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**Tariff Authority for Major Ports**

G.No. 321

New Delhi,

23 August 2018

**NOTIFICATION**

In compliance of the Common Order dated 20 December 2017 passed by the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in the Writ Petition Nos.9088, 9585, 20005 and 26404 of 2003 and 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 considers and disposes of the the representations of the Petitioners as in the Order appended hereto.

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

**Tariff Authority for Major Ports**  
**Case No.TAMP/22/2018-VPT**

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| <p>(i). Sree Lakshmi Marine Producers Ltd.,<br/>(ii). S.B.S. Marine Exports (P) Ltd.,<br/>(iii). M/s.Kanchana Ganga Sea Foods Ltd.,<br/>(iv). Shree Sai Krishna Agrocold Storage Pvt. Ltd.,<br/>(v). M/s.Gopala Krishna Enterprises,<br/>(vi). M/s.Sri Gopal Krishna Association,<br/>(vii). Dr. Y.G.K. Murthy and<br/>(viii). M/s.Goa Ore Carriers</p> | } | <b>Petitioners</b> |
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**QUORUM**

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

**O R D E R**

(Passed on this 31<sup>st</sup> day of July 2018)

This case flows from the direction of Hon'ble Justice Shri P.Keshava Rao of the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh in the Common Judgment dated 20 December 2017 on the Writ Petition Nos.9088, 9585, 20005 and 26404 of 2003.

2. A letter dated 24 February 2018 was received on 19 March 2018 from Shri K.Lakshman, Assistant Solicitor General of India (ASGI), High Court of Judicature at Hyderabad with reference to the following Writ Petitions filed by various Petitioners against this Authority and others in the Hon'ble High Court:

- (i). Writ Petition No.9088 of 2003 filed by Bharath Marine Exports (Petitioner No.1), Satyasai Marine Private Ltd. (Petitioner No.2) and Sree Lakshmi Marine Producers Ltd. (Petitioner No.3) against Union of India, Ministry of Agriculture and Ministry of Surface Transport (Respondent Nos.1 and 2), TAMP (Respondent No.3), Visakhapatnam Port Trust [VPT] (Respondent No.4) and M/s.M.S.T.C. Limited (Respondent No.5).

*(W.P. so far as Petitioner No.1 viz. Bharath Marine Exports and Petitioner No.2 viz. Satyasai Marine Private Ltd. are concerned it has been dismissed as withdrawn as per Court Order dated 3 November 2008.)*

- (ii). Writ Petition No.9585 of 2003 filed by S.B.S. Marine Exports (P) Ltd. (Petitioner No.1) and M/s.Kanchana Ganga Sea Foods Ltd. (Petitioner No.2) against Union of India (Respondent Nos.1 and 2), TAMP (Respondent No.3), VPT (Respondent No.4) and M/s.M.S.T.C. Limited (Respondent No.5).
- (iii). Writ Petition No.20005 of 2003 filed by Shree Sai Krishna Agrocold Storage Pvt. Ltd. (Petitioner No.1), M/s.Gopala Krishna Enterprises (Petitioner No.2), M/s.Sri Gopal Krishna Association (Petitioner No.3) and Dr. Y.G.K. Murthy (Petitioner No.4) against Union of India (Respondent Nos.1 and 2), TAMP (Respondent No.3), VPT (Respondent No.4) and M/s.M.S.T.C. Limited (Respondent No.5).
- (iv). Writ Petition No.26404 of 2003 filed by M/s.Goa Ore Carriers against Union of India (Respondent Nos.1 and 2), TAMP (Respondent No.3) and VPT (Respondent Nos.4 and 5).

3.1. The ASGI in the said letter has informed that the above Writ Petitions came up for hearing before the Hon'ble High Court of Judicature at Hyderabad on 20 December 2017 and after hearing the parties concerned, the Hon'ble Court has disposed of the Writ Petitions directing the Respondent Nos.3 and 4 to consider the aforesaid representations made by the Petitioners relating

to the enhancement of the vessel charges and pass appropriate order within a period three months from the date of receipt of copy of the order.

3.2. The ASGI has, along with his said letter, forwarded an original certified copy of the Hon'ble High Court Common Order dated 20 December 2017 of the Hon'ble Sri Justice P.Keshava Rao in the above petitions. The operative part of the Order is reproduced below:

- “6. *A perusal of averments --- petitioners. Be that as it may, it is placed on record that the Petitioners have submitted representations, dated 09.12.2000, 19.07.2001, 26.07.2001 and 19.8.2001 to the Director, Tariff Authority for Major Port Trusts, New Delhi as well as the Chairman, Visakhapatnam Port Trust i.e. respondents 3 and 4 requesting to reduce the vessel charges and continue to charge only the old rates existing prior to 16.05.2001 plus 15% increase which petitioners and others have accepted in the meeting held on 08.12.2000. Therefore, the learned counsel representing the petitioners requested the Court to direct the respondents 3 and 4 to consider the said representations and pass appropriate orders.*
7. *Keeping in view the submissions made by the learned counsel for the petitioners and also the averments made in the counter-affidavit, this Court feels appropriate to direct the respondents 3 and 4 to consider the aforesaid representations made by the petitioners relating to the enhancement of the vessel charges and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.*
8. *With the above directions, all the four writ petitions are disposed of. There shall be no order as to costs.*
9. *The miscellaneous petitions, if any, pending in these writ petitions shall stand closed.”*

3.3. Thus, in short, the Hon'ble Single Judge has directed the Respondent No.3 (TAMP) and Respondent No.4 (VPT) to consider the representations dated 9 December 2000, 19 July 2001, 26 July 2001 and 19 August 2001 made by the petitioners relating to the enhancement of the vessel charges and pass appropriate orders within a period of three months from the date of receipt of a copy of the order.

3.4. The Order of the Hon'ble Single Judge was received by the office on 19 March 2018. Hence, 3 months from that date expires 18 June 2018 by which the Order is to be passed by this Authority.

4. Before proceeding to examine the representations made by petitioners and Association of Indian Fishery Industry (AIFI), it may be relevant to bring out the brief history of the matter. With reference to the Writ Petition No.9088 of 2003 and Writ Petition No.9585 of 2003, the following brief history of the case is given below:

- (i). This Authority has passed an Order No.TAMP/103/99-VPT dated 16 May 2001 approving the general revision of the VPT Scale of Rates. In the said Order, this Authority approved a 100% tariff increase on all the charges applicable for fishing vessels. This decision was taken based on the cost statement of the fishing vessel which depicted a deficit of 239% for the years 2000-01 and 2001-02. The tariff hike was, however, restricted only to 100% to atleast to cover the operating expenditure incurred by the VPT. A uniform rate for fishing vessels was approved based on grouping as proposed by the VPT (Para 21 (vi) & (viii) of the Order).
- (ii). Subsequently, the VPT based on the representations of Andhra Pradesh Mechanised Fishing Boat Operators Association (APMFBOA) and Association of Indian Fishery Industry (AIFI) requested this Authority to reinstate the earlier categorisation of the fishing vessels since it admitted that clubbing of different categories of fishing vessel caused undue burden on the mechanised boats and fishing vessels of lower NRT. Accordingly, this Authority passed another Order on 30 August 2001 reinstating the earlier categorisation of the fishing vessels. However, the rates were increased by 100% over the pre-revised rate since this

Authority did not find any justification for reviewing the percentage of upward revision of tariff decided earlier for fishing vessels.

- (iii). Bharath Marine Exports had filed a Writ Petition No. 9088 of 2003 in the High Court of Andhra Pradesh against TAMP, the VPT and the others. M/s.SBS Marine Exports (P) Limited and M/s.Kanchan Ganga Sea Foods Limited have also filed a similar Writ Petition No.9585 of 2003 in the High Court of Andhra Pradesh challenging the Orders passed by Authority.

5.1. On perusing the Writ Petition No.20005 of 2003 and 26404 of 2003 it is seen that the Hon'ble Court while passing common Order disposing of the said Writ Petitions viz., 9088, 9585, 20005 and 26404 of 2003, has directed this Authority and VPT to consider the representations dated 9 December 2000, 19 July 2001, 26 July 2001 and 19 August 2001 made by the petitioners relating to the enhancement of the vessel charges and pass appropriate orders within a period of three months from the date of receipt of a copy of the order.

5.2. As regards, representations dated 9 December 2000, 19 July 2001, 26 July 2001 and 19 August 2001 stated to have been made by the petitioners to TAMP and to VPT relating to the enhancement of the vessel in the Order of the Hon'ble Single Judge, it is to state that we have not received representation dated 9 December 2000, 19 July 2001, 26 July 2001 and 19 August 2001 from the Petitioners directly. Such representations are not included as part of the W.P. Nos.9585 and 9008 of 2003 either. However, on referring to the general revision file of the VPT pertaining to that period, it is seen that the Association of Indian Fishery Industries (AIFI) which represents the fishing industry has filed representation dated 9 December 2000, 19 July 2001, 26 July 2001 and representation dated 18 August 2001 [it is not 19.08.2001] from the Andhra Pradesh Mechanised Fishing Boat Operators Association (APMFBOA) which was forwarded by VPT vide its letter dated 25 August 2001.

**A. Representation of Association of Indian Fishery Industries (AIFI) dated 9 December 2000 and relevant portion of TAMP Order No.TAMP/103/1999-VPT dated 16 May 2001**

6.1. The representation dated 9 December 2000 received from the Association of Indian Fishery Industries [AIFI] is addressed to TAMP. The main points of the said representation are as under:

- (i). AIFI had attended the meeting held on 8 December 2000 (Joint Hearing) at VPT, Visakhapatnam. As per the discussions on that day, AIFI submitted that they are willing to take over the Management of Fishing Harbour Slipway Complex as per the Chairman's proposals.
- (ii). The proposal of VPT to increase the charges of Slipway Complex and Dry-dock in Fishing Harbour by 100% is not reasonable and AIFI has requested to increase these charges on par with the other charges of VPT which were proposed to be increased by 15%.

6.2. As regards, the AIFI's representation dated 9 December 2000 brought out in para 6.1 above, it is relevant to state that the said representation was considered by this Authority in its Order No.TAMP/103/1999-VPT dated 16 May 2001 at para 21(viii), in the general revision of SOR of VPT. The relevant para of the said Order is reproduced below:

- “(viii). In case of iron ore handling activity and fish harbour, the Port will continue to incur operational losses, even after the revised rates proposed by the Port are implemented. The Port has never got remunerative rates for handling iron ore ever since the inception of outer harbour. According to the VPT, though the inner harbour was capable of handling iron ore exports, the outer harbour facility was created to handle larger vessels to make export competitive. For various considerations, the Port was not allowed in the past to increase the rates based on its cost. Further, the anticipated traffic also did not materialise. The deficit position emerging now is, therefore, mainly due to accumulation of (appropriate) actions (not) taken in the past. Tariff reforms cannot be made at one go. Besides, in this case, the VPT is also apprehensive of traffic diversion, if rates go up steeply, which will only aggravate the problem for the Port. That being so, the increase in rates to the level*

*proposed by the Port is approved, leaving the uncovered operational expenditure under this activity to be met out of surplus from other activities. Likewise, the existing rates for fish harbour will also increase by 100% even though it may not be sufficient to meet entire operational expenditure. Since any increase beyond this level will put an undue burden on users, the increase has been limited to 100%. Here again, the operational loss is to be met out of surplus from other activities. The offer made by Association of Indian Fishery Industries (AIFI) to take over the management of fishing harbour is totally out of context. The Scale of Rates being revised now is with reference to the cost incurred by the VPT. If there is any change in management (other than the VPT), it is needless to mention that the tariffs for fishing harbour will stand deleted from the Scale of Rates of the VPT. Anyway, the issue of change in management is not an issue to be considered by this Authority. The AIFI may move the appropriate forum with its proposal for taking over the fishing harbour."*

**B. Representation of Association of Indian Fishery Industries (AIFI) dated 19 July 2001 and 26 July 2001.**

7. The representation dated 19 July 2001 received from the AIFI addressed to TAMP with a copy endorsed to Ministry of Agriculture was received after the Order No.TAMP/103/1999-VPT dated 16 May 2001 was passed by this Authority and notified in the Gazette of India on 4 June 2001. The representation dated 26 July 2001 received from the AIFI was addressed to VPT with a copy endorsed to TAMP referring to AIFI letter dated 19 July 2001 and requesting this Authority to amend the Order dated 16 May 2001 while reducing the rates from 100% to 15% with immediate effect. The submissions made in both the representations are similar. The main points made by AIFI in the above said letters are as summarised below:

- (i). Referring to the Joint hearing held on 8 December 2000 at VPT (on the general revision of SOR of VPT) and AIFI letter dated 9 December 2001, the AIFI has stated they are surprised and shocked to receive information regarding 100% hike in slip way complex and dry dock rates in the Order passed by this Authority on 16 May 2001 and notified in Gazette of India dated 4 June 2001 vide Gazette No.143.
- (ii). It is not fair in taking unilateral decision to increase the port charges abnormally by 100% at a time in spite of request during the meeting that was held on 8 December 2000. AIFI regrets for this unilateral decision which will definitely hamper the Fishing Industry which is earning valuable foreign exchange to our Nation.
- (iii). Visakhapatnam Fishing Harbour is the only Harbour developed in India for working of deep sea fishing vessels. This Harbour was created with the Ministry of Agriculture, Government of India funds and management of Fishing Harbour has been entrusted to VPT.
- (iv). The general hike of Port Charges is only 10 to 15% for majority of the services whereas Fishing Harbour service charges has been hiked by 100% without considering AIFI plea on 8 December 2000 at the meeting to increase upto 15%.
- (v). The Indian Deep Sea Fishing Industry is passing through very difficult situations due to hiked diesel oil, spare parts and maintenance charges. The Industry strength has come down from 160 to 90 vessels. The balance 70 vessels has been scrapped for non-viability of operations. The Fishing Harbour is a National asset and in fact AIFI have written letters for handing over the Fishing Harbour management including slip way and dry dock to the AIFI, the only body representing Indian Deep Sea Fishing Industry. Hence, the AIFI requests not to club fishing harbour services with the Port services and Visakhapatnam Fishing Harbour as it is the National asset created by Ministry of Agriculture.
- (vi). The VPT has been entrusted for the maintenance of the fishing harbour. The representation made by the VPT regarding expenses and showing 239% loss is not acceptable to the Fishing Industry. Please hand it over to the AIFI for the Management of fishing harbour and AIFI will make it a profitable one based on the rates before 16 May 2001 rates. In the meanwhile, AIFI has requested to charge

only the old rates existing prior to 16 May 2001 and keep in abeyance the increased rates till the Visakhapatnam fishing harbour handing over matter is settled.

**C. Representation of Andhra Pradesh Mechanised Fishing Boat Operators' Association (APMFBOA) dated 18.08.2001 (The Member of Parliament letter dated 19.08.2001):**

8.1. As regards representation dated 19 August 2001 referred in the Judgement, it is to state that the VPT has vide its letter dated 25 August 2001 has stated that various association connected to fishing Industry have submitted representation dated 19 August 2001 through Member of Parliament (MP) (Lok Sabha) requesting to reconsider the tariff fixed for fishing vessels. The VPT under cover of its said letter has forwarded a copy of the representation dated 18 August 2001 of Andhra Pradesh Mechanised Fishing Boat Operators' Association (APMFBOA) addressed to MP, a copy of representation dated 8 August 2001 of Deep Sea Trawlers Owners Welfare Association (DSTOWA) addressed to VPT, and representation of AIFI dated 18 August 2001 to VPT.

8.2. The main points made in the representation of APMFBOA in its letter dated 18 August 2001 are summarised below:

- (i). We are paying berth charges ₹229.30 ps. per month per boat, whereas recently the Visakhapatnam Port authority has increased rates abnormally, berth charges on Mechanised Fishing Boats which is highly impossible for paying such high rates. The particulars are given below:

Item	Old Rates	New Rates
Wharfage	₹53.80	₹1,075.00
Port Dues	Nil	143.50 Newly introduced
Berth Charges	5.50 up to 20 tons per day	9.90 up to 10 tons
Berth Charges to be calculated on Net tonnage basis only.		14.85 up to 15 tons
		17.82 up to 18 tons
		18.81 up to 19 tons
Water charge	₹5.00	81.40 per 1000 lr.
Levy on Diesel	0.04	0.08 + ₹10/- K.L.

- (ii). On old rates we are paying per month ₹229.30. On new rates we have to pay per month ₹2,069.00. At present the Fishing industry is in very sick position due to increased diesel Oil rates and other items. Whereas the Prawn rates are decreased very high. Because of the above situation maximum boat owners are not operating their fishing boats.
- (iii). In view of the above, it is our humble request kindly consider our most genuine problem and kindly continue the old rates for helping poor fishermen boat owners.

9.1. The representation dated 26 July 2001 was forwarded to VPT vide our letter dated 9 August 2001 requesting VPT to examine and furnish its comments.

9.2. In response, the VPT vide its letter dated 25 August 2001 and after taking consideration the representation dated 18 August 2001 of AMFBOA forwarded by the Member of Parliament had furnished the following comments:

- (i). In consonance with the policy of dispensing with cross- subsidisation, the port had taken a view to hike the charges for the fishing vessels by 100% to bridge the deficit of 239% reflected by the cost statement for the cost centre 'Fish Harbour'; and, also to arrest the flow of subsidy from commercial vessels to fishing vessels.
- (ii). The port purchases water from the Municipal Corporation at industrial rates and supplying the same to the fishing vessels after adding 2% as incidentals; and, hence, the water charges were also hiked. The fishery industry was not comfortable with the rates for water supply. The VPT has, therefore, decided to stop supply of water and requested the fishing vessels to purchase water from private operators.

- (iii). The mechanised boats, mini trawlers and big trawlers were grouped under one category while proposing the rates.
- (iv). The various associations connected to fishing industry viz., Andhra Pradesh Mechanised Fishing Boat Operators Association, Deep Sea Trawler Owner's Association and Association of Indian Fishery Industry have submitted representation on 19 August 2001 through Member of Parliament (LS) requesting to reconsider the tariff fixed for fishing vessels. Copies of these representations are furnished by the VPT.
- (v). After careful examination of issues involved, the VPT felt that grouping of fishing boats having limited endurance and low cost with trawlers having high endurance and high cost is not at all logical. Further, the frequency of calls of mechanised boats is much more compared to the trawlers, which justifies having a relatively lower rate for mechanised boats. The VPT, therefore, felt appropriate to adopt different sets of rates for the different categories of vessels detailed below:
  - (a). Mechanised boats
  - (b). Mini fishing trawlers upto 14NRT (upto 22 GRT)
  - (c). Fishing Trawlers over 14 NRT (over 22 GRT).
- (vi). In view of the severe crisis being faced by the fishery industry and due to unremunerative prices in the international market, the VPT had also requested this Authority to take a sympathetic view and re-fix the tariffs for the mechanised boats.

9.3. Based on the VPT letter dated 25 August 2001, this Authority has passed an Order No.TAMP/103/1999-VPT dated 30 August 2001 reviewing the tariff approved for fishing vessels in the Order dated 16 May 2001. In the said Order of August 2001, this Authority has reinstated the earlier categorisation of the fishing vessels. The increase in rates was, however, maintained at 100% over the pre-revised rate. The relevant para 6(ii) of the Order dated 30 August 2001 is reproduced below:

*Andhra Pradesh Mechanised Fishing Boats Operator's Association and the Association of Indian Fishery Industries (AIFI) have sent representations against the Port charges prescribed in the revised Scale of Rates for fishing boats. While considering their representation, it is observed that in the pre-revised Scale of Rates of the VPT, rates for fishing vessels were prescribed by grouping them into three categories viz., (a) mechanised fishing boats; (b) fishing trawlers (upto 14 NRT); and, (c) fishing trawlers (above 14 NRT). The VPT did not, however, propose to maintain this categorisation in its proposed Scale of Rates. In the general revision case the VPT had proposed a uniform tariff for all the categories of fishing vessels considering 100% hike on the pre-revised tariffs on fishing trawlers. As a result of this, the mechanised fishing boats have been unduly burdened with the tariff hikes applicable to fishing trawlers.*

*It is to be admitted that the clubbing of different categories of fishing vessels made for tariff purposes is an error, which missed an indepth scrutiny by this Authority while dealing with the general revision proposal. This had happened since the attention was engaged in other tariff items which were significant from the point of view of Port's revenue. Further, the representatives of the fishery industry who participated in the joint hearings had only argued against a 100% hike in tariffs; but, never brought out clearly the implications of clubbing of different categories of fishing vessels proposed by the VPT.*

*The VPT has also now indicated that clubbing of all the categories of fishing vessels for proposing the tariff is illogical. The VPT has also requested to maintain different sets of rates for different categories of fishing vessels. The categorisation now proposed by the VPT is the same as that was available in its pre-revised Scale of Rates.*

*This Authority finds that it will be logical and reasonable to reinstate the categorisation of fishing vessels that was available in the pre-revised Scale of Rates of the VPT. With the reinstatement of the categorisation of fishing vessels available earlier, the respective pre-revised rates are also to be revised by 100% for the reasons given in sub-para (i) above."*

9.4. Thus, as per our records, the representations referred by the Hon'ble High Court were considered at the time of passing the relevant tariff Orders.

10. In the Order of Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh with reference to the Writ Petition Nos.9088, 9585, 20005 and 26404 of 2003 filed by various Petitioners, the Hon'ble High Court has ordered TAMP and VPT to consider the representations dated 9 December 2000, 19 July 2001, 26 July 2001 and 19 August 2001 made by the petitioners relating to the enhancement of the vessel charges and pass appropriate orders within a period of three months from the date of receipt of a copy of the order.

11.1. In compliance of the Order of the Single Bench Judge, the representation of the AIFI dated 9 December 2000, 19 July 2001, 26 July 2001 and representation of the AIFI and APMFBOA both dated 18 August 2001 forwarded by the VPT vide its letter dated 25 August 2001 was taken up as a separate tariff case. This was intimated to the Petitioners vide our letters dated 3 April 2018 and 9 April 2018 in compliance with the direction of the Hon'ble High Court and was also intimated to users associations viz. AIFI, APMFBOA and DSTOWA, whose representations were referred in the Judgement.

11.2. To summarise, the main points of the AIFI and APMFBOA in their representation are as follows:

- (i). AIFI has requested for 15% increase as against 100% increase granted in Order No.TAMP/103/1999-VPT dated 16 May 2001.
- (ii). APMFBOA has requested to continue with the rates existing prior to 16 May 2001 Order for fishing activity.

12.1. As per the direction of Hon'ble High Court of Judicature at Hyderabad, the VPT is also to consider the representations made by the Petitioners. Hence, a copy of each of the representations of the AIFI dated 9 December 2000, 19 July 2001, 26 July 2001 and representation of the AIFI and APMFBOA both dated 18 August 2001 forwarded by the VPT vide its letter dated 25 August 2001 was forwarded to VPT vide our letter dated 3 April 2018 with a request to furnish its response by 10 April 2018.

12.2. The VPT vide its letter dated 3 April 2018 has stated that the rates for the fishing trawlers were revised in the year 2006, 2011 and 2016 being the latest rates of VPT SOR after filing of the petition.

12.3. Subsequently, the VPT vide its letter dated 17 May 2018 has furnished further response, which is brought out at subsequent paragraph.

12.4. Simultaneously, the petitioners as well as Association of Indian Fishery Industries (AIFI) and Deep Sea Trawler Owners Welfare Association were also intimated that in compliance of said the Common Order dated 20 December 2017 of the Hon'ble Sri Justice P. Keshava Rao of Hon'ble High Court of Judicature at Hyderabad in the above petitions, the representations made by AIFI dated 9 December 2000, 19 July 2001, 26 July 2001 and representation dated 18 August 2001 of AIFI and APMFBOA forwarded by VPT vide its letter dated 25 August 2001 to TAMP are again taken up for consideration and being forwarded to VPT for its comments.

12.5. The letters sent to Petitioners viz. M/s.Goa Ore Carriers, M/s.Sree Lakshmi Marine Producers Ltd. (SLMPL), M/s.Kanchana Ganga Sea Foods Ltd. and S.B.S. Marine Exports (P) Ltd. dated 3 April 2018 and 9 April 2018 were returned back by postal department on the ground of 'Insufficient address', 'No such Address in this door no.' 'Closed' and 'Left'. Hence, VPT vide our letters dated 19 April 2018, 23 April 2018, and 27 April 2018 was requested to intimate the correct address. The letters were again re-sent to the petitioner on the address communicated by VPT. However, since the letter addressed to petitioners were again returned back by the postal department, the letter dated 16 May 2018 was addressed to Advocate of the Petitioners i.e. Shri V.S.R. Anjaneyulu requesting to kindly arrange to deliver the undelivered letters to the four Petitioners viz. M/s. Sree Lakshmi Marine Products Ltd., M/s. Goa Ore Carriers, M/s. Kanchana Ganga Sea Foods Ltd. and S.B.S. Marine Exports (P) Ltd and to forward the correct addresses alongwith the e-mail id, telephone number and fax number of the above said Petitioners so as to enable to communicate with them hence forth. Simultaneously, VPT vide our letter dated 16 May

2018 was again requested to intimate correct addresses of the Petitioners and deliver the undelivered letters to the Petitioners and also obtain their acknowledgment since this case flows from the direction of the Hon'ble High Court. Further, the VPT was also requested to forward the correct addresses alongwith the email id, telephone number and fax number of the above said Petitioners so as to enable to communicate with them hence forth.

12.6. In this regard, VPT vide its letter dated 17 May 2018 has intimated that some of the firms letters are not delivered despite sending registered post and the same was informed during joint hearing.

13. A joint hearing in this case was held on 25 April 2018 at the VPT premises. At the joint hearing, the VPT and Petitioners have made the following submissions:

**Priyans Fisheries and Member of Association of Indian Fishery Industries [AIFI]**

- (i). Earlier, the classification was for trawlers which are not relevant now we are registered as fishing boats.
- (ii). Mini Trawler are 15 to 23 Tons.
- (iii). We have no problem in 2006 rates. But, in 2001 the rate has been increased exorbitant. The mini trawlers are presently charged 3,000/- per calendar month. We are not operating for last 2 years. Please go back to old rate.
- (iv). Trawlers occupy space as much as boat (12 to 13 mtrs.). Treat trawlers at par with boat.
- (v). Tuticorin and Vizag fishing harbor come under TAMP jurisdiction.
- (vi). A comparison of rates for fishing boat may be done.
- (vii). We are not supplied water by the port. We get water by tankers.  
[VPT Chairman: We are ready to provide service if charges are paid.]

**VPT**

- (i). Port has to do dredging, provide water, sanitation and other facilities as fishing harbor for which port incurs expenditure.
- (ii). We will convey our views on the representation of Petitioners.

14.1. The Association of Indian Fishery Industries (AIFI) vide its letter dated 25 April 2018 with a copy endorsed to VPT has made written submissions. A copy of the letter dated 25 April 2018 of AIFI was forwarded to VPT as feedback information vide our letter dated 14 May 2018. This was followed by reminder dated 22 June 2018. The VPT furnished its comments vide its letter dated 26 June 2018. A summary of the written submissions made by AIFI and response of VPT thereon is brought out in subsequent paragraphs.

14.2. The VPT vide its e-mail dated 26 June 2018 has furnished its comments on the points made by the AIFI vide its letter dated 25 April 2018. A summary of the points made by AIFI and reply furnished by VPT is tabulated below:

<b>Sl. No.</b>	<b>Points made by AIFI</b>	<b>Reply furnished by VPT</b>
(i).	To maintain Status co as on December 2000, without enhancement of the Berth Hire charges of the Fishing boats of our members.	At this stage, the request cannot be considered as the Rates were revised in 2006, 2011 and 2016 and were approved by the TAMP and the same were implemented.  Further, it is also to mention that due care was taken at the time of revision of Scale of

		Rates to address the request of the Association, and nominal consolidated rates were fixed for fishing trawlers/ boats from year, 2006 onwards.
(ii).	To waive the Doubling and Tripling charges that were levied on some of our members.	Charges are levied accordingly as per approved and notified Scale of Rates, and hence the waiver of doubling and tripling charges at this stage does not arise, as those clauses were removed in ensuing revision of Scale of Rates from 2006 onwards.
(iii).	To waive the Penal interest levied on some of our members.	The charges were levied as per the then existing Scale of Rates and most of the firm have paid the charges without any dispute. Now after lapse of more than 15 years, the Association (AIFI) is requesting for waiver of penal interest and penal charges which may not be justifiable for consideration now. However, it is to mention that no more penal charges clause exist in the Scale of Rates as the same were removed during revision of Scale of Rates w.e.f. 2006.  The VPT has stated that in pursuance of the High Court Common Orders in W.P. No. 9088 of 2003, W.P.No. 9585 of 2003, W.P.No. 20005 of 2003 and W.P. No.26404 of 2003 necessary appropriate orders may be passed.
(iv).	To waive the Penal charges levied on some of our members.	

15.1. As agreed at the joint hearing, the VPT vide our letter dated 8 May 2018 was reminded to consider the representations of Petitioners and was requested to expedite its response as the case has to be disposed of in a time bound manner in view of the direction from the Hon'ble High Court of Judicature at Hyderabad.

15.2. In response, the VPT vide its letter dated 17 May 2018 has furnished its response. The VPT has informed that as per the Hon'ble High Court of Judicature at Hyderabad, Orders dated 20 December 2017, VPT has passed Orders on the representations of petitioners that the rates have been already revised by TAMP during the year 2006, 2011 and 2016 (latest) and the same was implemented by VPT. The VPT has forwarded a copy each of its letters dated 25 April 2018 addressed to the Petitioners in this regard. In the said letter the VPT has clarified to the petitioner that the representation requesting to reduce the vessel charges was examined and is found that pursuant to the said representation the rates have been already revised by TAMP during the year 2006, 2011 and 2016. The VPT has treated the representation as disposed accordingly.

16. Since the cut off date for this Authority to dispose of the representation of petitioners ended on 18 June 2018 and the response of VPT was awaited on the comments of AIFI at that point of time and considering the time required to analyse the case and pass a detailed Speaking Order, Shri K.Lakshman, Assistant Solicitor General of India (ASGI) was requested vide our letter dated 22 June 2018 to take necessary steps early to seek extension of time of 8 weeks from the Hon'ble High Court of Judicature of Hyderabad to dispose of the representation filed by Petitioners.

17.1. Apart from the above points made by AIFI flowing from the direction of the Hon'ble High Court to consider the representation of Petitioners of Fishing Industries stated in earlier paragraphs, the AIFI vide its letters dated 2 May 2018 addressed to VPT with a copy endorsed to us has forwarded copy each of the representations of their members. Their representation to VPT relates to proposal to consider the One Time Settlement (O.T.S.) for clearing the berth hire charges of their respective Fishing boats.

17.2. In response, the VPT has also vide its letter dated 26 June 2018 furnished its comments thereon. The VPT has stated that Trawler Owners have requested recently for one time

settlement of outstanding dues as the Fishing industry is not in good shape, and the same is under examination by VPT.

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

- (i). This case is processed in compliance of the Common Order dated 20 December 2017 of the Hon'ble Sri Justice P.Keshava Rao of Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and for the State of Andhra Pradesh disposing of the Writ Petitions No. (a). 9088 of 2003 filed by Bharath Marine Exports, Satyasai Marine Private Ltd. and Sree Lakshmi Marine Producers Ltd., (b). W.P. No.9585 of 2003 S.B.S. Marine Exports (P) Ltd. and M/s. Kanchana Ganga Sea Foods Ltd, (c). W.P. No.20005 of 2003 filed by Shree Sai Krishna Agrocold Storage Pvt. Ltd., M/s.Gopala Krishna Enterprises, M/s.Sri Gopal Krishna Association and Dr. Y.G.K. Murthy and (d). W.P. No.26404 of 2003 M/s.Goa Ore Carriers. Of these two Petitioners viz. Bharath Marine Exports and Petitioner and Satyasai Marine Private Ltd. have already withdrawn their case.

The direction of the Hon'ble High Court of Judicature at Hyderabad to this Authority and the VPT is to consider and dispose of representations dated 09.12.2000, 19.07.2001, 26.07.2001 and 19.8.2001 made by the Petitioners praying to reduce the vessel charges and continue to charge only the old rates existing prior to 16.05.2001 plus 15% increase which petitioners and others have accepted in the meeting held on 08.12.2000 before this Authority and Visakhapatnam Port Trust (VPT).

- (ii). It is relevant here to state that the tariff Order No.TAMP/103/1999-VPT dated 16 May 2001 was the first revision approved by this Authority of VPT based on the then proposal of the VPT for general revision of the SOR. The said Order was passed by this Authority after following due consultation process and joint hearing with relevant stakeholders including the Andhra Pradesh Mechanised Fishing Boat Operators Association (APMFBOA) and Association of Indian Fishery Industry (AIFI) who represented the Fishing Industry. In the said Order, this Authority has approved a 100% tariff increase on all the charges applicable for fishing vessels. The summary statement showing activity wise net surplus/ deficit at the then prevailing tariff reflected net deficit of (-) 239.28% as brought out in para 21(vi) of the said Order. Relevant para 21 (viii) of the said Order relating to tariff increase approved for fishing activity is brought out in para 6.2. above and hence not reiterated. In the said Order, this Authority had approved increase by 100% over the (then) existing rates for fishing harbour even though it was not found sufficient to meet entire operational expenditure. This Authority held that any increase beyond this level will put an undue burden on users and hence limited the increase to 100% as proposed by the VPT. As against separate rate structure then prevailing for Fishing Trawlers (Upto 14 NRT), Fishing Trawlers (above 14 NRT) and mechanised fishing boats, a uniform rate for vessel related charges for fishing vessels was approved by this Authority as proposed by the VPT.
- (iii). The Common Order of the Hon'ble High Court records that Petitioners had vide their representation dated 09.12.2000, 19.07.2001, 26.07.2001 and 19.8.2001 requested this Authority and VPT to reduce the vessel charges and continue to charge only the old rates existing prior to 16.05.2001 plus 15% increase which petitioners and others have accepted in the meeting held on 08.12.2000. In this regard, it is clarified that the AIFI which is representing the Fishing Industry has in their letters dated 9 December 2010, 19 July 2001 and 26 July 2001 requested to consider 15% increase as against 100% increase proposed by the VPT for fishing activity.

With reference to the said Order of May 2001, AIFI vide its letter dated 19 July 2001 and 26 July 2001 had requested to reduce the vessel related charges from 100% increase to 15% increase and the APMFBOA vide its letter dated 18 August 2001 had requested to keep the old rates i.e. rates existing prior to 16 May 2001. In this regard, the VPT after examining the representations had pointed out to this Authority vide its letter dated 25 August 2001 then that uniform tariff prescribed for fishing vessels was not appropriate. The VPT proposed to retain different sets of

rates for the different categories of fishing vessels as per the categorization of fishing vessels prevailing prior to 16 May 2001. Based on the request made by the VPT, this Authority passed an Order of August 2001 reinstating the categorisation of fishing vessels that was available in the pre-revised Scale of Rates of the VPT as proposed by VPT. The increase in rates for fishing vessel was maintained at 100% over the pre revised rate.

- (iv). In compliance with the direction of the Hon'ble Justice in the Order dated 20 December 2017 to this Authority and to VPT to consider the representation of Petitioners dated 09.12.2000, 19.07.2001, 26.07.2001 and 19.08.2001 relating to the enhancement of the vessel charges, the VPT was requested to consider the representation of the AIFI dated 9 December 2000, 19 July 2001, 26 July 2001 and representation of the AIFI and APMFBOA both dated 18 August 2001 forwarded by the VPT vide its letter dated 25 August 2001.

This case could be processed by this Authority for finalisation only after receipt of response from the port (VPT) which was last received on 26 June 2018

This Authority thus proceeds to consider and dispose of the representations of Petitioners as directed by the Hon'ble High Court.

- (v). The request made by AIFI in its representations of 2001 was to consider 15% increase as against 100% increase granted in Order No.TAMP/103/1999-VPT dated 16 May 2001. APMFBOA has requested to continue with the rates existing prior to 16 May 2001 Order for fishing activity. During the processing of this case, the AIFI has requested to maintain status quo in rate as of December 2000 in the berth hire charges.

In compliance with the direction of the Hon'ble High Court, the VPT was requested to consider the above referred representations. The VPT has stated that at this stage, the request cannot be considered as the rates were revised in 2006, 2011 and 2016 and were approved by this Authority and the same were implemented by the VPT. The port has submitted that due care was taken at the time of revision of Scale of Rates to address the request of the Association, and nominal consolidated rates were fixed for fishing trawlers/ boats from year 2006 onwards. The port has also intimated to the Petitioners vide its letter dated 25 April 2018 that their representation pertaining to the years 2000 and 2001 requesting to reduce the vessel charges was examined and it is found that pursuant to the said representation the rates have been already revised by this Authority during the years 2006, 2011 and 2016.

As, stated by the VPT, in view of the representation of the Petitioners the port has taken corrective action in the 2006 Order by reducing the vessel related charges for fishing vessels in respect of berth hire, pilotage and shifting charges. In the tariff Order of 2011 as well, there was no tariff increase for this activity and status quo was maintained at the level of 2006 Order.

In view of the above position and since the VPT has stated that during the subsequent revision i.e. 2006 and 2011, the VPT has already based on their representation reduced the vessel related charges which is also brought out in the earlier paragraphs, this Authority endorses the decision taken by the VPT in this matter and disposes of these representations accordingly.

- (vi). (a). As regards the other points made by the AIFI to waive the doubling and tripling charges, waive the Penal interest and penal charges levied on some of its members, it is to state that these points made by AIFI are beyond the scope of the direction of the Hon'ble High Court. Further, waiver of charges falls under the domain of the concerned Port Trust. The VPT has already given its comments on the points made by the AIFI in this regard which has been brought out in the earlier paragraphs. The VPT has clarified that most of the firms have already paid the charges as per then prevailing SOR and hence request for waiver of penal interest of these charges after lapse of more than 15 years is not justifiable for consideration now. The port has

clarified that these were removed during revision of 2006 and do not prevail in existing SOR of VPT.

- (b). During the processing of this case, the AIFI has made a few points relating to (i). Classification for trawlers stating that they are not relevant now as they are registered as fishing boats, and (ii). current rates i.e. Port dues for mini trawler approved in June 2016 at ₹3000 per month is at higher side. These matters referred by AIFI are beyond the direction of the Hon'ble High Court in the common Judgment dated 20 December 2017.
- (c). As regards the proposal of AIFI to the VPT to consider one time settlement for clearing berth hire charges, it is relevant to state that the direction of the Hon'ble High Court is to consider the representation dated 9 December 2000, 19 July 2001, 26 July 2001 and 19 August 2001 made by the Petitioners relating to the enhancement of the vessel charges and pass appropriate orders. The points made by AIFI to VPT in its letter dated 2 May 2018 about one time settlement proposals for clearing the berth hire charges of their respective Fishing boats does not relate to the matter directed by the Hon'ble High Court to this Authority and hence do not form part of this proceedings. In any case the letter is addressed to VPT and does not seek anything from this Authority as such. The VPT has stated that the matter is under examination by the port.

19. In the result, and for the reasons given above, and based on a collective application of mind, this Authority disposes of the representations of the Petitioners dated 09.12.2000, 19.07.2001, 26.07.2001 and 18.8.2001 in compliance with the common Order dated 20 December 2017 of the Hon'ble High Court endorsing the decisions taken by the VPT on the matter.

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