ble High Court in the Writ Petition filed by VSPL.

As stated earlier, in the past period analysis for the said period, this Authority has considered the income actually collected by the VSPL for the HMC for the reasons stated pending litigation. Thus, as held in the said Order of January 2018, the differential revenue of ₹690.38 lakhs collected by VSPL as assessed is subject to the final decision of the Hon'ble High Court in the Writ Petition filed by VSPL.

It is also relevant here to mention that vide letter No.TAMP/46/2015-Misc dated 24 July 2015 it has been communicated to VSPL that the surplus quantified for the tariff cycle immediately preceding the challenged tariff Order No.TAMP/5/2011-VSPL dated 11 October 2011 and the tariff fixed in the said Order challenged by the VSPL will be taken up for review based on the Ministry of Shipping (MOS) letter No.14019/20/2009-PG dated 12 June 2015, subject to the permission of the Hon'ble High Court, as the matter is subjudice.

Accordingly, steps have been taken to file Affidavit in the Hon'ble Court in August 2015, *inter alia*, praying before the Hon'ble Court to permit this Authority to review the order of October 2011 to give effect to the opinion of the Learned Attorney General of India as directed by the MOS. The matter is still pending before the Hon'ble Court. After receipt of permission of the Hon'ble High Court, an exercise to quantify the surplus/ (deficit) based on the MOS letter has to be undertaken.

(xxiii). (a). As per the Tariff Guidelines, 2019, the rates prescribed in the Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The VSPL may exercise the flexibility to charge lower rates and/or allow higher rebates and discounts.

(b). If there is any error apparent on the face of record considered or for any other justifiable reasons, the VSPL may approach this Authority for review of the tariff fixed, giving adequate justification/ reasoning within 30 days from the date of notification of the Order passed in the Gazette of India.

12.1. In the result, and for the reasons given above, and based on a collective application of mind, the revised Scale of Rates of the VSPL is approved which has been notified separately.

12.2. The revised Scale of Rates and conditionalities of the VSPL will come into effect after expiry of 30 days from the date of notification of the Order notifying the revised SOR in the Gazette of India and shall be in force for a period of three years from the date the revised SOR comes into effect. The approval accorded shall automatically lapse thereafter unless specifically extended by this Authority.

12.3. As per clause 7 of the Tariff Guidelines 2019, the VSPL shall furnish to TAMP without fail annual reports on cargo traffic handled and ship berth day output. The annual reports shall be submitted by the VSPL within 90 days following the end of each of the year. Any other information which is required by TAMP shall also be furnished to them from time to time. The VSPL is advised specifically to refrain from withholding requisite information.

12.4. During the next review of Scale of Rates of VSPL, the actual revenue and actual traffic will be compared with the ARR and the traffic relied upon in the immediate previous tariff cycle. If, on such review, variation in both physical and financial parameters is more than +/- 20%, then the surplus/ deficit shall be adjusted in the Annual Revenue Requirement of the next tariff cycle as per clause 3.2.1 of the Tariff Guidelines 2019.

(T.S. Balasubramanian)
Member (Finance)

Annex-I (a)
Form - 1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by VSPL.				
				Rs. in lakhs
Sl. No.	**Description**	**2016-17**	**2017-18**	**2018-19**
(1).	**Total Expenditure**			
(i).	Operating expenses (including depreciation)	11,438.27	13,641.12	14,793.96
(ii).	Finance and Miscellaneous expenses (FME)	3,124.96	2,511.19	2,187.39
	Total Expenditure 1=(i)+(ii)	**14,563.23**	**16,152.31**	**16,981.35**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	152.03	150.85	143.33
(ii).	Other expenditure items, if any, to be listed	(703.37)	(490.69)	(341.20)
	Total of Adjustments 2=(i)+(ii)+ -----	**(551.34)**	**(339.84)**	**(197.87)**
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	693.96	791.82	876.35
(ii).	Interest on loans	3,075.19	2,486.14	2,165.22
(iii).	Provision for bad and doubtful debts	8.22	80.62	31.03
(iv).	Provision for slow moving inventory			
(v).	Other provisions, if any			
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)]	**3,777.37**	**3,358.59**	**3,072.60**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	519.57	592.84	656.12
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3)**	**10,754.09**	**13,046.72**	**14,367.00**
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			**12,722.60**
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			**34,749.18**
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			**6.73**
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory			399.96
	(b). Sundry Debtors			253.31
	(c). Cash			1,063.76
	(d). Sum of (a)+(b)+(c)			1,717.02
	(iv). Total Capital Employed [(i)+(ii)-(iii)]			**36,472.94**
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			**5,835.67**
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**			**18,558.27**
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**			**19,348.86**
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No.10 above.**			**19,348.86**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**			**17,356.00**

Annex-I (b)
Form - 1

Computation of Annual Revenue Requirement under Tariff Policy, 2019 for Determination of Tariff for BOT operators operating at Major Port Trusts furnished by VSPL and modified by TAMP				
				Rs. in lakhs
Sl. No.	**Description**	**2016-17**	**2017-18**	**2018-19**
(1).	**Total Expenditure**			
(i).	Operating expenses (including depreciation)	11,438.27	13,641.12	14,793.96
(ii).	Finance and Miscellaneous expenses (FME)	3,124.96	2,511.19	2,187.39
	Total Expenditure 1=(i)+(ii)	**14,563.23**	**16,152.31**	**16,981.35**
(2).	**Adjustments in respect of items where there is variation in figures reported as per INDAS (as per Audited Accounts) and IGAAP**			
(i).	Depreciation	152.03	150.85	143.33
(ii).	Other expenditure items, if any, to be listed	(703.37)	(490.69)	(341.20)
	Total of Adjustments 2=(i)+(ii)+ -----	**(551.34)**	**(339.84)**	**(197.87)**
(3).	**Less Adjustments:**			
(i).	Actual Royalty / Revenue share paid to the port	693.96	791.82	876.35
(ii).	Interest on loans	3,075.19	2,486.14	2,165.22
(iii).	Interest on others	27.56	-	-
(iv).	Provision for bad and doubtful debts	8.22	80.62	31.03
(v).	Provision for slow moving inventory			
(vi).	Other provisions, if any			
	Total of 3 = [3(i)+3(ii)+3(iii)+3(iv)+3(v)+3(vi)]	**3,804.93**	**3,358.59**	**3,072.60**
(4).	**Add: Admissible Royalty/ Revenue Share as per Clause 2.2. of the Tariff Guidelines, 2019**	519.57	592.84	656.12
(5).	**Total Expenditure after Total Adjustments (5 = 1+2+3)**	**10,726.53**	**13,046.72**	**14,367.00**
(6).	Average Expenses of Sl. No.5 = [Y1 + Y2 + Y3] / 3			**12,713.42**
(7).	**Capital Employed**			
	(i). Gross Fixed Assets (Property, Plant & Equipment) as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per IGAAP)			**34,749.18**
	(ii). Add: Capital Work in Progress as on 31st March Y3 or 31 December of Y3 followed by the BOT operator (As per Audited Annual Accounts)			**6.73**
	(iii). Add: Working Capital as per norms prescribed in clause 2.6 of the Tariff Guidelines, 2019			
	(a). Inventory			449.87
	(b). Sundry Debtors			253.31
	(c). Cash			1,063.76
	(d). Sum of (a)+(b)+(c)			1,766.93
	(iv). Total Capital Employed [(i)+(ii)-(iii)]			**36,522.85**
(8).	**Return on Capital Employed 16% on Sl. No.7(iv)**			**5,843.66**
(9).	**Annual Revenue Requirement (ARR) as on 31 March Y3 or 31 December of Y3 as applicable [(6)+ (8)]**			**18,557.07**
(10).	**Indexation in the ARR @ 100% of the WPI applicable for the year Y4 for example, if Y4 is 2019-20, then the applicable WPI is 4.26% and the indexed ARR for the year Y4 will be (9) x 1.0426)**			**19,347.61**
(11).	**Ceiling Indexed Annual Revenue Requirement (ARR) as given in Sr. No.10 above.**			**19,347.61**
(12).	**Revenue Estimation at the Proposed indexed SOR within the Ceiling indexed ARR estimated at Sl. No.11 above**			**17,356.00**

Annex-II

VIZAG SEAPORT PRIVATE LIMITED

(₹ in Lakhs)

Analysis of the Past Period Performance of VSPL for the years 2017-18 to 2019-20 furnished by VSPL and modified by TAMP

Sr. No.	Particulars	Estimates relied upon in the Tariff review Order dated 03.10.2018				Actuals						Variation in Percentage (%)
		2017-18	2018-19	2019-20	Total	2017-18	2018-19	2019-20 (Upto Dec)	2019-20 Jan to March	2019-20 April to March	Total	
	Traffic (in tonnes)	6200000	6324000	6449000	18973000	7115969	7089500	5394679	1798226	7192905	21398375	12.78%
	Capacity (in tonnes)	7700000	7700000	7700000	23100000	7700000	7700000	5775000	1925000	7700000	23100000	
I	**Total Operating Income**											
	(i) Vessel related income	1414.01	1676.90	1788.97	4,879.88	1984.29	2,467.26	1,824.35	608.12	2432.47	6,884.02	
	(ii) Cargo related income	11482.44	11984.02	12221.01	35,687.47	13168.74	14,179.17	10,743.34	3,581.11	14324.45	41,672.36	
	Total - I	**12896.44**	**13660.91**	**14009.99**	**40567.34**	**15153.03**	**16,646.43**	**12,567.69**	**4,189.23**	**16756.92**	**48,556.38**	19.69%
II	**Operating Costs (excluding depreciation)**											
	(i) Operating & Direct labour	467.12	490.86	508.17	1466.15	489.01	481.16	410.29	136.76	547.05	1,517.22	
	(ii) Maintenance labour	569.65	581.04	592.66	1743.36	590.74	678.98	540.62	180.21	720.82	1,990.55	
	(iii) Equipment Running costs	1648.78	1707.38	1768.37	5124.53	1675.66	1,656.98	1,289.26	429.75	1719.02	5,051.66	
	(iv) Maintenance dredging	101.69	103.72	105.79	311.20	142.12	-	-	-	0.00	142.12	
	(v) Royalty / revenue share	469.89	479.29	488.76	1437.94	592.84	656.12	491.27	163.76	655.03	1,903.99	
	(vi) Equipment hire	4080.38	4237.39	4399.31	12717.08	4713.88	5,541.86	4,441.87	1,480.62	5922.50	16,178.24	
	(vii) Lease Rentals payable as per concession agreement	133.24	134.59	135.96	403.80	248.29	538.55	376.61	125.54	502.15	1,288.98	
	(viii) Insurance	70.32	71.72	73.16	215.20	76.95	106.37	84.12	28.04	112.16	295.48	
	(ix) Other expenses	526.40	537.58	548.99	1612.97	1604.16	1621.97	1070.89	356.96	1427.86	4,653.99	
	(x) Technical service fee	12.16	12.16	12.16	36.48	12.16	12.16	9.12	3.04	12.16	36.48	
	Total - II	**8079.63**	**8355.73**	**8633.33**	**25068.70**	**10145.81**	**11294.15**	**8714.06**	**2904.69**	**11618.74**	**33,058.70**	31.87%
					32967.87						39947.92	21.17%
III	Depreciation	1517.03	1512.57	1488.17	4517.77	1586.32	1571.20	1218.40	406.13	1624.53	4,782.05	5.85%
IV	Overheads											
	(i) Management & Administration overheads	1078.63	1100.70	1123.22	3302.55	1278.96	1,422.87	1,014.02	338.01	1352.02	4,053.86	22.75%
	(ii) Preliminary expenses & upfront payment write-off	33.10	33.10	33.10	99.30	33.10	33.10	24.83	8.28	33.10	99.30	
	Total - IV	1111.74	1133.80	1156.32	3401.86	1312.06	1,455.97	1,038.84	346.28	1385.12	4,153.16	
V	**Operating Surplus / (Deficit) (I) – (II) – (III) - (IV)**	**2188.04**	**2658.80**	**2732.16**	**7579.01**	**2108.83**	**2,325.11**	**1,596.39**	**532.13**	**2128.52**	**6,562.46**	-13.41%
VI	Finance & Miscellaneous Income (FMI)											
	(i) Discounted terminal value receivable as per the LA	6.06	6.79	7.61	20.46	6.06	6.79	5.71	1.90	7.61	20.46	
	(ii) Others	0.00	0.00	0.00	0.00	945.79	609.28	352.85	117.62	470.47	2,025.54	
	Total FMI	6.06	6.79	7.61	20.46	951.85	616.07	358.56	119.52	478.08	2,046.00	
VII	Finance & Miscellaneous Expenses (FME) -	0.00	0.00	0.00	0.00	0.00	-	-			-	
											-	
VIII	FMI Less FME (VI) - (VII)	6.06	6.79	7.61	20.46	951.85	616.07	358.56	119.52	478.08	2,046.00	
IX	**Surplus Before Interest and Tax (V) + (VIII)**	**2194.10**	**2665.59**	**2739.76**	**7599.47**	**3060.68**	**2,941.18**	**1,954.95**	**651.65**	**2606.60**	**8,608.46**	13.28%
						16.64%	17.40%	17.06%		17.02%	2,869.49	
X	Capital Employed	17369.84	15824.17	14302.90	15832.30	18398.11	16906.02	15281.49		15281.49	16,861.87	6.50%
XI	RoCE - Maximum permissible	2779.17	2531.87	2288.46	7599.51	2943.70	2,704.96	1,833.78	611.26	2445.04	8,093.70	
XII	Capacity Utilization	81%	82%	84%	82%	92%	92%	93%	93%		93%	
XIII	**RoCE adjusted for capacity utilization**	2779.17	2531.87	2288.46	7599.51	2943.70	2,704.96	1,833.78	611.26	2445.04	8,093.70	6.50%
XIV	**Net Surplus / (Deficit) (IX) - (XIII)**	**(585.07)**	**133.72**	**451.30**	**(0.04)**	**116.98**	**236.21**	**121.17**	**40.39**	**161.56**	**514.76**	
XV	**Net Surplus / (Deficit) as a % of operating income (XIV/I)**	-4.54%	0.98%	3.22%		0.77%	1.42%	0.96%	0.96%	0.96%	1.06%	
XVI	**Average Net Surplus/(Deficit) as a % of operating income**		-0.11%					1.05%				

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

F.No. TAMP/11/2020-VSPL - Proposal from the Vizag Seaport Private Limited for general revision of its Scale of Rates for the vessels handled by it at berths EQ-8 and EQ-9 at the Visakhapatnam Port Trust.

A summary of the comments received from M/s.Steel Authority of India Limited (SAIL) and response of Vizag Seaport Private Limited (VSPL) is given below:

Sr. No.	Comments received from SAIL	Reply furnished by VSPL
(i).	The proposal indicates a separate rate of Berth Hire if vessel is berthed at EQ8 and uses Bulk Material Handling System (BMHS) for discharge. The proposed berth hire charge is 11.2% higher than the existing rate which will impact vessel related charges increasing cost of operations for users like SAIL.	Mechanised operations under EQ-8 berth confers freight advantage through reduced turnaround time of vessels compared to vessels handled at EQ-9 berth under conventional operation. Out of the proposed increase of 11.2%, escalation factor is 4.26%. Balance increase of 6.94% is proposed in line with our revenue requirement and benefit of lower Turnaround time enjoyed by users of mechanized operations. Still our berth hire revision is much lower than other BOT terminals in Vizag, Gangavaram Port as well as South West Port, Goa (Where too differential berth hire is approved and collected for mechanized operations in berth no.6-A).
(ii).	VSPL has proposed substantial hike in the Storage Charges. This will also put users in difficult position to route their imports through VSPL. The proposal is not justifiable due to the following reasons: (a). No additional facility has been created for quicker dispatch of stacked cargo (b). VPT has provided additional land to increase storage area (c). It is pertinent to mention that recently, another BOT Terminal within VPT enhanced the free storage period, taking into account operational/ business requirement.	Substantial hike is proposed in storage charges is denied. The increase of ₹3 per fortnight is nominal compared to the huge revision of lease rentals by 4.84 times by VPT for the lands allotted to VSPL Project. The remark that no additional facility has been created for higher discharge of cargo is not valid as quicker dispatch of cargos depend on availability of sufficient number of Railway rakes and not on any additional facility by VSPL. It is also stated that another BOT terminal at Vizag enhanced free storage period. In this regard, it is to be noted that beyond the free period of 20 days in the BOT terminal referred to storage charge is ₹8.43/ Ton/ Day which is substantially higher and disproportionate to our proposed rate of ₹12/ for 2nd fortnight and ₹18/ for third fortnight. Hence such comparison are not valid.
(iii).	In the proposal, a new elemental charge under the head railway maintenance and siding charges has been introduced. As per our understanding, siding charges are governed by railway guidelines and adopted by port/other BOT terminals. Accordingly, VPT already levies "Terminal Charges" for using all sidings within VPT including VSPL sidings. Hence, a separate	It is informed that the charge proposed is Railway siding administration and Maintenance charges and it is not a new charge introduced. It is a tariff item already approved by the Authority by its order dated 15.5.2015 considering the cost statement in constructing railway lines from Anakapalley gate to our berths inside the terminal. VSPL is a notified

	charge for maintaining the siding should not be passed on to users under different head and it should be within the purview of railway tariff fixation for respective ports.	private siding and as such incurs recurring expenditure of maintaining the railway sidings and associated administrative expenditure incurred by VSPL for Railways. This is different from the siding charges collected by VPT for maintenance of their entire Railway lines outside our terminal upto the Railway main line where the rakes are received and exchanged, maintenance of signaling points, R & D Yard etc.
(iv).	VSPL has proposed to double the rate for using In-Motion Weigh Bridge to weigh loaded rakes. It is pertinent to mention that for the same facility, VPT charges at the rate of ₹13.20 per wagon, which translates to about ₹0.20 per Ton. The charge proposed by VSPL is around 30 times of the rate charged by VPT for the same service and is thus unjustifiable.	This is an optional service. Comparison of this single item with VPT may not be proper as different tariff are fixed for same goods and services based on the Investment made, traffic volume using that facility etc.
(v).	Steel industry is depending heavily on import of coking coal. Increase of port logistics cost would impact financially the producers like SAIL which is already reeling under depressed economic condition. Hence, increase in port handling cost should not become a burden to the industry.	As explained above, SOR proposed are in line with our Revenue requirement and in accordance with the Tariff Guidelines, 2019. The remark that the increase in SOR will financially impact Sail is not acceptable as Port Logistic cost is not a major cost item out of the landed cost of an imported coking coal. Further, SAIL pays different rates of handling at various ports. Even after the revision, VSPL rates are much lower than what SAIL pays at Haldia Port terminal for the same service.

2. A joint hearing in this case was held on 26 February 2020 at the VPT premises. The VSPL made a brief power point presentation of its proposal. At the joint hearing, the VSPL, VPT and the concerned users/ organisation bodies have made the following submissions:

Vizag Seaport Private Limited (VSPL)

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

(ii). This is the first proposal of VSPL under Tariff Guidelines, 2019. We have 12 more years of the Concession Period.

(iii). We have 2 berths. Berth no.EQ8 is fully mechanised. EQ9 berth is conventional berth to cater to cargo handling operations that do not require mechanised facility.

(iv). Our license period started in 2001 and we commenced the commercial operation in 2004-05. The snapshot of financials from 2004-05 to 2018-19 is presented. Net profit at the end of 18th year of concession period is ₹52.40 crores as against allowable profit as per TAMP is ₹208 crores, shortfall is ₹156.40 crores. This is due to inadequate draft in initial years and tariff fixed for VGCB was lower than VSPL.

(v). We handled average 68.00 lakh tonnes in last 3 years - 2016-17 to 2018-19.

(vi). ARR is assessed at ₹187 crores which after indexation comes to ₹193 crores.

(vii). We face stiff competition from stevedores, BOT operator in VPT and neighbouring private ports like Gangavaram. Users go by lowest rates in VPT. Stevedores are much less obligated by Regulations. That being so, with lot of deliberation we have proposed tariff hike in VRC and CRC. At the proposed tariff, we do not envisage to meet full ARR. We have settled for shortfall in revenue.

(viii). We have proposed balanced tariff hike for ship and cargo interest keeping in view all the points.

(ix). We have proposed separate berth hire charge for EQ8 and EQ9 berth as against existing uniform berth hire.

(x). This is adopted from the approach followed by SWPL in MOPT. In SWPL also, there are two berths of which one is for conventional and the other is for mechanised handling. Separate berth hire are prescribed by TAMP for the two different berths.

(xi). In our proposal, 11% increase is proposed in berth hire of EQ8 berth. Vessel owners gain benefit of fast turnaround time of vessel due to handling by mechanised means at berth no.8. Hence, the proposed increase. Berth hire of berth no.EQ9 is maintained almost the same.

(xii). We are happy to say that even after the proposed increase in berth hire charges, our berth hire is lowest compared to all BOT operators operating in the VPT. We handle coal at ₹167/- PMT which is lowest in the country.

(xiii). We have proposed increase in wharfage rate to maintain parity with the rates of VPT and also to meet the estimated ARR. Only for a few cargo items we have proposed wharfage higher than VPT.

(xiv). We have proposed increase in storage charge due to increase in lease rent payable to VPT.

(xv). Stevedoring rates have been revised to bring parity with VPT.

(xvi). For Shore handling operations, the existing rate of ₹65/- per tonne is proposed to be increased to ₹81/- PMT.

(xvii). Shore handling is the highest cost for VSPL. With Environment Pollution Control measures and NCLT, our shore handling cost has increased. What could be moved in 10 trucks, we now need 20 trucks. Additional cost is incurred to take care of pollution control measures, like covering with tarpaulin, etc.

(xviii). Further, single vessel come with different grades of cargo. Cargo handling is required to be done hatch by hatch and grade by grade and moved to storage yard as there is no storage space at the berth. This increases our shore handling cost.

(xix). No increase is proposed in HMC charge.

(xx). We have infact proposed to reduce stevedoring charge for use along with HMC.

(xxi). Tariff for Gantry unloader is deleted as we have sold the equipment.

(xxii). VSPL has put its own railway siding of 2.8 kms. from Anakkapali siding to our gate and another 0.9 kms within our terminal. We incur expenses for maintaining this.

(xxiii). The proposed rate for siding and maintenance is based on actual cost incurred by VSPL.

(xxiv). In the last revision, railway siding charge was proposed for deletion by us as we were not collecting it. We now want to re-introduce this tariff item.

(xxv). Our original rate for Bulk Material Handling Service (BMHS) was ₹189/- PMT which was reduced by TAMP based on cost position. Subsequently, VSPL itself reduced it to ₹140/- PMT based on concessional rate then being offered by VSPL.

(xxvi). The existing rate for BMHS is ₹159/- PMT. As against that, we propose to revise it by ₹12/- i.e. to ₹171/- PMT.

(xxvii). Customer has to take consolidated services. The proposed note under BMHS is redundant and hence deleted.

(xxviii). In the existing SOR, there is a provision that rates approved by TAMP are ceiling rates and the operators have flexibility to charge lower rate. The customers are taking shelter of wording "ceiling rates" and asking for concession from the VSPL by comparing the lowest rates in VPT and BOT operators operating in VPT. For example - users compare berth hire and wharfage of VPT and ask us concession, for handling they compare with Vedanta which is lowest and seek concession from VSPL. The clause prescribing the wording "ceiling rates" needs to be relooked or reworded.

(xxix). There is no level playing field in the tariff for BOT operators governed under the 2008 and 2013 Guidelines and other service providers who are not under purview of TAMP.

(xxx). We have constraint in availability of Rakes. Gangavaram takes more rakes than VPT.

(xxxi). We had been doing stack height of 13 mtrs. height. Now due to stringent pollution control measures, we are restricted to keep stack height of 6 mtrs. This impacts the turnover of cargo.

<u>Steel Authority of India Limited (SAIL)</u>

(i). Steel industry is under stress. Any increase in tariff will impact us.

(ii). VRC is proposed to be increased by 11%. This will finally get built in freight.

(iii). We request not to increase the rates.
[Member (Finance), TAMP: Under Tariff Guidelines, 2019, BOT operators have flexibility to propose tariff within the ARR. Under the new Tariff Guidelines, 2019, TAMP cannot curtail proposed tariff increase if it falls within the ARR.]

<u>Vizag Seaport Private Limited (VSPL)</u>

(i). SAIL is our main customer. They will always look for lowest rate from their organization point of view. Our rate is lower compared to their counterpart, handling coal through Paradip Port Trust.

(ii). In VPT, customers prefer to keep cargo within the port, instead of taking it to plant. They use VPT area as buffer stock.

<u>Visakhapatnam Port Trust (VPT)</u>

(i). We have not received any representation from trade.

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