

(Published in Part - III Section 4 of the Gazette of India, Extraordinary)
TARIFF AUTHORITY FOR MAJOR PORTS

G.No. 573

New Delhi,

17 November 2021

NOTIFICATION

This Authority, in exercise of the powers conferred on it under Section 48 of the Major Port Trusts Act, 1963 (38 of 1963), had disposed of the proposal received from the Visakhapatnam Port Trust (VPT) for rationalization of storage charge approved by the Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying the Scale of Rates in the name of the Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis in pursuance of MOS letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 and rationalised storage charge was notified by this Authority for the third consecutive year w.e.f. 21 January 2021 till 20 January 2022. Considering the time involved for notifying (Speaking) Order along with the rates approved by this Authority, this Authority decided to notify only the schedule of rates immediately. Accordingly, the schedule of rationalised storage charges approved by this Authority on 25 October 2021 was notified in the Gazette of India on 01 November 2021 vide Gazette No.538. It was stated in the said Notification that this Authority will notify the Speaking Order, in due course of time. Accordingly, this Authority hereby notifies the Speaking Order connected with disposal of the proposal of the VPT as in the Order appended hereto.

(T.S. Balasubramanian)
Member (Finance)

Tariff Authority for Major Ports
Case No.TAMP/39/2021-VPT

Visakhapatnam Port Trust

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Applicant

QUORUM

- (i). Shri. T.S. Balasubramanian, Member (Finance)
(ii). Shri. Sunil Kumar Singh, Member (Economic)

ORDER

(Passed on this 25th day of October 2021)

This case relates to the proposal received from the Visakhapatnam Port Trust (VPT) for rationalization of storage charge approved by this Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying the Scale of Rates in the name of the Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis in pursuance of the then Ministry of Shipping (MOS) letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 and notify revised rationalized storage charge for the third consecutive year w.e.f. 21 January 2021 till 20 January 2022.

2.1. It is relevant here to mention that this Authority vide its Order No.TAMP/9/2019-VPT dated 24 July 2019, in pursuance of Ministry of Ports, Shipping and Waterways [MOPSW] (*erstwhile Ministry of Shipping*) letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 on Stressed PPP Projects, has based on the proposal of VPT and after following due consultation process with stakeholders and after holding joint hearing approved the rationalisation in the Storage schedule in the Order dated 11 January 2013 which was relating to notification of Scale of Rates (SOR) in the name of VGCBPL for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis. The said Order was notified vide Gazette No.296 dated 21 August 2019. The rationalized storage charge approved by this Authority in the said Order was for a period of one year from 21 January 2019 and was valid for one year i.e. upto 20 January 2020.

2.2. Further, based on the proposal of VPT, this Authority vide Order No.TAMP/9/2019-VPT dated 15 September 2021 amended the effective date of rationalized storage charge from 11 July 2018 in place of 21 January 2019.

2.3. Subsequently, based on the proposal received from the VPT in March 2020, this Authority vide its Order No.TAMP/14/2020-VPT dated 1 June 2020 has extended the validity of the rationalised storage charge approved by this Authority vide Order No.TAMP/9/2019-VPT dated 24 July 2019 for terminal operated by VGCBPL for a further period one year w.e.f. 20 January 2020 and accordingly rates applicable under the Schedule 4 in the Order approved by this Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 were amended as given below for the validity period upto 20 January 2021:

(in ₹ per tonne per day or part thereof)

Sl. No.	Particulars	Storage Charges applicable after applying indexation factor as per Order No.TAMP/58/2008-VPT dated 11 January 2013			Amended indexed Storage Charge approved vide Order No.TAMP/9/2019-VPT dated 24 July 2019 for the period 21.1.2019 till 20.1.2020		Amended indexed Storage Charge for the period 21.1.2020 till 20.1.2021 in the current extension Order	
		Storage Charge applicable for the year 2018-19	Storage Charge applicable for the year 2019-20	Storage Charge applicable for the year 2020-21	Storage Charge from 21.1.2019 till 31.3.2019	Storage Charge from 1.4.2019 till 20.1.2020	Amended indexed Storage Charge from 21.1.2020 till 31.3.2020	Amended Indexed Storage Charge from 01.4.2020 till 20.1.2021
1.	Storage Charges (0-10 days)	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges
2.	Storage Charges (11-15 days)	2.06	2.11	2.13	No Charges	No Charges	No Charges	No Charges
3.	Storage Charges (16-20 days)	4.11	4.21	4.26	No Charges	No Charges	No Charges	No Charges
4.	Storage Charges 21 st Day onwards	8.22	8.43	8.53	8.22	8.43	8.43	8.53

Notes:

- (i). 20 free days shall be allowed. Free period shall commence from the day following the day of complete discharge of vessel cargo. For the purpose of calculation of free period, Custom notified holidays and Terminal's non-working days shall be excluded.
- (ii). Storage charges shall be payable for all days including Terminal's non-working days and Customs notified holidays for stay of cargo beyond the prescribed free days.
- (iii). Storage charges on cargo shall not accrue for the period when the terminal operator is not in a position to deliver / ship the cargo when requested by the user due to reasons attributable to the Terminal operator.
- (iv). The above storage schedule shall be valid from 21 January 2020 till 20 January 2021.

3.1. The VPT vide its e-mail dated 12 July 2021 had forwarded its proposal bearing letter No.IRNP/StdS/VGCB/2021 dated 02 March 2021 seeking approval for rationalization of storage charge earlier approved by this Authority vide No.TAMP/58/2008-VPT dated 11 January 2013 for terminal operated by VGCBPL for a further period of one year i.e. from 21 January 2021 to 20 January 2022 in pursuance of MOS letter No.PD-13/1/2018-PPP Cell dated 11 July 2018.

3.2. The VPT proposal dated 02 March 2021 did not mention and show that the project meets the three criteria prescribed in para 3 of the then MOS letter dated 11 July 2018 for being categorised as Stressed PPP Project nor did the proposal of the VPT propose the rationalised storage charge for the extended period i.e. from 21.1.2021 till 20.1.2022. Hence, VPT was vide our letter dated 22 July 2021 requested to file a complete proposal with requisite details.

4. In response, the VPT vide its e-mail dated 27 July 2021 forwarding its letter No.IRNP/StdS/VGCB/2020 dated 26 July 2021 has submitted its complete proposal. The main points made by the VPT in its revised proposal are given below:

- (i). MOPSW has issued guidelines for identifying PPP project in Major Ports as "stressed project" and the procedure to be adopted for giving relief thereon vide MOPSW's letter dated 11 July 2018.
- (ii). Based on the MOPSW Guidelines, VPT Board identified M/s.VGCBPL, operating in VPT, as "stressed project", and relief was provided based on the proposal of the port by revising storage schedule in two spells i.e., (i) from 21.01.2019 to 20.01.2020 vide TAMP Order No.TAMP/9/2019-VPT dated 24 July 2019 and (ii) from 21.01.2020 to 20.01.2021 vide TAMP Order No.TAMP/14/2020-VPT dated 01 June 2020.
- (iii). As per the submissions of M/s.VGCBPL vide its letter dated 22 October 2020 (copy furnished) and 05 November 2020 (copy furnished) to the VPT, the matter was discussed in the VPT Board Meeting No.4 of 2020-21 held on 29 December 2020 and resolved to consider the request of M/s.VGCBPL vide Resolution No.137/2020-21 (copy furnished) for implementation of the rationalized storage charges w.e.f. 21.02.2021 (typo error corrected by VPT as 21.01.2021). The Board of Trustees of VPT has resolved the following:
 - (a). To consider the proposal of M/s.VGCBPL for classification of the said project as "Stressed Project" and to treat the project as Stressed Project in compliance to the directions of Ministry's Order dated 11.07.2018.
 - (b). To approach TAMP under the provisions available at Article 21.9 of the Concession Agreement covering "Amendments, Modifications or Alterations" with an appropriate proposal for rationalization of storage charges in consultation with the Concessionaire M/s.VGCBPL, so as to achieve the ARR as per the TAMP guidelines/ notifications.
 - (c). To inform the Concessionaire to submit a detailed proposal to TAMP through VPT duly justifying the reasonableness for extension of the benefits of rationalization of storage charges beyond 20.01.2021 and;

(d). To consider the proposal for a period of one year from 20.01.2021 and to review thereafter.

(iv). The letter showing the percentage of utilization of VGCBPL during the previous two years i.e. 2019-20 and 2018-19 is furnished. The letter showing the cash losses incurred and net worth of M/s.VGCBPL during the previous two years i.e., 2019-20 and 2018-19 is furnished. The certified cash losses and net worth of the company by the Chartered Accountant of VGCBPL (copy furnished) are as under:

(₹ in crores)			
Sl. No.	Particulars	FY 2019-20	FY 2018-19
1	Net Cash Losses incurred by the company	(1.68)	(2.29)
2	Net worth of the company	20.05	(11.47)

(v). (a). The VGCBPL in its letter dated 22 October 2020 addressed to VPT (copy furnished by VPT) has stated that the losses incurred by the Concessionaire has caused 50% erosion of its peak net worth (₹151.53 crores in 2012-13) during the operation period to ₹20.05 crores in the year 2019-20.

(b). The cargo handled by VGCBPL in the last two preceding financial year and capacity utilization reported by VGCBPL based on VPT communication dated 5 November 2020 to VGCBPL is tabulated below:

Particulars	UOM	2018-19	2019-20
Volume as per Pre-bid model	MMT	10.18	10.18
Actual Volume handled	MMT	4.96	5.91
% of Actual volume (< 70%)	%	49%	58%

(vi). As resolved in VPT Board Meeting, M/s.VGCBPL submitted its proposal vide its letter dated 03 February 2021 to VPT for rationalization of storage charges beyond 20 January 2021, duly justifying the reasonableness thereon for consideration. The main points made by VGCBPL in its letter dated 3 February 2021 to VPT are summarized below:

(a). VGCBPL requests the port to continue the free storage period to 20 days similar to last year rationalization and the storage tariff should start from 21st day as per the TAMP notified rates from time to time.

(b). Accordingly, the proposed tariff would be as follows (like last year):

Sl. No.	Particulars	Units	Current SOR (without rationalization)	Proposed SOR
1.	Berth Hire Charges	₹/ GRTH	0.883	0.883 *
2.	Cargo Handling Charges	₹/ MT	178.08	178.08 *
3.	Storage Charges (0-10 days)	₹/ MT per day	No Charges	No Charges
4.	Storage Charges (11-15 days)	₹/ MT per day	2.13	No Charges
5.	Storage Charges (16-20 days)	₹/ MT per day	4.27	No Charges
6.	Storage Charges 21 st Day onwards	₹/ MT per day	8.53 *	
7.	Misc. charges (charges for sweeping, dust suppression and environment, etc.)	₹/ MT	1.82 *	

* Subject to change as per TAMP revision from time to time.

(c). Further, the current vs. proposed royalty on Storage charges would be as under:

Sl. No.	Particulars	Units	Current royalty (without rationalization)	Proposed royalty
1.	Storage Charges (0-10 days)	₹/ MT per day	No royalty	No royalty
2.	Storage Charges (11-15 days)	₹/ MT per day	38.1% of Gross revenue	1% of ARR
3.	Storage Charges (16-20 days)	₹/ MT per day	38.1% of Gross revenue	
4.	Storage Charges 21 st Day onwards	₹/ MT per day	38.1% of Gross revenue	Royalty equal to 38.1% on actual storage charges recovered or 1% of ARR whichever is higher.

- (d). The VPT is requested to support VGCBPL in obtaining such orders in consultation with the TAMP in such a way so as to achieve the ARR as specified in the 2008 tariff guidelines. Also, a suitable amendment in the Concession Agreement is to be made for giving effect of MOPSW guidelines for the change in revenue share pattern in Storage charges under the article 21.9 of the Concession Agreement (as proposed by VPT Board) for the last two years and the current year.
- (e). Justification for extension of benefits of rationalisation:
- (i). The free storage period offered is 10 days as per the TAMP approved 2008 tariff guidelines. This was part of upfront tariff fixed by TAMP vide its Order dated 27 November 2009. The same was decided at the time of bidding based on the market dynamics prevailing at that time. Whereas, in actual practice, it is observed that the current market dynamics are completely different than those which were thought of in 2009.
- (ii). As against the above, the current dwell time of vessels is ranging from 40 to 50 days. Basing the past trend of dwell time only, it had been mutually agreed by both the Concessionaire and Concessioning authority to extend the free period upto 20 days. In similar lines, VGCBPL requests to consider the same and continue the same for the current year rationalization also.
- (iii). Further, though VGCBPL are in the 8th year of commercial operations, the project had not made any profits for the past 8 years and the entire loan is still outstanding. Even after getting the rationalization benefit, the project performance was not upto satisfactory level which has been detailed as follows:
- (a). Last year discharge volume is 5.91 MMT against VGCBPL EC approved limit of 10.18 MMT.
- (b). VGCBPL had made cash losses of ₹1.68 crores in the last year. A copy of financials for FY 19-20 have already been submitted to VPT.
- (c). VGCBPL entire net worth has gone into negative last year due to continuous losses since inception of the project.
- (f). In view of the above situation, VGCBPL requests to continue the rationalization benefit for the second year as well as in the interest of project which is a major contributor for VPT Ex-chequer.
- (g). VGCBPL has furnished a Certificate dated 21 October 2020 from its Chartered Accountant showing cash losses and net worth of VGCBPL. VGCBPL has also furnished VPT letter dated 05 November 2020 to VGCBPL for the years 2018-19 and 2019-20. As regards traffic handled by VGCBPL in the years 2018-19 and 2019-20, the VPT letter dated 5 November 2020 is furnished.
- (vii). The VPT has proposed the following rationalized storage charge for a period of one year beyond 20 January 2021 as proposed by VGCBPL to VPT for consideration of TAMP:

Sl. No.	Particulars	Units	Current Scale of Rates	Proposed Scale of Rates
1.	Storage charges 0-10 days	₹/ MT per day	No Charges	No Charges
2.	Storage charges 11-15 days	₹/ MT per day	2.13	No Charges
3.	Storage charges 16-20 days	₹/ MT per day	4.27	No Charges
4.	Storage charges 21 st day onwards	₹/ MT per day	8.53	8.53

- (viii). The proposal submitted by M/s.VGCBPL is in line with the recommendations of the Committee constituted by the MOPSW communicated vide letter dated 11 July 2018.
- (ix). The VPT has, therefore, requested to consider the proposal submitted by M/s.VGCBPL for rationalisation of storage charges to improve the capacity utilization of VGCBPL facility. The VPT has also requested to approve and notify the revised storage schedule for the VGCBPL facility at the earliest to take effect from 21.01.2021 (3rd consecutive year) for a period of one more year i.e. upto 20.01.2022.
- (x). The above schedule will be made applicable from 21.01.2021 till 31.03.2021 upon approval from TAMP. The storage schedule from 01.04.2021 till 20.01.2022 shall be appropriately indexed upon notification of indexation factor by TAMP. Accordingly, the VPT has requested to include the above in the approval and notification.

5.1. The MOS vide its e-mail dated 11 July 2018 has issued the letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 regarding Stressed PPP project along with copy of report of the Committee chaired by Chairman, IPA on the issues pertaining to Stressed PPP projects.

5.2. The said letter states that the MOS has formed a Committee under the Chairmanship of Chairman IPA to take timely decision on port issues i.e. stressed PPP project and issues such as MGT, Permissions, Port charges, Storage charges etc. of PPP users. The said committee after detailed examination of various issues including the issue of storage charges faced in the PPP projects of various major ports has submitted its report to the MOS. The said Committee has recommended the following criteria for classification of PPP project as "**Stressed Projects**":

- (a). The project is sub optimally utilised as evidenced by the actual cargo handled by the operator during two preceding financial years being less than 70% of the projection as per DPR/Feasibility report forming part of the bid document and
- (b). Project SPV incurring cash loss continuously for two preceding financial years and
- (c). That the losses incurred by concessionaire has caused atleast 50% erosion of its peak Net Worth during the operation period.

5.3. Para 6 of the MOS letter dated 11 July 2018 states that whenever issue of abnormal storage charges emerges in stressed projects as defined in the MOS letter, the Ports may approach TAMP under the provisions of "Agreements, modification or alternations" to the terms and conditions of the concession agreement with an appropriate proposal for rationalization of storage charges in consultation with concessionaire so as to achieve the ARR as per the TAMP guidelines/ notification. TAMP has to consider such proposal on merit. The Committee also recommended review of the situation by the Concessioneing Authority periodically for optimum utilization of the facility created.

5.4. Referring to the said letter of MOS, the VPT has filed the current proposal for rationalization of storage charge approved by this Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying the Scale of Rates in the name of the VGCBPL for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis and to notify revised storage charge for the third consecutive year w.e.f. 21 January 2021 till 20 January 2022.

6.1. While acknowledging the proposal dated 27 July 2021, the VPT vide our letter dated 30 July 2021 was requested for the following:

- (i). The rationalized storage charge proposed by the VPT as per the proposal of VGCBPL does not capture the annual indexation factor for the year 2021-22 applicable w.e.f. 01 April 2021. Therefore, the VPT was requested to relook and propose appropriate indexed rationalised storage charge for the extended period i.e. from 21.1.2021 till 20.1.2022.

- (ii). Further, the VPT proposal dated 27 July 2021 and the approval of Board of Trustees of VPT dated 29 December 2020 does not show that the Board of Trustees has approved the proposed rationalized storage charge w.e.f. 21.1.2021 to 20.1.2022. The VPT was requested to forward a copy of approval of Board of Trustees of the VPT approving the rationalized storage charge for VGCBPL for the said period.

6.2. In response, the VPT vide its e-mail dated 03 August 2021 has forwarded its letter dated 02 August 2021 making the following submissions:

- (i). As per the indexation factor announced by this Authority under the upfront tariff in respect of BOT operators, the indexed rationalized storage charge after indexation factor applicable for the year 2021-22 (@ 0.33%) to the terminal operator M/s.VGCBPL is tabulated below:

(in ₹ per tonne per day or part thereof)

S. No.	Particulars	Storage charges applicable after applying indexation factor as per Order No.TAMP/58/2008-VPT dated 11 January 2013			Amended indexed storage Charge approved vide Order No.TAMP/9/2019-VPT dated 24 July 2019 for the period 21.1.2019 till 20.1.2020		Amended indexed storage Charge approved vide Order No.TAMP/14/2020-VPT dated 2 June 2020 for the period 21.1.2020 till 20.1.2021		Amended indexed storage Charge for the period 21.1.2021 till 20.1.2022	
		Storage charge applicable for the year 2018-19	Storage charge applicable for the year 2019-20	Storage charge applicable for the year 2020-21	Storage Charge from 21.1.2019 till 31.3.2019	Storage Charge from 1.4.2019 till 20.1.2020	Storage Charge from 21.1.2020 till 31.3.2020	Storage Charge from 1.4.2020 till 20.1.2021	Amended indexed Storage charge from 21.1.2021 to 31.3.2021 (1.13%)	Amended indexed Storage charge from 01.4.2021 to 20.1.2022 (0.33%)
1	Storage charges 0-10 days	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges
2	Storage charges 11-15 days	2.06	2.11	2.13	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges
3	Storage charges 16-20 days	4.11	4.21	4.26	No Charges	No Charges	No Charges	No Charges	No Charges	No Charges
4	Storage charges 21 st day onwards	8.22	8.43	8.53	8.22	8.43	8.43	8.53	8.53	8.56

- (ii). In the Board Resolution No.137/2020-21, the Board of Trustees of VPT have resolved the following after detailed review and deliberations:
Para 3. To inform the Concessionaire to submit a detailed proposal to TAMP through VPT duly justifying the reasonableness for extension of the benefits of rationalisation of storage charges beyond 20.01.2021 and
4. To consider the proposal for a period of one year from 20.01.2021 and to review thereafter

- (iii). The VPT has, therefore, requested to consider the proposal submitted by M/s.VGCBPL for rationalisation of storage charges to improve the capacity utilisation of VGCB facility and to notify the revised storage schedule for the VGCB facility at the earliest to take effect from 21.1.2021 (3rd consecutive year) for a period of one more year i.e., upto 20.1.2022.

7. In accordance with the consultative procedure prescribed, the proposal of VPT dated 27 July 2021 was forwarded to the VGCBPL and the concerned users/ user organisations seeking their comments vide our letter dated 30 July 2021. A copy each of comments received from the VGCBPL and users/ user organisations were forwarded to VPT as feedback information. The VPT its e-mail dated 12 August 2021 has furnished its reply on comments of VGCBPL.

8. A joint hearing on the case in reference was held on 31 August 2021 through Video Conferencing. The VGCBPL made a brief power point presentation on the subject proposal. At the joint hearing, the VPT, VGCBPL and the concerned users/ organisation bodies have made their submissions.

9. 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 parties will be sent separately to the relevant parties. These details will also be made available at our website <http://tariffauthority.gov.in>.

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

- (i). The proposal of the Visakhapatnam Port Trust (VPT) seeks approval of this Authority for further extension of rationalised storage charge approved by this Authority vide Order No.TAMP/14/2020-VPT dated 01 June 2020 amending the storage schedule approved vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying Scale of Rates (SOR) in the name of Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT in pursuance of MOPSW (Ministry of Ports, Shipping and Waterways) (the then Ministry of Shipping) letter No.PD-13/1/2018-PPP Cell dated 11 July 2018.
- (ii). The current proposal of VPT is taken up for processing because it is filed in pursuance of the MOPSW letter dated 11 July 2018 to the Major Port Trusts as regards the stressed PPP project.

The MOPSW, in its letter dated 11 July 2018, has prescribed the following three criteria for classification of PPP project as Stressed Projects by Major Port Trusts:

- (a). The project is sub optimally utilised as evidenced by the actual cargo handled by the operator during two preceding financial years being less than 70% of the projection as per DPR/Feasibility report forming part of the bid document and
- (b). Project SPV incurring cash loss continuously for two preceding financial years and
- (c). That the losses incurred by concessionaire has caused atleast 50% erosion of its peak Net Worth during the operation period.

Para 7 of the said MOPSW letter dated 11 July 2018 directs the Major ports to adopt the prescribed procedure and review the situation periodically for optimum utilisation of the facility created.

- (iii). As brought out in earlier, the Board of Trustees of VPT, vide its Board Meeting No.4 of 2020-21 held on 29 December 2020, has reviewed the VGCBPL proposal and has classified the VGCBPL project as Stressed Project as it meets the three criteria prescribed in the MOPSW letter dated 11 July 2018 for categorisation of the PPP project as stressed. The details considered by the VPT Board for classification of VGCBPL project as stressed is brought out in the earlier paragraphs and hence not reiterated for the sake of brevity. The underutilisation of capacity below 70% is supported by the VPT letter and the cash loss for preceding two years 2018-19 and 2019-20 and erosion of net worth of at least 50% is supported by the Certificate from practicing Chartered Accountant furnished by VGCBPL and considered by the Board of Trustees of the VPT. The same is relied upon.

The Board of Trustees of VPT has approved to consider the proposal of VGCBPL for extension of reduced storage charge beyond 20 January 2021 for a period of one year.

- (iv). In view of the above position and recognizing that the proposal filed by the VPT is based on the approval of the Board of Trustees of the VPT and fulfills the three criteria prescribed in the MOPSW letter dated 11 July 2018 on the Stressed Project and the proposal is for extension of rationalised storage charges approved by this Authority vide Order No.TAMP/14/2020-VPT dated 01 June 2020 after applicable annual indexation and is mutually accepted by both the parties i.e. VPT and VGCBPL and also recognizing that it intended to utilize the project facilities optimally by rationalising storage charges, this Authority is inclined to approve the current proposal of the port for extension of the rationalised storage charge approved by this Authority in the Order dated 01 June 2020 for a further period of one year i.e. from 21 January 2021 to 20 January 2022.

- (v). The Order dated 01 June 2020 prescribed four conditionalities under the schedule of amended storage charge. The same conditionality shall continue to be prescribed in this Order except for modification done in note no.(iv).

Note (iv) as regards validity of amended storage schedule approved by this Authority is prescribed for the period of one year from 21 January 2021 till 20 January 2022.

11. In the result, and for the reasons given above, and based on a collective application of mind, this Authority approves the proposal of VPT for extension of the rationalised storage charge approved by this Authority vide Order No.TAMP/14/2020-VPT dated 01 June 2020 for terminal operated by VGCBPL for a further period of one year w.e.f. 20 January 2021 till 20 January 2022. Accordingly, the amended rates which have been notified separately in the Gazette of India on 01 November 2021 vide Gazette No.538 will be applicable under the Schedule 4 in Order approved by this Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying the SOR in the name of the VGCBPL.

(T.S. Balasubramanian)
Member (Finance)

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

F.No. TAMP/39/2021-VPT - Proposal from Visakhapatnam Port Trust (VPT) for rationalization of storage charge approved by the Authority vide Order No.TAMP/58/2008-VPT dated 11 January 2013 notifying the Scale of Rates in the name of the Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) for mechanized handling of coking coal and steam coal at General Cargo Berth of VPT on DBFOT basis in pursuance of MOS letter No.PD-13/1/2018-PPP Cell dated 11 July 2018 and notify revised storage charge for the third consecutive year w.e.f. 21 January 2021 till 20 January 2022.

A summary of comments received from the Vizag General Cargo Berth Pvt. Ltd. (VGCBPL) and the concerned users/ user organisations and reply furnished by Visakhapatnam Port Trust (VPT) thereon are furnished below:

Sl. No.	Comments of users/ user organisations	Reply furnished by VPT
1.	Vizag General Cargo Berth Pvt. Ltd. (VGCBPL)	
(i).	There is a typo error in 4 th para. It is written effective date from "21.2.2021" whereas the correct effective date is 21.01.2021.	The typographical error on "effective date" in 4 th Para of VPT's letter No.IRNP/Std/VGCB/2020 dated 26.07.2021 has already been corrected as 21.01.2021 and sent in the revised proposal dated 02.08.2021.
2.	Indian National Shipowners Association (INSA)	
(i).	INSA finds it strange that a project for General cargo berth i.e. without specialized infrastructure installed has to struggle for survival after being in existence for a decade. It was the decade when Indian Port throughput reached record highs and Private facilities have shown unprecedented growth outsmarting Govt. owned cargo terminals.	No comments received from the VPT.
(ii).	The follow up action of Govt. after announcing its plans with a Maritime Vision document envisages focus area of Port operations & how to reduce logistics cost with improved efficiency in Cargo evacuation.	
(iii).	Doing away with free time and increasing ground rate charges is the most common tool used for achieving better results in achieving such objective.	
(iv).	Blockchain technology, Faster Cargo Checking & Clearance, Increasing Operational Efficiency, Automation & Artificial Intelligence etc. are the key areas INSA presume for bringing changes to reach envisaged goals and for improvement in port sector.	
(v).	In view of the above its incomprehensible that free period decided a decade before is found insufficient and proposal is mooted to increase it to 20 days. Similarly, ground rent charges considered then are seen as stumble block and need is felt to allow more free time and work out ways and means to facilitate importers who are identified as traders to keep cargo idling instead of working for efficient dispatch.	

(vi).	INSA would suggest that alternate measures/ provisions be evaluated to extend supporting measures for sustaining continuity of the facility instead of trying out more free storage period and facilitate wasteful idling of important cargo handling facility.	
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2. A joint hearing on the case in reference was held on 31 August 2021 through Video Conferencing. The VGCBPL made a brief power point presentation on the subject proposal. At the joint hearing, the VPT, VGCBPL and the concerned users/ organisation bodies have made the following submissions:

Vizag General Cargo Berth Pvt. Ltd. (VGCBPL)

- (i). VGCBPL was established with objective to handle 10.18 MTPA of coal.
- (ii). Even after 8 years of operation, we are not able to achieve the rated capacity due to various reasons.
- (iii). Free period prescribed in the SOR is 10 days against 25 days prescribed in the Upfront Tariff Guidelines, 2008. Current market dynamics are completely different than what was envisaged in 2009 while fixing upfront tariff for the project. Current dwell time is in the range of 40 to 50 days.
- (iv). Allotment of rake and stack capacity are constraint for our terminal leading to slow evacuation of cargo which also impacts achievement of rated capacity.
- (v). As per MOS Guidelines, VGCBPL has been categorized as stressed project by VPT based on the 3 criteria prescribed by the MOPSW.
- (vi). VGCBPL has handled 4.96 MTPA and 5.91 MTPA in the FY 2018-19 and 2019-20 respectively. Thus, capacity utilization is 49% and 58% in the FY 2018-19 and FY 2019-20 respectively as against benchmark capacity utilization of 70%.
- (vii). Cash loss incurred by VGCBPL is ₹2.29 crores and ₹1.69 crores in Financial Years 2018-19 and 2019-20 respectively.
- (viii). Net worth has also eroded more than 50% in these two Financial Years.
- (ix). We, therefore, request TAMP to approve the proposal of VPT for rationalization of storage charge for VGCBPL for the third consecutive year from 21.01.2021 till 20.01.2022.
- (x). We are thankful to VPT and TAMP for approving rationalized storage charge for last two years for our stressed terminal.
- (xi). Apart from that, VGCBPL requests VPT to take necessary steps to make our project viable.
- (xii). VGCBPL requests VPT to allot additional land to us as per Concession Agreement.
- (xiii). VGCBPL is forced to give free period of 60 to 90 days to retain SAIL vessels else they say they will go to neighbouring ports who are offering such higher free period.
- (xiv). Hence, free period need to be increased to 45 days.
- (xv). Coal handling has reduced in the Vizag Port. VGCBPL can handle capesize vessels which can increase volume of cargo. This option needs to be explored.

- (xvi). VPT may give concession in VRC to enable VGCBPL to handle capsize vessel to become competitive in market.
- (xvii). VGCBPL is struggling even after eight years of operation. We are hopeful that by increasing free period to 45 days and allowing to handle multi-cargo, VGCBPL can come out of stressed project.

M/s.Swiss Singapore India

- (i). We are traders. We import coal from Australia, Singapore, etc.
- (ii). Adani Vizag was allowing us 60 days free period for coal import.
- (iii). VGCBPL is not able to extend free period more than 30 days.
- (iv). We cannot bring capsize vessel with free period of 30 days as it is not viable.
- (v). Something needs to be done to allow higher free period for VGCBPL terminal.
- (vi). VGCBPL should also be permitted to handle road movement of coal cargo apart from present rail movement.

Visakhapatnam Port Trust (VPT)

- (i). Road movement of coal cargo is not in our hand. The matter is under APPCB (Andhra Pradesh Pollution Control Board). VPT is already pursuing with APPCB in this regard.
- (ii). Regarding allowing VGCBPL to handle multi cargo other than coal, port has referred the matter to the Ministry. We are actively pursuing with the Ministry.
- (iii). VPT admits that the VPT and terminal operator are facing acute competition from neighbouring private ports.
- (iv). If VGCBPL is under stress, port is also under stress.
- (v). We are making all efforts to resolve the matters of VGCBPL. We are in regular discussion with VGCBPL also. Port is also doing all efforts for Business Promotion in the port.
- (vi). We request TAMP to approve the proposed rationalized storage charge for VGCBPL terminal for the third year from 21.01.2021 till 20.01.2022.

Vizag General Cargo Berth Pvt. Ltd. (VGCBPL)

- (i). We are the only operator seeking extension of the rationalized storage charge for the 3rd consecutive year due to stressed project.
- (ii). VGCBPL will become non-performing asset if we are not removed from stressed project.
