TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

No. TAMP/29/2000-TPT

In exercise of the powers conferred by Sections 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby approves the proposal of the Tuticorin Port Trust (TPT) to impose a separate levy to recover the cost of Capital Dredging carried out by the Port, as in the Order appended hereto.

Tariff Authority for Major Ports

Case No. TAMP/29/2000-TPT

The Tuticorin Port Trust (TPT) … Applicant

ORDER

(Passed on this 2nd day of June 2000 )

This case relates to a proposal submitted by the Tuticorin Port Trust (TPT) to impose a separate levy on both cargo and vessel related charges to recover the cost of Capital Dredging carried out by the Port.

2. The Tariff Authority for Major Ports vide Notification dated 23 December 99 in case No.TAMP/9/99-TPT approved the revised rates for vessel-related charges and cargo-related charges at the TPT. The cost of capital dredging was not considered in that revision. But, an indication was given then that the TPT would subsequently propose a separate levy to cover the cost of the capital dredging.

3. The TPT has stated that total capital cost of the dredging project is about Rs.220 crores which has been financed entirely by a yen currency loan from the OECF, Japan; and, the total annual operating cost of this facility is Rs.19.88 crores. Owing to the dredging, the draft at the Berths VOC-III, VOC-IV, Coal Jetty-I and II, Oil jetty, and Container Berth has reportedly increased from 8.24 mtr. to 10.7 mtr. Considering the benefit of dredging being availed by the vessels and the cargo in the aforesaid berths, the TPT has proposed to recover the dredging expenditure both from the cargo and the vessels in different options apportioning the annual operating cost between cargo and the vessel. The TPT has considered the following three options:
<table>
<thead>
<tr>
<th>Option No.</th>
<th>Description</th>
<th>Percentage of proposed increase on Wharfage</th>
<th>Port dues/pilotage/berth hire fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Dredging cost to cargo-related and vessel-related activities in 3:7 ratio</td>
<td>15.93%</td>
<td>56.15%</td>
</tr>
<tr>
<td>2.</td>
<td>Dredging cost shared between cargo-related and vessel-related activities on Income basis.</td>
<td>32%</td>
<td>32%</td>
</tr>
<tr>
<td>3.</td>
<td>Dredging cost shared equally.</td>
<td>27%</td>
<td>40%</td>
</tr>
</tbody>
</table>

4. The Port has recommended option No.2, on grounds of reasonableness and other factors. The proposal was discussed by the Board of TPT in its meeting held on 23 February 2000. The User Trustees expressed the view that the dredging levy should be imposed only on vessels drawing a draft of more than 8.24 mtr. and cargo handled by those vessels should not be burdened with any portion of the dredging expenditure.

5. The TPT has stated that if the above contention of the Trustees is accepted, the vessel charges for such vessels will have to be hiked up by 110% and it will be a disincentive to use the deeper draft berths. In this regard the TPT has given the following comments:

(i). On account of increased draft and call of vessels with larger parcel size, the economy of scale of operation shall reduce the Per Ton Freight of the cargo and thereby the total Per ton handling cost of the cargo at the Port of Tuticorin will be reduced. Whether the dredging levy is paid by the vessels alone or by the vessel and cargo both, the impact of the dredging levy shall be on the Importer and Exporter, because the chartering cost of the vessel or Per Ton freight from and to Tuticorin is fixed by the vessel owners, considering the total operating cost in which the cost of the vessel at the Port plays a vital role. Therefore, to be equitable and just, it is appropriate to apportion the expenditure between both cargo and the vessels.

(ii). The views of the User-Trustees to impose the dredging levy only on vessels of more than 8.24 mtr. draft, calling at the deep draft berths is not acceptable because the facility has been created; the total cost to create it has to be borne by the vessels calling at the berths irrespective of the draft as per the rate applicable to the GRT of the Vessel. Therefore, there shall not be any discrimination between vessels of more than 8.24 mtr. and vessels of less than 8.24 mtr. calling at the deep draft berths for imposing the dredging levy.
6. In accordance with the procedure prescribed the proposal of the TPT was circulated to various users and representative bodies of users. Comments received from them are summarised below:

**The Customs Licensed Agents’ Association**

(i). We appreciate the Port for the steps taken for dredging and increasing the draft in the Port.

(ii). The increased draft is available in selective berths only. The other berths, viz., VOC No.1 and 2 and additional berths continue to remain with the same old draft; and, the recent dredging operation has not benefited the general shipping traffic to these berths.

(iii). Recently, the port has imposed a general 18% increase on the all charges. After the present increase, the Tuticorin Port Charges are very much on the higher side, compared to other major ports in India. Now, if the Port proposes any further increase in Port charges the Export / Import trade through the Port can not sustain. Only the beneficiaries of the deep draft berths, shall bear the additional levy, if any and not the general port traffic and cargo.

(iv). The dredging levy shall be imposed only on vessels beyond 8.24 mtr. draft.

(v). If the cargo related charges are increased even marginally, its impact will be highly visible to all importers/exporters. On the other hand, if the entire capital expenditure is charged as a vessel-related activity, the increase when divided by the cargo carried by the vessel, will become negligible and will not have any adverse impact on the importers/exporters.

**All India Chamber of Commerce and Industries**

(i). Deep draft vessels which were earlier not able to carry cargo to their capacity will now be able to carry more cargo resulting in earning of freight at no extra cost. But, the cargoes carried on board these vessels cannot afford to be further levied. While there is some justification for the levy on these carriers, there is no justification for imposing equal levy on cargo. This may ultimately have an impact on the consumer.

(ii). The wharfage on any cargo is normally fixed / revised not only taking into consideration the capital expenditure and maintenance of the facilities but also on the fact whether the trade can afford the
hike, taking into account the value of the cargo, etc. Low value cargo (like salt, onion, potatoes etc.) are likely to be handled at these berths.

(iii). There is a possibility of berthing of vessels handling the same cargo one at deeper draft berth and the other in a normal berth. In such a case, it will not be justified to levy a higher wharfage on cargo aboard a ship standing in deeper draft berth. It is also likely to use the deeper berth either for lightening or for topping-up of cargo in which cases the trade cannot adjust the wharfage on such part cargo handled on the consignor/consignee.

(iv). The levy on cargo may not be made. Raw materials related to agriculture, food grains, pulses, salt, coal, vegetable, etc., cannot afford to bear any increase in wharfage.

**The Tuticorin Steamer Agents’ Association**

(i). The capital expenditure, the TPT had incurred on the project is a part of the development programme and it is a must for developing the port; but, it cannot have a bearing on users and such a proposal of high levy is not at all acceptable.

(ii). The TPT has revised the Scale of Rates recently; and, any further increase in charges will definitely have an impact on the import / export volume to/from Tuticorin Port.

(iii). The TPT Scale of Rates for wharfage charges are already on par with those of other Major Ports in South India, even though they do not provide any shore labour.

(iv). If the Port insist, a nominal levy can be charged only to the vessel calling with more draft than 8.23 mtrs. and not for cargoes.

(v). The major and direct beneficiaries are the ship owners only who are benefited by more cargo and earning more freight. This will also help them to avoid lightening cargo in some other intermediate port. The cargo interests can receive the cargo at the normal wharfage dues at any other berth. For the liner vessels, there will be numerous cargo interests involved and it will be very difficult to identify and specify the cargoes handled at the deep draft berths for different consignees / shippers.

(vi). Vessels calling with draft lesser than 8.23 mtrs. in case berthing at deep draft berths, the Port shall not collect dredging levy for these vessels.
For vessels requiring lightening or topping up operations, the levy shall be charged on the vessels for the actual berth hire for the days the vessel occupied in the deep draft berth. With regard to levy for port dues and pilotage, 50% of the levy may be charged as it has been decided by TAMP for vessels converting to Foreign from coastal trade and vice versa.

**Tuticorin Stevedores’ Association**

The Tuticorin Stevedores’ Association has, by and large, repeated the above-mentioned comments made by the Tuticorin Steamer Agents’ Association. In addition, following points have been made:

(i). It may also be possible that the ship owners may tend to increase the freight rates correspondingly for vessels calling at deep-draft berths under the pretext of additional levy suffered by them. Thus the cargo interests may have to bear the additional freight by the ship owners and saddling them again with increased wharfage will amount to double taxation on the cargo interest. The TPT increased the wharfage only 4 months back and further increase of 32% in cargo will affect the trade very much.

(ii). Wharfage and marine dues for timber vessels calling to Tuticorin Port shall be exempted from this levy. Out of 60 to 70 timber log vessels called at the TPT during 1999-2000 only 2 vessels utilised the deeper draft and, therefore, timber vessels and their cargoes shall be exempted.

**Southern Petrochemical Industries Corporation Limited (SPIC)**

(i). The proposal to increase the port charges by 32% over and above the across the board revision of 18% in December 1999 is beyond the level what the cargo-related interests can bear.

(ii). Any developmental project should yield additional revenue. It is seen from the proposal that this project does not yield any additional revenue by way of attracting new traffic, growth in the existing traffic, etc. Taxing the existing cargo-related interests heavily is unfair.

(iii). The cost on return on capital (Rs.660 lakhs) and depreciation (220 lakhs) shall be borne out of the income generated by the Port through the traffic growth consequent to the dredging.
(iv). After excluding the return on capital and depreciation, the annual operating cost works out to Rs.1108.58 lakhs. This cost shall be recovered from the vessel related activities as the vessels are the beneficiaries out of dredging, which works out to 45%.

(v). TAMP generally recommends the rates for 3 years cycle. In the 3 years period, the income generated by the Port on the vessel related activities is expected to be more and corresponding downward revision in the dredging levy shall be effected.

Tamil Nadu Electricity Board (TNEB)

(i). Tariff Authority for Major Ports has revised the Scale of Rates of the TPT upwards only recently and, therefore, there is no justification for imposing a dredging levy now.

(ii). Capital dredging of the Tuticorin Port being an improvement work of the Port, levy from Port users shall not be collected.

(iii). Since the Tuticorin Port has earned a net profit of 36 crores during the year 1999-2000, the TPT can absorb this capital dredging expenditure.

(iv). Out of the ten berths available at the TPT, the TNEB is using only two berths. Therefore, the levy shall be only in proportion to the number of the berths used.

(v). The TNEB is also to incur some more expenditure of about Rs.1 crore towards certain modifications to be carried out to the existing hopper systems at the coal jetties due to the present increased draft condition and also for provision of spillage plates for hoppers.

(vi). The TNEB vessels are suffering berthing detention of about 12 hours for want of night navigation facility at Tuticorin Port. Because of the non-availability of night berthing facilities at Tuticorin Port, the TNEB is at present incurring an additional expenditure apart from experiencing insufficient coal discharge from ships.

(vii). The TNEB is a service organisation and not a commercial organisation. The TNEB is already running on heavy loss. Hence, this proposed levy will increase the generation cost abnormally, resulting in an additional burden to the public.
(viii). The TAMP may consider to impose minimum dredging levy to the TNEB, as it is using only 2 berths out of the ten berths available at the TPT.

**Tuticorin Port Handling Agents’ Association**

The dredging levy shall be imposed on vessels which are benefited and not on cargoes or on vessels below 8.24 mtr. draft.

**DCW Ltd.**

(i). With the globalisation of trade and industry, the Indian market is flooded with imported materials, which are cheaper and better in quality. In foreign countries, cost of power, cost of finance, etc., are in a very favourable climate which can never be equalled by the Indian industry. These major factors are proving to be great deterrent factors for the indigenous products in their fight against the threat of import penetration.

(ii). There is a cut-throat competition between imported and indigenous products. In such a situation, any decision on the part of indigenous manufacturers to hike the cost of their products will ultimately result in total ruin. Hence, there is no possibility of increasing the cost of products at present. In this situation, the industry expects from the Government as well as from public bodies like Port Trust, Electricity Board, Water Board, etc., to maintain the present cost structure at least for the next three years as no rebate can be expected from them in the given conditions. The recent hike of 18% in port tariff was itself a burden to the industry; and, the proposed imposition of capital dredging levy is unwarranted. With the total depressed market condition this cost cannot be passed onto the ultimate customer. There will be a total catastrophe of the trade, industry and commerce in India.

(iii). The capital dredging will benefit the vessels carrying huge volume of cargo arriving with higher drafts. Earlier the ships unable to carry their full quantity due to extracted draft, can now load to full capacity and arrive at Tuticorin. Hence the real benefit is to the ship owners but not to importers and exporters. Hence importers/ exporters are in no way directly involved for sharing all capital dredging charged.

(iv). The TPT can implement mechanised operation and by way of that can earn more revenue and share any dispatch money offered by the ship owners instead of increasing demurrages by the charterers due to slow load / dispatch rate.
(v). Whatever amount proposed to be increased on ships’ expenses will be charged from importers/exporters by way of freight, hence the entire burden will fall on importers/exporters which is difficult to bear by the industry.

(vi). The TAMP may keep in abeyance the proposed further increase in the Scale of Rates suggested by the TPT at least for the next three years.

PSA SICAL Terminal Ltd.

(i). Dredging of approach channel and harbour basin to maintain a maximum permissible vessel draft of 10.7 m is one of TPT’s obligations as part of the License Agreement signed with us on 15 July 1998. That being so, the cost of dredging should not be recovered from our customers.

(ii). Our License Agreement with TPT also provides for the licensee to determine the terminal handling charges including wharfage, subject to the approval of TAMP. These scales of rates, hence, should not be revised by any other party. This is contrary to our License Agreement; and revision of Tuticorin Container Terminal’s tariff should only be initiated by us.

(iii). Moreover, if the proposal is approved, it will result in PSA SICAL loosing its commercial flexibility in setting the tariff. The levy on wharfage port dues, pilotage, tugs and berth hire will increase the cost of handling at Tuticorin Container Terminal. This will not only undermine our successful marketing efforts in getting more shipping lines and services to call at our terminal, but more importantly, it will erode our competitiveness vis-a-vis the other competitor ports. Any such increase and imposition of levy in charges will prevent us from discharging our License Agreement obligations.

(iv). As in the case of the road infrastructure, on the ports side, the cost of dredging should not be passed directly back to port users by increasing the basic unit cost. Without such infrastructure, there will be few users. A deeper approach-channel and harbour basin will attract many larger vessels to call at the Tuticorin Port, which was not possible previously. The growth in vessel and cargo traffic will bring in the additional revenue without increasing the basic rate. The proposed levy will not only make the port more expensive but, more importantly, will result in diversion of traffic to other ports and compromise the vision of making Tuticorin the hub port.
M/s. Sterlite Industries (India) Ltd.

(i). Without improvement in proper handling facilities and other support facilities, no amount of draft increase will be of help. Moreover, because of dredging, the traffic in the port has increased which means more waiting time which directly affects us and we have to incur huge demurrages.

(ii). We request not to increase port charges on cargo related activities unless handling systems are upgraded. If it is decided to levy cargo related activities also, it is appropriate to levy additional charges on cargo in vessels whose drafts are more than 8.24 mtrs.

(iii). We request to spare Copper Concentrates and Rock Phosphates from this revision.

Container Shipping Lines Association of India (CSLA)

(i). The initiative by the port to increase its available draft is welcomed.

(ii). It is unfortunate that the port cannot fund this development without recourse to a levy upon the trade. Without a detailed analysis of the port’s financial position, it is difficult to ascertain whether such a step is actually necessary. It would be preferable if the port funded this development through normal operating revenue.

(iii). If it is clear that such a levy is warranted the lines must reserve their position as to how this increase in operating costs may be recovered.

(iv). We do not take the view that the levy should be levied upon larger vessels only. If the operating draft of the port is increased then smaller vessels will also benefit therefrom in as much as the port will handle more traffic from main line vessels, which in turn may then be carried on by coastal vessels. It is, therefore, illogical to apply the levy to larger vessels only. Acceptance of this point may create a precedent that will be unwelcome in other ports.

Shipping Corporation of India (SCI).

(i). Capital Dredging Expenditure incurred by the TPT is to attract larger ships to the port and obtain the benefit of a higher throughput of cargo. We are of the view that the very existence of the port depends on its ability to attract more business by developing its infrastructure to handle larger vessels.
(ii). The capital expenditure on dredging shall, therefore, be borne by the TPT by amortising the expenditure over a longer time span. The shipping lines and trade shall not be expected to bear this very cost through increases in tariff.

(iii). The additional traffic and cargo handled through TPT over the next years will more than compensate the cost incurred.

7. A joint hearing in this case was held on 24 April 2000 at the Tuticorin Port Trust. During the joint hearing the following submissions were made:

**Tuticorin Port Trust**

(i). This port has the problem of low draft; lowest among sea ports in this region.

(ii). (a). The dredging project clearance was for Rs.202 crores and with exchange rate fluctuations it has come to Rs.220 crores.

(b). We have given details of costing for this proposal.

(iii). (a). In our project proposal, we assumed a 20% increase in all charges; otherwise, the Project was not found feasible.

(b). Now when this proposal was considered by the Board, objections about cargo-related charges being affected were raised.

(iv). (a). If only vessel-related charges are to be affected, increase will be about 120%.

(b). Therefore, as a matter of convenience, we want to spread it over all.

(c). For bigger vessels due to economies of scale, per tonne expenditure goes down; cargo can, therefore, bear some burden.

(d). Historically also dredging cost is spread over vessel-related charges and cargo-related charges in the TPT.

(v). Nobody has objected to the levy. The objection is only about who should pay.
(vi). We have reduced berth hire to 8 hours – we have lost revenue – we have been responsive to the demands of users and it is now for users to support us.

(vii).  
(a). PSA SICAL was aware of the capital dredging project.

(b). We had given no commitment to them.

(viii). IOC is welcome to bring all bigger vessels.

(ix). (a). TNEB is the largest and direct beneficiary. TNEB has been on the Board. How can they object now?

(b). More than the commercial cost, due to economic cost, the TNEB benefits the most.

(c). TNEB cost at CHPT and Ennore will be much more.

(x). Interest repayment starts at once. Repayment of principal starts after 10 years of moratorium.

(xi). Why should the increase in wharfage affect PSA SICAL? They can pass it on to users.

(xii). (a). TPT will terminate this levy as soon as liability is discharged.

(b). This will remain a separate levy – will not be merged.

(c). We can review every 2 years, when tariff revision falls due.

(xiii). Capital dredging is an ‘asset’ with 100 year life.

(xiv). Land reclaimed has been put to use of container traffic. TPT is not gaining revenue from it now.

(xv). Upfront payment received from PSA SICAL is limited to earnings from Berth-7. It is not available for any capital expenditure.

**PSA SICAL**

(i). Licence Agreement -- there is a commitment about the draft. They should not charge us for dredging.

(ii). ‘Wharfage’ for our Terminal is our privilege. Only we can alter it. TPT can not interfere.
(iii). Dredging is not like any other capital expenditure. Benefits spread over a long period. Please go carefully into traffic and income projections over a long period.

**Indian Oil Corporation (IOC)**

Out of the three options given, we prefer option – 1.

**M/s. Sterlite Industries (India) Ltd.**

(i). We are, as cargo interests, not benefited by this dredging.

(ii). Cargo handling facilities have not changed. Why should we pay?

(iii). Charge only to vessel-related charges – and that too only to vessels requiring deeper draft.

**Tamil Nadu Electricity Board (TNEB)**

(i). We have given written comments.

(ii). TPT should have consulted users before taking up the project. What is the idea of discussing now?

**SPIC**

(i). We have given written comments.

(ii). We agree to the levy. Let this be spread over all vessels. It is difficult to ascertain which vessel requires deeper draft.

(iii). Return on capital employed and depreciation shall be met out of additional revenue generation. It cannot be from existing traffic only. Only a 40% increase in vessel-related charges will be required.

**All India Chamber of Commerce and Industry.**

Please refer our written submission. Please do not collect levy from users.

**ICCI**

(i). We need to deepen draft further to 13 mtrs.

(ii). But, terms must remain competitive.
(iii). Let the burden be shared by all vessels – do not charge cargo interests.

**PHA Association**

In December 99 there was an 18% increase. Why another so soon? TPT must increase the business to reduce the cost. Please do not burden us.

**The Customs Licensed Agents’ Association**

(i). Dredging levy shall be charged only to vessel-related charges. Charge only the vessels requiring deeper draft.

(ii). Berths not getting deeper draft should not be burdened.

(iii). Shore handling in TPT is done by agents through receivers/stevedores. This peculiar and additional burden is already on us. Please do not add to this.

(iv). For how long will it be collected? Whether in perpetuity or, till cost is recovered?

**Tuticorin Stevedore Association**

Only very few cargoes use deeper draft. Why burden all with this? Charge only the vessels.

**Tuticorin Steamer Agents’ Association**

(i). The original cost was Rs.139 crores. How does it go upto Rs.220 crores?

(ii). If ‘Yen’ fluctuates, US “$” also fluctuates. TPT collects tariffs in dollars. So, there will be some countervailing forces.

(iii). Please check carefully on the actual payments made. The figures are not clear.

(iv). TPT has used the dredged material to reclaim 20 hectare of land. What about that benefit?

(v). Additional traffic and income benefits have not been reckoned with.
(vi). Charge only vessel-related charges and not cargo-related charges – even there, only a nominal/reasonable hike should be made only on vessels requiring deeper draft.

**INSA**

Do not impose any additional burden either on cargo-related charges or even vessel-related charges.

**DCW**

We endorse what the other users have said.

**TCCI**

Charge only vessel-related charges of all vessels at all berths. Otherwise, anomalies will be there.

8.1. During the joint hearing, the TPT was advised to give additional information as follows:

(i). Costing details and financial statements in the prescribed format.

(ii). Documents relating to ‘Project Clearance’ for clarifying the position relating to project viability.

(iii). Details about traffic and income projections to establish viability of the project.

(iv). Details relating to the terms and conditions of the Japanese Loan for the project.

(v). A note on the possibility of re-phasing the hike in tariffs with reference to the terms and conditions of the loan.

(vi). A note about retaining this levy as a separate charge not to be ever merged with the basic tariff and to terminate it as soon as the liability is liquidated.

(vii). A note on definition (and, other related issues) of ‘asset’ in such cases.

9. With reference to the totality of information collected during the processing of this case, and based on a collective application of mind, the following position is seen to emerge:

(i). The Note considered by the Public Investment Board (PIB) for clearance of the Project indicates that dredging will optimize the capacity of Coal, Oil and Container berths by 3.4 million tonnes by 2001-02. The note projects an additional income of Rs.23.41 crores per annum due to dredging. However, the projections now given by the TPT are totally different. No increase either in traffic or in income is indicated in the projections of the TPT. In the absence of any other valid forecast available with this Authority, the projections given by the TPT is taken as the basis for further analysis.

Not only any increase in income is evident, but also the reclaimed land is reportedly not yielding any revenue. This means, additional (capital) expenditure has been incurred for the same traffic.

(ii). Some of the users have expressed a view that the expenditure on capital dredging being a developmental work shall be borne by the Port itself without resorting to levy from users. Any self financing organisations like Port Trusts will have to recover the costs, both operational and capital, from their users only. It will not be reasonable to require the TPT to absorb the entire cost on capital dredging, when the users are expected to gain from this facility. It is, therefore, appropriate to allow the TPT to recover the cost from users. That being so, the question to be settled is not the propriety of the proposed levy but its quantum and the section of users to be charged.

(iii). (a). The Port’s proposal is to apportion the cost of dredging between cargo-related and vessel-related activities based on the income from these activities. In effect, the proposal is to charge a 32% levy on Wharfage, Port Dues, Pilotage and Berth Hire.

The users are unanimous in their view that cargo-handling activity shall not be made to bear this burden; only the vessels who will be the direct beneficiaries of the increased draft availability shall be required to pay for this facility. Interestingly, some of the agencies representing ships interests have also endorsed this view. The stated policy of the Authority has been to consider dredging cost as being relevant only for the purpose of fixing Port Dues and Berth Hire. The existing cost structure of the Port spreads the original cost of dredging (i.e. upto 8.24 mtr. draft) carried out at the time of execution of the Tuticorin Harbour Project over both vessel related and cargo related activities. Although this approach is not in line with the policy of the Authority, the existing spread of
dredging cost is not proposed to be disturbed at this juncture as it will involve a total change in the present tariff structure of the port.

(b). Notwithstanding the fact that the historical cost of dredging is allowed to be continued to be allocated to both vessel-related charges and cargo-related charges, therefore, the fresh investment made on capital dredging must be required to be allocated only to vessel-related charges and (ideally) on cost-centres relating to Berth Hire and Port Dues at that. However, in this case, as the expenditure to be recovered is of a very high order, all the vessel-related charges including Pilotage are considered for absorbing the burden.

(c). Such an approach of limiting the incidence of this burden to vessel-related charges will also, incidentally, meet the objection that, in the absence of any improvements in cargo-handling facilities, cargo interests cannot justifiably be required to bear any part of this burden at all.

(d). The Port has proposed to introduce a levy for recovery of the dredging cost on the vessels as well as tonnage handled at the berths deepened by the dredging work viz. Berth No. III & IV of the VOC Wharf, Coal Jetty (I&II), Oil Jetty and VII berth. However, some of the users advocated for imposing the levy on vessels drawing draft of more than 8.24 mtrs. To this, the port has responded by arguing that the total cost to create such facility has to be borne by the vessels calling at the berths in reference irrespective of their draft as per the rate applicable to the GRT of the vessels. The vessel-related charges are levied on a unit of GRT; and, introducing a new dimension of ‘draft of vessel’ will only complicate the tariff structure.

(e). To facilitate higher revenue realisation from bigger vessel, the Port may, in its next general revision of tariffs, consider rationalisation of the tariff structure through introduction of an appropriate graded scale of rates for Port Dues, Pilotage, and Berth Hire with reference to the GRT of vessels. Introduction of such a graded scale with reference to GRT of vessels will also take care of the ‘draft’ factor canvassed by the users in this case.

(f). The Port has not proposed to apply this levy uniformly on all vessels. The levy will not be imposed on vessels calling at shallow berths were the draft available is less than 8.24 mtrs. Since the vessels drawing draft of more than 8.24 mtrs. cannot, in any event, be berthed in these shallow berths, this proposal ;of the Port is in order.

(g). Such a categorisation of berths will, however, give rise to some problems where vessels use both during topping-up/lightening operations. To simplify matters, any vessel using the specified berths for any purpose can be required to bear the full burden of the levy. Accordingly, this levy is prescribed to be imposed
on vessel-related charges for those vessels calling at Coal Jetties, Oil Jetty, VOC Wharf III & IV and (Container) Berth No.VII for any purpose.

(iv). (a). The PSA SICAL has pointed out that provision of vessel draft of 10.7 mtrs. is obligatory on part of the TPT as per the Concession Agreement and the cost of dredging shall not be recovered from its customers.

The TPT, during the joint hearing, has stated that only an indication of available draft and the dredging project is given in the Agreement between the PSA SICAL and the TPT; the Agreement does not specify that the dredging cost will not be recovered from users of the BOT Terminal. Since there is no commitment from the TPT, the objection of PSA SICAL is not sustainable. Even if there is any commitment about future draft availability, it cannot be expected to be free of cost as the TPT has not assured to provide any free service to the PSA SICAL.

(b). It has further pointed out that its Scale of Rates, approved by this Authority, cannot be altered by any other party. Legally speaking, it is correct to contend that the TPT proposals will not apply to PSA SICAL rates. The Scale of Rates of PSA SICAL can be altered either on a proposal of the PSA SICAL or on a representation from any of its users or suo motu by this Authority.

The Scale of Rates of PSA SICAL is only in respect of containers handled at its Terminal. Vessel-related charges even in the cases of ships calling at its Terminal are continued to be governed by the Scale of Rates of the Tuticorin Port Trust, as all vessel-related services are rendered by the TPT. Since it is decided to apply the levy only on vessel-related charges, no alteration of the PSA SICAL’s Scale of Rates will be effected by the imposition of this levy.

(v). The TPT has proposed to levy a separate charge as a percentage of the existing rates. Since the objective of this levy is to cover the outflow of funds towards servicing of the loan taken for this Project, it is appropriate to keep this levy as a separate entity so that review of the quantum of levy with reference to the loan repayment schedule will be easier. Further, the levy will be co-terminus with the tenure of the loan. Merging this expenditure with other operating costs and revising the basic tariffs may perhaps lead to loosing the objective of this levy in the long run and may even result in unjustified perpetuation of the additional burden.

(vi). While the dredging project has not yet made any impact on the traffic of the port, both the Port and users expect growth in volume of traffic in future. The additional income from such traffic should also be apportioned towards repayment of loan. This necessitates a periodic revision of the rate of levy with reference to the income generated and the balance of debt yet to be retired. A two-year cycle is prescribed by the Authority for general revision of tariffs. It will be appropriate to consider this levy for revision along with such future general revision of tariffs of
the TPT so that a proper and complete financial appraisal of the Port can be meaningfully carried out. Further, if the anticipated traffic volume is achieved, the levy can even be reduced. Accordingly, the levy to be fixed now will be revised along with the next general revision of the Scale of Rates of the TPT.

(vii). The Port has worked out an annual operating cost of Rs.1988.58 lakhs considering the following components:

(a). Return on capital employed @ 3% of the capital cost. (Rs.660 lakhs)

(b). Interest and guarantee fee @ 3.5% p.a. with 5% annual escalation. (Rs.885.58 lakhs).

(c). Maintenance cost @ 1% (Rs.220 lakhs).

(d). Depreciation @ 1% (Rs.220 lakhs).

The position in respect of (a) above

As per the terms and conditions of the loan, the Principal shall be repaid in 41 half-yearly instalments, after the moratorium period of 7 years. The TPT has taken in its calculation an amount equal to 3% of the capital cost towards reserve for repayment of loan and contingencies. Some of the users have suggested that the levy during moratorium period may be fixed considering only the interest component and after the moratorium period, reserve for repayment of loan may also be taken into account. Disagreeing with this suggestion, the Port has pointed out that if the reserve for repayment of loan is not created, the Port users who use this facility for the first seven years will not contribute anything towards repayment of the principal; and, the users of this facility from the 7th year to 27th year will have to bear additional burden. The Port has accordingly suggested to distribute the burden of repayment of principal evenly over all the users irrespective of actual time of repayment.

The moratorium on the loan is allowed with an objective of providing a gestation period for the assets created to start earning the anticipated level of income. In this case also, a seven-year moratorium on repayment of the principal has accordingly, been allowed in favour of the TPT. As far as the lender is concerned, there is only one borrower i.e., the TPT. However, for the TPT, the users are very many from whom the cost is to be recovered. In cannot be reasonably assumed that the same set of users will continue to be in the picture even after seven years. That being so, the port has to
recover towards the component of the principal from the users right from the beginning even though it enjoys a moratorium period of seven years. Viewed in this perspective, the approach of the port is found to be reasonable.

However, the port has not followed the same principle of ‘even distribution’ in the case of interest and guarantee fee. As interest and guarantee fee is on diminishing balance of the loan amount, the burden reduces with efflux of time. Since contribution towards repayment of the principal remains the same, the total burden reduces over a period of time. This means a user in the initial years bears more burden than a user in the later years. To remove this anomaly, the total outflow of funds during the tenure of the loan has been assessed at the current exchange rate, and the total outflow has been annualized to arrive at the average annual debt servicing liability. The average annual debt servicing liability works out to Rs.1,328.93 lakhs only. The Port has sought Rs.1,548.58 lakhs on this account.

The position in respect of (b) above

The annual operating cost estimates prepared by the Port includes a 5% annual appreciation of Japanese Yen vis-à-vis Indian Rupee. However, this levy is on vessel-related charges which are denominated in US dollars. While reckoning with any appreciation of Japanese Yen, therefore, possible appreciation of the US Dollar will have also to be considered. Further, repayment of the principal will start only after seven years; but, a contribution towards this is to be built into the levy, which will begin to be collected immediately. The interest earned on this advance collection will also compensate for the appreciation of Japanese Yen. In addition, the upfront payment collected by the TPT from the PSA SICAL for Berth-7 (which is one of the deeper draft berths) will also be there to augment the kitty for countervailing appreciations in the value of Japanese Yen. It is, therefore, decided not to consider any factor for appreciation of Japanese Yen in the Annual Operating Cost.

The position in respect of (c) above

The channel bed at the Tuticorin Port is rocky and seldom involves maintenance dredging. Occasional sand sweeping is to be carried out. Such sweeping, it appears, may not vary with the change in the channel depth. No special geological feature has been cited warranting additional sand sweeping. The PIB Note on the Project also contains a categorical statement to the effect that “there will be
no addition maintenance cost since no maintenance dredging would be required even after completion of the project”. That being so, inclusion of about Rs.2.2 crores per annum for maintenance in the estimates of the port is found to be untenable. Since the levy is to be revised periodically, the port may come up during the next revision with a reliable estimation of this expenditure based on the experience to be gathered. Accordingly, in the present calculation, the component of maintenance expenditure is excluded.

The position is respect of (d) above

The TPT has mentioned that the benefit of capital dredging is estimated to be available for 100 years and accordingly depreciation @ 1% is charged. Citing a communication from the Govt. of India in this regard, the TPT has pointed out that this accounting procedure is followed not only in the TPT but also in other major ports. This being an existing accounting policy uniformly followed at all major ports, charging of depreciation @ 1% of capital cost is allowed in this case also.

Based on the discussion above, the revised annual operating cost works out to Rs.1,548.93 lakhs. It is proposed to adopt this figure for purpose of further estimations. A statement showing the working of the revised annual operating cost is attached as Annex.

The cost statement submitted by the Port indicates deficit in vessel-related activity. Since this is not a rate revision proposal, the Authority did not go into the detailed costing aspect of this activity. In the instant case, ‘incremental income’ and ‘incremental cost’ are relevant. The incremental cost is Rs.1,548.93 lakhs and the incremental income is nil. So, the incremental cost is to be recovered by increasing the existing income from vessel-related charges for the relevant berths.

The port has projected vessel related income form the relevant berth as Rs.2,224.49 lakhs for 2000-01 and Rs.2,283.67 lakhs for 2001-02. It is presumed that the income projections made by the port as realistic. The average income for these two years works out to Rs.2,254.08 lakhs.

The required incremental income to cover the dredging expenditure, as stated above, is Rs.1,548.93 lakhs. This means the existing vessel-related charges for vessels calling at the specified jetties and berths need to be increased by 68.72%.
(ix). A levy of about 68% on vessel-related charges is a very high burden on users. However, it has become inevitable as the traffic and income projections made by the Port at the time of project clearance have not materialised yet. Until the traffic projections become a reality, therefore, it will be reasonable to require the Port to absorb a part of this cost from its accumulated reserves. In the initial period, the port may bear a share of expenditure of about Rs.4.0 crores per annum, which amounts to approximately 26% of the annual incremental cost on account of the capital dredging. With the sharing of burden by the Port, the amount to be levied from the ships calling at the relevant berths can be restricted to 50% of the corresponding vessel-related charges.

(x). The above arrangement of requiring the Port to bear a part of the cost will undoubtedly be a heavy burden on a port like the TPT. However, this is only an interim measure prescribed. With the port achieving the anticipated volume of traffic, the burden is likely to lessen. And, as earlier suggested, the Port can also explore the possibility of introducing an appropriate graded scale of rates for vessel-related charges with reference to the GRT of vessels besides gainfully utilising the additional lands reclaimed in the context of the capital dredging.

(xi). The port is required to maintain a separate head of account towards the capital dredging and transfer its contribution (in the interim period) and income from the levy of vessel-related charges to this account. A separate sinking fund for repayment of loan shall also be created so as to ensure that the objectives of this levy are achieved and the proceeds are applied towards the stated purpose.

(xii). The levy approved will primarily cover the liability towards debt servicing. It has to be recognised that the life of the asset created is more than the tenure of the loan; and, the users will enjoy the benefits from this facility even after liquidation of the debt liability. Since the TPT has created this facility, it will be reasonable on the part of the TPT to expect some lasting financial return out of this facility. The direct benefit out of this facility for the TPT will be the increase in traffic volumes which it will enjoy for ever. Once the capital levy is withdrawn after the tenure of the loan, the operating cost (including especially the contribution towards depreciation) of this facility will form part of the corresponding vessel-related activities and will go into the tariffs to be fixed for such activities.

10. Subject to the foregoing analysis, the proposal of the TPT is approved as follows:
(i). A capital dredging levy @ 50% of the applicable Berth Hire, Pilotage Fee, and Port Dues will be charged on all vessels using the Berths VOC III, VOC IV, Coal Jetty I, Coal Jetty II, Oil Jetty, and Container Berth (Berth No.7).

(ii). The capital dredging levy will be a separate item of tariff and considered for revision along with general revision of tariffs in future.

(iii). The TPT shall maintain a separate head of account towards the income and expenditure on account of this capital dredging.

11. The TPT is hereby directed to introduce the above decisions appropriately in its Scale of Rates.

12. The decisions given in this Order will come into force after expiry of thirty days from the date of publication of this Order in the Gazette of India.

S.SATHYAM, Chairman

Annex

Annual Operating Cost.

<table>
<thead>
<tr>
<th>Sr. no</th>
<th>Particulars</th>
<th>(In Rs.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Average annual debt servicing cost (refer Appendix - A)</td>
<td>132,892,744</td>
</tr>
<tr>
<td>2.</td>
<td>Depreciation @ 1% of capital cost</td>
<td>22,000,000</td>
</tr>
<tr>
<td>3.</td>
<td>Total Annual Operating Cost</td>
<td>154,892,744</td>
</tr>
</tbody>
</table>

NEXT PAGE