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TARIFF AUTHORITY FOR MAJOR PORTS

G.No.370

New Delhi,

20 September 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 Chennai Radha Engineering Works (P) Ltd for notification of its Scale of Rates for mechanised evacuation of cargo from Berth No.9 to coal yard on license basis for 10 years period at V.O.Chidambaranar Port Trust as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

TARIFF AUTHORITY FOR MAJOR PORTS
Case No. TAMP/47/2017-VOCT

Chennai Radha Engineering Works (P) Ltd ...

Applicant

QUORUM:

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

ORDER

(Passed on 21st day of July 2017)

This case relates to the proposal received from the Chennai Radha Engineering Works (P) Ltd. (CREWPL) for notification of its Scale of Rates for mechanised evacuation of cargo from Berth No.9 to coal yard on license basis for 10 years period at V.O. Chidambaranar Port Trust (VOCT) under revenue share arrangement.

2.1. The CREWPL vide its letter dated 18 April 2017 has intimated that it had completed the mechanized evacuation system and started the operation on 29 September 2016 and requested to intimate new tariff applicable for the year 2017-18. The letter of CREWPL was referred to VOCT vide our letter dated 11 May 2017 and the VOCT was requested to ask the concerned operator to file proposal for notification of SOR in its name.

2.2. In this backdrop, the CREWPL vide its letter dated 20 May 2017 has submitted a proposal for notification of Scale of Rates in its name for the revised rate to be charged from 1 April 2017. The main submissions made by the CREWPL regarding Cargo Handling Charges are as under:

- (i). The VOCT has granted license for mechanization of cargo evacuation from 9th berth to coal yard on license basis for 10 years period under revenue share model at VOCT as per license agreement No. MEE-SE2P1-PRJ-9 Bert-VI-2015/D.149 dated 13 January 2016 entered with VOCT. A copy of license agreement has been furnished.
- (ii). The Cargo Handling Charges for Mechanised Evacuation System from Berth No.9 to Interim Stackyard approved by the Authority vide its Order No.TAMP/40/2015-VOCT dated 18 August 2015 are as under:

Sl. No.	Commodity	Rater per MT Foreign ₹	Rater per MT Coastal ₹
1.	Dry Bulk Cargo (Coal [Other than Thermal Coal], Gypsum and Lime Stone)	63.02	37.81
2	Thermal Coal	63.02	63.02

- (iii). In Annexure II under Clause 3 (i) General Notes of Tariff Order No. TAMP/40/2015-VOCT dated 18 August 2015 it has been specified as "The Tariff caps will be indexed to inflation but only to an extent of 60% of the variation in WPI occurring between 1st January 2015 and 1st 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 1st April of the relevant year to 31st March of the following year".
- (iv). Hence, as per Clause 3 (i) General Notes of Tariff Order No.TAMP/40/2015-VOCT dated 18 August 2015, the following proposal for revising the Tariff is hereby submitted:

Sl. No.	Commodity	Rate per MT Foreign (In ₹)	Rate per MT Coastal (In ₹)
1	Dry Bulk Cargo (Coal [Other than Thermal Coal], Gypsum and Lime Stone)	64.46	38.68
2	Thermal Coal	64.46	64.46

2.3. The proposal was examined and following information gaps were found:

- (i). The proposal submitted by CREWPL did not contain the Scale of Rates alongwith conditionalities approved by this Authority vide its Order No. TAMP/40/2015 dated 18 August 2015.
- (ii). The CREWPL has not furnished a copy of the completion certificate from the Independent Engineer

3.1. In view of the above, the CREWPL was requested vide our letter dated 31 May 2017 to furnish proposed Scale of Rates and to furnish a copy of completion certificate from the Independent Engineer.

3.2. In response, the CREWPL vide its letter dated 2 June 2017 has furnished draft Scale of Rates and a copy of the Completion Certificate issued by VOCPT and has requested this Authority for notification of Scale of Rates in its name. The main points made by CREWPL are summarized below:

- (i). The CREWPL has submitted tariff proposal alongwith SOR to issue necessary notification of SOR in their name, notifying the new tariff rates applicable for 2017-18 commencing from 1 April 2017 for cargo handling charges for mechanized evacuation system from Berth 9 at VOCPT, Tuticorin to enable them to collect the same from the users from 1 April 2017. The indexed tariff proposed by VOCPT are as follows:

Sl. No.	Commodity	Rater per MT Foreign (In ₹)	Rater per MT Coastal (In ₹)
1.	Dry Bulk Cargo (Coal, [Other than Thermal Coal] Gypsum and Lime Stone)	64.46	38.68
2.	Thermal Coal	64.46	64.46

- (ii). The system has been commissioned and accepted by VOCPT with effect from 5 January 2017. They have charged the following tariff rates as per the upfront tariff furnished in the Tender specification and TAMP Order No. TAMP/40/2015-VOCPT dated 18 August 2015:

Sl. No.	Commodity	Rater per MT Foreign (In ₹)	Rater per MT Coastal (In ₹)
1.	Dry Bulk Cargo (Coal, [Other than Thermal Coal] Gypsum and Lime Stone)	63.02	37.81
2.	Thermal Coal	63.02	63.02

- (iii). The CREWPL has furnished a copy of Inspection Report and Completion Certification issued by Chief Mechanical Engineer, VOCPT.
- (iv). The CREWPL has requested to issue necessary Notification of SOR in their name, notifying the tariff rate applicable for cargo handling charges of mechanized evacuation system from Berth 9 at VOC Port, Tuticorin to enable them to collect the same from the user.

4. While acknowledging the proposal of CREWPL, we have vide our letter dated 14 June 2017 and subsequent reminder dated 5 July 2017 requested CREWPL to give clarification on the relevance of furnishing the letter of VOCPT dated 18 February 2017 issued to CREWPL for tendering purpose in the current exercise which is for notification of SOR in the name of CREWPL is not clear.

5. In the meantime, the VOCPT vide its email dated 1 June 2017 referring to our letter No.TAMP/12/2009-Misc. dated 30 July 2017 relating to Indexation factor announced by this Authority for the year 2017-2018 under the Reference Tariff Guidelines of 2013 has sought clarification on a few points. The submissions made by the VOCPT are as follows:

- (i). Annual indexation factor announced by the Authority for each of the years from 2014-15 under Reference Tariff Guidelines, 2013 are as detailed below:-

Year	Annual Indexation Factor
2014-15	3.78%

2015-16	2.29%
2016-17	NIL
2017-18	1.20%

- (ii). In VOCPT, reference tariff has been fixed for operation of the project Mechanisation of cargo evacuation from 9th Berth to Coal Yard vide Order dated 18.08.2015. Para 13 (xvi) of the Order states that, "since the cost estimates considered in the reference tariff calculation are based on the market rate pertaining to the year 2015 it is found appropriate and relevant to prescribe the base WPI to be considered for automatic adjustment every year as 1 January 2015 as proposed by the Port".
- (iii). Considering this, the reference tariff fixed vide order notified dated 23.9.2015 shall be indexed by 2.29% for the year 2016-17 with respect to increase in WPI from 1 January 2015 and 1 January 2016 with respect to base of 1 January 2015. Accordingly, the following rates shall be applicable;-
- (a). The commercial operation started on 29.9.2016
- (b). Tariff applicable for 2016-17 – Annual escalation for 2016-17 NIL with respect to no increase on WPI for the period from 1 January 2015 and 1 January 2016. Hence, the notified rate will be applicable for 2016-17.
- (c). Tariff applicable for 2017-18 – Annual escalation (2016-17) NIL + Annual escalation 2017-18 – 1.20% total 1.20% escalation on notified tariff shall be applicable.
- (iv). In view of the above, the Authority to clarify the indexation factor to be adopted for the 1st year of commercial operation 2016-17 (from 29.9.2016) and for current financial year 2017-18.
- (v). The Authority to confirm the above position so as to regulate the determination of gross revenue and revenue share payable by the Operator from the date of commercial operation with effect from 29.9.2016.

6. With regard to the VOCPT letter dated 1 June 2017, the VOCPT was vide our letter dated 14 June 2017 requested to furnish its comments on the proposal dated 2 June 2017 of CREWPL for notification of SOR in its name and was also requested to furnish requisite information / clarification on a few points. The VOCPT has furnished its reply vide its letter dated 7 July 2017. A summary of the additional information / clarification sought by us and reply of the VOCPT is tabulated below:

Sl. No.	Additional information / clarification sought by us	Reply furnished by VOCPT
(i).	Chennai Radha Engineering Works (P) Ltd. (CREWPL) under cover of its letter dated 2 June 2017 has filed the above said subject proposal for notification of indexed Scale of Rates (SOR) in its name. A copy of the said proposal of CREWPL was forwarded to VOCPT with a request to furnish its comments on the proposal of CREWPL within 2 days from receipt of our letter of even number dated 14 June 2017.	In view of the submission made below, VOCPT has requested to notify the Scale of Rates in the name of CREWPL for the Project "Mechanization of evacuation of cargo from Berth No.9 to coal yard on license basis for 10 years period under revenue share basis".
(ii).	The VOCPT and Chennai Radha Engineering Works (P) Ltd. (CREWPL) both have intimated that CREWPL has commenced operation w.e.f 29 September 2016. The CREWPL, while filing the proposal for notification of SOR in its name, has submitted a copy of letter issued by the VOCPT dated 18 February 2017 which indicates that the	The CREWPL installed the mechanized system and informed the Port that mechanized system is ready for operation. Since the system is ready for operation, in order to increase the productivity and to provide better facility to the trade, the licensee was allowed to carry out the operation from 29.9.2016. As per the terms & conditions of license Agreement, Committee inspected the Mechanisation Project and observed that

	mechanized evacuation system installed at 9 th berth by CREWPL was inspected by a committee constituted by the VOCPT and system was accepted by port w.e.f 5 January 2017. The VOCPT to explain the reasons for giving acceptance of the completion of project from 5 January 2017 when the CREWPL had already commenced operations from 29 September 2016.	CREWPL has to rectify the works like painting, providing enclosures and Guards as per the License Agreement. After completion of rectification works VOCPT had accepted the Mechanised system installed at 9 th berth for evacuation of cargo from 9 th berth to coal yard on 5.1.2017.														
(iii).	As VOCPT is well aware that the SOR was notified in the name of port. Though CREWPL commenced the operation in September 2016, however, no proposal was filed by CREWPL for notification of SOR in its name as required under the statute. The CREWPL has come only now for notification. The port to intimate what is the tariff arrangement under which CREWPL has collected tariff for the period from commencement of operation i.e. from 29 September 2016 to 31 March 2017. The VOCPT also to explicitly indicate / clarify from which date the SOR is to be made effective, since CREWPL commenced the operation on 29 September 2016.	<p>The CREWPL has collected the following tariff from users as per Tariff Order No.TAMP/40/2015-VOCPT dt.18.8.2015 issuing Trade Notice dated 17 September 2016:-</p> <table border="1"> <thead> <tr> <th rowspan="2">Sl. No.</th> <th rowspan="2">Commodity</th> <th colspan="2">Rate per in MT (In Indian ₹)</th> </tr> <tr> <th>Foreign</th> <th>Coastal</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>Dry Bulk Cargo (Coal [other than thermal coal], Gypsum and Limestone)</td> <td>63.02</td> <td>37.81</td> </tr> <tr> <td>2</td> <td>Thermal Coal</td> <td>63.02</td> <td>63.02</td> </tr> </tbody> </table> <p>Since the system is used for operation from 29.9.2016 the tariff effective date also may please be considered accordingly and licensee has to pay revenue share as per the license Agreement, licensee collected the tariff as per Tariff Order No.TAMP/40/2015-VOCPT dt.18.8.2015 from 29.9.2016, since Annual indexation factor for 2016-17 is NIL and in SOR Notified for Chennai Radha Engineering Works Pvt. Ltd., dt.18.8.2015 stated that base year for indexation shall be 1 January-2015 vide clause (xvi). Also with effect from 1.4.2017, annual indexation of 1.20% shall apply on above rates stated in the tabular form as per the escalation % informed by TAMP vide letter dt.31.3.2017.</p>	Sl. No.	Commodity	Rate per in MT (In Indian ₹)		Foreign	Coastal	1	Dry Bulk Cargo (Coal [other than thermal coal], Gypsum and Limestone)	63.02	37.81	2	Thermal Coal	63.02	63.02
Sl. No.	Commodity	Rate per in MT (In Indian ₹)														
		Foreign	Coastal													
1	Dry Bulk Cargo (Coal [other than thermal coal], Gypsum and Limestone)	63.02	37.81													
2	Thermal Coal	63.02	63.02													
(iv).	The CREWPL has furnished VOCPT letter dated 18 February 2017 wherein the Committee constituted by port for inspection has accepted the system w.e.f. 5 January 2017. Apart from that, the CREWPL has also attached VOCPT letter dated 8 March 2017 alongwith Completion Certificate which is stated to be for tendering purpose only. The VOCPT to confirm that the details provided by VOCPT in the said Completion Certificate to CREWPL is in line with reference tariff Order approved by this Authority vide Order No. TAMP/40/2015-VOCPT dated 18 August 2015.	The Completion certificate dt.8.3.2017 has been issued to M/s. CREWPL based on the request from the licensee for participating in other tenders. Since the licensee installed the Mechanized evacuation system from Berth No.9 to coal yard as per the specifications requirement in the license Agreement, the mechanized system has been accepted by Port as per the license Agreement on 5.1.2017.														

7. With reference to the point raised at paragraph 4, the CREWPL vide its letter dated 8 July 2017 has stated that while submitting a copy of the VOCPT letter dated 8 March 2017 alongwith Completion Certificate as the content of the letter specifies that "The acceptance of the system Viz. Mechanized Evacuation System installed at 9th berth for evacuation of cargo from 9th berth to coal yard with effect from 5 January 2017" was issued on 18 February 2017. The CREWPL has further stated that the letter of VOCPT was submitted to establish that the system is in operation from 5 January 2017. The CREWPL has reiterated to issue notification of SOR, in its name, notifying the new tariff rate applicable for 2017-18 commencing from 1 April 2017 for cargo handling charges.

8.1. Clause 2.9.1. of the Tariff Guidelines of 2008 for fixation of upfront tariff stipulates that 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.

8.2. While clause 2.9.1 of the Upfront Tariff Guidelines of 2008 explicitly stipulates that before commencement of commercial operation, the private operator shall approach this Authority for notification of the Scale of Rates as required under Section 48 of the Major Port Trusts Act, 1963, no such an explicit provision is stipulated in the Tariff Guidelines of 2013.

8.3. As per Section 48 read with Section 42(4) of the Major Port Trusts (MPT) Act, 1963, any person authorised by the Major Port Trusts to render services can levy tariff based on the Scale of Rates (SOR) notified by this Authority. That being so, the operators governed under the tariff guidelines 2013 who have been authorised by Major Port Trust under Section 42(3) of the MPT Act 1963, need to get the indexed SOR notified in their name well before the commencement of operations.

8.4. As per clause 4.2 of the Reference Tariff Guidelines of 2013, 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.

8.5. As per note (i) under 3 General Notes in the reference tariff for mechanization of evacuation of cargo from Berth No.9 to interim stackyard at VOCPT approved by this Authority vide Order No. TAMP/40/2015-VOCPT dated 18 August 2015, tariff caps will indexed to inflation to an extent of 60% of the variation in the WPI occurring between 1 January 2015 and 1 January of the relevant year.

8.6. The base year for the reference tariff and the corresponding annual escalation for the year 2014-15, 2015-16, 2016-17 and 2017-18 has been announced by this Authority and communicated to all the Major Port Trusts including VOCPT. Accordingly, the annual indexation factor announced by this Authority are as under:

Year	Annual Indexation Factor
2014-15	3.78%
2015-16	2.29%
2016-17	NIL
2017-18	1.20%

8.7. Thus in short, the CREWPL has come up after commencement of commercial operation on 29 September 2016 for notification of Scale of Rates in its name and the VOCPT has requested to notify the Scale of Rates in the name of CREWPL from the date of commencement of commercial operation i.e 29 September 2016.

9.1. 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/40/2015-VOCPT dated 18 August 2015 fixing reference tariff based on the proposal filed by the V.O.Chidambaranar (VOCPT) for mechanization of evacuation of cargo from Berth No.9 to interim stack yard on license basis for a period of 10 years basis in V.O.Chidambaranar Port. The said Order was notified in the Gazette of India Extraordinary (Part III Section 4) on 23 September 2015 vide Gazette No.325.
- (ii). The VOCPT has awarded the project of mechanization of evacuation of cargo from Berth No.9 to interim stack yard on license basis for a period of 10 years to the Chennai Radha Engineering Works (P) Ltd (CREWPL) and entered into a Licence Agreement with CREWPL on 13 January 2016.

- (iii). As brought out earlier, as per Section 48 read with Section 42(4) of the Major Port Trusts (MPT) Act, 1963, any person authorised by the Major Port Trusts to render services can levy tariff based on the Scale of Rates (SOR) notified by this Authority. That being so, the operators governed under the tariff guidelines 2013 who have been authorised by Major Port Trust under Section 42(3) of the MPT Act 1963, need to get the indexed SOR notified in their name well before the commencement of operations. The CREWPL has approached this Authority with a request to notify the Scale of Rates in its name, though after commencement of commercial operation on 29 September 2016.
- (iv). As reported by the CREWPL, the operator has commenced commercial operations with effect from 29 September 2016. The copy of VOCPT letter No. TAMP/47/2017-VOCPT dated 18 February 2017 forwarded by the CREWPL states that Committee constituted by the VOCPT after due inspection of the project has accepted the system with effect from 5 January 2017. The License Agreement entered between VOCPT and CREWPL as forwarded by CREWPL does not mention about issue of Independent Engineer's Certificate on completion of project. The VOCPT has stated that as per the terms and conditions of license agreement, Committee constituted by VOCPT has inspected the said mechanization project licensed to CREWPL on 30 December 2016 and 5 January 2017 and has accepted the system w.e.f 5 January 2017. When sought clarification from the port to give reason for acceptance of completion of project from 5 January 2017 when CREWPL had commenced the operation from 29 September 2016, the VOCPT has clarified that the Committee to inspect the project had observed that CREWPL had to rectify the work like painting, providing enclosures and guards as per license agreement. After completion of rectification work, the Committee has accepted the mechanized system installed at 9 Berth on 5 January 2017. The letter of Acceptance of the project issued by the VOCPT, being a licensor port is relied upon. The VOCPT has also stated that as the mechanized system was ready for operation and in order to increase the productivity and to provide better facility to the trade, the licensee was allowed to carry out the operation from 29 September 2016. The VOCPT has categorically stated that since the system is used for operation from 29 September 2016, the tariff effective date is to be considered accordingly i.e. 29 September 2016.

The CREWPL in its proposal has sought notification of SOR from 1 April 2017. If reference tariff is notified from 1 April 2017, the tariff collected by CREWPL from 29 September 2016 till 1 April will not have any approval of this Authority. As per the statute, the operator authorised by the port can collect the tariff for services rendered by them only upon notification of Scale of Rates by this Authority. The CREWPL did not approach this Authority in September 2016 for notification of SOR in their name. It is now, in June 2017 CREWPL has furnished complete proposal with proposed SOR for notification of SOR in its name. The VOCPT has categorically stated that since the system is used for operation from 29 September 2016, the tariff effective date is to be considered accordingly i.e. 29 September 2016. That being so, this Authority is inclined to entertain the proposal of CREWPL for notification of the Scale of Rates taking the reference tariff approved in the Order dated 18 August 2015 subject to the applicable WPI escalation announced by this Authority. In view of the position brought out above, and as recommended by the Licensor port, the SOR is notified to take effect from the date the CREWPL commenced the operations i.e 29 September 2016

- (v). (a). With reference to the indexation of the reference tariff fixed vide Order dated 18 August 2015, it is noteworthy that the CREWPL, while filing of its draft proposed SOR, has applied the applicable escalation factor of 2.29% on the tariff caps considering the 60% of the variation in WPI occurring between 1 January 2015 and 1 January 2016. In this regard, it is relevant to mention that para 12(xvi) of the reference tariff Order passed by this Authority vide Order No. TAMP/40/2015-VOCPT dated 18 August 2015 and the General Note no.(i) in the Scale of Rates (SOR) approving the reference tariff, states 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 2015 and 1 January of the relevant year. The general note explicitly states the base year for WPI escalation as 1 January 2015.

- (b). The CREWPL commenced commercial operation on 29 September 2016. CREWPL has applied the applicable WPI escalation in the proposed SOR for notification at 2.29% which is not in line with the escalation factor announced by this Authority. The base year for WPI indexation as per upfront tariff Order is January 2015. Hence, the first annual indexation in SOR is after a year with base WPI of January 2015 and with reference to WPI as of January 2016 to arrive indexed SOR for the financial year 1 April 2016 to 31 March 2017. The escalation factor announced by the Authority for the year 2016-17 i.e. the financial year commencing from 1 April 2016 to 31 March 2017 is "Nil". Hence, the applicable annual indexation factor for notification of SOR of CREWPL as on 29 September 2016 is "Nil" as announced by the Authority. Therefore, the SOR notified by this Authority vide its Order No. TAMP/40/2015-VOCPT dated 18 August 2015 is notified for CREWPL applying Nil escalation factor will be applicable from the date of commencement of operations i.e. 29 September 2016. For the subsequent years as well, the indexed SOR now notified by this Authority will be automatically indexed to the extent of 60% of the WPI to be announced by this Authority annually. The General note no (i) to Schedule (2) proposed by CREWPL retaining the general note approved in the Order dated 18 August 2015 is, therefore, suitably modified clarifying this position.

Thus, in short, for the year 2017-18 and onwards, the note (i) under General Notes already prescribes automatic tariff adjustment to be made in the tariff caps every year and adjusted tariff caps will come into effect from 1 April on the relevant year to 31 March of the following year.

- (vi). This Authority vide Order dated 18 August 2015 has notified the SOR alongwith Performance Standard as proposed by VOCPT as per the Reference Tariff Guidelines. The CREW has not included the Performance Standard approved by this Authority for notification in its proposal. Therefore, the performance standard as approved by this Authority in the Order dated 18 August 2015 is also notified.
- (vii). All the other conditionalities governing the application of the rates as approved in the Scale of Rates of the Order dated 18 August 2015, are retained subject to the following.
- (a). 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-9CHART(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 CREWPL as note no. (ii) and (iii) in place of note no. (ii) under General terms and conditions. The subsequent note nos. are consequently renumbered.

9.2. In the result, and for the reasons given above, and based on collective application of mind, this Authority approves the notification of Scale of Rates and Performance Standards for the mechanization of evacuation of cargo from Berth No.9 to interim stack yard on license basis for a period of 10 years basis in the name of CREWPL operating at VOCPT attached as **Annex-I** and **II**.

9.3. The Scale of Rates notified for CREWPL is deemed to have come into force from the date of commencement of operations by CREWPL at VOCPT i.e. from 29 September 2016.

9.4. During the commercial operation at the terminal, within 15 days from the end of every quarter, the CREWPL is directed to submit to this Authority through the VOCPT a report containing the physical and financial performance at Berth No9 during the preceding three months.

9.5. As per clause 3.8.5 of the guidelines, if any question arises requiring clarifications or interpretation of the Scale of Rates and the statement of conditionalities, the matter shall be referred to this Authority and its decision in this regard will be binding on the operator.

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

9. 7. The actual performance of the Licensee will be monitored by this Authority. If any complaint regarding quality of service is received, this Authority shall 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)

Chennai Radha Engineering Works (P) Ltd

Scale of Rates for mechanised evacuation of cargo from Berth No.9 to interim stack yard on license basis for 10 years period at V.O.Chidambaranar Port Trust under revenue share basis.

CHAPTER 1 – DEFINITIONS & GENERAL TERMS & CONDITIONS

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 Competent Authority / Director General of Shipping.
- (ii). **"Foreign-going Vessel"** shall mean any vessel other than a coastal vessel.
- (iii). **"Per day"** shall mean a calendar day or part thereof.
- (iv). **"Port"** shall mean V.O. Chidambaranar Port Trust.
- (v). **"Tonne"** shall mean one Metric Tonne or 1000 Kilograms.

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 its classification as 'coastal' or 'foreign-going' 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). Interest on delayed payments/refunds.
 - (a). The user shall pay penal interest on delayed payments of any charge under this Scale of Rates. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India)
 - (b). Like wise, the Terminal shall pay penal interest on delayed refunds. The rate of interest will be (prescribed at 2% above the Prime Lending Rate of State Bank of India)
 - (c). The delay in refunds will be counted beyond 20 days from the date of completion of services or on production of the documents required from the users, whichever is later. (The Terminal must specify specific documents to be submitted for claiming refund).
 - (d). The delay in payments by the users will be counted beyond 10 days after the date of raising the bills by the Terminal. This provision shall, however, not apply to the cases where payment is to be made before availing the services as stipulated in the Major Port Trusts Act, 1963 and/or where payment of charges in advance is prescribed in this Scale of Rates.
- (vi). All charges worked out shall be rounded off to the next higher rupee on the grand total of each bill.
- (vii). No claims for refund shall be entertained unless the amount refundable is ₹100/- or more. Likewise, operator shall not raise any supplementary or under charge bills, if the amount due to operator is ₹100/- or less.
- (viii).
 - (a). The rates prescribed in this Scale of Rates are ceiling levels; likewise, rebates and discounts are floor levels. The operator may, if it so desires, charge lower rates and/ or allow higher rebates and discounts.
 - (b). The operator may also, if it so desires, rationalize the prescribed conditionalities governing the application of rates prescribed in the Scale of Rates if such rationalization 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. Provided that the operator should notify the public such lower rates and / or rationalization of the conditionalities governing the application of such rates and continue to notify the public any further changes in such lower rates and/ or in the conditionalities governing the application of such rates provided the new rates fixed shall not exceed the rates notified by the TAMP.
- (ix). User will not be required to pay charges for delays beyond a reasonable level attributable to operator.

2. CARGO HANDLING CHARGES FOR MECHANIZED EVACUATION SYSTEM FROM BERTH NO. IX TO INTERIM STACKYARD:-

Sl. No.	Commodity	Rate per in MT (in Indian ₹)	
		Foreign	Coastal
1	Dry Bulk Cargo (Coal [other than thermal coal], Gypsum and Limestone)	63.02	37.81
2	Thermal Coal	63.02	63.02

Notes :-

1. Rate prescribed above is for transportation of cargo from berth no. IX to interim stack yard through conveyor system.
2. In the interim stack yard free period of 2 days is allowed from the date of completion of unloading from vessel. The cargo should be moved by the stevedores from interim stack yard within the stipulated free period. If the cargo is not moved by Stevedores from interim stack yard within the stipulated free period then VOCPT will remove the cargo from the stack yard at the cost of concerned Stevedores.
3. No storage charges will be levied. If the cargo is not evacuated by the stevedores from interim stack yard within the stipulated free period of two days, the port will remove the cargo from the stack yard at the cost of respective stevedores.

3. GENERAL NOTE TO SCHEDULE (2) ABOVE:

- (i) The tariff caps prescribed in the Scale of Rates of Chennai Radha Engineering Works (P) Ltd takes into consideration the reference tariff approved by the Authority vide Order No. TAMP/40/2015-VOCPT dated 18 August 2015 and applying indexation to the extent of 60% of the variation in Wholesale Price Index (WPI) occurring between 1 January 2015 and 1 January of the relevant year. For the subsequent years as well notified tariff approved in this Order dated 21 July 2017 will be automatically indexed to inflation but only to an extent of 60% of the variation in Wholesale Price Index (WPI) announced by the Authority annually. 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.
- (ii) From the date of Commercial Operation (CoD) till 31st March of the same financial year, the tariff would be limited to the indexed Reference Tariff relevant to that year, which would be the ceiling. The aforesaid Reference Tariff shall be automatically revised every year based on an indexation as provided in para 2.2 of the tariff guidelines of 2013 which will be applicable for the entire licence period.

However, the Licensee would be free to propose a tariff along with Performance Standards (the "Performance Linked Tariff") from the second year of operation onwards, over and above the indexed Reference Tariff for the relevant financial year, at least 90 days before the 1st April of the ensuing financial year. Such Performance Linked Tariff shall not be higher than 15% over and above the indexed Reference Tariff for that relevant financial year (and this will be the Tariff Cap). The Performance Linked Tariff would come into force from the first day of the following financial year and would be applicable for the entire financial year.

- (iii) The proposal shall be submitted to TAMP along with a certificate from the independent engineer appointed under the Concession Agreement of the Project indicating the achievement of Performance Standards in the previous 12 months as incorporated in the Licence Agreement or for the actual number of months of operation in the first year of operation as the case may be.
- (iv) On receipt of the proposal, TAMP will seek the views of the Major Port Trust on the achievement of Performance Standards as outlined in para 5 of the tariff guidelines of 2013, within 7 days of receipt.

- (v) In the event of Licensee not achieving the Performance Standards as incorporated in the Licence Agreement in previous 12 months, TAMP will not consider the proposal for notifying the Performance Linked Tariff for the ensuing financial year and the Licensee shall be entitled to only the indexed Reference Tariff applicable for the ensuing financial year.
- (vi) After considering the views of the Major Port Trust, if TAMP is satisfied that the Performance Standards as incorporated in the Concession Agreement have been achieved, it shall notify the performance linked tariff by 15th of March to be effective from 1st of April of the ensuing financial year.
- (vii) While considering the proposal for Performance Linked Tariff, TAMP will look into the Performance Standards and its adherence by the Licensee. TAMP will decide on the acceptance or rejection of the Performance Linked Tariff proposal based on the achievement or otherwise of the Performance Standards by the Licensee. Determination of indexed Reference Tariff and Performance Linked Tariff will follow the illustration shown in the Appendix attached to the tariff guidelines of 2013.
- (viii). From the third year of operation, the Performance Linked Tariff proposal from the Licensee shall be automatically notified by TAMP subject to the achievement of Performance Standards in the previous 12 months period as certified by the Independent Engineer. The Licensee, for the Performance Linked Tariff from the third year onwards, will submit the Performance Linked Tariff proposal along with the achievement certificate from the independent engineer by 1st March and TAMP shall notify by 20th March, the Performance Linked Tariff to be effective from the ensuing financial year.

Chennai Radha Engineering Works (P) Ltd.

PERFORMANCE STANDARDS

The Chennai Radha Engineering Works (P) Ltd shall meet both the following Performance Standards:

- (a). The Minimum guaranteed availability of 90% of Mechanised System per month. The availability shall be calculated for the total mechanized system; and,
- (b). The Chennai Radha Engineering Works (P) Ltd shall handle optimal cargo of 33,600 tonnes per day or tonnage for proportionate hours of actual working.
