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**TARIFF AUTHORITY FOR MAJOR PORTS**

**G.No. 420**

**New Delhi**

**01 November 2017**

**NOTIFICATION**

In exercise of the powers conferred under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes the proposal received from the Tuticorin Coal Terminal Private Limited (TCTPL) for notification of Scale of Rates in the name of TCTPL for development of North Cargo Berth-II (NCB-II) for coal handling at V.O. Chidambaranar Port Trust (VOCPT) on DBFOT basis as in the Order appended hereto.

**(T.S. Balasubramanian)**  
Member (Finance)

**TARIFF AUTHORITY FOR MAJOR PORTS**  
**Case No. TAMP/48/2017-VOCPT**

**Tuticorin Coal Terminal Private Limited ...**

**Applicant**

**QUORUM:**

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

**ORDER**

(Passed on 15<sup>th</sup> day of September 2017)

This case relates to the proposal received from the Tuticorin Coal Terminal Private Limited (TCTPL) for notification of Scale of Rates in the name of TCTPL for development of North Cargo Berth-II (NCB-II) for coal handling at V.O. Chidambaranar Port Trust (VOCPT) on DBFOT basis.

2. This Authority vide Order No.TAMP/27/2009-TPT dated 23 February 2010 has approved upfront tariff for coal handling terminal at VOCPT at NCB- II based on the proposal filed by VOCPT and following the Guidelines of 2008 for fixation of upfront tariff.

3. The Tuticorin Coal Terminal Private Limited (TCTPL) vide its letter dated 30 May 2017 has filed the proposal requesting this Authority to notify Scale of Rates in respect of NCB-II in its name. The main points made by TCTPL are summarized below:

- (i). As per clause 2.9.1 of the Tariff Guidelines of 2008, the private operator shall approach TAMP for notification of Scale of Rates containing ceiling rates applicable to its operations before commencement of commercial operations as required under Section 48 of the Major Port Trusts (MPT) Act, 1963. Further, as per clause 2.9.2 of Tariff Guidelines of 2008, the SOR to be framed by TAMP shall be in line with the Tariff caps prescribed for the port and included in the Bid document subject to indexation explained in Clause 2.8. Such SOR and Statement of conditions shall be notified by TAMP in the Gazette of India as required by the MPT Act 1963.
- (ii). Clause 6 i.e. General Note to Schedules (2) to (5), of Upfront Tariff Schedule approved by TAMP in the Order No. TAMP/27/2009-TPT dated 23 February 2010 notified vide Gazette No. 102 dated 16 April 2010, provides that caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2010 and 1 January of the relevant year.
- (iii). As per TAMP's notification, the escalation factor for tariff with reference to WPI as on 1 January 2010 shall be 25.67%.
- (iv). Therefore, the indexed upfront tariff applicable from 1 April 2017 to 31 March 2018 has been calculated as below:

Tariff Item	Tariff as per TAMP Order No. TAMP/27/2009 dated 23 February 2010		Indexed Upfront Tariff as per TAMP Notification	
	Foreign	Coastal	Foreign	Coastal
WPI Indexation as per TAMP Notification	25.67 %			
Berth Hire (₹ per GRT per hours)	0.4121	0.2472	<b>0.5178</b>	<b>0.3106</b>
Cargo Handling (₹ Per MT)				
Thermal Coal	163.05	163.05	<b>204.90</b>	<b>204.90</b>
Industrial Coal	163.05	97.83	<b>204.90</b>	<b>112.94</b>
Storage Charges (₹ per ton per day)				
Fix Six days after expiry of free period)	1.94		<b>2.44</b>	
Next 6 days	3.14		<b>3.95</b>	

There after	6.13	<b>7.70</b>
Miscellaneous (₹ Charges per Ton)	1.66	<b>2.10</b>

- (v). Draft SOR taking the SOR approved by TAMP Order No. TAMP/27/2009-TPT dated 23 February 2010 (Gazette No. 102 dated 16 April 2010 and duly applying the applicable escalation factor for the year 2017-18 is furnished.
- (vi). NCB-II will soon be fit for entering into Commercial Operation with estimated dated of 27 June 2017. As per the guidelines, the new SOR furnished shall be applicable for the time period from 1 April 2017 to 31 March 2018.
- (vii). As per Clause 2.9.2 of the aforesaid Guidelines of 2008, such SOR and Statement of Conditions shall be notified by TAMP in the Gazette of India as required by MPT Act.
- (viii). The pictures of the Project are furnished.
- (ix). The Certificate of Independent Engineer will be submitted in due course.

4.1. The VOCPT vide its letters dated 9 January 2017 and 31 March 2017 made submissions to this Authority and sought the decision of this Authority. The submissions made by VOCPT are summarized below:

- (i). The Operation and Maintenance of North Cargo Berth-II with the estimated traffic of 6.93 MTPA to handle Thermal Coal and Steaming Non Coking coal have been tendered and awarded to M/s. Tuticorin Coal Terminal Private Ltd.

(ii). The tariff was fixed by the Authority vide order dated 23.02.2010 as given below:-

(a).	Composite handling charges which includes charges for unloading of the cargo from the vessel, transfer upto the point of storage, storage charges at the stackyard upto 10 days free period, loading on the trucks, wharfage and all other miscellaneous services.	₹ 163.05 per M.T
(b).	(i). Free period 10 days	
	Storage charges after free period (Per tonne / day)	
	First 6 days after expiry of Free period	₹ 1.94 per ton per day
	For the next 6 days	₹ 3.14 per ton per day
	Thereafter	₹ 6.13 per ton per day
	Charges for all miscellaneous services such as environment and management, sweeping of cargo on the wharf safety measures, etc.	₹ 1.66

- (iii). (a). The TCTPL now proposes to commence the interim operation without the conveyor handling facility which is not yet ready for operation.
- (b). The charges already approved by the Authority vide order No. TAMP/27/2009-TPT dated 23 February 2010 is a composite right from the point of loading onto conveyor upto unloading at stackyard.
- (c). The proposal of the operator is to temporarily operate the berth without conveyor system. Hence, rate is to be bifurcated to cover this scenario of handling extending as Rebate towards the facility which is not provided by the Terminal Operator.
- (d). The VOCPT has furnished a cost statement for arriving at the proposed

tariff for handling charges and miscellaneous charges capturing non provision of conveyor facility at NCB-II.

₹ in lakhs

Sl. No.	Particulars	Estimates as considered in upfront tariff Order No.TAMP/27/2009TPT dated 23.2.2010	Elements relating to Conveyor & Stackyard as furnished by VOCPT (In ₹)	Elements upto handling at Berth (In ₹)
	1	2	3	4=(2-3)
<b>I</b>	<b>Optimal Capacity</b>	6.93		6.93
<b>II</b>	<b>Capital Cost</b>			
(a).	<b>Civil Cost</b>	6,598		6,598.36
(b).	<b>Equipment Cost</b>			
	(i). Ship Unloader	5,600	-	5,600
	(ii). Stackers	3,600.00	-	3,600
	(iii). Conveyors	8,740.00	8,740.00	-
	(iv). Pay loaders & dozers	600.00	600.000	-
	(v). Electric Power & Control switch gears (Out of 7000 KVA Power requirement, 5500 KVA apportioned to Conveyor operations and remaining 1500 KVA apportioned to Berth operations)	1,145.00	899.64	245.36
	<b>Subtotal (a)</b>	<b>19,685.00</b>	<b>10,239.64</b>	<b>9,445.36</b>
	(vi). Contingencies, engineering and supervision at 10% on the total base cost	1,968.50	1,023.96	9,44.54
	(vii). Works Contract Tax (4% on 65% of equipment base cost)	511.81	266.23	245.58
	<b>Subtotal (b)</b>	<b>22,165.31</b>	<b>11,529.84</b>	<b>10,635.47</b>
(c).	Contract Tax	1,404.98	563.18	841.79
	<b>Total Capital Cost for Handling Activity (a+b+c)</b>	<b>30,168.65</b>	<b>12,093.02</b>	<b>18,075.63</b>
<b>III</b>	<b>Operating Cost</b>			
(a).	<b>Cargo Handling Activity</b>			
	(i). Power Cost (Out of 7000 KVA Power requirement 5500 KVA apportioned to Conveyor operations and remaining 1500 KVA apportioned to Berth operations)	630.50	495.39	135.11
	(ii). Repair & Maintenance			
	- Civil Assets (1% of Civil Work)	65.98	-	65.98
	- Mechanical & Electrical Equipment including spares (7% on mechanical and electrical work)	1,551.57	807.09	744.48
	(iii). Insurance (1% on Gross Fixed Assets)	301.69	120.93	180.76
	(iv). Depreciation			
	- Civil Assets 3.34%	220.39	-	220.39
	- Mechanical and Electrical Works 10.34%	2,291.89	1,192.19	1,099.71
	(v). License Fee			
	- Water Front Charges (33,250 sq. mtr @ ₹8 per sq.	31.92	-	31.92

	- Stack yard at Hare Island (1,26,000 sq. mtr @ ₹6.40 per sq. mtr. month * 12)	96.77	96.77	-
	- Way Leave for conveyors (36,480 sq. mtr @ ₹1.428 per sq. mtr annum)	0.52	0.52	-
	(vi). Other Expense towards salaries and overheads (5% on gross value of assets)	1,508.43	604.65	903.78
	<b>Total Operating Cost</b>	<b>6,699.66</b>	<b>3,317.54</b>	<b>3,382.13</b>
IV	<b>Revenue Requirement &amp; Proposed Tariff</b>			
(a).	<b>Cargo Handling Charge</b>			
	1. Revenue Requirement			
	(a). Total Operating Cost	6,699.66	3,317.54	3,382.13
	(b). Return on Capital Employed @ 16%	4,826.98	1,934.88	2,892.10
	(c). Total Revenue Requirement from cargo handling activity	11,526.64	5,252.42	6,274.23
	2. Apportionment of Revenue Requirement			
	(a). Coal Handling Charges (98% of ARR)	11,296.11	5,147.37	6,148.74
	(b). Storage Charges (1% of ARR)	115.27	115.27	-
	(c). Miscellaneous Charge (1% of ARR)	115.27	52.52	62.74
	<b>(d). Total Revenue Requirement from cargo handling activity.</b>	<b>11,526.64</b>	<b>5,315.16</b>	<b>6,211.48</b>
	3. Proposed tariff per tonne rate			
	(a). Coal Handling Charges (Composite)			
	- Revenue Requirement (₹ in Lakhs)	11,296.11	5,147.37	6,148.74
	- Capacity (Million Tonnes per annum)	6.93	6.93	6.93
	Composite Handling Charge – cargowise (Foreign)	163.04	74.29	88.74
	(b). Storage Charge			
	- Revenue Requirement (₹ in lakhs)	115.28	115.28	
	- % of Cargo to attract storage charge	0.14	0.14	
	- cargo likely to pay storage charge (lakh tonnes)	9.91	9.91	
	(i). Free Period	10 days	10 days	
	(ii). Storage Charge (beyond the free period)	Rate per tonne per day or part thereof	Rate per tonne per day or part thereof	
	- First six days	1.94	1.94	
	- Next six days	3.14	3.14	
	- Thereafter	6.13	6.13	
	(iii). Miscellaneous Charge			
	- Revenue Requirement (₹ in Lakhs)	115.28	52.52	62.74
	- Capacity (Million Tonnes per annum)	6.93	6.93	6.93

	- Miscellaneous Charge per tonne	1.66	0.76	0.91
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- (e). Accordingly, the port has bifurcated the rates approved by the Authority into elements for handling without conveyor and other is rebate portion for non provision of conveyor facility as tabulated below:

(₹ Per M.T)

Sr. No.	Name of Tariff	Tariff proposed upto handling at Berth (Without Conveyor)	Rebate for non provision of Conveyor facility	Upfront tariff approved as composite charges by this Authority in the Order dated 23.2.2010
1	Composite handling charges	88.75	74.30	163.05
2	Miscellaneous charges	0.90	0.76	1.66

- (iv). The proposal of the port is for bifurcation of the consolidated rate already fixed by the Authority vide order dated 23 February 2010 for providing a separate rate for handling at berth without using conveyor facility since the conveyor facility is not ready but the Operator proposes to start interim operation without conveyor facility. Hence, the rate has been bifurcated for non provision of conveyor facility.
- (v). The VOCPT has, thus, requested the Authority to consider the proposal to collect the charges by TCTPL applying the relevant escalation factor of 25.67% for the interim operations till the completion of Conveyor Facility and commencement of full fledged operations and also to regulate similar contingent operation without conveyor usage and sought the decision of the Authority.
- (vi). The concessionaire, TCTPL has been requested to approach the Authority for notification of SOR with applicable annual escalation in line with clause 2.8 of the upfront tariff guidelines of 2008 before commencement of commercial operation as per clauses 2.9.1 and 2.9.2 of the upfront tariff guidelines 2008.

5.1. The TCTPL has filed the proposal dated 30 March 2017 for notification of SOR in its name.

5.2. The TCTPL was requested vide our letter dated 5 June 2017 to furnish a copy of the completion certificate issued by the Independent Engineer, followed up by a reminder dated 3 July 2017.

5.3. Further, the VOCPT was requested vide our letter dated 5 June 2017 to furnish requisite information/clarification on the following points:

- (i). Copy of Completion Certificate issued by Independent Engineer alongwith the exact date of commencement of commercial operation.
- (ii). The status of installation of conveyor facility.
- (iii). Comments of VOCPT on the proposed SOR forwarded by TCTPL for notification in its name.

6. With reference to our letter dated 5 June 2017 and subsequent reminder dated 3 July 2017, the VOCPT vide its letter dated 20 July 2017 has responded along with its comments on the proposal of TCTPL, the summary of which is given below:

- (i). The Independent Engineer has inspected the site and their Certificate is awaited. As soon as the certificate is received, same shall be produced.

[Subsequently, the VOCPT vide its email dated 7 September 2017 has submitted the provisional certificate issued by the Consulting Engineering Services (India) Private Limited acting as an Independent Engineer for the project NCB-II for handling Bulk Cargoes through TCTPL alongwith the Punch List which, inter alia, stated that the mechanized conveyor system is yet to be installed.]

- (ii). TCTPL has informed that they will commence the commercial operations after commencement of interim operations. Tentatively, it is one year from interim operation.
- (iii). Main conveyor handling facility is not yet ready for operation. TCTPL has to complete the conveyor handling facility before commencement of full fledged commercial operation.
- (iv). As far as the SOR is concerned, TCTPL has proposed the SOR applying the relevant escalation of 25.67% on the base rate approved by the Authority vide Order dated 23 February 2010 for the year 2017-18. However, modifying the changes required in the tariff and the prevailing definition and Terms & Conditions, the draft SOR is furnished.

7.1. The TCTPL vide its letter dated 19 August 2017 has forwarded a copy of VOCPT letter dated 4 August 2017 addressed to TCTPL. In the said VOCPT letter, VOCPT has forwarded Provisional Certificate dated 4 August 2017 duly signed by the Independent Engineer and the TCTPL.

7.2. The Provisional Certificate issued by the Independent Engineer states that the Tests specified in Annexure to Appendix 7 of the Agreement have been undertaken to determine compliance of the project with the provisions of the Agreement. Construction work found to be incomplete and / or deficient have been specified in the Punch List appended to the Provisional Certificate, and the Concessionaire has agreed and accepted that it shall complete and / or rectify all such works in the time and manner set forth in the Agreement. The Independent Engineer in the Provisional Certificate has stated that the Independent Engineer is satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project, pending completion thereof. The Independent Engineer is satisfied that the Project can be safely and reliably placed in commercial service of the users thereof, and in terms of the Agreement, certified that the Project is provisionally declared fit for entry into commercial operation on 4 August 2017.

8.1. A copy of Concession Agreement between the VOCPT Board and the TCTPL is available with us. As per the Concession Agreement, the VOCPT has awarded the project of Development of North Cargo Beth-II for coal handling on DBFOT basis to TCTPL. The consortium of ABG-LDA Bulk Handling Private Ltd., Mumbai and LOUIS DREYFUS ARMATEURS SAS, France has incorporated the TCTPL. The Concession Agreement with VOCPT has been signed on 11 September 2010 by the TCTPL and the agreement is valid for a period of 30 years from the date of award of concession.

8.2. The base year for the upfront tariff and the corresponding annual escalation with effect from 1 April 2017 were already communicated to all the Major Port Trusts including VOCPT vide our letter No. TAMP/12/2009-Misc. dated 30 March 2017.

8.3. As per clause 6 [General Note to Schedule (2) to (5)] of the Upfront Scale of Rates approved by this Authority vide Order dated 23 February 2010, fixing upfront tariff for the facility in reference, tariff caps have to be indexed to inflation to an extent of 60% of the variation in the WPI occurring between 1 January 2010 and 1 January of the relevant year. Accordingly, the escalation factor to be applied in the case in reference is 25.67% as per our letter dated 30 March 2017 read with clause 5 of the Scale of Rates.

9.1. As per Clause 2.9.1. of the Tariff Guidelines of 2008 for fixation of upfront tariff, the private operator shall approach this Authority for notification of Scale of Rates containing ceiling rates applicable to his operations before commencement of commercial operations as required under Section 48 of MPT Act and as per Clause 2.9.2. of tariff guidelines of 2008, the Scale of Rates to be framed by TAMP shall be in line with the tariff caps prescribed for the port and included in the bid document subject to indexation explained in Clause 2.8. Such Scale of Rates and statement of conditions shall be notified by this Authority in the Gazette of India as required by the Major Port Trusts Act, 1963.

9.2. As per clause 2.8 of the guidelines for upfront tariff setting for PPP Projects at Major Ports, 2008, the Tariff Caps are to be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2008 and 1 January of the relevant year, and the adjusted tariff will come into force from 1 April of the relevant year to 31 March of the following year.

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

- (i). This Authority has passed an Order No.TAMP/27/2009-TPT dated 23 February 2010 fixing upfront tariff based on the proposal filed by the V.O. Chidambaranar Port Trust (VOCPT) for fixing upfront tariff cap for Coal handling at V.O. Chidambaranar Port Trust (VOCPT) before inviting bids on DBFOT basis which was notified in the Gazette of India Extraordinary (Part III Section 4) on 16 April 2010 vide Gazette No.102.
- (ii). As brought out earlier, Clause 2.9.1. of the Tariff Guidelines of 2008 for fixation of upfront tariff requires the operator to approach this Authority for notification of the Scale of Rates containing ceiling rates applicable to his operations before commencement of commercial operations.

The VOCPT has awarded the project of Coal handling on DBFOT basis to Tuticorin Coal Terminal Private Limited (TCTPL) and entered into a Concession Agreement on 11 September 2010 for a period of 30 years. The TCTPL had earlier estimated to commence commercial operations by 27 June 2017. The Independent Engineer has stated in the Provisional Certificate issued for the Project certified that the Project is fit for commercial operations on 4 August 2017. Accordingly, the TCTPL has approached this Authority with a request to notify the Scale of Rates as required under the Tariff Guidelines of 2008.

- (iii). As per Clause 2.9.2. of the Tariff Guidelines of 2008, the Scale of Rates to be framed by this Authority for the operator should be in line with the tariff caps prescribed for the Port and included in the bid document, subject to indexation. Article 8.1 of the Concession Agreement (C.A.) entered between the VOCPT and TCTPL governs levy of the tariff at NCB-II. As per Article 8.1 of the C.A., the Concessionaire i.e. TCTPL shall be entitled to recover tariff from the users of the Project Facilities and Services as per the Tariff Notification annexed as Appendix12. It is seen that Appendix-12 appended to C.A. gives reference to the Notification details of the Upfront Tariff approved by this Authority vide Order No.TAMP/27/2009-TPT dated notified on 16 April 2010.



- (iv). (a). The TCTPL and VOCPT both have forwarded a copy of Provisional Certificate issued by the Independent Engineer of the subject project. The relevant extract from the Provisional Certificate issued by Independent Engineer is reproduced as here under:

*“(2). Construction works that were found to be incomplete and / or deficient have been specified in the Punch List appended to the Provisional Certificate, and the Concessionaire has agreed and accepted that it shall complete and / or rectify all such works in the time and manner set forth in the Agreement. I am satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project, pending completion thereof.*

*(3). In view of the foregoing, I am satisfied that the Project can be safely and reliably placed in commercial service of the users thereof, and in terms of the Agreement, the Project is hereby provisionally declared fit for entry into commercial operation on this the 4 August 2017”.*

The punch list attached to the Provisional Certificate, amongst other items states that mechanized conveyor system is yet to be installed. However, it can be seen that the Independent Engineer for reasons stated in Provisional Certificate has provisionally declared that the Project is fit for commencement of the commercial operation from 4 August 2017.

- (b). It is relevant here to state that the VOCPT had vide its letter no.FINOFFCT-PRJ-CORRE-VI-16 dated 9 January 2017 and 31 March 2017 intimated that the conveyor handling facility is not yet ready for operation. When the VOCPT was requested to indicate the status of installation of conveyor facility during the processing of this case, the VOCPT has reiterated vide its letter dated 20 July 2017 that the main conveyor handling facility is not yet ready for operation and that the TCTPL has to complete the conveyor handling facility before commencement of full fledged commercial operation. The VOCPT has, however, informed that the TCTPL will commence interim operations without deployment of conveyor facility and full fledged commercial operations will be tentatively after a year.

The VOCPT, while furnishing its comments on the proposal, has observed that the TCTPL has applied applicable escalation factor of 25.67% on the base upfront tariff of the base year January 2010. The Port has also forwarded the Scale of Rates after applying the said indexation on the upfront tariff approved by this Authority vide Order dated 23 February 2010.

Relying on the position reported by the VOCPT and keeping in view the provision of 2008 Tariff Guidelines brought out above and placing reliance on the Independent Engineer's Certificate that the Terminal is fit for commercial operation, this Authority is inclined to consider the proposal of TCTPL for notification of the Scale of Rates approved in February 2010 applying the applicable indexation factor for base year 1 January 2010 to 1 January 2017 as communicated to all the Major Ports vide letter dated 30 March 2017, including VOCPT subject to insertion of a note in the SOR on account of the position brought out by the VOCPT in its proposal about non deployment of conveyor facility by the TCTPL which is discussed in the immediate subsequent paragraph.

- (v). (a). The upfront tariff approved by this Authority in the Order No TAMP/27/2009-TPT dated 23 February 2010 is composite for a fullfledged Coal handling terminal at VOCPT which includes conveyor facility envisaged by the port at the time of seeking upfront tariff based on which the bids have been invited and the project is awarded by VOCPT to TCTPL. The VOCPT has stated that the conveyor facility is not ready for operation. As already brought out to the VOCPT vide our letter dated 30 January 2017, allowing the BOT operator TCTPL to commence operations without conveyor facility in place for operation completely falls under the domain of the port.
- (b). The VOCPT has vide its letters dated 9 January 2017 and 30 January 2017 categorically stated that the tariff for composite handling charge and Miscellaneous Charge to be collected by Concessionaire is proposed with rebate for non-provision of Conveyor by the operator. The VOCPT has furnished working for the reduced rate after rebate for non provision of Conveyor facility by the operator which has been brought out at para 4.1. (iii) (d) above.

From the working furnished by the VOCPT, it is seen that the VOCPT has taken the estimates considered in the tariff Order of February 2010, and excluded the capital cost and relevant operating cost for non-provision of Conveyor and related items by the operator to arrive at the reduced rates. From the total capital cost for handling activity estimated in the upfront tariff Order at ₹30,169.00 lakhs, (VOCPT has shown it at ₹30,168.65 lakhs), the port has reduced ₹12,093.02 lakhs (i.e. 40.09% of the total capital cost) towards the capital cost of Conveyor, Pay loaders, and proportionate part of Electronic Power and Switch Gear envisaged and has considered capital cost of ₹ 18,075.63 lakhs (30,168.65 lakhs as per upfront tariff order - ₹12,093.02 lakhs is ₹18,075.63 lakhs). The port has also made necessary adjustment in the operating costs which are linked as percentage to capital cost, power cost and license fee on account of non provision of conveyor. The annual revenue requirement due to non deployment of conveyor facility by TCTPL reworked by VOCPT is ₹6274.23 lakhs as against ₹11,527.80 lakhs assessed in the February 2010 Order, (VOCPT in the calculation has shown it as ₹11,526.64 lakhs). The VOCPT has proposed to consider reduced rates only in respect of composite handling charge and miscellaneous charge and has sought decision of this Authority in this regard. The upfront tariff approved in February 2010 Order, and the reduced rate arrived by VOCPT due to non deployment of conveyor by the operator TCTPL is as follows:

Sr. No.	Particulars	Composite Handling Charge and Miscellaneous charges approved in upfront Tariff Approved by this Authority vide Order No. TAMP/27/2009-TPT dated 23 Feb 2010 with conveyor facility	Reduced Tariff arrived by VOCPT ( for Conveyor facility not ready for operation at NCB-II)	% of reduction over the tariff approved in February 2010 upfront tariff Order as furnished by VOCPT vide its letter dated 9.1.17
1.	Composite Handling Charges	163.05	88.75	45.6%
2.	Miscellaneous Charges	1.66	0.90	45.8%
				45.7 AVG

Thus, it can be see that as per the working furnished by the VOCPT, non provision of conveyor facility by TCTPL entails on an average 45.70% reduction in the composite handling charge and miscellaneous charge approved in the upfront tariff Order of

2010. The licensor port VOCPT has categorically pointed out that the conveyor facility is not installed as confirmed by the Independent Engineer and the VOCPT has categorically requested to consider its proposal for prescribing a reduced rate for non provision of conveyor facility by TCTPL and has sought a decision of this Authority in this regards. The proposal of the VOCPT can hardly be brushed aside. Since the tariff guidelines of 2008 do not permit this Authority to revised the tariff fixed upfront in a post bid scenario, a Note is inserted in the

**SOR stating that in respect of Composite Handling Charge and Miscellaneous Charge, the TCTPL shall charge the rates notified in the SOR after allowing rebate of 45.70% from the date of commercial operations at NCB-II till the completion of conveyor facility and commencement of full fledged operations at the NCB-II duly certified by the Independent Engineer** while approving notification of indexed SOR for TCTPL with applicable indexation factor for 25.67% on the upfront tariff approved in February 2010 Order.

The VOCPT in its letter dated 9 January 2017 while arriving at reduced rate for composite handling charge and miscellaneous charge has not proposed any reduced rate for storage charge. Since storage charges is for stacking of cargo at the yard, this Authority decide to go with the proposal of the port in the matter of storage charge.

The proposal of TCTPL for notification of SOR in its name is approved by this Authority relying on the Provisional Certificate issued by the Independent Engineer for commencement of commercial operations. The VOCPT, being a licensor port, is advised to submit a certified copy of final completion certificate once issued by the Independent Engineer for information and records of this Authority.

- (vi). (a). With reference to the indexation of the upfront tariff fixed vide Order dated 23 February 2010 as required under Clause 2.8. of the 2008 Guidelines, it is noteworthy that the TCTPL, while filing of its draft proposed SOR, has applied the applicable escalation factor of 25.67% on the tariff caps considering the base year 1 January 2010. In this regard, it is relevant to mention that para 11.1 of the said upfront tariff order as well as the general note to schedule (2) to (5) of Scale of Rates (SOR) approved in the upfront tariff order, state that the tariff caps will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2010 and 1 January of the relevant year. Since the Order and the general note explicitly state the base year for WPI escalation has to be 1 January 2010, the escalation factor of 25.67% considered by TCTPL to arrive at the indexed Scale of Rates taking the base as 1 January 2010 based on the applicable escalation factor announced by this Authority vide letter no. TAMP/12/2009-Misc. dated 30 March 2017 is found to be in order.
- (b). It is seen that the tariff items notified vide Order of February 2010 have been subjected to change in view of the application of applicable escalation factor. For the subsequent years as well, the indexation to the extent of 60% of the WPI occurring between January 2010 and January of the relevant year has to be with reference to the tariff approved vide Order no. TAMP/27/2009-TPT dated 23 February 2010 and not with reference to the indexed Scale of Rates approved in this Order. The General note to Schedule (2) to (5) proposed by TCTPL retaining the general note approved in the Order dated 23 February 2010 is, therefore, suitably modified clarifying this position. This is in line with the prescription made in the Scale of Rates of other BOT operators governed under 2008 guidelines who have commenced the operations
- (vii). The VOCPT has submitted the modified SOR which includes definitions of few terms and slight modification in the terms and conditions notified in the upfront tariff Order. The definition of the term "Per day" is duplicated by the port, definition of word "week" proposed by port for insertion is not relevant as not being used in the SOR. All the conditionalities governing the application of the rates as approved in the Scale of Rates of the Order dated 23 February 2010 are retained subject to the following.

- (a). The Government of India in the Ministry of Shipping (MOS) under cover of its letter No.PT-11033/51/2014-PT dated 11 November 2014 has forwarded a copy of the guidelines on priority berthing of coastal vessels at Major Port issued vide letter No.PT-11033/51/2014-PT dated 4 September 2014 to this Authority. Accordingly, this Authority vide its Order No. TAMP/52/2014-Genl. dated 28 November 2014 has, *inter alia*, approved the replacement of definition of 'Coastal Vessel' prescribed in the existing SOR of all the Major Port Trusts as follows:

*“Coastal vessel” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.*

Therefore, the definition of Coastal Vessel proposed by the TCTPL has been modified in line with the above mentioned definition of 'Coastal Vessel'.

- (b). This Authority, in view of the clarification sought by the V.O. Chidambaranar Port Trust regarding levy of concessional charges for coastal cargo / container has passed an Order No.TAMP/53/2015-VOCPT dated 29 September 2015 based on the recommendations of Directorate General (DG) Shipping. The provisions approved in the said Order were further amended vide Order No.TAMP/53/2015-VOCPT dated 26 November 2015. The said Order passed is for common adoption by all the Major Port Trusts. Subsequent to the said Order, the DG Shipping vide its letter no.SD-9 CHART(309)/2016 dated 20 May 2016 has issued further clarification on the provision approved in the 26 November 2015 Order. This Authority has accordingly passed a clarificatory Order slightly amending the provision prescribed in para 9A (ii) and 10(ii) of the Order dated 26 November 2015. The amended provisions approved by this Authority in the said Order has been updated accordingly, in the Scale of Rates of TCTPL as note no. (ii) and (iii) in place of note no. (ii) under General terms and conditions. The subsequent note nos. are consequently renumbered.
- (c). For ousting priority/ priority berth hire charges, the TCTPL has proposed a general condition stating that the rates and conditions for granting ousting priority berthing/ priority berthing are governed by the Government guidelines in this regard and provisions in the SOR of VOCPT. The said prescription is as approved in the upfront tariff Scale of Rates approved in the Order dated 23 February 2010 for VOCPT to invite bids. Now the current exercise is to notify the Scale of Rates in the name of the BOT operator. Hence, linking levy of priority/ ousting priority berthing charges to the Scale of Rates of VOCPT will lead to ambiguity and confusion while implementing the Scale of Rates by the BOT operator, when a Scale of Rates exclusive to the operator is notified. The Scale of Rates of VOCPT prescribes specific conditions relating to charges for priority berthing and ousting priority. The proposed note is, therefore, replaced with the conditionalities relating to ousting priority and priority berth hire charges in line with the prescription in the Scale of Rates of VOCPT to avoid any ambiguity.
- (viii). As per clause 3.8.5 of the 2008 guidelines, if any question arises requiring clarifications or interpretation of the Scale of Rates and the statement of conditions, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

- (ix). The TCTPL is expected to perform at least at the performance standards / norms brought out in the bid documents / Concession Agreement. The actual performance of the TCTPL will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority may enquire into such allegation and forward its findings to the VOCPT. If any action is to be taken against the TCTPL, the VOCPT shall initiate appropriate action in accordance with the provisions of the Concession Agreement.
- (x). During the commercial operation at the terminal, within 15 days from the end of every quarter, the TCTPL is directed to submit to this Authority through the VOCPT a report containing the physical and financial performance at North Cargo Berth-II (NCB-II) for coal handling during the preceding three months.

10.2. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves notification of the Scale of Rates attached as Annex in the name of TCTPL for North Cargo Berth-II (NCB-II) for coal handling on DBFOT basis at V.O. Chidambaranar Port Trust (VOCPT) to be operated by the TCTPL at VOCPT.

10.3. The Scale of Rates notified for TCTPL may be deemed to have come into force from the date of commencement of operations by TCTPL at VOCPT.

10.4. The Licensee is expected to perform at least at the performance norms brought out in the bid document/ Licence agreement.

10.5. The actual performance of the Licensee will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority may enquire into such allegation and forward its findings to the VOCPT. If any action is to be taken against the operator, the VOCPT shall initiate appropriate action in accordance with the provisions of the relevant Licence Agreement.

**(T.S. Balasubramanian)**  
Member (Finance)

**Annex**

**TUTICORIN COAL TERMINAL PRIVATE LIMITED (TCTPL)**

**TARIFF SCHEDULE FOR NORTH CARGO BERTH-II  
(NCB-II) FOR COAL HANDLING AT V.O.CHIDAMBARANAR PORT TRUST (VOCPT) [This  
Tariff Schedule is implementable as per Section 7 of the Schedule]**

**1.1. Definitions – General**

In this Scale of Rates, unless the context otherwise requires, the following definitions shall apply:

- (i). “**Coastal vessel**” shall mean any vessel exclusively employed in trading between any port or place in India to any other port or place in India having a valid coastal licence issued by the Director General of Shipping/ Competent Authority.
- (ii). “**Day**” shall mean the period starting from 6 a.m. of a day and ending at 6 a.m. on the following day.
- (iii). “**Foreign-going vessel**” shall mean any vessel other than coastal vessel.

**1.2. General Terms & Conditions**

- (i). The status of the vessel, as borne out by its certification by the Customs or the Director General of Shipping, shall be the deciding factor for classifying into ‘coastal’ or ‘foreign-going’ category for the purpose of levying vessel related charges; and, the nature of cargo or its origin will not be of any relevance for this purpose.

- (ii). System of classification of vessel for levy of Vessel Related Charges (VRC)
- (a). A foreign going vessel of Indian flag having a General Trading Licence can convert to coastal run on the basis of a Customs Conversion Order. Such vessel that converts into coastal run based on the Customs Conversion Order at her first port of call in Indian Port, no further custom conversion is required, so long as it moves on the Indian Coast.
  - (b). A Foreign going vessel of foreign flag can convert to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping and a custom conversion order.
- (iii). Criteria for levy of Vessel Related Charges (VRC) at Concessional Coastal rate and foreign rate:
- (a). In cases of such conversion, coastal rates shall be chargeable by the load port from the time the vessel starts loading coastal goods.
  - (b). In cases of such conversion coastal rates shall be chargeable till the vessel completes discharging operations at the last call of Indian Port; immediately thereafter, foreign going rates shall be chargeable by the discharge ports.
  - (c). For dedicated Indian coastal vessels having a Coastal licence from the Director General of Shipping, no other document will be required to be entitled to coastal rates.
- (iv). Criteria for levy of Cargo Related Charges (CRC) at Concessional Coastal rate
- (a). Foreign going Indian Vessel having General Trading License issued for 'worldwide and coastal' operation should be accorded applicable coastal rates with respect to Handling Charges (HC) i.e. ship to shore transfer and transfer from/ to quay to/ from storage yard including wharfage in the following scenario:
    - (i). Converted to coastal run and carrying coastal cargo from any Indian Port and destined for any other Indian Port.
    - (ii). Not converted\* to coastal run but carrying coastal cargo from any Indian Port and destined for any other Indian Port.
- \* The Central Board of Excise and Customs Circular no.15/2002-Cus. dated 25 February 2002 allows carriage of coastal cargo from one Indian port to another port in India, in Indian flag foreign going vessels without any custom conversion.
- (b). In case of a Foreign flag vessel converted to coastal run on the basis of a Licence for Specified Period or Voyage issued by the Director General of Shipping, and a Custom Conversion Order, the coastal cargo/ container loaded from any Indian Port and destined for any other Indian Port should be levied at the rate applicable for coastal cargo/ container.
- (v). (a). The berth hire charges for all coastal vessels should not exceed 60% of the corresponding charges for other vessels.
- (b). The cargo related charges for coastal cargo other than thermal coal should not exceed 60% of the normal cargo related charges.
- (c). In case of cargo related charges, the concessional rates should be levied on all the relevant handling charges for ship shore transfer and transfer from/to quay to/from storage yard including wharfage.

- (d). Cargo from a foreign port which reaches an Indian Port "A" for subsequent transhipment to Indian Port "B" will be levied the concession charges relevant for its coastal voyage. In other words, cargo from/to Indian Ports carried by vessels permitted to undertake coastal voyage will qualify for the concession.
- (vi). In calculating the gross weight or measurement by volume or capacity of any individual item, fractions upto 0.5 shall be taken as 0.5 unit and fractions of 0.5 and above shall be treated as one unit, except where otherwise specified.
- (vii). Interest on delayed payments / refunds.
- (a). The user shall pay penal interest on delayed payments of under this Scale of Rates. Likewise, the terminal operator shall pay penal interest on delayed refunds.
- (b). The rate of penal interest will be 2% above the prime lending rate of the State Bank of India.
- (c). The delay on refunds will be counted only 20 days from the day of completion of services or on production of all the documents required from the users, whichever is later.
- (d). The delay in payments by the users will be counted only 10 days after the date of raising the bills by the terminal operator. This provision shall, however, not apply to the cases where payment is to be made before availing the services where payment of charges in advance is prescribed as a condition in the scale of rates.
- (viii). All charges worked out shall be rounded off to the next higher rupee on the grand total of the bill.
- (ix). (a). The rates prescribed in the Scale of Rates are ceiling levels: likewise, rebates and discounts are floor levels. The terminal operator may, if he so desires, charge lower rates and / or allow higher rebates and discounts.
- (b). The terminal operator may also, if he so desires rationalise the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalisation gives relief to the user in rate per unit and the unit rates prescribed in the Scale of Rates do not exceed the ceiling levels.
- (c). The terminal operator should notify the public such lower rates and / or rationalisation of the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (x). Users will not be required to pay charges for delays beyond reasonable level attributable to terminal operator.

## 2. BERTH HIRE CHARGES

Sl. No.	Vessels	Rate per GRT per hour or part thereof	
		Foreign Going Vessel (in Re.)	Coastal Vessel (in Re.)
1.	Vessels	0.5179	0.3107

### Notes:

- (i). The Period of berth hire shall be calculated from time the vessel occupies berth till she vacates the berth.

- (ii). (a). Berth hire shall stop four hours after the time of the vessel signaling its readiness to sail.
- (b). The time limit of 4 hours prescribed for the cessation of the berth hire shall exclude the ship's waiting time for want of favorable tide conditions, inclement weather and due to lack of night navigation.
- (c). The Master/ agent of the vessel shall signal readiness to sail only in accordance with favourable tidal and weather conditions.
- (iii). The Penal berth hire shall be equal to one-day's (24 hours) berth hire charges for a false signal.
- "False Signal" would be when the vessel signals readiness and asks for a pilot in anticipation even when she is not ready for un-berthing due to engine not being ready or cargo operation not completed or such other reasons attributable to the vessels. This excludes signaling readiness when a vessel is not able to sail due to unfavorable tide, lack of night navigation or adverse weather conditions."
- (iv). Ousting Priority / Priority Berth Hire Charges
- (i). For providing the priority berthing to any vessel, a fee equivalent to berth hire charges for 24 hours or 75% of the berth hire charges calculated for the total period of actual stay at the berth, whichever is higher shall be levied.
- (ii). For providing the ousting priority to any vessel, a fee equivalent to berth hire charges for 24 hours or 100% of the berth hire charges calculated for the total period of actual stay at the berth whichever is higher, shall be levied.
- (v). No berth hire shall be levied for the period when the vessels idle at its berths for continuous one hour or more due to break down of Terminal Operator's equipment or power failure or any other reasons attributable to the Terminal Operator.

### 3. CARGO HANDLING CHARGES

Sl. No.	Commodity	Unit	Rate in Rupees	
			Foreign	Coastal
(a).	Thermal coal	Per Metric Tonne	204.90	204.90
(b).	Industrial coal	Per Metric Tonne	204.90	122.94

**Note:**

- (1). The cargo handling charges prescribed above is a composite charge and includes charges for unloading of the cargo from the vessel, transfer upto the point of storage, storage at the stackyard upto 10 days free period, loading on the trucks, wharfage and all other miscellaneous services not specifically prescribed in the Scale of Rates.
- (2). Please refer Section 7.

### 4. STORAGE CHARGES (Per tonne per day)

The storage charges to the cargo stored in the stack yard beyond the free period allowed shall be as below:

(A) Free Period : 10 days

(B) Storage charges after free period (Per tonne / day)

First 6 days after expiry of Free period - ₹ 2.44 per ton per day  
 For the next 6 days - ₹ 3.95 per ton per day  
 Thereafter - ₹ 7.70 per ton per day

**Notes:**



- (i). For the purpose of calculation of free period Customs notified holidays and Terminals nonworking days shall be excluded.
- (ii). Free period for import cargo shall be reckoned from the day following the day of completion of final discharge from the vessel.
- (iii). Storage charges on cargo shall not accrue for the period when the Terminal Operator is not in a position to deliver / ship the cargo when requested by the User due to reasons attributable to the Terminal Operator.

**5. MISCELLANEOUS CHARGES:**

The following Miscellaneous charges are applicable of thermal coal and industrial coal handled:

Sl. No.	Particulars	Rate per tonne or part thereof (in ₹)
(i).	Charges for all miscellaneous services such as environment and management, sweeping of cargo on the wharf safety measures, etc.	2.09

(Please refer Section 7).

**6. GENERAL NOTE TO SCHEDULE (2) TO (5) ABOVE:**

- (i) The tariff caps prescribed in the Scale of Rates of Tuticorin Coal Terminal Private Limited takes into consideration the upfront tariff approved by the Authority vide Order No. TAMP/27/2010TPT dated 23 February 2010 and applying indexation to the extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2010 and 1 January of the relevant year. For the subsequent years as well, upfront tariff approved in the Order No. TAMP/27/2010TPT dated 23 February 2010 will be indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2010 and 1 January of the relevant year. Such automatic adjustment of tariff caps will be made every year and the adjusted tariff caps will come into force from 1 April of the relevant year to 31 March of the following year.

**7. In respect of Composite Cargo Handling Charge and Miscellaneous Charge prescribed at Section 3 and Section 5 of this SOR, the TCTPL shall charge the prescribed rates less by 45.70% rebate till the date of completion of conveyor facility and commencement of full-fledged operations at the NCB-II duly certified by the Independent Engineer.**

\* \* \* \* \*