TARIFF AUTHORITY FOR MAJOR PORTS

NOTIFICATION

No.TAMP/3/99-CHPT - In exercise of the powers conferred by Sections 48, 49 and 50 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby amends the Scale of Rates of vessel-related charges and cargo-related charges of the Chennai Port Trust as in the Order appended hereto. This Notification will be in supersession of all the earlier Notifications of vessel-related charges and cargo-related charges of the Chennai Port Trust covered by this Order.

SCHEDULE

Case No.TAMP/3/99-CHPT

The Chennai Port Trust ... Applicant

ORDER

(Passed on this 22nd day of March 2000)

This case relates to a proposal received from the Chennai Port Trust (CHPT) about general revision of the scale of rates, both vessel-related and cargo-related. It has been stated that the last general revision to the scale of rates of the CHPT took place in 1991; the Government has been insisting for periodically revising the scale of rates; even in the preliminary Audit Report for 1997-98 the Accountant General (Audit) has stated that the action to increase the tariff structure in time has not been taken; and, the proposal was placed before the Board in its meeting held on 18 December 98 and was approved.

2. It has also been stated that though the Port Trust is generating operating surplus, almost the entire expenditure is met from internal resources including the expenditure on the ADB funded Project. The Ports plant and equipment have to be refurbished at regular interval so that there will be smooth flow in the operation of the Port Trust. The Port Trust has also to implement a plan to replace obsolete items with modern ones.

3. The proposal was subjected to preliminary scrutiny based on which the CHPT was required to submit clarifications and provide additional
information. The most important point was about excluding from this proposal all references to the Ennore Port Project. In other words, the expenditure thereon was not be counted as an input in the computation of tariffs at the CHPT.

4. In accordance with the procedure followed by the TAMP the proposal of the CHPT was circulated among 11 main users of the Port. Comments were received from the Shipping Corporation of India, MMTC, Chennai Steamer Agents’ Association, Tamil Nadu Electricity Board and M/s Hauers Lines Ltd. These comments are summarised below:-

**MMTC:**

(i). The MMTC is against the steep increase in cargo-related charges leviable on iron ore export from the Chennai from the present Rs.46.60 per ton to Rs.87.60 per ton, an increase of 88%.

(ii). The demurrage in Chennai arising out of frequent breakdowns of the plant and machinery have resulted in demurrage per ton increasing from Rs.0.69 per ton in 1995-96 to Rs. 8.92 per ton in 1997-98. Taking into account the demurrage the increase proposed would be much more. The competitiveness of the operation needs to be looked into.

(iii). Steel production have suffered steep decline as also the price of the finished product. There is a widespread recession in the South East Asian countries which has resulted in iron ore export prices dropping by 11% for iron ore fines and 10.2% for iron ore lumps in the year 1998-99. As such, the Iron ore exports are being operated with wafer thin margins.

(iv). In view of the above, the proposed increase may be kept in abeyance for the time being.

(v). The proposal for increase may be deferred by at least two years because of recession in the trade.

**The Shipping Corporation of India (SCI):**

(i). It is necessary to review the system of levying Port charges in US Dollar and modify the proposal suitably in the case of Indian Ships. The proposal of the CHPT to enhance the existing dollar rate by 10% is very much on the high side. They have suggested appropriate reduction.

(ii). The CHPT has been levying Port charges on coastal vessels at foreign rates because of provision of the CHPT Scale of Rates stating ‘an Indian vessels carrying goods from a foreign country is to be treated as a vessels engaged in overseas trade’. This needs to be amended suitably.
(iii). The CHPT should refrain from charging berth hire for the time/number of days lost by the vessels at berth owing to delay in the arrival of the pilots and tugs for any reasons whatsoever.

(iv). The CHPT takes a long time in refund Port, marine, container and other services dues. They have suggested that the Scale of Rates should provide payment of interest at appropriate rates on refund of excess Port/marine service dues from 30 days from the date of remittance of advance payment especially when all the service are rendered by the Port on pre-recovery basis.

(v). The Scale of Rates should provide for waiver of extra Port charges for ships delayed due to strikes to mitigate the financial losses suffered by ship owners because of delay to their vessels for no fault of theirs.

(vi). There is no justification for the Port to levy any extra charges for cold moves required by the Port.

(vii). The proposal about prescribed norms is ambiguous and needs to be clearly quantified in the Scale of Rates in order to avoid any future dispute in the matter.

(viii). The proposal to bring transhipment container into the ambit of dual levy system will be deterrent to the trade. This proposal need not be encouraged.

(ix). There should not be any storage charges for LCL container as the delay in de-stuffing is beyond the control of the shipping lines.

(x). In the proposed increase of 40% on container handling charges is not justifiable.

(xi). The proposed 100% increase in charges for cranes and fork lift trucks is very much on the high side. They have suggested that the private operators should be encouraged and allowed to offer the services at competitive rates and work inside the Port which would increase productivity.

(xii). There is no justification for 50% charges when ships use their own cranes.

**The Chennai Steamer Agents’ Association (CSAA):**

With the merger of DLB, there will be changes in datum and again rationalisation will occur which will have prolonged improvement on efficiency and reduction in direct cost of port operation hence increase in port tariff is unjustified.

**Tamil Nadu Electricity Board (TNEB):**
The enhancement in port dues, berth hire, pilotage, etc will put TNEB in to heavy financial constraints. They have therefore, suggested that no enhancement may be made in the Scale of Rates.

**The Hindustan Chamber of Commerce (HCC):**

(i). The increase is not warranted.

(ii). The increase proposed is very steep.

**M/s. Hauers Lines Pvt. Limited:**

(i). No distinction is made between vessels of various sizes for the purpose of port charges. They have suggested that as in the case of berth hire which are based on the size of vessels, the port charges should be proportional to the size of the vessels.

(ii). There should be concessional wharfage for coastal cargo. At present neither the Scale of Rates as it stands today nor the proposed revision makes any concession to coastal cargo whatsoever.

(iii). The present proposal on cost plus basis is not justifiable. The Port’s should also bother about efficiency and competition.

(iv). Additional Berth hire levy is excessive, arbitrary, discriminatory and open to misuse. The courts have commented adversely against this levy. The proposed revision actually seeks to legitimise contempt of court by changing the nomenclature from ‘addition berth hire’ to ‘penal berth hire’.

5. As regards alteration of the unit for berth hire charge from 24-hours to 8-hours, it has been stated by the CHPT that the charge is levied on a ‘rate per day’ basis to avoid congestion of berthing vessels; only such a levy of berth hire can make vessels vacate the berth without delay. Accordingly, the CHPT has requested for maintenance of status quo in this respect. Obviously, this request cannot be accepted. It has been the stated position of this Authority to introduce a change in this regard and, as recommended in the Guideline developed at the Chennai Workshop of February 1998 to move towards levy of berth hire charge on a hourly basis, adoption of an 8-hour unit coterminous with a ‘shift’ at the port was a proposition unanimously developed at the Chennai Workshop. It has already been formally adopted by the Mumbai Port Trust (MBPT) and the Tuticorin Port Trust (TPT). It has separately been decided by this Authority to extend this change for common adoption by all the other major Port Trusts. In the circumstance, there is no scope for us to entertain this request of the CHPT.
6. A joint hearing in the case was held at the CHPT. During the course of the joint hearing the following submissions were made:

**SCI:**

(i). There is no scope for any increase in port dues because of exchange rate fluctuation.

(ii). Coastal vessels being used for transhipment of foreign cargo are being charged at foreign rates. This needs to be looked into ships should not be required to pay for the cold moves.

(iii). As regards penal / additional berth hire, some criteria may be prescribed with objectivity. Any absolute discretion given to Traffic Manager may lead to exploitation.

(iv). The system of charging floating cranes is faulty e.g. lift on / lift off two charges are levied for one tariff.

(v). There should be a time limit for billing by the Port as in the case of time limits for refunds.

**INSA:**

(i). The rate for additional berth hire / overstayal is very high. No distinction is recognised for additional berth hire / overstayal for small vessels.

(ii). To encourage coastal vessels, there is need to give some more concessions. These concessions should be given not only in wharfage but also in stevedoring as is being done by the Calcutta Port Trust.

**M/s Poompuhar Shipping Corporation:**

(i). In case ship’s crane goes out of order while unloading the ship is shifted to anchorage. Still the Port is charging 50% berth hire which is not justifiable.

(ii). Berth hire must stop when ship is ready to sail.

**Custom House Agents Association:**

(i). The Port Trust should adopt a competitive approach for review of the charges. CHPT should reduce the charges.

(ii). Use of private equipment is permitted but the users are asked to give a guarantee about not claiming any refund for non use of Port equipment. This is an unfair practice and must be stopped.
M/s. Indian Oil Corporation:

(i). Berth hire must stop when the ship gives signal to sail.

(ii). In the case of transhipment operation, 50% charges are levied on the daughter vessel when it comes into the CHPT.

MMTC:

(i). In the case of iron ore mechanical loading, the loading rate is the same. However, the Port is levying double charges. This is not justifiable.

(ii). There is no justification for any increase in the cargo-related charges as iron ore trade is in recession.

(iii). In the case of vessel-related charges, the infrastructure is the same. As such, there is no justification for increasing the charges. The CHPT may introduce efficiency-linked tariff as in the case of the Mormugao Port Trust.

(iv). Iron ore berth is also being used by other vessels. At times iron ore vessels are made to wait which needs to be looked into.

(v). The MOHP is fully depreciated. As such, there is no justification even for the current tariff. On the other hand, the CHPT is talking of increasing it.

Shri N. Thondan (Trustee):

(i). There is need to revise tariff at regular intervals as the last revision took place in 1991.

(ii). Users have been giving objectionable publicity. Port operators and users have to go step by step.

Southern India Chamber of Commerce & Industry:

(i). There is no justification for charging Rs.10/- PMT on coal clearing charges. As regards rail borne traffic there is no justification for any hike. On the other hand, action must be taken to curtail the delays.

(ii). Berth reservation charges have been unilaterally raised to 50% from the existing 25% without the approval of the Authority. This must be quashed.

CSAA:

(i). There is no scope for any increase in vessel-related charges because of exchange rate fluctuations.
(ii). With the merger of DLB with the CHPT, ‘datum’ levels must also change.

(iii). Shipping lines cannot offer any increase because of restrain.

**TNEB:**

(i). 100% increase in lease rent is not justifiable. As regards increase in vessel-related charges and cargo-related charges, they agree with the views of other users.

**HCCI:**

(i). Even without revision from 1991-98, the Port profits have gone up from Rs.70 crores to Rs.100 crores. As such there is no justification for any increase. The wharfage on container comes to Rs.43/- per tonne. This is too high. This may be left for the time limit to counter competition from TPT.

(ii). In the case of ship cargo working labour gangs are given by the Ports. Once a signal is given, the signal station can alert the Port not to supply labour. In other words, it is easy to check fraudulent signals.

(iii). There should be a clear system of certifying what is VRC and what is CRC so that there is clear apportionment of the charges between the Shipping agents and the Stevedores.

7. In response, the CHPT has made the following observations:

(i). It has to be remembered that the Port is a public Trust and has to be financially self-reliant. It has also to provide for renewal, development, etc.

(ii). Factors like economic recession, etc., are not relevant and the CHPT cannot subsidise others’ business.

(iii). The Port Chairman holds regular meetings with port users. Traffic Manager holds Task Force meetings. For container berth, special meetings are held.

(iv). The Port has adopted the TAMP’s definition of ‘coastal’ and ‘foreign-going’ vessels in their present proposal.

(v). The Port has had to reckon substantially with the principle of cross-subsidisation.

(vi). Additional berth hire is not levied in each and every case; it is levied only in cases where conditions are fulfilled.
(vii). The ships take only one or two gangs and do not operate full capacity. This leads to unnecessary delay.

8. After discussion it was decided that the CHPT would give details about Rs.10/- PMT on coal washing charges. They would also explain as to how they revised berth reservation charges unilaterally from 25% to 50%.

9. After the joint hearing further comments were received as follows:

**The Chennai Custom House Agents’ Association:**

(i) On the actual / optimum requirement of work force, study by an Expert Committee should be undertaken to contain expenditure salary and wages.

(ii) The Port should have taken steps for thinning down the work force to desired / optimum level. As such, any upward revision for the reasons of VDA etc., is not justifiable.

(iii) With proper maintenance / replacement, direct expenditure could be kept under control. Periodical and timely replacement of old equipment would have helped to drastically cut down maintenance cost and avail depreciation benefit. Having failed to control, the Port should not look to users for compensation.

(iv) The proposed wage increase is well within the limits of operational surplus of Rs.168.16 crores. The expenditure on account of payment of increased pension can be met out from retained surplus.

(v) In the case of warehousing, as against the capital value of Rs.1.79 crores the yield by way of receipts is Rs.7.53 crores with a surplus of Rs.2.60 crores. As such, the revision for Warehousing is not justifiable.

(vi) The Port should consider the possibility of cutting down Direct Expenditure, Management and General Expenses, and Financial and Miscellaneous expenses to present a better balance sheet.

(vii) It is not only the wrong time but a negative approach on the part of the Port for any increase in tariff.

(viii) The Port should come out with a clear vision to attract traffic even by reduction of tariff. Port should also not look to the users to cover the escalating expenditure.

**MMTC:**
(i). The ore handling plant at Chennai Port is more than 21 years old and the entire original investment has been fully recovered through depreciation. The present tariff for iron ore loading can well take care of the operating expenses and generate surplus to the Port as per the norms fixed by Major Ports Commission.

(ii). Chennai Port’s net surplus is 20.83% as against 12% recommended by the Major Ports Commission.

(iii). In the depressed global market conditions for export of iron ore to maintain a volume of over 4 million tonnes a volume discount may be introduced. Similarly the port charges may be linked to the size of vessel handled viz. separate rates for Panamax and Capesize vessels as is prevailing at the Visakhapatnam Port.

(iv). As the entire ore loading operations are carried out mechanically by the Chennai Port, MMTC is prepared to share despatch / demurrage with the Port in an agreed ratio so that as users the MMTC will not be burdened with the inefficiency of the Port Trust arising out of mandays lost.

(v). If Chennai Port charges for Iron ore is increase as proposed, Chennai Port charges would be the highest in India compared to Mormugao, Paradip and Visakhapatnam.

(vi). Vessel-related charges denominated in US $ in the last revision has ensured substantial revenue to the Port on account of exchange fluctuations after 1991 and, therefore, there is no justification to increase the same as brought out in the meeting held in Chennai on 6 September 99. Further in the present international scenario of global recession in steel industry, due to decline in steel production, decline in finished product prices and the consequent reduction in iron ore prices to the extent of 11%, their traditional buyers may be compelled to switch over to competitors i.e. Australia and Brazil if port charges in Chennai Port are increased as proposed. This is bound to reduce the quantum of iron ore export from Chennai Port which will affect the Port revenue drastically.

(vii). The present port charges in Brazil is 35 cents (Rs.15.24) as against Chennai Port’s Rs.46.60 per metric tonne. The present Chennai charges are already 206% higher and the increase proposed will render it higher by 476% which will make their export operations from Chennai Port totally uneconomical. The average time for loading a capesize vessel taken by Chennai Port is 3 – 3.5 days whereas in Brazil the time taken is 1 – 1.5 days. The average loading rate achieved at Chennai per day is 50,000 tonnes as against 1,60,000 tonnes in Brazil. Taking into account the loading rate achieved and ship loading time, their operations at Chennai Port even at the current rates are uneconomical. Thus any upward revision in the Port charges at Chennai will ruin Iron Ore export from Chennai Port.
(viii). Iron Ore berth is sometimes used by the Port Trust for accommodating non-Iron Ore vessels also. They request TAMP that in this regard suitable credit has to be given in the costing for Iron Ore operations so that the burden is not borne exclusively by Iron ore.

**TNEB:**

The increase in port charges in respect of coal will result in heavy financial commitment to the TNEB. They have, therefore, requested that the present charges may be maintained.

**HCC:**

(i). There should be a ceiling on the time limit for the Port to raise its bill.

(ii). Idle gang charges claimed by the Port should stop as no vessel normally likes to idle at berth and not to after indenting for a gang.

(iii). The proposal for increase in container related charges may be deferred to see the ground realities with reference to operation of PSA berth in Tuticorin and react to the market situation after one year. They have apparent that any increase in container related charges might diver the traffic to other Port’s.

**SCI:**

(i). A clear-cut procedure for filing refund claims along with list of documents to be enclosed may be prescribed.

(ii). A time limit may be fixed within which the CHPT will have to raise the bills otherwise the claims / charges levied by the CHPT should be invalid. Moreover the Port Trust should not debit the accounts of the operators maintained with the Port without submitting proper bills.

(iii). The provision in book – I Chapter – V of Scale – D in the CHPT Scale of Rates regarding idle time charges gives room for lot of misinterpretation or rather interpretation which is advantageous to the Port. There is a need for looking into this problem.

(iv). The cost of damage to the Port properties required to be borne by the users is high and needs to be regulated.

(v). The levy of 50% charges when vessel is at the mooring is on the high side. This needs to be looked into.
(vi). The present Scale of Rates does not provide for any redressal facilities. An independent cell which can look into matters of dispute between the Port and the port users may be established.

10. With reference to the totality of information collected during the proceedings of this case, and based on a collective application of mind, the relevant issues are analysed as follows:

(i). The CHPT deserves to be complimented for making a comprehensive proposal in a systematic manner. Although there have been gaps in the presentation of information, the CHPT has made arduous efforts to compile a good deal of information. What is significant is that an attempt has been made to develop cost-centrewise data. In the absence of professional staff support, it has not been possible for this Authority to go in for a detailed verification of such data everywhere. Consequently, the Authority had been inclined towards endorsing overall increases in tariffs. In this case, however, because of the CHPT’s keenness to itemise the revisions, with the help of our Consultant, we have been able to do that even if only by accepting without verification the data provided. In doing this, we have also recognised the fact that such itemisation of tariff revisions will ensure better adherence to the principle of *quid pro quo*.

(ii). The CHPT was earlier inclined to involve in this estimation the implications of its investments in the Ennore Port Project. In our communication to them based on our preliminary scrutiny, as also in our statements at the joint hearing, we had made it categorically clear that investments in the Ennore Port Project would be totally irrelevant to the calculations in this proposal. The CHPT has now confirmed its acceptance of this position and exclusion accordingly of all Ennore-related expenditure from the calculations.

(iii). The projection relating to traffic increase does not contain actual estimations. There is only a 5%-7% *ad hoc* increase. But, (even) the *ad hoc* projection tallies with past trends, especially with reference to the emergence of the PSA SICAL Terminal at the Tuticorin Port. The projection can, therefore, be said to provide an acceptable basis for our analysis.

(iv). The projection of revenue increases is based on the projection of traffic increases. As such, it is acceptable.
In the income projection, in respect of vessel-related charges, exchange rate fluctuation does not appear to have been reckoned with. This was pointed out at the time of the joint hearing. But, the CHPT has not been able to make the necessary changes. That being so, we have ourselves had to incorporate this element.

Going by the recent trend, and erring (possibly) on the liberal side, the exchange rate fluctuations per annum can be said to be of the order of 3%.

In the income projections, the CHPT has not included ‘Financial and Miscellaneous Income (excluding Interest)’. In the normal course, this item is not of a substantial magnitude. But, in this case, for some reason, it is of the order of Rs.9 crores per annum; and, cannot, therefore, be ignored. We have, therefore, had to add it accordingly.

In the expenditure projection, the increase estimated appears to be too high. This is mainly due to a wage increase (with effect from 1 January 1997) assumed @ 25%. On this basis, the CHPT has reckoned with Rs.65 crores towards arrears and Rs.36 crores towards prospectively for the next three years.

It has been the approach of this Authority to build the (prospective) wage-increase implication into annual escalation factor. Separate sums (e.g. Rs.36 crores provision in this context) have not been allowed for such estimates. In fact, the Authority had earlier been reckoning only with an annual escalation factor of 6%. But, consequent upon the representations made by the TPT, this was increased to 10% especially because of the heavy wage burdens to accrue from wage revisions. We have adopted a similar approach in this case too.

The 10% escalation factor will be sufficient to absorb fully the burden prospectively. It has to be recognised in this context that 25% increase cited is (still) only an assumption; it may be less than that. And, the CHPT has also not taken into account the ‘efficiency increase’ aspect. As is known, the Government does stipulate an annual figure in this regard in their MOUs with the Port Trusts. [The Authority has also been thinking of adopting this figure whenever it is decided to introduce the ‘CPI minus X’ formula for tariff fixation.] This apart, in the wage negotiations, the Port Trusts have been insisting upon an agreement about effecting improvements in the levels of performance. If such efficiency increases are also taken into account, the wage burden will further decrease making it possible for the 10% annual escalation factor to more than bridge any gap in the provision.
As regards the Rs.65 crore provision for arrears, it has been the
stated position of the Authority not to allow such entries in the tariff revision
estimates. The logic has been that, just for the sake of clearing a one-time
debit, such an entry will create a permanent burden on tariff estimates. This
has been the approach adopted consistently by us on this issue so far.

(viii). While formulating the proposal, the CHPT has assumed an 18%
return on capital employed. This has obviously been on the basis of 12%
towards interest, 3% towards contribution to the Renewal Fund, and 3%
towards contribution to the Development Fund. But, in the context of a PPT
case, the Government had clarified that it had raised its rate of interest (on
loans to Port Trusts) to 14%. Accordingly, we have been allowing a rate of
return of 20% (14+3+3). This point was clarified at the joint hearing. This
notwithstanding, the CHPT has not cared to revise its proposal of an 18%
return on capital employed. Nevertheless, we have decided to allow a 20%
increase for being consistent in our approach in this regard.

(ix). As will be evident from the foregoing analysis, five fundamental
changes have been introduced in the calculations:

(a). Incorporation of the implications of exchange rate fluctuations in
income projections.

(b). Removal of Rs.65 crore provision for ‘arrears’ of wages.

(c). Removal of the Rs.36 crore provision for meeting the prospective
wage burden on account of wage revision.

(d). Provision of a 10% annual escalation factor which will absorb
also all wage liabilities prospectively.

(e). Adding the ‘Financial and Miscellaneous Income (excluding
Interest)’ to the income estimation.

The Financial Statement has been reworked on this basis. A copy of
this Statement is attached as Annex – I to this Order. As can be seen
from this Statement, there is an overall deficit (in all the three years in
reference) ranging from 16.15% to 21.13%. The average of the
deficit figures for the three years works out to 18.62%. But, since the
year 1999-2000 is virtually over, it will be reasonable to look at the
figures only in respect of years 2000-01 and 2001-02. If this is
done, then, the average will shift to 19.85%. Taking this deficit into
account, we have decided to approve revision of tariffs subject to an
overall ceiling of 20% increase in revenues.
Within the overall ceiling indicated above, after taking into account the views of the CHPT about apportionment of the increases, the following break down has been decided upon:-

(a). **Estate Rental:**

An increase of 100%, as proposed by the CHPT, is approved in Estate Rentals (Licence Fee for allotment of space in operational areas and for pipelines passing through the CHPT premises under ‘way leave agreements’) taking note particularly of the fact that no user had objected to it at the joint hearing.

(b). **Railway Charges:**

(ba) Railway Charges do not fall within the jurisdiction of the Authority. Accordingly, the proposed 100% increase in Railway Charges is accepted for the purpose of revenue estimations.

(bb). Likewise, the supplementary Railway Charge through a levy called ‘Special Port Service Charge on Rail-borne Cargo’ is also accepted at face value for the purpose of revenue estimation. This Authority does not have the jurisdiction to approve or disapprove Railway or Railway-related Charges.

(c). **Vessel-related charges:**

The vessel-related charges consist of Berth Hire, Port Due, and Pilotage/Towage. The CHPT follows the practice of allocating the dredging cost more on Pilotage and (much) less on Port Due. If the dredging cost is properly allocated, the surplus/deficit position indicated by the CHPT will alter. If the altered position is reckoned with, there can be a uniform increase in all the three items. With reference to the data available, and bearing in mind the built-in cushion available because of denomination of these tariffs in dollar terms, an increase of 5% has been found to be reasonable.

(d). **Cargo-related charges:**

Within the overall ceiling of 20% increase estimated, after reckoning with the increase as described above in the other three component cost-centres, an increase of 15% for cargo-related charges has been found to be reasonable.

The cargo-related charges have nine main items. Bearing in mind the 15% ceiling on increase for this composite cost-centre, and taking into account the itemisation proposed by the CHPT, the apportionment between the nine main items is decided as follows:

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No increase in POL Handling charges and Container Handling charges is approved because these activities indicate a substantial surplus situation. It has also to be recognised in this context that the PSA SICAL has adopted the existing CHPT tariff for container-handling without any increase at all. There can, therefore, be no reason why the CHPT also cannot continue with the existing rate especially in the backdrop of a ‘large surplus’ position in respect of this entry.

11. The other major issues relevant to this case are discussed below:

(i). (a). Since Coal Handling, like Iron Ore Handling, is a major item of activity at the CHPT, the port was requested to work out a separate cost-centre and income statement for Coal so that the tariff for this cargo could be prescribed and justified separately. Although the CHPT had assured to send this information, it was not received. We have, therefore, been compelled to continue to club this with ‘General Cargo’.

(b). It is relevant here to highlight the fact that a few years ago, the CHPT had introduced a Rs.10/- PMT ‘washing’ charge for Coal. At the time of the joint hearing, it was clarified by the CHPT that this did not have the sanction of the Government; the charge was introduced with the approval of the Board of Trustees. That being so, the proposal of the CHPT now to merge this ‘washing’ charge with the wharfage cannot (straightaway) be accepted. The increase of 18% proposed can only apply to the existing wharfage charge of Rs.11/- PMT.

(c). As regards the Rs.10/- PMT ‘washing’ charge, it may not be possible for the Authority just now to approve it; it can only recognise that the charge is being levied as approved by the Board of Trustees. The CHPT has to be called upon to establish the justification for and the reasonableness of the ‘washing’ charge. The Authority’s approval for the charges, and its consequential merger with the wharfage charge can be considered only thereafter.

(ii). (a). As regards ‘water supply’, a point of fundamental significance has emerged about merging the ‘infrastructure’ aspect of this activity with the ‘infrastructure’ relating to Berths. The idea is that the water supply infrastructure has been laid for the benefit of all ships and not just for those who do
take water supply. In other words, every vessel calling at the port is a potential beneficiary of the water supply infrastructure. That being so, it will be more rational to add this infrastructure component to water supply to berth hire; and, collect only the cost of water plus the operational charges from those who do take water.

(b). Although the CHPT has assured to provide a clarification on the issue of revision of water charges, it was not received. In the event, it has not been possible to probe this issue further. Be that as it may, as earlier stated, this is an issue of fundamental significance commonly for all the major ports. The Authority will, therefore, like to pursue this proposition separately for refining tariff fixation in respect of ‘water supply’.

(iii). (a). As regards berth hire, the decision of this Authority to reduce the unit from 24-hours to 8-hours has already been recorded in paragraph (5) above.

(b). On the subject of berth hire, we have separately also passed orders on some other relevant issues for common adoption by all the major Port Trusts. The pith and substance of this Order is extracted below for ready reference and reiteration in the context of the CHPT:

\[(ba). \text{There shall be a time limit beyond which berth hire shall not apply; berth hire shall stop four hours after the time of vessel signalling readiness to sail.}\]

\[(bb). \text{There shall be a ‘penal berth hire’ equal to one day’s berth hire charge for a false signal.}\]

(iv). (a). The CHPT has a provision for levying an Additional Berth Hire. This is intended to discourage vessels from occupying berths unnecessarily. The CHPT has sought to retain this provision on the strength of its approval by the Government some time ago. But, it came to light, at the time of the joint hearing, that the High Court of Madras had declared this levy to be illegal. The CHPT’s action to include this levy in the current proposal has possibly been for getting it ratified by this Authority. It has to be recognised in this context that we cannot ratify a levy that has been declared to be illegal by a Court of Law. Therefore, we can neither approve nor disapprove the proposal. We will only require the CHPT to implement the Court orders on the subject.

(b). Incidentally, the ‘penal berth hire’ cited in (iii)(b)(bb) above is intended precisely for the purpose of discouraging vessels from occupying berths unnecessarily. That being so, it may not be necessary at all for the CHPT to continue with the earlier provision relating to an ‘Additional Berth Hire’. 
(c). The substitution of the Additional Berth Hire by the Penal Berth Hire will also automatically remove the objections relating to (alleged) arbitrary levy of this charge by the Traffic Manager or the Deputy Conservator.

(d). The substitution described above will automatically remove also the objection relating to lack of distinction between small and big vessels for this purpose. The logic of the ‘penal’ provision is that the errant vessel is blocking an asset which can earn more.

(v). Responding, at the joint hearing, to our comment about stoppage of berth hire from the time a vessel signals its readiness to move, the Indian Oil Corporation (IOC) has raised a problem about a vessel not being able to send such a signal unless the ‘loading arm’ is disconnected by the port. This is indeed a genuine problem which, in certain circumstances, can (even) nullify the provision proposed in point (iii) above. But, as the CHPT has stated, “It is an operational hitch which can be locally settled”. We will like to leave it as such to be locally settled between the CHPT and the IOC. But, we will also like to set a time limit of three months for such ‘local settlements’. In case the CHPT fails to (or, refuses to) so settle the issue, the IOC will be allowed to approach the Authority for a settlement.

(vi). The CHPT has a provision for levy of ‘Berth Reservation Charge’. The charge is @ 25% of the applicable berth hire. This was introduced in line with an advice given by the Government some years ago. This is the first time that this item is coming to our knowledge. It has not been possible for us, as a part of the proceedings of this case, to go into the details of this concept. We may also have to go into the Government Order on the subject. Accordingly, we reserve this item for separate scrutiny. Keeping in mind the financial interests of the CHPT, however, this levy is allowed to stay for the time being. But, there will be no change of rate in this case. It will continue to be @ 25% of the applicable berth hire. The 5% increase approved in this case will apply only to the berth hire charge and not to the berth reservation charge.