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

TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 441 **New Delhi,** **8 October 2021**

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from the Visakhapatnam Port Trust (VPT) for amendment in the effective date of implementation of rationalized storage charges approved by this Authority vide Order No.TAMP/9/2019-VPT dated 24 July 2019 relating to the Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis in pursuance of Ministry of Ports, Shipping and Waterways [MOPSW] (erstwhile Ministry of Shipping) letter No. PD-13/1/2018-PPP Cell dated 11 July 2018 as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/9/2019-VPT

Visakhapatnam Port Trust - - - **Applicant**

QUORUM

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

O R D E R
(Passed on this 15th day of September 2021)

This Authority has passed an Order No.TAMP/9/2019-VPT dated 24 July 2019, in pursuance of Ministry of Ports, Shipping and Waterways [MOPSW] (*erstwhile Ministry of Shipping*) letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 on Stressed PPP Projects and based on the proposal of Visakhapatnam Port Trust (VPT) for rationalization of the storage charges approved by this Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying Scale of Rates (SOR) in the name of Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis. The said Order was notified vide Gazette No.296 dated 21 August 2019. The rationalization of storage charge was approved by this Authority from 21 January 2019 and was valid for one year i.e. upto 20 January 2020.

1.2. The rationalized storage charge approved by this Authority in the Order dated 24 July 2019 replacing the storage charge applicable in Schedule 4 of Order No.TAMP/58/2008-VPT dated 11 January 2013 is given below:
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(in ₹ per tonne per day or part thereof)

Sl. No.	*Particulars*	*Storage Charges applicable for the year 2018-19 after applicable indexation*	*Existing Storage Charges applicable for the year 2019-20 after applicable indexation*	*Amended Storage Charges from 21.1.2019 till 31.3.2019*	*Amended Storage Charges from 1.4.2019 till 20.1.2020*
1.	*Storage Charges (0-10 days)*	***No Charges***	***No Charges***	***No Charges***	***No Charges***
2.	*Storage Charges (11-15 days)*	***2.06***	***2.11***	***No Charges***	***No Charges***
3.	*Storage Charges (16-20 days)*	***4.11***	***4.21***	***No Charges***	***No Charges***
4.	*Storage Charges 21st Day onwards*	***8.22***	***8.43***	***8.22***	***8.43***

***Notes**:*

(i). 20 free days shall be allowed. Free period shall commence from the day following the day of complete discharge of vessel cargo. For the purpose of calculation of free period, Custom notified holidays and Terminal's non-working days shall be excluded.

(ii). Storage charges shall be payable for all days including Terminal's non-working days and Customs notified holidays for stay of cargo beyond the prescribed free days.

(iii). Storage charges on cargo shall not accrue for the period when the terminal operator is not in a position to deliver/ ship the cargo when requested by the user due to reasons attributable to the Terminal operator.

(iv). The above storage schedule shall be valid till 20 January 2020 and it shall automatically lapse and the original storage schedule as approved in the Order dated 11 January 2013 with appropriate indexation rates shall come into effect from 21 January 2020, unless reviewed by VPT and approved by this Authority."

2.1. With reference to the said Order dated 24 July 2019, the VPT vide its e-mail dated 12 July 2021 has come up with the proposal vide its letter No.IRNP/Stds/VGCB/2020 dated 05 February 2021 (*received by the office on 12 July 2021*) for amendment in implementation of the effective date for rationalization of storage charges of Stressed Project. The VPT has requested to amend the effective date of rationalization of storage charge with effect from 11 July 2018 i.e. the date the then MOS issued directives on stressed PPP projects to all Major Ports instead of 21 January 2019 approved in the said Order.

2.2. The main points made by VPT in its proposal for amendment in implementation of the effective date for rationalization of storage charges of Stressed Project of VGCBPL approved by this Authority vide Order No.TAMP/9/2019-VPT dated 24 July 2019 as 11 July 2018 are given below:

(i). MOPSW issued guidelines for identifying PPP project in Major Ports as "stressed project" and the procedure to be adopted for giving relief thereon vide its letter No.PD-13/1/2018-PPP Cell dated 11.07.2018.

(ii). Based on the MOPSW Guidelines, VPT Board identified VGCBPL, operating in VPT, as 'stressed project", and relief provided by revising storage schedule in two spells i.e., (i) from 21.01.2019 to 20.01.2020 vide TAMP Order No.TAMP/9/2019-VPT dated 24.07.2019 and (ii) from 21.01.2020 to 20.01.2021 vide TAMP Order No.TAMP/14/2020-VPT dated 01.06.2020.

(iii). VGCBPL, vide its letter dated 02.11.2020 [copy furnished] addressed to MOPSW has requested to consider 11.07.2018 (date of notification of MOPSW Guidelines) as the effective date for rationalisation of storage charges; citing the decision of Board of Trustees of Deendayal Port Trust (DPT), wherein tariff rationalisation was approved and recommended with effect from 11.07.2018 in respect of M/s.Adani Kandla Bulk Terminal Pvt. Ltd.

(iv). The matter was put up to VPT Board in the meeting held on 29.12.2020 for review and deliberations. VPT Board deliberated on the issue and resolved the following vide VPT Board Resolution No.147/2020-21 (Meeting No.4 of 2020-21) dated 29.12.2020 [copy furnished]:

(a). To consider the request of M/s.VGCBPL for implementation of the effective date of rationalization of storage charges as 11.07.2018, the date on which Ministry communicated the guidelines on Stressed PPP Projects.

(b). To inform TAMP on the amendment in the storage schedule from the date of issue of the guidelines of the Ministry dated 11.07.2018 in terms of the TAMP Order dated 24.07.2019 at Clause-14 (viii) on mutually agreeable date and

(c). To inform the concessionaire M/s.VGCBPL accordingly.

(v). Further, during the review meeting held on 28.12.2020, Hon'ble Minister of State of Ports, Shipping & Waterways (I/C) directed to resolve the issue in line with the process and procedure adopted by DPT in a similar case there; vide MOPSW letter No.PD-13/53/2020-PPP(Part-5)/e-344240 dated 06.01.2021 [copy furnished].

(vi). In view of the above, the VPT has requested to review and notify the revised storage schedule reckoned based on the guidelines communicated by MOPSW vide its letter No.PD-13/1/2018-PPP Cell dated 11.07.2018 i.e. with effect from 11.07.2018.

2.3. Since the proposal of the VPT is only for amendment in the effective date of implementation of the rationalized storage charge, consultation/ joint hearing is not found necessary.

3.1. It is relevant here to mention that the Order dated 24 July 2019 approved by this Authority was based on the then proposal of VPT dated 7 December 2018 wherein the Board of Trustees had classified the VGCBPL as a stressed project based on three criteria prescribed in the MOPSW letter dated 11 July 2018 considering the actuals for the two years viz. 2016-17 and 2017-18.

3.2. During the processing of the said tariff Order dated 24 July 2019, the VGCBPL had requested this Authority to do the needful asking both the Concessionaire and Concessioning Authority to have a mutually agreeable effective date for computing the impact of rationalized storage charge.

3.3. With regard to the said point made by VGCBPL, this Authority at para 14 (viii) of Order dated 24 July 2019 has stated that the MOS has issued letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 to all Major Ports on Stressed PPP Projects. The said letter of the MOS requires the Major Port Trusts to file an appropriate proposal for rationalization of storage charges in consultation with concessionaire as regards stressed project based on the criteria for stressed project prescribed by the MOS. The VPT has filed the proposal dated 7 December 2018. This Authority for the reasons stated in the Order approved the VPT proposal for increase in free period and rationalised storage charge with effect from 21 January 2019 i.e. the date from when in principle approval was accorded by this Authority to the proposal of VPT. Since, the Board of VPT had accorded approval to the proposal for one year and to review thereafter, validity of the amended storage schedule in the Order dated 24 July 2019 was approved by this Authority for the period of one year from 21 January 2019 till 20 January 2020.

As regards the point made by the VGCBPL to this Authority to do needful asking both Concessionaire and Concessioning Authority to have a mutually agreeable effective date for rationalised storage charge, this Authority held that it is for the VPT and the VGCBPL to look into the matter.

4.1. In this backdrop, the VPT has filed the current proposal for amendment in the effective date of hearing as 11 July 2018 instead of 21 January 2019 approved in the Order dated 24 July 2019. The VPT proposal is based on the request made by the VGCBPL for review of effective date of implementation of rationalized storage charge and also in compliance of the MOPSW letter dated 06 January 2021 to VPT directing VPT to resolve the issue regarding effective date of implementation of rationalized storage charges for VGCBPL in line with procedure adopted in similar case of DPT i.e. of Adani Kandla Bulk Terminal Pvt. Ltd. (AKBTPL).

4.2. The Board of Trustees of VPT has also resolved to consider the request of M/s.VGCBPL for implementation of the effective date of rationalization of storage charges as 11.07.2018 i.e. the date on which MOPSW issued directives to the Major Ports on Stressed PPP Projects.

4.3. As regards the reference drawn to similar case of DPT, it is to state that this Authority vide Order No.TAMP/64/2019-DPT dated 01 June 2020 has approved the proposal of DPT for rationalization i.e. reduction of indexed storage charges for Dry Bulk Terminal developed by the BOT operator M/s.Adani Kandla Bulk Terminal Pvt. Ltd. (AKBTPL) w.e.f. 11 July 2018 for a period of one year based on the approval accorded by the Board of Trustees of DPT.

5. Since the amendment in the effective date of implementation of rationalization of storage charge prescribed in the Order dated 24 July 2019 proposed by the VPT is mutually agreed between the VPT and VGCBPL, approved by the Board of Trustees of the VPT and is based on directives of the MOPSW, this Authority amends the effective date of rationalized storage charges approved vide Order No.TAMP/9/2019-VPT dated 24 July 2019 as 11 July 2018 as now proposed by the Port. The validity of the rationalized storage charge approved in the said Order i.e. till 20 January 2020 shall remain unchanged.

6.1. In the result, and for the reason given above, and based on a collective application of mind, this Authority amends the effective date of the rationalized storage schedule approved by this Authority vide Order No.TAMP/9/2019-VPT dated 24 July 2019 as 11 July 2018 and replaces with the following schedule:

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(in ₹ per tonne per day or part thereof)

Sl. No.	***Particulars***	***Storage Charges applicable for the year 2018-19 after applicable indexation***	***Existing Storage Charges applicable for the year 2019-20 after applicable indexation***	***Amended Storage Charges from 11.07.2018 till 31.3.2019***	***Amended Storage Charges from 1.4.2019 till 20.1.2020***
1.	*Storage Charges (0-10 days)*	***No Charges***	***No Charges***	***No Charges***	***No Charges***
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4.	*Storage Charges 21st Day onwards*	***8.22***	***8.43***	***8.22***	***8.43***

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6.2. The notes prescribed under the schedule in the Order dated 24 July 2019 remains the same.

(T.S. Balasubramanian)
Member (Finance)