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Tariff Authority for Major Ports

G.No. 92

New Delhi,

06 March 2017

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 Paradip Port Trust for introduction of Labour Cess for the thermal coal handled at Iron Ore Handling Plant, as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/31/2016-PPT

Paradip Port Trust

...
QUORUM

Applicant

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

ORDER

(Passed on this 8th day of February 2017)

This case relates to the proposal received from Paradip Port Trust (PPT) for introduction of Labour Cess for the thermal coal handled at Iron Ore Handling Plant (IOHP).

2.1. The existing Scale of rates (SOR) of PPT approved in March 2011 prescribes rates for handling of coal through Mechanized Coal Handling Plant (MCHP) at Sl. No (4) of section 2.1 of the existing SOR of PPT as given below:

| Sl no. | Description of Goods | Rate per MT or part therefore in ₹. | |
|--------|---|-------------------------------------|---------|
| | | Foreign | Coastal |
| 4. | Coal through MCHP | | |
| (a) | Unloading of coal wagon through the coal handling system shipment of coal through coal handling plant | 51.710 | 51.70 |
| (b) | (i) Upto 7.5 million tonnes | 77.50 | 77.50 |
| | (ii) From 7.5 million tonnes to 10 million tonnes | 71.05 | 71.05 |
| | (ii) Beyond 10 million tonnes | 64.60 | 64.60 |

2.2. However, the existing SOR of PPT does not prescribe rates for handling of Coal through IOHP. Hence the PPT has come up with the proposal in reference.

3. The main points made by PPT in its proposal dated 24 May 2016 are summarized below:

- (i). Only BOBR (Bottom unloading wagon) wagon is used for handling thermal coal through MCHP. If this wagon is not available, then BOXN wagon is used for thermal coal. The BOXN (Open-top wagon) wagons are unloaded manually by engaging Clearing, Forwarding & Handling (CF&H) workers through Management Committee. Then cargo is transported to the stockyard of MCHP and thereafter loaded to the ship through ship loader of MCHP by the CF&H workers & other service providers.
- (ii). Even though such Cargo can be handled directly in the IOHP through wagon tippler and ship loader, the same could not be utilized due to heavy resistance from the CF&H workers to allow them to unload the wagon manually
- (iii). In order to overcome this situation and allow loading of Thermal Coal to IOHP by using both wagon tippler and ship loader, the Management Committee requested PPT to sanction one time grant to meet the financial requirement for allowing Special Severance Package (SSP) for CF&H workers.
- (iv). Accordingly, PPT referred the matter to the Ministry for approval of onetime grant of ₹49 crore to allow 320 workers who had opted for SSP and ₹127 crore for balance 792 workers, who will opt for SSP in next 12 months. The Ministry vide letter no. "F.No.LB-16017/5/2013-DO(L) dtd 22 March, 2016 has approved the proposal and directed PPT to keep separate accounts for the financial benefits that will accrue to the PPT on implementation of the scheme.

- (v). The PPT paid ₹.43 crore to the Managing Committee to meet the liability on account of SSP for 283 workers out of 320 workers as 37 workers got retired on superannuation between the initiation and implementation of the proposal.
- (vi). The CF&H workers have agreed to allow mechanical unloading through wagon tripler, in the MOU signed between the employer, Union representative and PPT.
- (vii). The present cost of handling BOXN wagon with manual handling (unloading, transportation & loading) is ₹. 427/- per MT, as against ₹.127 per MT by using IOHP (unloading at wagon tripler and loading through shop loader).
- (viii). The Cost benefit Analysis of manual handling of coal in MCHP is as follows:

(a). **Basis of calculation**

Each gang consist of 8 laborers and 1 supervisor for 4 wagons
Average Wage per labour Rs. 1420 per booking
Average Wage per supervisor Rs.1660 per booking
Average Incentive @Rs.430 per head
NWA **Rs.@60** per head
Levy @150% of wage

(b). **Handling Cost per wagon (Manually):**

| Management Committee | Amt in ₹. |
|--|----------------|
| Labour charges [14.5 gang X8X1420] | 164,720 |
| Supervisor Charges [14.5 gang X1660] | 24,070 |
| Incentive @Rs. 430 per head [14.5 gang X9X430] | 56,115 |
| NWA @Rs.60 per head p14.5 gang X9X 60] | 7,830 |
| Levy @150 of wages [1, 64,720+24,070X150%] | 283,185 |
| Total | 535,920 |
| Cost per tonne (a) | 145 |

| Port Charge | Amt in ₹. |
|------------------------------------|----------------|
| Siding charges [3700X4] | 14,800 |
| Haulage [58X1950] | 113,100 |
| Terminal Charges [3700X22.97] | 84,989 |
| MCHP Shipping Charges [77.5 X3700] | 286,750 |
| Total | 499,639 |
| Cost per tonne (b) | 135 |

| Others | Per tonne |
|-------------------------------|-----------|
| Poclain per tonne | 21 |
| Loading and Shifting to MCHP | 55 |
| Stacking at MCHP | 10 |
| Gear Charges | 5 |
| Track cleaning by labour | 6 |
| Margin to the CF & H operator | 45 |
| Misc. Exp | 5 |
| Cost per tonne (b) | 147 |

Total Cost per tonne (a)+(b)+(c) = ₹.427

(c). **Handling Cost per wagon (Mechanically) for IOHP**

| Charge | Port | Amt in ₹ |
|-------------------------|------|----------|
| Siding charges [3700X4] | | 14,800 |

| | |
|---|-----------------|
| Haulage [58X1950] | 113,100 |
| Terminal Charges [3700X22.97] | 84,989 |
| Tippling Charges [3700X20.4] | 75,480 |
| IOHP charges [3700 X 49] (Shipping Charges) | 1,81,300 |
| Total | 4,69,669 |
| Cost per tonne | 127 |

- (ix). Two exporters namely NTPC Tamilnadu Energy company Ltd” and “TANGEDCO” have agreed to use IOHP and have also agreed to pay labour cess, which is proposed at ₹. 130/- per MT.

4. In view of the above points, the PPT has requested to approve the recovery of labour cess of ₹ 130/- per MT, which will enable the PPT to recover the amount, which the PPT has already paid and will be paying additionally for balance 283 workers to the Management Committee to meet their liability on account of SSP.

5.1. Subsequently, the PPT vide its letter dated 8 June 2016 has made the following submissions:

- (i). The two concerned exporters, NTECL and TANGEDCO, while agreeing for the proposed levy, had requested the PPT to further reduce the proposed labour cess. In response to the request, the PPT has agreed to reduce the rate from ₹130 per MT to ₹120 per MT.
- (ii). As handling of Thermal Coal at Iron Ore handling Plant (IOHP) has already commenced, it is requested to approve the rate of ₹120 per tonne on ad hoc basis, incase final approval will take some time.
- (iii). On receipt of the final approval of the rate, the necessary adjustment will be made on the amount received under this head, during the intervening period.

5.2. A copy of the letter dated 6 June 2016 addressed by PPT to TANGEDCO with a copy endorsed to NTECL informing about the labour cess to be only ₹ 120/- per MT instead of ₹ 130/- per MT, has been furnished by PPT.

5.3. The PPT under cover of its e-mail dated 10 January 2017 has furnished the approval of the Board of Trustees, after periodical reminders by us.

6. In accordance with the consultative procedure prescribed, a copy of the PPT proposal dated 24 May 2016 was forwarded to the concerned users/ user organizations vide our letter dated 3 June 2016, seeking their comments, on the subject proposal. Only two of the users i.e. NTPC Tamilnadu Energy Company Ltd (NTECL) and Tamilnadu Generation and Distribution Corporation Ltd (TANGEDCO) have furnished their comments. The said comments were forwarded to the PPT as feedback information. After our reminders dated 26 August 2016, 6 October 2016, 16 November 2016 and 29 December 2016, the PPT under cover of its e-mail dated 10 January 2017 has responded to the comments of the users/ user organisations.

7. With regard to the proposal of the PPT seeking approval for levy of the rate of ₹120 per tonne on ad hoc basis, based on the stipulation contained in Clauses 5.7.1 to 5.7.5 of the Working Guidelines issued to operationalize the Tariff Policy, 2015, and considering that PPT has already commenced handling of coal at IOHP and that it may take some time for the case to mature for final disposal by this Authority, this Authority vide its Order No. TAMP/31/2016-PPT dated 21 June 2016 has granted ad hoc approval for introduction of Labour Cess at PPT at the rate of ₹. 120/- per MT for the thermal coal handled at Iron Ore Handling Plant (IOHP), subject to the condition that if the final rate fixed by this Authority is lower than the adhoc rate of ₹.120/- per MT, the difference between the final rate and the adhoc rate has to be refunded by the PPT to the concerned users. The Order was notified in the Gazette of India on 4 July 2016 vide Gazette No. 275. We have vide our letter dated 8 July 2016 forwarded a copy of the said Notification and Order to PPT and to all the concerned users/ user organisations.

8. Based on a preliminary scrutiny of the proposal, the PPT was requested to furnish additional information/ clarifications on few points vide our letter dated 18 July 2016. After reminders dated 26 August 2016, 6 October 2016, 16 November 2016 and 29 December 2016, the PPT under cover of its e-mail dated 10 January 2017 has responded. The information/ clarification sought by us and the response of PPT thereon are tabulated below:

| Sl. No. | Information/ clarification sought by TAMP | Response of PPT | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|---|-------------|-------------|--------------------------|---------------|---------------|--------------|--|---------------|-----------------------|-----|---|-----------|---------------------------------|--------------|--|--------------|--|--------------|----------------------------|---------------|-------------|-------------|--------------------------|---------------|---------------|--------------|--|---------------|-----------------------|-----|---|-----------|---------------------------------|--------------|--|--------------|--|--------------|----------------------------|---------------|
| A. | GENERAL: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>The PPT, in its revised proposal dated 8 June 2016, has requested the Authority to approve the recovery of Labour Cess @ ₹. 120/- per MT to enable to recover the amount paid to Management Committee to meet the liability of Special Severance package (SSP) for Clearing, Forwarding & Handling (CF&H) workers. In this regard, it is relevant to mention here that as per the Tariff Policy, 2015, the purpose of any levy is to enable the port to recover the cost of rendering the services and a component of return on the investments. In this backdrop, the PPT to formulate the proposal of seeking approval for Labour Cess to recover the cost of rendering the service to handle thermal coal through Iron Ore Handling Plant (IOHP) and the Return on the related investment.</p> | <p>The investment of PPT stands at ₹. 176 crores on this project i.e. the overall cost of SSP (Special Severance Package) for CF&H worker of Management Committee. A sample calculation of return on capital employed as furnished by PPT is given below:</p> <p>1st Year</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>Amount in ₹</th> </tr> </thead> <tbody> <tr> <td>Cost of investment (SSP)</td> <td>176,00,00,000</td> </tr> <tr> <td>Interest (8%)</td> <td>14,08,00,000</td> </tr> <tr> <td></td> <td>190,08,00,000</td> </tr> <tr> <td>Labour Cess per tonne</td> <td>120</td> </tr> <tr> <td>Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months)</td> <td>15,00,000</td> </tr> <tr> <td>Amount to be recovered annually</td> <td>18,00,00,000</td> </tr> <tr> <td>Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne.</td> <td>15,00,00,000</td> </tr> <tr> <td></td> <td>33,00,00,000</td> </tr> <tr> <td>Carry forward to next year</td> <td>157,08,00,000</td> </tr> </tbody> </table> <p>2nd Year</p> <table border="1"> <thead> <tr> <th>Particulars</th> <th>Amount in ₹</th> </tr> </thead> <tbody> <tr> <td>Cost of investment (SSP)</td> <td>157,08,00,000</td> </tr> <tr> <td>Interest (8%)</td> <td>12,56,64,000</td> </tr> <tr> <td></td> <td>169,64,64,000</td> </tr> <tr> <td>Labour Cess per tonne</td> <td>120</td> </tr> <tr> <td>Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months)</td> <td>15,00,000</td> </tr> <tr> <td>Amount to be recovered annually</td> <td>18,00,00,000</td> </tr> <tr> <td>Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne.</td> <td>15,00,00,000</td> </tr> <tr> <td></td> <td>33,00,00,000</td> </tr> <tr> <td>Carry forward to next year</td> <td>136,64,64,000</td> </tr> </tbody> </table> <p>3rd Year</p> | Particulars | Amount in ₹ | Cost of investment (SSP) | 176,00,00,000 | Interest (8%) | 14,08,00,000 | | 190,08,00,000 | Labour Cess per tonne | 120 | Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months) | 15,00,000 | Amount to be recovered annually | 18,00,00,000 | Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne. | 15,00,00,000 | | 33,00,00,000 | Carry forward to next year | 157,08,00,000 | Particulars | Amount in ₹ | Cost of investment (SSP) | 157,08,00,000 | Interest (8%) | 12,56,64,000 | | 169,64,64,000 | Labour Cess per tonne | 120 | Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months) | 15,00,000 | Amount to be recovered annually | 18,00,00,000 | Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne. | 15,00,00,000 | | 33,00,00,000 | Carry forward to next year | 136,64,64,000 |
| Particulars | Amount in ₹ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cost of investment (SSP) | 176,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Interest (8%) | 14,08,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 190,08,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Labour Cess per tonne | 120 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months) | 15,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amount to be recovered annually | 18,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne. | 15,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 33,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Carry forward to next year | 157,08,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Particulars | Amount in ₹ | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Cost of investment (SSP) | 157,08,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Interest (8%) | 12,56,64,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 169,64,64,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Labour Cess per tonne | 120 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months) | 15,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Amount to be recovered annually | 18,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne. | 15,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | 33,00,00,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Carry forward to next year | 136,64,64,000 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | Particulars | Amount in ₹ |
|-----------|--|---|--------------------|
| | | Cost of investment (SSP) | 136,64,64,000 |
| | | Interest (8%) | 10,93,17,120 |
| | | | 147,57,81,120 |
| | | Labour Cess per tonne | 120 |
| | | Quantity per annum (considering actual of 8.5 lakh tonnes handled for 7 months) | 15,00,000 |
| | | Amount to be recovered annually | 18,00,00,000 |
| | | Indirect net revenue generation on account of tipping, IOHP charges, terminal charges, haulage charges @ ₹100/- per tonne. | 15,00,00,000 |
| | | | 33,00,00,000 |
| | | Carry forward to next year | 114,57,81,120 |
| B. | <u>Other Points:</u> | | |
| (i). | The PPT to indicate the annual volume of Thermal Coal / any other coal estimated to be handled via IOHP. | The Annual volume to be handled in IOHP has been estimated at 1.5 Million considering the actual handling of 8.5 lakhs tonne in 7 months. | |
| (ii). | While filing the proposal, the PPT has furnished working towards cost of handling coal manually. When the proposal of the port is for seeking approval for handling thermal coal at IOHP, i.e mechanized handling, the relevance of furnishing working to arrive at manual handling of coal to be explained. | The thermal coal at MCHP can be handled by BOBR wagons only. As the availability of BOBR wagons is less than 100%, some quantity of the coals are handled by BOXN wagons. In case of BOXN wagons the coal is unloaded on siding which is shifted to the MCHP stackyard to be loaded to the Ship at MCHP. In view of this the cost of handling coal manually is relevant for considering our proposal. | |
| (iii). | With regard to workings furnished to arrive at the rate of mechanized handling of coal by IOHP, the PPT to clarify / furnish the following: | | |
| (a). | Basis for considering the total tonnage at 3700 tonnes throughout the calculation, and its relevance. | 3700 tonnes has been considered because one rake can carry around 3700 tonnes of cargo. | |
| (b). | Documentary evidence in respect of (i). Siding charges at ₹. 4/- per tonne. (ii). Terminal charges at ₹. 22.97/- per tonne. (iii). Tipping charges at ₹. 20.40/- per tonne | The documentary evidence in support of siding charges @ ₹. 4/- per tonne and terminal charges @ ₹. 22.97 per tonne is furnished by PPT. Tipping charges is as per the SOR of PPT. The relevant page of SOR is furnished by PPT. | |
| (c). | Basis and relevance for considering the factors of 58 and 1950 in the estimation of Haulage charges alongwith the requisite documentary evidence, and necessary workings. | The basis of considering the factor of 58 is that one rake consist of 58 wagons and haulage charges is ₹. 1950 per wagon, the copy of which is furnished by PPT. | |
| (d). | The existing Scale of Rates (SOR) of PPT prescribes charges for handling iron ore through IOHP at ₹. 23.45 per MT (for shipment upto 1 MTPA). The basis for, therefore, considering a rate of ₹. 49 per MT as IOHP charges for handling | The IOHP plant is meant to handle Iron Ore and the rate has been fixed at the rate of ₹. 23.45 per MT of iron ore. Due to low density of thermal coal as compared to iron ore, the rate for handling thermal coal was calculated at ₹. 54.07 per MT. NTECL requested PPT to fix a | |

| | | |
|-------|---|--|
| | thermal coal to be furnished with requisite justification and documentary evidence. | rate below ₹. 50 per MT. Considering their request, the rate was reduced to rate of ₹. 49 per MT. The copy of the request letter of NTECL is enclosed by PPT. |
| (iv). | The PPT to propose the draft SOR of Labour Cess to be incorporated in its existing SOR. | <p>PPT has already submitted its proposal to TAMP for revision of General SOR which includes labour cess for cargo to be handled at IOHP other than iron ore.</p> <p>[The Port is seen to have proposed the following in the proposed draft Scale of Rates relating to general revision proposal under 'Miscellaneous charges' -</p> <p>“4.9. <u>Labour cess for tipping in IOHP.</u> a) Iron ore pellet ₹ 70 per tonne b) Thermal coal ₹ 120 per tonne”]</p> |
| (v). | As per Tariff Policy, 2015, read alongwith the Working Guidelines issued to operationalize the Tariff Policy, the PPT to propose Performance Standards for the proposed levy. | <p>The Performance Standard of IOHP has already been included in the proposal submitted to TAMP for revision of General SOR.</p> <p>[The Port is seen to have proposed average berth day output of 12000 Tonnes for thermal coal in IOHP in its General revision proposal Performance Standards relating to general revision proposal.]</p> |

9. A joint hearing on the case in reference was held on 27 September 2016 at the PPT premises. At the joint hearing, the PPT made a brief power point presentation of its proposal. At the joint hearing, the PPT and the concerned users/ user organizations have made their submissions.

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 the totality of the information collected during the processing of the case, the following position emerges:

- (i). The PPT has a Mechanized Coal Handling Plant (MCHP) for shipment of coal. The Clearing, Forwarding & Handling (CF&H) workers unload coal cargo manually from the Railway wagons, transport the cargo to the MCHP and load the cargo on board the ship through ship loaders. There is a separate facility to handle iron ore i.e. Iron Ore Handling Plant (IOHP). When the IOHP was idling due to ban on iron ore export since the year 2013, the port has started handling thermal coal through tippers at the IOHP which was earlier handled manually at the MCHP. However, due to strong resistance from the CF&H workers, unloading thermal coal through tippers was discontinued in the year 2014. Given that the IOHP was virtually idle, PPT referred the matter to the Government for approval of one-time grant to meet the financial requirement for allowing Special Severance Package (SSP) for CF&H workers, who in turn has given 'No Objection' to the proposal. Thus, the proposal of the PPT is to enable it recoup the SSP through a levy of labour Cess on thermal coal handled through IOHP.
- (ii). The PPT had filed its proposal in May 2016. Subsequently, after several reminders, the PPT has furnished information/ clarification in January 2017. The said proposal

of PPT alongwith the information/ clarification furnished by PPT during the processing of the case in reference is considered in this analysis.

- (iii). As brought out above, the proposal of the PPT is to enable it to recover the amount paid to Management Committee to meet the liability of SSP for CF&H workers. In this regard, it is relevant to mention here that as per the Tariff Policy, 2015, the purpose of a levy is to enable the port to recover the cost of rendering the services and a component of return on the investments. In this backdrop, the PPT is of the view that the overall cost of SSP for CF&H worker of Management Committee at ₹ 176 crores alongwith with interest in the form of return is the investment of PPT, which the port proposes to recover by way of levy of labour cess on thermal coal handled through IOHP. The PPT has already incurred an expenditure of ₹ 43 crores.
- (iv). The PPT had initially proposed a rate of ₹ 130/- per MT towards labour cess on thermal coal handled through IOHP. However, subsequently, based on the request of the users to effect reduction in the proposed rate, the PPT has proposed a rate of ₹ 120/- per MT towards labour cess on thermal coal handled through IOHP.
- (v). The various cost elements considered by PPT to arrive at the proposed labour cess on thermal coal handled through IOHP is discussed in the following paragraphs:
 - (a). Siding charges:
Based on the position that one rake can carry 3700 tonnes of cargo and considering the rate of ₹ 4/- per MT, the PPT has arrived at the siding charges per rake. The PPT has furnished documentary evidence in support of the rate of ₹ 4/- per MT towards siding charges.
 - (b). Haulage charges:
Based on the position that one rake has 58 wagons and the haulage charges is ₹ 1950/- per wagon, the PPT has arrived at the haulage charges per rake. The PPT has furnished documentary evidence in support of the rate of ₹ 1950/- per wagon towards haulage charges.
 - (c). Terminal charges:
Considering the carrying capacity of 3700 tonnes of cargo in one rake and based on the Terminal charges at ₹ 22.97 per tonne, the PPT has arrived at the terminal charges per rake. The PPT has furnished documentary evidence in support of the rate of ₹ 22.97 per tonne towards terminal charges.
 - (d). Tippling charges:
Considering the carrying capacity of 3700 tonnes of cargo in one rake and based on the Tippling charges at ₹ 20.40 per tonne, the PPT has arrived at the tippling charges per rake. The rate of ₹ 20.40 per tonne towards tippling charges is as prescribed in the existing SOR of PPT for tippling of iron ore through IOHP.
 - (e). IOHP charges:
Considering the carrying capacity of 3700 tonnes of cargo in one rake and based on the IOHP charges at ₹ 49 per tonne, the PPT has arrived at the IOHP charges per rake. The rate of ₹ 49 per tonne is reported to be based on the request made by one of the users. The PPT has furnished documentary evidence which reflects the request made by one of the users to keep the loading charges in IOHP below ₹ 50 per tonne.
 - (f). Based on the above cost elements, the PPT has arrived at the handling cost at ₹ 4.70 lakhs per rake. Considering the carrying capacity of 3700 tonnes of cargo in one rake, the PPT has arrived at the cost of ₹ 127 per tonne. Thus, the PPT has proposed a rate of ₹ 120/- per MT towards labour cess on thermal coal handled through IOHP.

- (g). A summary of the various cost components as discussed above is tabulated as follows:

| Port Charge | Amt in ₹ per rake |
|--|------------------------------|
| Siding charges [3700 tonnes per rake X ₹ 4/- per tonne] | 14,800 |
| Haulage [58 wagons per rake X ₹ 1950/- per wagon] | 113,100 |
| Terminal Charges [3700 tonnes X ₹ 22.97 per tonne] | 84,989 |
| Tippling Charges [3700 tonnes X ₹ 20.4 per tonne] | 75,480 |
| IOHP charges [3700 tonnes X ₹ 49 per tonne] (Shipping Charges) | 1,81,300 |
| Total cost per rake | 4,69,669 |
| Tonnes of cargo in one rake | 3700 |
| Cost per tonne | 127/- |

- (vi). Based on the calculation given by the PPT and considering that the rate of ₹ 120/- per MT is based on the consultation with the users and has the approval of its Board of Trustees, this Authority is inclined to approve the rate of ₹ 120/- per MT towards labour cess on thermal coal handled through IOHP, as proposed by the PPT.
- (vii). It may be recalled that based on the request made by the port, this Authority vide its Order dated 21 June 2016 has granted ad hoc approval for introduction of Labour Cess at PPT at the rate of ₹ 120/- per MT for the thermal coal handled at IOHP, subject to the condition that if the final rate fixed by this Authority is lower than the adhoc rate of ₹.120/- per MT, the difference between the final rate and the adhoc rate has to be refunded by the PPT to the concerned users. Given that the rate levied by the PPT on adhoc basis and the rate approved by this Authority are the same, the levy of ₹120/- per MT towards handling of thermal coal at IOHP with effect from the date of commencement of the levy by PPT is recognized as such.
- (viii). The proposed levy is to recoup the amount of ₹. 176 crores for the specific purpose of SSP for the CF&H workers. As requested by TANGEDCO and NTECL, it is appropriate to fix a time frame for levy to collect the amount of ₹. 176 crores. Since the recovery of the entire amount depends on the coal cargo handled / to be handled at the IOHP, it is not possible to fix the time frame at this stage. Therefore, the PPT is advised to maintain a separate account in this regard and stop the levy at once the entire amount is recovered by the PPT. An audited account in this regard is required to be produced by the PPT to this Authority, at the time of next review of tariff of PPT.
- (ix). The Tariff Policy, 2015 read with the Working Guidelines issued to operationalize the Tariff Policy stipulates prescription of Performance Standards. Accordingly, at our request, the PPT has proposed to prescribe the Performance standard as Average Ship Berth day Output in respect of handling of Thermal Coal in IOHP at 12,000 tonnes. The Tariff Policy, 2015 does not prescribe any method or basis for proposing performance standards. The performance standards as proposed by the Port is approved.

12.1. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the levy of ₹120/- per MT towards handling of thermal coal at IOHP and the Performance standard as Average Ship Berth day Output in respect of handling of Thermal Coal in IOHP at 12,000 tonnes at PPT, as proposed by the Port.

12.2. The levy would come into effect from the date of commencement of the levy by PPT and the validity of the rate would be co-terminus to the validity of the rates to be approved in the general revision case of PPT.

12.3. The approval accorded would automatically lapse thereafter unless specifically extended by this Authority. The levy of ₹120/- per MT towards handling of thermal coal at IOHP approved now shall be reviewed at the time of next general review of tariff of PPT. The port is advised

to maintain a separate account in this regard and furnish the audited details for scrutiny at the time of the next review of tariff of PPT.

T.S. Balasubramanian)
Member (Finance)

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.

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| F. No. TAMP/31/2016-PPT | Proposal received from Paradip Port Trust (PPT) for introduction of Labour Cess for the thermal coal handled at Iron Ore Handling Plant (IOHP). |
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A summary of the comments of users / user organisations and response of Paradip Port Trust (PPT) thereon is tabulated below:

| Sr. No. | Comments of the users / user organisation | Reply of PPT |
|---------|---|---|
| 1. | NTPC Tamilnadu Energy Company Ltd (NTECL) | |
| (i). | PPT had approached NTECL with the scheme for reintroducing of tipping of thermal coal in IOHP. NTECL welcomes the initiative to re-introduce tipping of thermal coal through IOHP. However, NTECL has already raised some concerns to be addressed by PPT, as given below: | |
| a. | There will be a gradual shift from manual unloading to mechanical unloading. In this regard, the ratio of rakes planned for manual unloading and tipping at present and the period planned for complete changeover to tipping may be provided. | There was no specific ratio determined for manual vis-a vis tipping. It was proposed to handle at least one manual unloading per day. But after introducing of operation through IOHP, all the cargoes are loaded through tippler only. |
| b. | A dedicated plot to be allotted in IOHP for storage to the extent of one shipment quantity of NTECL coal. Presently, the three rakes that is unloaded from 6 th May 2016 till date is stored in the common plot at IOHP. | No comments. |
| c. | PPT shall develop and maintain adequate fire protection and other needed infrastructure facilities at IOHP. | PPT has a dedicated fire wing of CISF which is adequate for fire protection. |
| d. | The reclaiming capacity for ship loading at IBO is only about 1/3 rd capacity of MCHP. This shall result in 4 days to complete the loading of a Supermax ship in IOB. NTECL may have to incur additional cost due to above. Also, it may affect the turnaround time of NTECL vessels due to which NTECL may have to charter one additional vessel. Shortly, we are moving to Panamax class of vessels and the turnaround time will further deteriorate with IOB loading. Necessary compensation have to be worked out to offset the additional cost. | It is already experienced that in IOHP 30,000 Metric Tonne has been loaded in a day. |
| e. | At times the ship may be waiting to accumulate one shipload of coal at MCHP of IOHP. In such cases, waiver of vessel shifting charges for loading part cargo from OHP and MCHP to complete the loading of ship will be required. | This may be dealt from case to case basis depending on merits. |
| f. | NTECL has already enrolled in priority berthing scheme for CB-1 and CB-2 available to MGT providers wherein minimum loading rate of vessels is stipulated @ 3200TPH for | The berth loading at IOHP has already been narrated at Para 4 above. The quantity loaded in ships at IOHP cannot be considered for MGT or rebate. |

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| | Panamax and 2700 TPH for Handymax vessels respectively. As against this, IOHP berth loading rate is going to be about 1000TPH. Quantity loaded in ships at IOB have to be included for achieving MGT. | |
| g. | PPT is requested to further reduce the proposed Labour cess component of ₹. 130 per MT. Further, PPT is requested to obtain TAM approval of the Labour Cess. We understand that our partner TANGEDCO also requested PPT on the same lines. | The request to reduce the proposed labour cess of ₹. 130 was considered and reduced to ₹. 120 per MT. |
| h. | Labour cess has to be on the B/L quantity loaded from IOB and shall be a part of amount collected by PPT with receipts. It should not be a rate collected by Management Committee, CFH. | The labour cess is collected by PPT and not by the Management Committee. |
| (ii). | PPT has proposed to recover labour cess @ ₹130/- per MT. However, PPT vide its letter TD/TM/GEN-13(51)/1915 dated 6 June 2016 addressed to TANGEDCO with a copy marked to NTECL, has confirmed to reduce the labour cess from ₹. 130/- per MT to ₹. 120/- per MT. The copy of the letter is attached by NTECL. | No specific comments furnished by PPT. |
| (iii). | The labour cess is to meet the financial requirement for Special Severance Package for CF&H workers of PPT. Being a non-recurring expenditure, the time period for which the proposed labour cess shall be applicable to the customers may be indicated. | |
| (iv). | NTECL/NTPC has got long standing relationship with PPT and is a large customers in the port. Being public utility engaged in power generation, any increase in cost of coal shall impact the cost of generation to the consumers. | |
| 2. | Tamilnadu Generation and Distribution Corporation Ltd (TANGEDCO). | |
| (i). | PPT in its letter dated 24.05.2016 to TAMP, proposed to recover a labour cess of ₹. 130/MT, but subsequently vide letter dated 6.06.2016 addressed to TANGEDCO, PPT has reduced and requested to confirm ₹. 120/-MT as Labour Cess on handling of Thermal coal using IOHP. TAMP is requested to reduce the rate further to the maximum extent feasible taking into account the surplus if any available with PPT in their Reserves / Funds. | |
| (ii). | TANGEDCO has earlier communicated after analyzing the proposal of PPT for mechanical topping of TANGEDCO vessel at IHP for the BOXN wagons subject to following condition. TAMP is requested to ensure that the port user interest is protected. | |
| a. | PPT is requested to further reduce the proposed labour cess of ₹. 130 per MT. | The request to reduce the proposed labour cess of ₹. 130 was considered and reduced ₹. 120 per MT. |
| b. | Acceptance of Labour cess shall be subject to TAMP approval. | TAMP has approved adhoc rate of ₹. 120 per MT per vide Order dated 20 June 2016. |

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| c. | The entire cargo received through BOXN wagons on a/c TANGEDCO to be unloaded through Wagon Tippler only as proposed by PPT | At present all the BOXN wagons are unloaded through wagon tippler only. |
| d. | PPT shall develop and maintain adequate Fire protection and other needed infrastructure facilities at IOHP. | PPT has a dedicated fire wing of CISF which is adequate for fire protection. |
| e. | Full loading of coal into vessel to be done only at MCHP. | The tipped coal at IOHP can be loaded at IOHP only. |
| f. | PPT should ensure that full loading of TANGEDCO vessels are not hampered due to splitting of coal stock at MCHP yard and IOHP yard. If there is inadequate stock at MCHP coal yard a/c TANGEDCO for full loading of TANGEDCO's vessel, then coal unloaded at IOHP coal stock yard should be allowed to be transported to MCHP. Priority to be given for full loading of TANGEDCO vessels at MCHP. | The BOXN wagon is presently loaded in IOHP through the tippler. Coal unloaded at IOHP coal stackyard may not be a requirement to be transported to MCHP because at present IOHP has already loaded 30,000 MT in a day in IOHP. |
| g. | The quantity handled at IOHP along with MCHP quantity should be taken into account while computing the rebate in shipment charges for the coal handled a/c TANGEDCO through MCHP and IOHP (The rebate of ₹. 6.45 per MT for shipment from 7.5 Million tonnes to 10 Million tonnes and additional rebate of ₹. 6.45 i.e. a total rebate of ₹. 12.90 per MT for shipment beyond 10 Million tonnes). | The quantity loaded in ships at IOHP cannot be considered for getting the rebate applicable to MCHP. |
| h. | As the entire unloading and loading operation at IOHP is carried out by PPT, the demurrage charges, damage claim etc. will be to the account PPT. | This claim cannot be considered by PPT. |
| i. | TANGEDCO vessels would be programmed for uptooping at IOHP after TAMP approves the Labour cess proposed by PPT and when PPT confirms the above request of TANGEDCO. | This has already been clarified at Point b above. |
| (iii). | Proposed Labour Cess subject to modification to be made by TAMP has to be collected by PPT on the shipped B/L quantity loaded from IOHP and shall be a part of amount collected by PPT with receipts. It should not be a rate collected by Management Committee, CFH. | No specific comments furnished by PPT. |
| (iv). | TAMP is also requested to stipulate a time period up to which the Labour Cess is applicable. | |

2. A joint hearing on the case in reference was held on 27 September 2016 at the PPT premises. At the joint hearing, the PPT made a brief power point presentation of its proposal. The PPT and the concerned users/ user organizations have made following submissions:

Paradip Port Trust

- (i). The IOHP has been designed to handle Iron ore. Due to ban on handling of Iron Ore since 2013, port started unloading thermal coal through tipplers, which was earlier handled manually. However, due to heavy

resistance from the CF&H workers, unloading thermal coal through tipplers was discontinued.

- (ii). Since the IOHP was virtually idle, PPT referred the matter to the Ministry for approval of onetime grant to meet the financial requirement for allowing SSP for CF&H workers.
- (iii). The Ministry has given 'No Objection' to the proposal. Accordingly, the PPT proposes to recoup this SSP through a levy of Cess on thermal coal.
- (iv). It is to be noted that as against the manual handling cost of thermal coal at ₹ 427/- per MT, the handling of Thermal coal through IOHP works out to ₹ 247/- per MT, after including of ₹ 120/- per MT towards the Cess. There is a savings of about ₹ 180/- per MT to the users.
- (v). Even the Iron Ore Pellets of Jindal which goes to Dhamra has been handled at the PPT even with the Cess of ₹ 70/- proposed for handling of Iron Ore Pellets through IOHP.
- (vi). The purpose of this proposal is to enable the Port to utilize the IOHP to the fullest, which is at present defunct, and to recover the SSP at a rate that is reasonable. The proposed rate is the lowest among all ports.
- (vii). The Cess will continue till the SSP is recovered.
- (viii). As against the manual handling cost of thermal coal t ₹ 427/- per MT, the handling of Thermal coal through IOHP works out to ₹ 247/- per MT, already resulting in a savings of about ₹ 180/- per MT to the users. Assuming that the financial impact of the lower handling capacity of the IOHP is about ₹ 80/- per MT, still there is a savings of ₹ 100/- per MT to users.
- (ix). Nevertheless, this rate fixation for coal is only a theoretical exercise, given that the IOHP has started handling Iron Ore. However, considering the volatility of handling of Iron Ore, this proposal is only to enable PPT to handle thermal coal or iron ore pellets in the future, when on account of fall in handling of Iron Ore, the IOHP will be utilised to handle thermal coal and iron ore pellets. At that time, we need not rush to TAMP for fixing tariff for handling thermal coal and iron ore pellets through IOHP.

TANGEDCO

- (i). The proposal of the port is mutually beneficial. IOHP will get utilized and at the same time, the reduced handling cost will benefit the users.
- (ii). However, it is requested that the rates may be further reduced to a maximum extent, so that all the benefits are shared by all.

NTECL

- (i). Loading time is excessively high when handled through IOHP. The ships have to keep waiting.
- (ii). The Cess is on a higher side. It may be reduced.
- (iii). Time horizon for levy of rates should be indicated.
