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Tariff Authority for Major Ports

G No. 183

New Delhi, 29 August 2012

NOTIFICATION

In exercise of the powers conferred by Sections 48 and 49 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 for fixation of Handling Charges for Coking Coal and Steam Coal at OB1 to facilitate uninterrupted operations during construction phase of General Cargo Berth (GCB) at Outer Harbour of Visakhapatnam Port Trust as a temporary arrangement as in the Order appended hereto.

(T. S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/47/2011-VPT

Visakhapatnam Port Trust

Applicant

ORDER

(Passed on this 8th day of August 2012)

This case relates to the proposal dated 19 March 2011 received from the Visakhapatnam Port Trust (VPT) for fixation of handling charges for Coking Coal and Steam Coal at OB1 to facilitate uninterrupted operations during construction phase of General Cargo Berth (GCB) at Outer Harbour of Visakhapatnam Port Trust as a temporary arrangement.

2. The VPT has made the following main points in the proposal:
- (i). The Concession Agreement for mechanisation of coal handling facilities at GCB of outer harbour for handling 200,000 lakh DWT vessels was signed on 10 June 2010.
 - (ii).
 - (a). The length of the GCB is 356 m. and as per the construction plan, the strengthening will be taken up in three phases.
 - (b). In the first phase, 100 m. from the south end of the GCB has been taken up for construction works and the Panamax vessels are being berthed in the remaining 256 m. available space at the north end.
 - (c). In the second phase, another 100 m. from the north end of GCB will be given for construction and Panamax vessels are to be berthed leaving that space.
 - (d). During the third phase of construction, balance central portion of 156 m. will be taken up and hence, berthing of vessels is not possible.
 - (iii). As such, alternative arrangements have been worked out and a proposal was approved by the Board of Trustees of VPT for erecting a Conveyor system at Ore Berth-1 (OB-1) at the cost of concessionaire and to approach TAMP for Notification of handling charges at OB-1 for handling coking coal and steam coal.
 - (iv).
 - (a). The cost of handling steam coal, coking coal at OB-1 as an alternative arrangement due to non operation of GCB during construction period has been worked out considering capital cost of ₹1124 lakhs (civil and mechanical equipment at ₹80.70 lakhs and ₹1043.45 lakhs respectively).
 - (b). Volume of cargo proposed to be handled at berth is considered as 15 lakh tonnes per annum being the spare capacity available at OB-1.
 - (c). The repair and maintenance on mechanical equipment is also considered as the operation and maintenance is to be carried out by VPT. However, the return on capital cost of mechanical equipment is not considered as the investment is made by the concessionaire of GCB.
 - (d). The cost of power, the depreciation costs, the capital cost of the civil construction and other costs are to be borne by the VPT. The items of operating costs are worked out based on norms prescribed in the upfront tariff guidelines.

- (d). Accordingly, the handling charges is worked out to be ₹19.20 per tonne. The port has furnished a calculation sheet, the details of which are summarized below:

		(₹ in lakhs)
A.	Estimation of capital cost (Civil - 80.70 & Mech. - 1043.45)	- 1124.15
B.	Estimation of operating costs:	
	Power (1.4 unit / ton x 15 lakh tons x ₹ 6.26/unit)	131.46
	Repairs & Maintenance (Civil @ 1% of capital cost & Mech. @ 7% of capital cost)	73.85
	Insurance @ 1% of capital cost	11.24
	Depreciation (Civil @ 3.34% of capital cost & Mech. - NIL as the assets are provided by concessionaire)	2.70
	Other expenses @ 5% of capital cost	56.21
	Total	275.45 =====
C.	Estimation of Revenue Requirement	
	Operating cost	275.45
	ROCE @ 16% of civil cost	12.91
	Total	288.36 =====
D.	Total tonnage based on spare capacity of the berth	15 lakhs
E.	Handling charges per tonne Say	19.22 ₹ 19.20

- (v). The above said rate is exclusive of Floating Crane charges, if any deployed from any private service provider and hence, the users have to continue the existing practice of engaging Floating Cranes of any other private service provider, where, ship gear is not available.
- (vi). In this back drop, the VPT has requested this Authority to approve and notify the handling charges rate of ₹19.20 per metric tonne.

3.1. Since some gaps were observed in the proposal filed by the VPT, the VPT was requested to clarify the same vide our letter dated 13 April 2011. The VPT vide its letter no.ITRA/SBS/FTAMP/OB1 dated 9/10 May 2011 has furnished its reply to our queries. The queries raised by us and the reply of VPT are summarized in the tabulated form as below:

Sr. No.	Queries raised by us	Reply from VPT
(i).	Whether the tariff proposed for handling cargo at ore berth as a temporary arrangement will be collected by the port or by the successful Concessionaire of the GCB berth.	The tariff proposed for handling cargo at Ore Berth-I as a temporary arrangement will be collected by the Port only.

(ii).	Whether the proposal of the VPT falls under the tariff guidelines of 2005 or the tariff guidelines of 2008.	The proposal of VPT falls under Tariff guidelines of 2005. However, while calculating handling charges, VPT has not considered the Mechanical equipment cost of ₹10.43 crores for depreciation and return on capital employed, as the cost of mechanical equipment agreed to be borne by BOT operator. These costs have not been considered in the cost sheets for Iron Ore handling activity submitted for General Revision of SOR, since the proposal is contemplated after the tariff proposal has been submitted to TAMP.
(iii).	While approving the upfront tariff for mechanical coal handling facility at General Cargo Berth vide Order No.TAMP/58/2008-VPT dated 27 November 2009, this Authority has fixed upfront tariff to be levied by the Concessionaire based on the capital cost estimated by the port for the investment envisaged to be done by the Concessionaire at GCB berth. At that stage, there was no mention about phase wise investment by the successful Concessionaire at GCB or that the concessionaire will have to invest at the ore berth as a temporary arrangement till the construction of GCB is over.	As per 7.1 (c) (iii) of Concession Agreement, cargo handling operations during the construction period shall be continued by the Concessioneing Authority. Hence, there is no mention about phase wise investment by the successful Concessionaire at GCB or that the Concessionaire will have to invest at the ore berth as a temporary arrangement till the construction of GCB is over. The subject arrangement is proposed only to retain the cargo and also to avoid congestion at existing berths. Otherwise, there is every chance that the cargo may be diverted to nearby ports, which may be difficult to get it reverted to VPT, thereby affecting the projected traffic after mechanisation of berth, for which already tariff fixed considering the projections.
(iv).	Since nothing is mentioned about a separate bidding for providing shiploaders at OB1, it is presumed the concessionaire of GCB will have to provide such facility: (a). Whether the point about investment to be done by the Concessionaire at ore berth as a temporary arrangement was envisaged originally by the port while filing the proposal to TAMP for fixation of upfront tariff for GCB berth and whether all the bidders for GCB berth were made known about this position. (b). The tariff has to be fixed upfront before the bidding process is over. But in the instant case the bidding is already over. (c). Whether the Concession Agreement signed by the VPT with the Concessionaire provides for a provision about investment to be done by the Concessionaire at another berth i.e. ore berth prior to commissioning its operations at GCB.	As per 7.1 (c) (iii) of Concession Agreement, cargo handling operations during construction period shall be continued by the Concessioneing Authority only and the Concessionaire of GCB will not have to provide such facility. Since it is not a part of GCB mechanisation, it was not included in the proposal to TAMP for fixation of upfront tariff for GCB Berth. Hence, bidders were also not informed. In mutual interest for retaining the cargo after completing the bidding for GCB project, the Concessionaire has come forward to invest for mechanical component of the proposed OB1 Conveyor. Hence, no bidding process was done for the same. Concession Agreement signed by VPT with the Concessionaire does not provide a provision about investment to be done by the Concessionaire at another berth i.e., Ore Berth, prior to commissioning its operations at GCB.

(v).	Please clarify whether the port has sought approval of the Ministry of Shipping for the proposed arrangement. If so, a copy of the MOS letter granting approval on the matter may be furnished	Since the investment is ₹11.43 Crores (out of which ₹10.40 Crores to be met by Concessionaire and the actual expenditure on the civil part worked out to ₹99,90,714/- which is to be borne by the VPT) and the arrangement is a temporary arrangement for operations during construction of GCB mechanisation, approval of the VPT Board was only obtained.
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3.2. The VPT vide its letter No.FA/Cost/TAMP/ALT-FAC-GCB dated 17 September 2011 has stated that the handling of coal at OB-1 has already commenced and adhoc rate of ₹19.20 circulated to trade on 28 July 2011 are being collected provisionally.

4. Based on the clarification furnished by the VPT, it is understood that the said proposal is filed as a temporary arrangement to handle cargo at OB1 during the phase wise strengthening of GCB (already awarded to BOT operator) so as to retain the cargo of the port and, the Concession Agreement permits cargo handling operations by the Port Trust during construction period.

5.1. In accordance with the consultation process prescribed, the proposal dated 19 March 2011 received from the VPT was circulated to the concerned users/ user associations for seeking their comments. The comments received from the users/ user associations were forwarded to the VPT as feedback information. The VPT vide its letters dated 24 November 2011, 21 December 2011 and 9 February 2012 has furnished its response.

5.2. The VSPL vide its letter dated 16 April 2012 has furnished additional comments on the proposal of VPT. The VSPL letter has been forwarded to VPT vide our letter dated 16 April 2012. The VPT has not responded to the comments of VSPL till the finalization of the case.

6. Based on a preliminary scrutiny of the proposal, the VPT was requested to furnish additional information/clarifications vide our letter dated 6 March 2012. The VPT vide its letter dated 16 April 2012 has furnished its reply to the queries. Subsequently, based on the decisions taken at the joint hearing, the VPT under cover of its letter dated 19 May 2012 has furnished its revised replies to the queries raised by us. Since the VPT has furnished its revised replies, the replies furnished by VPT earlier vide its letter dated 16 April 2012 have not been considered. The queries raised by us and the revised replies furnished by VPT vide its letter dated 19 May 2012 thereon are tabulated below:

Sl. No.	Queries raised by us	Reply furnished by VPT
(i).	The proposal of VPT to collect the proposed tariff for handling cargo at Ore Berth-1 is not clear, when the major expenditure relating to the equipment cost is being borne by the concessionaire. In this context, it may be relevant to mention here that Vizag General Cargo Berth Private Limited (VGCBPL) in its comments has stated that it has already incurred the capital expenditure of ₹993.65 lakhs towards conveyor system and has sought clarification from the VPT regarding the recovery mechanism of the capital expenditure. Though the comments of VGCBPL have been forwarded to VPT as feedback information vide our letter of even number dated 15 November 2011, the VPT has not furnished any specific comments on the points made by VGCBPL. VPT to clarify the position.	M/s.VGCBPL has come forward to invest the cost towards Mechanical equipment vide their letter dated 26 October 2010 (copy furnished), wherein it was confirmed that they would take up the supply and commissioning of this additional conveyor facility for the following reasons: 1. VPT will provide the berth front for construction of 100 m. of the berth immediately and upon commissioning of the additional facility, VGCB will be facilitated to complete the balance berth of 256 m. without any hitch. 2. VPT has informed vide letter dated 24/28 September 2010 to confirm by M/s.VGCB that no revenue share will be claimed, for which the firm has responded vide letter dated 26 October 2010 which holds good. (The VPT has not furnished copy of its letter dated 24/28 September 2010 and VGCB has not mentioned in its letter dated 26 October 2010 that it will not claim revenue share)

(ii).	The VPT has confirmed that the mechanical capital cost of ₹10.43 crores being borne by the concessionaire towards conveyor system has not been considered in the proposal relating to fixation of upfront tariff for handling coking coal and steam coal in the GCB. In this context, it may be clarified that how the said conveyor system would be utilized once the GCB becomes fully operational, wherein the capital cost relating to another conveyor gallery and transfer towers have already been taken into account for fixation of upfront tariff for GCB vide Order dated 27 November 2009.	M/s.VGCBPL vide their letter dated 26 October 2010 confirmed that they would take up the supply and commissioning of the additional conveyor although it is beyond their scope of work envisaged in the Concession Agreement. Subsequently it has been approved by VPT Board in the Regular meeting no.03 of 2010-11 of the Board of Trustees held on 29 October 2010 vide resolution no.112 of Agenda Item No.S-22 (copy furnished). In mutual interests to retain the cargo during the construction, it was decided by both parties that the status of the facility will be decided after commissioning of GCB duly taking into account all the requirements in a transparent manner. (copy of VPT's letter dated 13 October 2010 furnished)																																																												
(iii).	Though the VPT has stated that its proposal falls under the tariff guidelines of 2005, it has, however, adopted the norms prescribed in the Upfront tariff guidelines of February 2008 to arrive at the proposed cargo handling rate. The VPT is requested to arrive at a rate in line with the stipulations contained in the tariff guidelines of March 2005.	The rate for the said facility is proposed @ ₹16.00 per tonne, which is a consolidated rate as mutually agreed by Trade and Port. (Minutes of the Meeting dated 7 May 2012 and consent letter dated 9 May 2012 given by Stevedore's association furnished.) (The port has not furnished the basis / costing for the rate of ₹ 16.00 per tonne. However, the VPT earlier vide its letter dated 16 April 2012 has furnished a cost sheet and worked out a rate of ₹17.70 per tonne. The details furnished in the cost sheet furnished by VPT are summarized below: <table border="1" data-bbox="792 989 1438 1961"> <thead> <tr> <th data-bbox="800 1020 865 1073">Sl. No.</th><th data-bbox="873 1020 1295 1073">Description</th><th data-bbox="1304 989 1438 1073">(₹ in lakhs) Amount</th></tr> </thead> <tbody> <tr> <td data-bbox="800 1083 865 1104">A.</td><td data-bbox="873 1083 1295 1104">Capital cost</td><td data-bbox="1304 1083 1438 1104"></td></tr> <tr> <td data-bbox="800 1115 865 1167">(i).</td><td data-bbox="873 1115 1295 1167">Mechanical equipment cost (borne by BOT operator)</td><td data-bbox="1304 1115 1438 1167">1043.45</td></tr> <tr> <td data-bbox="800 1178 865 1199">(ii).</td><td data-bbox="873 1178 1295 1199">Civil cost incurred by VPT</td><td data-bbox="1304 1178 1438 1199">77.86</td></tr> <tr> <td data-bbox="800 1209 865 1230"></td><td data-bbox="873 1209 1295 1230">Total Capital cost</td><td data-bbox="1304 1209 1438 1230">1121.31</td></tr> <tr> <td data-bbox="800 1251 865 1272">B.</td><td data-bbox="873 1251 1295 1272">Fixed cost</td><td data-bbox="1304 1251 1438 1272"></td></tr> <tr> <td data-bbox="800 1283 865 1346">(i).</td><td data-bbox="873 1283 1295 1346">Return on investment (considered only VPT capital cost) @ 16%</td><td data-bbox="1304 1283 1438 1346">12.46</td></tr> <tr> <td data-bbox="800 1356 865 1409">(ii).</td><td data-bbox="873 1356 1295 1409">Depreciation (only on VPT capital cost)</td><td data-bbox="1304 1356 1438 1409">1.95</td></tr> <tr> <td data-bbox="800 1419 865 1440"></td><td data-bbox="873 1419 1295 1440">Total Fixed cost (B)</td><td data-bbox="1304 1419 1438 1440">14.40</td></tr> <tr> <td data-bbox="800 1461 865 1482">C.</td><td data-bbox="873 1461 1295 1482">Variable cost</td><td data-bbox="1304 1461 1438 1482"></td></tr> <tr> <td data-bbox="800 1493 865 1556">(i).</td><td data-bbox="873 1493 1295 1556">Repairs & Renewals @ 3.33% of capital cost</td><td data-bbox="1304 1493 1438 1556">37.34</td></tr> <tr> <td data-bbox="800 1566 865 1587">(ii).</td><td data-bbox="873 1566 1295 1587">Staff cost</td><td data-bbox="1304 1566 1438 1587">76.67</td></tr> <tr> <td data-bbox="800 1598 865 1650">(iii).</td><td data-bbox="873 1598 1295 1650">Power (0.54 units * 6.26 * 25 lakh tonnes)</td><td data-bbox="1304 1598 1438 1650">84.51</td></tr> <tr> <td data-bbox="800 1661 865 1734">(iv).</td><td data-bbox="873 1661 1295 1734">Management & General Administration costs @ 25.20% on (ii) above</td><td data-bbox="1304 1661 1438 1734">19.32</td></tr> <tr> <td data-bbox="800 1745 865 1818">(v).</td><td data-bbox="873 1745 1295 1818">Oils & lubricants (Gear boxes * 300lts * ₹120) & Grease (480lts * 110/- per litre)</td><td data-bbox="1304 1745 1438 1818">0.89</td></tr> <tr> <td data-bbox="800 1829 865 1850">(vi).</td><td data-bbox="873 1829 1295 1850">Lighting & illumination</td><td data-bbox="1304 1829 1438 1850">0.00</td></tr> <tr> <td data-bbox="800 1860 865 1881">(vii).</td><td data-bbox="873 1860 1295 1881">Docks Maintenance (87.54/25)</td><td data-bbox="1304 1860 1438 1881">3.50</td></tr> <tr> <td data-bbox="800 1892 865 1913">(viii).</td><td data-bbox="873 1892 1295 1913">Other Expenses</td><td data-bbox="1304 1892 1438 1913"></td></tr> <tr> <td data-bbox="800 1923 865 1944"></td><td data-bbox="873 1923 1295 1944">- IRS charges</td><td data-bbox="1304 1923 1438 1944">5.00</td></tr> <tr> <td data-bbox="800 1955 865 1976"></td><td data-bbox="873 1955 1295 1976">- Annual Maintenance Contract</td><td data-bbox="1304 1955 1438 1976">35.00</td></tr> </tbody> </table>	Sl. 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(iv).	The VPT is also requested to furnish the handling capacity of the Ore Berth-I supported by workings.	1000 TPH as certified by M/s.IRS (copy furnished).																											
(v).	VPT to furnish documentary evidence to support the capital cost of the mechanical equipment at ₹1043.45 lakhs and Civil cost at ₹80.70 lakhs, considered by the VPT in its calculations.	Estimate prepared basing on the TEFR on Mechanisation of Coal Handling facility and the upgradation of the GCB in the outer Harbour of the VPT to cater to 200000 DWT vessels on DBFOT basis by M/s.IPA, New Delhi in December 2009, which was approved by PPPAC in 2010. (The VPT has furnished copies of departmental estimates in support of civil and mechanical equipment cost).																											
(vi).	VPT to furnish the basis for considering the traffic of 15 lakhs tonnes estimated to be handled at Ore Berth-I. Also, indicate the utilisation level of the facilities for handling the projected cargo traffic.	The actual cargo volumes which were handled at GCB were more or less 4.5 million tonnes per year. The ongoing alternative system at OB-I is not a full-fledged replacement for GCB, but an alternative arrangement to avoid inconvenience to the port users. Along with OB-I which can handle one vessel at a time, i.e. either a Panamax vessel or a Handymax vessel, the other handling modes such as handling by barges, handling by means of Transloaders are not ruled out and the Trade have been opting these alternative methods which suit their demand, time, convenience and costing. Therefore, the regular volume which was handled earlier at GCB is construed to have fully retained by exposing all types of alternative arrangements as mentioned above. Hence, 1.5 million tonnes toward OB-I handling is considered reasonable and was taken as the basis. However, this 1.5 million tonnes cannot be considered as low and unrealistic. The utilisation level is of the facilities is upto the mark and are appropriate.																											
(vii).	Operating costs:																												
	(a). <u>Power cost:</u> Furnish documentary evidence to support the: (i). per unit consumption of power. (ii). per unit cost of power.	(i). Approximately 0.22 Kwh per tonne (The VPT has furnished a working sheet in this regard). (ii). ₹8.73 per unit (The VPT has furnished a working sheet).																											

	(b). Though the VPT has stated that its proposal falls under the tariff guidelines of 2005, it has, however, adopted the norms prescribed in the Upfront guidelines of February 2008 to estimate the Repairs & Maintenance cost for civil assets and equipment, Insurance cost and Other Expenses. The VPT to estimate the above mentioned expenditure in line with the stipulation contained in the tariff guidelines of 2005. The VPT has reported that it has commenced the handling of coal at OB-I from 28 July 2011. In this backdrop, VPT to clarify/ furnish the following: (a). The estimated Repairs & Maintenance cost for civil assets and equipment may be justified with reference to the actuals incurred by VPT during the actual operation of the berth from August 2011 to March 2012. (b). The estimated Insurance cost may be validated with a contract copy. (c). List down the items of expenditure considered under the head of 'Other expenses'. (d). The estimated 'Other expenses' may be justified with reference to the actuals incurred by VPT in this regard during the actual operation of the berth from August 2011 to March 2012. (e). The actual traffic handled at OB-I from August 2011 to March 2012.	(a). No comments furnished. (b). Insurance of the additional facility is in the scope of M/s.VGCB. (c). Other expenses include the following: 1. IRS inspection charges 2. Annual Maintenance contract 3. Spillage cleaning contract 4. Poclainer engagement charges (d). 1. IRS inspection charges – ₹4,96,350/- 2. Annual Maintenance contract – ₹35,00,000/- 3. Spillage cleaning contract – ₹9,72,000/- 4. Poclainer engagement charges – ₹5.05 per ton (e). The actual traffic handled at OB-I from the date of its commencement i.e., 11.8.2011 till 11.3.2012 is 2.20 Million Tonnes.
(viii).	The VPT in its calculations has not considered the depreciation and Return on the cost of mechanical equipment proposed to be incurred by the concessionaire. Clarify how the wear and tear of the equipment will be accounted for and the investor will be compensated.	It is mutually accepted by the Concessionaire and the Authority – the status of the facility will be decided after commissioning of GCB duly taking into account all the requirements in a transparent manner. This arrangement is purely a temporary one to continue operations during construction phase, and the facility carries a warranty of 12 months from commissioning or 18 months from last supply of the major equipment whichever is earlier issued by the Concessionaire.
(ix).	Furnish details as to how the VPT proposes to incorporate the proposed rate in the existing Scale of rates of VPT. The VPT to propose suitable conditionality governing the proposed levy, if necessary.	The rate of ₹16/- may please be incorporated in the Scale of Rates at Section-4 Cargo related charges under sub-head 4.8 as Rate for handling facility provided at OB-1 for coking coal and steam coal per tonne ₹16/-.
(x).	VPT has reported that it has commenced the handling of coal at OB-I and that it has started to collect the proposed rate of ₹19.20 per MT provisionally from 28 July 2011. In this	The alternative arrangement provided at OB-I for handling bulk cargoes (imports) like coal, steam coal is an innovative facility which is the first of its kind in VPT. Hence, there is no similar service facility available in order to derive and provide an adhoc rate basing on notified

	regard, it is relevant to mention here that whenever a specific tariff for a service/ cargo is not available in the notified Scale of Rates, Clause 2.17.1 to 2.17.4 of the tariff guidelines of 2005 allows a port or private terminal to submit a suitable proposal. With the submission of the proposal, the port can levy the proposed charges on an adhoc basis till the rates are finally notified, provided the adhoc rate is derived based on the existing notified tariff for comparable service/ cargo and it is mutually agreed upon by the Port/ terminal and the concerned users. Though the VPT has furnished the working to arrive at the proposed rate, it has not produced any document to show that the proposed rate has the consent of the users. The VPT is, therefore, requested to furnish evidence showing that prior consent of the users was obtained to levy the proposed rate on adhoc basis.	tariff for comparable service/ cargo. As the OB-I operation for handling coals is a new operation, VPT had worked out the adhoc rate on actual costing and the same was circulated to all the concerned and a suitable proposal as per clause 2.17.1 to 2.17.4 of the TAMP guidelines 2005, was sent to TAMP for its approval.
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7.1. A joint hearing in this case was held on 17 April 2012 at the VPT premises. The VPT made a power point presentation of its proposal. At the joint hearing, the VPT and the concerned users/ organisation bodies have made their submissions.

7.2. As decided at the joint hearing, the VPT was requested to furnish some information/ clarification. The decisions taken at the joint hearing were communicated to VPT vide our letter dated 20 April 2012. The VPT vide its letter dated 19 May 2012 has furnished its response. A summary of the decisions taken during the joint hearing and response of VPT thereon are tabulated below:

Sl. No.	Points made by us	Response of VPT
(i).	Submit the revised proposal by 20 April 2012 bearing in mind the queries raised by us vide our letter of even number dated 6 March 2012 on the original proposal and furnish its reply to those queries to the extent they are relevant to the revised proposal to be filed. The VPT is requested to forward a copy of its revised proposal to all concerned users for their comments within two weeks thereafter.	(a). Meetings were held with the Trade on 27.4.2012 and 7.5.2012 and consensus has been arrived to have the consolidated rate of ₹16/- per MT as handling charge for usage of alternative facility provided at OB-I. (The VPT has furnished a copy each of the minutes of the meetings held on 27.4.2012 and 7.5.2012.) (b). The Visakhapatnam Stevedores Association (VSA) vide letter dt.9.5.2012, had communicated their consent for ₹16/- per MT towards handling charges. (The port has furnished a copy of the letter dated 9 May 2012 from VSA). (c). In view of the above, the VPT has requested to approve the rate of ₹16/- per MT and also requested to incorporate the said rate in the Scale of Rates at Section-4 as detailed below: <u>Section-4</u> Cargo related charges 4.8 Hire charges Rate for handling facility provided at OB-I Coking Coal/Steam Coal rate per tonne is ₹16/-

(ii).	Furnish the productivity figures pertaining to the operations at OB 1 for the past six months or so and the earlier operations at GCB.	The productivity figures pertaining to the operations at OB-I for the past eight months and the earlier operations at GCB are furnished. The details furnished by VPT are tabulated below: <table><tr><th rowspan="2"></th><th colspan="2">GCB in 2010-11</th><th colspan="2">OB-1 in 2011-12</th></tr><tr><th>Quantity</th><th>OSBD</th><th>Quantity</th><th>OSBD</th></tr><tr><td>Coking coal</td><td>2,183,220</td><td>13,560</td><td>1,756,418</td><td>12,030</td></tr><tr><td>Steam coal</td><td>4,77,384</td><td>11,102</td><td>3,67,786</td><td>8,553</td></tr><tr><td>Anthracite coal</td><td>0</td><td>0</td><td>7,800</td><td>5,426</td></tr><tr><td>Fertilisers</td><td>37,882</td><td>7,576</td><td>7,177</td><td>6,562</td></tr><tr><td>Rock phosphate</td><td>19,702</td><td>5,240</td><td>0</td><td>0</td></tr><tr><td>Manganese ore</td><td>30,291</td><td>5,458</td><td>0</td><td>0</td></tr><tr><td>Iron ore (conv.)</td><td>1,28,802</td><td>7,946</td><td>0</td><td>0</td></tr><tr><td>Pellets (conv.)</td><td>36,942</td><td>11,840</td><td>0</td><td>0</td></tr><tr><td>Overall</td><td>2,914,223</td><td>12,272</td><td>2,139,181</td><td>11,178</td></tr></table>		GCB in 2010-11		OB-1 in 2011-12		Quantity	OSBD	Quantity	OSBD	Coking coal	2,183,220	13,560	1,756,418	12,030	Steam coal	4,77,384	11,102	3,67,786	8,553	Anthracite coal	0	0	7,800	5,426	Fertilisers	37,882	7,576	7,177	6,562	Rock phosphate	19,702	5,240	0	0	Manganese ore	30,291	5,458	0	0	Iron ore (conv.)	1,28,802	7,946	0	0	Pellets (conv.)	36,942	11,840	0	0	Overall	2,914,223	12,272	2,139,181	11,178
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(iii).	Forward a note confirming whether necessary approvals are in place for the investment made by the PPP operator of GCB at OB 1 and the action taken by the Port Trust and its proposal are in line with the extant PPP and tariff guidelines issued by the Government.	M/s. VGCBPL vide letter dated 26 October 2010 (copy furnished) confirmed that they would take up the supply and commissioning of the additional conveyor although it is beyond their scope of work envisaged in the Concession Agreement. Subsequently it has been approved by VPT Board in the regular meeting No: 3 of 2010-11 of the Board of Trustees held on 29 October 2010 vide Resolution No: 112 of Agenda item No: S-2 (Copy furnished). In mutual interest to retain the cargo during construction, it was decided by both the parties that the status of the facility will be decided after commissioning of GCB duly taking into account all the requirements in a transparent manner (Copy of VPT's letter dated 13 October 2010 furnished).																																																						

8. With reference to the meetings held by VPT on 27 April 2012 and 7 May 2012 with the port users, the Steel Authority of India Limited (SAIL) vide its letter dated 23 May 2012 has furnished its submissions to VPT with a copy endorsed to us. The Visakhapatnam Stevedores' Association (VSA) vide its letter dated 29 May 2012 has forwarded a copy of its letter dated 9 May 2012 addressed to VPT forwarding the minutes of the meeting dated 27 April 2012 and 7 May 2012 about fixation of rates for the alternative facility provided at OB-1.

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

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

- (i). This Authority vide its Order no.TAMP/58/2008-VPT dated 27 November 2009 has passed an Order disposing the proposal received from the VPT to fix upfront tariff for the mechanised handling of coking coal and steam coal at its General Cargo Berth (GCB) of VPT. In this context, the VPT has reported to have entered into Concession Agreement with the Concessionaire in June 2010. To facilitate uninterrupted operation of cargo and to retain the cargo, that may otherwise get diverted to nearby ports during the construction phase of GCB, the VPT and the Concessionaire have mutually agreed to construct a Conveyor system at Ore Berth-1 (OB-1) at the cost of the Concessionaire to handle cargo at OB-1 during the phase wise strengthening of GCB. The proposal of the VPT is for prescription of rate for handling coking coal and steam coal by the VPT on a temporary basis, till the time the construction of GCB is complete. As per VPT, the GCB is likely to be recommissioned by July / August 2012.

- (ii). The temporary arrangement envisaged between the VPT and the Concessionaire is that the Concessionaire would bear the cost of the conveyor at OB-1. The VPT would incur the cost of the civil works at OB-1. Further, the VPT would also be responsible for the operation and maintenance of OB-1. Accordingly, the rate proposed by the VPT for handling coking coal and steam coal at OB-1 is to recover the cost of civil works, cost of power, repair and maintenance of equipment, depreciation on civil works and other costs, which are to be borne by the VPT.

Since the cost of the equipment is borne by the Concessionaire, the handling rate proposed by the port does not include the depreciation and the return component on the cost of the conveyor system.

The installation of conveyor system at the OB-1 at the cost of the Concessionaire, recovery mechanism of the cost incurred by the Concessionaire thereon and the utilization of the conveyor system so installed at OB-1 after re-commissioning of the GCB are the arrangements envisaged between the VPT and the Concessionaire. This Authority does not like to go into these arrangements. The matter before this Authority is confined to prescribe a rate to be temporarily levied at the OB-1, based on the cost details, as cargo handling with the proposed facility is being reportedly carried out at OB-1.

- (iii). Many of the users like Steel Authority of India (SAIL), Bhushan Power and Steel (BPS), Vizag Seaport Private Limited (VSPL) have opposed to such a levy by the VPT. The users are of the view that the arrangement is between the port and the operator. The costs incurred by the port to render the service at the facility should be absorbed by the port and the operator and should not be passed on to the users. In this regard, it has to be recognized that given that the VPT has made alternative arrangement for handling cargo by incurring certain costs, the VPT cannot be expected to create facilities and render service free of cost. The VPT has to recover the costs incurred by it in creating and operating the additional facility. The question of absorbing the cost by the VPT does not arise for the reason that the rates for various services rendered at VPT prescribed in the existing Scale of Rates of VPT have been arrived based on the overall investment in the facilities and cost of operations of VPT.
- (iv). The VPT had initially proposed a handling rate of ₹19.20 per MT based on the calculations furnished by it following the upfront tariff guidelines of 2008. Since the 2008 guidelines for fixation of upfront tariff are not applicable in case of VPT, the VPT under cover of its letter dated 16 April 2012 has furnished the cost statement reportedly based on the 2005 tariff guidelines and proposed a rate of ₹17.20 per MT. Thereafter, based on the consultation that the VPT had with the users, the VPT under cover of its letter dated 19 May 2012 has proposed a rate of ₹16/- per MT. The rate of ₹16/- as proposed by the port is not supported by cost details. Therefore, the cost statement furnished by the port under cover of its letter dated 16 April 2012 is examined to ascertain the reasonableness of the rate proposed by the Port.
- (v). The methodology adopted by the VPT to determine the per tonne handling rate is summarised below:
- (a). Operating cost:
The cost towards power, staff, repairs, administration, oil & lubricants, lighting, illumination and other expenses have been considered under operating cost. The total operating cost have been worked out at ₹411.20 lakhs.
- (b). For the cost of civil works incurred by the port at ₹77.86 lakhs, the port has claimed depreciation @ 2.50% and Return @ 16%. The port has not claimed depreciation and return on the cost of Conveyor system, since it is incurred by the Concessionaire.

- (c). Considering the total cost and Return at ₹425.60 lakhs and by considering total tonnage at 25 lakh tonnes, the VPT has arrived at a per tonne rate of ₹17.02 (before property tax).
- (d). Considering property tax at 4% on the cost, the per tonne rate arrived by VPT is ₹17.71, say ₹17.70 per tonne.
- (vi). With regard to the cost of civil works, as seen from the Board Resolution furnished by the port, the VPT Board is seen to have approved the estimated civil work cost at ₹65.76 lakhs. However, the cost statement furnished by the port reflects the actual civil costs incurred by the port at ₹77.86 lakhs. Since the cost statement reflects the actual costs, the same is considered in the analysis.
- (vii). The operating cost is analysed below:

(a). Repairs and Maintenance cost:

The VPT has considered Repairs and maintenance cost @ 3.33% of the civil cost and the cost of the conveyor. With regard to the estimated repairs and maintenance cost on the conveyor, the basis for considering cost @ 3.33% is not explained. The conveyor system carries a warranty. Also, the Other Expenses listed by the VPT interalia, includes a sum of ₹35 lakhs towards Annual Maintenance Contract. Further, inspite of a specific query to justify the estimated repairs and maintenance cost with reference to the actuals incurred by the VPT during the actual operation of the facility from August 2011 to March 2012, the port has not responded. In view of this position, there does not appear to be any reason to consider repairs and maintenance cost on the conveyor. Therefore, the estimate of the port in this regard is not taken into account.

With regard to the estimated repair and maintenance cost of civil works, the basis for considering cost @ 3.33% is not explained. However, in line with the approach adopted while estimating repairs and maintenance on the proposed additions to the civil works as recorded at Para 20 (x) of the Order no.TAMP/13/2009-VPT dated 18 February 2011 disposing the general revision Order of VPT, repairs and maintenance at 1% of the civil cost is considered in the analysis.

(b). Staff cost, Management & Administration Overheads and Dock Maintenance:

It is relevant to mention here that the tariff fixed vide the tariff Order of February 2011 has considered, among other costs, the cost of salary, overheads and maintenance. In other words, cost towards salary of staff, management and general overheads and maintenance have already been taken into account in the cost statement forming part of the tariff Order of February 2011. The VPT has not produced any workings to show that the said costs now considered by it in the cost statement is incremental in nature and is arising only on account of operation at OB-1. It is noteworthy that the operation being carried out at OB-1 is only temporary in nature and the proposed charge will only be an additional levy apart from recovery of wharfage as prescribed in the existing Scale of Rates approved in February 2011. In view of the above position, the costs estimated by VPT relating to Staff cost, Management & Administration Overheads and Dock Maintenance is not considered in this analysis.

(c). Power cost:

In the cost statement furnished earlier vide letter dated 16 April 2012, the VPT had considered power costs based on the power consumption of 0.54 units per tonne at the rate of ₹6.26 per unit. However, while

furnishing its revised replies to our query, the VPT has revised power costs based on the power consumption of 0.22 units per tonne at the rate of ₹8.73 per unit. The power consumption and the unit rate are supported by workings and hence relied upon.

(d). Oil & Lubricants:

The cost of oil and lubricants estimated by VPT to the tune of ₹0.89 lakhs towards gear boxes and grease is relied upon in the analysis.

(e). Other Expenses:

The VPT has stated that the Other Expenses comprise of IRS charges, Annual Maintenance Contract, Spillage cleaning contract and Poclainer charges. The VPT has not furnished any documentary evidence in support of the cost items listed above. Relying upon the statement of the port, these expenditure are taken into consideration.

- (viii). The reason for considering the rate of depreciation @ 2.50% on civil works is not explained. The tariff guidelines of 2005 require computation of depreciation on straight line method following the life norms adopted as per the Companies Act in case of major ports. Accordingly, the rate of depreciation is to be considered @ 3.34% on civil works. However, as observed in para 20 (xii) of the Order dated 18 February 2011, the depreciation on assets based on straight-line method following the life norms prescribed by the Ministry of Shipping was considered, advising the VPT to compute depreciation based on the rates prescribed in the Companies Act during the next review of its tariff. Following the approach adopted in the general revision case, the rate of depreciation is considered @ 2.50% in this case also.
- (ix). Return @ 16% on civil capital costs works out to ₹12.46 lakhs.
- (x). As stated earlier, the VPT has considered the estimated tonnage to be handled at OB-1 at 25 lakh tonnes. Though majority of the users have held that the tonnage considered by the VPT is on the lower side, the users have not justified consideration of any other higher volume. The VPT has reported that the actual traffic handled at OB-I from the date of its commencement i.e., 11.8.2011 till 11.3.2012 is 22 lakh tonnes. Since the operation at OB-1 is a temporary arrangement, the volume of traffic as estimated by the port is relied upon.
- (xi). As per the Payment of Property Tax Act, VPT is required to pay property tax @ 4% of gross earnings. This position was relied upon while disposing the General revision proposal of VPT in February 2011 by considering property tax @ 4% on gross earnings as part of Finance and miscellaneous expenditure. For the said reason, the property tax component @ 4% is considered in this case also.
- (xii). Based on the position as analysed in the preceding paragraphs, the per tonne rate to be levied for handling steam coal and coking coal at OB-1 on temporary basis works out to ₹10.53. A cost statement in this regard is attached as **Annex**.
- (xiii). Accordingly, the rate of ₹10.53 per tonne for handling steam coal and coking coal at OB-1 is approved and will remain valid till re-commissioning of the GCB. As clarified by the port, the said rate is exclusive of Floating Crane charges, if any, deployed by any private service provider.

As observed by this Authority at para 11 (ii) (c) of the Order no.TAMP/5/2011-VSPL dated 11 October 2011, the tariff relating to floating crane operations at GCB and barge services offered by the VSPL need to be regulated by this Authority. The VPT was, therefore, advised to initiate action with reference to Chapter 7 of the tariff guidelines of 2005 and was given time upto 31 December 2011 to file its proposal in this regard. The VPT has, however, not filed its proposal till date. The VPT is advised to immediately file its proposal in this regard.

- (xiv). Clause 2.17.1 to 2.17.3 of the tariff guidelines of March 2005 stipulate that whenever a specific tariff for services/ cargo is not available in the notified Scale of Rates, the port can submit the proposal and levy the rate on an adhoc basis till the rate is finally notified. Further, Clause 2.17.4 stipulates that the interim rate adopted in an ad hoc manner will be recognised as such unless it is found to be excessive requiring some moderation retrospectively. In case of VPT, though the cost position warrants a rate of ₹10.53 per tonne, the port has been levying the rate of ₹19.20 per tonne on adhoc basis with effect from 28 July 2011. Since the interim rate adopted by the port is found to be excessive as compared to the rate warranted by the cost position, the VPT is advised to readjust the billing, in the light of the rate approved by this Authority and the rate provisionally levied by the VPT with effect from 28 July 2011 till the date of notification of the Order in the Gazette of India.
- (xv). The VPT has reported that the GCB is likely to be re-commissioned by July/ August 2012. In view of this position, the rate approved now will remain valid till 31 August 2012.

11. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves insertion of the following provision after sub-section 4.7.4.2 under Section 4 – Cargo related charges in the existing Scale of Rates of VPT as follows:

“ 4.8 Hire charges:

Rate for handling facility provided at OB-I for handling Coking Coal/ Steam Coal is ₹10.53 per tonne.

Note: This rate will remain valid till 31 August 2012. ”

(T. S. Balasubramanian)
Member (Finance)

ANNEX

**WORKINGS TO ARRIVE AT THE PER TONNE RATE FOR HANDLING COKING COAL & STEAM COAL AT ORE BERTH - 1 OF VISAKHAPATNAM PORT
TRUST ON TEMPORARY BASIS.**

(Rs. in lakhs)

SL. NO.	COST ITEMS	AS FURNISHED BY VPT		AS MODIFIED BY US	
		Workings	Amount	Workings	Amount
A.	Capital cost			Capital cost	
(i).	Mechanical equipment cost (borne by BOT operator)		1043.45	Mechanical cost not considered as VPT has not considered it on the ground that it is borne by the BOT operator.	0.00
(ii).	Civil cost incurred by VPT	As given by VPT	77.86	Actuals as incurred by VPT	77.86
	Total Capital cost		1121.31	Total Capital cost	77.86
B.	Operating Cost				
(i).	Repairs & Renewals	3.33% of total capital cost	37.34	1% of civil cost	0.78
(ii).	Staff cost		76.67		0.00
(iii).	Power	0.54 units per tonne * Rs.6.26 * 25 lakh tonnes	84.51	0.22 units per tonne * Rs.8.73 * 25 lakh tonnes	48.02
(iv).	Management & Administration costs	25.20% on (ii) above	19.32		0.00
(v).	Oils & lubricants	(Gear boxes * 300lts * Rs.120) & Grease (480lts * Rs.110/- per litre)	0.89	As given by VPT	0.89
(vi).	Docks Maintenance	(Rs.87.54 lakhs / 25 berths)	3.50		0.00
(vii).	Other Expenses				
	- IRS charges		5.00	As given by VPT	4.96
	- Annual Maintenance Contract		35.00	As given by VPT	35.00
	- Spillage cleaning contract		9.72	As given by VPT	9.72
	- Poclainer charges	Rs.5.05 per tonne for 25 lakh tonnes + ST	139.25	As given by VPT	139.25
	Total Variable cost (B)		411.20	Total Variable cost (C)	238.61
C.	Depreciation	2.50% of capital cost incurred by VPT	1.95	Depreciation (only on VPT capital cost) @ 2.50%	1.95
D.	Return on investment	16% of capital cost incurred by VPT	12.46	16% of capital cost incurred by VPT	12.46
E.	Total Cost plus Return	B + C + D	425.61	B + C + D	253.02
F.	Total tonnage handled	In lakh tonnes	25	In lakh tonnes (as given by VPT)	25
G.	Cost per tonne before property tax	E / F	17.02	E / F	10.12
H.	Property tax @ 4% on cost per tonne payable to GVMC		0.68	Based on the % given by VPT	0.40
I.	Cost per tonne		17.71	Cost per tonne	10.53

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

F. No.TAMP/47/2011 - VPT - Proposal from the Visakhapatnam Port Trust for fixation of handling charges for Coking Coal and Steam Coal at OB1 to facilitate uninterrupted operations during construction phase of General Cargo Berth (GCB) at Outer Harbour of Visakhapatnam Port Trust as a temporary arrangement.

1.1. A summary of comments received from the users/ user organisations and the comments of Visakhapatnam Port Trust (VPT) thereon are tabulated below:

Sl. No.	Comments of users / user associations	Comments of VPT
1.	Steel Authority of India Ltd.	
(i).	Consequent to decommissioning of GCB at Outer Harbour for modernization, VPT has made temporary/ adhoc arrangement to lighten vessels at OB-1 through Hoppers and Conveyor system. It is well known that this system of discharge of coking/ steam coal is not as efficient as discharging cargo at GCB. A discharge rate of 13000 to 14000 MT per day at most is being achieved at OB-1 as against 20000-22000 tons per day at GCB due to obvious reasons. In other words more vessel lay time is being used by receivers at OB-1 than GCB resulting in more demurrage payment to vessels.	In view of decommissioning of GCB for mechanization, an alternate arrangement had been worked out for erecting a Conveyor system at OB-1 to avoid inconvenience to users at the cost of Concessionaire. Concessionaire had agreed to supply mechanical equipment and civil costs were incurred by VPT and also operation and maintenance is being looked after by VPT. Accordingly, the Conveyor and Hopper system had been designed for handling Coking Coal and Steam Coal. Due to non operation of GCB during the construction period, taking into consideration the repair and maintenance on mechanical equipment, the cost of power, the depreciation on civil cost, the capital cost of the civil construction and other costs, handling charges of ₹19.20 per MT is required to be levied on the users to meet this additional expenditure, since the afore said costs are to be borne by the VPT.
(ii).	The temporary arrangement made by VPT is for their own good so as to retain the cargo at VPT and feed the Inner Harbour berths thereby not losing any revenue to the competitor(s) situated in the nearby vicinity.	The need for VPT to retain the cargo of M/s.SAIL is to be appreciated. Had the alternative arrangement not been there, SAIL and other users would have faced lot of inconvenience and difficulty as their vessels would have not been handled with much ease and they should have been compelled to use the other costlier handling systems or approach other neighboring ports at much higher cost. Creation of alternative facility at OB-I has bridged this gap and continued to serve M/s.SAIL and other users. During the past decade, M/s.SAIL has turned out to be our valuable Customer and VPT had given utmost preference for SAIL vessels. The Berthing Policy had been suitably modified to benefit SAIL by increasing the ratio as 2:1, i.e., after handling two SAIL Vessels, one other Vessel will be handled. Thus, M/s.SAIL

		had been provided with a much more convenient mode of berthing which would drastically reduce their vessel waiting and demurrages. However, M/s.SAIL need to plan their vessel schedules according to the modified berthing policy to avoid bunching of their vessels, which lead to congestion.
(iii).	The proposal for levying an amount of ₹19.20 PMT for operations at OB-1 will not only penalize the receivers for a less efficient system provided by VPT than that of GCB, over and above the demurrage incurred as explained above, but will also encourage users to explore alternate means to discharge their vessels. Hence, the proposal submitted by VPT seems to be port user unfriendly and thus un-reasonable. In view of the above, the proposal submitted by VPT should not be acceded to by TAMP.	It is not correct to say that the alternative facility at OB-1 is a less efficient system provided by VPT than that of GCB for the fact that the discharge rate at this alternative facility mainly depends on the cargo clearance at the discharge point by the Importers / their Handling Agents. The discharge rates have crossed 20,000 MT per day on some instances due to efficient cargo clearance system adopted by the Handling Agents of some of the Importers. On an average 3-4 rakes are being sent to various destinations through Rail System at that point (GCB). The handling agents of M/s. SAIL have to improve the evacuation of cargo at the discharge point. The alternate facility at OB-1 is only a temporary arrangement and by July / August, 2012, GCB is likely to be recommissioned with all mechanical facilities which obviously produce higher output rates, and loading rates.
2.	Vizag General Cargo Berth Private Limited	
	Vizag General Cargo Berth Pvt. Ltd. has expended the capital expenditure of ₹993.65 lakhs on providing the conveyor system (except civil cost) as the concessionaire based on the proposal of the VPT. Same has not been taken into consideration for calculation of the handling charges. A correspondence in this regard has already been done with VPT asking the recovery mechanism of the capital expenditure.	VPT has not furnished its comments.
3.	Bhushan Power & Steel	
(i).	The rate of ₹19.20 per tonne is not justified because the entire capital cost of mechanical equipments is to be borne by the operator which covers around 90% of the total expenses. The VPT is only bearing the cost of civil construction and operating cost like operating, insurance and depreciation, which is meager and to be borne by port itself. The Port is already charging port charges and other miscellaneous charges which should take care of these expenses and it has requested not to levy any additional charges keeping in view that the Port is handling millions of tonnes of material and expenses ratio in comparison to the handling volume is negligible.	In view of decommissioning of GCB for mechanization, an alternate arrangement had been made and handling charges per tonne were worked out as per the TAMP norms. It is clarified that VPT has not considered the capital cost of the Mechanical equipment and return on capital employed while arriving at the handling cost per tonne, as the same was provided by the BOT operator. As VPT is looking after operation and maintenance of the additional facility, only relevant costs as per TAMP norms were considered. On considering relevant costs, handling charges per tonne worked out as ₹19.20. Hence, the contention of M/s.Bhushan

		Power & Steel not to charge any additional charges is not correct, as the facility created is an additional facility. Had the alternative arrangement not been there, the users would have faced lot of inconvenience and difficulty as their vessels would have been compelled to use the other costlier handling systems or approach other neighboring ports at much higher cost. Creation of alternative facility at OB-1 has bridged this gap and continued to serve the users without any hindrance. It is only stop gap arrangement till the commissioning of GCB on PPP mode.
4.	Vizag Seaport Private Limited	
(i).	The capacity of the subject handling facility at OB1 shall be first fixed as per the Tariff guidelines. It is not clear how the capacity of 1.5 Million Tons was arrived at particularly in view of the fact that the system proposed at OB-1 is an alternative to GCB where the current cargo volumes are in excess of 4 lakh tons per month i.e. 4.8 Million Tons per year. Hence, the projected capacity of 1.5 Million Tons is very low and not realistic	The proposal of VPT for fixation of handling charges for Coking Coal and Steam Coal at OB-1 to facilitate uninterrupted operations during construction phase of General Cargo Berth at Outer Harbour as a temporary arrangement falls under the Tariff Guidelines of 2005. The capacity of the subject handling facility at OB-1 is estimated as 2000 MT per hour given the best evacuation infrastructure and keen supervision by the Handling Agents. It is true that the cargo volumes handled at GCB are more or less 4.5 million tonnes per year and the same was not pictured as far as the capacity of the alternate facility i.e., OB-1 is concerned. The present handling system at OB-1 is only an alternative arrangement to avoid inconvenience to the Port users and to ease out the congestion that may figure-on on account of de-commissioning of GCB. Along with this OB-1 which can handle one vessel at a time i.e., either a Panamax vessel or a Handymax vessel, the other handling modes such as handling by Barges, handling by means of Transloader are not ruled out and the Trade have been opting these alternative methods which suit their demand, time, convenience and costing. Thus, the regular volume which was handled earlier at GCB is construed to have fully retained by exposing all types of alternative arrangements as mentioned above. Hence, apportioning 1.5 million tonnes towards OB-1 handling is reasonable, but not low and not unrealistic. If the evacuation is efficient and faster, OB-1 can easily handle 20,000 MT per day.
(ii).	Benchmark levels shall be fixed as per the tariff guidelines proposing incentive for better performance and disincentive for performance below the benchmark level. This facility is claimed to be an alternative facility to GCB and as such the benchmark levels of performance based on experience are available. The existing benchmark for GCB is 18000 Tons per day fixed by VPT,	Handling Coal cargo at OB-1 by Conveyor system is only a temporary arrangement, therein, an output of 20,000 MT per day could be grabbed out given the best and efficient cargo clearance system at the discharging point. This facility would be operated on the whole for a period of about one year commencing from the end of July, 2011. During the initial stages of operation

	This facility is in operation from 28 July 2011 and output has not reached to this level.	of this facility there were issues which needed reorganization of the working plan, slight modification of the Conveyor system etc. and on account of this, some time had been elapsed. Hence, proposing any benchmark levels for the reason of incentives and disincentives for better performance and poor performance respectively, is a highly time consuming procedure which obviously needed the approval of the TAMP. Hence, for the shorter duration and more over for a temporary arrangement, it is not necessary to go for the theory of benchmarks, incentives, etc.
(iii).	The cost statements for arriving at the handling charges per ton has been prepared simply adopting the normative costs provided in the Upfront Tariff Guidelines, 2008. The 2008 guidelines are applicable only for PPP projects for which bids were invited by setting tariff caps under any of the modes of Public Sector participation. As this facility is to be operated by VPT, Tariff guidelines 2005 is applicable as per which the reasonableness of each cost item and the investment needs to be examined by TAMP based on justifications and documents.	As already explained, this facility was created as an alternative arrangement due to decommissioning of GCB for modernization under PPP. In order to facilitate trade during construction period a mechanism was evolved for which Cost of Mechanical equipment was borne by the BOT operator and concessionaire, for arriving at per tonne cost. TAMP guidelines, 2008 were adopted. The depreciation and ROCE on mechanical equipment cost was not considered for fixing the tariff. However, if TAMP suggests any suitable mode of calculation, the same will also be explained.
(iv).	The users were intimated though no written circular has been issued that the capacity of the conveyor system on GCB is 2000 Tons per hour. The capacity of the conveyor has no bearing on bench marking unless matching evacuation points/discharge points are part and parcel of the system. The present conveyor system at OB1 is a single point discharge system and hence as against 4 hook point of Handymax vessel discharge or two hook point discharge of Panamax vessels, this system does not facilitate effective evacuation. Accordingly, the benchmarking has to consider this aspect also.	At present, there are two discharging points in operation at OB-1. In order to facilitate quicker and efficient evacuation, VPT itself had given work order for deployment of Poclainers and discharge rate was improved.
(v).	The system established can not handle any export cargo or import cargo like iron ore pellets, Gypsum or bauxite or dolomite.	In the Pre-project commencement scenario at GCB, 98% of the cargoes those were handled at GCB are import cargoes like Coking Coal, Steam Coal, Fertilisers, etc. GCB was predominantly used for lightening purposes rather than Exporting cargo (or) Up-topping cargo. The system at OB-1 was developed to handle exclusively Coking Coal and Steam Coal which otherwise would have been handled for lightening if GCB is in operation. Further, the handling of Steam Coal was stopped earlier temporarily on account of its dusty nature and at present, there are no restrictions to handle Steam Coal at OB-1 as the cargo arriving now is a better form of Steam Coal compared to the earlier cargo.

1.2. The VSPL vide its letter dated 16 April 2012 has furnished additional comments on the proposal of VPT. The VSPL letter was forwarded to VPT vide our letter dated 16 April 2012. The VPT did not respond to the comments of VSPL till finalization of the case. The comments of VSPL are summarised below:

- (i). From 2001 onwards bulk cargo parcel sizes have steadily migrated from handy size of 25,000-35,000 to panamax size of 75,000-80,000 DWT. Ninety percent of the bulk cargo is carried by handymax and panamax vessels drawing a draft of 12.5 meters to 14.5 meters.
- (ii). The port infrastructure remains unchanged for the past 10 years though the navigable waters were to be deepened by VPT to facilitate berthing of deep drafted vessels in to the berths of inner harbour. Starting from November 2005, VPT have not been able to deepen the navigable waters of the inner harbour to facilitate the deep drafted vessels.
- (iii). Having regard to draft restrictions at the inner harbour, all inner harbour berth users obviously and necessarily must depend on the GCB where adequate draft is available, for lightening of vessels enabling entry to inner harbour with lesser quantities. Accordingly, the GCB has been predominantly occupied at all times by deep drafted vessels of bulk cargo like coking coal, steam coal, iron ore, iron ore pellets, gypsum and fertilizers etc., bound for any one of the 15 inner harbour berths including the fertilizer berth after lighterage.
- (iv). The port authorities, in fact, imposed strict norms of performance and occupancy for the users of General Cargo Berth considering its critical position and the fact that all inner harbour berths are entirely dependent on GCB for handling lightened vessels and to make available the General Cargo Berth for all users in an equitable, fair and just manner on a non-discriminatory basis for all users including BOT operators. Hence it is apparent that for survival of inner harbor berths including the berths of BOT operators availability of General Cargo Berth till the inner harbour is deepened adequately, is critical. In light of this compelling necessity, VPT has originally decided to keep the General Cargo Berth operational even during its modernization.
- (v). The project of deepening and modernizing the GCB, was awarded to M/s. Sterlite Industries, under the Public Private Partnership scheme based on the highest revenue share quoted by them and a concession agreement dated 10 June 2010 was executed between Vizag General Cargo Berth Private Limited ("VGCBPL", being the SPV floated by M/s. Sterlite Industries) and VPT. Since, GCB was the only berth in the outer harbour for providing affordable lightening of vessels, VPT had made it categorically clear to all the prospective bidders that the cargo handling operations at the GCB, during its construction and modernization phase, shall be continued by VPT.
- (vi). Such being the position, VPT issued a trade circular dated 28 July 2011 decommissioning the GCB in which it was stated that an alternate facility for lightening has been created at Ore Berth 1 by installing conveyors and ground hoppers. The above trade circular differs from pre-existing positions, as under:
 - (a). Clause 7.1 (c) (iii) of the concession agreement dated 10 June 2010 entered into between VPT and VGCBPL stipulates that the 'Cargo Handling Operations during construction period shall be continued by the Concessioning Authority'. To facilitate this, Appendix-4 of the Concession Agreement specifying project requirements also stipulate construction of GCB in three stages. Thus, the impugned trade circular basing on which the GCB was decommissioned is in violation of the condition stipulated in the concession agreement.
 - (b). In the pre-bid meetings, VPT had categorically made clear that it is committed to continue the operations at the GCB.

- (c). As per the clarification sent by VPT as sequel to the pre-bid meeting vide its letter No.ICME/MOF/MECH:1/GCB/7241 dated 14 November 2009 together with Annexure 1(A), the strengthening was to take place in three phases and using an alternate berth was only an enabling provision in case operation was found to be difficult during 3rd phase of the construction.

The contents of the letter No.ITRA/SBS/FTAMP/OB1/ dated 19 March 2011 of the Traffic Manager i/c, Visakhapatnam Port Trust addressed to the Secretary, TAMP, confirm the position stated above, without any ambiguity

- (vii). The decision for providing alternate facility for lightening of vessels at Ore Berth 1 by installing conveyors and ground hoppers, was made by VPT without giving adequate opportunity to any trade member including ourselves. Adequate time was not given to port users including ourselves who have been using the GCB for decades to test the suitability of the new facility created at Ore Berth 1, as to whether the same caters to our existing performance commitments already entered into with major customers.
- (viii). The GCB using two floating cranes was capable of handling all types of cargo with a discharge rate of over 20,000 TPD, whereas the Ore Berth 1, which is designed to handle only coking coal with a meager average discharge rate of 13,500 TPD, cannot be viewed as an alternative facility to GCB. The alternate facility is by no means a match to the lightening operations at GCB as it is incapable of handling all other cargos except coking coal. Export operations from the Ore Berth 1 are impossible and cannot be carried out even if the berth is free, vacant and available.
- (ix). The GCB was decommissioned on 28 July 2011 and the berth has been made non operational making berthing of vessels impossible at GCB without testing the efficacy of the alternative announced by the VPT.
- (x). Having noted that GCB was defaced and decommissioned, we were left with no alternative but to use the alternative and we were forced to continue to handle coking coal and steam coal vessels at the OB1 with average discharge rate at 13,000 tonnes per day. Except Coking Coal and Steam Coal, other cargos had to depend on costly alternative of trans-loading.
- (xi). Due to insufficient handling capacities, the alternate facility has increased the waiting time of vessels, and has therefore resulted in huge demurrage on account of pre-berthing delays forcing port operations/ users to divert their vessels to other ports causing huge revenue loss not only to the BOT operator but also to VPT.
- (xii). Till completion of dredging to 16.0 meters, all BOT projects would have to face a slow death in the absence of lighterage facility at GCB after commencement of operations. We understand that even this OB1 facility will not be allowed for lightening of coal and steam coal after commencement of GCB operations. As such, all port users of VPT have to face discriminatory commercial terms for lighterage, till dredging to 16.0 meters is completed by VPT.
- (xiii). It was also reported that during the course of operations at OB1, certain lapses/ deficiencies were noticed in the conveyor system which require some improvements in the mechanised conveyor system at OB1, as mentioned below:
- (a). While discharging thermal coal, the transfer chutes and vibro feeders are getting jammed because of large size boulders. Clearance of these boulders at the Vibro-feeder level is becoming difficult due to access problems as there are no approaches and platforms to remove the blockages manually.

- (b). Provision of a suitable grizzly on the top of the hopper with proper openings will restrict the fall of large boulders on to the belt and vibro-feeder. This will save the equipment and belt from damages, while minimizing the delays.
 - (c). There are no cross overs, maintenance platforms etc. at critical locations which makes operation and maintenance very difficult. Therefore, it was recommended construction of necessary platforms at various levels (vibro feeder level and hopper level) with necessary approach ladders.
 - (d). In order to have a smooth flow of material through the system, certain minor modifications in the chute profile may be required.
 - (e). There is a substantial increase in the cycle time of discharge as the grabs have to be positioned exactly over the hopper and opened slowly to avoid spillages. Due to this accurate positioning and slow discharge, there is an inherent delay in the discharge operation.
 - (f). The chutes that are provided are of fixed profile without any adjustments and baffle plates to suit the cargo characteristics. As a result, the adjustment required during handling of thermal coal and coking coal cannot be made resulting in spill over due to eccentric running of the belt.
 - (g). The system installed should be provided with necessary equipment like scrappers, belt cleaners etc. and are to be regularly adjusted to ensure optimum performance.
- (xiv). Regarding VPT proposals for fixing handling charges, following are our comments:
- (a). The cost statement for arriving the handling charges per tonne has been prepared simply adopting the normative costs provided in the upfront tariff guidelines 2008. The upfront tariff guidelines, 2008 are applicable only for PPP Projects for which bids were invited by setting tariff caps under any of the modes of Public Private Sector Participation. Further, this facility is to be operated by VPT and hence tariff guidelines, 2005 shall be applicable.
 - (b). Under 2005 guidelines, the reasonableness of each cost item and the investment will be examined by TAMP based on justifications and documents. For example, insurance. It is informed that VPT will be operating and maintaining the handling system and in that case, insurance may not be a cost as it is learnt that VPT as a policy has not taken insurance on any of its port assets.
 - (c). As per the tariff guidelines, the capacity of this handling facility shall be first fixed which shall be based on not only vertical transfer of cargo from vessel to conveyor system but also based on evacuation capacity. It is not clear how the capacity of 1.5 Million Tonnes was arrived at particularly in view of the fact that the system proposed by VPT on OB1 is an alternative to GCB where the current cargo volumes are in excess of 4 lakhs per month translating to 4.8 million tonnes per year. Therefore the projection of 1.5 million tonnes is very low and hence is not realistic.
 - (d). As per the tariff guidelines, benchmark levels shall be prescribed for proposing incentive for better performance and disincentive for performance below the benchmark level. This facility is claimed to be an alternative facility to GCB and as such the benchmark levels of performance based on experience are available. The existing benchmark for GCB is 18000 tonnes per day fixed by VPT. The facility is in operation from 28 July 2011 and output has not increased beyond 13000 tonnes per day and hence cannot fit into any existing guidelines of TAMP.
 - (e). A list of coal vessels handled on the system is attached to show the performance which is much lower than what has been projected.

- (f). The users were intimated though no written circular has been issued that the capacity of the conveyor system on GCB is 2000 tonnes per hour. The capacity of the conveyor has no bearing on bench marking unless matching evacuation points/ discharge points are part and parcel of the system. The present conveyor system on OB1 is a single point discharge system and hence as against 4 hook/ point of handymax vessel discharge or two hook point discharge of panamax vessels, this system does not facilitate effective evacuation and hence the bench marking needs to be done based on this consideration.
- (g). As per the letter bearing no.ITRA/SBS/FTAMP/OB1 dated 19 March 2011 from Traffic Manager, Visakhapatnam Port attached to the Authority's letter dated 5 October 2011 the alternative system was to be made operational only during the third phase of system. However, the system established cannot handle any export cargo or import cargo like iron ore pellets or gypsum or bauxite or dolomite.
- (h). The alternative facility of OB1 is created to facilitate the construction of GCB which is a benefit for VPT and VGCBPL. The beneficiaries must bear the cost but not the users. Thus, this extra charge shall be absorbed by VPT or VGCBPL and not port users.

2. A joint hearing in this case was held on 17 April 2012 at the VPT premises. The VPT made a power point presentation of its proposal. At the joint hearing, the VPT and the concerned users/ organisation bodies have made the following submissions:

Visakhapatnam Port Trust

- (i). The rate of ₹19.20 tonne was circulated to trade in July 2011 before we started levying the ad-hoc charges.
- (ii). We have reviewed the cost and the revised rate works out to ₹17.70 per tonne. We will furnish revised calculations to users and TAMP.
- (iii). GCB berth operator has invested about ₹10 crores in OB-1 and, therefore, they demand to fix tariff considering their investment and allow share of tariff with them.
- (iv). No separate Government approval is required for the GCB operator investing in OB-1. The investment made by GCB berth operator will not be considered for fixing rates for OB-1. If necessary, the investment will be taken into consideration in GCB project.
- (v). Our data shows productivity of OB-1 was equal or better than GCB. Further, Port has not given any assurance about providing free service at OB-1.

Steel Authority of India Limited

This is an additional cost on us. When our cargo was handled at GCB we were not paying this rate. Further productivity of OB-1 is far less than GCB.

3. With reference to the meetings held by VPT on 27 April 2012 and 7 May 2012 with the port users, the Steel Authority of India Limited (SAIL) vide its letter dated 21/23 May 2012 has furnished its submissions to VPT with copy endorsed to us. The Visakhapatnam Stevedores' Association (VSA) vide its letter dated 29 May 2012 has forwarded a copy of letter dated 9 May 2012 addressed to VPT forwarding the minutes of the meeting dated 27 April 2012 and 7 May 2012 about fixation of rates for the alternative facility provided at OB-1. A summary of the submissions received from SAIL and VSA is summarised below:

Sl. No.	Submissions received from users
1.	Steel Authority of India Limited (SAIL)
(i).	During the meetings, the VPT has intimated that as per revised workings there may be a reduction in handling charges of ₹19.20 per MT presently charged by VPT for handling of vessels at berth OB-1.

(ii).	In this regard, it has informed that SAIL did not agree to VPT's proposal for charging any amount towards the handling operations through conveyor at OB-1 as the system provided at OB-1 is not as efficient as GCB and productivity is comparatively low. Same was opposed by SAIL during the meeting also.
(iii).	It has requested the port to look into the matter and appeal not to charge any amount towards this and refund the amount charged to SAIL. It has also requested VPT to offer some discounts in the tariffs on account of reduction in discharge rate at OB-1.
2.	Visakhapatnam Stevedores' Association (VSA)
(i).	During the meeting dated 27 April 2012, the VPT has presented the costing for the operation at ₹16/- per MT. Trade has reiterated its stand that no charges are payable to VPT for this facility as SAIL was assured by VPT that in the absence of GCB for lightening of vessels a better facility will be provided by VPT at OB1 without additional cost. However, without prejudice to this stand, Trade was acceptable to a rate of ₹1/- per MT. Trade further requested VPT that if this charge is compulsory, VPT could kindly consider the request from Trade to charge wharfage at manual Iron Ore rates as OB1 is an iron ore berth and as no wharf is actually used in the operation.
(ii).	At the meeting dated 7 May 2012, the VPT has reiterated to fix-up the rate @ ₹16/- PMT towards handling charges including ₹5/- PMT towards proclaim charges deployed at OB-1, turning down the request of Trade to reduce the rate to ₹15/- PMT. During the meeting Trade has requested to further reduce the rate from ₹16/- PMT to ₹14.40 ps PMT as the OB-1 Bidder reduced the rate from ₹5/- PMT to ₹3.40 ps PMT for deployment of proclaims at OB-1. However, VPT has agreed to fix the rate @ ₹16/- PMT irrespective of increase or decrease in costing. Trade has agreed for the same and requested VPT to consider wharfage charges at the rate of iron ore rate at OB-1 as no wharf facility is actually used by the users in the operation. VPT assured that this appeal will be considered separately.
