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TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 136

New Delhi,

07 April 2017

NOTIFICATION

In exercise of the powers conferred by Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), the Tariff Authority for Major Ports hereby disposes of the proposal received from Visakhapatnam Port Trust (VPT) for ratification of collection of Piece Rate Levy @ 234% of time rate wages on manual unloading of thermal coal from wagons from 01.03.2011 to 31.03.2016 by VPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No. TAMP/63/2016-VPT

Visakhapatnam Port Trust

- - -

Applicant

QUORUM

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

ORDER

(Passed on this 8th day of February 2017)

This case relates to the proposal dated 20 September 2016 received from Visakhapatnam Port Trust (VPT) for ratification of collection of Piece Rate Levy @ 234% of time rate wages on manual unloading of thermal coal from wagons from 01.03.2011 to 31.03.2016 by VPT.

2. This Authority earlier vide Order no.TAMP/26/2010-VPT dated 18 January 2011 had approved Levy for deployment of Labour for Cargo Handling Division (CHD) at Visakhapatnam Port Trust (VPT).

3.1. The relevant extract from the paragraph no.12(ix) of Order no.TAMP/26/2010-VPT dated 18 January 2011 with regard to levy of 234% on Time Rate Wages approved by this Authority is reproduced below:

“Summary of the cost position reflected in the revised cost statement prepared by us is given below:

(Rs. in lakhs)

Year	Time Rate Wages	Net deficit	Net deficit as % of time rate wages
2010-11	1836.99	(-)5244.23	(-) 285%
2011-12	1976.40	(-)5004.77	(-)253%
2012-13	2144.80	(-)4945.40	(-)231%
2013-14	2327.83	(-)5063.36	(-)218%
Total for the period 2010-11 (from March 2011 till 2013-14)	6602.12	(-)15450.55	(-) 234% Avg.

The year 2010-11 will almost come to an end by the time the levy approved in this case is made effective. Hence, the proportionate deficit for the year 2010-11 and the levy income collected by the port for eleven months i.e. from 1 April 2010 to 28 February 2011 is considered as part of the past period for determining the special levy.

Based on the above, the total deficit for March 2011 and the years 2011-12 to 2013-14 estimated at Rs.15450 lakhs are considered for determining the levy. As per the cost statement, the levy to bridge the deficit of Rs.15450 lakhs is 234% of the time rate wages. Thus, the levy for the CHD is prescribed at 234% of the time rate wages.

The port has clarified that in case of workers deployed for the wagons unloading operations of thermal coal in addition to general levy a separate levy at par with general levy is being collected termed as piece rate levy as per the procedure in vogue at the time of the merger. Though it is termed as PR levy, the said levy is collected as percentage of time rate wages. The logic and the basis for collecting separate levy in the name of piece rate levy is not explained by the port. The port has also in the proposal not explicitly proposed PR levy on Thermal Coal except stating that it will be collected as per the existing procedure without offering any other explanation. As per the cost statement, the levy to bridge the deficit is 234% of the time rate wages which will apply uniformly for all cargo availing the

deployment of labour from the CHD including the thermal coal for wagon unloading operations.

The levy of 234% of the time rate wage is in addition to the recovery of time rate and the piece rates to workers collected from trade for deployment of workers from the CHD as stated by the VPT.”

3.2. In the said Order, this Authority based on the cost position had approved the following:

“Schedule 4.7.4 – Levy of charges for obtaining services of cargo handling worker from the Cargo Handling Division.

4.7.4.1. Levy on Time Rate Wages

Description	Percentage of Levy on Time Rate Wage
For all Cargo availing services of cargo handling worker from Cargo Handling Division including Thermal Coal availing services of cargo handling worker for wagon unloading.	234%

Notes:

1. The levy indicated above is in addition to recovery of time rate wages and piece rates payable to workers as per the respective clauses of prevailing wage settlement / incentive scheme.
2. The above levy is payable by the stevedores to the VPT.

4.7.4.2. Special Levy

Particulars	Percentage of additional special levy on Time Rate Wage
On all cargo availing services of cargo handling worker and also on thermal coal availing services of cargo handling workers for wagon unloading	31%

Note:

The special levy prescribed above will be levied in addition to the levy prescribed in Schedule 4.7.4.1 above for deployment of workers from CHD for handling cargo.”

4. The above schedule was subsequently incorporated in the General Revision order of the SOR of VPT approved by this Authority vide Order No.TAMP/13/2009-VPT dated 18 February 2011.

5. The VPT in the recent General Revision proposal filed for revision of SOR under Tariff Policy, 2015 has included the revision of CHD as a part of General Revision of SOR and the estimated ARR includes the CHD division also. The VPT had proposed to reduce the then existing CHD levy of 234% on time rate wages to 150% on time rate wages. This Authority has approved CHD levy as proposed by the port in the recent General Revision Order No.TAMP/9/2016-VPT dated 21 June 2016.

6.1. It is relevant here to state that while processing the said General Revision Order, TANGEDCO had stated that the VPT is presently collecting CHD levy at 234% on time rate wage and 234% as piece rate wages + 31% special levy. This works out to 499%. TANGEDCO had requested this Authority to direct VPT not to collect any other levy other than the rate approved by this Authority. TANGEDCO had brought out the same matter earlier vide its letters dated 7 August 2015 and 16 September 2015 which were forwarded to VPT vide our letters dated 18 August 2015 and 24 September 2015 for necessary appropriate action.

6.2. With reference to the point made by TANGEDCO during the processing of general revision proposal of VPT, this Authority in the Order dated 21 June 2016 at para 18 (xvii) (b) has held that:

“(b). TANGEDCO has stated that the VPT is presently collecting CHD levy at 234% on time rate wage and 234% on piece rate wages + 31% special levy. This works out to 499%. TANGEDCO has requested this Authority to direct VPT not to collect any other levy other than the rate approved by this Authority. It is relevant to state here that TANGEDCO had brought out the same matter earlier vide its letters dated 7 August 2015 and 16 September 2015 which were forwarded to VPT vide our letters dated 18 August 2015 and 24 September 2015 for necessary appropriate action. Now, in the current general proposal TANGEDCO has reiterated the matter.

The port in the current proposal has requested this Authority to regularise the levy of 499% levied by the VPT. The VPT has stated that this is in the light of the discussions held in the joint hearing and the parties have agreed to regularise past levy of 499% and to levy 150% in future. As regard the above point of VPT, it is relevant to state that as per the notes of arguments recorded at the joint hearing, when TANGEDCO at the joint hearing submitted that VPT is collecting CHD levy at 234% on time rate wage and 234% on piece rate wages + 31% special levy, 499%, the port agreed to examine and reply on the matter. There is nothing on record to show that parties agreeing to regularise the rate levied by the VPT.

It is relevant to state here that as per the existing Scale of Rates of VPT, the levy approved by this Authority is 234% on Time Rate Wages. There is no ambiguity in the SOR in this regard. The levy collected by VPT at 234% on Piece rate wages in addition to time rate wages is not in line with the tariff approved by this Authority in the existing Scale or Rates. It is not clear under what tariff arrangement the VPT has collected the additional 234% levy on piece rate wages. Since, the levy of 234% on time rate wages approved by this Authority is based on the cost position obtained for CHD in the Order No.TAMP/26/2010-VPT dated 18 January 2011, the request of the VPT to regularise the levy collected by it at 234% on piece rate wages is not in line with the levy approved in the said Order and may involve tinkering with the CHD levy of 234% on time rate wages approved in said Order. In view of the above position, this Authority is not in a position to ratify the action of the VPT and regularise the levy collected by the VPT which is not in line with the CHD levy approved and prescribed in the existing SOR of VPT. The VPT and TANGEDCO may, if necessary, come up with a mutually agreed proposal to resolve the past matter disputed by TANGEDCO.”

7. Subsequent to the General Revision Order passed by this Authority on 10 August 2016, TANGEDCO vide its letter dated 3 September 2016 addressed to VPT with a copy to this Authority has made the following main points:

- (i). VPT was requested vide letters dated 7 August 2015 and 16 September 2015 to stop collecting of 234% Piece Rate levy on time Rate Wages in respect of Manual Unloading of coal from wagons on a/c TANGEDCO and to refund the piece Rate Levy already collected from 01.03.2011 as it is without proper authority and not in line with the TAMP approval.
- (ii). The above subject was brought to the notice of TAMP vide letter No.CE/M/COAL/SE/CH/E2/A4/F.P.O.49/D.79/2015 dated 17 November 2015. TAMP has vide its letter No.TAMP/50/2015-VPT dated 22 December 2015 requested VPT to examine the points made by TANGEDCO.
- (iii). The TAMP have notified the reasoned Speaking Order connected with disposal of the proposal of the Visakhapatnam Port Trust for general revision of its SOR vide G.No.320 dated 10 August 2016.

- (iv). The TANGEDCO has reiterated para 18(xvii)(b) of the said Order and informed that it will have to recover the Piece Rate levy of 234% already paid to VPT w.e.f. 01.03.2011.
- (v). M/s.South India Corporation Ltd. (SICL) and the VPT are requested to stop collecting of 234% Piece Rate levy on Time Rate Wages in respect of Manual Unloading of coal from wagons on a/c TANGEDCO and VPT to refund the handling contractor M/s.SICL the Piece rate levy collected from 01.03.2011 as it is not in line with the TAMP approval.

8. The VPT has, in response, vide its letter dated 20 September 2016 filed a proposal requesting ratification of collection of Piece Rate Levy @ 234% on time rate wages for manual unloading of thermal coal from 1 March 2011 to 31 March 2016. The main points made by VPT are summarised below:

- (i). VPT has sent a proposal for revision of Scale of Rates, vide proposal dated 30.12.2015. TAMP has conducted hearing on 18.03.2016 and passed Orders vide Order dated 21.06.2016, notified in the Official Gazette on 22.07.2016. Reference is invited to the discussions held during TAMP's hearing on 18.03.2016 with regard to the P.R. Levy of 234% by CHD on Thermal Coal wagon unloading operations, which was discussed in detail and the circumstances for collection of such Levy by Port. TAMP, while passing the Order at para 18(xvii)(b), mentioned that the VPT and TANGEDCO may, if necessary, come up with a mutually agreed proposal to resolve the past matter disputed by TANGEDCO.
- (ii). In this connection, it is to state that TANGEDCO is not having any direct Agreement with the Port. The Thermal Coal unloading operations are being handled by M/s. South India Corporation Ltd., which is a Stevedore and is paying all charges to Port and it is the only Stevedore having direct connection with the Port to handle the Thermal Coal. Taking into consideration all factors and the discussions held in the Meeting on 18.03.2016, the Levy has been reduced to 150% from 499% on Thermal Coal.
- (iii). However, in view of the position recorded by TAMP in the said Order, the detailed case history of CHD and the circumstances/ necessity for imposing Levy is brought out hereunder for consideration of TAMP.
 - (a). The collection of levy on various cargoes from the employers is the only source of income for running in the CHD.
 - (b). The very purpose of collection of such levies by the erstwhile Visakhapatnam Dock Labour Board (VDLB) (present CHD) is to meet the expenditure being incurred towards administrative charges of Cargo Handling Division as well as welfare activities/amenities provided to the employees and its workers. The CHD is running and surviving only with collection of such levies.
 - (c). The cost of operating the CHD shall be defrayed by payments made by the registered employers by way of such levy. Every employer shall have to pay such amount to the CHD by way of levies fixed from time to time for meeting such an expenditure.
 - (d). Further, as per the directions of the Ministry of Shipping, Govt. of India, the erstwhile VDLB i.e. present CHD resolved, vide Board Resolution No.36/2003, dated 30.07.2003, to operate on the principle of no profit no loss basis.
 - (e). The VDLB was merged with VPT w.e.f. 26.09.2008 by settlements arrived at under the Industrial Disputes Act, 1947 on 08.09.2008 and 11.09.2008 with the previous approval of the Ministry vide its letter dated 19.02.2008

which was in turn approved by the erstwhile VDLB Board, VPT Board and the Ministry of Shipping and notified in the Official Gazette of India.

- (f). In the said merger settlement, it was agreed that CHD will be required to be self-sufficient one and its revenue will consist of bills raised on the registered stevedores. As far as collection of levy is concerned, it was also agreed that “the Dock Labour Board is collecting levy on the daily wage rate apart from recovery of daily wage rate payments made to the worker for the work chances provided to meet the cost of the Management and other welfare activities and therefore, agreed to continue to collect levies from the trade from the date of merger that are in vogue in VDLB for the workers supplied to meet the cost of management of CHD apart from recovery of daily wage rate payments made to the worker”.
- (g). The said merger settlements became final and the terms and conditions mentioned in the said merger settlements including collection of levy are to be followed scrupulously.
- (h). In the light of the above, the existing system of collection of levy had been continued even after merger of VDLB with VPT. At the time of merger, general levy was collected on all cargoes including thermal coal and at the same percentage rate as for general levy, Piece Rate Levy on manual unloading of thermal coal operations was also collected in addition to the general levy.
- (i). The Levy imposed by CHD and losses sustained by CHD before implementation of Scale of Rates, are tabulated below:

Financial year	Losses	General Levy %	Piece Rate Levy %
2005-06	(-) 2,28,44,526	95%	95%
2006-07	(-) 6,04,06,681	95%+20%+5%	95%
2007-08	(-) 12,79,18,831	95%+20%+5%	95%
2008-09 (1.4.2008 to 25.9.2008)	(-) 4,21,16,821	145%+39+5%	145%
2008-09 (26.9.2008 to 31.3.2009)	(-) 4,05,68,167	145%+39+5%	145%
2009-10	(-) 41,74,02,808	145%+39+5%	145%

- (j). It may be seen from the above table that even after charging Levy at the rates mentioned above, CHD incurred losses. Further, reference is also invited to Merger Settlement wherein it was clearly agreed that CHD will be required to be self-sufficient. In the same agreement, it was also agreed to continue the collection of levy from the date of merger in vogue in VDLB. Since CHD is still incurring losses, collection of Piece Rate Levy at the same rate which was being charged previously has been continued to avoid financial losses in CHD.
- (k). After merger, when the proposal for revision of Tariff was sent to TAMP, for revision of Tariff w.e.f. 01.03.2011, it was informed to TAMP by CHD that the piece rate levy on manual unloading of thermal coal is also required to be continued to be collected in addition to the general levy keeping in view the existing practice as well as provision made in the merger settlement approved by the Government and also keeping in view of the financial position of the CHD as well as Ministry’s instructions on running of CHD on “no profit no loss basis”.
- (l). The TAMP communicated its orders dated 18.01.2011 and the same was circulated on 05.03.2011 to all the registered employers of CHD.
- (m). It is pertinent to mention here that in response to the circular dated 05.03.2011 issued by CHD to all registered employers, M/s.SICL who is an Agent for TANGEDCO, Chennai has brought to the notice of the

Management of CHD that CHD is collecting 234% PR levy on thermal coal operations. But, the Order dated 18.01.2011 specifies only 234% general levy which include thermal coal also. Therefore, again a corrigendum dated 17.03.2011 was given by VPT to all employers informing that the collection of levy on time rate wages will be continued as per the existing practice on all operations without any exceptions (i.e. on unloading of thermal coal manually) as per the percentage of tariff fixed by the TAMP duly referring the earlier circular dated 05.03.2011. Keeping in view the above reasons port continued to collect the said levy.

- (n). The said fact of collection of 234% PR Levy exclusively on thermal coal operations in addition to the 234% general levy and 31% special levy has already been informed to the TAMP duly informing the circumstances.
[It can be seen from Para 3.1 above that this matter has been dealt while passing the Order dated 18 January 2011.]
- (o). While the matter stood thus, i.e., in 2015 after a period of 4 and 1/2 years, the TANGEDCO has made a representation vide its letter dated 16 September 2015 requesting to stop collection of piece rate levy and to refund the same which was forwarded by TAMP vide its letter dated 24 September 2015. Thereafter, the TANGEDCO was informed vide VPT's letter dated 23 December 2015 cited that its request cannot be considered duly explaining the reasons for the same by marking a copy of the same to the TAMP. In the said letter, it was also informed to the TANGEDCO that the above factual position will also be brought to the notice of the TAMP once again in the ensuing revision of scales of rates and while submitting the proposals of CHD in the said ensuing revision of scale of rates, it will be worked out that rates for manual unloading of thermal coal will be more competitive.
- (iv). Subsequently, a joint hearing on the general revision proposal was convened by TAMP in VPT on 18 March 2016 with the representatives of all Port Users including M/s.SICL and TANGEDCO. In the said meeting, it was decided to consider to reduce the said general levy and special levy from 265% to 150% w.e.f. 01.04.2016 and further resolved to dispense prospectively the 234% Piece Rate Levy being collected on Manual Unloading of Thermal coal operations w.e.f. 01.04.2016. In the light of the reduction of levy to 150% as well as dispensing 234% piece rate levy, it was also decided mutually by VPT and TANGEDCO to obtain the ratification / regularization for the same from TAMP by VPT.
- (v). Thereafter, the VPT Board vide its Resolution No.266/2015-16, dated 30.03.2016 has resolved to reduce the general levy and special levy from 265% to 150% w.e.f. 01.04.2016 and further resolved to dispense prospectively the 234% Piece Rate Levy being collected on Manual Unloading of Thermal coal operations w.e.f. 01.04.2016 and the same is being implemented.
- (vi). Subsequently, TAMP has communicated orders dated 08.08.2016 on revision of scale of rates which is effective from 01.04.2016. In the said orders, it was suggested by the TAMP that the VPT and TANGEDCO may, if necessary, come up with mutually agreed proposal to resolve the past matter disputed by TANGEDCO on collection of 234% piece rate levy.
[The point made by VPT that the revised SOR was effective from 1 April 2016 is not correct. The revised SOR was made effective after expiry of 30 days from the date of notification of the SOR in the Gazette of India on 22 July 2016]
- (vii). In this connection, it is pertinent to bring the following facts to the notice of Authority that the levy of 234% of the time rate wages was fixed by the Authority taking into consideration of the admissible estimated expenses and overheads relating to the CHD activity including the expenditure of CHD for handling of thermal coal and admissible return on the investment. Accordingly, the working for the financial year 2011-12 was done as per the levy rate fixed by the TAMP.

As per the audited annual accounts which captures the PR levy at the rate of 234%, the year 2011-12 reports a deficit of ₹10,83,88,946/- in the CHD. (In the summary statement, the VPT has reported deficit of ₹10,18,60,157/- for the year 2010-11 which is as per its Income and Expenditure statement.)

- (viii). This indicated that all the admissible administrative expenditure other than time rate wages paid to the workers are not properly accounted for while fixing the levy percentage. In order to maintain the Organization with no profit no loss basis, the percentage of existing levy of 234% on the deployment of workers for thermal coal handling operations, in addition to the collection of general levy was collected by VPT. This may off-set the estimated loss during the year 2011-12 and the procedure is to be continued in future years also in order to run the Organization with no profit no loss basis.
- (ix). The main reason for collection of piece rate levy on thermal coal operations is, that the piece rate levy is being collected for the work rendered by the CHD beyond the norm fixed for the thermal coal operations. The norm was fixed at one wagon per shift per gang for which the time rate wages and the general levy are being collected and in case the operation exceeds more than a wagon per gang the applicability of piece rate levy may arise and consequently the piece rate levy is being collected. Keeping the above into consideration, as already informed earlier to the TAMP authorities, circular was issued to the Trade that the existing practice of collecting levy which includes the percentage levy on thermal coal will continue on all operations without any exception.
- (x). In this connection, it is pertinent to state that even after continuing the levy of 234%, CHD has sustained losses as tabulated below:

(in ₹)

F.Y.	2011-12	2012-13	2013-14	2014-15	2015-16	Total
Surplus / Deficit	(-) 10,18,60,157	(-) 7,52,23,416	(-) 11,53,59,739	13,54,50,743	13,98,02,908	(17,189,661)
Collection of PR Levy @ 234%	11,48,92,803	14,56,89,606	13,75,31,376	19,99,05,559 **	33,78,09,642	935,828,986
Total loss in the absence of PR / Levy	(-)21,67,52,960	(-)22,09,13,022	(-)25,28,91,115	(-)6,44,54,816**	(-)19,80,06,734	(-)95,30,18,647

(** *The VPT in the reply furnished on the comments of TANGEDCO has reported the PR levy at ₹19,99,05,559 which is captured instead of 11,99,05,559 considered by VPT which appears to be a typographical error by VPT.*)

- (xi). It may be seen from the above table that even after charging 234% levy, CHD sustained losses in 2011-12, 2012-13, 2013-14 and made a meagre profit in 2014-15 and 2015-16. Had the levy not been collected by VPT, the accumulation losses for the period from 2011-12 to 2015-16 would have been ₹95.30 crores which was against the principle of origin of CHD, i.e., no profit no loss and also merger settlement notified by the Government.
- (xii). The Circular was issued in March 2011, based on TAMP Order. As soon as the Circular was issued, M/s.SICL raised an issue of Levy and to charge only 234% + 31%. In view of that to clarify M/s.SICL and the Trade, a Corrigendum dated 17.03.2011, was issued duly indicating that collection of levy on Time Rate Wages will be continued as per the existing practice on all operations without any exception as per the percentage of levy fixed by the TAMP. After the Circular was issued, M/s.SICL has been paying the charges without any protest. The VPT has reiterated that M/s.TANGEDCO is not having any direct relation to Port and M/s.SICL is the Stevedore handling the cargo of M/s.TANGEDCO.
- (xiii). Though the piece rate levy is being charged by VPT, M/s.TANGEDCO has raised the issue only in the year 2015, i.e., after a lapse of 4½ years. M/s.SICL, who is the Stevedore handling major cargo of Thermal Coal, has been paying the charges without any contest or protest as they know the working of CHD and its operations and administration.

- (xiv). Further, there is no protest / contest even from the Trade as regards the subject levy, since Stevedores are the employers of CHD and they know very well the operations and administration of CHD. Had there been any grievance, the Stevedores' Association would have represented the matter to TAMP then itself.
- (xv). Having an understanding that there will be consensus, VPT proposed reduction of Levy to 150%.
- (xvi). Taking into consideration the overall scenario, working/ operation of CHD, the purpose and essentiality of imposing Levy, etc., TAMP is requested to regularise the past Levy.

9. Thus, in short the VPT has made a request to this Authority to regularize the levy of 234% on piece rate collected by the VPT from 01.03.2011 till 31.03.2016.

10. In accordance with the consultation process prescribed, a copy of the VPT proposal dated 20 September 2016 was circulated to the concerned users/ user organisations viz. TANGEDCO, Visakhapatnam Stevedores Association and M/s.SICL seeking their comments vide our letter dated 14 October 2016. We have not received comments from any users/ user associations except TANGEDCO vide its letter dated 20 October 2016. The comments received from TANGEDCO was forwarded to VPT for their comments. The VPT has vide its letter dated 23 December 2016 responded to the comments of TANGEDCO subsequent to the joint hearing.

11. A joint hearing in this case was held on 21 October 2016 at the Office of this Authority in Mumbai. The VPT made a power point presentation of its proposal. The TANGEDCO has also made a power point presentation at the joint hearing. At the joint hearing, the VPT and users / user association have made their submissions.

12.1. At the joint hearing, TANGEDCO has submitted hard copy of its earlier comments dated 20 October 2016. While furnishing comments, TANGEDCO has also sought Balance Sheet alongwith workings and supporting documents for the year 2011-12 to 2015-16 for furnishing further comments.

12.2. The VPT vide our letter dated 3 November 2016 was requested to furnish the requisite documents, Income and Expenditure statement and Balance Sheet of CHD alongwith workings and supporting documents for the years 2011-12 to 2015-16 directly to TANGEDCO with a copy endorsed to this Authority immediately. The TANGEDCO was also requested to furnish its further comments, if any, to VPT and to this Authority after receipt of requisite documents from VPT. The VPT was to furnish its comments on the comments received from TANGEDCO immediately thereafter.

12.3. This was followed by reminders dated 23 November 2016 and 21 December 2016. The VPT vide its letter dated 23 December 2016 has, while furnishing its comments on comments of TANGEDCO, has also furnished Balance Sheet for the years 2011-12 to 2015-16 to TANGEDCO with a copy endorsed to this Authority. The TANGEDCO has not furnished its comments on the Balance Sheet of 2011-12 to 2015-16 sought by them and forwarded by VPT to TANGEDCO.

13. The VPT vide fax dated 20 January 2017 has again furnished copy of the Balance Sheet of CHD for the years 2010-11 to 2015-16 along with Income and Expenditure Statement for CHD for the same years.

14. The proceedings relating to consultation in this case are available on records at the office of this Authority. An excerpt of the comments received and arguments made by the concerned parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The proposal of Visakhapatnam Port Trust (VPT) is for ratification of piece rate levy @ 234% of time rate wages collected by VPT for manual unloading of thermal coal operation for the period from 1 March 2011 to 31 March 2016.
- (ii). This proposal of the VPT flows from the matter referred by TANGEDCO while processing the general revision of SOR of VPT in June 2016. While processing the general revision proposal filed by VPT under Tariff Policy, 2015, TANGEDCO had pointed about the VPT collecting piece rate levy at 234% on time rate wages which does not have approval of this Authority. The TANGEDCO requested this Authority to direct VPT not to collect the PR levy. This has been dealt by this Authority elaborately in para 18 (xvii) (b) of the Order no.TAMP/9/2016-VPT dated 21 June 2016. In the said Order this Authority held that this Authority will not be in a position to ratify the action of the VPT and regularise the levy collected by the VPT which is not in line with the CHD levy approved and prescribed in the (then) existing SOR of VPT. The VPT and TANGEDCO may, if necessary, come up with a mutually agreed proposal to resolve the past matter disputed by TANGEDCO. It is in this backdrop, the VPT has filed the current proposal.
- (iii). (a). Before proceeding with the analysis of the proposal filed by VPT, it is relevant to bring out the brief of the levy approved for Cargo Handling Division (CHD) by this Authority. The VPT first approached this Authority for fixation of rate for CHD in the year 2010 after the merger of the erstwhile Visakhapatnam Dock Labour Board (VDLB) with VPT reported in the year 2008. This Authority vide Order No.TAMP/26/2010-VPT dated 18 January 2011 approved the initial tariff for CHD levy for deployment of labour from CHD at VPT. As brought out in para 3.1 above, this Authority, based on the aggregate estimated deficit position reflected in the cost statement in the CHD for the years 2010-11 to 2013-14, had approved CHD levy of 234% on time rate wages for all cargo availing services of CHD including thermal coal. The note below the schedule 4.7.4.1 of the SOR stipulates that the CHD levy indicated in the schedule i.e. 234% on time rate wage is in addition to recovery of time rate wages and piece rates payable to workers as per the respective clauses of prevailing wage settlement / incentive scheme.

(b). During processing of the VPT proposal for fixation of CHD, which culminated into the Order dated 18 January 2011 as brought out in para 12(ix) of the said Order which is also reproduced in para 3.1 above, the port had stated that in case of workers deployed for the wagons unloading operations of thermal coal a separate levy at par with general levy in addition to general levy is being collected termed as Piece Rate (PR) levy as per the procedure in vogue at the time of the merger. Though it is termed as PR levy, the said levy is collected as percentage of time rate wages. The logic and the basis for collecting separate levy in the name of PR levy was not explained by the port then. The port had also not explicitly proposed PR levy on Thermal Coal in the proposal except stating that it will be collected as per the existing procedure without offering any other explanation. As per the cost statement, the levy to bridge the deficit in CHD worked out to 234% of the time rate wages which was prescribed by this Authority uniformly for all cargo availing the deployment of labour from the CHD including the thermal coal for wagon unloading operations. The position is explicit and there is no ambiguity in the said Order. There was no proposal from VPT to review the said Order at that point of time.
- (iv). (a). Despite explicit position in the tariff Order of January 2011, the port has collected PR levy at 234% on time rate wages for thermal unloading operations. The said collection of PR levy by VPT does not have the approval of this Authority. When M/s.South India Corporation Ltd. (SICL) brought this to the notice of the port, the VPT issued a corrigendum dated 23 March 2011 to its earlier circular conveying trade that piece rate levy

will continue to be collected as collected earlier on unloading thermal coal at 234% of time rate wages.

- (b). Only during the processing of this case, the VPT has given the background for collection of PR Levy on thermal coal unloading operations. At the time of merger of Visakhapatnam Dock Labour Board (VDLB) (present CHD) with VPT, the port agreed that as per the (then) system in vogue, the entire administrative expenses including shortfall in pension / gratuity liability, management and welfare activity will continue to be collected from the employers of CHD i.e. Stevedores. As per the settlement every employer has to pay to the CHD by way of levy fixed from time to time for meeting the overall expenditure of CHD. For this purpose, Stevedores are the employers of CHD and they know very well the operations and administration of CHD. Thus, in short, as per the settlement, the Stevedores have to meet the entire expenses of CHD by way of levies. Accordingly, the VPT as per the system then in vogue has continued to collect the PR levy at par with the general levy for CHD at 234% on time rate wages beyond the January 2011 Order as well. TANGEDCO has raised the issue in the year 2015, after lapse of 4½ years.
- (c). The piece rate is collected for work rendered by labour deployed from CHD to work over and above the norms fixed for thermal coal unloading operation. The norm fixed for thermal unloading operations is one wagon per shift per gang. For this time rate wages and the general levy are collected. In case the operation exceeds more than a wagon, and the operation is to be carried out in the second shift, then, another gang is to be deployed. This will entail charging another set of time rate wage and the accompanying general levy. As this procedure will be a burden to the trade, the Trade was allowed by the port the benefit of not deploying second gang for the 2nd wagon and continue the unloading operations for the second wagon with the same gang against payment of Piece Rate levy. As a result, the erstwhile DLB was to be paid only to the extent of the PR Levy on the 2nd wagon instead of time rate wages and levy thereon for deployment of second gang for the 2nd wagon in the second shift. It was in this context, the VPT has reportedly collected PR Levy for thermal unloading operations.
- (d). The basis of PR Levy now furnished by the port was not brought out by VPT at the time of processing its proposal in January 2011 nor did the initial proposal of VPT for fixation of levy for CHD seeking approval of this Authority for PR Levy. The port is well aware that as per the statute, the port can collect the tariff for services rendered on notification of the rate by this Authority. The Port, however, without approval of this Authority has collected piece rate levy since the year 2011 till March 2016 and a fait accompli situation is placed before this Authority to ratify the action of the port of collecting PR levy for the period 1.3.2011 to 31.3.2016.
- (v). In the Order of June 2016, this Authority had advised VPT and TANGEDCO to come with a mutually agreed proposal to resolve this matter relating to past period disputed by TANGEDCO. However, it is seen that in the current proposal both the VPT and TANGEDCO have divergent views. TANGEDCO has sought refund of the piece rate levy collected by VPT since 1 March 2011 till 31 March 2016 on the ground that PR levy was not approved by this Authority. The VPT has requested this Authority to regularise/ ratify the collection of piece rate levy for the period from 1 March 2011 till 31 March 2016. The VPT has confirmed that from 1 April 2016 it has stopped collecting Piece Rate Levy on thermal coal unloading operations.
- (vi). Since VPT and TANGEDCO in the current proposal have not filed a mutually agreed proposal to resolve the matter referred by TANGEDCO, the proposal is before this Authority to take a decision on this matter. The cost statement

estimates considered in the Order dated 18 January 2011 for CHD pertains to the years 2010-11 to 2013-14. The port has now furnished a summary of the actual financial position for the years 2011-12 to 2015-16 of the CHD. Since the proposal filed by the port is for ratification of the action taken by the port on PR levy collected by the port for the period from 1 March 2011 till 31 March 2016, and recognising that the position brought out by VPT that as per the agreement the Stevedores have to meet the entire expenses of CHD by way of levy, this Authority decides to dispose the proposal based on the actual financial position of CHD for the years 2011-12 to 2015-16 as contained in the summary position furnished by the port and modified only with reference to exclusion of the interest income as it is not allowed in the fixation of tariff. The modified summary statement is attached as **Annex**.

It can be seen from the summary statement furnished by the VPT attached as **Annex**, the aggregate net deficit for the years 2011-12 to 2015-16 as per the Audited Income and Expenditure Statement is ₹1.719 crores. This deficit captures the PR levy collected by the VPT at 234% of the time rate wages which is ₹93.58 crores reported by the VPT for the corresponding period. The VPT has reported in the summary position aggregate net deficit of ₹95.30 crores had the VPT not collected the said PR levy. The summary position furnished by VPT is modified to the extent of exclusion of interest income reported in the Income and Expenditure Statement furnished by the VPT. It is relevant to state that the above net deficit is before considering 16% ROCE.

- (vii). Considering the actual position of the CHD that it would have been in deficit to the tune of ₹102.57 crores for the period 2011-12 to 2015-16, had the VPT not collected the Piece Rate levy, the action of the VPT of collecting Piece Rate levy at 234% of time rate wages for thermal unloading operations from 1 March 2011 to 31 March 2016 deserves ratification. The VPT is advised to refrain from levying tariff without approval of this Authority and then place a fait accompli situation before this Authority to ratify the action of the port.

To the point raised by TANGEDCO about implementation of manning scale, the VPT has confirmed that manning scale is implemented in VPT in the year 2010 to improve operational efficiency and to reduce per tonne cost and to stand in competition with neighbouring port. The port also plans to introduce Voluntary Retirement Scheme in CHD, shift workers to other department and to mechanise few operations which will overall improve productively and reduce the per tonne cost.

- (viii). The TANGEDCO has stated that it has paid an amount of ₹1267.49 crores to SICL from 2011 to 2016 towards piece rate levy on time rate wages (₹461.76 crores), time rate levy (₹461.76 crores) on time rate wages and special levy of ₹61.17 crores. The aggregate of the breakup given by TANGEDCO works out to only ₹984.69 crores as against ₹1267.49 crores. This is between TANGEDCO and SICL.

16. In the result, and for the reasons given above, and based on a collective application of mind, this Authority disposes of the proposal of VPT by regularising the PR levy collected by VPT on thermal coal unloading operations for the past period from 1 March 2011 to 31 March 2016.

(T.S. Balasubramanian)
Member (Finance)

Annex

Summary of the Net Deficit in the Cargo Handling Division of the VPT as furnished by the VPT and modified by TAMP

							Amount in Rupees
Sl. No.	Particulars	2011-12	2012-13	2013-14	2014-15	2015-16	TOTAL
(i).	Surplus/ (Deficit) as per the Annual Accounts	(10,18,60,157)	(7,52,23,416)	(11,53,59,739)	13,54,50,743	13,98,02,908	(1,71,89,661)
(ii).	Income received from levying Piece Rate Levy at 234% as furnished by the VPT	11,48,92,803	14,56,89,606	13,75,31,376	19,99,05,559	33,78,09,642	93,58,28,986
(iii).	Net Surplus/ (Deficit) if Piece Rate Levy at 234% collected by the VPT is excluded from the net surplus/ deficit position [(i) - (ii)] - As furnished by VPT	(21,67,52,960)	(22,09,13,022)	(25,28,91,115)	(6,44,54,816)	(19,80,06,734)	(95,30,18,647)
(iv).	Less: Interest income not allowed (by TAMP)	12915123	11237317	14759668	15090251	18733687	72736046
(v).	Net Surplus/ (Deficit) if Piece Rate Levy at 234% collected by the VPT is excluded from the net surplus/ deficit position [(i) - (ii)] - As furnished by VPT and modified by TAMP	-229668083	-232150339	-267650783	-79545067	-216740421	-1025754693

SUMMARY OF THE COMMENTS RECEIVED FROM THE PORT USERS/ USER ORGANIZATIONS AND ARGUMENTS MADE IN THIS CASE DURING THE JOINT HEARING BEFORE THE AUTHORITY

F.No. TAMP/63/2016-VPT - Collection of Piece Rate Levy @ 234% as a percentage of time rate wages on Manual Unloading of Thermal Coal Operations from 01.03.2011 to 31.03.2016 by Visakhapatnam Port Trust (VPT) – Request for ratification for the same by the VPT.

A joint hearing in this case was held on 21 October 2016 at the Office of the Authority in Mumbai. The Visakhapatnam Port Trust (VPT) made a power point presentation of its proposal. The TANGEDCO has also made a power point presentation at the joint hearing. At the joint hearing, the VPT and users / user association have made the following submissions:

Tamil Nadu Generation and Distribution Corporation Limited (TANGEDCO)

- (i). Makes power point presentation of power generated by TNEB coal at India.
- (ii). Cost of generating power through VPT is going high. Our power unit will have to be shut down. We will be forced to get power from private firm, as they are able to give power at the cheaper rate. We are being forced to shut down due to Reduced Merit Order Despatch. VPT should consider this aspect.
- (iii). Even single paise increase will impact the rate. We will move to private firms and Central Generating Station who are cheaper.
- (iv). In the last 5 months there is drastic reduction in coal import from port.
- (v). We are generating 30% of the total power generation at Tamil Nadu. Remaining power we purchase from different private firms, wind power and other sources.
- (vi). Green power is mandatory now. There is lot of emphasis to generate power through wind and Solar. We have to purchase power from wind and solar.
- (vii). Our submission is to refund excess collected by VPT towards PR without approval of TAMP and to discontinue it.
- (viii). We want TAMP approval for collecting the charge.
- (ix). Merger settlement is for 5 years. There is nothing mentioned for the period after that.
[VPT - Traffic Manager: Merger agreement is final when VDLB merged with VPT.]

Visakhapatnam Port Trust (VPT)

- (i). Makes a brief power point presentation of its proposal.
- (ii). CHD merged with VPT in 2008. The basic concept of collection of CHD levy is to collect all expenses in full and maintain no profit no loss in CHD.
- (iii). After merger, first time we sent proposal to TAMP in 2011.
- (iv). CHD is an employee oriented organisation. Collection of levy on various cargoes from the employers is the only source of income for running CHD. The very purpose of collection of such levies by the erstwhile VDLB (present CHD) is to meet the expenditure being incurred towards administrative charges of CHD as well as welfare activities/amenities provided to the employees and workers.

- (v). Stevedores are employer of CHD. Every employer registered under Dock Labour Board shall have to pay VPT Board towards administrative expenses or charges as may be fixed by the Board in the form of Levy and also the cost of amenities, Welfare and Health measures are to be borne by the Employers as per the Visakhapatnam Dock Workers (Regulation of Employment) Scheme, 1959. Thus, every employer i.e. Stevedores has to pay CHD levy incurred in CHD.
- (vi). The Visakhapatnam Dock Labour Board was merged with VPT w.e.f. 26.09.2008 by settlements arrived at under the Industrial Disputes Act, 1947 in 2008 and with the previous approval of the Ministry vide its letter dated 19-02-2008 VPT Board and the Ministry of Shipping and notified in the Official Gazette of India.
- (vii). As per the directions of the Ministry of Shipping, the erstwhile VDLB/ present CHD resolved, vide Board Resolution No.36/2003, dated 30.07.2003, is to operate on the principle of **no profit no loss basis**. This is based on the directive of the Ministry. In the said merger settlement, it was agreed that CHD will be required to be self-sufficient one and its revenue will consist of bills raised on the registered stevedores. Thus merger settlement was approved by Government of India and notified in Gazette.
- (viii). As per the settlement, employer viz. stevedores has to pay to meet the expenses for CHD.
- (ix). Prior to merger of Visakhapatnam Dock Labour Board (VDLB) with VPT in 2008, General levy and Piece Rate Levy were collected. Whenever shortfall is there, levy was increased; when in surplus the levy was reduced.
- (x). Till the date of merger of VDLB with VPT, there was ₹22.94 crores loss in CHD till 31.3.2009.
- (xi). In the said merger settlement, it was agreed that CHD will be required to be self-sufficient one and its revenue will consist of bills raised on the registered stevedores.
- (xii). As far as collection of levy is concerned, it was also agreed that the Dock Labour Board to collect levy on the daily wage rate apart from recovery of daily wage rate payments made to the worker for the work chances provided to meet the cost of the Management and other welfare activities. It was agreed to continue to collect levies from the trade from the date of merger that are in vogue in VDLB for the workers supplied to meet the cost of management of CHD apart from recovery of daily wage rate payments made to the worker”.
- (xiii). Post-Merger in 2008 to 28 February 2011, general levy collected by VPT was 300% and Piece rate (PR) levy was 300% aggregating to 600%. This was based on rate approved by VPT Board.
- (xiv). TAMP Order dated 18 January 2011 approving for the levy for CHD was circulated to all registered employers of CHD.
- (xv). SICL brought out to the notice of the port that CHD is collecting 234% PR levy on thermal coal operations separately in addition to 234% general levy. Whereas the TAMP Order dated 18.1.2011 specifies only 234% general levy which include thermal coal also. Thus, collecting 234% Piece Rate Levy is not approved by TAMP.
- (xvi). VPT issued Corrigendum dated 17.3.2011 to trade that Piece Rate Levy will continue to be collected as collected earlier without any exceptions (i.e. on unloading of thermal coal manually) as per the percentage of tariff fixed by the TAMP duly referring the earlier Circular dt. 5.3.2011.

- (xvii). Stevedore Association and Steamship Agents did not object/ protest as they know very well employers role in CHD (erstwhile DLB). VPT felt it is a general consensus from the trade.
- (xviii). Accumulated loss even after Piece Rate Levy is ₹47.30 crores. In the absence of Piece Rate Levy, the CHD would have sustained losses and cumulative loss from 2011-12 to 2015-16 of ₹95.30 crores.
- (xix). In the joint hearing held on 18 March 2016 on the general revision of VPT where TANGEDCO and SICL were also present, it was decided to consider to reduce the CHD levy to 150% w.e.f. 01.04.2016.
- (xx). VPT Board on 30 March 2016 resolved to dispense with 234% Piece Rate Levy of manual unloading of coal prospectively and to reduce the general levy to 150% w.e.f. 01.04.2016 **and the same is being implemented from 1.4.2016.**
- (xxi). SICL, who is the Stevedore handling major cargo of Thermal Coal, has been paying the charges without any contest or protest as they know the working of CHD and its operations and administration.
- (xxii). Though the PR Levy is being charged M/s.TANGEDCO has raised the issue only in the year 2015, i.e., after a lapse of 4½ years.
- (xxiii). Further, there is no protest/ contest even from the Trade as regards the subject Levy, since Stevedores are the employers of CHD and they know very well the operations and administration of CHD. Had there been any grievance, the Stevedores' Association would have represented the matter to TAMP then itself.
- (xxiv). Having an understanding that there will be consensus, VPT proposed reduction of Levy to 150% in the new SOR and to dispense prospectively the 234% PR levy w.e.f. 1.4.2016.
- (xxv). PR levy is only on handling Thermal Coal. No one except TANGEDCO was being levied with the PR levy.
- (xxvi). There is datum for CHD. Earlier in the year 2000, labourers deployed from the erstwhile VDLB, would load only one wagon/ gang. For second wagon, another gang needs to be booked. The labourers were made to unload second wagon instead of booking second gang of labour after first wagon. In the negotiation the Piece Rate Levy was introduced. Else for second wagon, wages plus levy on time rate would have to be paid. Thus, the system of PR levy continued.
- (xxvii). We pray to regularise the past levy.
- (xxviii). From 1 April 2016 we are charging 150% levy on Time Rate charge. PR levy discontinued since 1.4.2016.
- (xxix). In view of changing circumstances we are now planning to give VRS to employees. Few employees of CHD will be merged to different department.
- (xxx). We are taking steps to mechanise the operations.

South India Corporation Ltd. (M/s.SICL)

- (i). We sought clarification when TAMP passed an Order in 2011. TAMP Order does not include levy on Piece Rate Wage.
- (ii). VPT gave the same clarification that the practice will continue as in vogue and VPT issued corrigendum.

- (iii). We are paying since 2011. TANGEDCO is not reimbursing it because the Piece Rate Levy is not approved by TAMP.

2. A summary of the comments furnished by TANGEDCO on the proposal of the VPT and reply furnished by VPT thereon is tabulated below:

Sl. No.	Comments furnished by TANGEDCO	Reply furnished by VPT
(i).	TNEB/ TANGEDCO is a major and long term user of Visakhapatnam Port and moving Thermal Coal required for our Thermal Power Stations through VPT for more than 25 years. M/s. SICL is only a handling agent of TANGEDCO as admitted by VPT in page no.4 of the letter dated 20 September 2016. Hence, the contention of VPT that TANGEDCO is not having direct agreement with VPT does not arise. Regular correspondence in respect of handling cargo at VPT are being made by TANGEDCO with VPT.	Thermal Coal levy bills were being collected from M/s.South India Corporation Limited, who is a handling contractor for TANGEDCO. As per the existing scheme prior to merger, the entire Administrative expenditure including the shortfall towards liabilities (Pension, Gratuity, etc.) are met by collecting charges under various heads from the Stevedores by debiting their running accounts maintained with DLB. Ever since the erstwhile Visakhapatnam Dock Labour Board was merged with Visakhapatnam Port Trust with effect from 26.09.2008 as per the Gazette Notification issued by the Ministry, as a division in T.M. Department named as Cargo Handling Division, the collection of such levy was continued by cargo handling division of VPT to meet the administrative expenditure of the organization on no loss – no profit basis. Every employer shall have to pay amount to CHD by way of levies as fixed from time to time for meeting such expenditure.
(ii).	M/s.SICL is the handling contractor on behalf of TANGEDCO at Vizag port and they are paying the handling charges as claimed by VPT which are being reimbursed to the contractor by TANGEDCO.	
(iii).	VPT has also enclosed copy of Memorandum of Understanding (MOU) of Settlement under Section 12(3) of the ID Act arrived on 11.9.2008 before the Asst. Labour Commissioner (Central) Visakhapatnam. Further VPT has stated that in page no.3 of the letter that they are following merger settlement terms and conditions scrupulously. However in that terms of settlement it has been mentioned that the casual worker will be paid daily wages of ₹250/- for work chance. Apart from the daily wages, levy on daily wages will be collected to meet the cost of management and other welfare activities. On 01.10.2008, VPT/ CHD claimed ₹630/- + time rate levy of 184% + piece rate levy of 145% towards daily wages for Mazdoors. It is not in line with the settlement. TAMP is requested to kindly instruct VPT to furnish the reasons for the variations.	Regarding payment of ₹250/- daily wage for casual worker per work chance, it is to clarify that the wages are revised from time to time basing on the approval of the Board. The amount of ₹250/- mentioned in the agreement was the rate prevailing at that date and the charges normally get enhanced from time to time. After the periodical wage revision settlement, the rate was enhanced from ₹250 to ₹413 and later to ₹641. Therefore, the rate of ₹250/- mentioned was only the rate prevailing on the date of agreement.
(iv).	VPT admitted in page no.4 of the letter, that TANGEDCO's handling agent M/s.SICL already represented to the Management of CHD that CHD is collecting 234%	Piece Rate Levy is collected as a percentage of the time rate wages and is applicable to Thermal Coal operations only but not on other cargoes. The main reason for collection of piece-rate levy on

	<p>Piece Rate Levy on Thermal Coal Operations separately in addition to 234% General Levy, whereas the TAMP orders dated 18.01.2011 which was circulated by CHD to all the employers specifies only 234% General levy which includes thermal coal also. TAMP is requested to confirm the same from VPT whether Piece Rate Levy is being collected for all cargoes handled by CHD/ VPT and Piece Rate levy is applicable on Time Rate Wages or Piece Rate Wages.</p>	<p>thermal coal operations is, that, the piece rate levy is being collected for the work rendered by the CHD beyond the norm fixed for the thermal coal operations. The norm is fixed at one wagon per shift per gang for which the time rate wages and the general levy are being collected and in case the operation exceeds more than a wagon, then, another gang is to be deployed duly charging time rate wage and the accompanying levy. As this procedure will be a burden on the employers, the Trade has been given the benefit of not deploying a second gang for the 2nd wagon and continue the work for the second wagon with Piece-rate levy. As a result, the erstwhile DLB is deprived of partial benefit by levying only the PR Levy on the 2nd wagon. The piece-rate levy is being collected for the aforesaid reason. The same was being collected for the last two decades and the same was informed to the TAMP authorities earlier.</p> <p>The TAMP communicated Scale of Rates (SOR) vide letter dated 18-01-2011 and the same was circulated to all the employers vide circular dated 05-03-2011. Subsequently, M/s.South India Corporation Limited who is an agent of TANGEDCO has raised the issue of collecting of Piece Rate Levy on Thermal Coal.</p> <p>Therefore, again a Corrigendum dated 17.03.2011 was given to all employers informing that the existing practice of collecting PR levy which include the percentage of Time Rate levy on thermal coal will continue on all operations without any exception.</p>																																										
(v).	<p>TAMP is also requested to confirm from VPT whether deficit amount of CHD pointed out by VPT have already been taken into account by Vizag Port for revising SOR. Further to the above, detailed working for the deficit amount in CHD furnished by VPT, required with supporting documents for offering further comments by TANGEDCO.</p>	<p>As per TANGEDCO request addressed to the TAMP the information regarding year-wise surplus/ deficit was furnished from the financial year 2011-12 to 2015-16 and the respective annual report copies from 2011-12 to 2015-16 were also furnished. It is further stated that in the financial year 2011-12 CHD had sustained a loss of ₹10.18 crores even though the CHD has to run on no profit no loss basis even after date of merger settlement.</p> <p>Therefore, the levy has been increased/ decreased depending upon the work chances/ cargo handled.</p>																																										
(vi).	<p>In the VPT's letter dated 20 September 2016, it is mentioned that an amount of about ₹93.58 crores had been collected as Piece Rate levy on Time Rate wages @ 234% from 2011-2016. However for the same period, based on the VPT's Scale of Rates (SOR) TANGEDCO through M/s.SICL has paid an amount of about ₹461.76 crores towards piece rate levy on time rate wages @ 234% to VPT. Further to this, based on the VPT's SOR TANGEDCO paid to VPT through SICL Time Rate levy on Time Rate Wages @ 234% which works out to ₹461.76 crores and in addition to that a special levy of 31% has also been paid to</p>	<p>The contention of TANGEDCO is not correct. The details of the actual collection of levy (time rate wages, general levy, thermal coal levy, special levy) on the above aspect are given below:</p> <p style="text-align: right;">(₹)</p> <table border="1" data-bbox="775 1603 1471 1890"> <thead> <tr> <th></th> <th>Time Rate Wages</th> <th>General Levy</th> <th>Thermal Coal Levy</th> <th>Special Levy</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>2011-12</td> <td>4,90,99,488</td> <td>11,48,92,803</td> <td>11,48,92,803</td> <td>1,52,20,841</td> <td>29,41,05,935</td> </tr> <tr> <td>2012-13</td> <td>6,22,60,515</td> <td>14,56,89,606</td> <td>14,56,89,606</td> <td>1,93,00,760</td> <td>37,29,40,487</td> </tr> <tr> <td>2013-14</td> <td>5,87,74,092</td> <td>13,75,31,376</td> <td>13,75,31,376</td> <td>1,82,19,969</td> <td>35,20,56,813</td> </tr> <tr> <td>2014-15</td> <td>8,54,29,726</td> <td>19,99,05,559</td> <td>19,99,05,559</td> <td>2,64,83,215</td> <td>51,17,24,059</td> </tr> <tr> <td>2015-16</td> <td>14,43,63,095</td> <td>33,78,09,642</td> <td>33,78,09,642</td> <td>4,47,52,559</td> <td>86,47,34,938</td> </tr> <tr> <td>5 Year Total</td> <td>39,99,26,916</td> <td>93,58,28,986</td> <td>93,58,28,986</td> <td>12,39,77,344</td> <td>239,55,62,232</td> </tr> </tbody> </table> <p>It may be seen from the above table, that the actual collection of levies on the above aspect accounting to ₹239.55 crores only as against the alleged ₹1267.49 crores mentioned in TANGEDCO letter.</p>		Time Rate Wages	General Levy	Thermal Coal Levy	Special Levy	Total	2011-12	4,90,99,488	11,48,92,803	11,48,92,803	1,52,20,841	29,41,05,935	2012-13	6,22,60,515	14,56,89,606	14,56,89,606	1,93,00,760	37,29,40,487	2013-14	5,87,74,092	13,75,31,376	13,75,31,376	1,82,19,969	35,20,56,813	2014-15	8,54,29,726	19,99,05,559	19,99,05,559	2,64,83,215	51,17,24,059	2015-16	14,43,63,095	33,78,09,642	33,78,09,642	4,47,52,559	86,47,34,938	5 Year Total	39,99,26,916	93,58,28,986	93,58,28,986	12,39,77,344	239,55,62,232
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5 Year Total	39,99,26,916	93,58,28,986	93,58,28,986	12,39,77,344	239,55,62,232																																							

	VPT which works out ₹61.17 crores. Overall, about ₹1267.49 crores has been paid towards Wagon Manual Unloading Charges to VPT/ CHD through M/s.SICL. But this amount has not been discussed in the VPT's letter sent to TAMP. The total balance sheet of CHD has also not been furnished in the VPT's letter. TAMP is requested to confirm the amount collected by VPT from M/s.SICL from 2011 to 2016 towards Wagon Manual Unloading charges.	
(vii).	Further to the above, it is to be mentioned that the revised wage rates for on-board and on-shore labourers have increased from ₹1095 as on 01.03.2011 to ₹1996 as on 31.03.2016 which is around 82% and the increase seems to be very high. The rate of CHD labour is much higher when compared to rate for labour of other port trust like Paradip Port Trust. Whether the datum has been revised upwards anytime after the settlement may be furnished by VPT. Since the above datum have a direct impact on the levy on Wagon Manual Unloading charges. TAMP is requested to direct VPT to clarify the reasons for the high rates.	<p>It is further to inform that the revised wage rates for on board and on shore labourers was ₹1095/- as on 01.03.2011. Later the wage rate had also been increased from ₹1095/- to ₹1991/-. The wage rate was ₹1991/- as on 31.03.2016. The reasons for stepping hike in wage rate is due to implementation of annual increments, quarterly increase of Dearness Allowance and wage revision to workers implemented in the year 2013. All these factors are involved and are the basis for the hike of Wage rate. The liability towards Pension, Gratuity and Group Leave Encashment Scheme has been increased simultaneously with the increase in wages due to the implementation of wage revision to workers.</p> <p>The CHD had also implemented the manning scales in the year 2010 in order to improve the operational efficiency and lead to reduction in cost per tonne and further it is to inform that the datums for vessel loading were revised in the year 2010 with a view to improve the performance in cargo handling operations by raising productivity levels so as to achieve the targets and stand in the competition with the neighbouring ports.</p>
(viii).	Further VPT in their letter has stated that in the Joint hearing held on 18.03.2016, it was also decided mutually by VPT and TANGEDCO to obtain the ratification/regularization for the same from TAMP by VPT. In this regard, it is to be stated that in the comments furnished by TANGEDCO the Joint hearing held on 18.03.2016, TANGEDCO have not agreed for ratification/ regularization towards the 234% Piece Rate levy on Time Rate wages as it is not in line with the TAMP Order dated 31.03.2011.	No comments from VPT.
(ix).	Considering all the facts stated above, TAMP is requested to:	
	(a). Direct VPT to furnish the balance sheet for the period from 2011-12 to 2015-16, all the workings and supporting documents for furnishing further	The balance sheets for the period from 2011-12 to 2015-16 are furnished.

	<p>comments by TANGEDCO and to give sufficient time for furnishing further comments and</p>	
	<p>(b). Not to consider the proposal made by VPT to regularize the Piece Rate levy and to give further suitable directions to VPT to refund to TANGEDCO through our handling contractor M/s.SICL the Piece Rate levy collected from 01.03.2011 to 31.03.2016 by VPT as it is not in line with the TAMP approval.</p>	<p>It is further to inform that even though the Cargo Handling Division is still suffering from cumulative losses, the management of Visakhapatnam Port Trust has taken a bold decision to dispense with Thermal Coal/ Piece Rate levy and also reduced collection of General levy from 265% to 150% in order to make the trade competitive to handle the cargoes through this Port.</p>
